



## TERMS OF REFERENCE

**Job Title:** National Consultant on Anti-Discrimination and Human Rights Mainstreaming

**Project Reference:** UN OHCHR Human Rights Adviser

**Contract type:** Individual Contract

**Duration of assignment:** 1 February 2013 -30 January 2014, 12 months

**Starting date:** 1 February 2013

**Duty Station:** Chisinau, Moldova

**Deadline for applications:** 23 January 2013

### **A. Background**

The Office of the High Commissioner for Human Rights (OHCHR) has had a Human Rights Adviser, based in the Office of the United Nations Resident Coordinator in the Republic of Moldova (UN RC Office), since July 2008. The Human Rights Adviser assists the UN RC Office, UN Country Team in Moldova, Government, National Human Rights Institution (NHRI) and civil society in strengthening human rights and human rights based approaches. The Human Rights Adviser works in a context of UNCT Moldova commitment to human rights mainstreaming. As a component of this work, several areas of human rights research are sought, to be carried out, completed and finally delivered during the calendar year 2013.

The multiple contexts for the current consultancy are as follows:

#### **1. Anti-discrimination Law trainings**

In May 2012 the Parliament of the Republic of Moldova adopted the Law on Ensuring Equality, which foresees preventing and combating discrimination and ensuring equality of all persons in the Republic of Moldova on a range of grounds set out under international law. The Law foresees *inter alia* the establishment of a Council to Prevent and Combat Discrimination a body with the power of adjudicating discrimination claims. The Law will enter into force on 1 January 2013. Adoption of the Law had been a central recommendation of CESCR (2011), CERD (2011), the Human Rights Committee (2009), CAT (2009), Special Rapporteur on freedom of religion and belief Bielefeldt (2012), and also features prominently in Moldova's UPR recommendations (2011). Implementation of this Law constitutes an important challenge for the national authorities. One of the law implementation activities foreseen in the National Human Rights Action Plan for 2011-2014 is "the organization of trainings for judges, prosecutors and police officers" on international and domestic law in the field of combating discrimination. The Human Rights Adviser endeavors to support national-level training activities in this area.

#### **2. Committee on the Elimination of All Forms of Discrimination against Women review of Moldova 2013**

Moldova has made significant progress in creating the legal framework for equality between men and women, including the 2006 law on ensuring equal opportunities between men and women, the 2007 law on preventing and combating family violence, and several amendments to the penal and labor codes, including on sexual harassment. After ratifying the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights in 1993 and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1994, Moldova ratified CEDAW's Optional Protocol in 2006. These advances are integral to Moldova's overall efforts of reform and in line with its commitment to economic growth and poverty reduction.

After its visit in May 2012, the UN Working Group on discrimination against women in law and in practice noted with regret that discriminatory practices still continue to be perpetuated and impede women's full and equal participation in the labour market - employers' preferences for hiring women without family responsibilities and under the age of 45; the existence of a *de facto* wage gap between men and women; an over-concentration of women employed in sectors associated with gender stereotypes, such as education, healthcare and social assistance, which are also the lowest paying sectors. Women who face multiple forms of discrimination – such as women members of religious minority groups, women with disabilities, women who are lesbian, bisexual and transgender, Roma women, migrant women – require an effective mechanism to monitor their situation. Women human rights defenders, including activists, women journalists who are conducting investigative journalism, women lawyers, and women providers of services for victims of violence and trafficking are subject to threats and intimidation.

Moldova will be reviewed by the CEDAW Committee in the second half of 2013. The 2013 review presents an opportunity for the inclusion of women from particularly vulnerable groups to take part in international law review processes. The UN is committed to supporting such inclusion and as such this forms part of the Human Rights Adviser work plan for 2013.

