

TERMS OF REFERENCE

Request for Proposals to conduct a needs' assessment & a Roadmap to strengthen the Criminal Assets Recovery Agency's (CARA) institutional capacities.

Activity: „Conduct a needs assessment & a Roadmap to strengthen the Criminal Assets Recovery Agency's institutional capacities”, funded and implemented by the Soros Foundation Moldova (Action Activity no. C4)

RPF no.: 2021.DBG.01

Timeframe: August 2021 – September 2021

Context

Soros Foundation Moldova (SFM) is a non-governmental, non-profit, non-partisan organization that aims to promote open society values in Moldova.

The goal of the Good Governance (GGD) department is to enhance transparency, accountability, and efficiency of public authorities.

In order to realize the Department's objectives, GGD cooperates with various actors: business communities, active civil society organizations and public institutions, including the Criminal Assets Recovery Agency (CARA). CARA is an autonomous specialized subdivision under the National Anticorruption Center. The institution was relatively recently established (2018). CARA's main functions are to conduct parallel financial investigations, including corruption offences, drug trafficking, human trafficking, organized crime, tax evasion, smuggling, and money laundering. The role of this institution is very important for Moldova, however, due to the lack of country's experience in this field, there is a need to strengthen CARA's capacities and improve the legal framework to make it functional.

The creation and operation of the Criminal Assets Recovery Agency was dictated by the commitments made by the Republic of Moldova as within the framework of the Association Agreement with European Union, as well as in the commitments that derived from international conventions: United Nation Convention Against Corruption and United Nations Convention Against Transnational Organized Crime.

National legal framework:

- Law no. 48 of 30.03.2017 on Criminal Assets Recovery Agency (came in force from 19.05.2017)
- Code of Criminal Procedure, with subsequent amendments
- Law no. 49 of 30.03.2017 on the completion of legislative acts (came in force 19.05.2017)

- Law no. 261 of 07.12.2017 on the amendments and completion of legislative acts (came in force 12.01.2018)
- Law no. 179 of 26.07.2018 on the amendments and completion of legislative acts
- Government Decision no. 684 of 11.07.2018 on the approval of the Regulation on assessing, managing and estimating the value of (seized) criminal assets (came in force 12.10.2018)

International legal framework:

- UN Convention Against Corruption, adopted on 31.10.2003 (Chapter V Asset Recovery)
- UN Convention Against Transitional Organized Crime, adopted on 15.11.2000
- EU Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime
- Directive 2014/42/EU on the freezing and confiscation of instrumentalities and proceeds of crime

Attributions of the Agency:

- Conducting parallel financial investigations and drawing up minutes of the results, as well as seizing criminal assets under the Code of Criminal Procedure
- Evaluating, managing, and estimating the value of seized criminal assets
- Keeping records of seized criminal assets, including based on the request from foreign competent authorities
- Negotiating repatriation of criminal assets, under the terms of art. 13 par. (2)
- International cooperation and exchange of information with foreign competent authorities
- Collection and analysis of statistical data regarding the offences provided for in this law
- Representing state interests and legal persons of public law in civil lawsuits of criminal assets recovery, as well as compensation for damage caused by breaking the legislation of the Republic of Moldova and other states
- Cooperation with public authorities that exercise the relevant attributions for the activity carried out by the Criminal Assets Recovery Agency
- Supporting, in accordance with the rule of law, judicial bodies for the use of the best practices in the matter of identification and management of assets that can be the object of the measures of seizing and confiscating within the criminal proceedings.

For more information about CARA's activity please follow the [link](#).

The Good Governance Department hereby invites you to submit a Proposal to this Request for Proposals (RFP) to conduct a needs assessment & a Roadmap to strengthen the Criminal Assets Recovery Agency's institutional capacities.

Objectives

The specific objectives of the needs assessment are:

- To analyze the national legal framework related to CARA's activity.
- To analyze the international legal framework and practice of criminal assets recovery process and determine the compliance of national legislation to international standards.
- To analyze the existing research reports, studies, and documents on CARA's activity and criminal assets recovery.
- To identify the main stakeholders of the criminal assets recovery process and map the operational workflow.

