

## TERMS OF REFERENCE

### **Company to conduct a Functional Analysis of the National System of Forensic Institutions in the Republic of Moldova**

#### **A. BACKGROUND INFORMATION**

The UNDP project “Strengthening Efficiency and Access to Justice in Moldova” (A2J) is a multi-year institutional development project designed to contribute to an increased efficiency of justice services and to improved access to justice of men and women in Moldova, in particular from vulnerable and marginalized groups, through enhanced capacities of forensic institutions to provide qualitative justice services, strengthened capacities of the justice sector actors in the selected pilot areas to provide coordinated response to men’s and women’s justice needs and strengthened civil society able to claim the respect of rights and engage in a constructive dialogue with the justice chain actors. Project interventions will offer and encourage equal opportunity for the participation of men and women.

Although important efforts have been deployed at national level during the last years to advance the efficiency, transparency, fairness and accessibility of the justice sector, improvement is further required to ensure coherent coordination among law enforcement, security and justice institutions for effective administration of justice, so that men and women, particularly from marginalized or minority groups, are able to claim their rights and access justice effectively.

The system of forensic institutions<sup>1</sup> is an integral part of the justice system. The expert opinions provided by these institutions are critical for the objective and evidence-based delivery of justice. The quality and accuracy of forensic investigations and examinations have an extensive impact on the quality of justice and affect the overall perception of users about the justice system.

The Law no. 68/2016 on the Judicial Expertise and the Status of Judicial Expert<sup>2</sup> provides for the regulatory framework and the requirements on the functionality of the judicial expertise system on such issues as, the coordination and methodological mechanisms, admission to the judicial expert profession, training and qualification/licensing of judicial experts, etc.

A well-established forensic infrastructure, compliant with the international quality standards, with better capacities of the experts, more transparent and efficient institutional processes, standardization in line with the ISO requirements and automation of internal workflows is crucial for the ability of forensic evidence to adequately put the case under review at all stages of the process. Despite their importance for the administration of justice, forensic institutions benefited from limited assistance and support in their modernization endeavours as compared to other justice chain actors.

One of the latest assessments of the forensic infrastructure in the Republic of Moldova was conducted in 2011 by UNDP<sup>3</sup>. The assessment identified a number of areas which required improvement, amongst which

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<sup>1</sup> The system of forensic institutions includes public institutions of judicial expertise and private forensic experts’ bureaus. In line with the art.65 para.(2) Law no. 68/2016 on the Judicial Expertise and the Status of Judicial Expert, the system of public institutions of judicial expertise includes the specialized institutions of the Ministry of Justice and the Ministry of Health, Labor and Social Protection, the operative technical-forensic subdivisions or judicial expertise of the Ministry of Internal Affairs and the National Anticorruption Center. The state can also create other public institutions of judicial expertise.

<sup>2</sup> [https://www.legis.md/cautare/getResults?doc\\_id=93158&lang=ro](https://www.legis.md/cautare/getResults?doc_id=93158&lang=ro)

<sup>3</sup> The Feasibility study on the forensic infrastructure in the Republic of Moldova and Findings of the external audit of the

the necessity of the ISO certification to strengthen the institutional management, confirm compliance with internationally recognized quality standards and demonstrate that the institutions operate competently and generate valid results, thereby promoting confidence in their work both nationally and around the world. Thus, while the laboratories of the National Centre for Judicial Expertise (NCJE) and the Forensic Centre of the General Police Inspectorate (GPI) have already obtained accreditation in line with ISO/IEC 17025:2005 standard with UNDP's support, the Centre for Legal Medicine (CLM) is at the beginning of this process.

The assessment also underlines the lack of uniformity across the forensic institutions in the processes of judicial expertise and forensic investigations, as each institution has its own system of records, as well as the necessity of improving forensics' regulating legislation.

