

**Terms of Reference:**  
**International water law expert to facilitate negotiations and prepare the final text of a legal agreement among Riparians for the sustainable management of the Drin Basin**

In the framework of:

Memorandum of Understanding  
for the Management of the Extended Transboundary Drin Basin

GEF Project “Implementing the Strategic Action Programme of the Drin Basin to strengthen transboundary cooperation and enable integrated natural resources management”

The Coordinated Action for the implementation of the Memorandum of Understanding for the management of the Drin basin (Drin CORDA) is supported by the GEF Drin Project. The latter is implemented by the United Nations Development Programme (UNDP) and executed by the Global Water Partnership (GWP) through GWP-Mediterranean (GWP-Med), in cooperation with the United Nations Economic Commission for Europe (UNECE). GWP-Med serves as the Secretariat of the Drin Core Group, the multilateral body responsible for the implementation of the Memorandum of Understanding.

*Disclaimer: The document adheres to the UN rules and policies regarding the names and international status of Riparian's and/or other geographical areas etc. The use of characterizations, names, maps or other geographical statements in this document in no way implies any political view or positions of the Parties which are executing and implementing the Project.*

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## A. Introduction

The Drin Basin sits in the southwestern part of the Balkan Peninsula. It comprises the transboundary sub-basins of the Drin and Buna/Bojana Rivers and of the Prespa, Ohrid and Skadar/Shkoder Lakes. The Drin River is the “connecting body” of the “extended” Drin Basin, linking the lakes, wetlands, rivers and aquatic habitats in the coastal area as well as the marine habitats in the Adriatic Sea into a single, yet complex, ecosystem of major importance. The water bodies and their watersheds are spread in a geographical area that includes Albania, Greece, North Macedonia, Montenegro and Kosovo\*<sup>1</sup>. With its important water resources this complex system provides a wealth of services to the Drin Riparians that share the basin: energy supply, recreation and tourism, fisheries, water supply for irrigation and domestic uses, sustenance of unique endemic biodiversity, and livelihoods. The basin is home to over 1.61 million people, living in over 1,450 settlements.

### **The Coordinated Action for the implementation of the Drin Memorandum of Understanding**

The Drin Coordinated Action (Drin CORDA) was established in 2011 and was the result of a Drin basin level multi-stakeholders’ policy dialogue initiated in 2009, and preparatory technical and political engagement work initiated already in 2006. The Drin CORDA is the framework set by the Drin Riparians for the implementation of the Memorandum of Understanding for the Management of the Extended Transboundary Drin Basin (Drin MoU). The Drin Mou was signed by the Ministers responsible for the management of water resources and/or environment, and high-level representatives of the Riparians in Tirana, on 25 November 2011.

The objective of the MoU is to *“promote joint action for the coordinated integrated management of the shared water resources in the Drin Basin, as a means to safeguard and restore to the extent possible the ecosystems and the services they provide, and to promote sustainable development across the Drin Basin”*.

The Drin MoU provides the political framework for cooperation in the Drin Basin. Following the provisions of the Drin MoU an institutional structure was established. It includes:

- The Meeting of the Parties.
- The Drin Core Group (DCG). This body is given the mandate to coordinate actions for the implementation of the MoU.
- Four Expert Working Groups (EWG) to assist the DCG in its work.

### **The GEF Drin Project**

The implementation of the Drin MoU has been supported -in addition to national level actions- by GEF financed projects the first of which ended in 2021. The GEF Drin I Project enabled the development and the endorsement -at Ministerial level- of a Drin Strategic Action Programme ([Drin SAP; 24 April 2020](#)) that reflects Riparians’ ownership, leadership and alignment with their mid or long-term national and transboundary strategies.

A new GEF project entitled “Implementing the Strategic Action Programme of the Drin Basin to Strengthen Transboundary Cooperation and Enable Integrated Natural Resources Management” (GEF Drin II Project) will provide support until 2029 for the implementation of priority actions under the Drin SAP.

