



TERMS OF REFERENCE

Job Title:	Team of 2 experts (<i>technical and legal</i>) to up-grade and finalize the draft Methodology for the identification of ponds and reservoirs for disposal and provide support for its official approval
Duty Station:	Chisinau
Project reference:	Support to the Moldovan authorities for the sustainable management of the Dniester River (Dniester 2 Project)
Contract type:	Individual Contract (IC)
Contract Duration:	60 working days during July 2024 – January 2025

I. BACKGROUND:

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, with the support of its subordinated institutions, is responsible for ensuring an ongoing dialogue with the two neighboring countries on the integrated management of transboundary water resources, with the goal to ensure the quality and quantity of water needed for both sustainable socio-economic development of the country and a healthy environment.

In the process of improving the national regulatory framework, and harmonizing the environmental legislation with the provisions of European Union (EU) legislation, the national environmental protection system faces many constraints, mainly related to outdated standards, normative acts, capacity of responsible institutions, shortage of qualified staff in the government sectoral institutes, etc.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 Republic of Moldova's largest river, 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. At the same time, the Dniester River is Ukraine's second largest river in terms of water discharge.

According to the Republic of Moldova's Water Law 272/2011, river basin district management plans (RBDMP) are being developed for 6-year cycles. The Dniester River Basin Management Plan (RBMP) for 2025-2030 concerns Ukraine as well. For this reason, important methodological aspects were harmonized between the two countries' experts and institutions, and a Joint Strategic Action Program was prepared with assistance of the GEF / UNDP/ OSCE/ UNECE project "Enabling transboundary co-operation and integrated water resources management in the Dniester River Basin". 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

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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, a Joint Statement on the approval of the Strategic Action Program for the Dniester River Basin for 2021 was signed by the representatives of 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 efforts to manage the cross-border issues of the Dniester River management under the framework of the Dniester Commission, currently, the national environmental institutions are engaged in an extensive process of functional analysis aimed at streamlining their structures, 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 an updated regulatory framework, a 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 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:

- 1) To ensure that the Republic of Moldova has a sufficient regulatory framework for sustainable river management based on the basin-wide approach supported by the EU WFD provisions,
- 2) To provide the Moldovan Government with a comprehensive and realistic Management Plan for the Dniester River Basin developed in compliance with the EU WFD,
- 3) 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
- 4) To improve the social, economic, and environmental conditions of the Dniester River.

The project duration is from August 2022 through August 2026.

II. **OBJECTIVE:**

In accordance with Water Law no. 272/2011, water is recognized as a renewable, vulnerable, and limited natural resource, crucial for life and societal functions, pivotal for ecological equilibrium, essential for various industrial processes, a source of energy, and a medium for transportation. It is classified as part of the state's public domain, ensuring the right of both natural and legal entities to its use within legal parameters.

Over the years, numerous reservoirs and ponds have been constructed to address water demands for the populace and to foster economic growth. These reservoirs and ponds serve multiple purposes including irrigation, recreation, aquaculture, livestock watering, and industrial use. However, many of these structures were built before the 1960s without adequate planning, leading to inefficiencies in their utilization.

Under the auspices of the SDC/ADA project project "Strengthening the institutional framework in the field of water resources in the Republic of Moldova" Phase-01 (SDC/ADA project) commissioned by the "Apele

Moldovei" Agency in 2019, an assessment of the technical condition of hydrotechnical constructions was conducted following the field inventory of approximately 60% of existing reservoirs/ponds. The findings reveal that a significant portion of these structures are in an unsatisfactory technical state, posing risks to their continued operation. Namely, out of 2075 inventoried dams in the Dniester River basin district, 638 are in satisfactory condition, 316 are in unsatisfactory condition, 231 partially destroyed and 51 destroyed, which is 40.4%.

Experts warn that the situation could deteriorate further due to the excessively high density of ponds and reservoirs across Moldova, compounded by their uneven distribution within river basins. The lack of proper exploitation of water accumulations and the prolonged exploitation periods increase the risk of overflow.

Consequently, it becomes imperative to identify reservoirs and water ponds at risk and take urgent action to dismantle hydro-technical structures if deemed necessary.

In response, a draft Methodology for the identification of ponds and reservoirs for disposal has been developed under the SDC/ADA project. However, this methodology requires substantial refinement and adjustment to the relevant legislation, including the Water Law No 272/2011 and urban planning regulations, and once finalized the methodology is to be promoted for approval by Government decision.

