



## TERMS OF REFERENCE

<b>Job title:</b>	A team of 2 (two) national consultants (legal and regulatory impact assessment) to support Moldova in transposition of the Balancing Network Code (emerging support)
<b>Duty station:</b>	home-based
<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>	December 2022 – June 2023 (the estimated amount of work is 51 w.d. for National legal consultant/Position 1, and 36 w.d. for RIA Consultant/Position 2)

### 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, efficiency, and the environment. The country fully synchronized its electricity network with the ENTSO-E and relates to 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 several 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 the 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 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". One of the conclusions of the 23<sup>rd</sup> Energy Community Electricity Forum (June 2018) was that the Forum supports the Energy Community Secretariat's initiative on the implementation of electricity guidelines in the Contracting Parties and underlines the need for a legally binding solution for their application on interconnections between the EU Member States and Contracting Parties. In this context, the Forum highlighted that the reform of the Energy Community Treaty is an indispensable pre-requisite for effective energy market enhancement in the Contracting Parties as well as for their successful integration with neighboring EU markets. It is expected that within the upcoming Energy Community Ministerial Meeting, Regulation 2017/2195 establishing a guideline on electricity balancing will be included in the "acquis communautaire" and become legally binding for Parties to the Treaty, including Moldova.

The Regulation 2017/2195 lays down a detailed guideline on electricity balancing including the establishment of common principles for the procurement and the settlement of frequency containment reserves, frequency restoration reserves, and replacement reserves, and a common methodology for the activation of frequency restoration reserves and replacement reserves. This

Regulation shall apply to transmission system operators ('TSOs'), distribution system operators ('DSOs') including closed distribution systems, regulatory authorities, the Agency for the Cooperation of Energy Regulators, the European Network of Transmission System Operators for Electricity ('ENTSO-E'), third parties to whom responsibilities have been delegated or assigned and other market participants.

The main features of the Electricity Balancing Guideline refer to:

- Pricing for balancing energy that results from the activation of balancing energy bids for FRR and RR.
- Application of the activation optimization function.
- EnC CPs TSOs to use European platforms established in accordance with Regulation 2017/2195.
- EnC CPs TSOs shall apply the activation optimization function established in accordance with Regulation 2017/2195.
- All TSOs shall apply the methodology for the allocation process of CZC.
- All TSOs intentionally exchanging energy within Continental Europe SA shall apply the common TSO-TSO settlement rules for the intended exchanges of energy.
- All TSOs of Continental Europe SA shall apply common settlement rules to all unintended exchanges.
- When monitoring the implementation of Commission Regulation (EU) 2017/2195 in accordance with its Article 59, the ENTSO for Electricity, acting in accordance with Article 3 of Procedural Act No 2022/2/MC-EnC, shall extend this report to include the Contracting Parties, where feasible.
- The Secretariat shall monitor the implementation of this Regulation by the Contracting Parties.

The transposition into national legislation of Regulation (EU) No. 2017/2195, as adapted by the Energy Community, will allow continuing carrying out the reforms initiated in the electricity sector, by adopting secondary legislation and completing the existing normative base, which is essential for the proper functioning of the system, in accordance with the provisions of the 3rd Energy Package, which was transposed into Law no. 107 of 27.05.2016 on electricity.

The national regulatory framework in this area consists, inter alia, of:

- Law no. 107/2016 regarding electricity<sup>1</sup>, which's purpose is to establish a general legal framework for the organization, regulation, ensuring the efficient operation and monitoring of the electric power sector intended to supply consumers with electricity under conditions of accessibility, availability, reliability, continuity, quality, and transparency, ensuring free access to the electricity market. According to art.53 of the Electricity law no. 107/2016, in the context of the obligations assumed by the Republic of Moldova within the Energy Community Treaty, the transmission system operator has the legal obligation to prepare the draft of the act transposing the EU Network codes as adapted by the EnC and send to ANRE for consultation and approval.
- Electrical Network Code<sup>2</sup> (National Agency for Energy Regulation's Decision No. 423/2019),

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<sup>1</sup> [https://www.legis.md/cautare/getResults?doc\\_id=133001&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=133001&lang=ro#)

<sup>2</sup> [https://www.legis.md/cautare/getResults?doc\\_id=129524&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=129524&lang=ro#)

which establishes the regulatory framework for ensuring and managing efficient and transparent access to electricity networks by regulating the procedures for connection, development, and operation of electricity networks, in relation to cross-border flows and operation of electricity networks