### 3. Roma inclusion policies

In January 2012 the Government of Moldova adopted the revised version of the Action Plan to support Roma from the Republic of Moldova for 2011-2015. The Action Plan intends to be an effective tool available to policy makers and civil society representatives – those, able to manage attitudes and decisions aimed at improving the living conditions of Roma in Moldova. The final document constitutes the product resulted from negotiations between the local authorities and the civil society. At the same time, such international bodies like: the United Nations (UN), the European Union, the Council of Europe, the Organization for Security and Cooperation in Europe (OSCE), have drawn the attention and adopted a number of recommendations to improve the socio-economic situation of Roma in Moldova. Thus, in October 2009, the UN Human Rights Committee noted that "... Roma continue to be socially and economically marginalized, with limited access to social services such as healthcare, employment, education and living conditions". The Committee also noted the *de facto* exclusion of Roma from public life. Also, in the concluding observations of 2011, the UN Committee on the Elimination of All Forms of Racial Discrimination and the UN Committee on Economic, Social and Cultural Rights, mention that despite the measures and initiatives taken by the State party to address the situation of Roma, including the Action Plan to support Roma in the Republic of Moldova for 2007-2010, the socio-economic situation of representatives of this minority group and discrimination they face, remain the main causes of Roma exclusion. In this respect, it was recommended that the State party ensures that special measures and programs for Roma, *inter alia*, the new Action Plan for 2011 - 2015, are designed and implemented according to Roma needs, the allocated resources are sufficient and the implementation is being monitored.

### 4. The Moldovan Centre for Human Rights (CpDOM)

During its review of the Republic of Moldova in March 2011, the UN Committee on the Elimination of Racial Discrimination:

"While noting with interest the measures recently taken by the State party to strengthen the Parliamentary Advocates/Center for Human Rights of Moldova, the Committee regrets the absence of a national human rights institution fully compliant with the Paris Principles (General Assembly Resolution 48/134) in Moldova. The Committee also expresses its concern that the Parliamentary Advocates office has never used the powers under Act No. 1349-XIII of 17 October 1997, *inter alia* to petition a court for protection of the interests of alleged victims of discrimination (art. 2).2.

"The Committee recommends that the State party consider, in consultation with civil society, the option of establishing an independent national human rights institution fully compliant with the Paris Principles, including by transforming and empowering the existing mechanism so as to conform with the Paris principles. To that end, the Committee recommends that the State party guarantee the independence of the Parliamentary Advocates and strengthen its role in the elimination of racial discrimination by effectively using its legal power."

At a high profile conference on discrimination against Roma, held in Chisinau in October 2011, the problem was identified that, despite extensive reports of discrimination against Roma in the Republic of Moldova, the Moldovan Centre for Human Rights (CpDOM) does not receive sufficiently detailed materials from the public-at-large – and in particular from Romani communities – to act on cases of discrimination against Roma. It was further noted that CpDOM lacks extensive ties to excluded Romani persons and communities and has also expressed an interest in improving its documentation of other diversity related issues, including but not limited to discrimination and other forms of negative treatment against LGBT persons and groups, religious and linguistic minorities, persons of African descent and other identifiable foreigners or non-citizens, and others. This work follows up cooperation in this area begun in 2012.

#### 5. International Covenant on Economic Social and Cultural Rights

Moldova has not yet ratified the Optional Protocol to the ICESCR. In May 2011, the CESCR Committee brought detailed recommendations concerning Moldova in the areas related to commitment of the State in domestic law and policy in the fields of housing, social assistance and education provided to all vulnerable groups, including Roma, persons with disabilities, persons with stigmatized diseases such as HIV/AIDS and non-citizens in Moldova, which face very serious threats of social exclusion in Moldova. The fact of recent Treaty Bodies conclusions in this area means that there is a comprehensive basis on which short-term and medium term work is planned.

#### 6. Human Rights in Transnistria region

Human rights have played a central role in the UN's engagement in the Transnistrian region, a separatist region not under Government control. Following elections in December 2011, Transnistria experienced its first change in the de facto leadership in twenty years. The UN acted swiftly to follow up recommendations by the High Commissioner to engage senior human rights diplomat Thomas Hammarberg as Senior Expert for Human Rights in Transnistria, to carry out work throughout 2012 on strengthening human rights in this region. In 2012, Mr. Hammarberg conducted three monitoring visits in the region. During this mission he visited a number of communities and civil society organizations. A series of human rights issues, related to social and economic situation, access to health care (special concern on TB and HIV/AIDS), and access to education, housing and right to land have been noted. People with disabilities, children, women, and older people, ethnic and religious minorities are of special concern.

#### 7. Other Methodological Support to the Human Rights Adviser

The incumbent supports the Human Rights Adviser in duties concerning monthly reporting, as well as related methodological activities. The incumbent also supports the preparation of applications for funding support, within the scope of work.

