



This project is funded by
The European Union

Environmental Protection of International River Basins Project

Contract No. 2011/279-666



A project implemented by a Consortium
led by Hulla & Co. Human Dynamics KG

Terms of Reference

Preparation and development of the draft of new legislative act, based on the IWRM principles and in accordance with the requirements of the WFD

I. Background and objectives

The consultant is to assist Human Dynamics in fulfilling its requirements under the EU technical assistance contract 'Environmental Protection of International River Basins (EPIRB)' (Terms of Reference given in Annex 1). The overall objectives of the EPIRB project are:

- To improve availability and quality of data on the ecological, chemical, and hydro-morphological status of trans-boundary river basins including groundwater; and
- To develop River Basin Management Plans for selected river basins / sub-river basins according to the requirements of the WFD.

The project is being implemented in six countries (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine) and five pilot river basins:

- Akhurian Basin District (Armenia),
- Central Kura (Azerbaijan),
- Upper Dnieper Basin (Belarus, Ukraine),
- Chorokhi-Adjaristskali Basin (Georgia),
- Prut Basin (Moldova, Ukraine)

As part of the River Basin Management Plan development process the project will implement selected number of improvement measures from the overall Programme of Measures (PoM), as defined under the Water Framework Directive. The selected measures have been agreed with the beneficiaries in each country and will be executed in accordance with the EC contractual conditions. In Ukraine the following measures have been chosen:

- Preparation and development of a draft new legislative act, based on the IWRM principles and in accordance with the requirements of the WFD, to be submitted to the beneficiary for adoption and implementation on the National level. The new act will elaborate the transition from administrative-territorial management model to the management of the basin principle under the EU Water Framework Directive.

- Detailed investigation of the extent and impact of untreated municipal wastes, particularly from the tourism industry, in the upper Prut and the national protected areas lying in the basin. The investigation will include ecological monitoring, survey of licensed and unlicensed discharges, discharge and treatment guidelines in accordance with the UWWTD and proposals for Payment for Ecological Services scheme to support the development and operation of Upper Prut ecological monitoring programme

These Terms of Reference are to assist the Government of Ukraine in the development and drafting of a new legislation act which is to elaborate the transition from administrative-territorial management model to the basin model principle.

Country background

The objective of the assignment is the preparation and development of the draft of new legislative act, based on the IWRM principles and in accordance with the requirements of the WFD, to be submitted to the beneficiary for adoption and implementation on the National level. The new act will elaborate the transition from administrative-territorial management model to the management of the basin principle under the EU Water Framework Directive.

Ministry for Ecology and Natural resources (MENR) has sought to harmonise Ukrainian environmental legislation with the EU legislation and introduce a system of integrated water resources management at the basin principle, as a part of the 'Action Plan Ukraine – EU'. This approach was officially adopted in 24 May 2012 Law № 4836-VI 'On approval of the National Program for Water Management and Environmental Rehabilitation of the Dnieper River for the period till 2021'. This Law declares the harmonization of Ukrainian legislation with international standards and improving the regulatory framework to ensure innovation and investment development of water management, the introduction of effective, sustainable and balanced mechanisms for the use, protection and restoration of water resource. Other item of this National Program declares 'implementation of integrated water resources management at the basin principle, development and implementation of river basin management plans, the use of economic models earmarked funding measures in river basins, river basin councils formation and enhance the role of existing and creation of new departments basin water resources'.

In carrying out this assignment the contractor/service provider's attention is drawn to the requirements of the recently signed association Agreement between the EU and Government of Ukraine, the IWRM principles embedded in the Water Framework Directive and the transboundary issues enshrined in the UNECE Water Convention.

Recently the Government of Ukraine has signed first political part of Association Agreement with EU and returned to the course to European integration. The new environmental policy requires fundamental changes in the institutional and legal framework of water management. One of the main objectives for the Government of Ukraine is the approximation of Ukrainian environmental legislation with the EU legislation, which based on the National Environmental Policy (NEP), National Action Plans (NAPs) and included in the list of priorities of the Association Agreement between the EU and Ukraine (UA).

According EU WFD 'Within a river basin where use of water may have transboundary effects, the requirements for the achievement of the environmental objectives established under this Directive, and in particular all programmes of measures, should be coordinated for the whole of the river basin district' and 'Member States shall identify the individual river basins lying within their national territory and, for the

purposes of this Directive, shall assign them to individual river basin districts. Small river basins may be combined with larger river basins or joined with neighbouring small basins to form individual river basin districts where appropriate. Member States shall ensure the appropriate administrative arrangements, including the identification of the appropriate competent authority, for the application of the rules of this Directive within each river basin district lying within their territory’.

