

## TERMS OF REFERENCE

<b>Job title:</b>	National legal consultant for supporting the legislative alignment with Regulation on Energy Governance and Climate Action
<b>Duty station:</b>	Chisinau, Republic of Moldova
<b>Reference to the:</b>	Programme “Addressing the impacts of energy crisis and initiating solutions toward energy security and addressing energy poverty” (FPI Programme)
<b>Payment arrangements:</b>	Lump sum contract (payments linked to satisfactory performance and delivery of outputs)
<b>Contract type:</b>	Individual Contract (IC)
<b>Contract Duration:</b>	65 working days during July - December 2022

### **1. PROJECT OBJECTIVES AND EXPECTED RESULTS**

The overall objective of the Programme is to assist the Government of Moldova to tackle the current energy crisis and energy poverty in addressing prioritized systemic elements in the energy sector to cope with potential future energy crisis.

Specific objectives are to support the Government of Moldova to:

1. put in place the legal and regulatory framework in the energy sector with mainstreamed social and climate considerations in line with the EU requirements;
2. strengthen the capacities of the energy-related actors and enhancing institutional coordination mechanisms to address and avert risks entailed in recent and potential future energy crisis;
3. increased awareness and communication among the population to adopt the best energy saving practices and measures and to encourage the use of renewables;
4. operationalize nation-wide energy programmes and demonstrate solutions to increase energy affordability in residential and public buildings, targeting specifically the most vulnerable and affected groups of population.

### **2. BACKGROUND**

Moldova is part of the EU’s European Neighborhood Policy (ENP) and in the Eastern Partnership framework, which aims at strengthening individual and regional relationships between the EU

and countries in its neighborhood. Moldova is also part of the Energy Community Treaty since 2010 and has signed the Association Agreement with EU in June 2014, including the DCFTA which entered into force in 2016. As a follow-up, Moldova is required to ensure transposition of the EU *acquis Communautaire*, which underpins the EU energy legislation on electricity, gas, oil, renewables, efficiency and environment. The country is planning to fully synchronize its electricity network with the ENTSO-E to connect to European electricity market.

The energy sector is one of the top priorities for the Government and it is addressed in Government's Plans and a number of policy documents, laws and regulations. The most important are the following: the draft National Development Strategy 2030, the National Energy Strategy 2030, Law on energy, Law on electricity, Law on promoting use of energy from renewable sources, Law on natural gas, Law on energy efficiency, Law on the energy performance of buildings, Law on the labelling of products with energy impact, Law on eco-design requirements for energy-related products, etc., as well as a list of secondary legislation, meant necessary to ensure for the implementation of the primary legislation.

In accordance to the existing strategic planning documents, one of main priorities of the Government is to diversify the energy mix with more renewable energy, which is also fully in line with commitments under the EU Clean Energy for all Europeans package. Achieving this goal will require significant investment in the medium and long term, but also the country's ability to attract and absorb the funds. The development of renewables, such as wind and solar, will also depend on improving the balancing capabilities of the Moldovan power system and its integration with neighboring countries.

Starting with October 2021, Moldova faced significant crisis in the gas sector, which outlined the need to undertake more actions towards improving energy security of the Republic of Moldova, both in the natural gas and electricity sectors.

The acute gas supply crisis in Moldova has also been subject of discussions within the Moldova-EU Association Council meeting on October 28, 2021. The EU and Moldova stressed the importance of resilience against any potential efforts by third parties to use energy as a geopolitical lever. The Association Council recalled the importance of continued energy market reform to strengthen competition and transparency in this sector. The EU has urged Moldova to ensure that the energy sector reform demonstrates full respect of the Energy Community *acquis* and is in line with the EU Third Energy Package. The EU side confirmed its support to the objective of Moldova to synchronize its electricity network with the Continental European Network (CEN), an important step towards the integration into the EU energy system and market.

Under these circumstances, the Government of Moldova will be assisted to tackle the current energy crisis and energy poverty, and addressing prioritized systemic elements in the energy sector to cope with potential future energy crisis. In partnership with EU, UNDP Moldova will therefore, support the Government of Moldova:

- To tackle the current energy crisis and energy poverty, and addressing prioritized systemic elements in the energy sector to cope with potential future energy crisis

- To build its capacities towards strengthening the national energy security, as well as in improving the legal and regulatory framework and operationalizing specific rapid large-scale interventions to tackle energy poverty and support most vulnerable and affected groups of population and businesses.

