

TERMS OF REFERENCE

Job title:	National legal consultant to develop the Regulation on conditions of individual disconnection from/reconnection to the Centralized Thermal Energy Supply System and its ex-ante assessment (emergency support)
Duty station:	Chisinau, Republic of Moldova
Reference to the:	Programme “Addressing the impacts of energy crisis and initiating solutions toward energy security and addressing energy poverty” (FPI Programme)
Payment arrangements:	Lump sum contract (payments linked to satisfactory performance and delivery of outputs)
Contract type:	Individual Contract (IC)
Contract Duration:	July - September 2022 (up to 31 working days)

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, efficacy 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.

Regulation on way of providing and paying the housing services, communal and non-communal services for housing, metering of apartments and conditions for disconnection from/reconnection to heating systems and water supply (GD nr. 191/2002¹), Annex 7, established the conditions for individual disconnection from/reconnection to heating system. Pts. 8 - 8⁴ and 8⁶ establish the amount to be paid (considering different scenarios) for heating services by consumers that were disconnected from heating system. Particularly, it referred to the obligation of consumers to pay a predetermined percentage (5-10%) in case of complete disconnection made of the apartment from the district heating

On 3rd March 2022, Constitutional Court (CC) of the Republic of Moldova adopted the Decision 4². By this Decision, pts. 8 - 8⁴ and 8⁶ of Annex 7 of the Regulation mentioned above were declared unconstitutional. The Court also found that the immediate application of this judgment would allow for an unbalanced distribution of payments, including for common areas, in cases of full or partial disconnection from the district heating. For this reason, in order to avoid the consequences, the Court considered it necessary to apply its judgment starting with 1st May 2022.

In this regard, the Court requested the Government to regulate a mechanism for the payment of heating services in the case of apartments disconnected from the district heating in accordance with the reasoning of the Constitutional Court Decision nr. 4 as of 3 March 2022.

Considering this Court's request, Ministry had created a working group, approved through the Ministry's Order no. 84 of May 26, 2022, which is responsible for drafting the Methodology for the distribution of volumes and the cost of thermal energy delivered between consumers of a residential block, as well as the draft Regulation on the conditions of individual disconnection / reconnection from / to the heating system. The working group consists of representatives from Ministry of Infrastructure and Regional Development, National Regulator, Public Property Agency, Energy Efficiency Agency, CHPs, Technical University of Moldova and Institute of Power Engineering.

Working Group decided the need of development of the following documents that will support the process of reviewing the regulatory framework related to the distribution of volumes and the cost of thermal energy delivered between consumers of a residential block:

1. the Study on the distribution of thermal energy consumption in residential blocks in which some of the apartments are disconnected from the Centralized Thermal Energy Supply System (CTESS);
2. the Methodology of distribution of the volume and cost of thermal energy among the consumers of a residential block;

¹ https://www.legis.md/cautare/getResults?doc_id=130553&lang=ro#

² <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=800&l=ro>

3. draft normative act/draft Regulation on conditions of individual disconnection from/reconnection to the Centralized Thermal Energy Supply System and its ex-ante assessment.

The purpose of the Study is to determine the distribution of heat consumption in residential buildings where some of the apartments are disconnected from CTESS, based on the technical and economic consequences of disconnection and the impact on consumers connected to CTESS.

The purpose of the Methodology is to identify the calculation formulas based on which the thermal energy bill for the apartments disconnected from CTESS subsequently will be determined and considering determining factors identified during the elaboration of the Study. The Methodology must contain simple, concise, easy-to-understand and easily applicable calculation formulas for all stakeholders.

The purpose of the draft normative act/draft Regulation on conditions of individual disconnection from/reconnection to the Centralized Thermal Energy Supply System and its ex-ante assessment consists in establishing the legislative and regulatory framework for the conditions of individual disconnection from/reconnection to CTESS, including the order of the individual disconnection/reconnection procedure, payment for thermal energy in case of disconnected apartments from CTESS based on the conclusions and findings of the above mentioned Methodology and Study.

Considering this, UNDP Moldova is looking to hire national legal consultant to support MoIRD to develop and promote the draft Regulation on conditions of individual disconnection from/reconnection to the Centralized Thermal Energy Supply System and its ex-ante assessment, in accordance with the reasoning of the Constitutional Court Decision nr. 4 as of 3 March 2022.

3. SCOPE OF THE WORK, DUTIES AND RESPONSIBILITIES

The objective of the assignment is to provide support to the Government of Moldova/MoIRD to regulate a mechanism for the payment of heating services in the case of apartments disconnected from the district heating in accordance with the reasoning of the Constitutional Court Decision nr. 4 as of 3 March 2022, by drafting and support the promotion for adoption of the Regulation on conditions of individual disconnection from/reconnection to the Centralized Thermal Energy Supply System and conducting its ex-ante assessment.

