

TERMS OF REFERENCE

Job title:	National legal consultant to support to the Government of Moldova to transpose into national legislation the Regulation 2019/941 on risk-preparedness in the electricity sector (emerging support)
Duty station:	home based
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:	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.

Moldova consumes around 4 million tonnes of oil equivalent (Mtoe) of energy per year (4.1 Mtoe in 2018). Around 20% of its energy demand is covered by domestic production, consisting almost fully of solid biomass; total domestic energy production was 0.82 Mtoe in 2018, of which 0.79 Mtoe solid biofuels. All natural gas consumption (2.1 Mtoe, or 2.9 billion cubic meters in 2014) is met through imports, mainly from Russia via Ukraine. In August 2014 the Iasi-Ungheni gas interconnector between Romania and Moldova was commissioned and became operational in 2015. Once at full capacity in 2020, the pipeline is expected to supply almost all the gas Moldova consumes, but not that of the Transnistria region. Most coal consumed must be imported as well (0.09 Mtoe in 2018).

Natural gas accounts for more than half of Moldova's total primary energy supply (53% in 2018), oil roughly a quarter (23% in 2018) and solid biomass one-fifth (19% in 2018). Most natural gas is used for electricity and heat generation, whereas oil is the most important energy source for final consumers. Residential sector is the largest energy consuming sector (around 1.4 Mtoe in 2018), solid biofuels covering over 50% of the sectoral consumption. Moldova's dependence on Russian energy is underscored by a more than \$6 billion debt to Russian natural gas supplier Gazprom, largely the result of unreimbursed natural gas consumption in the breakaway region of Transnistria.

Because the country lacks energy resources, it is almost wholly dependent on electricity imports. Only 6% of electricity generation comes from renewable sources (hydro, wind, solar PV). Moldova's electricity sector is characterized by dependence on one source, a thermal power plant in the Transnistria region, while still not being interconnected with its Western neighbour Romania. Development of the interconnection project is slow. Asynchronous interconnection (through back-to-back stations) is expected to be completed by 2024.

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. Ministerial Council adopted the Decision on amending Annex I to the Treaty establishing the Energy Community and incorporating Regulation 2019/941 on risk-preparedness in the electricity sector¹, that lays down rules for cooperation between Contracting Parties with a view to preventing,

¹ <https://www.energy-community.org/legal/acquis.html>

preparing for and managing electricity crises in a spirit of solidarity and transparency and in full regard for the requirements of a competitive internal market for electricity.

According to Regulation 2019/941 each Contracting Parties to the Energy Community Treaty shall ensure that all relevant risks relating to security of electricity supply are assessed in accordance with the rules laid down in this Regulation and in Regulation (EC) 714/2009 as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC of 6 October 2011.

The Methodology to Identify Regional Electricity Crisis Scenarios² in accordance with Article 5 of the Regulation 2019/941 has been prepared by ENTSO-E and provides the process for identification of the most relevant electricity crisis scenarios at regional level. Subsequently, ENTSO-E shall use the methodology to identify the most relevant electricity crisis scenarios at regional level and update at least every four years as required by Article 6 of the Regulation 2019/941. The national competent authorities shall thereafter rely on the methodology and regional scenarios, in the identification of electricity crisis scenarios at national level as required by Article 7 of the Regulation 2019/941.

Title 2, Art. 7 of the Methodology establishes that national crisis scenarios (the national crisis scenarios are for the purposes of identifying regional crisis scenarios, not for satisfying the requirements of Article 7 of Regulation 2019/941) which are candidates for regional crisis scenarios shall be determined by TSOs in close cooperation with the national competent authority. The Methodology provides the template for crisis scenario description (Appendix III.1 Description of national electricity crisis scenarios).

ENTSO-E collects national electricity crisis scenarios (developed based on the Methodology to Identify Regional Electricity Crisis Scenarios) as input to regional electricity crisis scenarios.

Consequently, national competent authorities will use the regional crisis scenarios for establishing risk preparedness plans as required by Article 10 of the Regulation 2019/941.