The GEF Drin II Project is structured around four components each one including outputs and activities designed to achieve an equivalent number of outcomes:

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<sup>1</sup> This designation used is without prejudice to positions on status, and is in line with UN Security Council Resolution 1244/99 and the International Court of Justice Opinion on the Kosovo declaration of independence.

Outcome 1: *Sustainable and climate-resilient management of the Basin's resources enabled through development of technical and policy tools, and filling gaps in the understanding of the Drin Basin ecosystems functioning.*

Outcome 2: *Effective cooperation among Drin Riparians and socio-economic sectors succeeded through the establishment of a transboundary institutional arrangement and the development of critical transboundary policy instruments.*

Outcome 3: *SAP implementation is accelerated through regional, riparian and local solutions to address main causes of transboundary concern, promote sustainable water use and ensure ecosystem functioning and resilience.*

Outcome 4: *Long-term sustainability of achievements is enhanced through implementation of project mechanisms for stakeholder's participation, gender mainstreaming, dissemination, coordination and monitoring progress.*

## B. The Assignment

### 1. Background

The 2011 Drin MoU identified one of the actions for the Parties as being the '*establishment of basin-wide cooperative management on the basis of an agreement among the Parties and the establishment of a Basin Commission*' (Art. 2(4)(d)). Towards this endeavour the 17<sup>th</sup> Meeting of the Drin Core Group (DCG) (Pristina, 30-31 May 2019), requested the Secretariat to prepare a roadmap for advancing with the institutional setting for the management of the Drin Basin. GWP-Med (as the Secretariat of the DCG), with the technical assistance of an International Water Law expert, subsequently implemented in partnership with DCG members a review of the legal and institutional options for the Drin River Basin with a view to identifying one preferred option.

The first phase of this activity (a Legal and Institutional Options Analysis) identified three legal and institutional options and benchmarked those options against international practice and global frameworks, specifically the 1992 United Nations Convention on the Protection and Use of Transboundary Watercourses and International Lakes (UN Water Convention) and 1997 United Nations Convention on the Law of the Non-navigational Uses of International Watercourses (UN Watercourses Convention), as well as existing bilateral and sub-basin arrangements within the Drin River Basin, and the Drin Strategic Action Plan (SAP). The DCG evaluated these three options through surveys, interviews, written comments and feedback during the 8<sup>th</sup> ad-hoc meeting of the DCG on 14 January 2021. Following this evaluation, DCG members decided to merge two of the options in order to develop two preferred options.

Subsequently, a feasibility study was prepared evaluating the two preferred options based on a number of key aspects, first through a provision-by-provision comparison of both options alongside the 2011 Drin MoU, and then a more extensive provision-by-provision analysis based on selected criteria. A questionnaire and interviews with DCG members over the course of April and May 2021 informed the feasibility study.

The feasibility study was discussed during the 21<sup>st</sup> and 22<sup>nd</sup> Meetings of the DCG (July 2021 and November 2021 respectively) where the DCG discussed and agreed on the proposed draft texts of an international agreement for the management of the Drin Basin. The DCG also agreed on a Roadmap towards the eventual ratification of the Agreement, which includes:

- Holding Information Meetings in each of the Riparians where national authorities will be presented with all the related information and have the opportunity to discuss the draft Agreement text
- Holding a number (as necessary) of transboundary Negotiation Meetings where technical teams from the Riparians will discuss in detail all provisions of the draft Agreement with the aim to reach a consensus.

## 2. Description of the Assignment

### Aim

The aim of this assignment, building up on the activities described above, is to provide support to the Drin Riparians to negotiate the draft international (transboundary) agreement text for the sustainable management of the Drin Basin, and the eventual establishment and operation of a joint coordination body (a Drin Commission).

This is in line with and assist in the implementation of Goal 2 - Objective 2 and Goal 3 - Objectives 1 and 2 of the Drin SAP.

GWP-Med and UNECE cooperate for the implementation of this activity.