- To analyze the existing national and international jurisprudence in criminal assets recovery process.
- To analyze the operational working processes of CARA's employees and identify the difficulties they meet in exercising their responsibilities.
- To assess the institutional capacities of CARA: organizational, technical, financial, human resources, cooperation with national and international partners.
- To identify potential elements that can reduce the overall effectiveness and efficiency of the criminal assets' recovery regime in Moldova.
- To determine the institutional development necessities of CARA.
- To develop a Roadmap listing the current deficiencies and proposed solutions. The document needs to present the necessary next steps to overcome the constraints in CARA's activity aiming to strengthen the institution's efficiency and transparency.

The work process will include the following steps:

1. Develop the methodology: define methods and work techniques.
2. The methodology has to be approved by GGD team and CARA before the implementation starts.
3. Apply the developed methodology: collect and analyze information and write the needs assessment report.
4. Present the draft report for consultation to CARA and GGD team to validate the results.
5. Adjust the needs assessment report, if necessary.
6. Develop the Roadmap draft.
7. Present the Roadmap draft for consultation with CARA and GGD team.
8. Improve/adjust the document, if necessary.
9. Present the final documents – the needs assessment research and Roadmap. The final documents should not exceed 30 pages, except attachments (size A4, Calibri 11, spacing before – 0, after – 0, line spacing – 1.15 pts). The Foundation will hire a company to cover the costs of the design of the report.
10. Based on the research results, the Consultant will prepare:
 - a. a factsheet document (one pager). The factsheet will be addressed to national decision- makers for advocacy purposes. The consultant will deliver the content. A company will be hired to design it.
 - b. and an infographic – which will be addressed to mass media, to help them better understand the research findings. The consultant will deliver the content. A company will be hired to design it.
11. The Foundation will translate all the materials in Romanian.
12. The Consultant will present the results in an online event organized by the Soros Foundation Moldova and CARA. The objective of this event is to present the key findings and discuss them with the main stakeholders.
13. The Consultant will cooperate with national mass media to promote the research results.

The document should refer to the following draft structure:

- Executive summary
- Description of working methodology
- Status-quo analysis, presenting deficiencies and challenges
- International framework analysis, presenting good practices
- Final conclusions and recommendations
- Roadmap with a detailed action plan for CARA's institutional development.

The Soros Foundation Moldova will own the patrimonial intellectual property rights generated as a result of this consultancy.

The results of the Needs Assessment and the Roadmap will be used by:

- Criminal Asset Recovery Agency – to strengthen its capacities.
- Relevant public authorities: National Anticorruption Center, General Prosecution Office, Anticorruption Prosecution Office, State Tax Inspectorate, Courts, etc. - to improve inter-institutional cooperation.
- Development Partners to support CARA’s development as one of the main authorities in fighting corruption and recovering criminal assets.
- Active civil society organizations in the anticorruption field – to design more efficient strategic interventions in the sector.

Desired outputs/Expected deliverables

- Developed methodology: clearly defined research objectives, methods, and tools
- A needs assessment report
- A Roadmap with a detailed action plan
- A factsheet (one page)
- An infographic
- A final detailed activity report to reflect on the work conducted during the consultancy timeframe (1-3 pages, size A4, Calibri 11, spacing before – 0, after – 0, line spacing – 1.15 pts)

Applicants can provide comments and suggestions on the Terms of Reference, or additional services that will be rendered beyond the requirements of the ToR, if any.

Arrangements

The international consultant will have the role of a team leader and will report to the Program Coordinator and Head of the GGD of the Soros Foundation Moldova. The GGD will assist the international consultant to identify the national stakeholders and facilitate the interviews with local experts. Also, the GGD team will provide feedback on every deliverable and all the relevant documentation for the successful completion of the mission.

Performance indicators

The Consultant’s work will be evaluated based on the following performance indicators:

- Consultancy delivered with accuracy and top-level responsibility
- Compliance with the established timelines
- Demonstration of excellent cooperation with SFM and other counterparts. Act as a team member rather than as an external consultant
- Demonstration of proactive attitude and interest and keeping constant interaction and communication with national stakeholders and partners
- Deliver “Aha moment” conclusions and recommendations for national policy and decision-makers.

Payment provisions

The payment will be made by bank transfer in the currency of the contract, in 1 installment, only upon the Foundation’s acceptance of the work performed. The terms of payment shall be within thirty (30) days, after receipt of an invoice and certification of acceptance of work issued by the proper authority of the Foundation.