

Terms of references

Job Title: National Legal Consultant

Project Reference: Mainstreaming biodiversity conservation into Moldova territorial planning policies and land-use practices

Duration of Employment: July 2015 – December 2017

Contract type: Individual Contract

Expected workload: 200 working days

I. Background

The United Nations Development Programme (UNDP), acting as an implementing agency of the Global Environment Facility (GEF), is providing assistance to the Ministry of Environment of the Republic of Moldova in implementation of the GEF Medium Sized Project (MSP) "Mainstreaming Biodiversity Conservation into Moldova's Territorial Planning Policies and Land-Use Practices" (BD mainstreaming project).

Despite the Government's reform efforts, the spatial/territorial planning framework is facing two types of barriers: (i) inadequate planning and enforcement framework and (ii) inadequate demonstrated experiences in spatial planning and biodiversity-compatible land management practices.

Against this background, the BD mainstreaming Project will be addressing the gaps in land planning and enforcement systems through development of relevant regulations, standards and legislation to accommodate biodiversity conservation objectives while the gap of limited coordination across sectors will be addressed by establishing a multi-stakeholder committee which will ensure a unified approach in the development, implementation and enforcement of land-use plans from the different ministries and departments. In addition, a monitoring system will be emplaced among the various regulatory agencies, assigning responsibilities based on comparative advantage, in order to evaluate acceptable limits of change in biodiversity-important areas. The gap of inadequate demonstrated experiences in spatial planning and biodiversity-compatible land management practices will be tackled through development and testing of biodiversity-compatible district spatial (land-use) plans in 2 districts of Moldova, relying on cross-sectoral working groups, GIS technologies for biodiversity mapping, identification of sites of conflict between biodiversity and human activities and others.

Overall, the objective of the project is to mainstream biodiversity conservation priorities into Moldova's territorial planning policies and land-use practices through two components – the first will focus on modifying the land use planning and enforcement system so that it addresses biodiversity loss, and the second will demonstrate methods for conservation and sustainable use of biodiversity on communal lands outside PAs.

The BD mainstreaming project is implemented as part of a larger biodiversity programme, which includes also UNDP/EU Clima East Project "Sustainable management of pastures and community forests in Moldova's first National Park Orhei to demonstrate climate change mitigation and adaptation benefits and dividends for local communities".

II. Scope of work and responsibilities

The Legal Consultant will support the Ministry of Environment of Moldova and Ministry of Agriculture as well as other stakeholders in amending land and forest legislation and related regulations and standards for mainstreaming biodiversity at national and local levels.

The Consultant will report directly to the project manager of the BD mainstreaming project and will work with all other involved international and/or national consultants.

Expected tasks

The key tasks of the consultant are as follows:

1. Enforce identification of vulnerable species, habitats and ecosystem goods and services during land use planning.

- Perform a comparative analysis of national and international legal/ normative frameworks for each sector – agriculture, forestry and land use planning – with regard to inclusion of biodiversity conservation.
- Development of the relevant proposals for amending existing legislation (e.g., Law on Vegetal Kingdom, Law on Animal Kingdom, Law on land use planning etc.) so as to ensure that it becomes a requirement of land use planning exercises to identify and conservation of vulnerable species, habitats, and ecosystem goods and services.
- Development of the relevant proposals for improving the Land Code based on a comparative analysis of existing land-use legislation and sectoral legislation, along with other environment-related legislation by introducing requirements for identification and incorporation of biodiversity outside PAs in District Spatial Plans and Land Use Plans of localities, and ultimately ensure that biodiversity will have a clear place and role in the provisions made.
- Take lead of the meetings and consultations of the established joint working group for Land Code improvement. The working group will include both governmental and non-governmental institutions as well as the private sector. Prepare minutes of the working group meetings and amend the draft Land code based on the comments received. At least 10 meetings should be organized and facilitated by the consultant (including all logistical arrangements, except translations and transportation for participants (if needed)).
- Develop proposals for introducing minimal standards for biodiversity conservation in pasture/livestock and hay-field management, arable farming, forest use, fishing and water-based recreation in relevant sectoral legislation (taking into account that legal frame needs to be improved based on species/ habitat requirements, e.g. certain old/dying trees left on a felling site, cattle/grazing limited for a certain period, certain steppe/pasture areas should not be grazed in early spring etc., and using complex approach to the use of natural resources). Special attention needs to be paid to private sector, which traditionally was left aside from environmental/biodiversity point of view, and appropriate proposal to legal frame to be made.

2. Improving cooperation/ coordination among stakeholders regarding legislative improvements

- Participate and taking lead in discussions, technical meetings and consultations with key stakeholders (key central governmental agencies related to biodiversity/ land policy and use/ management (i.e., MoE, MAFI, MRDC, Moldsilva) and local governments in pilot areas (i.e., Soroca and Stefan Voda districts) regarding biodiversity conservation incorporation into the legislative framework. Develop a Stakeholder engagement plan. At least 15 meetings should be organized and facilitated by the consultant (including all logistical arrangements, except translations and transportation for participants (if needed)).

3. Monitoring system in place to track change in biodiversity-important areas, and take adaptive measures to reduce impacts

- Based on the consultations with Ministry of Environment, Academy of Science and in close collaboration with project Biodiversity and Ecosystem Management Expert/s, propose and lobby for introducing the necessary legal amendments to make mandatory development of Passports for red

list species identified during inventories as part of the territorial and urban planning process (outside PAs).

