

Annex B: TEMPLATE PROJECT PROPOSAL

Template Project proposal

APPLICATION FOR PROJECT FUNDING IN THE FIELD OF THE PROMOTION/PROTECTION OF THE CIVIC SPACE

PROJECT NAME:	PROTECTING CIVIC SPACE: A PUBLIC INTEREST LITIGATION APPROACH
AMOUNT REQUESTED:	250 000 (in euros)
DURATION:	24 MONTHS (number of months)
DATE OF INTRODUCTION:	AUGUST 16TH 2021 (latest version introduced)

1. Organization

- full name: **Avocats Sans Frontières**
- Abbreviation: **ASF**
- legal status: **Association Sans But Lucratif**
- Official address: **Avenue de la Chasse 140, 1040 Etterbeek, Belgium**
- address for correspondence (if different from the official address):
- representative (name and function): Chantal van Cutsem, Executive Director
- Website: <http://www.asf.be>
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2. Bank data

- name of the bank: CBC BANQUE S.A.
- bank address: GRAND PLACE 5, 1000 Bruxelles
- account number / IBAN (EU): BE52732021423109
- bank holder: AVOCATS SANS FRONTIERES
- BIC / SWIFT: CREGBEBBXXX
- Reference to be included when payments are executed: **Avocats SF PCS**

3. Motivation (Relevance)

- Context:

Eastern African countries are all on the march towards achieving middle-income country status. In this effort, overarching policy frameworks in Uganda, Tanzania, and Burundi (Uganda Vision 2040, Tanzania Vision 2025 and Burundi Vision 2025), make the industrializing of the economy and the achievement of middle-income country status a priority, but cast the role of public governance in more functional than

democratic terms. In all three countries, there is limited recognition of civil society's role in ensuring inclusive and sustainable economic development. The growing resort to repressive strategies (censorship, arbitrary detention, intimidation, harassment and excessive use of force) by governments is preventing individuals from effectively exercising their civic rights, and poses a threat to the sustainability and inclusivity of the economic development effort. In Uganda, the space for civic activism is shrinking under restrictive laws and regulations, and reports have established widespread arrests of and abuses of force against activists. This is particularly true for oversight activities in the governance of natural resources. In Tanzania, the late John Magufuli's government imposed harsh restrictions limiting space for an active civil society and media sector. Although a change in leadership has led to positive discussions around restoring and strengthening democratic norms, concerns remain over whether civil society will truly be able to reclaim its space in Tanzania. In Burundi, several prominent human rights organisations have been forced into exile or forcefully dissolved by Law. Organisations that keep operating in the country are prevented from speaking out or investigating sensitive issues. The environment is also marked by serious human rights violations and abuses continue to persist and are often perpetrated by members of the Imbonerakure (ruling party's youth league) and local officials 'who continue to enjoy nearly total impunity'.¹ These pressures on civil society are not isolated events, but part of a larger, seemingly global trend to cut back civic space, as documented by the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association. The reduction of civil society's participation in the governance of public affairs poses a threat to its democratic nature and, in the specific Eastern African context to the socio economic development it supports. Against this background, the below proposal seeks to offer proactive strategies countering these very dynamics present in the East Africa region.

- Problem statement:

In Eastern Africa, civil society participation in the governance of public affairs is increasingly perceived as a threat by national Governments, and thus dealt with as such. All countries of the region have embarked on efforts to restrict or suppress civil society's ability to oversee governmental activities or support populations aggrieved by the same. In this effort, similar patterns are witnessed across the region. First, the Law is increasingly weaponized as a tool to restrict social contest and civic activism. Numerous legal instruments have been adopted in all three countries that increase the administrative oversight onto CSOs, and allocate discretionary powers to regulatory bodies. This trend also includes a "criminalization" process that is the use of criminal law procedures against activists, who are increasingly arrested and prosecuted for their activities. Second, the very role of civil society in Eastern African societies is contested by Governments. In spite of an international consensus to recognize civil society's positive role in public oversight and representation of marginalized voices in public affairs, Eastern African governments cast civil society activities as "anti-development sabotage". This libel is consistently used across the region and reveals a top-down concept of governance and development where public participation is a threat to unilateral decision-making by Governments.