### Objective

The objective of this assignment is three-fold:

- to provide to each of the Drin Riparians and the responsible institutions detailed background and information on the scope of and content of the current draft international agreement text to assist the Drin Riparians preparing for the negotiation process
- to provide technical assistance and input with the aim to facilitate formal negotiation meetings and communication among technical teams from all Drin Riparians to agree on the text of the international agreement and the process towards its eventual signing and ratification
- to draft, review/edit and finalise the versions of the legal texts of the International Agreement based on consensus reached on the final text through the meetings and negotiations between the Riparians.

The draft Agreement will also draw on and use the following:

- (i) Outputs of the two GEF Drin Projects
- (ii) Results of the work for the implementation of the Drin MoU
- (iii) Any related bilateral Agreements between any of the Drin Riparians, already in place or under preparation
- (iv) The 1992 UN Water Convention and the 1997 UN Watercourses Convention
- (v) The Barcelona Convention
- (vi) International experience on bilateral/multilateral arrangements on shared water resources management
- (vii) International Guidelines such as the UNECE Practical Guide for the Development of Agreements or Other Arrangements for Transboundary Water Cooperation
- (viii) Expert opinion

### Requested Services

The International Water Law Expert (hereinafter “Consultant”), once familiarised in full detail with the

background on the Drin Coordination process and the drafting of the two agreed options under the previous feasibility study, should:

1. Update as appropriate and based on any developments in the past years the texts of the two identified options for the text of the Agreement, including on any related bilateral or other Agreements.
2. In coordination with the Project Team, prepare a folder with all related background information that will be provided to authorities of the Drin Riparians as background material for the informative meetings and the negotiation process meetings.
3. Give presentations during the informative meetings to be held in each of the Riparians, respond to any questions raised and capture in respective Reports the key issues discussed and raised.
4. Specifically regarding the issue around the non-recognition of Kosovo from other Drin Riparians, propose solutions to overcome barriers to the eventual ratification of the Agreement by all 5 Drin Riparians. In this regard prepare a related Note explaining and substantiating the proposed solutions drawing from international experience and similar examples, if possible.
5. Prepare all required documentation related to legal issues for the organisation of the provisionally foreseen 3 negotiation meetings engaging technical teams from the Drin Riparians towards clarifying any pending issues and finalising the text of the Agreement.
6. Moderate discussions in cooperation with GWP-Med and UNECE staff during the negotiation meetings, and provide technical opinion and assistance for the identification of available options towards resolving any potential disagreements. Revise the agreement text after each negotiation meeting. All decisions agreed during each meeting will be captured in a Report to be used as input to the next one (as applicable).
7. In parallel with the negotiation process, draft Terms of Reference (ToR) for the Joint Coordination Body (Drin Commission) and/or related institutional structure to be established as part of the Agreement.
8. Once agreement is reached, finalise the legal text of the Agreement to be signed by the Drin Riparians and forwarded to the Drin Riparians' authorities for ratification based on each one's procedures.

### **Contract Price, Deliverables and Payments**

The maximum lump sum fee for this assignment is 25,000 USD.

This amount includes all other costs, income taxes and any other amount payable or cost that may be required for the completion of the work/service.

All payments shall be upon reception and acceptance/verification of the deliverables, as laid out in the table below. Claims for payment will be made through an Invoice accompanied by proof of delivery.

The activity will be delivered under the lead and guidance of the Project Coordinator that coordinates the Secretariat of the Drin Core Group.

The Consultant will need to travel in the Drin Riparians to participate in informative meetings, negotiation meetings as well as DCG meetings as requested. GWP-Med will arrange traveling and will cover all travel-related costs.