Moreover, in line with the findings of the Assessment of the existing technical and infrastructural capacities of the three national forensic institutions performed by UNDP in 2017, the existing operational procedures are predominantly paper-based and thus their expertise reports are vulnerable in terms of safety and integrity. The internal workflows, as well as the documents' flow with other justice system actors (prosecution, courts, etc.) take longer than they could. Whilst, a number of justice sector institutions, such as judiciary, prosecution service and the legal aid system, have already introduced e-systems in their operations, some with the support of UNDP.

UNDP is currently addressing the national forensic institutions' needs and supporting their institutional development as well supporting development of e-tools aimed at integrating isolated and uncoordinated forensic investigations into a consistent and coordinated process.

Recognizing the important role of forensics in ensuring a fair access to justice, aiming at improving forensic infrastructure and assuring its compliance with the international quality standards, as well as equipping national forensic institutions with relevant capacities and tools for an efficient and evidence-based performance, UNDP Moldova, through its AZJ Project, seeks to contract a qualified Company or a Consortium of Companies (hereinafter "Service Provider") to conduct a functional analysis of forensic expertise system in Moldova.

## **B. SCOPE OF SERVICES AND EXPECTED OUTPUTS**

The scope of work of the current assignment is to conduct the functional analysis of the system of forensic institutions of the Republic of Moldova, as defined in the Background Section.

The main objective of the functional analysis is to better prioritize system's available resources, identify challenges and opportunities, improve the efficiency and performance of the institutes part of the system of forensic institutions, as well as to guide their progress toward their overall mission of offering reliable and accurate services to justice sector.

The **specific objectives of this analysis** are to:

- Review the functions currently performed by the national forensic institutions and their efficiency;
- Identify strengths and weakness of the system of forensic institutions;
- Identify any justified and required institutional, structural, functional, financial or any other changes aimed at the improvement and consolidation of the system of forensic institutions \*;
- Assess the feasibility of applying alternative approaches of achieving the goals of the entire national system of forensic institutions, as well as alternatives for eliminating the identified weaknesses, improving the system's efficiency and performance in terms of timing, quality, reliability, accuracy and safety of outputs to the justice sector in order for the forensic system fully fit its purpose. The proposed approaches for change shall be supported by a regulatory impact assessment, as well as consider the potential impact upon the justice sector, comparing its effects to the existent impact of the current forensic system on the justice system (in terms of quality, timing, cases outcomes etc.).

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Centre of Forensic Medicine of Ministry of Health of the Republic of Moldova, conducted within the context of the "Strengthening the forensic examination of torture and other forms of ill-treatment in Moldova" project implemented by UNDP with the European Commission support

*\* Amongst the potential changes could be included the rational and even distribution of functions within and/or amongst the national institution(s) mandated to perform judicial/forensic expertise activities, identifying new required functions and dropping the redundant, inexpedient functions as well as eliminating duplicate functions, applying an efficient financial model, using outsourcing, other innovative solutions like fundraising for specific needs etc.*

The expected output for the Service Provider's assignment is the Report on Functional Analysis of the National System of Forensic Institutions in the Republic of Moldova. To ensure achievement of the output the Service Provider shall identify, consult and run most suitable methodological approaches for conducting the functional analysis.

In conducting this assignment, the Service Provider shall ensure close cooperation and work with the Ministry of Justice and institutions part of the forensic system, including but not limited to:

- National Centre for Judicial Expertise under the Ministry of Justice;
- Forensic and Judicial Expertise Centre under the General Police Inspectorate;
- Centre of Legal Medicine under the Ministry of Health, Labour and Social Protection;
- National Anticorruption Centre;
- Moldovan Border Police.

