

Modernization of Government Services Project
Project ID No. P148537

TERMS OF REFERENCE
INDIVIDUAL NATIONAL CONSULTANT
SENIOR LEGAL EXPERT/ TEAM LEADER

I. Background

The Government of Moldova is determined to fundamentally change the way how public services are provided in Moldova through a variety of interventions for modernization of service delivery, which combat corruption, foster a customer care culture, enhance access, as well as increases efficiency in the Moldovan public administration. From 2006 to 2013, Moldova modernized its civil service legislation and administrative processes under the Central Public Administration Reform (CPAR), supported by the World Bank's administered CPAR Multi-Donor Trust Fund. In July 2016, the Government of Moldova has approved the Public Administration Reform Strategy for 2016-2020¹, that keeps the modernization of public services delivery process among its main objectives. This fact reconfirms Government's determination in the modernization of the administrative service delivery system by improving access to these services through various channels, their efficiency, reduction of unnecessary administrative burdens and cost of services for both beneficiaries and service providers, ensuring a stable level of quality of administrative services.

To achieve the stated objectives, the Government has requested the World Bank's assistance for a PAR operation, that became effective in June 2018, called Modernization of Government Services Project (MGSP or the Project).

The design of the project takes into account the Government of Moldova's vision, stated in the Public Administration Reform Strategy 2016-2020 and makes extensive use of institutional and technological achievements of Governance e-Transformation Project (GeT) implemented by the Government of Moldova and World Bank in the period between November 2011- December 2016. The project aims to achieve improvements in access, efficiency and quality of delivery of selected administrative services through the following components:

1. Administrative Service Modernization

The key activities under this component focus on re-engineering a group of government to citizen and government to business administrative services, piloting of one-stop-shops for public service delivery in selected locations and explore the possibility of rolling out at national level; increased awareness of citizens on public services and availability of e-services.

2. Digital Platform and Services

The main objective of this component is to digitize select re-engineered government services; complete and strengthen a common infrastructure and mechanisms for rapid deployment of ICT-enabled public services; introduce government wide IT Management and Cyber Security standards and procedures. It will finance the acquisition of additional shared computing infrastructure elements, digitization of services needed to deliver Government services electronically and development of IT Management and Cyber Security standards and procedures as well as learning management system to mainstream them within the government.

3. Service Delivery Model Implementation

The objective of this Component is to ensure that the institutional capabilities of key government agencies are aligned with and support the new model of public services delivery.

¹ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=366209>

4. Project Management

This Component will support the Project Implementation Unit (PIU), based in the e-Governance Agency (eGA) and will ensure the activity the core e-Governance Agency team.

Current situation in the sector

The MGSP Project is relying on government platforms developed and implemented during GeT Project. As part of GeT the following fundamental platforms and infrastructures were built (not an exhaustive list):

1. MCloud – government private cloud computing platform
2. MConnect – government data exchange platform
3. MPass – government authentication and access control service
4. MSign – government signing service
5. MPay – government payment service
6. MLog – government journaling service

Some of these platforms play a crucial role in the process of modernization of public services using information technology. In particular, the data exchange platform MConnect is the tool allowing paperless processes in service delivery thus eliminating paper-based documents. At the same time MCloud, a platform using cloud computing technologies is hosting information systems for public services.

Although all of the above-mentioned platforms and services are institutionalized through government decisions prescribing their use in public sector, the existing foundational IT legislative and normative framework is quite old and not as explicit as it should be, thus leaving enough room for interpretations and ambiguities.

Considering the above, a complex review and consolidation of the IT legislation is quite necessary thus creating a solid ground for public sector digitization reforms. EGA in collaboration with other relevant public organizations is forming a group of legal consultants who will review existing legal acts, will consolidate them under a new complex law – the Digital Code, and will complement it with concepts, terms and clauses currently missing but necessary in the national legislation. It is expected that these new elements of the law will take into consideration latest advances in IT in public sector at the national, regional and international levels.

For this purpose, eGA is hiring three National Consultants -Legal Experts (the Consultants) to be in charge of the complex review and consolidation of the IT legislation for implementation of public sector digitization reforms. Three ToRs are tendered for the fulfillment of this complex assignment. The specific topics based on which the Legal Experts will produce the outputs listed under Part III are described in Annex 1 of each ToR.

II. The Objective

The main objective of this assignment is to provide support to eGA in the development of a new legislation for IT through consolidation of existing legal acts and extending them with new concepts, terms and models.

