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TERMS OF REFERENCE

A. Job title:	3 National Consultants for Capacity Building and Analysis of Torture of Women and Men with Psychosocial and Intellectual Disabilities in Psychiatric Facilities
B. Duty station:	Chisinau, Republic of Moldova
C. Project reference:	Strengthening National Capacities to Protect the Most Vulnerable from Torture in Moldova
D. Contract type:	Individual Contract (IC)
E. Duration of assignment:	October 2014 – December 2015 (up to 180 days for each consultant)

F. Background:

Moldova signed the *EU-Moldova Visa Liberalization Action Plan*, in which it committed to implement the *National Human Rights Action Plan for 2011-2014*,¹ which contains commitments to prevent and combat all acts of torture and ill-treatment. The *Justice Sector Reform Strategy 2011-2016*² was adopted addressing the problem of torture in its Pillar VI. Related priorities and commitments are established under the *UN-Moldova Partnership Framework (UNPF) 2013-2017*,³ which addresses a number of human rights issues, including torture and ill-treatment and a need to secure the rights of the most vulnerable. Additionally, there are a number of international recommendations on combating torture in Moldova, many of which still need to be implemented.⁴ In spite of these recommendations and international commitments, torture remains to be a grave human rights violation in Moldova with not all of the aspects of this violation addressed properly and impunity for torture remaining one of the most acute problems.

The problem of torture and ill-treatment in mental health facilities is an emerging issue in Moldova, which has not been adequately addressed both in legislation and practice in spite of numerous complaints from the part of persons affected by it. Thus, the pilot Ombudsperson in psychiatric institutions,⁵ who is tasked with providing legal consultancy and drafting monitoring reports on the situation in psychiatric hospitals and neurological internats, has received in October 2012 – July 2013 (during 9 months of her work) 5622 complaints from 1474 institutionalised persons (960 women and 514 men), all of whom complained about several violations, including 281 complaints (5%) on physical abuse, 674 (12%) – on lack of information about treatment, 955 (17%) – on lack of informed consent on institutionalization and treatment, etc.⁶ In addition to this, the Center for Human Rights (CHR) and the National Torture Preventive Mechanism (NPM) have released monitoring reports on several psychiatry

¹ <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=339395&lang=1>

² http://justice.gov.md/public/files/file/reforma_sectorul_justitiei/srsi_pa_srsi/SRSJen.pdf

³ http://www.un.md/news_room/pr/2012/undaf/United_Nations_Republic_of_Moldova_Partnership_Framework.pdf

⁴ The recommendations of the UN Human Rights Committee (2009), the UN Committee against Torture (2009),⁴ and Universal Periodic Review (2011) on the effective prevention, investigation and prosecution of torture, the Report of the Special Rapporteur, Manfred Novak (2009), following his mission to Moldova.

⁵ The pilot Ombudsperson in psychiatric institutions is UNDP's consultant, which was established in consultations with the Parliament, Ministry of Health and the Ombudsman Office. The consultant and its title should not be confused with the Ombudsperson in Moldova or Ombudsperson Office, which are State established.

⁶ Report of pilot Ombudsperson in psychiatric institutions on the period of October 2012 – July 2013.

institutions listing a number of problems, including the complaints of institutionalized persons on ill-treatment from the part of staff persons of the institutions.^{7,8}

The overall objective of the project “Strengthening National Capacities to Protect the Most Vulnerable from Torture in Moldova” is to contribute to the prevention of torture and fighting against impunity on the whole territory of Moldova, including Transnistrian region, especially in respect of the most vulnerable women and men in-line with international human rights standards, Justice Sector Reform Strategy (2011 – 2016) and its Action Plan, and National Human Rights Action Plan (2011-2014). The project seeks to further strengthen the capacities of national stakeholders in monitoring of, reporting on, prevention and combating of torture, especially against women and men with psychosocial and intellectual disabilities in health care facilities. For this purpose the specific objectives of the project are:

1. Strengthened capacities of the *civil society* in monitoring and reporting on governmental anti-torture processes, as well as in campaigning to combat impunity, in particular, with regards to women and men with psychosocial and intellectual disabilities;
2. *Increased protection of women and men with psychosocial and intellectual disabilities*, enhanced provision them with remedies against ill-treatment, and their participation supported in all matters related to torture prevention in health care facilities;
3. *Enhanced effectiveness of key State bodies* responsible for torture prevention, protection and redress in combating and redressing torture against women and men with psychosocial and intellectual disabilities.

