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TERMS OF REFERENCE

- A. Job Title:** National Legal Consultant to assist Ministry of Justice in drafting amendments to legislation on tariffs and taxation of justice system related professions
- B. Duty Station:** Chisinau, Republic of Moldova
- C. Project reference:** Support to Justice Sector Reform in the Republic of Moldova
- D. Contract type:** Individual Contract (IC)
- E. Duration of assignment:** July-October 2015 (up to 40 working days)

F. Background:

The Justice Sector Reform Strategy, approved by the Parliament for 2011-2016, and the achieved progress in its implementation was one of the main conditions for the successful negotiation and signature during 2014 of the European Union - Moldova Association Agreement. During 2014 the EU also signed a financing agreement in support of justice sector reform in order to build an accessible, efficient, independent, transparent, and professional justice sector, with high public accountability and consistent with European standards, in order to ensure the rule of law and protection of human rights. Consequently, the EU association urges Moldova to reform the Justice Sector. Title III (Freedom, Security and Justice), Article 12 (Rule of law) of the EU Association Agreement specifically provides that *"The Parties will cooperate fully on the effective functioning of institutions in the areas of law enforcement and the administration of justice"* (Section 2).

One of the priority issues stated in the Justice Sector Reform Strategy is linked to the current status of the services provided in the justice sector by various justice system related professions (defence lawyers, notaries, bailiffs, judicial experts, mediators, translators/ interpreters, insolvency administrators). The tariffs (pricing for the provided services) are established arbitrarily by the service providers, without having a methodology to make the calculations based on clear criteria and indicators. On the other hand, the taxation of the justice system related professions is based on different regulations, is complicated and it is difficult to monitor the implementation.

The same situation exists in the area of the social security (pension fund, medical insurance, etc.) of the justice system related professions. All these lead to overpricing of the services, hiding of income by representatives of justice system related professions to avoid paying taxes, and in general limit access to legal services and to justice for the population that cannot afford high costs. The absence of a clear, transparent and an uniform methodology makes justice system related professions prone to corrupted behaviours, lack of integrity and infringement of the Codes of Ethics, making this part

of the justice system a weak link that negatively affects the system in general and people's trust in it.

In 2014 the Ministry of Justice requested UNDP to provide the international expertise that would support the process of analyzing the situation related to fees, taxation and social security of legal professions, formulate recommendations for the improvement and streamlining of the system based on options existing in other countries and be involved in drafting the methodology for establishing the fees in a transparent and justifiable way and the methodology for the establishment of the taxation and social security mechanisms for the legal professions. The task was in line with the mandate and objectives of the UNDP, since its implementation would contribute to preventing corruption and corrupted behaviours in the Justice System, would make it more transparent, accountable and would ensure accessible legal services for people.

Earlier in 2014-2015 a study had been conducted by a team of one international and one national consultant on tariffs and taxation of justice system related professions. The assignment was completed in a participatory way through a series of consultations with the representatives of the concerned legal professions and their unions. The consultations were also used as a platform for advocating for stronger integrity of the professions and for provision of people-centred services. The study was based on an analysis of the situation in the pricing mechanisms (tariffs), tax regime, social security, medical insurance and pension payments systems in relation to the justice system professions. Following this analysis a number of recommendations were formulated for the improvement and streamlining of the systems based on options existing in other countries, and methodologies were drafted for establishing the tariffs in a transparent and justifiable way and for a system of uniform taxation and social security, medical insurance and pension payments systems for these professions.

To implement the aforesaid recommendations one national consultant will be engaged under the present terms of reference in order to assist the Ministry of Justice in drafting respective amendments and modifications to Moldovan legislation.

G. Objective:

The main objective of the present assignment is to provide the necessary expertise and assistance to the Ministry of Justice in order to draft amendments to the existing Moldovan legislation based on the recommendations contained in the *Study on the tariffs and taxation of justice system related professions* prepared within the project: "Support to Justice Sector Reform in Moldova". The final result of the consultancy will be a set of draft amendments to the current Moldovan legislation on tariffs and taxation of justice system related professions.

