



TERMS OF REFERENCE

Job title: National Legal Expert on Contraventions (misdemeanor procedures) and Contestation matters to train the staff of the Central Electoral Commission and develop supportive materials.

Duty Station: Republic of Moldova, Chisinau

Reference to the project: Enhancing democracy in Moldova through Inclusive and Transparent Elections (EDMITE / phase II)

Contract type: Individual Contract (IC)

Assignment type: National Consultant

Contract duration: May 2022 – October 2022

Expected workload: 20 working days

Indicative starting date: 05th of May 2021

1) BACKGROUND

Electoral support and capacity development are part of UNDP's democratic governance assistance worldwide, through which UNDP helps nations build democratic frameworks to improve representation, accountability, and transparency for the benefit of citizens. In this context, UNDP has a long-standing partnership with the Central Electoral Commission (CEC) and the Center for Continuous Electoral Training (CCET) aiming at advancing the democratic electoral processes in Moldova by consolidating the transparency and efficiency of elections' management, modernization of electoral IT solutions and enhancing the inclusiveness and participation of voters. This partnership, which spans over 10 years, resulted in the establishment of strong professional institutions, development of a modern State Automated Information System "Elections" (SAISE), the enhancement of the State Register of Voters' accuracy and the design and implementation of effective long-term civic and voter education instruments.

Throughout the last electoral cycles, due to the continuous UNDP's support CEC and CCET have demonstrated strengthened capacities and, despite challenges and persistent financial limitations faced by the institutions, managed to successfully deliver "well-administered elections", as attested by OSCE/ODIHR Observation Missions. According to the report of the OSCE/ODIHR IOM on the 2021 Snap Parliamentary Elections¹, while, in general, the complaints and appeals framework (*primarily regulated by the Electoral Code and the Administrative Code*) provides avenues for dispute resolution, there are some gaps and contradictions, and the complexity of the rules undermines the accessibility of dispute resolution for election participants. The IOM report also highlights² that "(...) legislative and judicial efforts should ensure a harmonized and clear legal framework on procedures, as well as substantive handling of electoral complaints and appeals".

Building on the sustainable results achieved during the first phase of the Project implementation (2017 – 2020), the overall Goal of the current Project's II phase (2020 – 2023) is to achieve an enhanced integrity, transparency, and inclusiveness of the electoral process in Moldova by ensuring a more independent and credible electoral administration and better informed and pro-active citizens.

Thus, the UNDP Project aims to support the CEC with hiring an expert to train the CEC staff regarding contraventions (misdemeanor procedures), and complaints procedures, addressing the key legal gaps and respectively develop the knowledge of the CEC staff regarding the Contraventions (misdemeanor procedures) and Complaints Procedures applicable within the existing Electoral Framework. The expected result of this assistance aims to enhance the knowledge of the CEC staff in understanding better the electoral complaints, the applicable regulations and provide answers for overlapping norms or encountered difficult procedural aspects.

2) OBJECTIVE AND EXPECTED OUTPUTS

¹ ODIHR Limited Election Observation Mission / 2021 Snap Parliamentary Elections in the Republic of Moldova / Final Report, available at: <https://www.osce.org/files/f/documents/0/5/508979.pdf>

² Ibid, pg.23

UNDP intends to contract a National Legal Expert (*hereinafter "the Consultant"*) to provide the CEC with the necessary training and expert knowledge for the staff of the CEC regarding the electoral framework, Contraventions (misdemeanor procedures), and electoral complaints processes and develop materials.

The assignment is aimed to be implemented in two stages. The second stage will be subject to the necessity and confirmation by the CEC. The second stage will be confirmed separately after the fulfillment of the first stage. The specific objectives will include:

I. For the 1st stage of the assignment (period: May 2022):

A. The consultant will determine the trainings' structure and develop the training materials.

✓ The consultant will independently carry all the preparatory work and the relevant consultation discussions with the members of the CEC and the legal division of the CEC to convene (by means of conference calls, emails, video calls and in person) and to determine the training composition (structure, methodology, training materials, format, specific thematic subjects).

✓ The final proposal of the necessary trainings for the staff of the CEC, Power Point Presentation, and training supportive materials (structure, methodology, format, specific thematic subjects), and any other particularities necessary to be addressed will be discussed and approved with the CEC and the Project Team.

