

## UNICEF Moldova

### Terms of Reference

#### **National Individual consultancy for the development of the regulatory framework on tutorship and guardianship**

**Location:** Remotely

**Duration and timeline:** 25 working days (within a three – month period: March – May 2021)

#### **1. Background**

According to the National Bureau of Statistics every fourth household with children has at least one migrant member, the share of these households being three times higher in rural areas than in urban areas.<sup>1</sup> As reported by the Ministry of Health, Labor and Social Protection (MHLSP)<sup>2</sup>, the records of the guardianship authorities for 2019 indicated to 10,953 children at risk according to the Law 140/2014, 41,817 children separated from their parents of which 36,817 children whose only parent(s) are abroad, 1,112 children who had the status of a child temporarily left without parental care and 3,483 children who had the status of a child left without parental care at the end of 2019.

By adopting Law no. 140/2013 on Special Protection of Children at Risk and of Children Separated from their Parents, the Republic of Moldova has brought a critical change towards a child protection system-based approach that addresses evolving risks for children.

In order to improve the quality of guardianship care and to support the implementation of Law no. 140/2013, in 2015 UNICEF has conducted the *“Assessment of ‘legal and informal guardianship’ in childcare and protection in the Republic of Moldova”*. It contained recommendations regarding the need for amending relevant primary and secondary legislation and guidelines, including alignment of Civil and Family Codes, with a view to clearly define “guardianship” and “legal representation”, roles and responsibilities of stakeholders, as well as unifying interpretation and practice.

In its 2017 Concluding Observations, the UN Committee on the Rights of the Child welcomes the adoption of legislative and policy measures on child protection and the State party’s intention to review the system of trusteeship and guardianship bodies and other initiatives to strengthen the child protection system, and recommends to continue to support and facilitate family-based care for children wherever possible and continue to review the framework regulations and minimum quality standards to ensure that they are fully in line with the Guidelines.

In 2017, UNICEF supported MHLSP to assess the legal framework regulating guardianship, legal representation and legal responsibility in the Republic of Moldova in order to bring the national guardianship system in line with international standards. The assessment has finally resulted in a package of specific legal and regulatory amendments incorporated into a comprehensive draft Law no. 112 which was formally adopted in 2020<sup>3</sup>.

Taking into the account that new legislation, it is currently essential to develop a robust regulatory framework for its successful implementation.

The proposed regulatory framework shall be informed by and respond to the Activities 1.4.1 and 1.4.2 of the Action Plan to the 2014-2020 Child Protection Strategy, which pend implementation and

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<sup>1</sup> National Bureau of Statistics. The situation of children in the Republic of Moldova in 2019.  
<https://statistica.gov.md/newsview.php?l=ro&idc=168&id=6662>

<sup>2</sup> Annual statistical Report: Children at risk and children separated from their parents.  
[https://msmps.gov.md/sites/default/files/raport\\_cer\\_103\\_pentru\\_anul\\_2019.pdf](https://msmps.gov.md/sites/default/files/raport_cer_103_pentru_anul_2019.pdf)

<sup>3</sup> [https://www.legis.md/cautare/getResults?doc\\_id=122632&lang=ro](https://www.legis.md/cautare/getResults?doc_id=122632&lang=ro)

are planned to be duly incorporated into the 2021-2015 National Child protection programme, and which refer to:

- 1) amending and supplementing certain acts in order to regulate the legal representation of the rights and interests of child, custody and legal responsibility for the upbringing and childcare; and
- 2) drafting the Regulation on establishing tutorship/guardianship form of representation and legal responsibility for the upbringing and childcare.

## **2. Purpose of the assignment**

This consultancy is aimed at developing a comprehensive Regulation on tutorship and guardianship of the child in accordance with the newly adopted legislation. Relevant international standards, with focus on ensuring the wellbeing and the best interests of the child in the legal representation, custody and legal responsibility, will be duly considered along with the findings and recommendations of the above-mentioned UNICEF supported exercises. The draft regulatory framework will be consulted with MHLSP and will be subject to a validation meeting with relevant stakeholders.

## **3. Objectives of the consultancy**

The objectives of this consultancy are to conduct a review of laws and regulations related to guardianship, tutorship, legal representation and legal responsibility in the Republic of Moldova and to develop a Regulation on tutorship and guardianship of the child and, if relevant, propose updates to other relevant regulatory documents.

## **4. Details of how the work should be delivered**

It is estimated that the work will be conducted over a period of three months, beginning in March 2021.

To achieve the above-mentioned objectives, the consultant will:

- (1) Work closely with UNICEF and MHLSP;
- (2) Conduct a comprehensive desk review of existing national laws and regulations on guardianship, trusteeship, legal representation and legal responsibility;
- (3) Develop a draft Regulation on tutorship and guardianship of the child;
- (4) Facilitate consultations and validation meetings with UNICEF, MHLSP and other relevant stakeholders in order to submit the draft Regulation and propose updates to other relevant regulatory documents for formal approval (if required).