¹ <https://www.civicus.org/index.php/media-resources/news/united-nations/geneva/4965-burundi-progress-since-2020-elections-but-rights-abuses-persist-2>

This situation poses a threat to the sustainability and inclusivity of socio economic development as it (1) prevents public participation in development efforts, (2) allows predatory behaviors against country's resources, (3) reinforces the exclusion of marginalized socio economic groups and (4) breeds a sense of injustice that manifests through defiance against development projects. The protection and realization of human rights – including freedoms of association, peaceful assembly and expression – are the responsibility of the state. Yet, restrictions and threats to prevent an active civil society from speaking truth to power allow the state to neglect its duties by avoiding accountability for its actions (or lack thereof). Against this background, it is indispensable to develop proactive strategies countering these very dynamics present in the East Africa region. Given ASF's mandate and comparative advantage, the below proposal focuses on using Public Interest Litigation (PIL) as the key tool in this effort. PIL refers to a specific form of litigation, which seeks to achieve objectives larger than those of the specific case at hand. Its main advantage is that PIL mobilises pre-existing procedures and high legal norms that have superior authority onto government decisions. As such, PIL is a way to broker forms of dialogue between a government, the Judiciary and civil society, that are grounded in factual (situation of the represented parties) and normative considerations and carried out through institutional channels. Yet, in Eastern Africa the potential of PIL to sustain a paradigmatic change in socio economic development is underplayed by a lack of regional coordination and learning among CSOs as well as the underutilization of supra national institutions.

- Relevance in light of the objectives and criteria of the call for projects:

The project's foreseen impact is to contribute to a **Rule of Law compliant and Human-rights based approach to Eastern Africa's socio economic development through regional cooperation and networking between local civil societies organizations**. This project is complementary to ASF's foreseen DGD Programmes 2022 – 2026 in Uganda, Burundi and Tanzania as it develops a regional level of civil society coordination in making use of the Law for broader social change. This will be done through the improvement of civil society organizations' related capacity, and the coordination of specific actions before supra-national institutions such as the East African Court of Justice and the African Commission on Human and Peoples' Rights. The project articulates the Law as a means of dialogue around key policy issues pertaining the region's development. Indeed, countries of the East African Community are bound by higher regional norms that offer a way towards an inclusive and sustainable development but that are often ignored in country-level policy orientations. Through the coordination of civil society efforts, and the harnessing of the supranational level of accountability, the project seeks to build a continuous and open dialogue between governments of the region and their civil societies about the pathways to development. As a result it offers a well-rounded contribution to Belgium's development cooperation framework and allows ASF to take a coordinated regional approach to strengthening civil society.

The project articulates several of the call for proposals' specific objectives. The project relies on the **strengthening of capacities of effective, democratically functioning, accountable and sustainable local civil society organizations** and the **strengthening of regional cooperation and networking between local civil society organizations** as a strategy to **promote opportunities for open dialogue between governments and civil society**. Our actions take into account the following criteria outlined in the call for proposals:

(a) By supporting CSOs to conduct PIL, the project will contribute to **safeguarding important human rights, with a focus on the right of freedom of expression and freedom of association**. Through PIL, the project will focus on protecting the spaces for civil society interventions and the promotion of the Rule of Law. The project seeks to increase local civil societies' ability to promote and protect human rights, in two specific thematic areas: (a) the governance of natural resources, which is the backbone of development strategies in all three countries; and (b) the administration of justice and Law enforcement, where most of the threats to civil society participation originate.

These thematic areas will guide the selection of the Public Interest Litigation (PIL) cases supported under the project.