To achieve the stated objectives, the Service Provider shall have the following responsibilities:

1. Undertake a comprehensive desk review of the national forensic system working mechanism, relevant legal framework, policies and regulations related to the national forensic institutions' roles and responsibilities. As part of the review the Service Provider shall also analyse the strategic documents approved by the institutions as well as the A2J project document and Results Framework;
2. Prepare a detailed work plan and inception report describing the methodology and approach to be applied for this assignment;
3. Conduct the functional analysis of the system of forensic institutions. In this regard the Service Provider's assignments shall include, but not limited to:
  - 3.1 Propose the methodology and tools to be used for conducting the functional analysis and for collection of quantitative and qualitative baseline data, applying a participatory and inclusive approach;
  - 3.2 Design questionnaires to identify existing structural, functional, financial, or any other type of gaps and bottlenecks within the national forensic system;
  - 3.3 Conduct interviews and consultation meetings with stakeholders within the national forensic system, both service providers and beneficiaries, justice chain actors and NGOs in the sector, other relevant interlocutors;
  - 3.4 Identify strengths and weakness of the system, as well as the strengths and weakness of each of the institutions part of the system of forensic institutions;
  - 3.5 Identify institutional, structural, functional, financial or any other changes required in order to improve and consolidate the system of forensic institutions. These might include a rational and even distribution of functions within the institution(s), identifying new required functions and dropping redundant, inexpedient functions and elimination of the duplication of functions, using outsourcing, other innovative solutions like fundraising for specific needs, reorganisation, an efficient financial model, etc.
4. Assess the impact of the current system of forensic institutions set-up on the justice delivery in the Republic of Moldova;
5. Develop a Report on Functional Analysis of the National System of Forensic Institutions in the Republic of Moldova\*, providing findings and recommendations based on the best international practices and specificities of the Moldovan environment. The Report shall contain proposals on approaches for achieving an efficient forensic system, as well as options for eliminating the identified weaknesses, improving the system's efficiency in terms of timing, quality, reliability, accuracy and safety of outputs used in the context of justice delivery, as well as ensuring that the forensic institutions are fit for purpose. All proposals and recommendations shall be supported by a regulatory impact assessment, as well as consider the potential impact upon the justice sector performance, comparing its effects to the current impact of the forensic system on the justice system (in terms of quality, timing, cases outcomes, etc.);

6. Organize and facilitate consultation activities with management and staffers from the national forensic system, both service providers and beneficiaries, justice chain actors and NGOs in the sector, other relevant stakeholders to present and validate the findings of the functional analysis and recommendations.

*\*Expected content: The Report on Functional Analysis of the National System of Forensic Institutions in the Republic of Moldova shall include, but shall not be limited to:*

**1. Overview** of the current forensic infrastructure, in terms of:

- a. Current structure of each of the forensic institutions, communication and coordination networks with beneficiaries, justice chain actors and NGOs in the sector, other relevant structure;
- b. Legal framework applicable to and within forensic system;
- c. Collaboration and inter-institutional interaction between the forensic system institutions;
- d. Costs related to forensic infrastructure' functioning, as well as the costs related to the functioning of each of the forensic institution that is part of the system;
- e. Financial model of functioning of the system and each if the forensic institutions;
- f. Internal structure and functions of the forensic institutions;
- g. Types of the rendered services of the forensic institutions;
- h. Human resources and staffing within the national forensic institutions;
- i. The framework and approach for professional training and certification/qualification of forensic experts;
- j. Standards to which forensic institutions are accredited to, further needs and sustainability;
- k. Laboratory infrastructure (including equipment, laboratory informational systems, procedures and materials);
- l. Available/existent databases;
- m. Quality assurance methods;
- n. Management, planning and reporting procedures (including the effectiveness and quality);
- o. Issues related to, or influencing quality standards of the forensic expertise;
- p. Any other areas the Service Provider considers necessary.

**2. Findings** on:

- a. Each of the assessed areas;
- b. Strengths and weakness of the Moldovan forensic system in general and of each of the forensic institutions;
- c. Impact of the current forensic system upon the justice delivery (in terms of quality, timing, etc.);
- d. Any other areas the Service Provider considers necessary.

