



Job title: National Legal Consultant to support the establishment of the MRV and enforcement system reflecting the provisions of the Directive 2003/87/EC in the Republic of Moldova, in line with the provisions of the AA RM-EU

Duty Station: Home based

Reference to the project: EU4Climate

Contract type: Individual Contracts (IC)

Contract duration: Up to 66 working days in the period June 2021 – November 2021

Starting date: 12 June 2021

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 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. 1472 as of 30.12.2016 on approval of the National Action Plan on implementation of the AA RM-EU within the period 2017-2019².

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

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

² https://www.legis.md/cautare/getResults?doc_id=119199&lang=ro

under the AA and to converge further its legislation towards the *acquis communautaire* in the field of environment protection and climate change.

According to the Annex XII of the AA RM-EU, the Government of the Republic of Moldova has undertaken to implement selected basic provisions of the Directive 2003/87/ EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC³, namely:

- establishing a system for identifying relevant installations and for identifying greenhouse gases (Annexes I and II);
- setting up a monitoring, reporting, verification and enforcement system and a public consultations process (Articles 9, 14-17, 19 and 21).

These provisions of the Directive shall be implemented by September 2022.

The EU installation level MRV framework is implemented through the *Regulation (EU) 2018/2066* of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to *Directive 2003/87/EC* of the *European* Parliament and of the Council and amending *Commission Regulation (EU) No 601/2012* (Text with EEA relevance.), further referred to as the Monitoring and Reporting Regulation (MMR).

The verification of emissions by independent third-party verifiers is regulated in the EU through the *Commission Implementing Regulation (EU) 2018/2067* of 19 December 2018 on the verification of data and on the accreditation of verifiers pursuant to *Directive 2003/87/EC* of the European Parliament and of the Council, further referred to as the Accreditation and Verification Regulation (AVR).

The implementation of the MRV and ensuring operators compliance with the installation level MRV requirements in line with the ETS Directive and its implementing MRR and AVR requires transposition of the relevant ETS provisions into the legal framework of the Republic of Moldova. The legal drafting of the relevant transposing amendments or stand-alone acts of law and/or regulatory orders has not started. Nevertheless, national legislation needs to cover, to the extent feasible, all ETS-related issues that are relevant for the proper and smooth functioning of the ETS- compatible MRV system in Moldova.

The ETS Directive has not been transposed yet into national legislation, neither integral nor any articles. Under the EU Clima East project, in 2015, a Report and a Roadmap for the ETS Directive transposition have been developed. Only one of the recommendations of the Report has been implemented and it refers to the establishment of a system for identifying relevant installations (Annex I). Thus, within the EU Clima East project, a questionnaire has been developed to be used to interview the installations and to identify those which fall under the ETS Directive. The Ministry of Agriculture, Regional Development and Environment (MARDE) performed this exercise during the year 2017 and the list of 6 installations, selected after processing the questionnaires, has been approved by the Minister Order #11/2018. Due to a lack of knowledge in the field of the ETS Directive application, MARDE has requested to review the list in order to ensure that it is correct and complete.

The tasks listed in below are the core functions delegated to the Competent Authorities in the EU Member States as determined by the respective articles of the Directive 2003/87/EC and further specified in the EU Monitoring and MRR and AVR as well as in the MRR General Guidance on MRR issues for installations:

- Registration of the installations in the unified MRV register (or permitting for GHG emissions/GHG permit update);
- Performance of tasks related to monitoring and reporting of emissions;
- Performance of tasks related to verification;
- Inspection and enforcement;
- Securing access to information;

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02003L0087-20200101>

- Coordination between authorities (if several authorities are charged with specific tasks under installation level MRV/ETS);

It may be expected, given the Republic of Moldova plans to join the EU, that the ETS-relevant legislation to be developed at the next stage of the ETS gradual implementation in Moldova could also include:

- Allocation and issuance of allowances;
- Operating the transaction log (register);
- Extending the scope of the EU ETS.

