



Job title: International Consultant to review draft law on fluorinated gases against the provisions of the Regulation (EU) No. 517/2014 on fluorinated greenhouse gases and EU's best practices on applying f-gases legislation

Duty Station: Home based

Reference to the project: EU4Climate

Contract type: Individual Contracts (IC)

Contract duration: Up to 20 working days in the period December 2020 – March 2021

Starting date: 24 December 2020

1. PROJECT GOAL AND EXPECTED RESULTS

The goal of EU4Climate Project is to contribute to climate change mitigation & adaptation and the development towards a low-emissions and climate-resilient economy in line with the Paris Agreement in Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova and Ukraine.

To realize this project goal, the following results should be achieved:

Result 1: Finalized or up-dated nationally determined contributions communicated to the UNFCCC;

Result 2: Improved inter-institutional awareness and coordination at political and technical level of the Paris Agreement and the corresponding national commitments;

Result 3: Established or strengthened MRV systems, with countries getting on track with Paris Agreement transparency requirements;

Result 4: Advanced alignment with EU climate acquis as provided by bilateral agreements with EU and in the context of Energy Community Treaty on climate matters that are not covered by the EU4Energy programme;

Result 5: Establishment of concrete sectoral guidelines for the implementation of the Paris Agreement in each of the Eastern Partners;

Result 6: Increased mobilization of climate finance;

Result 7: Enhanced adaptation planning.

2. BACKGROUND

The Paris Agreement on Climate Change was adopted at the UNFCCC Conference of Parties in December 2015 and officially entered into force on 4 November 2016. The Paris Agreement was the first ever universal, legally binding climate deal that set out a plan to put the world on track to avoid dangerous climate change by limiting global warming to "well below 2°C". Together with Agenda 2030 and the Sendai Framework for Disaster Risk Reduction, the Paris Agreement provides an unprecedented opportunity to create an integrated development approach towards inclusive resilient economies with a zero-carbon footprint by 2100.

The Paris Agreement establishes a new transparency regime, under which countries will have to report progress on reducing GHG emissions and building climate resilience. This transparency regime is currently being established within the UNFCCC framework and its final details are still to be defined. At the same time, the three regional members of the Energy Community (Georgia, Moldova and Ukraine) are encouraged to align their legislation with the EU Monitoring Mechanism Regulation (MMR) as well as to prepare for the development and adoption of integrated national energy and climate plans and may soon have to align their legislation with the new EU Energy Union Governance Regulation while the

agreement with Armenia equally foresees legal approximation to EU MRV rules. In the past years, significant technical assistance has been provided by the regional EU-funded ClimaEast Project, but countries' capacities for MRV still need further strengthening.

The Republic of Moldova (RM) signed an Association Agreement (AA) with the European Union (EU) on 27 June 2014, which has entered into force in September 2014. The AA, has been ratified by the Parliament through the Law No. 112 as of 02.07.2014¹, see specifically Chapter 17 'Climate Policies' and Annex XII of the AA RM-EU, as well as the Governmental Decision No. 808 as of 07.10.2014 on approval of the National Action Plan on implementation of the AA RM-EU within the period 2014-2016² and the Governmental Decision No. 1472 as of 30.12.2016 on approval of the National Action Plan on implementation of the AA RM-EU within the period 2017-2019³.

Article 95 from the AA specifically refers to the cooperation between the two Parties in the area of climate change and ozone layer protection. At present, the Republic of Moldova is working to fulfill its obligations under the AA and to converge further its legislation towards the *acquis communautaire* in the field of environment protection and climate change.

The measures related to ozone depleting substances (ODS) had included the elaboration and approving of the National Phase-Out Programme for HCFCs for the period 2016-2040 (fulfilled through the Governmental Decision No. 856 as of 13 July 2016⁴). Concerning the implementation of the other, relevant to protection of the environment, the EU Regulation No. 842/2006, the F-gas related excerpt of Annex XII of the AA reads as follows – Regulation (EC) No. 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases. The following provisions of that Regulation shall apply to:

- Adoption of national legislation and designation of competent authority/authorities;
- Establishment/adaptation of national training and certification requirements for relevant personnel and companies (Article 5);
- Establishment of reporting systems for acquiring emission data from the relevant sectors (Article 6); and
- Establishment of enforcement system (Article 13).

Respective provisions of that Regulation were supposed to be implemented within 4 years of the entry into force of the Agreement. That is, the implementation of the above parts of the F-Gases Regulation in the Republic of Moldova needed to take place by September 2018, but this did not happen in full extent. It is to be mentioned also, that at EU level, the Regulation No. 842/2006 has been replaced in 2014 by Regulation No 517/2014, which applies at the EU level from 1 January 2015.

