

TERMS OF REFERENCE

- A. Job Title:** **International consultant** to draft an analytical study on mechanisms for asset recovery and extended confiscation
- B. Duty Station:** Chisinau, Republic of Moldova
- C. Project reference:** Strengthening the corruption prevention and analysis functions of the National Anticorruption Center (NAC)
- D. Contract type:** Individual Contract (IC)
- E. Duration of assignment:** up to 34 working days during October 2015 – January 2016

F. Project description

Corruption remains a major issue in Moldova. Various international rankings testify the high levels of perceptions of corruption. The Government, acknowledging the need to fight corruption, adopted the National Anticorruption Strategy (NAS) in 2011¹, which is implemented by two years of action plans². Anticorruption measures strongly feature in other major strategic policy documents, such as Moldova 2020,³ Justice Sector Reform Strategy (2011 – 2016) and its Action Plan⁴ and the National Action Plan for the implementation of the EU-Moldova Association Agreement (AA).⁵

National Anticorruption Center (NAC) has a well-defined mandate for the prevention of corruption and is the institution responsible for the coordination of the implementation of the National Anticorruption Strategy (2011 - 2015). While corruption prevention and analysis are priorities for NAC according to its Strategic Plan, the capacities of the institution in these areas are still underdeveloped for the appropriate implementation of the function as highlighted also in the 2014 NAC Annual Report.

In this context, the UNDP Project seeks to catalyze the emergence of the strongest possible national anticorruption institution, the *National Anticorruption Centre (NAC) and to strengthen its corruption prevention and analysis functions* in order to maximize their impact and also to help NAC in the implementation of the NAS.

Background:

Conversion of public assets is a major challenge in sustainable democratic development of a state. Acknowledging severity of corruption issue and necessity to adopt efficient mechanisms for its combating and prevention, international community introduced a new framework on the recovery of the converted assets, which requires countries to take measures on seizure, confiscation and recovery of assets acquired from the corruption related offences.

One of the priorities provided in the Government of Moldova Activity Program for 2015-2018 is the fight against corruption. For this priority, among other actions, the Government will focus on combating illicit

¹ Parliamentary Decision 154, of 21 July 2011, to adopt the National Anti-Corruption Strategy 2011-2015.

² http://cna.md/sites/default/files/snadoc/national_anti-corruption_strategy_2011-2015_republic_of_moldova.pdf

³ Parliamentary Decision 76, of 16.05.2014 to approve the Action Plan for 2014–2015 to implement the National Anti-Corruption Strategy 2011–2015.

⁴ http://cna.md/sites/default/files/snadoc/plan_2014-2015_eng.doc

⁵ <http://cancelaria.gov.md/lib.php?l=en&idc=435&nod=1&>

⁶ <http://www.justice.gov.md/#idc=420&>

⁷ <http://www.mfa.gov.md/implementarea-aa/->

enrichment and on confiscation of proceeds of crime derived from corruption and related offences, for which the following sub-actions are envisaged: creation of the civil confiscation mechanism; creation of the legal framework for conducting financial investigations, detection, tracking, preservation and repatriation of proceeds derived from corruption and related crimes; creation of a specialized structure with competences to identify, recover and administer the proceeds derived from corruption and related crimes. These sub-actions are also provided in the Government's Action Plan for 2015-2016 (approved at the Government meeting from 26 August 2015).

The above measures will also contribute to achieving a compliance with the United Nations Convention against corruption (UNCAC) that had been ratified by the Republic of Moldova through the Law no. 158-XVI of 06.07.2007. According to the UNCAC review mechanism the compliance with the provisions of Chapter V – Asset recovery - will be reviewed in the next review cycle, alongside with Chapter 2 – Corruption Prevention.

To achieve a steady progress in the implementation of both UNCAC and the Government Programme a specialized division – Asset Recovery Service, with the competence to perform financial investigations, detection, tracking, preservation and repatriation of proceeds derived from corruption and related crimes, illicit and unjustified incomes had been created within the NAC.

