



# Call for Consultants: Modules on Digital Rights and Freedom of Expression in Europe

## *Terms of Reference*

### 1. Purpose of the consultancy contract

The purpose of the consultancy contract is to draft nine modules on digital rights and freedom of expression in Europe.

### 2. Background

Media Defence's vision is 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.

Media Defence's mission is to ensure legal protection of journalists and media workers under threat for reporting on issues of public interest, in the belief that freedom of expression is essential.

One of Media Defence's core activities is the delivery of litigation surgeries. These litigation surgeries aim to increase the knowledge, skills and confidence of lawyers to litigate digital rights and freedom of expression cases at national and regional courts. Media Defence has developed a [Training Resource Hub](#) containing a set of [summary modules](#) and [advanced modules](#) on digital rights and freedom of expression for different regions which are the core content for the litigation surgeries. These modules have been designed to introduce practicing lawyers to key concepts relevant in litigating digital rights cases and to be used as reference guides on comparative and international law.

### 3. Training Modules

As freedom of expression is increasingly under threat in Europe, with repressive regimes escalating crackdowns on independent media, Media Defence would like to expand its training materials to include specific modules on Europe to provide lawyers in Europe with the knowledge and tools to take on these cases.

Media Defence is looking to hire a consultant to draft nine modules on various legal issues around digital rights and freedom of expression in Europe. The modules should set out the applicable international standards and include case law from national, regional and international courts, relevant comparative law, and guidance. This is a fast-developing area of law; where relevant, the consultant should provide an overview of current status of litigation and potential opportunities or strategies for lawyers.

These modules would then be added to the [Training Resource Hub](#) to ensure that both lawyers who have participated in a litigation surgery and those who have not are able to deepen their knowledge of litigating cases in Europe.

### 4. Deliverables

The development of training modules on topics outlined below:

## (1) Modules

### **Module 1: Key principles of international law and freedom of expression**

Key principles of international law  
The right to freedom of expression under international law  
European regional instruments (Council of Europe, EU)  
Overview on digital rights  
Internet intermediaries  
The borderless enjoyment of freedom of expression  
The right to freedom of expression online

### **Module 2: Digital Privacy and Data Protection**

The right to privacy  
Data protection  
Data retention (ECtHR and CJEU)  
'The right to be forgotten'  
Encryption and anonymity on the internet  
Government-led digital surveillance

### **Module 3: Defamation and reputation**

What is defamation?  
Criminal defamation  
Civil defamation  
Can a true statement be defamatory?  
The right to protection against attacks on reputation?  
What is the right way to deal with defamation?  
Types of defamatory material  
Strategic Lawsuits Against Public Participation (SLAPP)

### **Module 4: Hate speech**

Who is internationally protected by "counter hate speech" provisions?  
Was "hate speech" intended to incite?  
Must violence or hatred actually result?  
The danger of vagueness  
Advocacy of genocide and Holocaust denial: a special case?  
Religious defamation

### **Module 5: Cybercrimes**

What is a cybercrime?  
Types of cybercrimes  
Trends in Europe

### **Module 6: 'False news', misinformation and propaganda**

What is 'false news'?  
Misinformation, Disinformation and Mal-Information  
Propaganda

### **Module 7: National security**

The derogation process under international and regional human rights treaties  
Limiting media freedom on grounds of national security  
The scope of national security  
Terrorism  
Prescribed by law  
Necessary in a democratic society  
Prior restraint in national security cases

**Module 8: Violence against journalists**

Government and public officials' duty to provide a favourable environment for freedom of expression  
Physical attacks and violence against journalists  
Online violence, such as abuse, trolling and smear campaigns  
Protection of journalistic sources  
Gender-based violence  
Practical approaches

**Module 9: Introduction to litigating freedom of expression in Europe**

General principles and introduction to freedom of expression litigation  
Overview of the ECtHR  
    Admissibility  
    Jurisdiction  
    Evidence + burden of proof  
Overview of the positive obligations of the State for the protection of journalists

(2) A glossary

(3) PowerPoint presentations for each module

**5. Expected timeline**

- 18 August 2023: Deadline for submission of proposal
- 4 September 2023: Successful proposal will begin
- 17 November 2023: Review by Media Defence's Legal Team
- 15 December 2023: Final submission

**6. Expected profile**

- At least 3 years' experience drafting resources on digital rights and freedom of expression, ideally for practicing lawyers.
- Demonstrated knowledge of international/comparative law on the right to freedom of expression, digital rights, and internet freedom, with a particular focus on Europe.
- Availability to provide the deliverables within the expected timeline

**7. How to apply**

Please submit the following documents to [hanna.uihlein@mediadefence.org](mailto:hanna.uihlein@mediadefence.org):

- A one-page proposal including key dates and timelines for the project.
- CV of those working on the project.
- Quotation/itemised budget in GBP (£).
- Example of relevant previous work undertaken.

If you have any questions regarding the Terms of Reference or would like a copy of our existing training modules, please contact [hannah.stoate@mediadefence.org](mailto:hannah.stoate@mediadefence.org).