Given the other requirements of the Association Agreement referenced above, such as the transposition of the regulatory framework for the Industrial Emissions Directive and the F-gases Regulation, the development of the ETS legislative framework shall be primarily guided by the need to streamline the national MRV systems and enforcement framework, while at the same time to promote relevant changes, if applicable, in the existing framework for the public consultation process which should become workable and should be used already in the process of the installation level MRV and enforcement legislation, and referenced by the relevant EU ETS experience. The proposed changes shall be accompanied with impact assessment in line with the legal requirements of the Republic of Moldova. The related work should draw, where applicable, on the relevant outputs of the Clima East project and the Legislative Roadmap developed within the EU4Climate project.

An important piece of the Moldovan legislation related to monitoring, reporting and verification of the GHG emissions is the Governmental Decision #1277/2018⁴ regarding the establishment and functioning of the National System for monitoring and reporting of greenhouse gas emissions and other information relevant to climate change. The DG 1277/2018 transposes at the national level the Regulation (EU) No 525/2013. The GD 1277/2018 approves the following:

- Regulation on the establishment and functioning of the National System for monitoring and reporting of greenhouse gas emissions and other information relevant to climate change. It designates the Environmental Agency as the competent authority for the implementation of the MRV system. It establishes also the components of the system, reporting instruments, as well as their format and structure, deadlines for presenting the reports to the Secretariat of the UNFCCC etc.
- A list of authorities and institutions which are part of the National System for monitoring and reporting of greenhouse gas emissions and other information relevant to climate change.
- A list of GHGs and their GWPs which are taken into consideration within the National System for monitoring and reporting of GHG emissions.

GD 1277/2018 has been recently reviewed based on the Enhanced Transparency Framework. The respective amendments to the GD 1277/2018 are promoted by MARDE to be approved by the Government.

MARDE currently is developing the draft law on industrial emissions based on the Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control)⁵. The transposition of the Directive 2010/75/EU, which also includes the provisions of the Directive 2001/80/CE, is a complex process for the Republic of Moldova, as it will reform the existing system of authorisations in the field of environmental protection, so that the operators/installations could obtain a single integrated authorization instead of a few separate ones, which are currently issued. The draft law on the industrial emissions includes basic general provisions and

⁴ https://www.legis.md/cautare/getResults?doc_id=112485&lang=ro

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32010L0075>

regulations on the Large Combustion Plants, and furthermore, technical aspects will be included in the secondary regulatory framework on the large combustion plants.

3. OBJECTIVES AND EXPECTED OUTPUTS

The objective of the assignment is to provide technical support to the Republic of Moldova's Government in establishing a legal basis and a regulatory framework to the monitoring, reporting and verification of GHG emissions from installations corresponding to the requirements of the ETS Directive, as well as ensuring compliance of the operators with the MRV requirements.

Under the guidance of the international consultant, supervised by the EU4Climate National Coordinator, and in close cooperation with Regulatory Impact Assessment national consultant and the staff of the Air and Climate Change Section of the Ministry of Agriculture, Regional Development and Environment, the national legal consultant will be expected to provide the following deliverables:

1. To conduct consultations with MARDE on the scope and proposed approach to the task;
2. To prepare a short assessment report, analyzing the legal and regulatory contexts that have to be taken into account when transposing the relevant requirements of the ETS MRV and the enforcement framework, and proposing how to incorporate the necessary provisions into the laws and regulations in Moldova while ensuring that the proposals are anchored in the existing act/s of law, and that all the requirements of the MMR and AVR relevant from the point of view of the functioning of the ETS MRV system are met;
3. To develop the draft of the legislative framework for the ETS Directive transposition and the related regulatory package required for its consideration and approval by the government;
4. To conduct public consultations of the newly developed ETS-related legislative framework (to identify all the related stakeholders, to develop the concept and agenda of the consultation, to develop the presentation);
5. To review the draft legislative and regulatory framework, based on the public consultation results.

