

## Terms of Reference

### Short-term national expert to support development of the draft legislation related to state financial control

#### 1. Background information

Contract object :	<b>Short-term national expert to support development of the draft legislation related to state financial control</b>
Contract Dates:	Duration : February 1 <sup>st</sup> – April 30 <sup>th</sup> 2024

Expertise France is the French international technical cooperation agency, with the status of public institution under the joint supervision of the Ministry of Europe and Foreign Affairs (MEAE) and the Ministries of Economics and Finance and Industrial and Digital Sovereignty. It is the second largest technical cooperation agency in Europe. Expertise France designs and implements projects that strengthen public policies over the long term in developing and emerging countries.

As the **French public agency for international technical cooperation**, Expertise France operates in more than 100 countries, implementing more than 400 projects. The agency works in close collaboration with French public institutions, as well as with the European Union, in order to respond to the needs of partner countries that wish to improve public policies that tackle these challenges. To do so, the agency coordinates and implements national- or regional-scale projects in major areas of public action:

- [Democratic, economic and financial governance](#)
- [Peace, stability and security](#)
- [Climate, biodiversity and sustainable development](#)
- [Health and human development](#)

Ukraine is a key partner for Expertise France, which has had a local presence since 2006 with a representative office and projects. Over the years, Expertise France has built up a relationship of trust with its partner administrations. The ongoing projects in Ukraine include: [Pravo – Justice](#). The EU-funded Project Pravo-Justice promotes greater rule of law in Ukraine, in line with European standards and comparative practices. [Initiative](#). The project supports beneficiary countries to design, implement, monitor, and evaluate funding allocated by the Global Fund to Fight HIV, Tuberculosis and Malaria. The Emergency Fund for Ukraine against TB & HIV started in December 2022 with a commitment of €5 million.

Since the start of the of unjustified full-scale Russian invasion, Ukraine is daily suffering human losses as well as big-scale destruction and damages all across the country. According to the [World Bank Recovery and Reconstruction Needs Assessment](#), the estimate cost of the recovery and reconstruction in Ukraine has grown to EUR 383 billion. Considering cost of the reconstruction, Ukraine would need mobilisation of both public and private funds.

Ukraine's need for support is of great scale and priority in the context of the ongoing war and starting to prepare for recovery processes. At the same time, Ukraine's European and international partners are heavily mobilized to offer their support, both financial and technical. Therefore, in response to the growing needs of Ukraine I

In the response to the existing situation and challenges, France has launched a coordinated assistance to Ukraine. The **mAIDan Ukraine program** is a multisector technical assistance facility funded by the Ministry of Foreign Affairs as a part of the French support to Ukraine coordinated by the French Special Envoy for Ukraine Relief and Reconstruction. The program's main objective is to identify needs and propose technical cooperation projects that support resilience, reconstruction, and the accession process in Ukraine.

Program sub-objectives include mobilisation of the technical solutions to meet the most urgent needs and initiate structuring cooperation, as well as financing or co-financing technical assistance projects during 2023-2026.

At this time, Expertise France **pre-identified intervention sectors**:

- Health, in particular mental health, restorative health, and hospitals
- Rehabilitation and reconstruction of essential infrastructure and urban development
- Transportations and mobility
- Innovation
- Justice and Rule of Law
- Good governance, including decentralisation
- Economic and financial governance.

The program may mobilize funding for other sectors if demand is expressed and the opportunity is confirmed by Expertise France and the Ministry of Foreign Affairs of France.

Through a series of missions to Ukraine and starting program operations in Kyiv, Expertise France has pre-identified the following specific projects:

- Contributing to the selection of Constitutional Court of Ukraine judges through Pravo-Justice
- Supporting Ukrainian start-ups through co-funding of the EU4InnovationEast project
- Supporting local authorities in recovery and decentralization processes with a special focus on Chernihiv Oblast
- Technical assistance on support of the State Audit Service of Ukraine (DASU)

## 2. General context related to the assignment

According to Article 453 of Title VI "Financial Cooperation and Anti-Fraud Provisions" of the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand (hereinafter referred to as the "Association Agreement"), and its annexes, Ukraine receives financial assistance through the relevant EU funding mechanisms and instruments. Article 459 of the Association Agreement stipulates that the parties shall take effective measures to prevent and combat fraud, corruption and other illegal activities, inter alia through mutual administrative assistance and joint legal support in the areas covered by the Association Agreement.

Member States shall combat fraud and any other illegal activity affecting the financial interests of the Union by means of measures to be taken which shall act as a deterrent and ensure effective protection in Member States and in all institutions, bodies, offices and agencies of the European Union. Member States shall take the same measures to combat fraud affecting the financial interests of the Union as they take to combat fraud affecting their own financial interests (Article 325 of the Treaty on the Functioning of the European Union).