The IWRM principles are provided in Water Code of Ukraine (N 214/95-VR from 06.06.95) EU Water Framework Directive (2000/60/EU), EU Directive flood (2007/60/EU), the International Commission for the Protection of Danube River (ratified by Law N 2997 -III of 17.01.2002), the Framework Convention on the Protection and Sustainable development of the Carpathians (ratified by Law N 1672 -IV of 07.04.2004).

There is a comprehensive international framework that helps interested countries to introduce and implement the principles of the IWRM. Many of the countries in the region are Party to the 1992 UNECE Water Convention that lays down principles for IWRM and transboundary cooperation. It’s Protocol on Water and Health takes a broader approach to protect human health and well-being by better water management, building on IWRM principles.

The assignment beneficiaries and recipients are Parliament (Verhovna Rada of Ukraine), Government (Cabinet of Ministers of Ukraine), Ministry of Ecology and Natural Resources of Ukraine, State Water Agency of Ukraine

II. Scope of Work and Deliverables

The assignment is divided into three phases. The deliverables for each phase are described below:

Inception phase

Deliverable 1: Inception report - outlining contractor’s appreciation and implementation methodology

Phase-1: Analyses and recommendations in national water legislation and institutional sphere

Deliverable 2: Review of the current legislation and recommendations for the development of relevant legal documents

While primary legislation the Water Code is in place it requires revision to fully incorporate the principle of basin management, and the important secondary, or subsidiary, legislation and implementation plans are frequent bottle-necks. River basin management plans have been prepared in only a limited number of cases. There is still an institutional inertia or even resistance towards reform, including the introduction of river basin management.

Deliverable 3: Review of the existing institutional structure of water management at all levels with the aim of delivering river **basin management and IWRM**

Ukraine has some historic background of river basin management from the Soviet period. Schemes of Integrated Use and Protection of Water Resources had similar features to IWRM but were not fully developed; the participatory approach was not applied and environmental aspects were not properly addressed. Application of the basin approach, i.e. transition from administrative borders to hydrographical

borders, is now an important part of the process to introduce Integrated Water Resource Management in Ukraine.

Phase-2: Proposals for reforming of the state governance of water resources through the transition from administrative-territorial management model to the management of the basin principle under the EU Water Framework Directive (legal, financial, economic, structural, organizational components)

Deliverable 4: Guidelines for the development of regulations and / or amendments to the existing water management structure in Ukraine.

Managing the water use is a complex challenge that needs to take into account different water users with different interests. Horizontal coordination between all relevant sectors such as drinking water supply, irrigated farming, power generation, industrial uses, recreation, as well as protection of ecosystems is vital. The domination of a centralised agency representing a single sector should be avoided. Regular coordination and joint planning involving different interests is important. It is equally important that the coordination is well organised and functioning between different levels of management: from national to basin and sub-basin levels. Horizontal coordination mechanisms are defined in Water Codes. Special bodies and mechanisms are needed at least at national and basin levels but the establishment of these proves to be challenging.

The purpose of this draft report and guideline is to give an overview of implementation of the IWRM principles and water sector reforms in Ukraine, with a focus on the development of legal and institutional frameworks.

Deliverable 5: The draft of the new act will elaborate the transition from administrative-territorial management model to the management of the basin principle under the EU Water Framework Directive

III. Implementation, deliverables and timeframe

Duration of the assignment is **12 months**. The expected commencement date for implementation of the assignment is 20 June 2014, and the completion date 20 June 2015, the phases will be completed in accordance with the following schedule:

Task	2014							2015					
	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
<u>Inception Phase</u>													
<u>Phase-1:</u> Analyses and recommendations in national water legislation and institutional reform													
<u>Phase-2:</u> Proposals for reforming management of water resources from administrative-territorial to basin management model													

The draft deliverables will be reviewed by the beneficiary and the project team members and final approval of deliverables will be given by the EPIRB Team Leader.

IV. Remuneration and payment schedule

The contractor will received a lump-sum of **19,500 euro** for the above services. Payments will be made on approval of deliverables and divided into three tranches given below:

- Tranche 1:** ***20% on acceptance of inception report;***
- Tranche 2:** ***30% on acceptance of Phase 1 deliverables;***
- Tranche 3:** ***50% on acceptance of Phase 2 deliverables;***

V. Reporting

Drafting, reporting and implementation of above deliverables will be coordinated, advised and monitored by the project Team Leader and respective Country Water Management Expert. In addition, the target and other beneficiary institutions, as well as members of the National Coordination Committee (NCC), will take an active part in the review procedures. Reports will be prepared in Ukrainian and English.