**TERMS OF REFERENCE**

**for conducting an analytical study regarding the proportionality of sanctions, their suitability for the respective criminal offence and their effectiveness and deterrent effect as a part of the implementation of the measure 3.3.1.2.1 of the State Anti-Corruption Program (SACP)**

**Background and context:**

The EU Anti-Corruption Initiative (EUACI) is the flagship EU program in Ukraine funded by the EU, co-funded and implemented by the Ministry of Foreign Affairs of Denmark. The EUACI’s strategic objectives are: corruption in Ukraine is reduced; Ukraine advances with anti-corruption reform; and the reconstruction in war-affected areas of Ukraine is implemented within a framework that incorporates transparency, accountability, and integrity. Among its activities, the EUACI is providing support to Ukrainian partners in the field of EU integration and accession.

According to Articles of 18, 181 and 182 of Law of Ukraine “On Corruption prevention”, the National Agency on Corruption Prevention (NACP, Agency) is responsible for the development and coordination of implementation of the State Anti-corruption Program (SACP).

The NACP is responsible for implementing significant number of measures provided for in the SACP, specifically those that have to do with increasing the efficiency of the system for preventing and countering corruption, and formation and implementation of state anti-corruption policy. One of the SACP measures (3.3.1.2.1) is the development and submission to the Cabinet of Ministers of Ukraine of a draft law, which, taking into account the results of an analytical study, the subject of which is sanctions for corruption and corruption-related criminal offenses (their proportionality, adequacy of the type of criminal offense, effectiveness and ensuring a deterrent effect) with the following expected outcomes:

1. the legal regulation of sanctions for corruption and corruption-related criminal offenses has been improved;
2. the amount of fines in sanctions for certain corruption and corruption-related criminal offenses has been increased, taking into account the degree of their public danger;
3. the possibility of exemption from serving a sentence with probation is clearly and unambiguously established for in the event of concluding plea agreements in criminal proceedings regarding corruption criminal offenses under the jurisdiction of the National Anti-Corruption Bureau of Ukraine (NABU);
4. increased criminal liability for bribing a witness so that this criminal offense does not belong to the category of criminal misdemeanours, extradition and special confiscation are possible in connection with its commission;
5. establishment of the possibility of applying criminal law measures against legal entities in the event of committing by them of all actions, the criminalization of which is required by the UN Convention against Corruption.

To support the Agency in achieving this goal, the EUACI launches this tender to identify an expert or a group of experts who will conduct an analytical study regarding the proportionality of sanctions, their suitability for the kind of criminal offence, effectiveness and deterrent effect under the implementation of the measure 3.3.1.2.1 of the SACP.

**Objectives:**

To provide the NACP with analytical study regarding the proportionality of sanctions, their suitability for the kind of criminal offence, effectiveness and deterrent effect to better equip the NACP in implementation of the measure 3.3.1.2.1 of the SACP based on evidence-based policy analysis.

**Scope of work and deliverables:**

The assignment includes the following key tasks:

