



TERMS OF REFERENCE

Job title:	National Consultant to support the integration of state-guaranteed mediation with legal aid services
Duty station:	Chisinau, Moldova
Reference to the project:	“Enhancing access to justice for living in dignity” Project
Contract type:	Individual Contract (IC)
Expected duration of the assignment:	April 2024 – June 2024 (45 working days)
Starting date:	April 2024

I. Background

The UNDP project “Enhancing access to justice for living in dignity” (A2J4Dignity) is a short-term project designed to enhance the resilience of the rule of law system from the Republic of Moldova and strengthen its capacities to deliver effective remedies and provide access to public services. It is intended to address the multifaceted and interconnected challenges of the current poly crises through strengthening institutions, empowering vulnerable groups to access legal services and unlocking the potential of digital transformation in support of better access to justice.

This project aims at providing rule of law institutions and other relevant actors (such as CSOs) with the adequate tools and knowledge to work across the humanitarian-development-peace nexus and to improve access of refugees, displaced populations and host communities to inclusive justice services, safety and security, and protection systems. At the same time, this intervention will seek to empower justice seekers to claim their rights and access legal services while seeking remedies for their grievances.

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 Ministry of Justice of the Republic of Moldova is responsible for formulating state policy on state-guaranteed legal aid; drafts regulations in the field of state-guaranteed legal aid; monitors the process of implementation of norms in the field of state-guaranteed legal aid and the process

of evaluating the quality of such aid; develops and submits to the Ministry of Finance a draft budget for the provision of state-guaranteed legal aid; and performs other functions defined by the Law on State Guaranteed Legal Aid.¹

The National Legal Aid Council, further on referred to as NLAC, and its Territorial Offices are the main bodies administering the legal aid system in Moldova. Members of the NLAC are appointed by the MoJ, the Ministry of Finance, the Bar Association, and the Supreme Council of Magistrates.

NLAC's activity is regulated by the Regulation on National Legal Aid Council, approved by the Minister of Justice order No. 18 of 24 January 2008². The NLAC performs a wide list of functions provided for in Article 12 of the Law on State Guaranteed Legal Aid. For instance, it manages the process of providing state-guaranteed legal aid; assesses the cost and plans the costs of providing state-guaranteed legal aid and submits proposals to the MoJ for inclusion in the state budget; develops a methodology for calculating income and determines the level of income eligible for qualified legal aid and submits them to the Government for approval; approves the forms of documents for receiving and providing legal assistance guaranteed by the state, etc.

Following the objectives set out in the 2024 Government Action Plan³ and Action Plan for implementing the 2022-2025 Justice Sector Strategy⁴ and considering the need to adjust the existing mechanism of state-guaranteed mediation so that it ensures efficient access of socially vulnerable population to mediation services guaranteed by the state, the national authorities initiated the process of incorporation of the state-guaranteed mediation services within the legal aid system.

In this context, a package of legislative amendments⁵ launched by the Ministry of Justice to revise the organization and functioning of the state-guaranteed mediation mechanism, was adopted in late December 2023. In line with these amendments, the management of the state-guaranteed mediation mechanism will be assigned within the scope of work of the NLAC.

The above-mentioned legal amendments will enter into force 6 months after the date of publication in the Official Monitor and subsequently NLAC will have a transitory period to ensure that the necessary normative framework is developed and approved.

In this context, the A2J4Dignity Project is seeking to hire a National Consultant to support the NLAC in the process of development and alignment of the internal regulations/standard operating procedures to operationalise and regulate the state-guaranteed mediation as part of the legal aid system.

II. Objective and expected outputs

Through this assignment the National Consultant is expected to provide expert support to the NLAC to develop the package of regulations, procedures, templates of documents required to regulate and organize the integration of state-guaranteed mediation with the legal aid system and to operationalize the new approach in management and delivery of state-guaranteed mediation.

¹ https://www.legis.md/cautare/getResults?doc_id=24283&lang=ro

² <https://cnaigs.md/ro/acte-normative>

³ https://gov.md/sites/default/files/document/attachments/pag_2024-27.12.2023.pdf

⁴ https://www.legis.md/cautare/getResults?doc_id=129241&lang=ro

⁵ https://www.legis.md/cautare/getResults?doc_id=140995&lang=ro

In order to achieve the stated objective, the National Consultant will have the following responsibilities:

