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TERMS OF REFERENCE

- A. Job Title:** **Local consultant** in the area of anticorruption and integrity management in private sector
- 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:** May – July 2016 (up to 37 working days)

F. Context

In Moldova corruption is usually perceived as a phenomenon characteristic to public sector, in particular justice, health, education, police, central and local public administration. However, a more comprehensive approach to this phenomenon demonstrates the involvement and destructive effects of corruption on private sector as well.

Costs of corruption in private sector are huge and affect the quality of goods and services delivered to population, market competitiveness and economic rules, investment process, national public budget. Bribes paid by the economic agents for gaining public contracts determine a fraudulent increase of cost of such contracts and a decrease of quality. Public and business entities and political actors set illegal relations to gain public contracts and fund political parties. According to the *Survey on Perception vs. Personal Experience with Corruption of Households and Business-people*, conducted by the Transparency International Moldova with the support of UNDP¹, the total value of bribes paid by businessmen in 2015 was estimated at MDL 381 mln.

Another research developed by the Transparency International-Moldova, *The National Integrity System*² states that “a part of the private sector activates in shadow economy, in which tax evasion is committed, which makes it vulnerable to the control bodies. The private sector is poorly protected by the state. The ethical standards of small enterprises are low. The big enterprises usually do not apply norms of corporate management. The private sector is insufficiently involved in the activity of working groups/councils in the frame of state bodies, in monitoring economic and anti-corruption policies.”

The same tendency is demonstrated by several international ratings as well. The “Index of Economic Freedom 2016”, developed by the Heritage Foundation, ranks Moldova as 117th out of 178 countries with a score of 57,4, or 0,1 points less comparing to the last year³. Corruption was highlighted as one of the major challenges, while bureaucracy and lack of transparency often make opening and running a business costly and difficult. According to the Global Business Bribery Risk Index, developed by the non-governmental business association TRACE International, Moldova occupies the place 130 out of 197. The highest risk score (70) was attributed for the Interaction with Government, Moldova being placed in the group of countries with a high level of corruption risks.⁴

In spite of the fact that national legislation sets certain rules on the responsibility of legal entities of private law for a rightful, honorable and adequate entrepreneurial activity, incriminates corruption

¹ <http://transparency.md/ro/noutati/23-research/265-coruptia-in-republica-moldova-perceptiile-si-experientele-proprie-ale-oamenilor-de-afaceri-si-gospodariilor-casnice>

² <http://transparency.md/ro/cefacem/publicatii>

³ <http://www.heritage.org/index/ranking>

⁴ <https://www.traceinternational.org/trace-matrix>

offences in private sector, including criminal liability of legal persons for corruption offences, application of the legal framework is unsatisfactory.

The UN Convention on Corruption (UNCAC), ratified by the Parliament of the Republic of Moldova by the Law 158/06.07.2007, provides that each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures. Moldova will be part of an external evaluation of this chapter in the next round of evaluation.

The Government of Moldova, acknowledging the need to fight corruption, adopted the National Anticorruption Strategy (NAS) in 2011⁵. NAS is the main anticorruption policy document currently applied at the national level. The goal of the Strategy is to reduce the level of corruption in public and private sectors of the Republic of Moldova. National Anticorruption Center has a clear mandate to prevent corruption, including development of viable tools to prevent corruption in private sector. NAC is endorsed to take part in developing and improving legal framework on prevention and fighting corruption and corruption related offences, promoting international anticorruption standards.

UNDP, through its project *Strengthening the corruption prevention and analysis functions of the National Anti-corruption Center* (NAC) aims to strengthen the capacities of NAC in the analysis of corruption in private sector. For this purpose, the project intends to contract a local consultant, who working in team with an international consultant will assess the conformity of national anticorruption system, including legal, normative and policy framework, to UNCAC and other international standards related to corruption and integrity in private sector and will deliver concrete recommendations for preventing corruption and integrity management in private sector (at legislative, normative, institutional and policy level) and a sample Code of ethics for small and medium enterprises.

G. Objective

Main objective of the assignment is to strengthen the capacities of NAC in the analysis of corruption in private sector through developing a comprehensive assessment report on the conformity of national anticorruption system, including legal, normative and policy framework, to UNCAC and other international standards related to corruption and integrity in private sector and deliver concrete recommendations for preventing corruption and integrity management in private sector (at legislative, normative, institutional and policy level) and a sample Code of ethics for small and medium enterprises.

Strategy

The national consultant will work in team with an international consultant and will support him or her in developing and delivering the assessment report on the conformity of national anticorruption system to UNCAC and other international standards related to corruption and integrity in private sector, recommendations for preventing corruption and integrity management in private sector (at legislative, normative, institutional and policy level) and a sample Code of ethics for small and medium enterprises.

