



## TERMS OF REFERENCE

<b>Job title:</b>	National legal consultant to support Ministry of Energy to develop the regulatory framework on eco-design field
<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>	69 working days during October –January 2024

## 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 by 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 enhance institutional coordination mechanisms to address and avert risks entailed in recent and potential future energy crises;
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 nationwide energy programmes and demonstrate solutions to increase energy affordability in residential and public buildings, targeting specifically the most vulnerable and affected groups of the population.

## 2. BACKGROUND

Energy sector is among the highest priorities of Moldova because of its foreign dependence and lack of traditional energy resources like natural gas, coal and oil. The recent war situation in the region between Russia and Ukraine further aggravated the problem of energy supply security in Moldova. Furthermore,

Moldova is one of the countries in Europe that is suffering energy vulnerability problem which is also deepened due increasing energy prices as a result of recent energy crisis. All these circumstances make efficient use of energy particularly by Moldovan households more important in order to mitigate energy vulnerability problem in the country.

On the other dimension, Moldova is part of the EU's European Neighbourhood Policy (ENP) and in the Eastern Partnership framework, which aims at strengthening individual and regional relationships between the EU and countries in its neighbourhood. 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 *Acquis Communautaire*, which underpins the EU energy legislation on electricity, gas, oil, renewables, energy efficiency and environment. In addition, Moldova also recently obtained the "EU accession country (candidate country)" status which will extend its obligations to harmonise its laws and regulations with those of the EU to ensure full accession to the EU under all negotiation chapters including Free Movement of Goods, Energy, Environment, etc.

As a result, for the purpose of mitigating energy vulnerability and respond current and future potential energy crises and contribute EU accession process, it is extremely important to improve energy efficiency in residential buildings as well as commercial and industrial premises which use household appliances and other energy related products (ErPs). Therefore, it is of utmost importance for the Government of Moldova to accelerate adoption and proper enforcement of EU codesign and energy labelling legislation for energy related products in parallel to implementation of other measures aimed at mitigating energy vulnerability in the country such as compensation scheme and household appliance replacement programme (Vaucher Programme) which are designed and implemented in cooperation with UNDP Moldova.

As an initial step, the EU funded Programme "Addressing the impacts of the energy crisis in the Republic of Moldova" implemented by UNDP Moldova conducted an analysis of current legal framework relating to eco-design requirements for energy related products and identified the needs for further transposition of the EU legal framework in the field.

- **Law no. 139 on energy efficiency** transposes the Energy Efficiency Directive 2012/27/EU amending framework Ecodesign Directive 2009/125/EC and framework Energy Labelling Directive 2010/30/EU. The Law contains several references to the Law no. 44 on Energy Labelling and Law no. 151 on Eco-design and confers some duties and responsibilities on adoption of secondary legislation on energy related products to the Ministry of Energy and regarding implementation also confers duties and responsibilities to Local Public Administrations (LPAs). Annex 4 to the Law, obliged the governmental authorities referred to in Article 15 to purchase energy related products in compliance with the applicable eco-design requirements under their public procurement procedures.
- **Law no. 151 on ecodesign requirements applicable to products with energy impact** transposes "Directive 2009/125/EC establishing a framework for the setting of eco-design requirements for energy-related products" and it contains all provisions of the original Directive for implementation of eco-design requirements for energy related products and guides the government on how to set eco-design requirements and market operators on how to comply with these requirements. The law

also provides necessary institutional framework for implementation of eco-design requirements in Moldova. Article 5 of the Law designates the Ministry of Energy as the responsible authority for developing and publishing the product specific eco-design implementing regulations (secondary legislation).

- **Governmental Decision 750/2016 for the approval of the regulations regarding the requirements in the matter of ecological design applicable to products with energy impact** that approves 18 regulations on eco-design. The screening of these regulations and their compliance with the in force version of the EU framework is presented below.

According to the result of the screening of the eco-design EU and national related legislation, we can conclude that the EU eco-design framework consists of 22 Regulations and covers the following category of products: home appliances, industry appliances and consumer products. Latest version of 8 out of these 22 Regulations are already transposed into national legislation, while 14 of them no. These 14 regulations include the cases when in the old version of the EU regulations is transposed into national legislation. The below table shows the situation.

