

## TERMS OF REFERENCE

<b>Job title:</b>	National legal consultant for supporting the development and promote a revised version of Water Law no.272 / 2011
<b>Contract type:</b>	Individual Contract (IC)
<b>Duty station:</b>	Chisinau
<b>Reference to the:</b>	"Supporting the Moldovan authorities in the sustainable management of the Dniester River" Project
<b>Payment arrangements:</b>	Lump sum contract (payments linked to satisfactory performance and delivery of outputs)
<b>Contract Duration:</b>	December 2022 - February 2023, up to 50 working days
<b>Evaluation method:</b>	Interview of shortlisted candidates

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

Sustainable management of water resources in accordance with the principle of integrated water management is a priority for Moldova. For further development of the water policy and improvement of the regulatory framework, the Ministry of Environment (MoE), with the support of its subordinated institutions, is responsible for ensuring an ongoing dialogue with the neighboring countries on the integrated management of transboundary water resources, with the goal to provide for the quality and quantity of water needed for both sustainable socio-economic development of the country and a healthy environment.

In the process of improvement of the national regulatory framework, and harmonization of the environmental legislation with the provisions of European Union (EU) directives, the national environmental protection system faces many constraints, particularly, related to outdated standards, normative acts, capacity of responsible institutions, shortage of qualified staff in the government sectoral institutes, etc.

The importance of integrated management of the Dniester River is indisputable for the Republic of Moldova. It is the largest river in the Republic of Moldova, covering 70% of the country's water consumption needs, thus being considered a strategic surface water resource for both environmental and socio-economic security of the country.

For the joint Moldovan-Ukrainian management of the Dniester River, a topic of major importance for Moldova is the impact of the operation of the Dniester Hydropower Complex (HPC) on the Moldova's territory. In the framework of Project "Study of social and environmental impact assessment of the Dniester Hydropower Complex" funded by Swedish Embassy and

implemented by UNDP in 2018-2021, there was clearly shown its negative impact on the environment downstream.

According to Water Law no. 272/ 2011, the river basin district management plans (RBDMP) are being developed for a 6-year cycle. It shall be mentioned that the Ukrainian side is also concerned with the development of the Dniester River Basin Management Plan (RBMP) for the years 2025-2030. In that sense, important methodological aspects were harmonized between countries' experts and institutions, and a Joint Strategic Action Program had been elaborated with assistance of the GEF funded project. The Strategic Action Program (SAP) is one of the key strategic documents of the Commission on Sustainable Use and Protection of the Dniester River Basin. It is based on the findings of the Transboundary Diagnostic Analysis (TDA) for the Dniester River Basin. Both documents have been developed according to the methodology agreed by the two countries and have been extensively consulted. The documents contribute to the Dniester River basin management planning at the national level, as well as support implementation of international commitments to develop joint plans for the transboundary basins. On March 31, 2021, there was signed a Joint Statement on the approval of the Strategic Action Program for the Dniester River Basin for 2021 between the Ministry of Agriculture, Regional Development and Environment of the Republic of Moldova and the Ministry of Environmental Protection and Natural Resources of Ukraine.

Along with attempts to solve the cross-border aspect of the Dniester River management on the platform of the Dniester Commission, currently, the environmental institutions are in an extensive process of functional analysis aimed at streamlining the structure, functions, and capacities in the field of integrated management of water resources.

The strategy of the project "Support to the Moldovan authorities for the sustainable management of the Dniester River" is to improve environmental and social conditions in the Dniester River Basin District through enhanced management of water resources on the basis of updated regulatory framework, comprehensive and reliable river basin management planning, improved water management institutional capacities and implementation of practical environmental activities that would improve the ecological status of the Dniester River, identified as part of the Dniester Impact Study (2021).

The Project consists of 4 (four) Components and relevant outputs such as follows:

#### **COMPONENT 1. Enhancement of water related regulatory framework**

**Outcome 1.** Better management and protection of water towards prevention deterioration and enhancement status of aquatic ecosystems

Output 1. National water related regulatory framework towards compliance with the EU Water Framework Directive (WFD)–is developed, consulted, and handed over to the relevant state institution for adoption / approval.

#### **COMPONENT 2. Elaboration of 2<sup>nd</sup> Management Plan for the Dniester River Basin District**

**Outcome 2.** Water quality improvements are achieved through a basin wide approach to water management

Output 2. The 2<sup>nd</sup> Management Plan for the Dniester River Basin District is elaborated in accordance with the EU WFD and pertaining national regulatory framework

### **COMPONENT 3 Support provided to the water management authorities in sustainable management of Dniester River resources at national and international levels**

**Outcome 3.** Improved transboundary cooperation on joint management of the Dniester River basin

Output 3. National water authorities are capacitated to participate in the activities of the Commission for the Sustainable Use and Protection of the Dniester River (Dniester Commission)