- Provide legal support and recommendations for implementing Passport-based approach to monitoring rare and endangered species/ habitats outside PAs and ensuring integration of appropriate actions for their conservation in DSPs, LUPs, FMPs and GMPs mandatory conservation actions.

4. System of penalties for malfeasance to the approved DSPs and LUPs

The consultant will support the Economy and finance expert in making proposals for a system of penalties for malfeasance to the approved DSPs and LUPs through:

- Analyzing the existing legislative framework, enforcement system in the area of environmental protection in general, and in the area of biodiversity conservation related legislation in particular (mostly related to fines and penalties).
- Development a proposal for a system of penalties commensurate with the loss in biodiversity and the clarification in the mandates of the different agencies responsible for enforcement and prosecution (Revising existing fines, penalties and grazing taxes (including necessary proposals to amendments to the Administrative Code) in order to enable the efficacy in prevention of biodiversity-harmful activities; Analyzing opportunities for the increase of fines and penalties according to the real value of biodiversity (or ecosystem) loss and their applicability (evenly applicable) to all transgressors).

Note: An assessment of economic/ monetary values of biodiversity and ecosystem services (building on GEF/ UNDP's NBSAP project results) will provide the necessary rationale for this.

III. DELIVERABLES, ESTIMATED WORKLOAD AND TIMEFRAME:

The assignment should be carried out within a period of July 2015 – December 2017, not exceeding 200 working days.

	Deliverable	Deadline and workload
1	Proposals provided for the necessary legal amendments to make mandatory development of Passports for red list species identified during inventories as part of the territorial and urban planning process (outside PAs).	July 30, 2015, 10 w.d.
2	A comparative analysis performed of national and international legal/ normative frameworks for each sector – agriculture, forestry and land use planning – with regard to inclusion of biodiversity conservation.	August 31, 2015 10 w.d.
3	Proposals for amending existing legislation (e.g., Law on Vegetal Kingdom, Law on Animal Kingdom, Law on land use planning etc.) so as to ensure that it becomes a requirement of land use planning exercises to identify vulnerable species, habitats, and ecosystem goods and services.	December 10, 2015 30 w.d.
4	Analysis of the existing legislative framework, enforcement system in the area of environmental protection in general, and in the area of biodiversity conservation related legislation in particular (mostly related to fines and penalties).	December 10, 2015 30 w.d.
5	Proposals for improving the Land Code based on a comparative analysis of existing land-use legislation and sectoral legislation, along with other environment-related legislation	March 30, 2016 20 w.d.
6	Proposals for introducing minimal standards for biodiversity conservation in pasture/livestock and hay-field management, arable farming, forest use, fishing and water-based recreation into relevant sectoral legislation.	June 30, 2016 20 w.d.
7	Report on Land Code improvement through 10 meetings of the joint	December 10, 2016

	working group	25 w.d.
8	Legal support and recommendations provided for implementing Passport-based approach for monitoring rare and endangered species/ habitats outside PAs and ensuring integration of appropriate actions for their conservation in DSPs, LUPs, FMPs and GMPs mandatory conservation actions.	December 10, 2016 15 w.d.
9	Proposal for a system of penalties commensurate with the loss in biodiversity and the clarification in the mandates of the different agencies responsible for enforcement and prosecution.	December 10, 2016 10 w.d.
10	Cooperation/coordination among stakeholders (key central governmental agencies related to biodiversity/ land policy and use/ management (i.e., MoE, MAFI, MRDC, Moldsilva) and local governments in pilot areas (i.e., Soroca and Stefan Voda districts)) regarding legal frame improved using 15 technical meetings and interactive consultations.	December 10, 2017 30 w.d.

Deliverables can be amended or specified for the purpose of the assignment.

Management Arrangements:

Consultant will work under the overall guidance of the BD mainstreaming/Clima East Project Manager, in coordination with the Ministry of Environment of Moldova and other stakeholders. The Contractor will report to the UNDP BD mainstreaming/Clima East Project Manager.

Financial arrangements:

Payment will be disbursed in instalments upon submission and approval of the final documents as specified under 'Deliverables and Timeframe' section and certification by the Project Manager, and UNDP Portfolio Manager, that the services have been satisfactorily performed.

IV. QUALIFICATIONS AND SKILLS REQUIRED

Academic Qualification:

- University or Advanced Degree in law, environmental law, biodiversity conservation, forestry, environment protection or other relevant fields.

Experience:

- At least five years of experience in law, environmental law, environmental protection, forestry or other related fields.
- Good knowledge of the environment, land use and management and forestry sectors is required.
- Experience in interacting and working with state institutions at central and local levels.
- Experience in similar positions in a UNDP and/or other international projects are a strong advantage.

Competencies:

- Excellent written communication skills, with analytic capacity and ability to synthesize project outputs and relevant findings for the preparation of analytical documents.
- Ability to achieve results and deadlines in a timely manner, maintaining a high standard throughout.
- Ability to work in a team.
- Builds strong relationships with partners, focuses on impact and result for the client and responds positively to feedback.

Language requirements:

- Fluency in oral and written Romanian and Russian. Knowledge of English will be an asset.

The United Nations Development Programme 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.