**3. Recommendations** on:

- a. Consolidate the existing forensic system by keeping the strengths and eliminating the weakness;
- b. Alternative options for strategic development of forensic institutions, required to deliver a comprehensive and efficient service model;
- c. Enhancing the business/financial model for the Moldovan national institutional forensic system;
- d. Organizational structure and human resources policy model for the system;
- e. Enhancing the efficiency of the professional training and certification/qualification of forensic experts' system;
- f. Laboratory infrastructure improvement, accreditation/quality standards maintenance and improvement;
- g. Internal procedures and procedures between the forensic institutions and other state bodies using the forensic services;
- h. Actions to be undertaken for the immediate, short, medium and long term in order to achieve the improvement and consolidation goals efficiently and as soon as possible;
- i. Forensic policy at national level;
- j. Any other areas the Service Provider considers necessary.

## **C. METHODOLOGY**

In the context of the assignment the Service Provider shall ensure that for carrying out the functional analysis are used both quantitative and qualitative data to complement each other and present a holistic, developed

picture of the current forensic system and prospective improvements.

Therefore, the Service Provider shall adopt a mixed-methods analysis approach, combining available quantitative data from any sources, as for ex. previous assessments, surveys. In order to assess those topics not easily captured by quantitative metrics, are recommended targeted listening sessions to be conducted with groups of stakeholders and subject matter experts from varied forensic disciplines, and across the justice system, as for ex. forensic institutions' management, judges, prosecutors, attorneys, civil society and any potential beneficiary of the forensic services.

In conducting this assessment, the Service Provider shall consider the increased use and institutionalization of systems-based approaches. A systems-based approach involves coordination and collaboration among forensic institutions, law enforcement entities, legal professionals, and other stakeholders.

The process will be divided into two successive phases:

- The first phase will be to establish an overview of the current forensic infrastructure and setting findings;
- The second phase will focus on the recommendations on the improvement of the forensic expertise system.

#### **D. DELIVERABLES AND INDICATIVE TIMEFRAME**

	<b>Deliverables</b>	<b>Deadline</b>
1.	Work plan and inception report describing the methodology and approach to be applied for this assignment developed and submitted to the A2J project team	November 13, 2020
2.	Draft report on the functional analysis of the national system of forensic institutions developed and submitted for coordination to the A2J project team covering the overview and findings listed at Section B of the ToR, point 5, <i>Expected content of the report</i>	December 21, 2020
3.	Consultations with management and staffers from the national forensic system, both service providers and beneficiaries, justice chain actors and NGOs in the sector, other relevant stakeholders to present and validate the findings of the functional analysis, organised	January 19, 2021
4.	Draft report on the functional analysis of the forensic system developed and submitted for coordination to the A2J project team covering the recommendations listed at Section B of the ToR, point 5, <i>Expected content of the report</i>	March 19, 2021
5.	Consultations with management and staffers from the national forensic system, both service providers and beneficiaries, justice chain actors and NGOs in the sector, other relevant stakeholders to present the recommendations of the functional analysis, organised	
6.	Report on the functional analysis of the forensic system reviewed, finalised and submitted for clearance to the A2J project team	April 23, 2021

#### **E. INSTITUTIONAL ARRANGEMENTS**

The Service Provider will work under the guidance of the UNDP Project Manager for substantive aspects of the assignment and under the direct supervision of the UNDP Project Officer for administrative aspects.

The Service Provider is expected to cooperate closely with the representative of the Ministry of Justice, management and delegated staffers from the National Centre for Judicial Expertise under the Ministry of Justice, Forensic and Judicial Expertise Centre under the General Police Inspectorate, Centre of Legal Medicine under the Ministry of Health, Labour and Social Protection; National Anticorruption Centre; Moldovan Border Police.