H. Scope of work and expected outputs:

In order to achieve the objectives the National Consultant shall perform the following tasks:

- Review the recommendations and suggestions on modification of Moldovan legislation contained in the *Study on the tariffs and taxation of justice system related professions* prepared within the project: "Support to Justice Sector Reform in Moldova";
- Discuss the proposed recommendations with the main stakeholders: UNDP, Ministry of Justice, State Fiscal Service, National House of Social Security, National Company of Medical Insurance, Notaries Union, Bar Union, National Union of Bailiffs, etc.;
- Review Moldovan legislation regulating tariffs and taxation of justice system related professions in order to establish the affected legislation (specific laws and subordinate

regulatory acts, including instructions, regulations and recommendations of the governing bodies of the respective professions, e.g. Notaries Union, Bar Union, National Union of Bailiffs, etc.) that needs to be amended and modified;

- Establish for each particular piece of legislation or subordinate act whether amendments are needed into the existing legislative and/or subordinate acts or new acts shall be approved that will completely substitute the existing ones;
- Produce a preliminary report that will cover the main conclusions of the legislation review and main suggestions that will focus on necessary modifications and amendments to be introduced into the existing legislation, including the list of the affected legislation;
- Prepare draft amendments to the current legislation on tariffs and taxation of justice system related professions;
- Prepare justification for every and each amendment to be included in the explanatory note attached to draft amendments;
- Cooperate with the national consultant who will conduct the regulatory impact assessment of the proposed amendments and take into consideration the conclusions of the assessment when drafting the amendments;
- Participate in the follow-up meetings with the main stakeholders and produce final versions of the proposed draft amendments and corresponding explanatory note based on the discussions with and proposals from the stakeholders;
- Perform any other assignment related tasks.

I. Deliverables:

	Deliverable	Deadlines/Working days (WD)
1.	Working meetings with the main stakeholders held to ascertain their current position on the reform.	By 31 July 2015 Up to 3 WD
2.	Preliminary report produced and presented to the UNDP and the Ministry of Justice with the analysis of the main amendments that have to be introduced into Moldovan legislation and the list of the affected legislation that needs to be amended.	By 21 August 2015 Up to 13 WD
3.	Preliminary draft amendments to the current legislation on tariffs and taxation of the justice system related professions and draft explanatory note elaborated and presented to the UNDP and the Ministry of Justice.	By 18 September 2015 Up to 15 WD
4.	Debates with the main stakeholders on the proposed drafts held.	By 02 October 2015 Up to 2 WD
5.	Final versions of the draft amendments to the current legislation on tariffs and taxation of the justice system related professions and explanatory note elaborated and presented to the UNDP and Ministry of Justice.	By 16 October 2015 Up to 5 WD
6.	Follow-up meetings with the main stakeholders organised to deliver the amendments report and present the conclusions contained therein.	By 30 October 2015 Up to 2 WD

Deliverables can be amended or specified for the purpose of the assignment.

J. Organizational Setting:

This is a part-time consultancy. The National Consultant will work under the direct supervision of and in cooperation with the UNDP Justice and Human Rights Programme Analyst. The Consultant will work outside the project premises and will participate in all assignment related working meetings organized by the Project. The Consultant will work in close contact with another consultant who will perform regulatory impact assessment of the amendments to legislation on tariffs and taxation of justice system related professions.

K. Inputs:

The Ministry of Justice of the Republic of Moldova and UNDP Moldova will provide the Consultant with the information and materials available for the fulfilment of tasks, facilitate meetings and provide other reasonable logistic support where necessary. The consultant may request additional inputs necessary to carry out the assignment; however, he/she is expected to know very well the existing legislative framework regulating the tariffs and taxation of the justice system related professions in Moldova.

L. Confidentiality:

Materials provided to the consultant and all proceedings within the consultancy contract shall be regarded as confidential, both during and after the consultancy. Violation of confidentiality requirements may result in immediate termination of contract.

M. Qualifications:**I. Academic Qualifications:**

- Master's Degree or equivalent (5-year university education) in Law, Public administration, Political, Social sciences, Human Rights or other relevant field.

II. Years and sphere of experience:

- At least 5 years of proven professional experience in the area of justice system related professions, tariffs, taxation or other relevant fields.

III. Competencies:

- Knowledge of the existing Moldovan legislative system and Moldovan legislation on tariffs and taxation of the justice system related professions;
- Proven previous experience in drafting legislation and subordinate regulatory acts or in the field of lawmaking processes;
- Excellent communication and presentation skills, ability to facilitate discussions;
- Experience in working on similar or justice system related professions assignments is a strong asset;
- Fluency in Romanian language, knowledge of English is an asset;
- Knowledge of one or more additional languages relevant for Moldova, including Bulgarian, Gagauzian, Romani, Russian, Ukrainian or sign language is an asset.

IV. Personal qualities:

- Proven commitment to the core values of the United Nations, in particular, respecting differences of culture, gender, religion, ethnicity, nationality, language, age, HIV status, disability, and sexual orientation, or other status;
- 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.