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TERMS OF REFERENCE

- A. Job title:** International Consultant on the Investigation of Cases of Torture in Mental Health 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:** November – December 2014 (up to 25 working days)

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 and related ill-treatment in Moldova, many of which still need to be implemented.⁴ In spite of these recommendations and international commitments, torture and related ill-treatment 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 and related ill-treatment 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 (care homes), 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 institutions listing a number of problems, including the complaints of institutionalized persons on ill-treatment from the part

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/srsj_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.

of staff persons of the institutions.^{7,8} The ECtHR found that Moldova violated ECHR Art. 3 (in terms of inhumane treatment) and Art. 5 (in terms of deprivation of liberty) in two psychiatry related cases: David vs. Moldova and Gorobet vs. Moldova.

In Moldova the investigation of torture allegations falls under the exclusive competence of prosecutors, in particular the prosecutors of the Torture Combatting Section of the General Prosecutor's Office. A number of previous interventions have focused on strengthening the skills and capacities of prosecutors to investigate torture and related ill-treatment cases in so-called "classical" context of interrogation, punishment or intimidation of a detainee. Special Guidelines for prosecutors on the investigation of torture and related ill-treatment in mental health facilities shall constitute a valuable support for the effective and prompt investigation of torture and related ill-treatment allegations by providing them with methodologies, tips and useful suggestions.

The overall objective of the "Support to Justice Sector Reform in Moldova" project is to strengthen and support the comprehensive efforts to reform the justice sector in the Republic of Moldova achieving the independence, accountability, impartiality, efficiency and transparency of justice system in line with the Justice Sector Reform Strategy (2011 – 2016) and its Action Plan. The project seeks to further strengthen the capacities of national stakeholders in the Justice Sector Reform Strategy implementation in specific areas with the focus on the tangible and visible results both for the target groups involved and the broader public. The project will also address activities that are equally important for a steady progress in the implementation of the reform, but had not received a relevant attention yet.

G. Objective:

The objective is to provide expertise and capacity building for prosecutors, defence lawyers and NGOs to strengthen systemically their capacities to combat, prosecute and prevent torture and related ill-treatment against the most vulnerable women and men in psychiatric facilities.

H. Scope of work and expected outputs:

The **scope of work** of the International Consultant will be:

- Providing expertise for drafting of Methodological Guidelines for prosecutors on the investigation of cases of torture and related ill-treatment against women and men in mental health facilities taking into account gender sensitive aspects;
- Providing expertise during training for prosecutors and defence lawyers, and during meetings with NGOs on specific aspects of documenting and investigating allegations of torture and related ill-treatment against women and men in mental health institutions taking into account gender sensitive aspects (include issues on UN Convention of the Rights of Persons with Disabilities anti-torture requirements, informed consent, restraints and seclusion, forced detention, pain treatment, overmedication, forced medical interventions, etc.)

In order to achieve the objectives and to implement the abovementioned activities the International Consultant shall:

- Provide professional expertise on the international experience and best practices for the investigation of torture and related ill-treatment against women and men in mental health facilities taking into account gender sensitive aspects;
- Identify issues and concerns of the relevant actors (e.g., prosecutors, defence lawyers, judges, NGOs and persons with mental and psycho-social disabilities) in terms of investigation of cases of torture and related ill-treatment in mental health facilities and propose solutions to the identified issues;

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

- Provide professional inputs for drafting Methodological Guidelines for prosecutors on the investigation of cases of torture and related ill-treatment in mental health facilities based on the international experience and best practices;
- Contribute to the training courses for prosecutors and defence lawyers, including:
 - For one training course for prosecutors and one training course for defence lawyers - develop and prepare in a timely manner presentations and facilitate further exercises/discussions on the international experience and best practices for the investigation of torture and related ill-treatment against women and men in mental health facilities taking into account gender sensitive aspects;
 - For meeting with NGOs - develop and prepare in a timely manner a presentation and facilitate further discussions on the international experience and best practices for the investigation of torture and related ill-treatment against women and men in mental health facilities taking into account gender sensitive aspects;
- Cooperate with national counterparts (General Prosecutor's Office, Patients' Advocate in psychiatry institutions, people with intellectual and psycho-social disabilities) and a group of national consultants for the purposes of the assignment;
- Develop and present a final report on the consultancy undertaken;
- Undertake other tasks related to the assignment as requested.

I. Deliverables:

#	Activity	Date of delivery
1	Issues and concerns of the relevant actors in terms of investigation of cases of torture and related ill-treatment in mental health facilities identified and solutions proposed in a short report.	20 November 2014
2	Research on the international experience and best practices for the investigation of cases of torture and related ill-treatment in mental health facilities, taking into account gender sensitive aspects drafted and presented.	30 November 2014
3	Inputs for drafting Methodological Guidelines for prosecutors on the investigation of cases of torture and related ill-treatment in mental health facilities, taking into account gender sensitive aspects, provided.	30 November 2014
4	Presentations on the international experience and best practices for the investigation of torture and related ill-treatment in mental health facilities, taking into account gender sensitive aspects, prepared and delivered within training courses for prosecutors and lawyers, take part in the meeting with NGOs	30 November 2014
5	Presentation for NGOs on the international experience and best practices for the investigation of torture and related ill-treatment in mental health facilities, taking into account gender sensitive aspects, prepared and delivered.	30 November 2014
6	Final Report	08 December 2014

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

J. Organizational setting:

This is a part-time consultancy. The International Consultant 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.

In addition, the International Consultants will work in cooperation with project beneficiaries: General Prosecutors Office, Ombudsperson Office, Patients' Advocate, legal aid community, civil society, as well

as victims of torture and related ill-treatment, people with psycho-social and intellectual disabilities and other potential project beneficiaries as required.

The International Consultant will undertake one mission to Moldova for about 10-14 days in November 2014 for the purpose of identification of issues and concerns, contributing to the training courses for prosecutors and lawyers and meeting with NGOs, providing inputs to the drafting of Methodological Guidelines, and will further contribute to the drafting of Guidelines being home-based.

K. Inputs:

The UNDP Moldova Justice and Human Rights Programme Analyst will provide the International Consultant with the necessary information, materials and interpretation/translation services for the fulfilment of tasks and will provide support in facilitation of the meetings where necessary.

L. Qualifications and skills required:

I. Academic Qualifications:

- Master's Degree or equivalent (5-year university education) in Law, Human Rights, Medicine or other relevant field;

II. Years and sphere of experience:

- At least 4 years of proven professional experience in the area of prevention and/or investigation of cases of torture and related ill-treatment;

III. Competencies:

- Demonstrated 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 related ill-treatment in the context of investigation and prevention;
- Understanding of issues of torture and related ill-treatment investigation in mental health facilities would be a strong asset;
- Experience of working on the prevention and investigation of torture and related ill-treatment within prosecutor office, judiciary, national torture preventive mechanism (NPM), regional and/or international torture related courts, human rights bodies and NGOs, relevant UN treaty bodies and special procedures, is a strong asset;
- Experience in working on similar assignments, including successful experience in working with UN agencies, international non-governmental or intergovernmental organisations, is a strong asset;
- Experience in analysing, generalizing and systematizing information, drafting studies;
- Excellent communication, presentation skills, ability to facilitate discussions;
- IT skills including word processing, presentation software and use of other relevant applications;
- Fluency in English, Russian or French;
- Knowledge of Romanian is an asset;

IV. Personal qualities: responsibility, creativity, flexibility and punctuality.

The UNDP 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.