#### **B. Objective:**

To support the UN Human Rights Adviser and the Centre for Human Rights in 1) strengthening documentation of discrimination and related diversity issues; 2) providing methodological support for human rights, anti-discrimination and diversity trainings; 3) following up the recommendations provided by the Senior Expert subsequent to the human rights monitoring mission in Transnistria in 2012; 4) providing other support for the Human Rights Adviser within the scope of work.

#### **C. Scope of work and expected output:**

The components of work under the present consultancy are to some extent distinct, and to some extent interrelated. Working closely with the UN Human Rights Adviser, the incumbent shall be expected to deliver the following:

##### **1. Methodological and technical support for anti-discrimination trainings**

Aiming to increase the capacity building and role of national authorities and civil society in implementing the national Law on Ensuring Equality and relevant international law and standards in the area of non-discrimination, the consultant will provide a methodological and technical support for organization of anti-discrimination trainings. An indicative 5 trainings on anti-discrimination would be conducted in 2013 in this and related relevant areas.

## **2. Methodological support and promoting the implementation of policies designed to support Roma in Moldova**

With the view to improve the implementation of the National Action Plan to support Roma in Moldova, the consultant will support the Human Rights Adviser's participation at national inter-ministerial and the expert group meetings to raise and discuss the imminent problems faced by Roma in their communities, bringing expertise to securing their rights at the national level. At the same time, separate activities focused on Roma integration would contribute to the implementation of the National Action Plan to support Roma. Among the identified problems needed to be addressed during 2013 are: elimination of Roma segregation in schools in 3 Roma populated communities; organization of discussion clubs for Roma women on different relevant subjects including anti-discrimination, health, education, employment rights, involving the institutionalized Roma community mediators, human rights NGOs, local social assistants etc; collection of cases on Roma alleged to be deprived from their rights and raising the issues during the round tables, meetings, trainings organized by the national authorities; as well as performing other related tasks.

## **3. Documentation of related diversity issues**

The consultant will also support the production of human rights documentation on discrimination and related issues facing other groups and persons facing discrimination in the Republic of Moldova, including LGBT persons and groups, religious and linguistic minorities, persons of African descent and other identifiable foreigners or non-citizens, women facing multiple forms of discrimination and others in the Republic of Moldova. The documentation might also examine other diversity issues, such as the rights of persons with disabilities, with a comprehensive view to the rights included in the Convention on the Rights of Persons with Disabilities. The documentation will be based on desk research of publicly available materials as well as other available documentation, as well as on first-hand field research undertaken by the consultant. The documentation shall be made available for use by the CpDOM Centre in its annual reporting and daily work, in particular with a view to the implementation of 2011 recommendations by the UN CERD Committee to the effect that the Parliamentary Advocates should improve the use of its powers to represent victims of discrimination in court. The consultant will work with the staff of the CpDOM centre to assist in the development of its annual report as well as in its daily work to challenge discrimination, in consultation with the UN Human Rights Adviser.

## **4. Methodological support for ICESCR trainings and related activities**

With the view to assisting implementation of recommendations brought by the CESCR Committee in its 2011 review, the consultant will be involved in: methodological support for ICESCR-related trainings or other relevant activities as planned, with particular attention to recommendations 6, 7, 8, 18, 22, 23, 24 and 29 of the CESCR Committee's 2011 Concluding Observations concerning Moldova; documentation and reporting on issues related to the national policy and practice in the fields of housing, social assistance and education provided to vulnerable groups, including Roma, persons with disabilities, persons with stigmatized diseases such as HIV/AIDS and non-citizens in Moldova, supporting reforms in laws and policies.

## **5. CEDAW review process support**

In the context of 2013 CEDAW review of the Republic of Moldova, the consultant will work closely with the Human Rights Adviser and UN Women to identify and capacitate voices from within women's rights networks which might not otherwise be heard within the prevailing groups. The consultant will use the possibility to strengthen the use of CEDAW national review of Moldova 2013 as well as OP CEDAW. Target groups may include Romani women, women from immigrant, refugee and/or stateless

communities, women with HIV/AIDS, rural women, women with disabilities, women from Transnistria and others. The consultant will also provide the methodological support to the HRA on gender anti-discrimination trainings for NGOs and/or NHRI in the run-up to or follow-up of CEDAW review of Moldova in 2013. The incumbent will also support the Human Rights Adviser in identifying other opportunities to secure the inclusion of women from vulnerable or marginalized communities in the 2013 CEDAW review.