1. Prepare the detailed Work Plan and Inception Report to be applied for the respective assignment;
2. Carry out a desk review of the national legislation, NLAC regulatory framework, previous assessments, and other documents relevant for the scope of the assignment to identify regulatory gaps and opportunities for the operationalization of state-guaranteed mediation as part of the legal aid system. The consultant is also expected to analyse relevant studies, research, reports, EU/international best practices related to incorporation of state-guaranteed mediation services with legal aid systems in order to identify the suitable models, practical solutions to the associated challenges and risks and ensure transposition of lessons learnt and experiences in the process of developing legislative initiatives and/or amendments;
3. Develop a matrix containing findings and specific recommendations for adjusting and/or completing the primary and secondary normative framework related to incorporation of state-guaranteed mediation by the legal aid system;
4. Develop the draft Regulation on granting state-guaranteed mediation, which will cover, but not limit to the selection of mediators; contracting of mediators; mediators' relations with the territorial Offices of the NLAC; processing the requests and granting state-guaranteed mediation; reporting and remuneration of mediators' activity; quality assurance and accountability of mediators, etc;
5. Draft the package/set of amendments to the NLAC regulatory framework to regulate and operationalize the incorporation of state-guaranteed mediation within the legal aid system. The consultant shall also develop the supporting documents for tabling the amendments. The supporting documents will be substantiated by the findings of the matrix carried out at point 3 of the current section. The consultant shall consider and mainstream the gender perspective and Human Rights Based Approach throughout the proposed amendments;
6. Develop the set of documents (draft templates of requests, decisions, contracts, etc.) necessary for the operationalisation of the mechanism for soliciting and granting state-guaranteed mediation;
7. Conduct participatory consultations* to collect feedback and validate the proposed new regulations and amendments to the current regulatory framework by means of workshops and/or individual discussions with NLAC, Ministry of Justice, Mediation Council and other relevant state institutions. The consultant shall use the feedback received through the consultations to review the draft proposals for amendment and produce the final version of the package of amendments. For the purpose of the current assignment, it is expected that up to 5 consultation sessions will be carried out;

** The responsibility for facilitating the consultation process for the purpose of completing the tasks outlined hereto will be borne primarily by the National Consultant. The consultant shall be responsible for preparing working materials and agendas and will coordinate with the A2J4Dignity Project Team the logistical implications related to organisation of meetings, participation, communication, and coordination with invited stakeholders.*

III. Deliverables and Timeframe

	Key Deliverables	Tentative workload	Indicative timeline
1.	Detailed Work Plan and Inception Report to be applied for the respective assignment developed and submitted	3 working days	By April 5, 2024
2.	Desk review of the national regulatory framework described at point 2 in Section II of the ToR conducted	7 working days	By April 22, 2024
3.	Matrix containing findings and specific recommendations for adjusting and/or completing the regulatory framework as described at point 3 in Section II of the ToR developed and submitted	8 working days	
4.	Draft Regulation on granting state-guaranteed mediation as described at point 4 in Section II of the ToR developed and submitted	8 working days	By May 8, 2024
5.	Draft package/set of amendments to the NLAC regulatory framework as described at point 5 in Section II of the ToR developed and submitted	5 working days	By May 29, 2024
6.	Set of documents (draft templates, request, contracts) necessary for operationalisation of the mechanism of granting state-guaranteed mediation, as described at point 6 in Section II of the ToR developed and submitted	7 working days	
7.	Participatory consultations to collect feedback and validate the proposed amendments or new regulations, as described at point 7 in Section II of the ToR organized. Consolidation of final version of amendments or new regulations completed, final version of documents submitted	7 working days	By June 14, 2024

IV. Institutional arrangements

The timeframe for the work of the consultant is tentatively planned through April – June 2024.

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 delegated representatives of the NLAC. The consultant is also expected to engage with the Ministry of Justice, the Mediation Council and other relevant state institution identified at the desk review stage.

All the deliverables shall be submitted in Romanian language, in electronic format.

Before submission of final deliverables, the consultant will discuss the draft documents with the parties involved, so that the final products reflect their comments.

V. Financial Arrangements

Payment will be disbursed in several instalments upon submission and approval of deliverables and certification by the Project Manager that the services have been satisfactorily performed.

Financial proposal:

The financial proposal shall specify a total lump sum amount, and payment terms around specific and measurable (qualitative and quantitative) deliverables (i.e., whether payments fall in instalments or upon completion of the entire contract). Payments are based upon output, i.e., upon delivery of the services specified in the TOR. In order to assist the requesting unit in the comparison of financial proposals the financial proposal shall include a breakdown of this lump sum amount (including fee, taxes, communication costs and number of anticipated working days).

VI. Confidentiality

Materials provided to the Consultants 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.

VII. Qualifications and skills required:

Academic Qualifications:

- Master's Degree (or 5 years university degree) in Law, Public Administration or another relevant field.