All the deliverables shall be submitted in English and Romanian language, in hard copy and electronic format. Before submission of final deliverables, the Service Provider will discuss the draft documents with the parties involved, so that the final products reflect their comments. All the deliverables of the Service Provider shall be coordinated with the A2J project team.

As of 11 March 2020, the World Health Organization (WHO) declared COVID-19 a global pandemic as the new coronavirus rapidly spread to all regions of the world. Travel to and in the country has been also restricted since March 2020.

Due to limited possibilities to travel to or within the country the Service Provider should develop a methodology to conduct the assignment virtually and remotely, including the use of remote interview methods and extended desk reviews, data analysis, surveys and evaluation questionnaires. This should be detailed in the inception report and agreed with the A2J project team. The limitations like stakeholder availability, ability or willingness to be interviewed remotely, accessibility to the internet/ computer and working from home arrangements must be reflected in the final report.

While preparing and undertaken interviews, meetings, presentations and briefings through telephone or online (skype, zoom etc.) the Service Provider shall work remotely with consistent support of the UNDP Project Officer. Hence, no stakeholders, consultants or UNDP staff should be put in harm's way and safety is the key priority.

Two missions may be considered only when it is confirmed to be safe for staff, consultants, stakeholders and if such missions are possible within the assignment's schedule. The exact duration and period of the missions shall be coordinated with UNDP. For purpose of estimation of services' costs, the expected duration of the mission, could be up to five working days, depending on the scope.

In line with the UNDP's financial regulations, when determined by the UNDP Moldova Country Office and/or the Service Provider that a deliverable or service cannot be satisfactorily completed due to the impact of COVID-19 and limitations to the assignment, that deliverable or service will not be paid.

Due to the current COVID-19 situation in the country and its implications, a partial payment may be considered if the Service Provider invested time towards the deliverable but was unable to complete to circumstances beyond his/her control.

#### **Language requirements:**

All documentation related to the assignment shall be in English and Romanian. All documents submitted, in English and Romanian, will be subject to proofreading and editing to ensure compliance with the language and terminology in the national legislation regulating the subject matter of the assignment.

The Service Provider shall ensure, if necessary, interpretation during interviews, meetings, presentations and briefings organised through telephone or online, during the missions, to the Republic of Moldova, should these be organised, as well as translation of assignment related documentation and deliverables.

Any translation, interpretation and proof-reading costs shall be listed separately in the financial proposal.

#### **F. QUALIFICATIONS REQUIREMENTS**

The bidder shall provide sound argumentation of the proposal by demonstrating compliance with the ToR and the environment in which it will provide the services. The bidder shall include information on the volume of allocated resources to carry out the assignment.

A breakdown per working days allocated for each deliverable shall be submitted, clearly explaining the role of the team members involved in producing the deliverable. In this context, the Service Provider shall ensure a clear presentation of distribution of tasks and allocation of working days deemed necessary for engagement of key and non – key experts.

The proposed team should consist of but not be limited to the following members:

- Team Leader/Task Manager
- Key expert in forensic system;
- Key legal expert;
- Key financial expert;

- Senior non-key experts;
- Junior non-key experts.

Successful bidder shall meet the following minimum qualification requirements for the assignment:

#### **Minimum Eligibility and Qualification Criteria**

- Legally registered entity or consortium of companies;
- At least 5 years of experience in the sphere of conducting institutional, operational, functional analysis, business processes analysis;
- Provide evidence of minimum 3 successfully completed projects similar to the scope and size of the current assignment in the past 5 years;

#### **Criteria for the evaluation of key project personnel**

##### **Team Leader/Task Manager**

The Team Leader will have overall responsibility for the management of the project activities including co-ordination of the work of other experts, as well as between consortium members, if selected, for implementing components of the project, and proper reporting to UNDP. The Team Leader shall be also responsible for the overall preparation of the implementation plan during the inception phase, and for monitoring, supporting and ensuring a smooth implementation of the tasks under the assignment. In carrying out this and other tasks deemed necessary for the successful implementation of the assignment, he/she shall ensure coordination and consultation with the project stakeholders.

