



TERMS OF REFERENCE

- A. Job Title:** Team of two local consultants (legal and economic) to strengthen the capacities of NAC in performing anti-corruption proofing of the legislation by evaluating its impact
- 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 and workload:** May – August 2016; up to 42 working days for the legal consultant/team leader; up to 36 working days for the economic consultant

F. Background:

Anticorruption proofing of legal and normative acts represents a process of the evaluation of the correspondence of a draft act to the national and international anticorruption standards with the view of identifying provisions that favor or could favor corruption and formulating recommendations to exclude or diminish their effects¹. It was introduced as a mandatory tool for all draft legal and normative acts in 2006 and is carried out by the National Anticorruption Center.

The most frequent corruption risks identified within the anticorruption proofing are ambiguous linguistic wording; conflicting legal norms; reference norms; excessive discretion of public authorities; excessive requirements for exercising certain rights; limited access to information, lack of transparency; lack/insufficiency of control mechanisms; improper responsibilities and sanctions.

According to the 2014-2015 NAC Report², during the reference period, NAC reviewed 1.783 draft regulatory acts (909 in 2014, 874 in 2015). Out these 1,329 drafts were subject to corruption proofing (612 in 2014, 684 in 2015), expert review reports being prepared.

The analysis of the drafts subject to corruption proofing found that:

- 30% of drafts were not justified enough to be promoted;
- 10% did not meet the rules of transparency in decision-making;
- 48% of drafts, the implementation of which required financial costs, were not accompanied by financial justification and did not indicate the source of funding, which often leads to the enactment of legislation that cannot be implemented due to financial reasons;
- 55% of drafts that regulated business activities were not accompanied by the regulatory impact assessment;
- 28% of drafts promoted certain private interests, of which 3/4 did not observe the public interest.

The effectiveness of NAC experts' recommendations to eliminate the identified risks was calculated by checking the number of recommendations made in the corruption proofing report, which were taken into account when the draft was adopted. The effectiveness of the recommendations was estimated by NAC at 51% in 2014 and 54% in 2015.

¹ Hotărâre nr.977/23.08.2006 privind expertiza anticorupție a proiectelor de acte legislative și normative, pct.1.

² http://cna.md/sites/default/files/statdata/raport_cna_24.02.16.pdf

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 performing anti-corruption proofing of the legislation by evaluating its impact and delivering recommendations on improving current methodology to ensure the most efficient process of anticorruption proofing. In this context, the project intends to contract a team of two local consultants (legal and economic) to assess the impact of the anticorruption proofing of legal and normative acts in the period of 2010 -2015 and deliver recommendations on improving current methodology to ensure the most efficient process of proofing.

G. Objective:

The main objective of the assignment is to strengthen the capacities of NAC in performing anti-corruption proofing of legal and normative acts by evaluating its impact in the period of 2010 -2015 and deliver recommendations on improving current methodology to ensure the most efficient process of proofing.

H. Scope of work and expected outputs

The consultancy will have four major outputs:

- 1) Methodological framework for the assessment of (anticipated) prejudice caused by legal and normative acts;
- 2) Analysis and assessment of the caused and anticipated (substantial) prejudice of legal and normative acts proofread by NAC, including:
 - Analysis and economic assessment of the (substantial) anticipated prejudice of legal and normative acts retracted as the result of anticorruption proofing;
 - Analysis and economic assessment of the (substantial) prejudice of legal and normative acts adopted in spite of the anticorruption proofing conclusions/recommendations
- 3) A typology of draft legal and normative acts generating prejudice;
- 4) A list of draft legal and normative acts that eluded anticorruption proofing;
- 5) A set of recommendations on improving current methodology to ensure the most efficient process of proofing.

In order to achieve the objective and deliver outputs, the consultants shall:

As the legal consultant/team leader:

- Analyze legal and normative acts exposed to anticorruption proofing during the period of 2010 - 2015;
- Based on the economic assessment conducted by the economic consultant, develop an analytical assessment of the anticipated (substantial) public prejudice of legal and normative acts retracted as the result of anticorruption proofing and public prejudice of legal and normative acts adopted in spite of the anticorruption proofing conclusions/recommendations;
- Together with the economic consultant develop methodological framework for the assessment of (anticipated) public prejudice caused by legal and normative acts;
- Develop a typology of draft legal and normative acts generating public prejudice;
- Develop a list of draft legal and normative acts that eluded anticorruption proofing;
- Based on the aforementioned inputs, develop an analytical report on the impact evaluation of the anticorruption proofing of legal and normative acts in the period of 2010 – 2015 and deliver recommendations on improving current methodology to ensure the most efficient process of proofing.
- Validate the assessment report and recommendations with NAC and relevant stakeholders, including presentation in a public event

As the economic consultant:

- Together with the legal consultant/team leader develop methodological framework for the assessment of (anticipated) public prejudice caused by legal and normative acts
- Conduct economic/cost assessment of the anticipated (substantial) public prejudice of legal and normative acts retracted as the result of anticorruption proofing and economic/cost assessment of the (substantial) public prejudice of legal and normative acts adopted in spite of the anticorruption proofing conclusions/recommendations during the period of 2013 – 2015 (around 50 acts);
- Together with legal consultant/team leader validate the assessment analytical report on the impact evaluation of the anticorruption proofing of legal and normative acts in the period of 2010 – 2015 and recommendations with NAC and relevant stakeholders, including presentation in a public event

Note: National consultants shall clearly indicate the position they are applying for.