III. SCOPE OF WORK AND EXPECTED OUTPUTS:

The objective of this assignment is to provide technical support to the Government of the Republic of Moldova in:

1. To up-grade and finalize the draft Methodology for the identification of ponds and reservoirs for disposal and provide support for its official approval.
2. To develop the regulatory impact assessment (RIA) of the draft Methodology for the identification of ponds and reservoirs for disposal and provide support for its official approval.

This assignment is divided into two lots and being supervised by the Project Manager and/or Team Leader for Components 1-3, and in close cooperation with the staff of the Directorate Integrated Water Resources Management Policies of the Ministry of Environment and „Apele Moldovei” Agency will be performed by 2 experts, who will work in close synergy, carrying out the following tasks as follows:

Legal expert

To up-grade and finalize the draft Methodology for the identification of ponds and reservoirs for disposal (Methodology), develop the Regulatory Impact Analysis (RIA) and provide support for its formal approval.

1. Ensure the legal requirements are met during the upgrade of draft Methodology and drafting of the Information Note in accordance with the legislative technique provided for by Law No. 100/2017 on normative acts.
2. Ensure the legal requirements are met during the development of the Regulatory Impact Analysis (RIA) of the draft Methodology in accordance with the Methodology for impact analysis in the process of substantiation of draft regulatory acts approved by Government Decision No. 23/2019.

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3. Provide support in the process of review and revision of the RIA of the draft Methodology within the Working Group (WG) of the State Commission for Regulation of Entrepreneurial Activity (SCREA).
4. Ensure the legal requirements are met during the process of endorsement and public consultation of the draft Methodology.
5. Participate in the working meetings of the Ministry of the Environment and ensure the legal requirements are met during the finalization of the draft Methodology and related package (Information Note, Summary Table) based on the objections, proposals and recommendations received following the endorsement process and public consultations.

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

No.	Deliverables	Tentative timeframe
1	Deliverable 1: Inputs to up-graded draft Methodology, Information Note and Regulatory Impact Analysis (RIA) developed in line with legal requirements.	By end of September 2024 15 w.d.
2	Deliverable 2: Participation in the meeting of the WG SCREA and inputs to revised RIA in accordance with comments provided by the WG SCREA developed in line with legal requirements.	By mid of November 2024 5 w.d.
3	Deliverable 3: Inputs to finalized Methodology and Summary table on objections, proposals and recommendations received during the endorsement process and public consultation, developed in line with legal requirements.	By end of December 2024 10 w.d.

Technical expert

To up-date the draft Methodology for the identification of ponds and reservoirs for disposal (Methodology), provide the information needed to develop the Regulatory Impact Analysis (RIA) of the draft Methodology, and provide support for its formal approval.

1. Up-date the draft Methodology in accordance with Law No. 100/2017 on normative acts in terms of the wording of the content provisions.
2. Submission of the necessary information for the preparation of the Regulatory Impact Analysis (RIA) of the draft Methodology in accordance with the Methodology for the impact analysis in the process of substantiation of draft regulatory acts approved by Government Decision No. 23/2019.
3. Provide support/advice for the RIA review of the draft Methodology based on the comments of the Working Group of the State Commission for Regulation of Entrepreneurial Activity.
4. Provide support/consulting in the endorsement and public consultation process of the draft Methodology.
5. Participation in the working meetings of the Ministry of Environment and in the finalization of the draft Methodology and the related package (Information Note, Summary Table)

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based on the objections, proposals and recommendations received following the endorsement and public consultations.

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

No.	Deliverables	Tentative timeframe
1	Deliverable 1: Inputs to Up-graded draft Methodology, Information Note and Regulatory Impact Analysis (RIA) developed in line with technical requirements.	By mid of September2024 15 w.d.
2	Deliverable 2: Participation in the meeting of the WG SCREA and inputs to revised RIA in accordance with comments provided by the WG SCREA taking into consideration the technical aspects.	By mid of November2024 5 w.d.
3	Deliverable 3: Inputs to finalized Methodology and Summary table on objections, proposals and recommendations received during the endorsement process and public consultation, developed taking into consideration the technical requirements.	By end of December2024 10 w.d.

IV. FINANCIAL ARRANGEMENTS:

Payments will be disbursed in several instalments, upon submission and approval of deliverables, and certification by UNDP Moldova Programme Specialist/Cluster Lead that the services have been satisfactorily performed.

