

# United Nations Development Programme

Country: Moldova

## ADDENDUM

### To Project “Support to Justice Sector Reform in Moldova”

<b>Project Title</b>	<b>Support to Justice Sector Reform in Moldova</b>
<b>UNPF Outcome(s):</b>	<b>1.2: Justice sector actors are better able to promote access to justice and uphold rule of law in compliance with international commitments;</b>
<b>Expected CPAP Output(s):</b>	<b>1.2.2 - Law enforcement authorities are better able to secure fundamental rights of all parties in criminal proceedings;</b>
<b>Partner Agency:</b>	<b>Ministry of Justice of the Republic of Moldova</b>

Proposed interventions will be implemented through the expanded Justice Sector Reform Project. The objective of these particular actions is to contribute to achieving a more transparent, fair and accountable justice system (a) by reforming and strengthening the judicial expertise system that will be able to provide strong objective evidence to the courts of law to substantiate their decisions and, thus, reducing possibilities for corrupted behaviours by judges due to any type of influence; and (b) by defining a fair system of fees for services provided by various legal professions.

Project Period:	<u>2014 – 2015</u>	Total Project Budget:	\$ 1,506,555
Atlas Project ID:	00062264	Total allocated resources:	\$ 1,506,555
Start date:	<u>11.2014</u>	• Government of USA	\$ 1,130,000
End Date	<u>06.2015</u>	• Government of Moldova	\$ 165,111
Management Arrangements:	<u>National Implementation</u>	• Government of Romania	\$ 120,744
		• Government of Italy	\$ 32,400
		UNDP –	\$ 58,300

## **Project description**

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The Justice Sector Reform Strategy for 2011 – 2015 had been approved in 2011. The Strategy itself and the progress achieved in its implementation was one of the main conditions for the successful negotiation and signature in 2014 of the EU -Moldova Association Agreement. EU had provided the Sector Budget Support and four technical assistance projects to assist the Government of Moldova in the implementation of the Strategy. However, the tasks, as set forth in the Strategy, are very ambitious, and although other international partners (USA, CoE, Romania, Norway) also provide support, it is still not sufficient to achieve the planned progress. The Ministry of Justice (MoJ) had identified a number of important drawbacks in the implementation of the particular actions as per the Strategy's Action Plan, which impede the progress.

The MoJ approached UNDP with a request to provide support addressing the assistance gaps in a series of important issues making reference to UNDP assistance's key role in the elaboration of the Justice Sector Reform Strategy and in setting up an effective coordination, monitoring and reporting mechanism for its implementation, to the urgency of the needed support, the ability of UNDP to mobilize rapidly needed expertise and to the fact that these particular issues do not allow for a continuous and steady progress of the Reform in the Justice sector.

### **Support to judicial expertise reform**

One of these priority issues stated in the Ministry of Justice's request is linked to the current status of the services provided in the justice sector, and in particular, the **Judicial Expertise that is one of the weakest links in the justice system**. The National Center for Judicial Expertise under the MoJ is one of the forensic expertise providers within the national legal system. The quality of expertise has a crucial importance for the transparent and fair decisions and rulings of courts of law, since it is the main source of evidence in the judicial process. At the same time, the system of the judicial expertise had not been reformed or modernized, using outdated methodologies, standards, instruments and tools. In this way, the accuracy of evidence provided by the judicial expertise is questioned and compromises the fairness of the courts' decisions, undermining at the same time people's trust in the justice system overall.

As per the Justice Sector Reform Strategy, the Ministry of Justice had elaborated the Draft Law on judicial expertise that had been approved by the Government and submitted to the Parliament. It is expected that the Law will be approved by the Parliament and will enter into force from the beginning of 2015. However, just having the law is not sufficient for the genuine implementation of the reform that requires the elaboration of secondary legislation. These shall not be elaborated from the scratch, since there is a lot of relevant models existent in the EU Member States (MSs) that could be applied in Moldova.

In line with the above, the MoJ had approached UNDP Moldova with a request to facilitate the identification of the most relevant practice of the judicial expertise services in the EU MSs (preferably, newer EU MSs) and to help transposing it into the internal rules and regulations of the Moldovan National Center of Judicial Expertise while adjusting to the national legal framework, and to train the staff of the Center in using the new regulations.

This intervention is in line with the UNDP specialization in the institutional capacity development and links well to the previous support UNDP provided to the Justice Sector Reform in general, to the Center for Forensic Medicine under the Ministry of Health in 2011-2012, and currently to the General Police Inspectorate under the Ministry of Interior where UNDP supports strengthening capacities in criminal investigation expertise (equipped laboratory vans, crime scene kits and training to police investigators). Therefore, the intervention to support the reform of the National Center for Judicial Expertise will be a logical component of the work aiming to ensure high quality evidence to sustain and justify courts' decisions in line with the principles of a fair trial.

At the same time, this intervention will contribute to achieving more transparency, objectivity and accountability in the courts of law's work and to reducing possibilities for corrupted behaviors of judges due to any type of influence by providing strong evidence in the courts' proceedings.

