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TERMS OF REFERENCE

Job title:	National legal consultant to support the legally based use of electronic case management systems by the forensic institutions
Duty station:	Chisinau, Moldova
Reference to the project:	“Strengthening Efficiency and Access to Justice in Moldova” Project
Contract type:	Individual Contract (IC)
Expected duration of the assignment:	May 2020 – April 2021 (up to 60 working days)
Starting date:	May 2020

I. Background

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 national forensic institutions¹ are an integral part of the justice system, as 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. 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.

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 at the forensic institutions are predominantly paper-based and thus their expertise reports are vulnerable in terms of the safety and integrity. The internal workflows, as well as the documents flow with other justice system actors (prosecution, courts, etc.) take longer than they

¹For the scope of the ToR, the wording national forensic institutions comprises: National Centre for Judicial Expertise under the Ministry of Justice, the Forensic and Judicial Expertise Centre under the General Police Inspectorate, and the Centre of Legal Medicine under the Ministry of Health, Labour and Social Protection.

could. There is a 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.

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. In line with its objectives, A2J Project will support the elaboration of the Forensic Case Management System (FCMS) for the three forensic institutions which will bridge a critical gap and will allow to integrate isolated and not coordinated forensic investigations into a consistent and coordinated process.

The elaboration and operationalisation of an e-system for forensic institutions and its interoperability with other related e-systems will strengthen the collection and processing of disaggregated data and ensure accessibility of this information for the public, leading to the promotion and ensuring transparency and effectiveness of the justice processes. The automation of processes will also allow sharing the forensic reports with other relevant justice sector actors electronically and will ensure interoperability with other e-systems, thus speeding up the justice delivery in both criminal and civil cases.

The Law on data exchange and interoperability approved by the Parliament of Moldova in July 2018, provides the legal grounds for this exchange of information transforming MConnect from a pilot platform for data exchange and interoperability into a mandatory platform for real time data exchange by the public authorities owning and administering IT systems.²

In this context, the A2J Project is seeking to hire a national legal consultant to support the legally based use of electronic case management systems by the forensic institutions and ensure proper legal grounds for their use, integration, interoperability and application.

II. Scope of work and expected outputs

The expected output for the national consultant's assignment is to provide legal expertise and input in the context of development, preparation of set-up, functioning and use of the electronic case management system by the forensic institutions. The consultant shall review the current national regulatory framework for efficient and secure data exchange and interoperability within the public sector and amongst public and private sector entities, as well as the internal rules and regulations of the national forensic institutions, and provide where necessary amendments aiming to regulate the interoperability and application of e-processes and e-documents in forensic processes. The Consultant is also expected to provide advice in the context of development of the Forensic Case Management System and facilitate the process of drafting and signing of agreements and/or memoranda to ensure legal grounds for cooperation amongst the national forensic institutions, between the national forensic institutions and justice chain actors aiming to ensure data exchange and interoperability, as well as other state institutions engaged in data exchange and interoperability .

In order to achieve the stated scope of work, the Consultant shall perform the following tasks and activities:

1. Prepare the Inception Report and detailed work plan for the assignment;
2. Undertake a comprehensive desk review of the relevant national public policies, legal framework regarding state resources information use, data exchange, legal regime of state registers data use, personal data protection and the interoperability platform use, as well as EU legal framework and international best practices;

² <https://www.bizlaw.md/2018/07/20/autoritatile-vor-fi-obligate-sa-faca-schimb-electronic-de-date-pentru-a-elimina-rolul-de-postas-al-cetatenilor-in-transportarea-documentelor>

3. Draft Legal Analysis Report which shall provide full understanding of the legal implications and restrictions, in relation to:
 - 3.1 The legal regime of the data available within forensic institutions' registers, databases and information systems, including categories of data which could be subject of e-processes in the context of implementation of case management systems;
 - 3.2 The legal regime of the data available within justice chain actors' registers, databases and information systems, including categories of data which could be subject of e-processes in the context of implementation of case management systems;
 - 3.3 Regulation of data exchange and interoperability;
 - 3.4 Legal regime of usage of electronic case management systems by the forensic institutions and justice chain actors;
 - 3.5 Legal regime of usage e-processes and e-documents by the forensic institutions and justice chain actors in justice processes, in the context of implementation of case management systems;
 - 3.6 Legal sufficiency of existing personal authentication instruments to ensure use of e-documents and e-processes in the context of implementation of case management systems;
 - 3.7 Admissibility of information derived from the case management systems;
 - 3.8 Detailed list of missing legal requirements, necessary for legally based development, implementation, functioning and use of case management systems by forensic institutions, as well as data exchange and interoperability;
4. Draft amendments to normative acts (*national legislation and institutional regulations*), to address the missing legal requirements necessary for legally based development, implementation, functioning and use of case management systems by forensic institutions, as well as data exchange and interoperability. The amendments shall be prioritised depending on the progress towards development of the Forensic Case Management System (FCMS);
5. Conduct consultations with project beneficiaries to present the findings of the Legal Analysis Report and the tentative proposals for improvement of the normative acts;
6. Provide advice and necessary support to the A2J national consultants³ in the context of development of the FCMS, aiming to ensure legally based solutions for the Vision Document on the future FCMS and observing the provisions of the national legislation in the context of drafting technical specifications and tendering documentation for acquisition of the FCMS;
7. Coordinate the legal aspects of data exchange and interoperability amongst participants in the FCMS;
8. Ensure the development of the documentation and procedures providing legal grounds for cooperation amongst the national forensic institutions, between the national forensic institutions and justice chain actors aiming to ensure data exchange and interoperability, as well as other state institutions engaged in data exchange and interoperability;
9. Organise and facilitate extended consultations with the project beneficiaries and the Ministry of Justice, judiciary, prosecution, lawyers, to discuss the proposed amendments following the Legal Analysis Report. The consultant shall use the feedback received in the meetings to review the proposals for amendment and complete the package of modifications to the legislation and supporting documents.