F-gases are fluorinated chemical substances (hydrofluorocarbons – HFCs, perfluorocarbons – PFCs and Sulphur hexafluoride – SF₆), which have a high global warming potential (GWP) and thus contribute significantly to climate change. Production and consumption of F-gases, specifically HFCs, is growing fast because they are widely used as substitutes for ozone depleting substances (ODS), which are currently being phased-out under the Montreal Protocol. The main areas where F-gases are applied are refrigeration, air conditioning and heat pump (RAC & HP) sector (refrigerants), foam sector (foam blowing agents), fire protection sector (fire extinguishing agents), aerosol sector (aerosol propellants), solvent sector (F-gas solvents) and electrical switchgear sector (SF₆ used as insulating gas).

Recognizing the threat of F-gases, specifically HFCs, to global climate, the international community decided in 2016 in Kigali (Rwanda) on a Kigali Amendment to the Montreal Protocol (MP). This amendment set up the schedules for phasing down production and consumption of HFCs worldwide supplemented with reporting and licensing requirements. Even before that happened, some countries had introduced their national restrictions on the use of F-gases, including HFCs, considering that those substances would pose a serious threat to climate in the future if not adequately controlled. The EU was among the first regions to address F-gases in its legislation.

¹ https://www.legis.md/cautare/getResults?doc_id=83489&lang=ro

² https://www.legis.md/cautare/getResults?doc_id=19579&lang=ro

³ https://www.legis.md/cautare/getResults?doc_id=119199&lang=ro

⁴ https://www.legis.md/cautare/getResults?doc_id=114841&lang=ro

The Kigali Amendment relates to 18 HFCs (grouped in 2 Annexes) and sets out stepwise reductions of HFC consumption. These HFC phase-down schedules are different for developed countries (non A5 countries) and developing countries (A5 countries) and respective subgroups. Further requirements contained in the Kigali Amendment refer to (i) Reporting on production, imports and exports of HFCs; (ii) Reporting on emissions of HFC-23 listed in Annex II; and (iii) Establishment of a licensing system for HFC imports and exports.

The Kigali Amendment is supplemented with 2 decisions of the Parties to the Montreal Protocol, which contain details of possible exemptions for countries with hot climate (“high ambient temperature (HAT) countries”) and recommendations for the Executive Committee of the Montreal Protocol’s Multilateral Fund (MLF) on the financial assistance to A5 countries necessary for them to comply with the Kigali Amendment. The Kigali Amendment entered into force on 1 January 2019 and so far, more than 90 countries ratified this amendment to the Montreal Protocol.

Even before the Kigali Amendment was decided upon, as mentioned above, the EU introduced some of those measures in 2006 through Regulation (EC) No. 842/2006 and later applied a much more extended F-gas legislation through Regulation (EU) No. 517/2014 to reach significant reductions of F-gas emissions. By signed an Association Agreement with the European Union on 27 June 2014, the Republic of Moldova decided to implement control on F-gases through transposing the F-gas Regulation that was based on the EU Reg. (EC) No. 842/2006, to enter into force in September 2018. Due to low capacities within the country, this did not happen in due time.

According to the recommendations of an international consultant from Hungary, hired under the EU-funded Clima East Project, the Republic of Moldova may go beyond the articles stated in the Annex XII to the AA RM-EU (Art. 5, 6 and 13) and transpose at the national level the entire EU Regulation.

Accordingly, the National Action Plan for the implementation of the AA RM-EU for the period 2017-2019 (GD 1472/2016) set out that the following legal acts will be developed in order to transpose the Regulation 842/2006 at national level:

- 1) Development and approving of the F-gases Regulation or F-gases Law;
- 2) Development and approving of the Program on requirements for training and certification of the companies and specialists involved in the installation, maintenance and service of equipment containing fluorinated gases or recovery of fluorinated gases;
- 3) Development of the reporting system on emission of the F-gases from relevant sectors. The envisaged timing for development and approving of these documents was September 2018. Thus, the deadline expired two years ago.

According the operational conclusions of the 4th meeting of the EU-RM Sub-Committee on Energy, Transport, Environment, Climate Action and Civil Protection (Cluster No. 3), when approximating legislation to the EU climate acquis set out in the Association Agreement, the Republic of Moldova should take into account the latest version of the EU legal acts. Respectively, the work on F-gases that has been done so far relates to the revised F-gas Regulation 517/2014.