I.1. Deliverables and expected timeline for the legal consultant/team leader:

#	Deliverable	Deadline
1.	Activity Plan and timeframe, including tasks and timeline for the economic consultant, developed	1 day By 10 May, 2016
1.	Methodological framework for the assessment of (anticipated) public prejudice caused by legal and normative acts developed	5 days By 17 May, 2016
	Draft analytical report on the impact evaluation of the anticorruption proofing of legal and normative acts in the period of 2010 – 2015, including typology of draft legal and normative acts generating (substantial) public prejudice; a list of draft legal and normative acts that eluded anticorruption proofing and recommendations to improve the proofing methodology submitted	30 days By July 30, 2016
2.	Draft analytical report validated with NAC, project and relevant stakeholders, submitted	1 day
3.	Final analytical report on the impact evaluation of the anticorruption proofing of legal and normative acts in the period of 2010 – 2015, including typology of draft legal and normative acts generating public prejudice; a list of draft legal and normative acts that eluded anticorruption proofing and recommendations to improve the proofing methodology submitted and presented in a public event	5 days By August 20, 2016
5.	Report on the execution of the assignment as per the contract submitted	By August 30, 2016

Up to 42 working days

I.2. Deliverables and expected timeline for the economic consultant:

#	Deliverable	Deadline
1.	Methodological framework for the assessment of (anticipated) prejudice caused by legal and normative acts developed	5 days By 16 May, 2016
2.	Economic/cost assessment of the anticipated (substantial) public prejudice of legal and normative acts retracted as the result of anticorruption proofing and economic/cost assessment of the (substantial) public prejudice of legal and normative acts adopted in spite of the anticorruption proofing in the period of 2013-2015 conducted	26 days By July 30, 2016
3.	Draft analytical report validated with NAC, project and relevant stakeholders	1 day

4.	Final analytical report on the impact evaluation of the anticorruption proofing of legal and normative acts in the period of 2010 – 2015 submitted and presented in a public event	4 days By August 20, 2016
5.	Report on the execution of the assignment as per the contract submitted	By August 30, 2016

Up to 36 working days

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

Deliverables and final timeline for economic consultant will be defined by the legal consultant/team leader.

Payment will be made upon the successful completion of the tasks assigned.

J. Organizational Setting:

This is a part-time consultancy. The expert will report to the Team Leader and will work with the management and staff of the National Anticorruption Centre for substantive aspects of the assignment, and under the direct supervision of the UNDP Project Manager – for administrative aspects. The consultant will submit the Report on the execution of the assignment as per the contract to UNDP Project Manager.

K. Inputs:

The National Anticorruption Centre will provide the expert with the necessary information and materials for the fulfilment of tasks. UNDP will provide administrative and logistical support in organisation of the public consultations, as necessary.

L. Qualifications and skills required:

For the legal consultant/team leader

I. Academic Qualifications:

- Master's Degree or equivalent in Law or other relevant field.

II. Years and sphere of experience:

- At least 5 years of proven professional experience in legal drafting and analysis of legal and normative acts
- At least 5 years of experience related to corruption prevention in a public institution/NGO/international organization

III. Competencies:

- Excellent knowledge of Moldovan legislative process demonstrated by previous assignments;
- Knowledge of principles, legal and normative framework regulating anticorruption proofing of legislation demonstrated by previous assignments will be a strong advantage;
- Previous experience of working with the National Anticorruption Center will be a strong advantage;
- Strong analytical and report writing skills demonstrated by previous assignments;
- Strong communication and teamwork/coordination skills demonstrated by previous assignments;
- Previous successful experience in development assistance or related work for a donor organization, in particular UNDP, governmental institutions, NGO/think-tank or consulting firm is a strong advantage;
- Knowledge of English, Romanian, Russian languages for the purposes of the assignment;

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.

For economic consultant

- I. Academic Qualifications:
 - Bachelor's Degree in Economics, Finance, Public Administration or other relevant field.
- II. Years and sphere of experience:
 - At least 4 years of proven professional experience in economic and financial assessments, policy analysis, strategic planning or other related field.
- III. Competencies:
 - Experience in conducting economic and financial assessments of draft legislation, strategic documents, or similar experience demonstrated by previous assignments;
 - Knowledge of the corruption phenomenon demonstrated by previous assignments is a strong asset;
 - Strong analytical and report writing skills demonstrated by previous assignments;
 - Previous successful experience in development assistance or related work for a donor organization, in particular UNDP, governmental institutions, NGO/think-tank or consulting firm is a strong advantage;
 - Knowledge of English, Romanian, Russian languages for the purposes of the assignment;
- 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.

The United Nations Country Team in the Republic of 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.