In 2019, Government of Moldova has adopted the Regulation on exceptional situations in the energy market and the Action Plan for Situations exceptional effects on the electricity market (GD nr. 149/2019)³ that has the aim to create the necessary legal framework to ensure the security of electricity supply by organizing the normal and continuous operation of the electricity market and by taking measures to prevent limitation and / or disruption supply of consumers with electricity or its restoration within the shortest possible time in case of exceptional situations on the electricity market.

In this context, UNDP Moldova is seeking to hire an national legal consultant that will support MoIRD and TSOs in transposing the Regulation 2019/941, establishing/updating the national crisis scenarios and developing the Risk Preparedness Plan.

3. SCOPE OF THE WORK, DUTIES AND RESPONSIBILITIES

² https://consultations.entsoe.eu/system-operations/risk-preparedness-regulation-methodology-for-ident/supporting_documents/Methodology%20for%20Identification%20of%20Regional%20Electricity%20Crisis%20Scenarios.pdf

³ https://www.legis.md/cautare/getResults?doc_id=113272&lang=ro

The general objective of the assignment is to support Ministry of Infrastructure and Regional Development (MoIRD) to advance preparedness and reaction measures for emergencies on the electricity market. More specifically, national legal consultant is expected to develop the draft normative act that transposes into national legislation the Regulation 2019/941 on risk-preparedness in the electricity sector.

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

1. To conduct a desk review of the legislation in place on risk preparedness in electricity sector and to identify and propose the scenario for transposition of the Regulation 2019/941 into national legislation (e.g., amending the current legislation, develop new legislative framework, etc.);
2. Provide informative support to the international consultant for designing the draft risk-preparedness plan in line with requirements of Chapter III of Regulation 2019/941;
3. Based on the agreed scenario for transposition, develop the normative act that transposes into national legislation the Regulation 2019/941, including the package needed for its promotion for adoption (e.g., informative note, concordance table). The draft normative act needs to integrate the risk-preparedness plan.
4. Conduct consultation of the draft normative act with stakeholders.
5. Update the draft normative act base on the consultations results and support MIRD with promotion of the draft for adoption by the Government.

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
Deliverable 1: A detailed Work Plan and Implementation Schedule (up to 1 working day).	By end-July 2022
Deliverable 2: A Report containing the proposed and coordinated scenario for transposition of the Regulation 2019/941, as per task #1 above (up to 8 working days).	By mid-August 2022
Deliverable 3: A report on support provided to the international consultant for designing the draft risk-preparedness plan in line with requirements of Chapter III of Regulation 2019/941 as per task #2 above (up to 12 working days)	By mid-September
Deliverable 4: Draft normative act that transposes the Regulation 2019/941 into national legislation and that integrate the risk-preparedness plan, including the package requested for its promotion for adoption by Government (e.g. informative note, table of concordance) as per task #3 above (up to 30 working days).	By end-October 2022

Deliverable 5: Consultation of the draft normative act conducted (letter of invitation, agenda, LoP, presentation, minutes of the meeting) as per task #4 above (up to 4 working days)	By early-November 2022
Deliverable 5: A report on the support provided to MIRD for the promotion of the draft normative act that will include the table of divergences and the final version of the draft normative act, as per task #5 above (up to 10 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 RIA consultants. The national legal consultant will also closely cooperate with the Energy Department of the MoIRD and TSO 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 of all required consultations and meetings.

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 20% of the contract amount, upon the presentation of the deliverables 1&2, i.e., by end-August 2022. The second disbursement will account 40% of the contract amount upon presentation of the deliverable 3&4, i.e. by end-October 2022. The last disbursement will be issued upon submission and approval of deliverables 5&6, and certification by the FPI Programme Manager that the services have been satisfactorily performed, i.e. by mid-December 2022.

7. SKILLS AND EXPERIENCE REQUIRED

I. Education:

- Advanced degree (Master/equivalent or Ph.D.) in Law, energy, climate change, environment management or other related fields is required.

II. Experience:

- At least 4 years of proven professional experience in legal acts drafting and transposition in the national legislation of the EU energy related acquis;
- At least 4 years of working experience in the institutional consultancy.

III. Competencies:

- Good knowledge of the national and European legislation on risk-preparedness in the electricity sector;
- 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;

- Familiarity with Moldova TSO responsibilities and activity with regards risk-preparedness in electricity sector;
- 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.