G. Objective:

The main objective for the team of three National Consultants is to provide expertise, training and capacity building both for State institutions and civil society for the combating, prosecution and prevention of torture against the most vulnerable women and men in psychiatric facilities.

H. Scope of work and expected outputs:

The tasks and activities will be completed by a team of three National Consultants. The consultants will be experts in the following areas: one will specialise on medical and mental disability issues (Medical Consultant), one will specialise on legal issues and civil society (CSO Consultant), one will specialise on legal issues and State institutions (State Institutions Consultant). Below is the description of scope of work and related activities:

Activity 1: Strengthen monitoring capacities of the CSOs. The activity consists of on-going consultations for the coalition of CSOs on international human rights standards in the sphere of freedom of torture for the purposes of NHRAP, JSRS implementation and national anti-torture legislation application practices. The consultations will be provided based on the identified needs of the CSOs’ coalition and based on the CSOs requests.

Activity 2: Conduct trainings for CSOs, including from Transnistrian region and Gagauzia, on drafting shadow reports on torture to the UN review mechanisms. The activity consists of at least three 2-day training courses with members of at least 10 CSOs taking part in each training. CSOs from different regions of Moldova will be involved, including from Transnistrian and Gagauzian regions. Members of the CSOs monitoring coalition will be involved as well. Each training course will address shadow reporting on torture, including on the situation in mental health facilities, to one of the UN review mechanisms. For that purpose CSOs will use the monitoring reports produced by the CSOs monitoring coalition. Women and men with psychosocial and intellectual disabilities and/or CSOs which represent them will be involved. Social NGOs dealing with groups vulnerable to torture will be involved. Participation of the pilot Ombudsperson in psychiatric institutions will also be sought.

⁷ Report on the NPM’s visit to the Chisinau Psychiatric Hospital on 2 October 2012:

http://ombudsman.md/sites/default/files/rapoarte/vizita_psihiatrie_2.10.2012.pdf

⁸ Report on the CHR’s prevention visit to the Balti psychoneurological internat (care home) on 10 January 2013:

http://ombudsman.md/sites/default/files/rapoarte/vizita_psihoneurologie_balti_10.01.2013_-_kopiya_-_kopiya.pdf

Activity 3: Provide post-training consultancy to the CSOs to finalise and submit the drafted shadow reports. This activity consists in the provision of support to CSOs, especially those who are less experienced in shadow reporting, with their final drafting and submission of qualitative shadow reports in-line with the human rights standards, as well as including, where relevant, issues of torture of women and men held in mental health facilities.

Activity 4: Organise meetings with CSOs, including from Transnistrian region, about the international standards on the prohibition of torture in mental health facilities. This activity will be focused on organizing meetings with CSOs, including from Transnistrian region, on the international standards on prohibition of torture in the health care settings, in general, and in the mental health facilities, in particular. The purpose of the meetings is to discuss findings and recommendations of the UN Special Rapporteur on torture's in the context of the Republic of Moldova, to build awareness of the CSOs, and mobilize the civil society organizations for action on this specific subject. Particular attention will be paid, but not limited, to: (a) changing the normative paradigm, (b) absolute ban on restraints and seclusion, (c) legislation allowing forced interventions, (d) legal capacity reform, and (e) involuntary confinement in the psychiatric institutions. The meetings will be organized as round tables and other consultations. The Activity shall involve civil society organization active in areas of human rights, torture prevention and combating, mental health, social and health policies, as well as national human rights institution, and NPM.