III. Scope of Work

The Senior Legal Expert/ Team Leader's specific activities will include the following:

1. Lead the consultancy Working Group and serve as the Group's Coordinator and point of contact in interaction with the stakeholders.
2. Review the current IT legislation covering the topics listed in the Annex 1 (hereafter the relevant topics) to this document.
3. Rationalize and consolidate the legislative acts in IT for the relevant topics aiming to eliminate inconsistencies.

4. Analyze the existing national digitization practices connected to the relevant topics and identification of terms and concepts needing explicit regulations.
5. Analyze the existing European Union relevant directives and initiatives and reflect them in the draft of the Digital Code considering national context.
6. Analyze the existing international best practices and trends in IT legislation related to the topics and reflect them in the draft of the Digital Code.
7. Contribute to drafting of the Digital Code to be promoted to the Government's approval and subsequently to the Parliament with chapters relevant to the topics.
8. Assist eGA at public events and consultations related to the proposed Digital Code.
9. Assist eGA in gathering feedback on the draft of the Digital Code and addressing it thus finalizing the documents to be promoted for Government's approval.
10. Assist eGA in promoting the draft of the Digital Code in Parliament by participating in debates in parliamentary commissions.

III. Outputs

The outputs of the Senior Legal Expert/ Team Leader will include the following documentation and reports:

1. Inception Report with the outline of the Digital Code for the relevant chapters.
2. Draft of the Digital Code referring to the consolidated existing legislation.
3. Draft of the Digital Code referring to the specific topics listed in Annex 1.
4. Final and consolidated version of the Digital Code, which will include parts of the Code developed by all three Consultants in the group.
5. Consolidated Report on analysis of the feedback to the draft of the Digital Code from interested parties as per the existing legislation, which will include parts of reports provided by all three Consultants.
6. Consolidated Report on adjustments to the final version of the Digital Code as result of debates in the Parliament, which will include parts of reports provided by all three Consultants.

IV. Timing

This is a part-time assignment planned for the period **November 2019 – July 2020**.

V. Institutional arrangements

The Senior Legal Expert/ Team Leader will report to and work under the direct supervision of the Director of the e-Governance Agency and in coordination with the Chief Legal Officer of the e-Governance Agency.

The Senior Legal Expert/ Team Leader will work in tandem with another two Legal Experts and other Consultants contracted by eGA with focus on topics related to the Digital Code for the purpose of delivering a cohesive and consistent draft of the Digital Code consultants complementing each other.

VI. Resources

The e-Governance Agency will provide space for meetings, office equipment (printer, scanner, projector) and communication facilities (including access to the Internet), as well as any other necessary means and support for Consultant in order to carry out this assignment.

VII. Qualification requirements and evaluation criteria

- University degree in law or related fields from a leading locally or internationally recognized and accredited university;
- Minimum of 7 years of work experience in drafting legislation in the central public administration sector;
- Experience in drafting of at least 2 law adopted by the Parliament and conducting multi-party stakeholder consultations;
- Knowledge of the Moldovan Government setup and good knowledge of legislation and legal regulations on government operations (Constitution, Government Law, Civil Service Act, Public Procedural Law);

- Knowledge of existing national IT legislation and regulations;
- Knowledge of existing international IT legislation and regulations;
- Ability to effectively communicate and write in Romanian. Good knowledge of English. Knowledge of Russian would be an asset.

**Specific topics for Senior Legal Expert/Team Leader
based on which the Outputs will be produced:**

ICT area requiring explicit regulation in the new consolidated legislative framework of the Republic of Moldova:

- 1) **Basic principles for development and use of ICT**, especially in the public sector such as once-only principle, principle of resource reuse, digital by default principle for public services etc.;
- 2) **ICT organizational model**, which will set up the responsibilities for various key organizations related to ICT, including but not limited to the Parliament, the Government, the Ministry of Economy and Infrastructure, the Ministry of Finance, the e-Governance Agency, ITSec, other IT oriented organizations, central and local public authorities;
- 3) **Administrative services and public electronic services**, including foundational provisions on public services, those provided by central and local public administrations, general directions for development and use of electronic services, directions on setting up the costs for administrative services and public electronic services, stimulating the creation of private electronic services by offering centralized government services to businesses; access to administrative services, including public electronic services through representatives; diversification of access channels to services including mobile platforms, etc.;
- 4) **Project management**, including agile methodologies, with the tendency to be less prescriptive to development practices while keeping the agreed level of quality;
- 5) **Methodology for the development and implementation of information systems (IS)**, including the procedure for conceptualizing IS in the public sector; outsourcing of IS development and other key activities, including through PPP, DevOps practices etc.