The national legislation on F-gases in the Republic of Moldova currently consists of the following acts:

- Regulation on measures to reduce emissions from air conditioning systems of motor vehicles (GD 1242/2016⁵) which transposes partially at the national level the EU MAC Directive and Annex 1 of the Regulation No 517/2014. This national regulation prohibits installation of air conditioning systems designed to contain F-gases with GWP > 150 in passenger cars from 1st January, 2021. From 1st January 2025 it will be prohibited to charge the air conditioning systems on any motor vehicle with fluorinated greenhouse gases with GWP > 150, except for the recharging of air conditioning systems containing such gases, but which were installed on vehicles before 1 January 2021. GD 1242/2016 sets out the list of F-gases and the method of calculating of the global warming potential for a substance at the national level.
- Regulation regarding the training and certification of technicians for refrigeration, air conditioning and heat pump installations containing hydrochlorofluorocarbons and fluorinated greenhouse gases (GD 483/2019⁶). This regulation goes relates to equipment containing ODS (i.e. HCFCs) and F-gases and it is based on Art. 11 of the Regulation regarding the commercial regime and use of halogenated hydrocarbons

⁵ https://www.legis.md/cautare/getResults?doc_id=96376&lang=ro

⁶ https://www.legis.md/cautare/getResults?doc_id=118488&lang=ro

that destroy the ozone layer (Law 852/2002). This article states that the activities in the field of cold technology can only be carried out by qualified specialists, who are trained and certified every three years, according to the programs elaborated by the authorized institutions.

While not explicitly addressing F-gases, the following legislative acts addressing ODS are important to note:

- Key ODS legislation in the Republic of Moldova is the Law No. 852/2002⁷, which was amended in 2007, 2010, 2013 and 2020. The Law does not refer to HFCs or other fluorinated greenhouse gases. The 2013 amendment introduces monitoring of ODS consumption: mandatory logbooks for users of equipment containing more than 3 kg of ODS charge (6 kg if hermetically sealed) were introduced in 2013. These logbooks were needed to be presented annually to the Environmental Protection Inspectorate on the previous calendar year (see Law No. 228 as of 10 October 2013). However, only few logbooks are being received. It is worth mentioning as well, that in July 2020 Parliament adopted amendments to the annexes of the Law No. 852/2002. The decision arises from the obligation of the Republic of Moldova to implement the provisions of the Montreal Protocol, ratified through the Parliament Decision No. 966/1996, which provides for the prohibition of placing on market and use of all ozone depleting substances, except the substances included in Group I, Annex C, phase-out of which, in developing countries, takes place in phases. At the same time, amendments have been introduced regarding the ban on the import of new refrigeration and air conditioning equipment that operates on the basis of HCFCs, as the import and consumption of these substances is reduced annually, according to the HCFC's phased-out program. By 2030 the import of these substances will be reduced to 97.5%, and by 2040 they will be totally removed from the use. Thus, the introduction of new HCFC-based installations and equipment will become inappropriate. Prohibiting the import of new refrigeration and air conditioning equipment, which operates on the basis of HCFCs, will favor the shift to state-of-the-art and environmentally friendly refrigerant equipment. Another change concerns the updating of the tariffs positions of the chemical substances whose use is regulated by the Montreal Protocol, according to the Combined Nomenclature of Goods, approved by Law No. 275/2018. The respective tariffs positions have been updated according to the 6th edition of the Harmonized Commodity Description and Coding System, approved by the World Customs Organization. Amendment of Law No. 852/2002 is imposed also by the necessity to bring it in line with the provisions of the new adopted normative acts, namely: Law No. 277/2018 on chemicals and Law No. 275/2018 for amending the Law No. 172/2014 regarding the approval of the Combined Nomenclature of Goods. Following the provisions of Law No. 277/2018 on chemical substances, which entered into force on 15.02.2020, the operation in Law No. 852/2002 of the amendments concerning the authority issuing import authorizations for substances that destroy the ozone layer - the National Agency for the Regulation of Nuclear, Radiological and Chemical Activities will take over from the Environment Agency the tasks of issuing the aforementioned authorization, according to the competences that fall to it.
- Implementation of the Montreal Protocol through HCFC Phase-Out Management Plans (HPMP): in 2010 the HPMP Phase I was approved (period 2011-2015) and successfully implemented (Phase I – 10% reduction from the baseline); in 2016, HPMP Phase II was approved (period 2016-2020) and is being implemented; the currently required reduction is 35% in 2016-2020; full phase-out is foreseen in 2040.
- The GD No. 589 as of 21 June 2018⁸ sets out the licensing system for imports and the annual allocation of import quota to registered importers in order to achieve the HCFC reduction as scheduled. Each import shipment (HCFCs or equipment and products with HCFCs required an import license.