Activity 5: Produce a Report with analysis of national legislation in terms of prohibition and combatting torture in mental health facilities. The given analysis will include analysis of: the 2013 Report of the UN Special Rapporteur on torture and other cruel, inhuman and degrading treatment and punishment, other UN system observations and recommendations on Moldova, the national legislative framework, scrutinized to ensure the compliance with the CPT standards on detention in psychiatric institutions, ECtHR judgements on Moldova, addressing torture and ill-treatment and illegal detention issues in the context of mental health institutions. Specifically, a number of topics (change of the normative paradigm, absolute ban on restraints and seclusion, legislation allowing forced interventions, legal capacity reform, involuntary commitment in psychiatric institutions, forced medication, etc.) will be carefully examined and recommendation for immediate efficient implementation should be made with proposals for concrete legislative amendments where necessary. The report will be presented to State institutions and CSOs.

Activity 6: Advocate for the implementation of proposals made within the Report. This activity will consist of public debates on the findings and recommendations of the legislative framework analysis and specific legislative amendments. A broad range of stakeholders will be involved in this process, including but not limited to the Ministry of Justice, Ministry of Health, Ministry of Labour, Social Protection and Family, mental health institutions, Ombudsperson's Office, NPM, CSOs, standing parliamentary commissions.

Activity 7: Train legal aid and NGOs' lawyers on litigation of cases of torture in mental health facilities taking into account gender sensitive aspects. The training will focus on the specific aspects of documenting and investigating allegations of torture against women and men in the mental health institutions, including the issues of CRPD requirements, informed consent, restraints and seclusion, illegal detention, forced medication, etc. The activity will be implemented in partnership with the National Legal Aid Council and will involve 25 legal aid and CSOs' lawyers.

Activity 8: Organise a seminar for NPM, CSOs and a group of women and men with psychosocial and intellectual disabilities on torture issues in mental health facilities and their joint monitoring work. The seminar will serve as an entry point for their further involvement into the NPM torture prevention work, specifically in mental health facilities. During the seminar relevant human rights standards on torture will be reviewed and peculiarities on torture in mental health facilities will be revealed. Women and

men with the experiences of their institutionalisation in mental health facilities can play an important source of information on the forms of torture in these institutions and may serve as a specialised experts and consultants for the CHR and/or NPM. The participants will discuss and decide about the ways for their further cooperation in the NPM's work on torture prevention in mental health institutions.

Activity 9: Provide technical support for the NPM in monitoring of mental health facilities in consultation and cooperation with CSOs, women and men with psychosocial and intellectual disabilities. One of the consultants, involved in the seminar for CHR, NPM members, CSOs and a group of women and men with psychosocial and intellectual disabilities, will provide further part time technical support for the NPM in setting up and implementing the agreed ways of cooperation between the NPM and women and men with psychosocial and intellectual disabilities. The consultant will also assist, following the decision of the CHR and/or NPM, in the organisation of CHR and/or NPM monitoring visits to the mental health facilities together with women and men with psychosocial and intellectual disabilities, who can act in the capacity of external experts for the CHR and/or NPM purposes.

Activity 10: Support the drafting of Guidelines for Prosecutors on the Investigation of Cases of Torture in order to include information on the investigation of cases of torture in mental health facilities and taking into account gender sensitive aspects. The activity will be implemented in cooperation with the Torture Combatting Section of the General Prosecutor's Office and in consultations with the relevant prosecutors and persons with psycho-social and intellectual disabilities. Pilot Ombudsman in psychiatric institutions will contribute to this work as well.

Activity 11: Organise training of GPO's Torture Combatting Section prosecutors in the investigation of cases of torture in mental health facilities and taking into account gender sensitive aspects. The training will include 20 prosecutors on the specific aspects of documenting and investigating allegations of torture in mental health institutions and taking into account gender sensitive aspects. The following issues will be also covered during the training: UN Convention of the Rights of Persons with Disabilities anti-torture requirements, informed consent, restraints and seclusion, illegal detention, pain treatment, overmedication, forced medical interventions, etc. The Guidelines on the investigation of cases of torture and ill-treatment in mental health facilities will constitute a basis for the training and will be a part of the training activities envisaged by the project for the particular group of professionals. The activity will be implemented in partnership with the General Prosecutor's Office and will involve mainly the prosecutors acting in those areas where mental health institutions are located.

