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TERMS OF REFERENCE

Call for expression interest for provision of consultancy services:

International consultant to conduct the functional analysis of the General Prosecutor Office of the Republic of Moldova and support the implementation of resulted policy recommendations

Call for expression of interest of an international consultant to conduct the Functional Analysis of the General Prosecutor Office (GPO) of the Republic of Moldova and support the implementation of resulted policy recommendations, within the Project “Securing integrity, efficiency and independence of the justice system in Moldova - #Justice4Moldova”, funded by the European Union and co-funded by the Soros Foundation Moldova, implemented by IPRE in partnership with IWPR.

Launch date of the Call: 13 November 2023

Deadline for submission of the application: 13 December 2023, 23.00 CEST time

Job title: International Consultant

Period of the assignment: December 2023 – February 2026

1. About the project:

Institute for European Policies and Reforms (IPRE), as the lead partner, in consortium with the Institute for War and Peace Reporting (IWPR), implements of the project “Securing integrity, efficiency and independence of the justice system in Moldova - #Justice4Moldova”, funded by the European Union and co-funded by the Soros Foundation Moldova.

Donor: European Commission and Soros Foundation Moldova

Implementation period: March 2023 – February 2026

The general objective of the project is to contribute to an increased role of civil society and media to support independence, integrity, efficiency, and accountability of the justice system in the Republic of Moldova.

Specific objectives:

- **Enhance the capacity of the civil society and policy experts to advance the implementation of justice sector policies** in a transparent and accountable manner in line with European rule of law and human rights standards and Association Agreement.
- **Increase the independence, integrity and efficiency of justice and anti-corruption actors through scrutiny and support** by civil society, policy and media organisations.

2. Purpose of services:

Conduct a functional analysis of the General Prosecutor Office (GPO) of the Republic of Moldova with the view to identify the organisational and functional gaps and needs; formulate and contribute to the implementation of policy recommendations to enhance the efficiency and strengthen capacities of GPO to implement its role and powers as provided by the article 8 of the Law 3/2016 on public prosecution service.

3. Background

Republic of Moldova embarked into a challenging process of justice reform since its independence. The latest Law on prosecution service no. 3/2016 was adopted to enhance the capacities of the

prosecution service and provide additional tools to specialised prosecutors' offices (Anticorruption Prosecution Office and the Prosecutors' Office specialised on organised crime and special cases, hereinafter APO and PCCOCS respectively). The reform from 2016 entailed among others the review of the position of the General Prosecutor's Office (GPO), its mandate, resources and coordination efforts with other Prosecutors' Offices. The legislative amendments also set a higher role of the Supreme Council of Prosecutors (SCP) to address career and disciplinary proceedings related to prosecutors and counterbalance the position of the Prosecutor General. Today the Prosecution Service holds 720 positions of prosecutors and 700 positions of consultants.

The actions taken after the approval of the Law no. 3/2016 have not been however sufficient to strike the necessary balance among the existing priorities. The Prosecution Service generally remained vulnerable to risks of corruption, while the GPO still remained to a large extent unchanged in terms of functional structure. An attempt to adjust the composition of the Prosecution Service was taken in 2022 with 21 positions of prosecutors and 7 functions of consultants of prosecutors from the GPO being moved to the APO, PCCOCS, the Chisinau municipal Prosecutors' Office. The general challenge of prosecutors within GPO having criminal cases in management still remains and it is dictated by the importance of the managed cases, either at pre-trial stage or at the trial stage, as well as insufficient capacities but also suspicion of lack of integrity in other offices of the Prosecution Service.

A Communication Strategy of the prosecution service is in place since 2020¹. However, GPO still faces challenges related to proper implementation of information and communication technologies (ICTs). Although planned since 2017 and financial resources allocated for it, the criminal e-file is still not implemented. The solution for a fully functional criminal e-file also requires ensuring interoperability with the police service, the courts, the bailiffs and the penitentiary systems. Exclusion of the human factor and automatization of processes within the GPO and the Prosecution Service generally is necessary to ensure a better use of human resources and close the opportunities for undue influence and corruption in criminal justice processes.

