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## TERMS OF REFERENCE

- A. Job Title:** National Consultant to conduct regulatory impact analysis of the 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:** August-October 2015 (up to 30 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 in order to assist the Ministry of Justice in drafting respective amendments and modifications to Moldovan legislation. Before implementing any such amendments it is necessary to conduct regulatory impact analysis (RIA) that would analyse the financial, economic and other implications of adopting the respective amendments and provide a clear analysis of the costs required for the successful implementation of the proposed amendments.

In addition, economic and financial expert assessments of any piece of draft legislation are required before its approval by virtue of art. 22 secs. (4) and (5) of the *Law no. 780 of 27 December 2001 on Legislative Acts*<sup>1</sup>.

The *economic expert assessment* has as its scope:

- To ensure that the draft law is in line with the principles of market economy as established by the Community legislation;
- To ensure conformity of the draft law with effective economic legislation;
- To identify positive and negative aspects of the draft law from the point of view of ensuring reforms, to ensure economic or other benefits, to identify economic shortcomings and to predict negative economic consequences of its implementation.

The *financial expert assessment* should contribute to:

- Ensuring conformity of the draft law with effective financial legislation;
- Evaluating the financial costs of implementation of new legislation;
- Identifying the financial shortcomings and prediction of negative financial consequences of implementing new legislation.

Economic and financial expert assessments can also be commissioned before the approval of

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<sup>1</sup> Can be accessed in Romanian here:

<http://lex.justice.md/viewdoc.php?action=view&view=doc&id=313239&lang=1>

subordinate regulatory acts<sup>2</sup>.

The task of the national consultant under these terms of reference will be to conduct such RIA combined with economic and financial expert assessment of the legislative amendments drafted in line with the above mentioned initiative as provided by art. 22 of the Law on Legislative Acts.

#### **G. Objective:**

The main objective of the present assignment is to conduct RIA of the draft amendments to Moldovan legislation on the tariffs and taxation of justice system related professions. The National Consultant will work in close contact with the consultant that will assist the Ministry of Justice in drafting the respective amendments.

#### **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";
- Review the proposed amendments to Moldovan legislation regulating tariffs and taxation of justice system related professions and discuss them 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.) to identify potential problems with implementation of the amendments, major risks and concerns;
- Develop the assessment methodology and other relevant instruments;
- Conduct the assessment and produce a report with a detailed RIA assessment (including economic and financial assessments) of the proposed amendments. The report shall include the elements of the economic and financial expert assessments as set forth in art. 22 of the *Law on Legislative Acts*;
- Cooperate with the national consultant who will assist the Ministry of Justice in drafting the respective amendments taking into consideration the conclusions of the RIA;
- Participate in the follow-up meetings with the main stakeholders and present the RIA report;
- Perform any other assignment related tasks.

#### **I. Deliverables:**

	<b>Deliverable</b>	<b>Deadlines/Working days (WD)</b>
1.	RIA report on the amendments to legislation on tariffs and taxation of the justice system related professions drafted	By 25 September 2015 Up to 19 WD
2.	Consultations with main stakeholders on the findings of the assessment conducted.	By 02 October 2015 Up to 2 WD
3.	Final version of the RIA report covering the analysis of the regulatory costs of implementation of the proposed amendments, negative and positive impacts and implications of	By 23 October 2015 Up to 7 WD

<sup>2</sup> See art. 41(3) of the Law on the Normative Acts of Government and Other Central and Local Public Authorities (no. 317 of 18 July 2003); can be accessed in Romanian here:  
<http://lex.justice.md/viewdoc.php?action=view&view=doc&id=312810&lang=1>

	their introducing produced.	
4.	Follow-up meetings with the main stakeholders organised to deliver the 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 assist the Ministry of Justice in drafting the amendments of which RIA is to be carried out.

#### **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.

#### **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 Economics, Finances, Law, Public administration, or other relevant field.

##### **II. Years and sphere of experience:**

- Proven professional experience in economic and financial assessments, policy analysis, development of comprehensive analytical reports in socio-economic field or other related field.

##### **III. Competencies:**

- Knowledge of the existing Moldovan legislative system and Moldovan legislation on tariffs and taxation of the justice system related professions;
- Experience in conducting regulatory impact analysis studies and/or economic and financial assessments of draft legislation, or similar assessments connected to the justice system related professions is a strong asset;
- Additional qualification in Regulatory Impact Analysis is a strong asset;
- Excellent communication presentation skills, ability to facilitate discussions;
- 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.