- Electricity Market Rules<sup>3</sup> (National Agency for Energy Regulation's Decision No. 283/2020) that establish the principles, rules, and mechanisms related to price formation and commercial relations in the wholesale electricity market between electricity market participants, regulate the terms and conditions for the organization and operation of the electricity market, including the market of bilateral energy contracts electricity, the day-ahead electricity market, the intraday electricity market, the balancing electricity market and the system services market, the rights and obligations of electricity producers, electricity suppliers, distribution system operators, as well as the market operator of electricity, of the transmission system operator regarding the management of the mentioned markets.
- Regulation on connection to electrical networks and provision of electricity transport and distribution services (National Agency for Energy Regulation's Decision No. 168/2019).
- Regulation on the development of electrical distribution networks (National Agency for Energy Regulation's Decision No. 94/2019).
- Other acts.

The institutional framework in this area is consisting of:

- Ministry of Infrastructure and Regional Development, which, according to the Law on Energy, is primarily in charge of energy sector policies and legal framework development, in addition to the energy sector itself (electricity, gas, oil, district heating, etc.).
- The National Agency for Energy Regulation of the Republic of Moldova (ANRE) is an independent public authority that supports the introduction of market mechanisms in the energy sector and regulates the sector while protecting the interests of customers and investors. For the electricity sector, ANRE supervises compliance legislation, promotes and ensures fair competition and efficient operation of energy markets, issues licenses for activities on the energy market, monitors the investment plans of system operators, approves standards and requirements for the transmission system operator (TSO) and distribution system operators (DSOs), and approves regulated tariffs and costs of power system maintenance and planned investments for TSO and DSO.
- SE Moldelectrica is the state-owned single-power TSO of Moldova, which specializes in centralizing the transport services and operative dispatching of the electricity system. SE Moldelectrica manages the internal transmission network in Moldova.

To enter on the electricity market of Moldova, the new market participants first need to benefit from a harmonized regulatory framework and similar rules that exist on the internal market in the EU (rules regarding the balancing of the electricity system). The implementation of guidelines on electricity balancing harmonized with the relevant normative acts of the European Union will ensure that the TSO carries out its activities in accordance with the same processes, requirements, provisions, and principles as the counterparts from the EU countries and Energy Community Contracting parties.

In this context, UNDP Moldova is seeking to hire 2 (two) consultants who will support TSO and National Agency for Energy Regulation in transposing into national legislation Regulation 2017/2195.

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<sup>3</sup> [https://www.legis.md/cautare/getResults?doc\\_id=131508&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=131508&lang=ro#)

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

The general objective of the assignment is to support TSO and National Agency for Energy Regulation to develop the legal act and its regulatory impact assessment in support to the transposition into national legislation framework the Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing.

The Team of consultants, will consist of:

- Position 1 – National legal consultant (NLC),
- Position 2 – Regulatory impact assessment consultant (RIAC).

**Important Note:** *The potential applicants shall clearly indicate the position they are applying for in the Application Letter.*

*The applicants may apply for both positions and this fact shall be clearly indicated in the Application Letter, with the possibility to be selected for 1 (one) position only.*

Being supervised by Programme Manager and/or Team Leader for Component 1, and in close cooperation with international consultant, and the relevant staff of the National Agency for Energy Regulation and TSO, the team of two consultants are expected to perform the following tasks:

#### **Position 1 – National legal consultant:**

1. To support international consultant in developing the draft act that transposes into national legislation Regulation no.2017/2195 on establishing a guideline on electricity balancing as adapted and adopted by the Energy Community. The support will consist of, but not limited to, developing the draft legal act and its supporting documents (e.g. informative note, concordance table, etc.) in line with requirements of the Law 100/2017.
2. Support in conducting the capacity building events for the TSO and ANRE in understanding the requirements and EU practice.
3. To support international expert to draft the internal TSOs' operational procedures as preparation for operation and list of actions needed and requirements for integration into the EU balancing platforms.
4. Provide support to the ANRE by conducting the process of official consultation of the draft legal act/acts (development of the divergence table).
5. Final version of the draft acts developed.

