

**Refugee Law Clinic Würzburg e.V.**

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**Terms and conditions**

of Refugee Law Clinic Würzburg e.V., Domerschulstr. 16, 97070 Würzburg, VR (association's registry) No. 200977

(hereinafter referred to as "Mandatory")

**Preamble**

The Mandatory's statutory objective is to promote assistance for refugees and asylum seekers.

This objective is to be achieved, *inter alia*, by organising and providing free legal consultation by students of the Faculty of Law at Julius Maximilian University of Würzburg in accordance with § 6 of the RDG (Act on Extrajudicial Legal Services).

Against this background, the following terms and conditions apply to any consultation agreed between a person seeking consultation (hereinafter referred to as the "Mandator") and the Mandatory, in addition to the consultation agreement or other arrangements:

**§ 1 Subject matter of the contract**

(1) The Mandator commissions the Mandatory in accordance with § 662 of the German Civil Code (BGB) to provide legal consultation and support in accordance with § 2 ("consultation"). The Mandator may confer upon the Mandatory power of attorney.

(2) **Members of the Mandatory** act in the course of consultation. They are usually **students** at Julius Maximilian University of Würzburg. The Mandator agrees to the transfer of the consultation activity to these persons.

(3) In individual cases, the Mandatory is entitled to engage interpreters or translators to facilitate communication during the consultation.

(4) The Mandatory **only** provides consultation **outside of court**. In court proceedings, the members of the Mandatory may only assist the Mandator in drafting pleadings or applications or in preparing for court hearings, unless they are lawyers or university lecturers at a law faculty.

(5) The representative **does not provide consultation** in urgent cases or cases that threaten the Mandator's livelihood. Consultation is not provided on matters primarily relating to criminal law (in particular if the Mandator is a suspect), tax law, disputes against Julius Maximilian University of Würzburg, or against university examination results, state examinations or BAföG decisions.

(6) The **consultation agreement only comes into effect upon acceptance of the request for consultation** by the association, represented by its authorised organs, which are solely the first and second chairpersons. The Parties agree that the advisory contract shall be concluded in text form. Mere contact and preliminary discussions do not constitute a contractual relationship.

## § 2 Standard of consultation

(1) The Mandator is aware and is expressly notified that the members of the Mandatary generally act **as legal laypersons without having completed a law degree**. The members of the Mandatary are generally not licensed as solicitors (Rechtsanwälte). The consultation **cannot reach the level of legal advice provided by a solicitor and does not replace such advice**.

(2) Special regulations for solicitors are not applicable to the Mandatary. In particular, the association and its members have no right to refuse to give evidence, there is no protection against the seizure of information, there is no professional liability insurance and, in the event of knowledge of serious criminal offences, there is a duty to report.

(3) Legal consultation is provided under the guidance of a person who is authorised to provide consultation for remuneration or who is qualified to hold judicial office (§ 6(2) RDG).

(4) Immediate consultation (ad hoc consultation) is not provided.

## § 3 Free of charge; obligations of the Mandator

(1) The consultation is provided free of charge.

(2) However, the Mandatary may demand that the Mandator reimburse **any expenses actually incurred** which the agent could reasonably have considered necessary (§ 670 BGB), such as travel, copying or postage costs.

(3) The Mandator is obliged to provide the agent and its members with all information relevant to the consultation and to submit documents.

## § 4 Termination

(1) The consulting agreement is terminated upon fulfilment of the Mandatary's performance obligation. In case of doubt, the obligation to provide consultation is deemed to have been fulfilled if there has been no contact with the Mandator for at least six months.

(2) The consulting agreement may be terminated by either Party at any time by giving notice of termination or revocation. The Mandatary may only terminate the agreement at an inopportune time if there is good cause. Good cause exists in particular if the Mandatary is unable to perform the consultation because

- a) supervision cannot be provided for the matter in question;
- b) the matter in question exceeds the capabilities of the consulting members of the association;
- c) the Mandator behaves in a deliberately and seriously unlawful manner; or
- d) the Mandator fails to comply with their obligation to cooperate (§ 3(3)) even after a deadline has been set.

