

# Developing a tool/instrument to measure the impact of strategic litigation – Terms of Reference

## About MLDI

### MLDI's Vision

A world where journalists no longer face legal challenges that threaten their ability to report freely and independently on issues of public interest, allowing citizens to be better informed, able to hold those in power to account.

### MLDI's Mission

To help journalists who are under threat for their work by making sure they have access to good lawyers and by working alongside these lawyers to make sure the best possible legal defence is provided.

## Summary

MLDI is looking to engage a consultant experienced in developing monitoring and evaluation tools and instruments to develop a tool for MLDI to measure the impact of its strategic litigation.

## Background and Rationale

MLDI's strategic litigation seeks to promote a legal and regulatory framework in which independent media can report freely on issues of public interest. For MLDI, litigation is strategic when:

- it takes place at a constitutional court, a regional court (such as the East African Court of Justice or European Court of Human Rights) – as this could result in reforms in a particular country or group of countries
- is the first case of its kind - as this could set precedent for future cases of its kind
- has the potential to bring about change for journalists and media generally in a specific country or region – as it could affect the wider journalistic community as opposed to just the individual journalist involved

Strategic litigation is one of MLDI's core activities and makes up over 50% of its legal team's workload; as a result, MLDI is looking to develop methodologies to measure the impact of this work by creating a tool or framework for impact evaluation that can be applied in a consistent and systematic way. It is important for MLDI to understand if and how this area of work is driving change, what impact it is having as well as identifying how MLDI can improve its processes and increase its impact in this area.

Although MLDI carries out analysis of strategic case judgments and monitors the implementation of judgments handed down in strategic cases, it has never conducted a robust evaluation of this stream of work.

In early 2018, MLDI's Monitoring, Evaluation and Learning Officer will be conducting an exploratory impact evaluation (desk based) of its strategic litigation using a small number of cases from different courts. Before undergoing this evaluation, MLDI seeks to engage a consultant to support the development of a tool or framework to structure the evaluation.

This tool/framework will be trialled with the strategic litigation evaluation planned for early 2018. Assuming the tool/framework is fit for purpose, it will then feature as one of the key impact evaluation methods for MLDI's two year project 'Sub-Saharan Africa Digital Rights Advocates Project'. One of the key aims of the project is to create legal communities in Sub-Saharan Africa who have the technical skills

and ability to litigate digital rights cases. This framework will then be applied to measure the longer term impact of the cases that trained advocates handle.

## **Needs and use of the tool/instrument**

The tool/instrument must:

- Provide a consistent approach to measuring the impact of strategic litigation
- Provide a measurable format for impact evaluation such as criterion based scales or other suitable measurement instrument
- Be appropriate to the nature of litigation and the nature of MLDI's work
- Seek to identify the changes that occurred as a result of the litigation, and the extent the litigation contributed to the change
- Should focus on (but not be limited to) their impact on the freedom of expression landscape

The tool will be used on an ongoing basis to evaluate MLDI's strategic litigation projects, and specifically the 'Sub-Saharan Africa Digital Rights Advocates Project'. Findings will be used for internal learning, communicating the impact of MLDI's work and reporting to donors.

## **Governance and accountability**

MLDI's Monitoring, Evaluation and Learning Officer, Patrick Regan, will be the key contact for this consultancy and will be responsible for day-to-day communications and support with the evaluation consultant.

## **Qualifications and experience**

The consultant should:

- have demonstrable experience in the monitoring and evaluation sector (at least 3 years' experience)
- have demonstrable experience of carrying out evaluations for NGO's and charities
- have demonstrable experience of developing tools, instruments and evaluation frameworks

Experience of carrying out evaluations with human rights organisations, would also be beneficial.

## **Deliverables**

The key deliverable will be:

- a tool/instrument capable of measuring the impact of MLDI's strategic litigation
- guidance document(s) on how to use the tool/instrument
- support with the use of the tool for the pilot evaluation
- A review of the applicability of the tool following the pilot evaluation in early 2018 including risks, strengths, recommendations and limitations of the tool

## **Useful resources**

- 2015-2020 strategy
- MLDI's Theory of Change & Log Frame
- MLDI's strategic litigation plan
- Strategic Litigation Evaluation Plan
- MLDI's notes on current thinking around areas of impact for strategic litigation

Documents available on request.

## Application and selection

Please send your proposal, including:

- Methodology and approach
- Timeline
- A summary of relevant experience of the agency and/or individuals involved
- Examples of previous relevant evaluations carried out and tools developed
- Consideration of ethics and risks
- Detailed cost breakdown

To [Patrick.regan@mediadefence.org](mailto:Patrick.regan@mediadefence.org) no later than 20 February

Shortlisted applicants will be invited to interview in late February 2018.

When selecting the consultant, MLDI will consider:

- Past experience of the consultant
- Value for money
- Suitability of the approach and proposed methods
- Innovativeness of the approach
- Communication and presentation skills
- Consideration of risks and mitigation
- Understanding of MLDI's work and objectives

### Dates

Deadline for proposals	20 February
Interviews	End of feb
Appointment of Consultant	No later than 5 March 2018
Tool/instrument delivered to MLDI	End of April 2018*
Pilot Evaluation Complete	Mid-May2018*
Review and tool assessment	Early June 2018 *

\*dates are approximate only and will be decided and agreed with the selected consultant.

### Contact information

For questions, further information or a discussion about the evaluation, please contact Patrick Regan on [Patrick.regan@mediadefence.org](mailto:Patrick.regan@mediadefence.org) or 0203 752 5545