III. Deliverables and Timeframe

	Key deliverables:	Tentative timeframe/deadline
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³ National ICT Consultant to support the national forensic institutions with specialised technical support and advice throughout the process of elaboration and operationalisation of an e-system for forensic institutions and National Consultant to review the Moldovan regulatory framework related to the area of judicial expertise and experts.

1.	Inception Report containing a detailed Work Plan and Methodology developed	By 7 May 2020
2.	Draft Legal Analysis Report developed and submitted for clearance	By 12 June 2020
3.	Advice and support to the A2J National ICT Consultant in the context of development of the FCMS, aiming to ensure legally based solutions for the Vision Document on the future FCMS, as well as advice in the context of observing the provisions of the national legislation in the context of drafting technical specifications and tendering documentation for acquisition of the FCMS, provided based on a previously agreed arrangement with the A2J project team	By 19 June 2020
4.	Finalised version of the Legal Analysis Report developed and submitted for clearance	By 25 September 2020
5.	Draft amendments to normative acts, to address the missing legal requirements, necessary for legally based development, implementation, functioning and use of case management systems by forensic institutions and chain actors, as well as data exchange and interoperability, drafted and submitted for clearance	
6.	Consultation meetings with the project beneficiaries and the Ministry of Justice, judiciary, prosecution, lawyers, to discuss the amendments proposed following the Legal Analysis Report, organised and facilitated	By 5 December 2020
7.	Amendments to normative acts, to address the missing legal requirements, necessary for legally based development, implementation, functioning and use of case management systems by forensic institutions and chain actors, as well as data exchange and interoperability, revised in line with the feedback received in consultations, developed and submitted	
8.	Documentation and procedures providing legal grounds for cooperation amongst the national forensic institutions, between the national forensic institutions and justice chain actors aiming to ensure data exchange and interoperability, as well as other state institutions engaged in data exchange and interoperability, developed and submitted for clearance	By 27 March 2021
5.	Final report describing the outputs of the assignment	By 30 April 2021

IV. Institutional arrangements

The consultant 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 consultant is expected to cooperate closely with the 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.

All the deliverables shall be submitted in Romanian language, in hard copy and electronic format. The summary of the Legal Analysis Report, described at task 3 in Section II of the TOR, shall be presented in English as well. Before submission of final deliverables, the consultant will discuss the draft documents with the parties involved, so that the final products reflect their comments.

This is a part-time consultancy. The timeframe for the work of consultant is planned for May 2020 – April 2021.

Financial arrangements: The Payment will be disbursed in instalments upon submission and approval of the submitted deliverables.

V. QUALIFICATIONS AND SKILLS REQUIRED

I. Academic Qualifications:

- Master's degree (or equivalent 5-year university degree) or higher in Law, Public Administration or another relevant field;
- Certification(s) in IT Governance (e.g. ITIL, COBIT, TOGAF, etc.) will be considered a strong asset;

II. Experience:

- At least 7 (seven) years of professional experience in providing consultancy (incl. GAP analysis) and developing processes and procedures in the field of e-Governance, data exchange and Governmental cloud platforms;
- At least 5 years of experience in drafting by-laws, normative framework and public policies;
- Proven experience in conducting comprehensive legal analysis related to the improvement or implementation of e-services and/ or associated governance processes;
- Previous professional experience in dealing with data exchange and interoperability will be an asset;
- Previous professional experience with respect to the Moldovan e-Governance framework will be an asset.

III. Competencies:

- Knowledge of the national legislation regulating the area of judicial expertise and experts;
- Excellent research, analytical and writing skills;
- Demonstrated interpersonal and diplomatic skills, as well as the ability to communicate effectively with stakeholders at all levels and to present ideas clearly and effectively;
- Fluency in Romanian. Knowledge of Russian and/or English is an asset.

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.