Product	Regulation transposed into national legislation	EU Regulation in force	Transposition need
Light sources	Regulation (CE) nr. 244/2009	Regulation (EU) 2019/2020	Yes
	Regulation (CE) nr. 245/2009		
	Regulation (EU) nr. 1194/2012		
Electric motors	Regulation (CE) nr. 640/2009	Regulation (EU) 2019/1781	Yes
Water pumps	Regulation (EU) nr. 547/2012	Regulation (EU) nr. 547/2012	No
Household dishwashers	Regulation (EU) nr. 1016/2010	Regulation (EU) 2019/2022	Yes
Household washing machines and washer-dryers	Regulation (EU) nr. 1015/2010	Regulation (EU) 2019/2023	Yes
Household tumble driers	Regulation (EU) nr. 932/2012	Regulation (EU) nr. 932/2012	No
Vacuum cleaners	Regulation (EU) nr. 666/2013	Regulation (EU) nr. 666/2013	No
Air conditioners	Regulation (EU) nr. 206/2012	Regulation (EU) nr. 206/2012	No
Fans driven by motors with an electric input power between 125 W and 500 kW	Regulation (EU) nr. 327/2011	Regulation (EU) nr. 327/2011	No
External power supplies (no-load condition electric power consumption and average active efficiency of external power supplies)	Regulation (CE) nr. 278/2009	Regulation (EU) 2019/1782	Yes

Simple set-top boxes	Regulation (CE) nr. 107/2009	Regulation (CE) nr. 107/2009	No
Circulators (glandless standalone circulators and glandless circulators integrated in products)	Regulation (CE) nr. 641/2009	Regulation (CE) nr. 641/2009	No
Household refrigerating appliances	Regulation (CE) nr. 643/2009	Regulation (EU) 2019/2019	Yes
Electronic displays and television	Regulation (CE) nr. 642/2009	Regulation (EU) 2019/2021	Yes
Space heaters, combination heaters, packages of space heater, temperature control and solar device and packages of combination heater, temperature control and solar device	Regulation (EU) nr. 813/2013	Regulation (EU) 813/2013	No
Domestic ovens and range hoods	Regulation (EU) 66/2014	-	Yes
Local space heaters	Regulation (EU) 2015/1188	-	Yes
	Regulation (EU) 2015/1185 (Solid fuel)	-	Yes
Professional refrigerated storage cabinets	Regulation (EU) 2015/1095	-	Yes
Small, medium and large power transformers	Regulation (EU) 548/2014	-	Yes
Welding equipment	Regulation (EU) 2019/1784	-	Yes
Refrigerating appliances with a direct sales function	Regulation (EU) 2019/2024	-	Yes

Considering this, UNDP Moldova is seeking to hire a national legal consultant that will support Ministry of Energy to elaborate the regulatory framework in eco-design based on the in-force EU eco-design Regulations.

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

The overall objective of the assignment is to support Ministry of Energy to elaborate 14 eco-design Regulations by transposing into the national legislation the in-force version of the EU Regulations.

To reach the proposed objective, the national consultant is expected to perform the following tasks:

1. Considering the requirements of the Law 100/2017 on normative acts, to develop a package of 14 drafts of eco-design related regulations, in line with the screening presented above.

2. To develop the acts required for Governmental consideration and approval of the drafts eco-design Regulations (e.g., informative note and table of concordance).
3. Consult the documents with the beneficiaries and update the documents in accordance with their comments and proposals.

#### 4. EXPECTED DELIVERABLES AND TENTATIVE TIMEFRAME

Expected deliverables and schedules are provided in the table below as follows:

Deliverables	Schedule
<b>Deliverable 1.</b> Activity Plan and Methodology for the assignment submitted and coordinated. (1 working days)	By mid of October 2023
<b>Deliverable 2.</b> The package of 14 draft regulations on eco-design (e.g., informative note), as per task #1 above. (35 working days)	By mid-November 2023
<b>Deliverable 3.</b> Draft informative note and 14 table of concordance for the eco-design transition package. (28 working days)	By mid-December 2023
<b>Deliverable 4.</b> A consultation process with Ministry of Energy conducted via e-mail or as a meeting and the final version of the transposition package. (5 working days)	By end-December 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 October – December 2023.

The consultant will be given access to relevant information and data necessary for the execution of the tasks under this assignment. The national consultant will work in close collaboration with:

- the International Consultant for capacity building on eco-design and energy-labelling, who will develop the RIA for the new draft of regulations;
- FPI Programme Manager and Team Leader for Component 1 - for substantive aspects of the assignment.;
- Energy Efficiency Department of the Ministry of Energy in order to ensure that the draft documents reflect 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 financial proposal shall specify a total **lump sum** amount, and payment terms around specific and measurable (qualitative and quantitative) deliverables (i.e. whether payments fall in installments or upon completion of the entire contract). Payments are based upon output, i.e. upon delivery of the services specified in the TOR. In order to assist the requesting unit in the comparison of financial proposals, the financial proposal will include a breakdown of this lump sum amount (including the daily fee, taxes, and number of anticipated working days) (see Annex 2 of the Offeror's Letter Confirming Interest and availability).

## **Travel**

This assignment is home-based. In the case of unforeseeable travel, payment of travel costs including tickets, lodging and terminal expenses should be agreed upon, between the respective business unit and Individual Consultant, prior to travel and will be reimbursed.

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

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

- University degree in law or other related areas is required.

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

- At least 5 years of proven professional experience in legal acts drafting and transposition in the national legislation of the EU energy and/or climate related acquis.
- At least 5 years of working experience in the institutional consultancy and law-making.

