



INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

Date: **6 June 2016**

Country: Republic of Moldova

Description of the assignment: National Consultant on drafting the law on cooperation with the International Criminal Court (ICC)

Period of assignment/services: June 2016 (up to 10 working days)

Proposals should be submitted online by pressing the "Apply Now" button no later than 23:59, 12 June 2016.

Requests for **clarification only** must be sent by standard electronic communication to the following e-mail: natalia.voronova@undp.org. UNDP will respond by standard electronic mail and will send written copies of the response, including an explanation of the query without identifying the source of inquiry, to all applicants.

1. BACKGROUND

The International Criminal Court (ICC) is the first permanent, treaty based, international criminal court established to help end impunity for the perpetrators of the most serious crimes of concern to the international community. The ICC was established by the Rome Statute (ICC RS) on 17 July 1998, when 120 States adopted the Rome Statute. The Rome Statute entered into force on 1 July 2002 upon ratification by 60 States.¹

Republic of Moldova (RM) ratified the Rome Statute in September 2010 by adopting Law Nr. 212. In April 2013 the Parliament of RM adopted Law Nr. 64 for the implementation of the commitments under the Rome Statute. Law Nr.64 partially amended the Criminal Code of RM attempting to ensure investigation and prosecution of offenses that fall under the jurisdiction of the ICC, which in turn ensures fulfillment of the international commitments assumed by RM. The offences that are newly incorporated in the Criminal Code Article 135 include genocide and crimes against humanity, reflected in Articles 6 and 7 of the Rome Statute. In addition, in order to systemize the legal provisions on war crimes, the content of Article 137 was revised and four new categories of offenses were introduced: war crimes and crimes against humanity, war crimes against property and other rights, use of prohibited means of warfare, use of prohibited methods of warfare, improper use of distinctive signs of international humanitarian law.

The Republic of Moldova has committed to take steps towards the ratification of the Agreement on the privileges and immunities of the International Criminal Court within the National Human Rights Action Plan

¹ www.icc-cpi.int

2011-2014.² In addition to this the commitment on the elaboration of a legal framework for the efficient cooperation with the ICC is included into the National Action Plan for the Implementation of the EU Association Agreement 2014-2016.³

The Strengthening Rule of Law and Human Rights Protection Mechanisms Project is funded by the Federal Ministry for Europe, Integration and Foreign Affairs of Austria, co-funded and implemented by the United Nations Development Programme in the Republic of Moldova (UNDP Moldova) in cooperation with the Office of the High Commissioner for Human Rights (OHCHR).

2. OBJECTIVE:

The main objective is to elaborate a draft law on cooperation of the Republic of Moldova with the International Criminal Court, as well as to elaborate a draft law on amendments to other domestic legislation where considered necessary.

3. SCOPE OF WORK, RESPONSIBILITIES AND DESCRIPTION OF THE PROPOSED ANALYTICAL WORK

In order to achieve the objective, the Consultant shall:

- Examine the national legal framework in the area of criminal law, international legal assistance, criminal procedure, communications, immunities, property;
- Examine international good practices in countries where national legislation is stipulating details of cooperation with the ICC;
- Identify the gaps in the national legal framework related to the cooperation with the ICC;
- Draft a law on cooperation of the RM with the ICC, and amendments to other national legislation where necessary;
- Hold consultations with the Ministry of Justice of the Republic of Moldova (MoJ) and other relevant State bodies on the draft law and integrate the feedback into the final law.

For detailed information, please refer to Annex 1 – Terms of Reference.

4. REQUIREMENTS FOR EXPERIENCE AND QUALIFICATIONS

I. Academic Qualifications:

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

II. Years and sphere of experience:

- At least 3 years of proven professional experience in a legal area, legal analysis or other relevant field;

III. Competencies:

- Demonstrated working experience on international law, international criminal law, criminal law and criminal procedure of the Republic of Moldova;
- Work experience on issues related to the activity of the International Criminal Court would be an asset;
- Demonstrated experience in drafting legislation;
- Demonstrated effective communication and strong analytical skills;
- Knowledge of Romanian, English languages for the purposes of the assignment;

² Part II, point 1.4: <http://lex.justice.md/md/339395/>

³ Chapter II, point 4.39: <http://lex.justice.md/md/361471/>

- Knowledge of one or more additional languages relevant for Moldova, including Russian, Bulgarian, Gagauzian, Romani, Ukrainian or sign language is an asset;

IV. Personal qualities:

- Adheres 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.