V. CONFIDENTIALITY

Materials provided to the Consultant and all proceedings within the consultancy contract shall be regarded as confidential, both during and after the consultancy. Violation of confidentiality requirements may result in immediate termination of the contract.

VI. QUALIFICATIONS AND SKILLS REQUIRED:

Legal Expert

Academic Qualifications:

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

Experience:

- At least 5 years of proven professional experience in water management, environmental project implementation, environmental/water law enforcement or other relevant areas;
- At least 3 years of experience working in the field of water lawmaking and regulatory impact assessment;
- Experience in working within UNDP, UNEP, WB, and/or EU-funded projects or other international organizations would be an asset.

Competencies:

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- Knowledge of the provisions of the Water Law no. 272/2011 and the Town Planning and Building Code no. 434/2023 and their implementation framework with reference to water infrastructure;
- Knowledge of the procedure for drafting normative acts, as established by Law 100/2017 regarding normative acts;
- Knowledge of the RIA development procedure, as established by the Governmental Decision No. 23/2019;
- 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. Good working knowledge of English would be an asset.

Technical Expert

Academic Qualifications:

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

Experience:

- At least 5 years of experience in water resources management and/or water infrastructure, certified in the field of water and/or water infrastructure or other relevant fields;
- At least 3 years of experience working as a technical consultant in the field of water resources management, water engineering, water infrastructure, environment or other relevant fields;
- Experience working on projects funded by UNDP, UNEP, WB and/or EU or other international organisations is an advantage.

Competencies:

- Knowledge of water legislation (Water Law no. 272/2011);
- Knowledge of town planning and building legislation (Town Planning and Building Code no. 434/2023) with reference to water infrastructure;
- Knowledge of the procedure for drafting normative acts, as established by Law 100/2017 regarding normative acts and of the RIA development procedure, as established by the Governmental Decision No. 23/2019;
- 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. Good working knowledge of English 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.

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

VII. DOCUMENTS TO BE INCLUDED WHEN SUBMITTING THE PROPOSALS

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

- CV, including information about past experience in similar assignments and contact details for at least 3 referees;
- Brief description of why the individual considers him/herself as the most suitable for the assignment;
- Offeror's Letter confirming Interest and Availability with financial proposal (in USD, specifying the total lump sum amount). Financial proposal template prepared in compliance with the template in Annex 2.

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.

VIII. EVALUATION

Legal Expert

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

- An advanced degree (Master's or Ph.D.) in law, environment management, policy development, or other relevant fields is required
- At least 5 years of proven professional experience in water management, environmental project implementation, environmental/water law enforcement or other relevant areas
- At least 3 years of experience working in the field of water lawmaking and regulatory impact assessment
- Citizen of the Republic of Moldova

The award of the contract shall be made to the individual consultant if the technical and financial offers have been evaluated and determined as responsive, compliant, and acceptable.

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.

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Criteria	Scoring	Maximum Points Obtainable
Technical		
An advanced degree (Master's or Ph.D.) in law, environment management, policy development, or other relevant fields is required	<i>Master's degree – 10 pts, Ph.D.'s degree – 20 pts</i>	20
At least 5 years of proven professional experience in water management, environmental project implementation, environmental/water law enforcement or other relevant areas	<i>Up to 5 years – 0 pts, 5 years – 30 pts, each additional year of experience – 10 pts, up to a maximum of 0 pts</i>	60
At least 3 years of experience working in the field of water lawmaking and regulatory impact assessment	<i>Up to 3 years – 0 pts, 3 years – 20 pts, each additional year of experience – 10 pts, up to a maximum of 50 pts</i>	50
Subtotal desk review Scoring – 130 pts.		
Interview (demonstrated technical knowledge and experience; communication/ interpersonal skills; initiative; creativity/ resourcefulness) (common for all lots). Only the first 5 applicants that have accumulated the highest technical score shall be invited to the interview.		
Knowledge of the provisions of the Water Law no. 272/2011 and the Town Planning and Building Code no. 434/2023 and their implementation framework with reference to water infrastructure	<i>Limited – up to 20 pts, good – up to 40 pts, excellent – up to 50 pts</i>	165
Excellent knowledge of the procedure for drafting normative acts, as established by Law 100/2017 regarding normative acts	<i>Limited – up to 15 pts, good – up to 25 pts, excellent – up to 40 pts</i>	
Knowledge of the RIA development procedure, as established by the Governmental Decision No. 23/2019	<i>Limited – up to 10 pts, good – up to 20 pts, excellent – up to 30 pts</i>	
Strong interpersonal and communication skills, demonstrated by previous assignments	<i>Limited – up to 5 pts, good – up to 10 pts, excellent – up to 15 pts</i>	
Ability to work under pressure, and to meet tight deadlines demonstrated by previous assignments	<i>Limited – up to 5 pts, good – up to 10 pts, excellent – up to 15 pts</i>	
Fluency in Romanian and good working knowledge of English. Knowledge of Russian would be an asset	<i>Each language 5 pts, up to 15 pts</i>	
Belonging to the group(s) under-represented in the UN Moldova and/or the area of assignment*	<i>No – 0 pts, to one group – 2.5 pts, to two or more groups – 5 pts</i>	5
Subtotal interview – 170 pts.		
Maximum Total Technical Scoring		300

