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TERMS OF REFERENCE

- A. Job Title:** National Consultant on legal aid in the Transnistrian region of the Republic of Moldova
- B. Duty Station:** Chisinau, Republic of Moldova
- C. Project reference:** Support to Justice Sector Reform in the Republic of Moldova
- D. Contract type:** Individual Contract (IC)
- E. Duration of assignment:** October-November 2015 (up to 30 working days)

F. Background:

The Law on State Guaranteed Legal Aid (the Law) in Moldova was adopted in 2007 and came into force in July 2008. Prior to 2008, the State guaranteed legal aid was provided by the National Bar Association of the Republic of Moldova, which was not always effective. The new legislation changed the system, breaking up the direct ties between investigators and advocates and setting up case monitoring mechanisms. The National Legal Aid Council (NLAC) was set up to govern the State guaranteed legal aid system. Until 2012 the scope of legal aid was limited to criminal cases. Since January 2012 it was expanded to civil cases. In spite of improvements achieved since that time, concerns remain on the quality of legal aid services provided.

At the same time, a distinct legal system is *de facto* functioning in the Transnistrian region of the Republic of Moldova. The legal aid system in this region has not experienced significant changes since the Soviet times and legal aid is provided through the regional Bar Association. The system is limited to the cases in criminal procedures when the apprehended by police or suspect cannot afford to pay for a lawyer.

A Report on Human Rights in the Transnistrian Region of the Republic of Moldova by Thomas Hammarberg¹ was released in February 2013 and provides some insights into the situation. It is concluded in the report that there is no general legal aid system in the region, there is lack of legal assistance in the cases of domestic violence and for the persons deprived of their legal capacity, especially for those held in psychiatric institutions. While the Republic of Moldova is progressing in the development of its state guaranteed legal aid system, disadvantaged and vulnerable people leaving in the Transnistrian region of the country are lacking possibilities to access legal aid services while in need. This is limiting their access to justice and thus to the effective protection of their human rights.

The UNDP Moldova with the support from the Istanbul Regional Hub is looking to conduct a study to assess both the legal framework and the existing practice of the provision of legal aid services in the

¹ Can be accessed here: <http://www.un.md/publicdocget/41>

Transnistrian region of the Republic of Moldova, with the particular focus on assessing capacity of the Bar Association as currently the sole provider of legal aid in the Transnistrian region and other actors in this field, followed by the recommendations structured so as to address capacity development needs of the Bar Association and other relevant actors.

G. Objective:

The main objectives of the present assignment is to perform gap analysis together with capacity and needs assessment of the legal aid system in the Transnistrian region of the Republic of Moldova and produce a set of recommendations for its improvement.

H. Scope of work and expected outputs:

In order to achieve the objectives the National Consultant shall perform the following tasks:

- Produce a set of criteria of an effective legal aid system following the existing international standards. The criteria will form the basis for further gap analysis as well as capacity and needs assessment of the legal aid system in the Transnistrian region;
- Carry out desk-review of the *de facto* existing legislative framework and practices relevant to the provision of legal aid services in the Transnistrian region;
- Make a field visit to the Transnistrian region of up to 5 working days in order to meet with the representatives of the Bar Association, other legal aid related actors, representatives of NGOs and relevant public authorities of the region and collect necessary information on the functioning of the legal aid system;
- Conduct gap analysis, capacity and needs assessment of the legal aid system in the Transnistrian region, including: management, organization and quality of legal aid, monitoring/reporting system, existing cooperation between the lawyers’ administrative entity (Bar Association), civil society and other actors involved in the judiciary process, as well as other relevant issues following the set criteria of an effective legal aid system. The following areas are to be examined in details:
 - I. Enabling environment (legislation, policies, regulations, funding);
 - II. Management and organization of the legal aid services through the Bar Association and other providers;
 - III. Quality of services: review on the quality of legal aid delivered as compared to the existing international best practices;
 - IV. Criteria and mechanisms for assurance of the quality of legal aid – tools available in the Bar Association and other legal aid providers;
 - V. Cooperation between the providers of legal aid services and other institutions and *de facto* public authorities involved (prosecutor’s office, police, courts, etc.);
- Based on the analysis and assessments performed, produce a set of recommendations with concrete measures for the improvement of the legal aid system;
- Produce a report on the analysis performed, specifying the details and conclusions of the gap analysis, capacity and needs assessments and the recommendations proposed;
- Perform any other assignment related tasks.

I. Deliverables:

	Deliverable	Deadlines/Working days (WD)
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1.	Set of criteria of an effective legal aid system elaborated	By 09 October 2015 up to 5 WD
2.	Desk-review performed	By 16 October 2015 up to 3 WD
3.	Field visit organised and meetings with relevant stakeholders held	By 26 October 2015 up to 5 WD
4.	Report in English with the gap analysis performed, capacity and needs assessments, including the recommendations as to the improvement of the legal aid system in the Transnistrian region and presented to the UNDP	By 18 November 2015 up to up to 15 WD
5.	Presentation of the report	By 24 November 2015 up to 2 WD

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

J. Organizational Setting:

This is a part-time consultancy. The National Consultant will work under the direct supervision of and in cooperation with the UNDP Justice and Human Rights Programme Analyst. The Consultant will work outside the project premises and will participate in all assignment related working meetings organized by the Project.

Field visits to the Transnistrian region of the Republic of Moldova will be carried out upon necessity in order to meet with the relevant actors in the field of legal aid services and to collect information and data necessary to perform the assignment. The report with the conclusions of the analysis and assessments performed and the recommendations formulated will be presented to the relevant beneficiaries.

K. Inputs:

The Consultant is responsible for the collection of all the information and data necessary for the fulfilment of the assignment. UNDP Moldova will provide the Consultant with the information and materials available and will facilitate meetings and provide other reasonable logistic support where necessary.

L. Confidentiality:

Materials provided to the consultant and all proceedings within the consultancy contract shall be regarded as confidential, both during and after the consultancy. Violation of confidentiality requirements may result in immediate termination of contract.

M. Qualifications:

I. Academic Qualifications:

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

II. Years and sphere of experience:

- At least 5 years of proven working experience on issues related to access to justice, rule of law, human rights or other related field;

- At least 1 year of experience in legal aid related area;
- Previous experience in access to justice and human rights areas in the region;
- Previous experience in conducting gap analyses, capacity and needs assessments, preparing study reports is a strong asset;
- Previous work as a lawyer/advocate, particularly as a designated lawyer within legal aid system, is an asset;

III. Competencies:

- Proven analytical and research skills, ability to facilitate discussions;
- Fluency in English, working knowledge of Russian;
- Knowledge of one or more additional languages relevant for Moldova is an asset.

IV. Personal qualities:

- Proven commitment to the core values of the United Nations, in particular, respecting differences of culture, gender, religion, ethnicity, nationality, language, age, HIV status, disability, and sexual orientation, or other status;
- Responsibility, creativity, flexibility and punctuality.

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.