Moldova is Part to Energy Community Treaty since 2010. By adopting the Energy Community Treaty, Moldova made legally binding commitments to adopt core EU energy legislation, the so-called "acquis communautaire". The Treaty and its acquis evolve constantly to incorporate new sectors as well as update or replace older acts. To stay on track with the evolution of European Union law, Articles 24 and 25 of the Treaty allow the adaptation of the acquis and implementing of possible amendments. Thus, in November 2021, the first set of **Clean energy package acts** were incorporated into the Energy Community acquis.

On 18 November 2015, the European Commission adopted a Communication stating that integrated national energy and climate plans, addressing all five key dimensions of the energy union, are crucial tools for the implementation of the Energy Union Strategy and for the development of more strategic energy and climate policy planning.

In November 2018, the Energy Community Ministerial Council adopted the Recommendation 2018/01/EnC-MC, recognizing, that the development of integrated national energy and climate plans by the Contracting Parties would support the attainment of the long-term energy and climate policy objectives, reduce the administrative burden and enhance transparency while promoting investor certainty in the region.

The adoption of Governance Regulation 2018/1999 on 30 November 2021 marked the next step. Adopted and adapted by Decision 2021/14/MC-EnC, the Regulation sets common rules for planning, reporting and monitoring on energy and climate policies and targets. In particular, the Contracting Parties will be required to submit National Energy and Climate Plans (NECPs).

Climate policy and legislation framework consist of:

- Governmental Decision #1277/2018<sup>1</sup> 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. GD 1277/2018 has been recently reviewed based on the Enhanced Transparency Framework. Additionally, there were introduced in the national legislation the New Global Warming Potential established by the Delegated Regulation (EU) 2020/1044 with regard to values for global warming potentials and the inventory guidelines and with regard to the Union inventory system. The respective amendments to the GD 1277/2018 have been approved by the Government in November 2021.

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<sup>1</sup> [https://www.legis.md/cautare/getResults?doc\\_id=112485&lang=ro](https://www.legis.md/cautare/getResults?doc_id=112485&lang=ro)

- Low emission development Strategy by 2030 and its Action Plan<sup>2</sup>, that was developed to plan the achievement at the national level of the Moldova's INDC<sup>3</sup> targets. The Strategy plans the low emission development for the following sectors: energy, transport, building, industry, agriculture, forestry and waste. The Strategy was updated based on the new GHG emission reduction targets established by updated NDC<sup>4</sup> of Moldova and is under promotion for adoption by Government.
- Installation level MRV that transpose into national legislation the certain provisions of Directive 2003/87/ EC establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC<sup>5</sup>(ETS Directive).
- f-gases draft law, that transpose partially the Regulation (EU) No 517/2014<sup>6</sup> on fluorinated greenhouse gases. The draft law is under promotion for adoption.
- GD 1116/2002<sup>7</sup> on storage and wholesale marketing, through an automated system, of petroleum products transposed certain provisions of the Directive 98/70/EC<sup>8</sup> relating to the quality of petrol and diesel fuels.
- Climate law, which's concept currently is under designing.

### **3. SCOPE OF THE WORK, DUTIES AND RESPONSIBILITIES**

The objective of the assignment is to provide support to the Government of Moldova in establishing the energy and climate related policy planning legislative framework by transposing into national legislation the Energy Governance Regulation 2018/1999.

Being supervised by Programme Manager and/or Team Leader for Component 1, and in close cooperation with international consultant, national RIA consultant and the staff of the Energy Department of the Ministry of Infrastructure and Regional Development (MoIRD), the national legal consultant is expected to perform the following tasks:

1. To support international consultant to conduct a desk review of the national legislation on energy, climate, policy planning framework and other sectors, as well as of available studies, roadmaps, analysis in the area for preparing of an assessment report, analyzing the legal and regulatory contexts that have to be taken into account when designing the energy and climate related policy planning legislative act. The assessment will include also the concept/approach of transposing of the Energy Governance Regulation 2018/1999 into national legislation.

<sup>2</sup> [https://www.legis.md/cautare/getResults?doc\\_id=129232&lang=ro](https://www.legis.md/cautare/getResults?doc_id=129232&lang=ro)

<sup>3</sup>

[https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Republic%20of%20Moldova%20First/INDC\\_Republic\\_of\\_Moldova\\_25.09.2015.pdf](https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Republic%20of%20Moldova%20First/INDC_Republic_of_Moldova_25.09.2015.pdf)

<sup>4</sup>

[https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Republic%20of%20Moldova%20First/MD\\_Update\\_d\\_NDC\\_final\\_version\\_EN.pdf](https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Republic%20of%20Moldova%20First/MD_Update_d_NDC_final_version_EN.pdf)