B. The consultant will deliver at least 2 trainings (2 days each training), for 2 groups of people (with a maximum of 10 people in each group), in accordance with the timeline and preferences indicated by the CEC.

✓ The length, calendar date, and complexity of the trainings (Eg. full day trainings, or half day trainings for each of the 2 groups of participants will be decided jointly with the CEC representatives and the Project Team).

✓ Beside general procedural and regulatory aspects pertaining to the Contraventions (misdemeanor procedures) and procedures, disputes, and contestations, the training composition and thematic subjects will include but not limit itself to the below topics.

- General assessment of the updated electoral legal framework and their applicability. Including but not limiting to the Electoral Code (*particularly chapters 4-7 and 11-12*), Contravention (misdemeanor procedures) and Code, Criminal Procedural Code, and other normative acts referring to the Contravention procedures and contestations.
- The financing of political parties, Contravention procedures and contravention processes, documentation of contraventions, practical aspects of the findings/evidence and role of the documenting authority (CEC or its hierarchical inferior bodies, or any other relevant authorities), mandatory legal requirements to be followed, application of penalty charge notices and contestations against these, the contravention enforcement protocols, actions or inactions of the competent public authorities and contestation procedure per general).
- Other normative requested clarification suggested by the CEC or the Project Team

C. Draft and present a comprehensive report and a summarizing power point presentation.

The consultant will document all the conducted training activities including progress and challenges of the trainings, results, and recommendations.

II. For the 2nd stage of the assignment (period: May-June 2022):

Elaborate an internal Guidelines material for the staff of the CEC which may serve as an internal resource for the applicability of the electoral framework (the Electoral Code, Contravention Code, Criminal Procedural Code, Law regulating the Political Parties and other normative acts referring to the contravention procedures and contestations).

- The final Practical Guide proposal will aim to provide answers towards actions in different contextual situations by the staff of the CEC when dealing with: matters pertaining to the financing of political parties, contravention procedures and contravention processes, practical aspects of the findings/evidence and role of the documenting authority (CEC or its hierarchical inferior bodies, or any other relevant authorities), mandatory legal requirements to be followed, the documentation of contraventions, application of penalty charge notices and contestations against these, the contravention enforcement protocols, actions or inactions of the competent public authorities and contestation procedure per general).
- The final structure and content of the guidance will be based on the questions and answers addressed during the trainings and consultations with the CEC members.

To achieve the forementioned objectives, the Consultant will have the following responsibilities:

- Research on the current Moldovan legal framework (Electoral Code, Contravention Code, Criminal Procedural Code, Law regulating the Political Parties and other normative acts), existing practices and recommendation of the Supreme Court of Republic of Moldova and findings of the International Observations Missions - in matters pertaining to the contravention procedures and the contestations process.
- The consultant will have to address and clarify the following topics and regulatory aspects: *What a contravention case is? Dedicated contravention violation directly referring to the electoral field and the aplicability of regulatory provisions? Competencies of the investigation authority vested by law to document the contravention case and to what extend it does apply sanctions? Special subjects and status, participants immune from the application of the sanctions (members of the Parlmanet, others)? Future ammendments to the Electoral Code and violation sanctions discussed by the MoJ and the CEC?*
- Provide additional support, participation and consultations opinions via conference calls, emails, video calls and in person, with special focus towards the elaboration of the Guideline material for the staff of the CEC (if applicable).
- Prepare a report and PPT on the assignment, documenting all the conducted activities, focusing on the results achieved, issues and challenges of the training process.

***Note: for the purposes of the assignment, it is suggested that the consultant conducts on-site consultations with the representatives and staff of the CEC and CEC's divisions.*

3) KEY DELIVERABLES AND TENTATIVE TIMETABLE

***Note: All deliverables and the activity timeline can be amended or further specified for the purpose of the assignment.*