Strengthening the corruption prevention and analysis functions of the National Anticorruption Center (NAC) project implemented by UNDP in partnership with the NAC and funded by the Government of Norway aiming at enhancing the corruption prevention and analysis functions of the NAC, intends to engage an international consultant to provide analytical support to the aforementioned specialized division of the NAC Analytical Unit.

G. Objective:

The main objective of the assignment is to draft an analytical study with practical recommendations on effective mechanisms for asset recovery and extended confiscation.

H. Strategy:

The assignment will consist of two missions. The first mission (tentatively scheduled for 19 - 30 October 2015) will involve the review of relevant background documents, materials, and reports prior to and during the mission, focus group discussions and in-depth interview involving relevant stakeholders from NAC, Prosecutor's Office, judiciary. It may also include interviews and/or focus group discussions with key external partners, civil society experts and other relevant stakeholders to discuss possible solutions based on their familiarity and knowledge of the asset recovery and extended confiscation issue. The second mission, which will be undertaken at least in one month after the first mission, will involve the presentation of the analytical study to relevant stakeholders, its validation, and discussion of the recommendations. The study will be submitted to the NAC after the second mission.

I. Scope of work and expected outputs:

Draft a study on effective mechanisms for asset recovery and extended confiscation, which will include detailed analysis and recommendations on:

- Effective legislative framework and mechanism for performing the financial investigations;
- Optimal mechanisms for strengthening of the duties to perform the investigation, discovery, tracing, preservation and repatriation of proceeds derived from corruption and related crimes, illicit and unjustified incomes;
- Optimal civil confiscation mechanism;
- Optimal competences, role and place of the specialized division within NAC;
- Necessary technical assistance in the asset recovery domain (necessary data exchange with the similar international bodies);
- Performance of parallel financial investigations;
- Functioning of the Asset Recovery Service within NAC;
- Capacity transfer and coaching of the staff of the NAC Analysis Unit;
- Efficient implementation of the provisions on special confiscation and extended confiscation in case of corruption and related crimes.

I. Deliverables:

#	Deliverable	Deadline
1.	Activity Plan for the assignment submitted	16 October 2015 (up to 2 working days)
2.	Draft Analytical Study Paper on effective mechanism for asset recovery in the Republic of Moldova with practical recommendations submitted	25 November 2015 (up to 20 working days, including 10 days on mission)
3.	Final Paper on effective mechanism for asset recovery in the Republic of Moldova with practical recommendations submitted	22 January 2016 (up to 12 working days, including 5 days on mission)
4.	Final report on the assignment describing how the work was done, including the list of people met, capacity development assistance provided to the Analytical unit, work group and/or public discussions and presentations, etc. submitted	25 January 2016 (one working day)

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

Payment will be made upon the successful completion of the task assigned and submission of the study.

J. Organizational Setting:

This is a part-time consultancy. The expert will work in a team with a national consultant and in close collaboration with the management and staff of the National Anticorruption Centre. The expert will work under direct supervision of UNDP Project manager for administrative issues.

K. Inputs:

The National Anticorruption Centre and UNDP Moldova will provide the expert with the necessary information and materials for the fulfilment of tasks and will provide support with the facilitation of meetings and translation/interpretation services where necessary.

L. Qualifications and skills required:**I. Academic Qualifications:**

- Master's Degree or equivalent (5-year university education) in Law, International Public Law, International Relations or other relevant field

II. Years and sphere of experience:

- At least 5 years of Professional experience related to the asset recovery and confiscation activity in anticorruption agencies/ judiciary/ prosecution and/or other relevant institutions.

III. Competencies:

- Proven extensive knowledge on the phenomenon of corruption, efficient mechanisms for its combating and prevention;
- Past experience in working with anticorruption agencies will be an asset;
- Extensive demonstrated experience in drafting strategic documents, legislation, other normative acts;
- Experience in implementing similar assignments in the newer EU Member or Candidate States or CIS region will be a strong asset;
- Effective communication and strong analytical skills;
- Initiative, creativity/ resourcefulness;
- Previous successful experience of working with UN agencies is an advantage;
- Knowledge of English; knowledge of Romanian or Russian languages will be an asset

IV. Personal qualities:

- 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;

- Responsibility;
- Flexibility;
- Punctuality.