

TERMS OF REFERENCE

Job title:	National legal consultant to support the Government of Moldova to transpose into national legislation Regulation 2017/1938 of 25 October 2017 concerning measures to safeguard the security of gas supply (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 August 2022 – March 2023

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 the 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. Moldova was granted candidate status for the EU in June 2022. As a follow-up, Moldova is required to ensure the transposition of the EU *acquis Communautaire*, which underpins the EU energy legislation on

electricity, gas, oil, renewables, efficacy, and the environment. The country fully synchronized its electricity network with the ENTSO-E and is connected with the 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. The pipeline became operational in autumn 2021 but it is still rather empty and unused. 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.

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 big dependence on one source, a thermal power plant in the Transnistria region. Development of the interconnection project that will improve the management of flows with neighboring Romania is slow. Interconnection through back-to-back station is expected to be completed by 2024.

In accordance with the existing strategic planning documents, one of the 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 a significant crisis in the gas sector, which outlined the need to undertake more actions towards improving the 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 the 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 for the Energy Community acquis and is in line with the EU Third Energy Package. The EU side supported Moldova to synchronize its electricity network with the Continental European

Network (CEN), which happened in February 2022, an important step toward 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 the 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 address prioritized systemic elements in the energy sector to cope with the 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 the most vulnerable and affected groups of population and businesses.

Moldova is a Party to the 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 implementation of possible amendments. Thus, in November 2021, the first set of Clean energy package acts was 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 2017/1938 of 25 October 2017 concerning measures to safeguard the security of gas supply¹, that lays down rules for cooperation between Contracting Parties with a view to preventing, mitigating and managing gas crises in full regard for the requirements of a competitive single market for gas.

According to Regulation 2017/1938 each Contracting Parties to the Energy Community Treaty shall ensure that the necessary measures are taken so that in the event of a disruption of the single largest gas infrastructure, the technical capacity of the remaining infrastructure is able to satisfy total gas demand of the calculated area during a day of exceptionally high gas demand occurring with a statistical probability of once in 20 years.

Regulation 2017/1938 establishes that the competent authority of each Contracting Party shall conduct a national risk assessment of all relevant risks affecting the security of gas supply. The national risk assessment is prepared in accordance with the relevant template set out in Annex V of the Regulation 2017/1938.

The competent authority of each Contracting Party shall establish:

- a preventive action plan containing the measures needed to remove or mitigate the risks identified, including the effects of energy efficiency and demand-side measures in the national risk assessments;
- an emergency plan containing the measures to be taken to remove or mitigate the impact of a disruption of gas supply.

The content of both plans is established by Regulation 2017/1938. For development of the risk assessment and preventive&emergency Plans, UNDP is hiring an international expert.

National legal framework that regulates the security of gas supply consists, inter alia, of:

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

- Law 108/2016 on natural gas², as amended in 2022, Chapter XV and
- Regulation on exceptional situations on the natural gas market and the Action Plan for exceptional situations on the natural gas market (GD nr. 207/2019)³.

Regulation on exceptional situations on the natural gas market and the Action Plan for exceptional situations on the natural gas market transposes into national legislation numerous elements of Regulation 994/2010 and aims at creating the legal framework necessary to increase the security of natural gas supply by ensuring the correct and continuous operation of the natural gas market and by establishing exceptional measures to be applied in the event that the necessary quantities of natural gas can no longer be taken from the natural gas market and which are to be undertaken in the public interest in order not to affect the competitiveness of natural gas in relation to other types of fuels.

According to the last amendments to the Law 108/2016 on natural gas, which were adopted on 29 July 2022, the new obligation of suppliers to create natural gas stocks in a neighboring country was introduced in the legislation. The Energy Community aims at transposing the latest EU regulation on storage targets and its certification, Regulation (EU) 1032/2022 as a matter of urgency.

In this context, UNDP Moldova is seeking to hire a national legal consultant that will support Ministry of Infrastructure and Regional Development (MoIRD) in transposing into the national legislation the Regulation 2017/1938 of 25 October 2017 concerning measures to safeguard the security of gas supply.

3. SCOPE OF THE WORK, DUTIES, AND RESPONSIBILITIES

The general objective of the assignment is to support MoIRD to advance preparedness and reaction measures for emergencies in the gas supply market. More specifically, the national legal consultant is expected to develop the draft normative act that transposes into national legislation the Regulation 2017/1938 of 25 October 2017 concerning measures to safeguard the security of gas supply.

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 gas supply sector and to identify and propose the scenario for transposition of the Regulation 2017/1938 into national legislation (e.g., amending the current legislation, develop new legislative framework, etc.);
2. Provide informative support to the international consultant for conducting the draft national risk assessment and developing preventive and emergency plans in line with requirements of Regulation 2017/1938.
3. Based on the agreed scenario for transposition, develop the normative act that transposes into national legislation the Regulation 2017/1938, including the package needed for its promotion for adoption (e.g., informative note, concordance table). The draft normative act needs to integrate the preventive and emergency plans.
4. Conduct consultation of the draft normative act with stakeholders.
5. Update the draft normative act base on the consultations results and support MoIRD with promotion of the draft for adoption by the Government.

² https://www.legis.md/cautare/getResults?doc_id=132228&lang=ro#

³ https://www.legis.md/cautare/getResults?doc_id=113991&lang=ro

4. EXPECTED DELIVERABLES AND TENTATIVE TIMEFRAME

The national legal consultant is expected to deliver the following outputs as 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 (1 working day).	By end-August 2022
Deliverable 2: A report containing the proposed and coordinated scenario for transposition of the Regulation 2017/1938, as per task #1 above (up to 8 working days).	By end-September 2022
Deliverable 3: A report on support provided to the international consultant for designing the draft national risk assessment, preventive and emergency plans in line with requirements of Regulation 2017/1938 as per task #2 above (up to 12 working days).	By end-November 2022
Deliverable 4: Draft normative act that transposes the Regulation 2017/1938 into national legislation and that integrates the preventive and emergency plans, 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-January 2023
Deliverable 5: Consultation of the draft normative act conducted (letter of invitation, agenda, LoP, presentation, minutes of the meeting, etc.) as per task #4 above (up to 4 working days)	By mid-February 2023
Deliverable 6: 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 end-March 2023

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 August 2022 – March 2023.

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, 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 the 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 several installments. The first disbursement will account for 20% of the contract amount, upon the presentation of deliverables 1&2, i.e., by end-September 2022. The second disbursement will account for 50% of the contract amount upon presentation of deliverables 3&4, i.e. by end-January 2023. 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 end-March 2023.

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 gas 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;
- 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;
- 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 brief information on the 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.

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.