#### **6. Methodological support on implementation of recommendations submitted to Transnistria by Senior Expert on Human Rights**

The consultant is expected to provide support and assistance to the Human Rights Adviser with a view to the implementing of the recommendations by the Senior Expert on Human Rights.

#### **7. Contributions to drafting the reports on Human Rights mainstreaming in Moldova**

The consultant is expected to support monthly reporting by the Human Rights Adviser on Expected Accomplishments in implementing the Human Rights Adviser work plan. The consultant is expected to support the development of requests for funding support on an as-needed basis.

#### **D. Key Deliverables and Timeframe:**

The selected consultant is expected to provide the specified deliverables as per below schedule:

1. Anti-discrimination trainings	<ul style="list-style-type: none"> <li>- Methodology elaborated: <u>10 March 2013</u></li> <li>- Indicative 5 trainings conducted: <u>30 March 2013</u> <u>30 May 2013</u> <u>30 July 2013</u> <u>30 September 2013</u> <u>30 November 2013</u></li> <li>- An overall evaluation report on antidiscrimination trainings: <u>10 December 2013</u></li> </ul>
2. Promoting the national policies designed to support Roma	<ul style="list-style-type: none"> <li>- Support for HRA Participation in the inter-ministerial meetings on implementation of the AP on Roma 2011-2015: <u>2 meetings in 2013 or as scheduled</u></li> <li>- Documentation of Discrimination cases: <u>Minimum 5 field visits in Roma or other relevant minority communities during the whole period of assignment</u></li> <li>- Briefings on field visits conducted: <u>15 April 2013</u> <u>15 July 2013</u> <u>15 September 2013</u> <u>15 November 2013</u> <u>15 January 2014</u></li> </ul>
3. Documentation on related diversity issues	<ul style="list-style-type: none"> <li>- Diversity report submitted to the CpDOM: First Draft: 15 May 2013 Second Draft: 20 September 2013 Final Draft: 15 December 2013 Documentation in support of ongoing cases on an ongoing and as-needed basis</li> </ul>
4. Documentation and reporting on implementation of CESCRC Committee recommendations, with particular, although not exclusive focus on recommendation numbers 6, 7, 8, 18, 22, 23, 24 and 29 of the CESCRC Committee's 2011 Concluding Observations	<ul style="list-style-type: none"> <li>- Reports: First report: 10 April 2013 Second report: 10 June 2013 Third report: 10 August 2013 Fourth report: 10 October 2013 Fifth report: 10 December 2013</li> </ul>

concerning Moldova	Sixth report: 15 January 2014
5. CEDAW review process support	- Gender anti-discrimination trainings for NGOs: Methodology elaboration: 15 February 2013; Trainings and/or other relevant meetings: April 2013/ May 2013/ June 2013
6. Implementation of recommendations submitted to Transnistria	- Round tables and trainings conducted to advocate the implementation of Human Rights throughout 2013.
7. Human Rights mainstreaming reports	Monthly reporting against Expected Accomplishments and targets completed by not later than <u>the last calendar day of each month.</u>
8. Consultation	The incumbent will meet on a weekly basis (indicative) with the Human Rights Adviser to discuss progress against the work plan.

#### **E. Qualifications and skills required:**

- University degree in law, social sciences, human rights or other relevant field;
- At least 3 years of proven professional experience in the human rights area.

#### **Competencies:**

- Commitment to human rights; advanced knowledge of human rights law and practice;
- Detailed understanding of anti-discrimination law as set out under international, European and domestic law;
- Understanding of human rights and discrimination documentation methodologies; previous experience with human rights documentation work a strong asset.
- Ability to work independently;
- Ability and willingness to deploy to the field, sometimes on short notice, for different types of monitoring missions;
- Competence in English- and Romanian-language report writing;
- Demonstrated competence cultural sensitivity and work in a multi-cultural environment;
- Fluency in Romanian and English. Knowledge of Romani or Russian a strong asset;
- Knowledge of one or more additional languages relevant for Moldova, including Bulgarian, Gagauzian, Ukrainian or sign language is an asset;
- 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.

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.