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

- Familiar with the eco-design national and EU legislation;
- Excellent knowledge of the national legislative process (drafting and promotion for adoption);
- Strong analytical and report-writing skills demonstrated by previous assignments;
- Experience in working with UNDP and other donors in legislative drafting;
- Strong interpersonal and communication skills, ability to work with Government representatives, demonstrated by previous assignments.
- Fluency in Romanian is required. Knowledge of English and Russian would be an asset.

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.

## **Documents to Be Included When Submitting the Proposals**

Interested individual consultants must submit the following documents/ information to demonstrate their qualifications:

- Signed and filled-in Offeror's letter to UNDP confirming interest and availability for the individual contractor (IC) assignment, incorporating Financial proposal in Annex 2 (in USD, specifying a total requested amount per working day, including all related costs, e.g. fees, phone

calls etc.). Annex 2 to the Offeror's letter, incorporating the Financial Proposal, shall be filled in mandatorily and includes the detailed breakdown of costs supporting the all inclusive financial proposal;

- Proposal (Motivation Letter): explaining why they are the most suitable for the work including previous experience in similar Projects (please provide brief information on each of the above qualifications, item by item, including information, links/copies of documents for similar assignments);
- CV with at least 3 references.

**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.

## 8. Evaluation

Initially, individual consultants will be short-listed based on the following minimum qualification criteria:

- University degree in law or other related areas is required.
- At least 5 years of proven professional experience in legal acts drafting and transposition in the national legislation of the EU energy and/or climate related acquis.
- At least 5 years of working experience in the institutional consultancy and law-making.

The short-listed individual consultants will be further evaluated based on the following methodology:

### **Cumulative analysis**

The award of the contract shall be made to the individual consultant whose offer has been evaluated and determined as:

- a) responsive/ compliant/ acceptable, and
- b) having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation.

\* Technical Criteria weight – 60% (300 pts);

\* Financial Criteria weight – 40% (200 pts).

Only candidates obtaining a minimum of 210 points would be considered for the Financial Evaluation.

Criteria	Scoring	Maximum Points Obtainable
<b><u>Technical</u></b>		

University degree in law or other related areas is required	University degree – 30 pts, Master’s degree – 35 pts, Ph.D. – 40 pts.	40
At least 5 years of proven professional experience in legal acts drafting and transposition in the national legislation of the EU energy and/or climate related acquis	no – 0 pts, 5 years – 40 pts, each additional year - 5 pts, up to max – 50 pts.	50
At least 5 years of working experience in the institutional consultancy and law-making	no – 0 pts, 5 years – 30 pts, each additional year - 5 pts, up to max – 40 pts.	40
<b>Interview</b> (demonstrated technical knowledge and experience; communication/ interpersonal skills; initiative; creativity/ resourcefulness). <b>Only the first 5 applicants that have accumulated the highest technical score shall be invited to the interview.</b>		
Familiar with the eco-design national and EU legislation	Limited knowledge < 10 pts, satisfactory < 30 pts, extensive < 40 pts	40
Excellent knowledge of the national legislative process (drafting and promotion for adoption)	Limited knowledge < 10 pts, satisfactory < 30 pts, extensive < 40 pts	40
Experience in working with UNDP and other donors in legislative drafting	1 assignment – 20 pts, 10 pts. per each additional assignment, up to maximum 40 pts.	40
Strong analytical and report-writing skills demonstrated by previous assignments	Yes – 10 pts, No – 0 pts.	10
Strong interpersonal and communication skills, ability to work with Government representatives, demonstrated by previous assignments	Yes – 10 pts, No – 0 pts.	10
Fluency in Romanian is required. Knowledge of English and Russian would be an asset	Romanian – 10 pts English and Russian – 10 pts (5 pts per each).	20
Belonging to the group(s) under-represented in the UN Moldova and/or the area of assignment*	No – 0 pts., to one group 5 pts, to 2 or more groups – 5 additional pts. Up to max. 10 pts.	10
<b>Maximum Total Technical Scoring</b>		<b>300</b>

\* Under-represented group in the area of assignment (law enforcement) are women. Under-represented groups in UN Moldova are persons with disabilities, LGBTI, ethnic and linguistic

*minorities, especially ethnic Gagauzians, Bulgarians, Roma, Jews, people of African descent, people living with HIV, religious minorities, especially Muslim women, refugees and other non-citizens.*

<b><u>Financial</u></b>	
Evaluation of submitted financial offers will be done based on the following formula: <b><math>S = F_{min} / F * 200</math></b> <b>S</b> – score received on financial evaluation; <b>F<sub>min</sub></b> – the lowest financial offer out of all the submitted offers qualified over the technical evaluation round; <b>F</b> – financial offer under consideration	<b>200</b>

**Winning candidate**

The winning candidate will be the candidate, who has accumulated the highest aggregated score (technical scoring + financial scoring).