International cooperation is lagging behind with extended time spent on bureaucracy, whilst an effective investigation requires in many instances a rapid processing of in-coming requests from other jurisdictions as well as fast submission of requests for mutual legal assistance on on-going criminal cases in Moldova. This in turn reduces the pace of investigation of particularly important cases, as they usually involve a number of international jurisdictions and require large amounts of data to structure the pieces of the investigation, identify assets, effective beneficiaries and consolidate the evidence which would incriminate the perpetrators.

Human resources must be managed in a more structured and efficient manner. The employment of consultants of prosecutors, secondment of field officers and criminal prosecution officers from law enforcement bodies and of other personnel must be measured from the perspective of at least two critical needs: ensuring integrity of the personnel and offering the necessary support to the prosecutors to properly undertake their functions. The GPO itself, just like the specialised prosecutors' offices and regional and local branches of the prosecution service face a general insufficiency of personnel and a high percentage of short employment. Although some of the factors are the low pay and lack of career perspectives, an important adjustment must be made to the role of GPO in the process of management, planning and implementation of the career path for potential and existing personnel within the Prosecution Service.

Proper budgeting of needs and adjustment of the current offices to other reforms already undergone in Moldova (i.e. the new offices of courts, the regionalisation of the police services) is paramount to ensure an adequate use of public funds and connection with the budgeting processes provided for by specific legislation. It is thus essential to consider how the budgeting and finance management unit within GPO is undertaking its activity as well as bridge those actions with the larger context of revision of the structure of the Prosecution Service in Moldova.

¹ Communication Strategy of the prosecution service, available in RO at: https://procuratura.md/sites/default/files/2023-01/2020-12-30_Strategia%20de%20comunicare%20externa.pdf

A Plan for Strategic Development of the Prosecution Service for the years 2021-2025² is in place. A review of the mid-term priorities and key interventions for the strategic development of the prosecution service would benefit from the results and recommendations of the envisaged functional analysis.

4. Project context

As part of the project “Securing integrity, efficiency and independence of the justice system in Moldova - #Justice4Moldova”, IPRE conducted a series of national and international stakeholder consultations during September – November 2023 and as a result identified the need to conduct a Functional Analysis of the General Prosecutor Office of the Republic of Moldova (hereinafter GPO).

The necessity for such an assessment arises from the need to review and enhance GPO’s operational and strategic role and functions within the prosecution service of the Republic of Moldova given a series of legislative amendments adopted in the recent years to the Law 3/2016 on public prosecution service as well as considering the prospective appointment of a new Prosecutor General as a result of the vetting process.

The assessment aims to contribute to the implementation of the Objective 1.1. of the Strategy on ensuring the independence and integrity of the Justice Sector of the Republic of Moldova for the years 2022-2025³, thus aiming at strengthening the independence of the judiciary and prosecution service systems of the Republic of Moldova. This activity builds on the results and lessons learned of a similar exercise conducted by IPRE during May – October 2022, namely the functional analysis of the Anticorruption Prosecutor Office, published in November 2022⁴.

The Functional Analysis conducted by the selected international consultant with the support of the IPRE’s project expert team will aim at identifying the organisational and functional gaps and needs; formulate policy recommendations to enhance the efficiency and strengthen capacities of GPO to implement its role and powers as provided by the article 8 of the Law 3/2016 on public prosecution service. One of the key research questions of the functional analysis would be to assess specifically which functions should GPO continue to exercise, and which functions would be better performed outside the GPO. Also, consequently the analysis would also assess specifically the number of prosecutors and other staff that the GPO actually needs to perform its current functions and eventually the revised functions proposed as a result of the analysis. The findings and policy recommendations of the Functional analysis will be subject to discussions and validation process with the national and international stakeholders. The international consultant will subsequently support the implementation of the resulted policy recommendations.

5. Methodology

The selected consultant will develop the methodology for the analysis using both quantitative and qualitative approaches. The international consultant shall consult the methodology with IPRE prior to initiating the evaluation.