Task	Deliverables	Deadline (months after contract signature)	Payment (% of contract price)
1) Update the texts of the two identified options for the text of the Agreement	Updated texts.	1	-
2) Prepare background information folder as material for the national informative meetings.	Background information folder.	1	20%
3) Give presentations during meetings, respond to any questions raised and capture in respective Reports the key issues discussed and raised.	Reports of the Meetings.	5	-
4) Propose solutions to overcome barriers to the eventual ratification of the Agreement by all 5 Drin Riparians.	Note explaining and substantiating the proposed solutions drawing from international experience.	5	-
5) Prepare all required documentation related to legal issues for the organisation of the negotiation meetings.	Folder containing all required documentation	7	40%
6) Moderate discussions during the negotiation meetings, and provide technical opinion and assistance for the identification of available options towards resolving any potential disagreements. Revise the agreement text after each negotiation meeting.	Reports of the Meetings. Revised Agreement text following each meeting.	14	
7) Draft Terms of Reference for the Joint Coordination Body (Drin Commission) and/or related institutional structure to be established as part of the Agreement.	Draft ToR.	16	
8) Finalise the legal text of the Agreement to be signed by the Drin Riparians and forwarded to the Drin Riparians' authorities for ratification	Final legal text of the Agreement.	18	40%

### Expert working days and Duration of the Contract

The consultancy will commence work upon contract signature and continue until completion but no later than end of March 2027.

### Location and Language of the Assignment

The consultant will work from a place of her/his choice. The Consultant will need to travel in the Drin Riparians to participate in informative meetings, negotiation meetings as well as DCG meetings as requested.

The language for all documents and reports as well as for all communication is English. Bad quality of English in the report will provide grounds for the final payment not to be made.

## Qualification and Experience

### a. Education

The Consultant is required to have a PhD in international water law or transboundary water resources management or directly related field.

### b. Work Experience

The Consultant is required to have:

- Minimum 12 years of professional experience in the field of International Water Law.
- Minimum 10 assignments or academic publications in the past 10 years on the governance of transboundary water bodies and/or aquifers, including legal and institutional analysis and assessments or equivalent.
- Experience on the designing of legal and/or institutional arrangements for the management of transboundary water resources and/or the establishment of a transboundary Commission (or related body) for the management of shared water resources (minimum 2 such arrangements).

### c. Key Competencies

The Consultant is required to have excellent English (proven through reports, studies etc.).

## Award Criterion - Evaluation of offers

### Award criterion

The Award criterion is the most economically advantageous tender on the basis of best price / quality ratio.

Offers shall be evaluated as follows:

Name of Firm / Participant:			
(1) Criterion	(2) weighting (w)	(3) points of criterion (c), 100p Base +10p for extra criteria over base up to 50 additional points	(4) Score  = (2) x (3)
PhD in international water law or transboundary water resources management or directly related field	On /Off		
<i>Number of years of professional experience in the field of International Water Law - Minimum 12</i>	20%		



<i>Number of assignments or academic publications in the past 10 years on the governance of transboundary water bodies and/or aquifers, including legal and institutional analysis and assessments or equivalent - Minimum 10</i>	40%		
Number of legal and/or institutional arrangements for the management of transboundary water resources and/or the establishment of a transboundary Commission (or related body) for the management of shared water resources that the Consultant has contributed to – Minimum 2.	40%		
	100%		

**Failure to provide the minimum requirements in any of the above is considered ground for disqualification**

#### **Evaluation of Technical Offers**

Each evaluation criterion is evaluated autonomously, according to the respective technical offer submitted. The relative scoring of each evaluation criteria is the outcome of its scoring multiplied by its weighting. The overall score of the technical offer is the sum of the relative scoring of all the evaluation criteria.

The overall score of the technical offer is calculated on the basis of the following formula:

$$B_i = w_1 \times c_1 + w_2 \times c_2 + \dots$$

For the overall score which will determine the ranking of offers, technical evaluation will be weighted with 80%, and the financial offer with 20%.

The final listing of the most advantageous offers will be made on the basis of the following formula:

$$\Lambda_i = 0.8 * (B_i/B_{\max}) + 0.2 * (K_{\min}/K_i).$$

Where:

- B<sub>max</sub>: the max score received by the best of the technical offers received
- B<sub>i</sub>: the score of the technical offer
- K<sub>min</sub>: The cost of the financial offer with the minimum price offered.
- K<sub>i</sub>: The cost of the financial offer

The most advantageous offers is the one with the greater value of  $\Lambda$ .

In case of equality of overall scores, the winning proposal is the one whose corresponding technical proposal received the highest rating.