*Under-represented group in the area of assignment 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.

Financial

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

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

Technical Expert

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

- An advanced degree (Master's or Ph.D.) in environment management, water management, hydrotechnics, hydrology, economics, law, policy development, or other relevant fields is required
- At least 5 years of experience in water resources management and/or water infrastructure, certified in the field of water and/or water infrastructure or other relevant fields
- At least 3 years of experience working as a technical consultant in the field of water resources management, water engineering, water infrastructure, environment or other relevant fields
- Citizen of the Republic of Moldova

The award of the contract shall be made to the individual consultant if the technical and financial offers have been evaluated and determined as responsive, compliant, and acceptable.

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
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Technical		
An advanced degree (Master's or Ph.D.) in environment management, water management, hydrotechnical, hydrology, economics, law, policy development, or other relevant fields is required	<i>Master's degree – 10 pts, Ph.D.'s degree – 20 pts</i>	20
At least 5 years of experience in water resources management and/or water infrastructure, certified in the field of water and/or water infrastructure or other relevant fields	<i>Up to 5 years – 0 pts; 5 years – 30 pts, each additional year of experience – 10 pts, up to a maximum of 60 pts</i>	60
At least 3 years of experience working as a technical consultant in the field of water resources management, water engineering, water infrastructure, environment, or other relevant fields	<i>Up to 3 years – 0 pts, 3 years – 20 pts, each additional year of experience – 10 pts, up to a maximum of 50 pts</i>	50
Subtotal desk review Scoring – 130 pts.		
Interview (demonstrated technical knowledge and experience; communication/ interpersonal skills; initiative; creativity/ resourcefulness) (common for all lots). Only the first 5 applicants that have accumulated the highest technical score shall be invited to the interview.		
Knowledge of water legislation (Water Law no. 272/2011)	<i>Limited – up to 20 pts, good – up to 40 pts, excellent – up to 50 pts</i>	165
Knowledge of town planning and building legislation (Town Planning and Building Code no. 434/2023) with reference to water infrastructure	<i>Limited – up to 15 pts, good – up to 25 pts, excellent – up to 40 pts</i>	
Knowledge of the procedure for drafting normative acts, as established by Law 100/2017 regarding normative acts and of the RIA development procedure, as established by the Governmental Decision No. 23/2019	<i>Limited – up to 10 pts, good – up to 20 pts, excellent – up to 30 pts</i>	
Strong interpersonal and communication skills, demonstrated by previous assignments	<i>Limited – up to 5 pts, good – up to 10 pts, excellent – up to 15 pts</i>	
Ability to work under pressure, and to meet tight deadlines demonstrated by previous assignments	<i>Limited – up to 5 pts, good – up to 10 pts, excellent – up to 15 pts</i>	
Fluency in Romanian. Good working knowledge of English would be an asset	<i>Each language 5 pts, up to 15 pts</i>	
Belonging to the group(s) under-represented in the UN Moldova and/or the area of assignment*	<i>No – 0 pts, to one group – 2.5 pts, to two or more groups – 5 pts</i>	5
Subtotal interview – 170 pts.		
Maximum Total Technical Scoring		300
		200
Evaluation of submitted financial offers will be done based on the following formula:		200

**Under-represented group in the area of assignment 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.*

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$$S = F_{min} / F * 200$$

S – score received on financial evaluation

Fmin – the lowest financial offer out of all the submitted offers qualified over the technical evaluation round

F – financial offer under consideration

Winning candidate

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