The draft Law for the Ratification of the Kigali Amendment has been approved by the Government of the RM and sent to the Parliament for the further legislative procedure. By now the draft Law was examined within 3 out of 11 standing committees.

⁷ https://www.legis.md/cautare/getResults?doc_id=122851&lang=ro#

⁸ https://www.legis.md/cautare/getResults?doc_id=108718&lang=ro

The requirements of the following national legal documents have been investigated by an international consultant from Germany, in the frame of EU4Climate Project, within the period October 2019 - January 2020, in order to identify the legal gaps:

- The Law No. 852 as of 14.02.2002 on approving the Regulation on trade regime & regulating the use of halogenated hydrocarbons that are depleting the ozone layer;
- The Association Agreement (AA) with the European Union (EU) on 27 June 2014, ratified by the Parliament through the Law No. 112 as of 02.07.2014;
- The GD No. 1472 as of 30.12.2016 on approval of the National Action Plan on implementation of the AA RMEU within the period 2017-2019;
- The GD No. 856 on approving the National Phase-Out Programme for HCFCs for the period 2016-2040;
- The GD No. 1277 as of 26.12.2018⁹ on the Establishment and Functioning of the National System for Monitoring and Reporting GHG Emissions and Other Information Relevant to Climate Change;
- The Law No. 277 as of 29.11.2018 on Chemical Substances;
- The Kigali Amendment to the Montreal Protocol;
- The Paris Agreement to the UNFCCC.

Following the legislative gap analysis undertaken, the international consultant from Germany recommended an urgent transposing of the requirements of the EU Regulation 517/2014 on fluorinated greenhouse gases into the national legislation of the Republic of Moldova. The F-gas legislation to be set up in Moldova should cover also the system for reporting F-gas imports and exports, as well as their uses, recycling, reclamation and destruction as well as imports/exports/manufacturing of products and equipment containing such substances.

In consideration of the need to implement a national reporting system according to the requirements under the EU Regulation 517/2014 and Article 7 of the Montreal Protocol, it is recommended to implement the national F-gas reporting according to the Polish country example in the Republic of Moldova. Once established and operational the reporting system will allow the responsible entity to monitor compliance with obligations contained in Regulation 517/2014, relevant EC Implementing Regulations and in the future national Law on fluorinated greenhouse gases, regarding record keeping of equipment (logbook), emission prevention, leakage checking, leakage detection systems and recovery of F-gases from equipment, as well as data reporting. The gap analysis and the report on the harmonized database system to be implemented in the Republic of Moldova, as produced by the international consultant from Germany in the frame of EU4Climate Project, takes into account the EU best practices and provides guidance on how to integrate the ODS, F-gases and their alternatives, data collection and reporting contours/modules within the software for the Automatic Information System "Register of chemical products placed on the market in the Republic of Moldova", approved by GD# 535/2020.

Currently, in the frame of EU4Climate Project, two national consultants (technical and legislative) are developing the draft law on fluorinated gases. The draft is expected to be delivered by December 2020.

3. OBJECTIVES AND EXPECTED OUTPUTS

The objective of the assignment is to provide technical support to the Republic of Moldova's Government to reduce fluorinated greenhouse gases in relevant sectors, to contribute to the international efforts to mitigate climate change, and to contribute to transposing into the national legislation the Regulation (EU) No. 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases by reviewing the draft national Law on fluorinated greenhouse gases.

Under the guidance of the EU4Climate National Coordinator and in close cooperation with the staff of the Air and Climate Change Division of the Ministry of Agriculture, Regional Development and Environmental, the international consultant will provide assistance:

- To analyze the draft law on fluorinated gases and the related package required for its Governmental consideration and approval, developed by the national technical and legal

⁹ https://www.legis.md/cautare/getResults?doc_id=112485&lang=ro

consultants and to assess its compliance with the Regulation (EU) No. 517/2014 and other RM's international commitments.

- To provide feedback and recommendations on its improving based on EU countries' practice of applying the f-gases legislation.