IPRE expects the international consultant to use, but not limited to the following methods:

- desk review of the primary legislative framework (legislation regulating the organisation and functioning of GPO, as well as Constitution of Moldova, Criminal Code, Criminal Procedural Code and other primary laws in this field);
- study (for comparative purposes) the organization, functions, staffing and resources of other European agencies with responsibilities comparable to the GPO;
- analysis of secondary legal acts, internal regulations, statistics, and GPO reports on the activity of the prosecution service for the years 2021-2023, thematic research reports, international and national monitoring reports;

² Plan for Strategic Development of the Prosecution Service for the years 2021-2025, available in RO at:

<https://procuratura.md/activitate.html#item-1>

³ https://www.legis.md/cautare/getResults?doc_id=129241&lang=ro

⁴ <https://ipre.md/2022/11/23/analiza-funcionala-a-procuraturii-anticoruptie-a-republicii-moldova/?lang=en>

- analysis of information from public sources, including information posted on the official websites of the GPO, Superior Council of Prosecutors and other agencies;
- analysis of disciplinary practice against prosecutors of GPO for the period of 2019-2023 (including review of some extracts from disciplinary reports/findings); analysis of practice of challenging procedural orders from superior prosecutors by GPO prosecutors; other tools and sources of information relevant to the assignment;
- conduct structured interviews with GPO management, apparatus, prosecutors, SCP members, and other relevant national and international stakeholders;
- conduct and survey among prosecutors and GPO apparatus based on a Questionnaire that would include both quantitative and qualitative questions;
- participate in conceptualise and assess results of the focus groups among prosecutors and other justice actors conducted by IPRE in cooperation with a selected sociological company.

The IPRE project and expert team will work with the Consultant and will provide technical and logistical assistance to the Consultant in conducting the assignment. In particular, the IPRE team will present the relevant information for the analysis, such as legislation, fact-findings documents, including translations, if necessary, or summaries, reports, surveys and statistics, will support in arranging interviews / focus groups and other necessary activities for the purpose of the assignment.

Additional data can be collected by the IPRE team at the request of the consultant. IPRE will provide comments on the draft functional analysis report, will translate it into Romanian and will organize working multi-stakeholder meetings for consultations and validation of findings and policy recommendations as well as the public event to present the final report.

The second phase of the assignment, based on the findings of the Functional Analysis the Consultant is expected to support the implementation of at least 25% of the policy recommendations of the Report addressing needs and enhancing effectiveness of GPO.

6. Key deliverables and timeframe of the assignment:

The selected international consultant shall provide the following deliverables:

Deliverables	Indicative deadlines
Methodology, including key research questions, questionnaire for the structured interviews and the structure of the Functional Analysis report	by 31 January 2024
Contribute to the focus groups questionnaires to be conducted with prosecutors and other justice actors by IPRE with the support of the sociological company	by 15 February 2024
Draft Functional Analysis report, including conclusions and policy recommendations	by 30 April 2024
Presentation of the draft Report within consultations/validation multi-stakeholder meeting to collect feedback	by 17 May 2024
Final Functional Analysis report, including final conclusions and recommendations	by 31 May 2024
Presentation of the Functional Analysis report during a public event in Chisinau, Moldova (or on-line), including a PPT presentation	by 17 June 2024
Support the implementation of at least 25% of the policy recommendations of the Report addressing needs and enhancing effectiveness of GPO	by February 2026

All deliverables shall be presented in English. The final report, as well as other documents prepared under the assignment, must prove high quality and expertise.

Minimum quality standards will be required for the acceptance of the deliverables and following

indicators will be considered for the deliverables:

- Consultancy delivered with accuracy and high responsibility.
- Compliance with the established timelines and requirements;
- Proof of good cooperation with IPRE and other national and international stakeholders;
- The Consultant shall keep constant interaction and communication with IPRE project and expert team and other relevant stakeholders, as well as to demonstrate proactive attitude and interest;
- Deliver relevant conclusions and recommendations for the project purpose and provide expert support for their implementation in cooperation with GPO and other relevant national and international stakeholders.

The duration of the assignment to prepare the Functional Analysis Report shall not exceed 30 working days and for the expert support in implementation of the policy recommendations shall not exceed 20 working days. The total duration of the assignment shall not be longer than 50 working days for the period of December 2023 – February 2026.

The consultant is expected to work in Moldova at least 7 working days during the assignment on the functional analysis and presentation of the final Report and at least 5 days during the second phase of the assignment for the support for the implementation of the policy recommendations. For the rest of activities, the consultant may provide service on distance/online.