## § 5 Limitation of liability

(1) The Mandatary shall **only** be liable to the Mandator **in case of intent and gross negligence**. The standard of liability shall be based on the **standard of legal laypersons who provide the consultation** (§ 2(1)).

(2) This limitation of liability does not apply to damages resulting from injury to life, limb or health, or violations of data protection regulations.

(3) The limitation of liability shall also not apply in the event of a breach of essential contractual obligations. Essential contractual obligations are those

- a) which the Mandatary must fulfil in order to properly perform the contract;
- b) on whose fulfilment the Mandator relies and may reasonably rely upon; and
- c) whose faulty non-fulfilment jeopardises the achievement of the object and purpose of the contract.

If the Mandatary breaches an essential contractual obligation, it shall only be liable only for damages that were foreseeable at the time the contract was concluded and that typically occur.

(4) The Mandator waives the right to pursue direct claims against members of the association and supervisors in court. This does not apply in cases of intent and gross negligence; paragraphs 2 and 3 apply accordingly.

## **§ 6 Limitation period**

All claims of the Mandator arising from or in connection with the consultation agreement extinguish 18 months after the start of the regular limitation period, at the latest five years after they arise. This does not apply in cases of intent and gross negligence; § 5(2) and (3) apply accordingly.

## **§ 7 Confidentiality**

(1) The Mandatary undertakes to maintain confidentiality regarding all information and documents of the Mandator that it obtains in the course of the consultation ("consultation information"). The Mandatary's lack of rights to refuse to give evidence and prohibitions on seizure Reference is stated once again.

(2) However, the Mandatary may pass on the consultation information to its members for the purpose of counselling. The Mandatary may pass on the consultation information to the interpreters or translators it has commissioned. The Mandatary and its members may also pass on the consultation information to supervisors, insofar as this is necessary for supervision. This is without prejudice to differing agreements with the Mandator in individual cases which take precedence.

(3) The Mandatary endeavours to ensure that his members, supervisors and interpreters or translators commissioned by it also treat the counselling information as confidential.

(4) The Mandatary undertakes in particular to treat all personal data received in connection with the counselling as confidential and to comply with the statutory data protection regulations and its **data protection declaration** (appendix).

## **§ 8 Storage of the Mandator's documents**

(1) The Mandatary undertakes digital storage of the consultation information. §§ 688 et seq. BGB apply to the storage relationship, unless otherwise specified below and without prejudice to data protection regulations. Storage is free of charge. Contrary to § 690 BGB, **§ 5** of this agreement applies.

(2) After expiry of the limitation period or at the time of the data protection deletion obligation, the Mandatary is entitled to destroy the consulting information. §§ 695 to 697 BGB and § 4 of this agreement do not apply. The right to extraordinary termination for good cause remains unaffected.

## **§ 9 Final provisions; severability clause; choice of law and place of jurisdiction**

(1) Notwithstanding § 1(6) sentence 2, agreements deviating from these consulting terms and conditions prevail even if made verbally. For evidence and documentation purposes, both Parties endeavour to record such deviating agreements in text.

(2) If individual provisions of this consulting agreement are or become void or ineffective, or if this consulting agreement contains a lacuna, the remaining provisions shall remain valid. The Parties agree to maintain the validity of the remaining provisions of this consulting agreement in any case; contrary to § 139 BGB, the validity of the remainder of the contract is presumed.

(3) The substantive law of the Federal Republic of Germany apply to these terms and conditions and to the consultation agreement. Only the German version of this agreement is authoritative.

(4) Würzburg is agreed as the place of jurisdiction

- a) if the Mandator does not have a general place of jurisdiction in Germany,
- b) for legal action against the Mandator if they move their place of residence abroad after conclusion of the agreement or if the Mandator's place of residence or habitual abode is unknown at the time the action is brought.