In order to achieve the objectives and to implement the abovementioned activities the National Consultants shall:

- Ensure the organization of all activities of the assignment, including:
 - o Timely development and preparation of materials for foreseen trainings, seminars, workshops and other events related to the activities of the assignment;
 - o Collection of feedback and incorporation of feedback into future activities;
 - o Evaluation, organization of follow-up activities and presentation of timely reports;
- Provide expertise on torture in mental health institutions, taking into account gender sensitive aspects in accordance with individual expertise in accordance with each activity of the assignment;
- Provide input to work of the other consultants with his/her expertise in specific areas (in cases where not specifically responsible for the task completion);
- Establish and maintain a dialogue with national counterparts and other consultants, in particular with Communication Consultant;
- Advocate for the delivered results and contribute to the increase of awareness and understanding of the issues of torture by relevant partners and institutions;

- Support the organisation and undertake public presentation of results with the participation of concerned partners (national stakeholders and concerned institutions, academia, CSOs, international community), gather and consider their feedback;
- Develop periodic activity reports on consultancy undertaken, including stages passed, resources used, results obtained versus expected, impact of obtained results, risks overcome, problems faced, lessons learned, conclusions and next stage recommendations and contribute to the Project's reporting;
- Undertake any other related tasks requested on an *ad hoc* basis.

Payments will be made on the basis of the periodic reports and timesheets submitted to the UNDP Moldova Justice and Human Rights Programme Analyst.

I. Deliverables:

#	Deliverable	Date	CSO Consultant	State Institutions Consultant	Medical Consultant
1	First round of trainings on drafting shadow reports on torture to the UN review mechanisms with members of at least 10 CSOs conducted (Activity 2)	By 1 December 2014	R*	S*	S
2	First round of consultations with the CSOs to finalise and submit shadow reports completed (Activity 3)	By 15 December 2014	R	S	S
3	Training of 25 legal aid and CSOs' lawyers on litigation of cases of torture in mental health facilities taking into account gender sensitive aspects organized (Activity 7)	By 15 December 2014	S	R	S
4	Meetings with CSOs about the international standards on the prohibition of torture in mental health facilities organized (Activity 4)	By 15 December 2014	R	S	S
5	First progress report	By 31 December 2014	R	R	R
6	Report with analysis of national legislation in terms of prohibition and combatting torture in mental health facilities is submitted (Activity 5)	By 31 March 2015	S	R	S
7	Public debates on the findings and recommendations of the report with legislative framework analysis and specific legislative amendments organized (Activity 6)	By 30 April 2015	S	R	S
8	Guidelines for Prosecutors on the Investigation of Cases of Torture in order to include information on the investigation of cases of torture in mental health facilities and taking into account gender sensitive aspects are drafted (Activity 10)	By 31 May 2015	S	R	S

9	Training of 20 GPO's Torture Combatting Section prosecutors on the investigation of cases of torture in mental health facilities conducted (Activity 11)	By 30 June 2015	S	R	S
10	Second Progress Report	By 30 June 2015	R	R	R
11	Second round of trainings on drafting shadow reports on torture to the UN review mechanisms with members of at least 10 CSOs conducted (Activity 2)	By 1 December 2015	R	S	S
12	Second round of consultations with the CSOs to finalise and submit shadow reports completed (Activity 3)	By 1 December 2015	R	S	S
13	Seminar for NPM, CSOs and a group of women and men with psychosocial and intellectual disabilities on torture issues in mental health facilities and their joint monitoring work organized (Activity 8)	By 10 December 2015	S	S	R
14	Technical support for the NPM in monitoring of mental health facilities in consultation and cooperation with CSOs, women and men with psychosocial and intellectual disabilities provided (Activity 9)	By 10 December 2015	S	S	R
15	Consultations with for the coalition of CSOs on international human rights standards in the sphere of freedom of torture completed (Activity 1)	By 10 December 2015	R	S	S
16	Final Report	By 10 December 2015	R	R	R

(* Note on the abbreviations used: R — is responsible for deliverable, S—supports and contributes)

The deliverables can be amended or specified for the purposes of the assignment.

