

# MEMORANDUM OF UNDERSTANDING (MoU)

between

THE GOVERNMENT OF THE KINGDOM OF BELGIUM  
represented by its Minister for Development Cooperation, FPS Foreign Affairs, Foreign Trade  
and Development Cooperation, General Directorate for Development Cooperation (Donor)

and

AVOCATS SANS FRONTIERES (ASF)

To support the

PROJECT

«Protection des droits de l'homme et libertés publiques  
dans le contexte électoral de la RDC »

WHEREAS the Donor hereby agrees to contribute financially to the project,

WHEREAS ASF is prepared to receive and administer the contribution for the  
implementation of the project,

WHEREAS the field office of ASF in DRC will be implementing the project,

NOW THEREFORE, ASF and the Donor hereby agree as follows:

## Article I. The Contribution

1.1. The Donor shall contribute to ASF the amount of 293 700 EURO. The contribution shall be  
deposited in the following bank account:

Bank Name	TRIODOS BANK NV
Bank Address	RUE HAUTE 139/3
SWIFT code/BIC	TRIOBEBB
IBAN	BE21 5230 8004 6903
Account number	
Account name	AVOCATS SANS FRONTIERES ASBL
Reference	

### Schedule of payments

The Belgian contribution will be transferred in two instalments:

- A first installment of 80% of the contribution upon signature of the MoU by both parties.
- A second installment of 20% of the contribution once 75% of the first installment has  
been properly accounted for (by the intermediate financial report).

1.2. ASF should notify the Donor, using Annex 2, that the payment has been received.

1.3. ASF shall receive and administer the payment in accordance with the regulations, rules and  
directives of ASF.

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- 1.4. All financial accounts and statements shall be expressed in Euro.

#### Article II. Utilization of the Contribution

- 2.1. The contribution is earmarked for the project « Protection des droits de l'homme et libertés publiques dans le contexte électoral de la RDC » and will be used for its implementation, beginning on the date of signature of the present MoU..
- 2.2. Within this multi-donor funded project (of 1.500.000 USD), the Belgian contribution of 293.700 EUR will be used to implement the following activities (described in depth in the project document):
- Supporting civil society in collecting and documenting case of human right violations;
  - Supporting civil society in setting up political and legislative strategies of advocacy;
  - Strengthening capacities of lawyers and improving their networking to better protect human right defenders in front of courts.
- 2.3. The implementation of the responsibilities of ASF pursuant to this Agreement and the project document shall be dependent on receipt by ASF of the contribution in accordance with the schedule of payment as set out in Article I, paragraph 1, above.
- 2.4. If the payments referred to in Article I, paragraph 1, above are not received in accordance with the payment schedule, the assistance to be provided to the project under this Agreement may be reduced, suspended or terminated by ASF.
- 2.5. Any interest income attributable to the contribution shall be used by ASF to supplement the project funds.

#### Article III. Administration and reporting

- 3.1. Project management and expenditures shall be governed by the regulations, rules and directives of ASF.
- 3.2. ASF (country office) shall provide to the Donor (Embassy) all or parts of the following reports prepared in accordance with ASF accounting and reporting procedures.
- (a) An intermediate report, summarizing project activities, intermediate results, the encountered difficulties and/or lessons learned, within eight months after the signature of the MoU
  - (b) A final report summarizing project activities, the achieved results and impact of activities (incl. sources of verification), the encountered difficulties and/or lessons learned, as well as provisional financial data, within three months after the date of completion of the project or termination of the Agreement.
  - (c) A final financial report, incl. a certified financial statement, to be submitted within 3 months after the date of expiration or termination of the project.
- 3.3. If special circumstances so warrant, ASF may provide more frequent reporting at the expense of the Donor.
- 3.4. The Donor and ASF will regularly discuss with regard to the progress of the project and will share any relevant documents.