(b) The project will seek to increase the influence of civil society in policy-making, with a view to promoting a Human-Rights based approach to socio economic development. As such, it will contribute to the adoption of more positive reforms which will pave the way for **achieving inclusive sustainable development**. To do this, ASF will coordinate civil society actions at the regional level to ensure that they have the skills and stability to continue their work in Public Interest Litigation over time and develop more collective methods of public engagement;

(c) The project will directly **promote the resilience of civil society in the face of new challenges** by improving the visibility of CSO actions and by ensuring that their work is shared broadly through ASF's online platform (ExPEERience) as well as through research papers. Members of the Community of Practice (CoP) will have access to experts in the field of Public Interest Litigation and will engage with proxy actors enabling a sharing of expertise among CSOs to help counter the shrinking of civic space at the regional level. This project will benefit from ASF's legal protection mechanisms under the foreseen DGD programmes 2022-2026;

(d) The regional CoP will **build bridges** among civil society actors by strengthening cross-country learning as well as opportunities for actors to develop a strategic and coordinated response to ongoing threats to civic space through collective evidence-based actions. Through the CoP, members will improve the alignment of their actions and build strategic engagements with policy-makers and justice instruments. In addition, ASF will use its legal expertise to submit an Amicus Curiae to the East African Court of Justice. Additionally, the CoP will have a strong gender component, reinforced through the workshops with members to ensure that discrimination and marginalisation are directly addressed in regards to (i) the cases taken up and (ii) the management of cases. By supporting an active CoP, the project will act as a lever to unlock civil society voices in the region.

4. Objectives (Effectiveness)

- General objective: **Contribute to a Rule of Law compliant and Human-rights based approach to Eastern Africa's socio economic development through regional cooperation and networking between local civil societies organizations.**
- Specific objective: **CSOs influence decision makers and stakeholders to foster the realization of human rights and Rule of Law**
- Results: (i) **A regional CoP allows CSOs' coordination and peer-to-peer learning;** (ii) **Members of the CoP lead effective Public Interest Litigation;** (iii) **Collective advocacy is strengthened and effectively employed to influence decision-makers at national and regional levels**
- Target groups (number and type): **CSOs, State Actors, Non-State Actors, Regional institutions**

5. Activities and Strategies (Efficiency)

The Theory of Change for this project stems from ASF's East Africa Regional ToC which recognizes that **ASF's sphere of influence is civil society**. ASF believes that **to activate and protect civil society participation is a lever to promote a Human-rights based and Rule of Law approach to governance and development**. This in turn is necessary to make socio economic development inclusive and sustainable, to promote social cohesion and to prevent conflicts. Under this ToC, the engagement with civil society takes place at three levels:

1. ***Establishment of a Community of Practice (CoP)***: in response to the current lack of an adequate platform for East African CSOs practicing PIL, ASF will develop a CoP aimed at fostering strategic coordination and inter-country learning among key actors of the region. The model of the CoP offers a flexible approach to coordination, focusing on substantial objectives rather than coordination procedures. The CoP will be open to a large number of CSOs, including but not limited to the project's local partners;
2. ***Support to PIL***: PIL is at the core of the project as it is a key method for civil society to engage public institutions towards rule of Law and social change objectives. PIL allows making use of the Law for these objectives. Under this level of action ASF will both enhance the capacity of the CoP members on the use of strategic litigation, and co-manage specific PIL cases with local partners. This level will produce an improved and common approach to strategic litigation among members of the CoP;
3. ***Support CSOs in demanding policy reform***: This third level of action deals with the policy environment, over which ASF seeks to exercise a positive influence in line with its strategic objectives. ASF works towards this objective through collective civil society action, and grounds the influence exercised in its practical engagements (see the above). ASF seeks to formulate, voice and amplify specific policy reform points that it pushes with the adequate target groups and seeks to print in the public debate. The exercise of the influence is thus both an end, i.e. obtaining positive reforms, and a means, i.e. in the pursuit of this influence helping structure civil society and public debate.