#### **Position 2 – Regulatory impact assessment consultant:**

6. To develop the regulatory impact assessment of the draft legal act/s that transposes the requirements of the Regulation no.2017/2195 into national legislation, in accordance with the Methodology of substantiation the draft normative acts approved through the Governmental Decision No. 23 as of 18.01.2019.
7. To provide support/consultancy during the examination of the RIA by the Working Group of the State Commission for the regulation of entrepreneurial activity.
8. To review the regulatory impact assessment based on the comments of Working Group of the

State Commission for the regulation of entrepreneurial activity.

#### 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	Responsible team members
<b>Deliverable 1:</b> A detailed Work Plan and Implementation Schedule (1working day per each consultant)	By early December 2022	NLC RIAC
<b>Deliverable 2:</b> A report on support provided to international consultant in developing the draft act that transposes into national legislation the Regulation no.2017/2195 on establishing a guideline on electricity balancing as adapted and adopted by the Energy Community, that will include inter alia the draft legal act and its supporting documents (e.g. informative note, concordance table, etc.) in line with requirements of the Law 100/2017 (15 working days).	By mid-February 2023	NLC
<b>Deliverable 3:</b> A report on support provided to the international consultant to organize and deliver 4 capacity building workshops for TSO and NARE, including letter of invitation, agenda, LoP, requested (10 working days)	By end-March 2023	NLC
<b>Deliverable 4:</b> To support international expert to draft the internal TSOs' operational procedures as preparation for operation and list of actions needed and requirements for integration into the EU balancing platforms (5 working days)	By end-April 2023	NLC
<b>Deliverable 5:</b> Provide support to the ANRE by conducting the process of official consultation of the draft legal act/acts (development of the divergence table) (10 working days)	By mid-May 2023	NLC
<b>Deliverable 7:</b> Final version of the developed acts (10 working days)	By mid-June 2023	NLC
<b>Deliverable 8:</b> To develop the regulatory impact assessment of the draft legal act/s that transposes the requirements of the Regulation no.2017/2195 into national legislation, in accordance with the Methodology of substantiation the draft normative acts approved through the Governmental Decision No. 23 as of 18.01.2019 (25 working days)	By early-March 2023	RIAC
<b>Deliverable 9:</b> A report on support/consultancy provided during the examination of the RIA by the Working Group of the State Commission for the regulation of entrepreneurial activity (5 working days)	By early-May 2023	RIAC
<b>Deliverable 10:</b> Final version of the RIA (5 working days)	By mid-May 2023	RIAC

**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 December 2022 – June 2023. The national consultants will be given access to relevant information and data necessary for the execution of the tasks under this assignment. The national consultants will work in close collaboration with the FPI Programme Manager and Team Leader for Component 1 - for substantive aspects of the assignment, and with a national consultant. The national consultants will also closely cooperate with the TSO Moldelectrica and NAER from the beginning of the assignment to ensure that the draft reflects their concerns, expertise, and comments. The UNDP will provide 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 disbursed in several instalments, upon submission and approval of deliverables, and certification by by the FPI Programme Manager that the services have been satisfactorily performed

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

### **Position 1 – National legal consultant**

#### **I. Education:**

- University degree in the law, economics, electrical engineering or other related areas is required.

#### **II. Experience:**

- At least 5 years of proven professional experience in legal acts drafting and promotion and transposition in the national legislation of the EU energy related acquis;
- At least 5 years of working experience in the institutional consultancy and law-making.
- Hands-on experience in electricity-related projects will be a strong advantage.

#### **III. Competencies:**

- Excellent knowledge of the Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing;
- Familiarity with Moldova TSO responsibilities and activity with regards to network balancing
- Familiarity with the 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 and Russian.

## **Position 2 – Regulatory impact assessment consultant**

I.Education:

- University degree in the law, economics, electrical engineering, energy, or other related areas is required.

II.Experience:

- At least 4 years of proven professional experience in drafting impact assessment documents supporting legal acts and regulations, and/or normative acts analysis, and/or economic impacts assessments;
- At least 4 years of working experience in institutional consultancy in energy field;
- Experience of work within UNDP, UNEP, WB and/or EU-funded project or other international organization would be an asset.

III.Competencies:

- Excellent knowledge of the RIA development procedure, as established by the Governmental Decision No. 23 as of 18.01.2019;
- Familiarity with Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing;
- Excellent knowledge of national energy related policy and legal framework;
- Strong analytical and report writing skills demonstrated by previous assignments;
- Strong interpersonal and communication skills, ability to work with public sector, 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 and Russian.

The UNDP Moldova is committed to 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 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.