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#### Article IV. Administrative and support services

- 4.1. The Donor's contribution to the project will not exceed 293.700 EUR including direct project costs, program support costs and any cost provision in the project for contingencies. The Donor's contribution shall be subject to cost recovery for two distinct cost categories related to the provision of support services, namely:
- (a) Indirect costs incurred by ASF headquarters and country office structures in providing General Management Support (GMS) services. To cover these GMS costs, the contribution shall be charged a fee equal to maximum 10%.
  - (b) Direct costs incurred for implementation support services (ISS) provided by ASF. As long as they are unequivocally linked to the specific programme/project, these costs are built into the project budget against a relevant budget line and, in the case of clearly identifiable transactional services, charged to the project/programme according to standard service rates.
- 4.2. The aggregate of the amounts budgeted for the project, together with the estimated costs of reimbursement of related support services, shall not exceed the total resources available to the project under this Agreement as well as funds which may be available to the project for project costs and for support costs under other sources of financing.

#### Article V. Equipment

Ownership of equipment, supplies and other properties financed from the contribution shall vest in ASF. Matters relating to the transfer of ownership by ASF shall be determined in accordance with its relevant policies and procedures.

#### Article VI. Auditing

The contribution shall be subject exclusively to the internal and external auditing procedures provided for in the financial regulations, rules and directives of ASF. Should an Audit Report contain observations relevant to this contribution, such information shall be made available to the Donor.

#### Article VII. Evaluation

The Donor can decide to organize, by its external evaluation service and on its own expenses, an ex-post evaluation of the Project. ASF will be informed in advance and provide their full cooperation to the evaluation. The findings of the evaluation will be communicated to ASF.

#### Article VIII. Anti-Corruption clause

- 8.1. No offer, payment, consideration, gift or benefit of any kind, which could be regarded as an illegal or corrupt practice, has or will be made, promised, sought or accepted, neither directly or indirectly, as in inducement or reward, in relation to activities funded under this Project, including tendering, award or execution of contracts. Any such practice will be grounds for the immediate cancellation of this MoU. ASF will take swift legal action to stop, investigate and if necessary prosecute – in accordance with its applicable law – any person or organization suspected of misuse of resources or corruption.

- 8.2. ASF will promptly inform the Donor of any instances of corruption and of the measures taken as referred to above.

#### **Article IX. Completion of the Agreement**

- 9.1. ASF shall notify the Donor when all activities relating to the project have been completed.
- 9.2. Notwithstanding the completion of the project, ASF shall continue to hold unutilized payments until all commitments and liabilities incurred in the implementation of the project have been satisfied and project activities brought to an orderly conclusion.
- 9.3. If the unutilized payments prove insufficient to meet such commitments and liabilities, ASF shall notify the Donor and consult with the Donor on the manner in which such commitments and liabilities may be satisfied.
- 9.4. Any payments that remain unexpended after such commitments and liabilities have been satisfied shall be disposed of by ASF in consultation with the Donor.

#### **Article X. Termination of the Agreement**

- 10.1. After consultations have taken place between the Donor and ASF and provided that the payments already received are, together with other funds available to the project, sufficient to meet all commitments and liabilities incurred in the implementation of the project, this MoU may be terminated by ASF or by the Donor. The MoU shall cease to be in force 30 (thirty) days after either of the Parties have given notice in writing to the other Party of its decision to terminate the MoU.
- 10.2. ASF shall make all reasonable efforts to satisfy all commitments and liabilities incurred in the implementation of the project before the termination of this MoU.
- 10.3. Upon termination of this MoU, any unutilized balance of the Donor's contribution, shall be reimbursed to the Donor.

#### **Article XI. Amendment of the MoU**



The MoU may be amended through an exchange of letters between the Donor and ASF. The letters exchanged to this effect shall become an integral part of the MoU.

#### **Article XII. Settlement of disputes**

ASF and the Donor shall seek to settle amicably through direct negotiations any differences and disputes arising from or relating to the implementation of this MoU.

#### **Article XIII. Correspondence**

ASF and the Donor shall correspond via respectively the ASF's Field Office and the Embassy of Belgium in Kinshasa.

 4  


**Article XIV. Entry Into Force**

This MoU shall enter into force upon signature by both parties and deposit by the Donor of the payment to be made in accordance with the schedule of payments set out in Article I, paragraph 1 of this MoU and the signature of the project document by the concerned parties.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed the present MoU in the English language in two copies.

For the Donor:

For ASF: *VANDEN ENDE PASCAL*

Date:

*5 Dec. 2016*

Date:

*[Signature]*

*[Signature]*

Baron Bertrand de Crombrugghe de Picquendaele  
Ambassadeur de S.M. le Roi des Belges