## **Appendix: Data protection declaration**

The members of the Mandatary are permitted to use electronic media for the exchange and transmission of information, but are subject to the applicable provisions of the General Data Protection Regulation (Regulation (EU) 2016/679) (GDPR). The Parties are aware that, due to the technical conditions of the Internet, confidentiality cannot be guaranteed when transmitting information electronically (especially by email); the Mandator separately declares their consent to this use (consent to data processing). This consent is part of the consultation and is valid until withdrawn. The withdrawal can be made at any time to the Mandatary. As a result, the Mandatary is no longer permitted to communicate with the Mandator by email.

The Mandatary provides the Mandator with the following data protection declaration and information:

### **Controller within the meaning of Art. 4(7) GDPR**

Refugee Law Clinic Würzburg e.V.  
Domerschulstr. 16  
97070 Würzburg  
Contact: [info@rlc-wue.de](mailto:info@rlc-wue.de)

### **Category and type of data processed:**

The following categories of personal data are processed:

1. Contact details such as name, telephone number, address, email address
2. Information about the mandate and the documents you have provided for this purpose, such as immigration status, scans of identity documents, information on marital status, your financial circumstances, etc.
3. Data about you that has been provided to us by public authorities (in particular after access to files)

We only process data on your ethnic origin, religious beliefs or family relationships to the extent necessary and only with your consent.

We pass on data to our members for the purpose of the consultation. They are also bound to confidentiality; this data protection declaration applies to them. In order to fulfil our obligations under § 6 RDG, we pass on data to supervisors. If translation or interpreting is required, we pass on data to translators or interpreters with your consent (that is not bound to any form requirement). If it is necessary to contact public authorities or bodies for the purpose of consultation, we also pass on your data to them.

### **Purpose and legal basis of data processing**

We collect, store and process this data in order to identify, contact, advise and represent you appropriately. The legal basis for this data processing is Art. 6(1)(b) GDPR.

We only process sensitive data (within the meaning of Art. 9(1) GDPR), such as data relating to your ethnic origin or religious beliefs, to the extent necessary and only with your consent. The legal basis for this is Art. 6(1)(a), Art. 7 and Art. 9(2)(a) GDPR.

Data processing may also serve to settle liability claims that you assert against us. The legal basis for this is Art. 6(1)(f) GDPR.

### **Duration of data storage**

We store your information for as long as necessary to fulfil the purposes described in this data protection declaration. The necessity of further storage is regularly reviewed at the end of each calendar year; in general, we assume that data from consultations that have been completed for at least six months (§ 4 of the terms and conditions) are no longer required. In justified exceptional cases, we store the data for up to five years after the end of the consultation (maximum limitation period).

### **Rights of data subjects**

#### **General**

Under the General Data Protection Regulation, you have the following rights:

- If your personal data is processed, you have the right to obtain information about the data stored about you (Art. 15 GDPR).

- If inaccurate personal data is processed, you have the right to rectification (Art. 16 GDPR).
- If the legal requirements are met, you can request the erasure or restriction of processing and object to the processing (Articles 17, 18 and 21 GDPR).
- If you have consented to data processing or if a contract for data processing exists and the data processing is carried out using automated procedures, you may have the right to data portability (Art. 20 GDPR).

If you exercise your rights as described above, we will check whether the legal requirements are met.

You also have the right to lodge a complaint with the Bavarian State Commissioner for Data Protection (Bayerischer Landesbeauftragter für den Datenschutz).

### **Right of withdrawal**

If the processing of your data is based on consent (see consent to data processing), you can withdraw your consent at any time. This withdrawal only applies to the future; the legality of data processing up to the point of withdrawal remains unaffected.

### **Contact**

You can contact us at:

Domerschulstr. 16, 97070 Würzburg

[info@rlc-wue.de](mailto:info@rlc-wue.de)

You can also complain to a supervisory authority if you think we have violated the GDPR when processing your data.

You can address this complaint to, for example:

Bayerischer Landesbeauftragter für den Datenschutz

<https://www.lida.bayern.de/de/beschwerde.html>