**REFORMING THE WHISTLEBLOWER STATUS DURING MARTIAL LAW**

**Terms of Reference**

**1. Background**

**1.1. General overview**

The National Agency on Corruption Prevention forms the state policy in the field of whistleblower protection, cooperates with whistleblowers, participates in ensuring their legal protection and conducts inspections of compliance with the legislation on the protection of whistleblowers.

International standards provide a broad definition of a whistleblower, determining not only the person reporting corruption offenses, but also a person reporting other socially necessary information to the state. Taking into account the need during martial law to obtain quickly and as fully as possible various types of information that contribute to victory, there is a need to expand the concept of whistleblowers in order to stimulate citizens and provide them with additional rights and guarantees.

In addition, the need to expand the whistleblower status is also needed in peacetime, which is confirmed by the best international practices. The more people report violations in various areas, the more virtuous society and the state become. For now, whistleblowers in Ukraine are only individuals who report on corruption, which makes it necessary to analyze the existing global models of whistleblower status in foreign countries, taking into account the peculiarities of whistleblower status during military operations. An important element of the project is to conduct research on which communication channels are effective and safe for the whistleblower. In addition, channels for reporting information with limited access (in particular, information containing state, official or confidential secrets) have not yet been created in Ukraine, which makes it necessary to study foreign experience on this issue.

Based on the results of these studies, a concept and a draft of amendments to the legislation will be developed to expand the whistleblower's status and strengthen the guarantees of his protection.

Whistleblowers who report criminal violations play an important role, which makes it necessary to consider the possibility of expanding the whistleblower status in criminal proceedings. For this, it is necessary to study the foreign experience of legal regulation of whistleblower status in criminal proceedings abroad and to develop a draft of amendments to the Criminal Procedural Code of Ukraine and other laws regarding the expansion of whistleblower status.

In addition, based on the results of the project, a training course for investigators and prosecutors "Whistleblower in criminal proceedings" will be developed and relevant trainings will be held, which will increase the capacity of employees of pre-trial investigation bodies and the prosecutor's office and allow them to work effectively with whistleblowers.

**1.2. Contracting authority**

The contracting authority is the European Union Anti-Corruption Initiative in Ukraine, hereinafter referred to as the “Customer”.

**1.3. Beneficiary**

The beneficiary is the National Agency on Corruption Prevention, Department of Corruption Detection and Prevention.

**2. Objective**

The main objective of the technical support to be provided to the NACP within the framework of this engagement is to assist the Agency with expert services in developing effective tools to grant legal aid to whistleblowers in war and post-war period. **The aim of the project** is to develop a comprehensive approach to reforming the status of whistleblower, considering in particular:

* martial law conditions;
* the need to quickly obtain socially important information;
* the need to extend the whistleblower status to a wider category of persons;
* the vulnerability of this category of citizens during the war, as they can be both witnesses and victims of criminal offenses;
* the necessity of reforming security measures for whistleblowers that have not been revised since 1993.

**3. Scope of work and expected deliverables**

**3.1. Scope of work**

The experts team is expected to provide the following services:

* the concept of a whistleblower, his/her status, categories of persons who are recognized as whistleblowers during martial law;
* effective channels for reporting violations during wartime;
* effective channels for reporting information with limited access;
* development of the concept and project of amendments to the legislation on expanding the status of the whistleblower and strengthening the guarantees of his/her protection, considering the possibility of recognizing such categories of persons who report illegal assets, collaborators, about prisoners of war and reported important information for the national defense as whistleblowers;
* conducting a research of the best foreign practices of legal regulation of whistleblower status in criminal proceedings, their rights and peculiarities, security measures for whistleblowers in criminal procedure;
* development of draft amendments to the Criminal Procedural Code of Ukraine, other laws regarding the extension of whistleblower status to persons who report certain crimes related to the grounds of national security, torture, sexual harassment, war crimes, etc.;
* development of draft amendments to the Law "On Ensuring Safety of Persons Participating in Criminal Proceedings" in order to take into account modern challenges regarding threats to whistleblowers:
* development of a training course for investigators and prosecutors "Whistleblower in criminal proceedings".

**3.2. Expected deliverables:**

* analytical report "The role and status of the whistleblower during military operations";
* analytical report "Reporting channels for whistleblowers during wartime";
* analytical report "Foreign experience of creating channels for reporting information with limited access"
* concept of changes to legislation on expanding the status of the whistleblower during wartime with a comparative table of necessary legislative changes;
* analytical report "Status of the whistleblower in criminal proceedings of foreign countries";
* draft amendments to the Criminal Procedural Code of Ukraine and other laws regarding the expansion of whistleblower status in criminal proceedings;
* draft of amendments to the Law "On Ensuring Safety of Persons Participating in Criminal Proceedings";
* conducting 2 trainings for investigators and prosecutors on the topic "Whistleblower in criminal proceedings".

**Note:** All the materials developed under this assignment shall include the EUACI logo as a part of the EUACI visibility strategy. Logo shall be used in accordance with the EUACI Visibility Guidelines and Brand Book. The Contractors shall consult with Yana Ryzak, the EUACI Communications Experts via e-mail at yana.ryzak@gmail.com.

**4. Timeline**

The period of implementation of the contract will be 12 months. The intended commencement date is the date of signature of the contract with the service provider.

**5. Requirements for the Contractor**

The expert team should include people who meet the following requirements:

● Advanced University degree (Master’s degree or equivalent) in Law;

● A minimum of 7 years of professional experience of working in the relevant field (law, criminal procedure);

● Extensive knowledge of the local context in Ukraine;

● Proven ability of analytical and report drafting work in the field of whistleblowers protection, reporting of crimes, and security guarantees to participants of criminal proceedings;

● Proven experience of conducting legal training for investigators and prosecutors;

● Experience of working and collaborating with stakeholders including government, civil society and communities;

● Fluency in written and oral Ukrainian; English will be an asset.

● Experience of research in foreign legislation and legal practice will be an asset.

**6. Monitoring and evaluation**

Definition of indicators

The performance of the contractor will be judged upon reaching the purpose of this contract as well as obtaining its results, as indicated in the sections "Objective" and "Expected Deliverables" herein respectively. Moreover, the performance of the contractors will be judged upon successful implementation of all the specific activities indicated above.

Special requirements

By signing the contract, the contractor agrees to hold in trust and confidence any information or documents ("confidential information"), disclosed to the contractors or discovered by the contractors or prepared by the contractors in the course of or as a result of the implementation of the contract, and agrees that it shall be used only for the purposes of the contract implementation and shall not be disclosed to any third party.

The contractor reports to the EUACI. The contractor shall be briefed by the NACP prior to starting with the assignment. The contractor shall de-brief the EUACI prior to finalising the assignment.

**7. Cross-cutting issues (integration of the youth, equal opportunities)**

The project will be implemented ensuring equal opportunities for men and women and integration of the youth.

**HOW TO APPLY**

Deadline for submitting the proposals is 9th December 2022, 18:00 Kyiv time.

The proposal shall include each expert’s CVs, calculation of time needed for specific parts of assignment implementation for each expert and daily fee of each expert, total budget for the assignment, motivation letter, proofs of relevant experience (if available) and should be submitted within the above deadline to olekom@um.dk with the subject “Reforming the Whistleblower Status During Martial Law”.

Bidding language: English.

Clarification questions

Any clarification questions regarding the bid request should be addressed to Oleksandr Komarov, olekom@um.dk not later than 5th December 2022, 18:00 Kyiv time.