* Under the guidance of the NACP, to develop analytical study regarding the proportionality of sanctions, their suitability for the kind of criminal offence, effectiveness and deterrent effect consisting of the following chapters:
* Introduction, which may include: the relevance of the study; research objectives; methodology to be used;
* Chapter 1. Criminological characteristics of persons who commit corruption and corruption-related criminal offenses, which may include an analysis of relevant statistical data of law enforcement bodies and courts, study of court decisions. Additionally, a comparative analysis may be conducted with the characteristics of persons who committed other types of crimes to identify specific features of persons convicted of corruption;
* Chapter 2. Gravity of corruption and corruption-related criminal offenses, which may include analysis of criminological characteristics of “white-collar” crime, international obligations regarding the gravity of corruption criminal offenses and sanctions for them, analysis of best foreign practices;
* Chapter 3. The goal of punishment in the context of corruption and corruption-related criminal offenses, which may include analysis and outlining the goal of punishment according to Ukrainian Law. International obligations in this area. The meaning of penalty, reformation of sentenced persons and prevention of further offences by both the sentenced and other persons in terms of corruption and corruption-related criminal offenses;
* Chapter 4. The composition of sanctions for corruption and corruption-related criminal offenses in accordance to the purpose of punishment de lege ferenda, which may include analysis and proposals on criminal law measures applied for the commission of corruption and corruption-related criminal offenses in the view of previous conclusions;
* Chapter 5. The current regulation of sanctions for corruption and corruption-related criminal offenses: general trends, which may include determination of what sanctions may be applied for the commission of corruption and corruption-related criminal offenses, as well as how they are actually applied. Identification of trends (if any);
* Chapter 6. Analysis of specific sanctions for corruption and corruption-related criminal offenses, which may include identification of patterns in the differentiation of criminal liability for corruption and corruption-related criminal offenses (if any); and
* Conclusions, which may include description of achievements of the research objectives.
* To participate in consultations and discussions with the NACP under preparation and finalization of related analytical study;
* To prepare a final report regarding conducting of related analytical study.

Electronic copies of the deliverables made should be sent in Ukrainian by email to the designated EUACI contact person. The final report should also be received in English language.

**Timeline:**

The intended commencement date is the date of signature of contracts with the selected service provider(s). The minimum number of days for delivering of consultancy services is 25 days **with the finalization and delivering of related analytical study till 30 June 2025.**

The expected total duration of the contract is **till 31 July 2025.**

**Requirements to the Service Provider/s:**

The contract can be awarded to the expert meeting the following criteria:

* Private entrepreneur under Ukrainian legislation or a group of experts registered as private entrepreneurs or applying through a legal entity.;
* Experience of analytical work (such as conducting analytical studies and research, policy analysis, policy advise, etc.) in the sphere of criminal justice, and / or sanctions’ processing and / or anti-corruption activities with at least 3 years of the relevant experience;
* Profound sense and personal culture of integrity.
* Excellent written and oral communication skills in Ukrainian.

Special requirements:

By signing the contracts, the contractors agree to hold in trust and confidence any information or documents ("confidential information"), disclosed to the contractor or discovered by the contractor or prepared by the contractors in the course of or as a result of the implementation of the contracts and agrees that it shall be used only for the purposes of the contract implementation and shall not be disclosed to any third party without EUACI and NACP authorisation.

Contractors will report to the EUACI. Contractors shall de-brief the EUACI prior to finalising the assignment.

# Bidding details:

The bidder or team of bidders must submit the following information to be considered:

* CV (max. 3 pages) of each expert applying.
* A list of assignments related to the sphere of research executed during the last three years.
* At least one example of analytical paper, study, report or other similar document prepared by the expert in the sphere of criminal justice, and / or sanctions’ processing and / or anti-corruption activities;
* A financial offer (including expert’s fees per day or per hour and number of days needed for delivery of services).

**Budget:**

The total contract budget for the expert cannot exceed **EUR 7,000.**

# How to apply:

The deadline for submitting the proposals **is 03 March 2025, 18:00 Kyiv time.**

The proposals shall be submitted within the above deadline to euaci@um.dk and ievrom@um.dk indicating the subject line “Tender: “**Study on criminal sanctions**”.

The applicant will receive an auto-reply from euaci@um.dk when the application is received. If an auto-reply is not received, please contact the EUACI.

Bidding language: **English**.

Any clarification questions for the bid request should be addressed to euaci@um.dk and ievrom@um.dk, **no later than 27 February 2025, 18:00 Kyiv time.**

# Evaluation criteria:

Bids will be evaluated under the criteria provided below:

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| **#** | **Criteria** | **Weight** |
| 1 | Criterion 1: Professional experience, including the length of experience, the proven track record of practical expertise in the given field, quality of example of the analytical product provided | 70% |
| 2 | Criterion 2: Financial offer | 30% |