**Outcome 4.** Better management of the Dniester HPC in view of social and environmental needs downstream

Output 4. Group for negotiating the Agreement on the Functioning of the Dniester HPC is supported by relevant expertise, trainings, negotiating skills

**Outcome 5.** Capacities of the AAM as a key national water management institution enhanced

Output 5. The responsibilities, functions and staff structure of AAM are adjusted to comply with integrated water management needs

### **COMPONENT 4 Implementation of activities to improve current ecological conditions of the Dniester River**

**Outcome 6** Capacity Building for Transboundary Water Quality Monitoring

Output 6: Wide range of hydro-chemical data flow established and permanently received in automatic regime

**Outcome 7** Dniester River Spring Ecological Discharge Optimization Study

Output 7: Effectiveness of environmental releases assessed and objective criteria for making decisions about the optimal timing and hydrographs for spring discharge set

**Outcome 8:** Chemical status of water bodies in the Dniester River Basin

Output 8: Sampling program on Dniester, tributaries, and underground waters conducted and data obtained and analyzed

**Outcome 9** Strengthening of Potential of Central and Local Environmental authorities in fishery policy

Output 9: A study and a road map in establishing adequate legislation and institutions in Fishery sector developed

**Outcome 10** Ecosystem Services' capacity of Lower Dniester River enhanced

Output 10. Lower Dniester oxbow rehabilitation plan developed

Output 11: Practical measures for biodiversity rehabilitation implemented (subgrants)

The Overall Objective of the project is to increase the capacity of the Moldovan Government to sustainably manage the Dniester River basin at the national and transboundary levels, including:

- To ensure that Moldova has a sufficient regulatory framework for sustainable river management based on the basin-wide approach supported by the WFD provisions,
- To provide the Moldova Government with a comprehensive and realistic Management Plan for the Dniester River Basin developed in compliance with the WFD;
- To provide continuous support for the enhancement of capacities of national authorities responsible for water management, as well as the Moldovan representatives under joint Moldovan and Ukrainian bodies tasked with cross-border management of the Dniester River;

- To improve the social, economic, and environmental conditions of the Dniester River.

The project duration is from August 2022 through August 2026.

This consultancy relates to Activity 1 of the project which intends to prepare and promote a revised version of Water Law no. 272/2011.

To prepare and promote the revising of chapter 2 "Definitions" addressing the introduction in the law of some new definitions like surface water bodies compliant with WFD, hydro-morphological alterations, the chemical status of surface and groundwater water bodies, environmental standards, ecological status of water bodies, risk of not achieving of GES for water bodies, the qualitative and quantitative status of groundwater bodies, the ecological potential for strongly modified and artificial water bodies; revising chapter 9 "Administrative authority for water management", chapter 10 "River Basin District Committee", chapter 13 "Monitoring of water resources", chapter 19 "Management Plan for the River Basin District" and others.

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

The objective of the assignment is to provide technical support to the Government of the Republic of Moldova in the development of amendments to Water Law no. 272/2011 in line with the requirements of the Water Framework Directive and the proposals of the water authorities.

Being supervised by the Program Manager and/or Team Leader for Components 1-3, and in close cooperation with the staff of the Integrated Water Resources Management Directorate of the Ministry of Environment (MoE), the national consultant is expected to perform the following tasks:

1. To develop the regulatory impact assessment of the regulatory impact of the draft normative act on the amendment of Water Law no. 272/2011, following the Methodology of analyzing the impact in the process of substantiation of the draft normative acts approved through the Governmental Decision No. 23 as of 18.01.2019.
2. To provide support/consultancy during the review of the RIA by the Working Group of the State Commission for the Regulation of Entrepreneurial Activity.
3. To revise the regulatory impact assessment based on the comments of the Working Group of the State Commission for the Regulation of Entrepreneurial Activity.
4. To initiate the procedure of collecting additional proposals towards Water Law modification from relevant institutions and to take part in the examination/ revision of already and newly submitted proposals, if any.
5. To elaborate on the draft normative act on the amendment of the Water Law no. 272 /2011.

6. To draw up the comparative table, in which the regulations in force and the proposed changes are reflected, for the projects that contain the modification of the normative acts in force (according to letter g) art. 40 of Law 100/2017 on normative acts).
7. To participate in the public consultations in the working meetings of the Ministry of the Environment, the Government, the Parliament for the examination of the draft normative act regarding the amendment of HG Water Law no. 272/2011.
8. To propose updates of the draft normative act on the amendment of the Water Law no. 272 /2011based on opinions and expertise.
9. To prepare the summary table based on the opinions received from the institutions and ministries.
10. To provide support/consultancy during the promotion for adoption by the Government of the draft normative act regarding the amendment of the Water Law no. 272 /2011.