J. Organizational setting:

This is a part-time consultancy. The Consultants will work under direct supervision of the UNDP Moldova Justice and Human Rights Programme Analyst, as well as in close consultation with the OHCHR Human Rights Adviser to the UN Resident Coordinator in Moldova, representatives of Soros Foundation-Moldova, East European Foundation and relevant UNDP consultants. The consultants will work within the Project premises.

In addition, the Consultants will work in close cooperation with project beneficiaries: Ministry of Justice, General Prosecutors Office, Ombudsperson Office, NPM members, legal aid community, civil society, as well as victims of torture, people with psycho-social and intellectual disabilities and other potential project beneficiaries as required.

K. Inputs:

The UNDP Moldova Justice and Human Rights Programme Analyst will provide the National Consultant with the necessary information and materials for the fulfilment of tasks and will provide support in facilitation of the meetings where necessary.

L. Qualifications and skills required:

Qualifications	CSO Consultant	State Institutions Consultant	Medical Consultant
<u>I. Academic Qualifications:</u>			
Master's Degree or equivalent (5-year university education);	In Law, Human Rights, International Public Law, International Relations or other relevant field	In Law, Human Rights, International Public Law, International Relations or other relevant field	In Medicine, Healthcare or other relevant field
<u>II. Years and sphere of experience:</u>			
At least 3 years of proven professional experience;	In a legal area, as defence lawyer, CSOs, legal analysis or other relevant field	In a legal area, Prosecutors Office, Ministry of Internal Affairs, Ministry of Justice or other relevant State institutions, legal analysis or other relevant field	In psychiatry, forensic medicine, healthcare, medical services provision or other relevant field
<u>III. Competencies:</u>			
Proven commitment to the core values of the United Nations; in particular, is respectful of differences of culture, gender, religion, ethnicity, nationality, language, age, HIV status, disability, and sexual orientation, or other status;	√	√	√
Professional understanding of the issue of torture and ill-treatment;	In terms of activity of CSOs in RM in the sphere of combating and prevention of torture and ill-treatment.	In terms of prosecution and combating torture and ill-treatment by State Institutions s in RM.	In terms of documentation of torture and ill-treatment from medical prospective.
Understanding of issues of torture and ill-treatment in mental health facilities would be a strong asset;	√	√	√
Proven experience (at least 3 years) in developing and conducting trainings, workshops and presentations and ability to	√	√	√

facilitate discussions;			
Experience in developing training curricula, methodologies and tools for training activities;	√	√	√
Experience in analysing, generalizing, and systematizing information, drafting studies and reports;	√	√	√
Strong leadership abilities and excellent communication presentation skills, ability to facilitate discussions;	√	√	√
Proven ability to work in a team;	√	√	√
IT skills including word processing, presentation software and use of other relevant applications;	√	√	√
Proven experience in working with the international organizations on similar assignments (successful experience in working with UN agencies is an asset);	√	√	√
Proficiency in Romanian, Russian and English;	√	√	√
Knowledge of one or more additional languages relevant for Moldova, including Bulgarian, Gagauzian, Romani, Ukrainian or sign language is an asset;	√	√	√
<u>IV. Personal qualities:</u>			
Responsibility, creativity, flexibility and punctuality.	√	√	√

The United Nations in the Republic of Moldova is committed to workforce diversity. Women, persons with disabilities, Roma and other ethnic or religious minorities, persons living with HIV, as well as refugees and other non-citizens legally entitled to work in the Republic of Moldova, are particularly encouraged to apply.