<sup>5</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02003L0087-20200101>

<sup>6</sup> <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32014R0517>

<sup>7</sup> [https://www.legis.md/cautare/getResults?doc\\_id=113761&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=113761&lang=ro#)

<sup>8</sup> <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A31998L0070>

2. To contribute to the consultation of the concept/approach of transposing of the Energy Governance Regulation 2018/1999 into national legislation with (but not limited to) Ministry of Infrastructure and Regional Development, Ministry of Environment, State Chancellery and Energy Community Secretariat;

3. Based on the concept developed by international consultant, to develop draft legal act that transpose into national legislation the Energy Governance Regulation and its related package required for Governmental consideration and approval (informative note and table of concordance).

4. To conduct public consultation of the draft legal act that transpose Energy Governance Regulation 2018/1999 into national legislation.

5. To provide support/consultancy during the promotion for adoption by the Government of the draft legal act that transpose Energy Governance Regulation 2018/1999 into national legislation.

#### 4. EXPECTED DELIVERABLES AND TENTATIVE 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
<b>Deliverable 1:</b> A detailed Work Plan and Implementation Schedule (up to 1 working day).	By 10 July 2022
<b>Deliverable 2:</b> A report on the support provided to the international consultant to conduct the desk review and develop the concept/approach of transposing of the Energy Governance Regulation 2018/1999 into national legislation (as per task #1 above) (up to 10 working days).	By mid-July 2022
<b>Deliverable 3:</b> To contribute to organization and conduct of the event for consulting with relevant stakeholders the concept/approach of transposing of the Energy Governance Regulation 2018/1999 into national legislation (as per task #2 above) (up to 2 working days).	By end-July 2022
<b>Deliverable 4:</b> Draft legal act that transpose into national legislation Energy Governance Regulation 2018/1999, including its related package required for Governmental consideration and approval (informative note and table of concordance) (as per task #3 above) (up to 35 working days).	By end-September 2022
<b>Deliverable 5:</b> To conduct public consultation of the draft legal act that transpose Energy Governance Regulation 2018/1999 into national legislation (draft the agenda, event's concept, LoP, presentations, Q&A session) (as per task #4) (up to 3 working days).	By early-October 2022
<b>Deliverable 6:</b> A report on support/consultancy provided during the promotion for adoption by the Government of the draft legal act that transpose Energy Governance Regulation 2018/1999 into national legislation, including table of divergence (as per task #5 above) (up to 14 working days).	By mid December 2022

**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 July– December 2022.

The national legal consultant will be given access to relevant information and data necessary for execution of the tasks under this assignment. The national legal consultant will work in close collaboration with the FPI Programme Manager and Team Leader for Component 1 - for substantive aspects of the assignment, and with International and national RIA consultants. The national legal consultant will also closely cooperate with the Energy Department of the MoIRD from the beginning of the assignment in order to ensure that the draft reflects their concerns, expertise and comments. The UNDP will provide the administrative and logistical support in organization the consultations.

## **6. FINANCIAL ARRANGEMENTS**

The contract assignment will be for a fixed all-inclusive amount. Payments will be provided in three instalments. The first disbursement will account for 30% of the contract amount, upon the presentation of the deliverables 1-3, i.e. by end-July 2022. The second disbursement will account for 40% of the contract amount upon the presentation of the deliverables 4-5, i.e. by mid-October 2022. The last disbursement will be issued upon submission and approval of deliverables 6, and certification by the FPI Programme Manager that the services have been satisfactorily performed, i.e. by end-December 2022.

## **7. SKILLS AND EXPERIENCE REQUIRED**

### **I.Education:**

- Advanced degree (Master or Ph.D.) in Law, energy, climate change, environment management or other related fields 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 energy and/or climate related acquis.
- At least 5 years of working experience in the institutional consultancy and law-making.

### **III.Competencies:**

- Excellent knowledge of the EU energy and climate related acquis, including the Energy Governance Regulation 2018/1999, demonstrated by previous assignments;
- Excellent knowledge of the national legislative process (drafting and promotion for adoption)
- Familiarity with RM-EU Association Agreement, Energy Community Treaty and other international and regional commitments of Moldova;
- Strong analytical and report-writing skills demonstrated by previous assignments;
- Strong interpersonal and communication skills, ability to work with Government representatives, 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. Knowledge of Russian would be an asset.

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 UNDP CONFIRMING INTEREST AND AVAILABILITY FOR THE INDIVIDUAL CONTRACTOR \(IC\) ASSIGNMENT](#)
3. CV with at least three names for a reference check.