## **5. Deliverables and delivery dates**

	<b>Tasks</b>	<b>Deliverable</b>	<b>Timeline*</b>
1.	Conduct a desk review of existing national laws and other normative acts on guardianship, tutorship, legal representation and legal responsibility in the Republic of Moldova, as well as relevant studies and assessments	Draft review report submitted to UNICEF for comments and guidance	5 days (0,5 months from start date)
2.	Develop a draft Regulation on tutorship and guardianship, and other regulatory amendments (if relevant)	Draft Regulation submitted to UNICEF and MHLSP for comments	15 working days (1,5 months from start date)

3.	Facilitate a stakeholder/validation meeting on the draft regulatory framework for consultation/feedback	<ul style="list-style-type: none"> <li>• Draft reviewed Regulation</li> <li>• Notes from stakeholders' meeting</li> </ul>	3 working days (2 months from start date)
4.	Finalize the Regulation	Feedback incorporated and draft Regulation finalized	2 working days (3 months from start date)
	<b>Total:</b>		25 working days

*\* Exact deadlines will be mutually agreed upon contract signature.*

## 6. Reporting requirements

The consultant will report to the UNICEF Moldova Child Protection Specialist, who will regularly communicate with the consultant and provide feedback and guidance on his/her performance and will provide necessary support to achieve objectives of the consultancy, as well as will be kept abreast of any potential risks or challenges related to consultant's performance and quality of work.

All activities and deliverables undertaken by the consultant shall be discussed and planned in consultation with UNICEF. The consultant is expected to deliver each component of the workplan electronically (Word format) in Romanian. At each stage, the deliverable shall be sent to the Child Protection Specialist by email, with UNICEF Deputy Representative in copy.

## 7. Performance indicators for evaluation of results:

The performance of work will be evaluated based on the following indicators:

- Completion of tasks specified in ToR;
- Compliance with the established deadlines for submission of deliverables;
- Quality of work;
- Demonstration of high standards in cooperation and communication with UNICEF and counterparts.

## 8. Qualifications and experience

- Advanced University Degree in Law, Social Sciences or Human Rights;
- At least 5 years of progressive experience related to the field of expertise, which will include at least two years of experience in child protection;
- Strong knowledge and experience in legal frameworks on guardianship, trusteeship, legal representation and legal responsibility;
- Demonstrated capacity to analyse legal and regulatory documents and formulate legal and regulatory recommendations (sharing two samples of/links to analyses and recommendations developed for relevant institutions);
- Excellent communication, presentation, teamwork and cooperation skills;
- Excellent command of Romanian language, both oral and written;
- Working knowledge, both oral and written, of English is a minimum requirement, good command of English is a strong asset;
- Working knowledge of Russian will be considered as an asset.

## 9. Content of technical proposal

- Relevant experience with similar type of assignments (max 300 words);
- Proposed approach and methodology (max 1500 words), including:
  - Timeline and milestones;
  - Risk and mitigation measures;
  - Ethical considerations and how the consultant will address them.

Annex:

- Brief sample or links to related work previously conducted by the consultant;
- Curriculum Vitae.

## 10. Content of financial proposal

The applicant should fill in the Financial Offer Template and specify the consultancy fee in **MDL**, per day of work, requested to complete the tasks described in the Terms of Reference.

Other expenses directly related to the ToR assignments and deliverables may be included in the financial offer, unless specified that UNICEF will cover them separately (see paragraph 13 and 14 below). If not provided by ToR, UNICEF will not reimburse costs not directly related to the assignment. This contract does not allow payment of off-hours, medical insurance, taxes, and sick leave.

The final selection will be based on the principle of “best value for money” i.e. achieving desired outcome at lowest possible fee.

## 11. Payment schedule

The payment will be linked to the following deliverables upon satisfactory completion and acceptance by UNICEF:

<b>Deliverable (delivered according to the timeline agreed upon with UNICEF)</b>	<b>Proportion of payment</b>
Desk Review	30%
Draft 1 of the Regulation	40%
Final draft of the Regulation	30%

UNICEF reserves the right to withhold all or a portion of payment if performance is unsatisfactory, if work/outputs are incomplete, not delivered for failure to meet deadlines.

## 12. Definition of supervisory arrangements

The consultant will work under the oversight of UNICEF Child Protection Specialist. Payments will be rendered upon successful completion of each task, as per the schedule outlined above.

## 13. Work location and official travel involved

Due to the pandemic situation and movement restrictions, all deliverables are expected to be performed remotely, including communication with UNICEF, stakeholders and validation meetings. The consultant is expected to arrange and schedule such visits as required. The UNICEF will facilitate introductions to key informants.

#### **14. Support provided by UNICEF**

UNICEF will regularly communicate with the specialist and provide feedback and guidance and necessary support so to achieve objectives of the work, as intervene in identifying solutions to challenges, including pertaining to performance and quality of work. UNICEF will share an initial package of relevant documents and available research, and an initial list of relevant experts and counterparts to work with. UNICEF will also request relevant data – as agreed upon with the consultant – from relevant Government counterparts.

#### **15. Ethical considerations**

The Contractor will ensure that the process is in line with the United Nations Evaluation Group (UNEG) Ethical Guidelines<sup>4</sup>. The Contractor should be sensitive to beliefs, manners and customs and act with integrity and honesty while interacting with stakeholders and beneficiaries. Furthermore, the Contractor should protect the anonymity and confidentiality of individual information. All participants should be informed about the context and purpose of the Assessment, as well as about the confidentiality of the information shared. The Contractor is allowed to use documents and information provided only for the tasks related to these terms of reference.

As per the DHR PROCEDURE ON CONSULTANTS AND INDIVIDUAL CONTRACTORS, together with the Notification letter, the contractor will be sent the link on Agora containing UNICEF policies on Prohibiting and Combatting Fraud and Corruption; Prohibition of discrimination, harassment, sexual harassment and abuse of authority and other relevant policies for their information and acknowledgment. The selected candidate must complete the applicable mandatory online courses on UNICEF's learning platform prior to signature of contract. All certificates should be presented as part of the contract.

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<sup>4</sup> UNEG Guidelines <http://www.uneval.org/document/detail/102>