4. KEY DELIVERABLES AND TIMEFRAME

The international consultant is expected to deliver the following outputs per below identified timeline and anticipated workload:

Key Deliverables and the Anticipated Workload	Tentative Timetable/Deadline
Deliverable 1: The activity plan and timeframe developed (including tasks and timeline) (up to <u>1 working day</u>).	By mid-January 2021
Deliverable 2: To produce an analysis of the draft law on fluorinated gases and the related package required for its Governmental consideration and approval, following the provisions of the Regulation (EU) No. 517/2014 and EU countries' practice of applying the f-gases legislation and to conduct online consultations with relevant national institutions to identify all national circumstances related to f-gases (up to 10 working days).	By mid-February 2021
Deliverable 3: To develop the recommendations on improving the respective draft f-gases law based on the provisions of the Regulation (EU) No. 517/2014 and EU countries' practice of applying the f-gases legislation (up to 6 working days).	By end-February 2021
Deliverable 4: To conduct one day webinar to present the findings and recommendations covering the deliverables 2 and 3 (up to 1 working day).	By mid-March 2021
Deliverable 5: A consolidated final report on the execution of the assignment, covering all the above-mentioned aspects under the deliverables 1 to 4 (up to <u>2 working days</u>).	By end-March 2021

Note: Deliverables and final timeline can be amended or specified for the purpose of the assignment.

5. INSTITUTIONAL ARRANGEMENTS

This is a part-time consultancy. The timeframe for the work of the international consultant is planned for December 2020 – March 2021. The consultant will be given access to relevant information necessary for execution of the tasks under this assignment. The consultant will work in close collaboration with the EU4Climate Project's National Coordinator - for substantive aspects of the assignment, as well as will closely cooperate with the Head of Air and Climate Change Section of the Ministry of Agriculture, Regional Development and Environment, so that the final product reflect also their comments. UNDP will provide administrative and logistical support in organization the respective consultations.

6. FINANCIAL ARRANGEMENTS

The contract assignment will be for a fixed all-inclusive daily fee. Payments will be provided in two instalments. The first disbursement will account for 20% of the contract amount, upon the presentation of the activity plan and timeframe developed, i.e. by mid-December 2020. The last disbursement will be issued upon submission and approval of deliverables 2-5, and certification by the EU4Climate Project's National Coordinator that the services have been satisfactorily performed, by end-March 2021.

7. SKILLS AND EXPERIENCE REQUIRED

I. Education:

- Master degree in Engineering (Mechanics, Refrigeration), Environmental Management, Chemical Hazardous Management, Climate Change or other related fields is required.

II. Experience:

- At least 7 years of experience with activities related to refrigeration and air-conditioning sector, environmental protection, climate change or any other relevant fields;

- At least 6 years of experience of proven professional experience in legal acts drafting/transposing EU regulations into national legislation and normative acts analysis;
- Familiarity with the Vienna Convention on Ozone Layer Protection and the Montreal Protocol on Substances that Deplete the Ozone Layer, respectively with the United Nations Framework Convention on Climate Change and the Kyoto Protocol, would be an asset;
- Experience in similar positions in an UNDP, UNEP, WB and/or EU-funded project or other international organization would be an asset.

III.Competencies:

- Excellent knowledge of EU climate related acquis, Regulation (EU) 517/2014 on fluorinated greenhouse gases demonstrated by previous assignments;
- Knowledge of principles, legal and normative framework regulating the f-gases under the Vienna Convention on Ozone Layer Protection and Montreal Protocol demonstrated by previous assignments;
- Strong analytical and report writing skills demonstrated by previous assignments;
- Strong interpersonal and communication skills, ability to work in a team, demonstrated by previous assignments;
- Ability to work under pressure and stressful situations, and to meet tight deadlines demonstrated by previous assignments;
- Proficiency in English. Knowledge of Romanian and/or Russian will be an asset.

The UNDP Moldova is committed to workforce diversity. Women, persons with disabilities, Roma and other ethnic or religious minorities, persons living with HIV, as well as refugees and other non-citizens legally entitled to work in the Republic of Moldova, are particularly encouraged to apply.

8. PERFORMANCE EVALUATION

Contractors' performance will be evaluated against timeliness, responsibility, initiative, creativity, communication, accuracy, and overall quality of the delivered products.

9. DOCUMENTS TO BE INCLUDED WHEN SUBMITTING THE PROPOSALS

Interested individual consultants must submit the following documents/information to demonstrate their qualifications:

1. Proposal, explaining why she/he is most suitable for the work, including past experience in similar assignments, providing a brief information on above qualifications and methodology on how she/he will approach and conduct the work (if applicable).
2. Financial proposal (in USD), specifying a fee per day and total requested amount including all related costs;
3. CV with at least three names for a reference check.
4. Offeror's letter to UNDP confirming interest and availability for the Individual Contractor assignment.