The national legal consultant will be supported in the course of this assignment by an experienced international consultant with a first-hand experience of the EU ETS MRV and enforcement, taking into account the perspective of both a Competent Authority and of the operator of installations. The main task of the international consultant is to ensure compatibility of the proposed outputs with the EU ETS regulations and practice, and to guide the national legal consultant in his/her work with the aim of achieving the required compatibility.

4. KEY DELIVERABLES AND TIMEFRAME

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

Key Deliverables and the Anticipated Workload	Tentative Timetable/Deadline
Deliverable 1: A detailed Work Plan and Implementation Schedule, presenting approach to the tasks based on the consultation with MARDE (as per task #1 above) (up to 3 working days).	By mid of June 2021
Deliverable 2: An assessment report of legal and regulatory context that have to be taken into account when transposing the relevant requirements of the ETS Directive (as per task #2 above) (up to 15 working days).	By mid of July 2021
Deliverable 3: A draft of the legislative framework for the ETS Directive transposition and the related package required for its governmental consideration and approval, taking into account the need to transpose other corresponding elements of the AA RM-EU with regard to climate change (as per task #3 above) (up to 33 working days).	By mid of September 2021

Deliverable 4: Public consultation conducted (as per task #4 above) (up to 3 working days)	By end of September 2021
Deliverable 5: Final versions of deliverable 3 following public consultation process and reflecting its outcome (as per task #6) (up to 7 working days).	By mid of October 2021
Deliverable 6: A consolidated final report on the execution of the assignment, covering all the above-mentioned aspects under the deliverables 1 to 5 (up to 5 working days).	By early November 2021

Note: Deliverables and the 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 is June – November 2021.

The national legal consultant will be given access to relevant information and data necessary for execution of the tasks under this assignment. The legal consultant will work in close collaboration with the EU4Climate Project's National Coordinator - for substantive aspects of the assignment, and will cooperate with the Regulatory Impact Assessment national consultant. The national legal consultant will also closely cooperate with the Air and Climate Change Section of the Ministry of Agriculture, Regional Development and Environment in order to ensure that the final products reflect also their comments. The support of the international consultant (19 working days for support provided to both, the legal consultant and the Regulatory IA national consultant) with regard to overall guidance and the relevant EU experience will be ensured throughout the implementation of the project. The UNDP will provide the 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 35% of the contract amount, upon the presentation of the deliverables 1 and 2, i.e. by mid-July 2021. The last disbursement will be issued upon submission and approval of deliverables 3-6, and certification by the EU4Climate Project's National Coordinator that the services have been satisfactorily performed, i.e. by mid-November 2021

7. SKILLS AND EXPERIENCE REQUIRED

I. Education:

- Advanced degree (Master or Ph.D.) in Law is required.

II. Experience:

- At least 6 years of proven professional experience in legal acts drafting and transposition in the national legislation of the EU environmental and climate related acquis.
- At least 5 years of working experience in the institutional consultancy and law-making.
- Experience in legal consultancy in any UNDP or EU-funded project or other international organization would be an asset.

III. Competencies:

- Excellent knowledge of the legislation on the environmental protection in the Republic of Moldova and of the Association Agreement demonstrated by previous assignments or general work experience;
- Familiarity with the EU ETS, the United Nations Framework Convention on Climate Change and the Paris Agreement, would be an asset;
- Excellent knowledge of the EU environment and climate related acquis, 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 to meet tight deadlines demonstrated by previous assignments;

- Fluency in Romanian and good working knowledge of English.

The UNDP Moldova is committed to the 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 he/she is most suitable for the work, including past experience in similar assignments, providing a brief information on above qualifications and methodology on how he/she will approach and conduct the work (if applicable).
2. [OFFEROR'S LETTER TO THE UNDP CONFIRMING INTEREST AND AVAILABILITY FOR THE INDIVIDUAL CONTRACTOR \(IC\) ASSIGNMENT](#)
3. CV and/or the duly filled in and signed Personal History Form (P11), and at least three names for a reference check.