Key deliverables	Tentative: Deadline
1. First stage of the assignment - May 2022	
A. <i>The consultant will prepare the training structure and the training materials. The final proposal of the trainings - approved with the CEC and the Project Team.</i>	by 15 th of May 2022 (estimated – 3WD)
B. <i>The consultant will deliver at least 2 trainings for the CEC staff</i>	by 25 th of May 2022 (estimated – 5WD)
C. <i>Draft and present a summarizing report (documenting all conducted training activities including progress and challenges of the trainings, results, and recommendations – prepared and submitted).</i>	by 31 st of May 2022 (estimated – 2WD)
2. Second stage of the assignment - May /June 2022 (<i>Subject to the confirmation by the CEC</i>).	
<i>Elaborate an internal Guideline material for the staff of the CEC which may serve as an internal resource for the applicability of the electoral framework (the Electoral Code, Contravention Code, Criminal Procedural Code, Law regulating the Political Parties and other normative acts referring to the contestation procedures and contestations).</i>	by 15 th of June 2022 (estimated – 10WD)

*Note**: The number of days indicated per each deliverable are used for purposes of calculating the total price for each deliverable. The payment against the contract will be lump sum amount based, disbursed in several instalments, upon submission and approval of deliverables and certification by UNDP Moldova Project Manager that the services has been satisfactorily performed.*

4) ADMINISTRATIVE ARRANGEMENTS

This is part time consultancy. The timeframe for this group of deliverables is planned for the period May 2022 – June 2022. During this time the Consultant is expected to work 10 working days. Upon requirement the contract can be amended by the project team (should it become necessary to extend the number of working days or period for the delivery).

The Consultant will be required to individually obtain the necessary information and materials for the fulfillment of the assignment, including coordination for the organization of the necessary consultation meetings, interacting with the Central Electoral Commission, or with the training group/groups of participants. The Project Team will offer administrative and logistical support (should it become necessary).

The assignment shall be performed in close coordination with the Project Team, under the supervision of the Senior Project Officer, Project Manager, or other members of the UNDP EDMITE Project. Subsequently, the deliverables will be approved by the UNDP Project.

5) FINANCIAL ARRANGEMENTS

The payments will be disbursed in multiple tranches upon completion and approval of the deliverables and the submission of the timesheets and supporting evidence certifying that the services have been satisfactory performed.

6) QUALIFICATIONS AND SKILLS REQUIRED

Academic Qualifications:

- Bachelor's degree in law

Experience and knowledge:

- At least 5 years of demonstrated practical and recent experience within the Courts of Laws of the Republic of Moldova (both district and appellate courts) with specialization on contravention cases and contestations against the decisions, actions, or inactions of the public authorities (either as licensed attorney, practicing judge, or prosecutor).
- At least 3 assignments in conducting trainings/coaching for legal professionals, public authorities, and other relevant entities.

Competencies:

- Demonstrated experience in the application of the updated Electoral Code, Contravention Code, Criminal Procedural Code regulations referring to the financing of political parties, and other relevant normative acts in electoral litigations (pertaining to the contravention procedures and contravention processes, preparation of the contravention enforcement protocols, documentation of the evidence and mandatory legal requirements, application of penalty charge notices and contestations against these, actions or inactions of the competent public authorities and contestation procedure per general).
- Consultancy and/or analysis/research related to electoral litigations would be a strong advantage;
- Demonstrated experience in developing guidelines, training methodology and materials for legal professionals, public authorities, and other relevant entities (reference/links to be included in the application package).
- Previous experience of work with UNDP, ISFED, and/or other development partners is an advantage.
- Fluency in Romanian and Russian language (verbal and written) is a must.

Personal qualities:

- Proven commitment to the core values of the United Nations, in particular respecting differences of culture, gender, religion, ethnicity, language, age, HIV status, disability, and sexual orientation, or other status.
- Excellent research, analytical and writing skills.
- Responsibility, creativity, flexibility and punctuality, ability to meet deadlines and prioritize multiple tasks.
- Demonstrated interpersonal and diplomatic skills, as well as the ability to communicate effectively with all stakeholders and to present ideas clearly and effectively.

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.

7) DOCUMENTS TO BE INCLUDED WHEN SUBMITTING THE PROPOSALS

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

- ✓ Offeror's Letter confirming interest and availability.
- ✓ Technical proposal (including brief description of experience, approach, and methodology for the completion of the assignment).
- ✓ Proposal (Motivation Letter): explaining why they are the most suitable for the work including previous experience in similar Projects (please provide brief information on each of the above qualifications, item by item);
- ✓ Financial proposal (in USD, specifying a total requested amount per deliverable, including all related costs, e.g. fees, phone calls etc.);
- ✓ Duly completed and updated personal CV and at least 3 references.