Act. 1.1 Facilitate coordination of a Community of Practice

Act. 1.1.1: Creation of a CoP: In this activity, ASF and its partners (APDH, Burundi; LASPNET, Uganda; Centre for Strategic Litigation, Tanzania) will create a CoP made up of Civil Society Organizations from all countries, as a lever to unlock civil society voices in the region and to foster cross-country learning and strategic coordination of action carried out in the context of Public Interest Litigation. Through the first regional meeting, members of the CoP will identify areas of common interest which will influence the content of the training in Activity 1.2. Areas of common interest could be: shared policy goals, strengthening technical interventions, sharing information on PIL cases or amplifying the visibility of their actions. Following meetings will focus on how members are moving towards their goals and will ensure that necessary technical support is provided. The agenda and outcomes of these meetings will be shared on the online platform (Act. 1.1.2) to allow for external actors to contribute and raise awareness of achievements as well as challenges in achieving policy change. 6 digital meetings will take place across the project.

Act. 1.1.2: CoP members collaborate on an online platform: In the DGD Programme 2016 – 2021, ASF developed a collaborative online platform: ‘ExPEERience’ to engage key stakeholders in sharing knowledge on different thematic areas. This project will utilize this active platform to ensure regional coordination of members’ actions and regular sharing of best practices and learnings. ASF will ensure strategic coordination of CoP members’ actions with regards to PIL. Through this CoP, the project will systematize regional approaches to advocacy and strategic litigation in contexts of shrinking civil spaces. ASF will train members to use this online platform in Act. 1.2. and will support members of the CoP to make their work visible and encourage collaborations when sharing publications, as well as improve access to relevant data. The case database (2.1.3) updated by the partners and CoP members conducting PIL will be regularly shared on this platform. The notion of collective visibility is essential to ensure that the knowledge generated in the project is not withheld at organizational level, but shared widely for additional visibility and support from external experts.

Act. 1.2 Capacity building workshops with selected CSOs

Following the first CoP digital meeting, ASF and its partners will organize workshops to support the members of the CoP in one of the selected areas of common interest. These workshops will focus on supporting local partners’ litigation efforts as well as extensive training on data management to collect evidence to support litigation and advocacy objectives, as well as using the online platform managed by ASF. Under this project, three workshops will be held to achieve these objectives.

Act. 2.1 Public Interest Litigation cases

Act. 2.1.1 PIL cases led by partners: ASF will provide support to PIL led by its local partners in Uganda, Tanzania and Burundi. This support will entail: support to case identification, fact-finding and case analysis; set up of the legal team: formulation identification of a litigation strategy (public interest, class action etc.); legal back-up in proceedings: streamlining of the litigation strategy in reviews of acts and pleadings, and other back-up requested by partners. Apart from legal support, financial support will be offered to the partners upon approval of a case sheet by ASF. Under this activity, partners will be given a budget to manage cases that will be co-identified with ASF. Two cases will be taken up and managed in each country.

Act. 2.1.2 Filing of Amicus Curiae & Expert Opinion: The filing of Amicus Curiae briefs before the East African Court of Justice is a complementary strategy to support to the PIL cases managed by local partners. These procedures will allow ASF to bring the Court technical legal elements to appreciate the policy aspects of the PIL cases. One such procedure will be supported under this project.

Act. 2.1.3 Case database management: A case database will be created and maintained to ensure access to the case data. The database will be updated by the partners and CoP members conducting PIL. Through monthly checks with the partners and CoP members involved, ASF will ensure accuracy and effectiveness of the database.

Act. 3.1 Regional research paper on best practices in Public Interest Litigation

Following increased collaboration supported by an active CoP as well as workshops to improve PIL, a collaborative regional research paper will be developed with contributions from all CoP members. This paper will serve to disseminate the findings from the above activities and the best practices in regional PIL to ensure the further development of practice and research on this topic. Specific action points and recommendations will be identified with an objective to increase civil society engagement through PIL. The paper will be published as Open Access publication on the ASF and partner’s websites.

Act. 3.2 Regional Digital Conference

A regional conference will provide a platform to discuss findings from the above activities and will be key to unlocking civil society voices in the region. The objective will be to discuss and highlight best practices on using the law as a tool for open dialogue between civil society and governments.