During the entire duration of the assignment the costs for up to 3 international travels and accommodation of the consultant will be covered by the project.

7. Eligibility criteria for the consultant:

The consultant shall meet the following profile and minimum qualifications:

- Proven experience in conducting similar analysis or assessments of a comparable complexity of prosecution services in South-Eastern and Eastern European countries in the last 5 years.
- Proven record of working with or in prosecutor services of countries of South-Eastern and Eastern European Countries for at least 5 years;
- Good knowledge of Moldovan justice and rule of law systems;
- Good knowledge of the prosecutor service system of the Republic of Moldova and of other countries from South-Eastern and Eastern European countries.
- Excellent analytical, writing, reporting and communication skills;
- Proficiency in English. Knowledge of Romanian and/or Russian languages will be an advantage.
- Availability of the consultant for up to 50 working days for the period of December 2023 – February 2026.

8. Evaluation and selection process:

Stage 1: Review the application documents as per the ToR.

The project manager and the project assistant will conduct a formal review of the application documents against the ToR requirements, including the completion of all application documents (i.e. Curriculum Vitae, Methodological approach (technical offer), financial offer and other supporting documents as per the ToR).

Stage 2: Evaluation of the technical offer and compliance with the eligibility criteria

The Selection Committee will conduct a review of the formal requirements of the full application. All offers that have accumulated a minimum of 70 points in the technical evaluation will be qualified for the evaluation of the financial offer.

Evaluation of the technical offer	Points (max)
Envisaged methodology (approach) with the proposed action plan for the key deliverables within the proposed timeline.	20
Experience in conducting similar analysis or assessments of a comparable complexity of prosecution services in South-Eastern and Eastern European countries in the last 5 years.	20
Record of working with or in prosecutor services of countries of South-Eastern and Eastern European Countries for at least 5 years.	20
Knowledge of Moldovan justice and rule of law systems.	20
Knowledge of the prosecutor service system of the Republic of Moldova or of other countries from South-Eastern and Eastern European countries.	20
Total	100 points

Stage 3: Evaluation of the financial offers:

The Selection Committee will evaluate the financial offer. The calculation criteria of the Financial Offer will be based on a percentage proportion, awarding 100% (equivalent to 30 points) to the lowest financial bid submitted and 0% (equivalent to 0 points) to the highest financial offer submitted.

Stage 4: Selection

The cumulative method will be applied in the evaluation of the applications. The technical offer accounts for 70% of the total score and the financial offer will account for 30% of the total evaluation score (i.e. Final Score = Technical offer score*0.70 + offer score financial*0.30). The contract will be awarded to the candidate receiving the highest cumulative score from the technical and financial offers under the call.

All applicants will be notified of the decision on of the selection process. The selected consultant will provide the services contracted within this call based on a contract for the provision of services, during the period December 2023 – February 2026.

9. Application procedure:

Offers may be submitted by individual candidates and/or legal entities.

The technical and financial offers accompanied by a cover letter/email expressing the interest for the position shall be sent by e-mail to procurari@ipre.md by 13 December 2023, 23.59 CEST time, which will include:

A. Technical offer:

1. **Curriculum vitae** of the candidate or/and for the legal entities a copy of the registration certificate/extract for the legal persons;
2. **An outline of the envisaged Methodology (approach)** with the proposed action plan for the key deliverables within the proposed timeline.

B. Financial Offer: Financial offer will be submitted in EUR with the breakdown of costs (consultancy fee per number of anticipated working days). The cost will be provided in NET amount and VAT 0%.

The project is subject to the application of the VAT exemption that shall be applied in full compliance with the tax legislation for the import of services applicable to the project “Securing integrity, efficiency and independence of the justice system in Moldova - #Justice4Moldova”, funded by the European Union and co-funded by the Soros Foundation Moldova, implemented by IPRE in partnership with IWPR. The confirmative documents for VAT exemption will be presented by the beneficiary.

For any additional information or questions, please contact Ecaterina Popșoi, Project manager at the following email address: ecaterina.popsoi@ipre.md or by phone: +373 22788978.