5. DOCUMENTS TO BE INCLUDED WHEN SUBMITTING THE PROPOSALS

Interested individual consultants must submit the following documents/information in English to demonstrate their qualifications:

1. Personal information (as a detailed CV or as a Personal History Form /P11) including records on past experience in similar projects/assignments and concrete outputs obtained, including 3 reference persons and their contacts;
2. Cover letter, which should include:
 - a. A list of research documents, reports, analysis documents, or other task related documents the candidate has elaborated or contributed to;
 - b. Financial proposal (in USD, specifying a **lump sum** amount)

6. FINANCIAL PROPOSAL

The financial proposal shall specify a total lump sum amount, and payment terms around specific and measurable (qualitative and quantitative) deliverables (i.e. whether payments fall in instalments or upon completion of the entire contract). Payments are based upon output, i.e. upon delivery of the services specified in the ToR. In order to assist the requesting unit in the comparison of financial proposals, the financial proposal will include a breakdown of this **lump sum** amount (including travel, per diems, and number of anticipated working days).

Payment will be made with a single instalment upon the successful completion of the tasks assigned and submission of the feasibility study and draft law to the UNDP Moldova Project Manager.

Travel

All envisaged travel costs must be included in the financial proposal. This includes all travel to join duty station/repatriation travel. In general, UNDP should not accept travel costs exceeding those of an economy class ticket. Should the Consultant wish to travel in a higher class, he/she should do so on own resources.

In the case of unforeseeable travel, payment of travel costs including tickets, lodging and terminal expenses should be agreed upon, between the respective business unit and Individual Consultant, prior to travel and will be reimbursed.

No travel costs are envisaged under this assignment.

7. EVALUATION

Initially, individual consultants will be short-listed based on the following minimum qualification criteria:

- Master's Degree or equivalent (5-year university education) in Law, Human Rights, Public International Law, International Relations or other relevant field;
- At least 3 years of proven professional experience in a legal area, legal analysis or other relevant field.

The short-listed individual consultants will be further evaluated based on the following methodology:

A two-stage procedure will be used in evaluating the candidates:

1. Technical evaluation (max 300 points) – 60%;
2. Financial evaluation (max 200 points) – 40%.

Technical evaluation will be based on a thorough desk review of applications.

Only candidates obtaining a minimum of 70% score of the technical evaluation (at least 210 points) would be considered for the Financial Evaluation.

The award of the contract shall be made to the individual consultant whose offer has been evaluated and determined as:

- a) Responsive/compliant/acceptable, and
- b) Having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation.

Criteria	Scoring	Maximum Points Obtainable
<u>Technical</u>		
Master's Degree or equivalent (5-year university education) in Law, Human Rights, Public International Law, International Relations or other relevant field	(Master – 30 pts., PhD – 40 pts.)	40
At least 3 years of proven professional experience in a legal area, legal analysis or other relevant field	(3 years – 40 pts., 3 – 6 years – up to 50 pts., 6 – 9 years – up to 60 pts., more than 9 years – up to 70 pts)	70
Demonstrated working experience on international law, international criminal law, criminal law and criminal procedure of the Republic of Moldova	(No – 0 pts.; to some extent – up to 20 pts, yes/extensive – up to 40 pts.)	40

Work experience on issues related to the activity of the International Criminal Court would be an asset	(No – 0 pts., yes– up to 35 pts)	35
Demonstrated experience in drafting legislation	(No – 0 pts., each legislative project – 5 pts up to 55 pts)	55
Demonstrated effective communication and strong analytical skills	(No – 0 pts., to some extent – up to 10 pts., yes – up to 35 pts)	35
Knowledge of English, Romanian, and other languages relevant for Moldova	(Romanian, English – 10 pts. each, other relevant language – 5 additional pts.)	25
Maximum Total Technical Scoring		300
<u>Financial</u>		
Evaluation of submitted financial offers will be done based on the following formula: $S = F_{min} / F * 200$ S – score received on financial evaluation; Fmin – the lowest financial offer out of all the submitted offers qualified over the technical evaluation round; F – financial offer under consideration.		200

Winning candidate

The winning candidate will be the candidate, who has accumulated the highest aggregated score (technical scoring + financial scoring).

ANNEXES:

ANNEX 1 – TERMS OF REFERENCE (TOR)

ANNEX 2 – INDIVIDUAL CONSULTANT GENERAL TERMS AND CONDITIONS