Being supervised by Programme Manager and/or Team Leader for Component 1, and in close cooperation with the staff of the Energy Department of the MoIRD, as well as the Working Group established through the Ministry's Order no. 84 of May 26, 2022 (WG), the national legal consultant is expected to perform the following tasks:

1. To develop the draft Regulation on conditions of individual disconnection from/reconnection to the Centralized Thermal Energy Supply System and its ex-ante

assessment, in accordance with the reasoning of the Constitutional Court Decision nr. 4 as of 3 March 2022.

2. To develop the ex-ante assessment of the draft Regulation.
3. To support MoIRD with the promotion for adoption of the draft Regulation.

Note: For the current assignment, national legal consultant will work in close collaboration with national consultants that develop the Study on the distribution of thermal energy consumption in residential blocks in which some of the apartments are disconnected from the Centralized Thermal Energy Supply System (CTESS) and the Methodology of distribution of the volume and cost of thermal energy among the consumers of a residential block. The activity is undertaking in a parallel assignment. The national legal consultant will use inputs from Study and Methodology to draft the Regulation and ex-ante assessment.

4. EXPECTED DELIVERABLES AND TENTATIVE TIMEFRAME

The assignment will require the completion of the following tasks:

Key Deliverables and the Anticipated Workload	Tentative Timetable/Deadline
Deliverable 1: A detailed Work Plan and the Implementation Schedule (1 working day).	By 20 July 2022
Deliverable 2: The draft Regulation on conditions of individual disconnection from/reconnection to the Centralized Thermal Energy Supply System and its ex-ante assessment, in accordance with the reasoning of the Constitutional Court Decision nr. 4 as of 3 March 2022 (20 working days) and draft ex-ante assessment.	By 22 August 2022
Deliverable 3: Consultation of the draft Regulation and ex-ante assessment with MoIRD and WG and their updated version based on the received comments (5 working days)	By 31 August 2022
Deliverable 4: A report on support provided to MoIRD for promotion for adoption of the Regulation (including the informative note, table of divergence, minutes of the meetings) (up to 5 working days)	By 30 September 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 – September 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 consultant will work in close collaboration with the FPI Programme Manager and Team Leader for Component 1 - for substantive aspects of the assignment, as well as with national consultants hired within a connected assignment. The national legal consultant will also closely cooperate with the Energy Department of the MoIRD and WG established through the Ministry's Order no. 84 of May 26,

2022 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

Payments will be disbursed in several instalments, upon submission and approval of deliverables, and certification by UNDP Moldova Programme Specialist/Cluster Lead that the services have been satisfactorily performed.

7. SKILLS AND EXPERIENCE REQUIRED

I.Education:

- Advanced degree (Master or equivalent, or Ph.D.) in law, energy, engineering or other related fields is required.

II.Experience:

- At least 4 years of proven professional experience in legal acts drafting;
- At least 3 years of relevant professional experience of engagement with a large variety of stakeholders (central public authorities, academia, CSO, private sector, etc.);
- Experience with proven records in the preparation of analyses of the impact assessment (RIA, ex-ante, or related) of legal acts, policies;
- Experience with proven records regarding the regulatory framework on the conditions of connection to/disconnection from the Central Heating System;
- Previous experience in development assistance or related work for a donor organization, development partners, UN Agencies.

III.Competencies:

- Excellent facilitation, public presentation and diplomatic skills;
- Ability to achieve results and deadlines in a timely manner, maintaining a high standard throughout;
- Proven commitment to the core values of the United Nations respecting differences of culture, gender, religion, ethnicity, nationality, language, age, HIV status, disability, and sexual orientation, or other status;
- Computer proficiency, including knowledge of MS Office products (Word, Power Point) and electronic communication platforms such as Microsoft Teams, ZOOM, Google meet;
- Ability to work with Government representatives, demonstrated by previous assignments;
- Fluency in written and spoken Romanian is required for this assignment. Good level of English and Russian will be an advantage.

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, considering the Constitutional Court Decision nr. 4 as of 3 March 2022 and its effects.
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.

Important notice: The applicants who have the statute of Government Official / Public Servant prior to appointment will be asked to submit the following documentation: a no-objection letter in respect of the applicant received from the Government, and the applicant is certified in writing by the Government to be on official leave without pay for the entire duration of the Individual Contract. A retired government official is not considered in this case a government official, and as such, may be contracted