The assignment will consist of two phases. The first phase related to the first mission of the international consultant (tentatively scheduled for scheduled for 2 - 6 May 2016) will involve the review of relevant background documents, national legislation, materials, and reports prior to and during the mission, focus group discussions and in-depth interviews involving officials from NAC, Anticorruption Prosecution, Ministry of Economy, Chamber of Commerce, Ministry of Finance, Competition Council, other relevant institutions. It will also include interviews and/or focus group discussions with key external partners, profile NGOs and associations of businessmen. The second

⁵ Parliamentary Decision 154, of 21 July 2011, to adopt the National Anti-Corruption Strategy 2011-2015.
http://cna.md/sites/default/files/snadoc/national_anti-corruption_strategy_2011-2015_republic_of_moldova.pdf

phase, related to the second mission of the international consultant, which will be undertaken at least one month after the first mission, will involve the presentation of the draft assessment report and recommendations, its validation with NAC and main stakeholders. Final assessment report and a sample Code of ethics for small and medium enterprises will be submitted to the NAC and UNDP after the second mission. The national consultant will work in a team with an international consultant.

I. Scope of work and expected outputs:

The consultancy will have three major outputs:

1. A comprehensive assessment report on the conformity of national anticorruption system, including legal, normative and policy framework, to UNCAC, Criminal Convention on Corruption and other international standards related to corruption and integrity in private sector;
2. A set of concrete recommendations for preventing corruption and integrity management in private sector (at legislative, normative, institutional and policy level);
3. A sample Code of ethics for small and medium enterprises

In order to achieve the objective, the local consultant shall:

- Support the international consultant in preparation of the assignment; gather background documentation related to the mission, including legal, normative, policy and institutional framework related to corruption and integrity in private sector, etc.
- Support the international consultant in identifying the focus group(s), developing the questionnaires for individual and focus groups interviews and organizing the focus group sessions and individual interviews (arranging meetings) with the relevant stakeholders (NAC, Anticorruption Prosecution, Ministry of Economy, Chamber of Commerce, Ministry of Finance, Competition Council, other relevant institutions, key external partners, profile NGOs, associations of businessmen, etc.);
- Take part in all gatherings and related activities together with the international consultant and provide him/her with the essential substantive and logistical backing;
- Provide inputs for the evaluation of the existent regulatory and institutional framework in the field and its operational capacities to prevent corruption in private sector and enforce integrity standards;
- Provide inputs for the draft assessment report and recommendations for preventing corruption and integrity management in private sector (at legislative, normative, institutional and policy level);
- Support the international consultant in presenting the draft assessment report with recommendations and validate it with the relevant stakeholders;
- Provide inputs for a sample Code of ethics for small and medium enterprises, based on the international standards and best practices in the field;
- Provide inputs for the final assessment report with required inputs/recommendations and a sample Code of ethics to NAC and UNDP;
- Perform different tasks fundamental for the effective implementation of the assignment, including translation/interpreting as necessary.

I. Deliverables:

#	Deliverable	Deadline
1.	Support to the international consultant in preparation of the assignment provided; background documentation related to the assignment for the desk review collected	May 6, 2016
2.	Support to the international consultant in identifying the	June 5, 2016

	focus group(s), developing the questionnaires for individual and focus groups interviews and organizing the focus group sessions and individual interviews (arranging meetings) with the relevant stakeholders provided;	(including the first 5 working days mission of the international consultant)
3.	Inputs for the draft assessment report and recommendations submitted	
4.	Support to the international consultant in presenting the draft assessment report and recommendations provided	June 20, 2016 (during the second 5 working days mission of the international consultant)
5.	Inputs for the final assessment report and recommendations submitted	June 25, 2016
6.	Inputs for a sample Code of ethics for small and medium enterprises, based on the international standards and best practices in the field, submitted	July 20, 2016
7.	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	July 30, 2016

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

Note: The international consultant will develop the assessment methodology and the framework for the assignment, including the tasks for the national consultant.

Payment will be made in two instalments upon the successful completion of the task assigned.

J. Organizational Setting:

This is a part-time consultancy. The expert will work in a team with a international 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

- Bachelor's Degree in Economics, Finance, Law or other relevant field;

II. Years and sphere of experience

- At least two years of relevant experience in consultancy related to corruption and integrity standards in private sector.

III. Competencies

- Knowledge of the UNCAC, international standards and effective mechanisms for identifying and reducing corruption in private sector demonstrated by previous assignments;
- Knowledge of local regulatory and institutional framework on private sector demonstrated by previous assignments;
- Experience of work in private sector regulatory institutions (fiscal, competition, etc.) and/or anticorruption agencies or other relevant institutions will be a strong advantage;

- Extensive demonstrated experience in developing analytical studies/reports related to regulation/corruption risks/ethics in private sector;
- Previous successful experience of working with UN agencies and/or other development partners is an advantage;
- Effective communication and strong analytical skills;
- Knowledge of English, Romanian and Russian.

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
- Capacity of collaboration and teamwork
- Flexibility, Punctuality