### **Supporting the formulation of policies on fees and taxation of legal services providers**

Another priority issue stated by the Ministry of Justice is linked to the current status of the services provided in the justice sector by various legal professions (lawyers, notaries, bailiffs, judicial experts, mediators, insolvency administrators, translators/interpreters). The fees for these services are established by the service providers themselves in an obscure manner, without applying a clear methodology to calculate the fees based on a set of defined criteria and indicators. On the other hand, the taxation of different legal professions is based on different regulations, is complicated and makes the monitoring of implementation difficult. The same situation exists in the area of social security (pension fund, medical insurance, etc.). All these lead to overpricing of services, hiding of incomes to avoid paying taxes, and, in general, affects the access to justice for the population that cannot afford the high costs. The absence of a clear methodology makes the legal professions prone to corrupted behaviors, lack of integrity and infringement of professional/corporative Codes of Ethics, making this part of the justice system a weak link that negatively affects the system in general and people's trust in it.

The Ministry of Justice requested UNDP to provide the international expertise that would support the process of analyzing the situation related to fees, taxation and social security of legal professions, formulate recommendations for the improvement and streamlining of the system based on options existing in other countries and be involved in drafting the methodology for establishing the fees in a transparent and justifiable way and the methodology for the establishment of the taxation and social security mechanisms for the legal professions.

The task is in line with the mandate and objectives of the UNDP, since its implementation would contribute to preventing corruption and corrupted behaviors in the Justice System, would make it more transparent, accountable and would ensure accessible legal services for people. The task will be implemented in a participatory way through a series of consultations with the representatives of the concerned legal professions and their unions. The consultations will be also used as a platform for advocating for stronger integrity of the professions and for provision of people-centered services.

### **Budget summary**

The current activities implemented by UNDP under the "Support to Justice Sector Reform Project" amounts to USD 1,448,255. The additional interventions to support the reform of judicial expertise

system and definition of clear fee and taxation policies for the legal professions shall be integrated with UNDP's larger intervention in supporting the advancement of justice sector reform. The total budget for these actions amounts to \$91,100 (including USD 32,400 provided by the Italian Government and USD 58,700 provided by UNDP), representing circa 6% increase of the total budget of the Support to Justice Sector Reform Project.

## Results and Resource Framework

<b>UNPF Outcome:</b> Outcome 1.2 - Justice: Justice sector actors are better able to promote access to justice and uphold rule of law in compliance with international commitments				
<b>Related CPD Output:</b> Develop capacity and provide advice for observance of human rights in legal practice/policies, access to/execution of justice.				
<b>Intended Project Output:</b> Strengthening capacities of national stakeholders in the Justice Sector Reform Strategy implementation with the focus on the tangible and visible results in specific areas				
<b>Project title and ID (ATLAS Award ID):</b> 00062264, Support to Justice Sector Reform in Moldova Project				
INTENDED OUTPUTS	OUTPUT TARGETS FOR (YEARS)	INDICATIVE ACTIVITIES	RESPONSIBLE PARTIES	INPUTS
<p><b>Output 4:</b> Improved judicial expertise for the justice system of Moldova</p> <p><b>Baseline:</b> Lack of knowledge and expertise to advance the judicial expertise reform</p> <p><b>Indicator:</b></p> <p>1.1 Number of learning and experience exchange events organized</p> <p>1.2 Number of efficient practices developed and implemented</p>	<p><b>Targets 2015:</b></p> <ul style="list-style-type: none"> <li>▪ Relevant EU experience and best practices identified</li> <li>▪ Exchange of knowledge and experience between peer institutions organized</li> <li>▪ 10 professionals exposed to EU experience and best practices</li> <li>▪ At least one internal practice/regulation developed based on shared experience and knowledge</li> <li>▪ Staff of the National Centre for Judicial Expertise instructed on the use of new internal practice/regulation</li> </ul>	<ul style="list-style-type: none"> <li>- Identification of a country (newer EU MS) with the most relevant to Moldova system of the Judicial Expertise</li> <li>- Organize a study visit for the relevant staff of the National Center for Judicial Expertise to the identified peer institution</li> <li>- Organize inward visits by the professionals from the identified peer institution to provide advice and guidance in the elaboration of the National Center for the Judicial Expertise secondary legislation</li> <li>- Organize inward visits by the professionals from the identified peer institution to train the staff of the National Center for the Judicial Expertise on the application of the elaborated documents</li> </ul>	UNDP, MoJ	<p>Local consultants Contractual services/ Companies Travel GMS</p> <p><b>\$32,400.00</b></p>

<p><b>Output 5:</b> More transparent and efficient fees system for legal services in Moldova</p> <p><b>Baseline:</b></p> <p>Obscure mechanisms for calculation of fees for legal services, divergent mechanisms for the taxation of legal professional groups</p> <p><b>Indicator:</b></p> <p>2.1 Approved methodology for establishing fees and other costs for legal services</p>	<p><b>Targets 2014:</b></p> <ul style="list-style-type: none"> <li>▪ A team of two experts (one international expert and one national expert) set up to undertake the task</li> <li>▪ Participatory fact finding mission conducted</li> </ul> <p><b>Targets 2015:</b></p> <ul style="list-style-type: none"> <li>▪ 7 workshops to discuss the findings and recommendations with each legal profession organized</li> <li>▪ Recommendations on setting up the mechanism for the calculation of professional fees and taxation of legal professions drafted and submitted to the national stakeholders for consideration</li> </ul>	<p>- Analysis of the situation in the costs of legal services and the systems of taxation and social security of the legal professions and the recommendations for the reform based on the option scenario based on the systems in other countries</p> <p>- Round table discussions of the options and recommendations for the methodologies on establishing the costs, taxation regulations and social security system</p> <p>-Elaboration of recommendations on establishing the costs, taxation regulations and social security system</p>	<p><u>UNDP, MoJ</u></p>	<p>International consultant Local consultants Contractual services/ Companies</p> <p><b>\$58,700.00</b></p>
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