- Action plan:

Activity	Year 1												Year 2											
	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12
1.1.1 Creation of a CoP																								
1.1.2 members collaborate																								
1.2 Workshops																								
2.1.1 PIL cases led by partners																								
2.1.2 Filing of Amicus Curiae & Expert Opinion																								
2.1.3 Case Database Management																								
3.1 Regional Research Paper																								
3.2 Regional Digital Conference																								

- Organizational capacity: past results and lessons learned (in the context of ongoing projects/programmes):

This project capitalizes and expands on ASF and partners' extensive experience in strengthening civil society and PIL in the East African region. ASF's comparative advantage lies in its track record of supporting civil society advocacy at local, national and international levels. It brings several years of relevant experience in implementing comparable projects in Uganda and Burundi. Whereas the engagement in Tanzania will be new, ASF has already established partnership relations with Tanzanian CSOs. ASF also brings its successful track record before regional institutions, in particular before the EACJ where ASF has been granted the status of Amicus in the past, which establishes its capacity to do so under this project. More specifically, this proposed project continues the work initiated by ASF in Uganda and Burundi through its five years DGD programme 2017-2021.

6. **Partners** (Synergy and complementarity)

APDH, Burundi: ASF and "Association pour la Paix et les Droits de l'Homme" (APDH) have worked in partnership since 2017 in the framework of ASF's Burundi DGD programme. APDH brings established and constructive relations with judicial authorities in Burundi and an operational ability to build PIL cases in Burundi. Given the risk of retaliation by the Burundi government, APDH's involvement in the project will be kept at low profile.

CRED, Uganda: ASF and Civic Response on Environment and Development (CRED) have worked in partnership since 2019 in the framework of ASF's Uganda DGD programme. CRED brings a strong thematic expertise on issues of natural resources governance as well as established relations with Uganda's decision makers. CRED also brings a demonstrated ability to use litigation as a tool for policy change and human rights advancement.

CSL, Tanzania: ASF and the Centre for Strategic Litigation (CSL) have been developing a partnership since 2021. CSL brings an organizational expertise on the use of PIL, and a track record of managing PIL in a shrinking civic space.

- Synergy and complementarity with other interventions:

This project is designed as a complementary intervention to ASF's foreseen DGD programmes 2022-2026 in Tanzania, Burundi and Uganda. This project adds a regional level of intervention to the DGD outcomes designed at country level. It offers an additional layer to ASF's Eastern African DGD intervention by operating at transnational level. The project is also in synergy with ASF's projects implemented in the region that provide support to PIL. The project will benefit the PIL efforts in the following projects: Pre-trial detention project (2020-2022) in Uganda, funded by the Austrian Development Agency; From Access to Equality (2021-2024) in Uganda, funded by the Embassy of the Kingdom of the Netherlands.

7. **Impact and sustainability**

Impact: The expected impact is a shift in the paradigm that underlies socio economic development. This transformation is operated through the promotion and adoption of a Human-rights based approach (HRBA), which places the expectations and experiences of the local populations at the core of decision making (Public Interest Litigation). The outcome relocates the Rule of Law and Human Rights as the key principles guiding authorities' actions towards development goals. The outcome operates a societal transformation of the current relation between development objectives and Human Rights, which is currently perceived as antagonistic by all three governments. The libel of human rights activists being anti-development reveals this antagonism and the limited vision of development as a rigid process, measured

through indicators that care little for the wellbeing of local populations. Instead, the outcome seeks to promote a vision of human rights as the backbone of a sustainable and inclusive development effort, guided by general interest, and implemented through Rule of Law compliant processes.