## **11. EXPECTED DELIVERABLES, TENTATIVE TIMEFRAME, AND OTHER ARRANGEMENTS**

The national consultant is expected to deliver the following outputs as per the below-identified timeline and anticipated workload:

<b>No.</b>	<b>Deliverables</b>	<b>Tentative timeframe</b>
<b>1</b>	<b>Deliverable 1:</b> Draft regulatory impact assessment of the draft normative act on the amendment of the Water Law no. 272 /2011 (15 working days)	December 2022
<b>2</b>	<b>Deliverable 2:</b> Participation in the public consultations of the draft normative act regarding the amendment of the Water Law no. 272 /2011 and the presentation of its impact assessment (contributes to the development of the agenda, LoP, event concept, drafting presentation, QA session) (5 working days).	December 2022-January 2023
<b>3</b>	<b>Deliverable 3:</b> A report on the support provided during the examination of the RIA (preliminary and final) by the Working Group of the State Commission for the regulation of entrepreneurial activity, including the updated version of the RIA and proposals to update the draft normative act (5 working days).	January 2023
<b>4</b>	<b>Deliverable 4:</b> Draft normative act on the amendment of the Water Law no. 272 /2011, including the related package required for government consideration and approval (information note and the summary table of proposals and objections, the comparative table) (15 working days)	January 2023
<b>5</b>	<b>Deliverable 5:</b> A report on the support/consultancy provided during the promotion for adoption by the Government and the Parliament of the draft normative act on the amendment of the Water Law no. 272 /2011, including the table of divergences, table of concordance, etc. (10 working days).	February 2023

**Note:** Deliverables and the final timeline can be amended or specified for the purpose of the assignment.

The presented progress reports will describe the concrete activities undertaken by the Consultant to ensure smooth implementation of the project activities, the developed TORs and other required products, capacity building activities, the coordination effort within the team and with the project's stakeholders, and other inputs. The Programme will provide the consultant with working space, access to the Internet, and a printer. Before submission of the deliverables, the consultant will discuss the draft documents with the Parties involved (UNDP, and other stakeholders) so that the final products reflect their comments.

This is a part-time consultancy. The timeframe for the work of the consultant is planned for December 2022 – February 2023.

## **12. MANAGEMENT ARRANGEMENTS**

The Consultant will work under the direct supervision and guidance of the Project Manager/Team Leader and the Environment, Energy, and Climate Change Cluster Lead.

It is expected that the Consultant begins the assignment in December 2022 and completes the assignment in February 2023.

**Performance evaluation:** The Consultant's performance will be evaluated against such criteria as timeliness, responsibility, initiative, communication, accuracy, and quality of the products delivered. This will serve as the basis for deciding regarding the extension of the contract.

**Language of the deliverables:** All deliverables shall be submitted in Romanian and/or English, as communicated prior by the EECC Cluster Lead and/or Project Manager.

**Travel:** All activities under this assignment shall be conducted in accordance with the COVID-19 health safety measures. Except for the on-site missions in the Republic of Moldova, priority shall be given to office-based work and remote collaboration. Travel outside the duty station (Chisinau), will be arranged with the support of the Programme Team.

## **13. QUALIFICATIONS AND SKILLS REQUIRED**

### **Qualifications:**

- An advanced degree (Master's or Ph.D.) in water, law, economics, climate, environment management, policy development, or other relevant fields is required.

### **Experience:**

- At least 5 (five) years of professional working experience in water protection and/or in any other related fields;

- At least 5 (five) years of working experience in drafting law-making and/or transposing into the national legislation the EU water and /or environment-related acquis;
- At least 3 (three) 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 5 (five) years of relevant professional experience in engagement with a large variety of stakeholders in the water sector (public, private, LPAs, central public authorities, etc.).

#### **Competencies:**

- Excellent knowledge of the legislation in the field of water;
- Excellent knowledge of the RIA development procedure, as established by the Governmental Decision No. 23/2019;
- Excellent knowledge of the procedure for drafting normative acts, as established by Law 100/2017 regarding normative acts;
- Strong analytical and report writing skills demonstrated by previous assignments;
- Strong interpersonal and communication skills, ability to work with the private 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. Knowledge of Russian would be an asset.

The United Nations in 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. ***Please specify in CV, in case you belong to the group(s) under-represented in the UN Moldova and/or the area of assignment.***

#### **14. PAYMENT MODALITIES**

The consultant will organize and facilitate the implementation of all activities as described above; his/her payment will be lump sum amount based, disbursed in several installments, upon submission and approval of deliverables and certification by the UNDP Moldova Project Manager that the services have been satisfactorily performed.

#### **15. APPLICATION PROCESS**

Applicants shall submit the following documents:

- ☒ Offeror's Letter confirming Interest and Availability, including financial offer, according to Annex 2;
- ☒ Proposal explaining how the applicant responds to each of the qualification requirements and why he/she is the most suitable for the work;
- ☒ CV, including information about experience in similar assignments.

**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.

**1. ANNEXES TO THE TOR**

Annex 2- Offeror's letter confirming interest and availability, including a financial proposal (template).

Annex 3- Individual Consultant General Terms and Conditions