According to paragraph 3 of the Resolution of the Cabinet of Ministers of Ukraine No. 1110 dated October 25, 2017 "On the Introduction of a National Mechanism for Coordinating the Interaction of Public Authorities to Protect the Financial Interests of Ukraine and the European Union", the State Audit Service is authorized to act as the National Contact Point (NCP) for organizing interaction with the European Anti-Fraud Office (OLAF) and the European Court of Auditors (ECA) (hereinafter referred to as the National Contact Point) on the implementation of Section VI of the AAU.

As the NCP, the SAS receives and summarizes information on possible irregularities in the use of financial assistance received from the European Union in Ukraine and ensures its full transfer to the competent authorities of Ukraine and the EU, as well as interacts with public authorities to consider official requests for violations of the legislation, the Association Agreement, other international treaties concluded between Ukraine and the European Union in the field of EU external assistance, contracts, and the implementation of the EU-Ukraine Association Agreement.

In order to implement the requirements of Ukrainian legislation and the EU acquis, the SAS takes measures to develop a fraud coordination service in Ukraine and participate in the implementation of Title VI of the Association Agreement. Such measures include the need to study the European experience, best practices of the EU member states, analyze the EU law and the Ukrainian legislative framework in order to develop concepts for the functioning of the anti-fraud coordination service in Ukraine and systematic protection of the financial interests of the European Union in Ukraine. The developed proposals to the relevant legislative and regulatory acts will be submitted to the Interagency Coordination Council for Counteracting Violations Affecting the Financial Interests of Ukraine and the EU.

On August 31, 2023, the SAS, as the NCP, initiated the convening of the Interagency Coordination Council on Counteracting Violations Affecting the Financial Interests of Ukraine and the EU (in accordance with the provisions of the Resolution of the Cabinet of Ministers of Ukraine No. 1110 of October 25, 2017 "On the Introduction of a National Mechanism for Coordinating the Interaction of Public Authorities to Protect the Financial Interests of Ukraine and the European Union"), which decided to draft a procedure for implementing the mechanism of interagency cooperation with the State Audit Service. The legislative amendments should meet the objectives of implementing Directive (EU) 2017/1371 of the European Parliament and of the Council of July 5, 2017 on the fight against fraud against the financial interests of the Union by criminal means (hereinafter referred to as Directive 1371) and Regulation (EU) No. 883/2013 of the European Parliament and of the Council of September 11, 2013 No. 883/2013 on investigations carried out by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No. 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No. 1074/1999.

### 3. Purpose and objectives of the assignment

**The main objective** of the assignment is to provide the expert support to State Audit Service of Ukraine in the framework of the technical assistance facility mAIDan Ukraine in terms of improvement of the level of implementation of EU acquis into Ukrainian legislation.

**The specific objective** of this assignment is to provide assistance with development of the draft law on protection of the EU financial interests in Ukraine.

- Output 1.1: a coordination mechanism between the project and SAS as a beneficiary established and institutional gaps identified
- Output 1.2: Existing regulations on protection of financial interests of EU reviewed and policy reforms identified to prepare for implementation of EU acquis
- Output 1.3: Law on protection of financial interests of EU drafted, finalized and presented to relevant stakeholders.

### 4. Key Expert Inputs

- Contribution to the gap analysis between EU and Ukrainian legal framework in the field of financial control of EU fund's in Ukraine
- Expert opinions, drafts policy documents with suggested revisions and/or text
- Draft legislative proposals/develop recommendations
- Contribution to the identification of future needs in term of technical assistance.

### 5. Required expertise

The contractor is required to have following set of expertise:

- Law degree from accredited law school in Ukraine or abroad; advanced degree preferred.
- At least 5 years of experience in the relevant field with preference in Public Finance management and/or financial control and/or European Integration in public sector.
- Demonstrated experience in project implementation, legal drafting, including experience in and / or knowledge of technical assistance projects funded by the European Union or other international donors.

- A high degree of initiative and diplomacy and the ability to solve complex problems in coordination with a diverse range of stakeholders.
- Fluency in written and spoken English and Ukrainian.

## **6. Reporting**

The contractor is responsible to provide the deliverables in English and/ or Ukrainian in written form following the timeline agreed with Expertise France. The final version of the report should be submitted by 30 April 2024.

Expert will submit monthly reports to the Programme Coordinator and Programme Director covering services performed and key outputs achieved during the period, relating to the workplan lines enumerated above. The reporting template will be provided by the Programme Coordinator and Programme Director.

## **7. Timeframe of the contract**

The assignment implementation is expected during the period of 20<sup>th</sup> January – 30<sup>th</sup> April 2024 according to the preliminary timeline in the Section 3. The timeline is a subject to discussion/modification based on the Expert's agreement with Expertise France based on availability of Ukrainian and international stakeholders with whom coordination is required to develop a properly scoped and defined project intervention for the subsequent Phase.