Work experience:

- At least 5 years of experience in legal consulting, developing normative framework and/or public policies;
- Previous proven experience (at least 2 proven previous assignments) in conducting legal analysis, research and assessment and/or drafting regulatory framework/proposals for amendment of normative framework in the justice and rule of law areas will be an asset;
- Experience in conducting legal analysis, research and assessment and/or drafting regulatory framework/proposals for amendment of normative framework;
- Previous experience in working with the National Legal Aid Council is an asset;
- Previous working experience with international organizations, including UN Agencies, or any other development partner will be an asset.

Competencies:

- Excellent knowledge and understanding of the national legislation and set-up and functioning of the legal aid/justice system;
- Excellent understanding of the procedures within the legal aid system;
- Ability to analyse, plan and communicate effectively orally and in writing;
- 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 and Russian. Knowledge of English will be 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. Please mention in CV if you belong to the group(s) under-represented in the UN Moldova and/or the area of assignment.

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.

VIII. Documents to Be Included When Submitting the Proposals

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

- Offeror's letter to UNDP confirming interest and availability for the individual contractor (IC) assignment, incorporating Financial proposal in Annex 2
Upload the signed version of the filled in Offeror's letter to UNDP confirming interest and availability for the individual contractor (IC) assignment. Annex 2 to the Offeror's letter, incorporating the Financial Proposal, shall be filled in mandatorily and includes the detailed breakdown of costs supporting the all-inclusive financial proposal. The Financial Proposal shall be additionally submitted directly in the system. Please ensure there are no mathematical errors and that amounts from Offeror's Letter to UNDP Confirming Interest and Availability match with your offer in the system.
- 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, including information, links/copies of documents to support the required work experience and competences);
- Technical proposal (incl. brief description of experience, approach, and methodology for the completion of the assignment);
- Duly completed and updated personal CV with at least 3 references.

Important notice: The applicants who have the statute of Government Official / Public Servant prior to appointment will be asked to submit the following documentation:

- a no-objection letter in respect of the applicant received from the Government, and;
- the applicant is certified in writing by the Government to be on official leave without pay for the entire duration of the Individual Contract.

IX. Evaluation

Initially, individual consultants will be short-listed based on the following minimum qualification criteria:

- Citizenship of the Republic of Moldova
- Master's Degree (or 5 years university degree) in Law, Public Administration or another relevant field;
- At least 5 years of experience in legal consulting, developing normative framework and/or public policies.

The short-listed individual consultants will be further evaluated based on the following methodology:

Cumulative analysis

The award of the contract shall be made to the individual consultant whose offer has been evaluated and determined as:

- a) responsive/ compliant/ acceptable, and
- b) having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation.

* Technical Criteria weight – 60% (300 pts);

* Financial Criteria weight – 40% (200 pts).

Only candidates obtaining a minimum of 210 points would be considered for the Financial Evaluation.

Criteria	Scoring	Maximum Points Obtainable
<u>Technical</u>		
Master's Degree (or 5 years university degree) in Law or Public Administration or another relevant field	<i>Master's degree – 15 pts., PhD degree – 25 pts.</i>	25
At least 5 years of experience in legal consulting, developing normative framework and/or public policies	<i>5 years – 50 pts., each additional year of experience – 10 pts. up to a maximum of 80 points;</i>	80
Previous proven experience (at least 2 proven previous assignments) in conducting legal analysis, research and assessment and/or drafting regulatory framework/proposals for amendment of normative framework	<i>None – 0 pts, two assignments – 40 pts, more than two assignments (20 points per additional assignment) – up to a maximum of 80 pts.</i>	80
Experience in conducting legal analysis, research and assessment and/or drafting regulatory framework/proposals for amendment of normative framework in the justice and rule of law areas	<i>No – 0 pts, Yes - 25 pts.</i>	25
Previous experience in working with the National Legal Aid Council	<i>No – 0 pts, Yes - 25 pts.</i>	25
Previous working experience with international organizations, including UN Agencies, or any other development partner	<i>No – 0 pts, Yes - 25 pts.</i>	25
Fluency in Romanian and Russian. Knowledge of English is an asset	<i>Each language 10 pts, up to 30 pts.</i>	30
Belonging to the group(s) under-represented in the UN Moldova and/or the area of assignment	<i>no – 0 pts., to one group – 5 pts., to two or more groups – 10 pts.</i>	10
Maximum Total Technical Scoring		300

<u>Financial</u>	
<p>Evaluation of submitted financial offers will be done based on the following formula:</p> <p><u>$S = F_{min} / F * 200$</u></p> <p>S – score received on financial evaluation;</p> <p>F_{min} – the lowest financial offer out of all the submitted offers qualified over the technical evaluation round;</p> <p>F – financial offer under consideration</p>	200

Winning candidate

The winning candidate will be the candidate, who has accumulated the highest aggregated score (technical scoring + financial scoring).