Sustainability: The project’s main guarantee for sustainability is that it will produce a multiplier effect, through the CoP whereby enhanced skills and fostered participation for the civil society organizations in the sphere of control will by themselves create structural conditions for engagement by others. **Technically,** the main element of sustainability is that the outcome refrains from creating new civil society structures but rather works within pre-existing ones. The outcome focuses on building skills and transferring knowledge, but also ensures that these equipment remain available after its completion. **Financially,** the project offers moderate institutional costs for its implementation. It relies on lean and flexible coordination methods (CoP) for its implementation. **Socially,** the project is directly designed from an evidence-based need analysis of the target groups and final beneficiaries. As such, it avoids the problem of limited ownership because it builds on social needs and practices that pre-exist its implementation. **Institutionally,** the project is derived from an analysis of Eastern Africa’s policy and legal framework, and works within its declared objectives. The project entails a strong effort for policy reforms that will contribute to making the institutional environment conducive to the realization of human rights in the long term. **Ecologically,** the project makes full use of the digital technology as a way to reduce its ecological foot print (transport, use of paper etc.).

8. Donor visibility

At project inception, a communication plan will be developed to ensure that communication and visibility are consistent in terms of content and structure. All communication and visibility will mention that the project is financed by the Kingdom of Belgium and all visual material will include the DGD logo.

9. Monitoring methods (Management capacity)

Outcome:	CSOs influence decision makers and stakeholders to foster the realization of human rights and Rule of Law		
Indicator 1:	# of judgements made which are favourable to human rights	0	4 out of the 6 PIL cases
Result 1:	A regional CoP allows CSOs’ coordination and peer-to-peer learning		
Indicator 1:	Members of the CoP have enhanced their capacity to collect evidence and coordinate with other actors	To Be Determined during the Pre-Test	100% of targeted members of the CoP
Result 2:	Members of the CoP lead effective Public Interest Litigation		
Indicator 1:	Number of public interest litigation cases taken up and reported on	0	6
Indicator 2:	Number of Amicus Curiae submitted	0	1
Result 3:	Collective advocacy is strengthened and effectively employed to influence decision-makers at national and regional levels		
Indicator 1:	Number of research papers on best practices in Public Interest Litigation	0	1

ASF and its partners are committed to maximizing the impact of the project through a sustainable monitoring system and reflective learning that builds on lessons learned and best practices. The Regional Knowledge Manager will participate in all CoP activities to monitor project activities and help document lessons learned. All project knowledge will be reported on in project reports and the research paper carried out in year 2 will consolidate this information, specifically focusing on best practices in PIL carried out in the context of the project.

10. Detailed Results-Based Budget (Efficiency)

Each activity was designed with a strict consideration for value for money and sustainability. The activities require limited investment but instead focus on transfer of skills. The transport plan was rationalized across the program, and a choice is made to invest in digital methods of work, which limits the dependency on transport and other associated costs. Out of the total budget, 52% (128 846,39 euros) is dedicated to activities, 39% to human resources (95 872,96 euros) and 11% (25 000 euros) to office and transport. The choice to invest heavily in human resources is dictated by the proposal’s objectives, which require high human capital as the project relies more on skills’ transformation than service delivery.

11. Risk analysis

Description of the risk	Likelihood	Possible impact	Risk management measure
(External) The space for civic activism in the targeted countries reduces and impede project implementation	Medium	Medium: Operations are complicate	At external level, ASF will engage with NGO/CSO regulating bodies in each country to manage implementation of activities.
(External) The COVID 19 pandemic continues and disrupts project implementation	Medium	Low: Implementation plans are disrupted	The majority of project activities will be held online. Activities are (1) built on flexible coordination mechanisms, (2) leverage digital technologies and (3) rely on local actors for field operations.
(Project) CoP members are threatened because of their work in exposing violations committed by public and private actors	High	Medium: Project stakeholders are unable to continue operations	The project entails a strong component of Public Interest Litigation which could potentially put them and their operations at risk of being shut down. ASF will monitor this closely and ensure legal protection is deployed if necessary.
(Project) the duration of the PIL cases exceeds the duration of the DGD funding.	High	Medium: the management of the PIL cases is disrupted and cases’ objectives are not achieved	The project takes place under a larger regional program in Eastern Africa, which will take up the case management after the project completion. The selection of cases to be taken up under the project is open to cases already filed by partners which will reduce the time necessary for their processing by courts. Finally, the management of cases will ensure that intermediary objectives are achieved before the project completion.