- Master's degree (or 5 years university degree) in the fields of management, economics, law, or related fields;
- At least 5 years of professional experience in the field of institutional development, reform, reorganisation and restructuring of public or quasi-public institutions;
- At least 3 years of experience in strategic planning and conduct of different analytical tools like SWOT analysis, PEST analysis;
- At least 3 similar successfully completed projects, proven by brief descriptions of project scope and outcome, and proofs of completion;
- Experience in working in Central and Eastern Europe countries state/governmental institutions will be an asset
- Knowledge of Moldovan forensic system specifics is an asset;
- Fluency in English. Knowledge of Romanian or Russian will be an asset.

##### **Key experts**

Key experts have a crucial role in implementing the assignment. These terms of reference contain the expected key experts' profiles; however, the bidder shall consider allocation of resources deemed necessary for the successful implementation of the assignment. The bidder shall submit CVs and documentation supporting the experience and qualifications for the following team members:

##### **Key Forensic expert**

- Master's degree (or 5 years university degree) in Law, Economy, Forensic Sciences, or related fields of equivalent scope;
- At least 7 years of professional experience in the area of forensics and judicial expertise and/or implementing and ensuring quality standards in forensic institutions;
- At least 5 years of experience in the implementation of change and institutional development activities related to forensic services improvement and/or accreditation and compliance with forensic quality standards;
- Proven experience in at least 3 similar projects related to improvement of forensic system/services and/or reorganization of forensic institutions system;

- Previous experience in designing and implementation of quality assurance mechanism within forensics institutions (including forensic laboratories) will be an asset;
- Professional experience in Central and Eastern Europe on similar assignments will be an asset;
- Fluency in English; Knowledge of Romanian or Russian will be an asset.

#### **Key Legal expert**

- Master's degree (or 5 years university degree) in Law or related fields of equivalent scope;
- At least 7 years of professional experience in the field of legal advice to state institutions from the justice system or forensic area;
- At least 5 years of experience in drafting by-laws, normative framework and public policies;
- Proven participation in at least 2 successfully implemented project in the area of public institutions reorganization;
- Fluency in English. Knowledge of Romanian or Russian will be an asset.

#### **Key Financial expert**

- Master's degree (or 5 years university degree) in Finance or related fields of equivalent scope;
- At least 7 years of professional experience in the area of public finance management;
- Proven previous experience (at least 3 projects) in implementation of projects related to reorganization or restructuring of public institutions, functional and financial/budgeting management, consolidating and planning of reorganization related costs;
- Fluency in English. Knowledge of Romanian or Russian will be an asset.

All experts must be independent and free from conflicts of interest in the responsibilities they take on.

#### **Non key experts**

The function of the Non-Key Experts is to enable the project to have the means to respond to specific priority needs for additional expertise and to meet these in the most appropriate, cost effective and timely manner. The engagement of the non-key experts shall be estimated as maximum planned number of working days in relation to each project deliverable, where such support might be necessary, and shall be listed separately in the financial proposal. The number of consumed working days for completion of tasks shall be documented by means of timesheets.

**Senior non-key experts** shall have:

- A university degree in an appropriate discipline, depending on the scope of expertise;
- At least 5 years of experience in the required field of expertise;
- Work experience in similar projects;
- Fluency in English. Knowledge of Romanian or Russian will be an asset.

**Junior non-key experts** shall be mainly experts that work under guidance of key experts and senior short-term experts.

- A university degree in an appropriate discipline, depending on the scope of expertise;
- At least 3 years of experience in the required field of expertise;
- Work experience in similar projects;
- Fluency in English. Knowledge of Romanian or Russian will be an asset.

The bidder will provide support facilities to their team of experts (back-stopping) during the implementation of the contract.

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.