



Enabling
& Transboundary Cooperation
Integrated Water Resources Management
in the extended **DRIN RIVER BASIN**



Terms of Reference

Study for an appropriately scaled legal and institutional arrangement to enable coordinated and sustainable management of the Drin Basin

In the framework of:

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

GEF Project “Enabling Transboundary Cooperation and Integrated Water Resources Management in the Extended Drin River Basin”

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 extends in a large part of the Western Balkans. It consists of several sub-basins, the uppermost of which is that of the Prespa Lakes, while the lowest is that of the Buna/Bojana River, adjacent to the Adriatic Sea. The Drin River is the “connecting agent” of the Drin Basin, linking tributary rivers, lakes, aquifers, and other aquatic habitats into a complex, single ecosystem of major importance.

The Prespa Lakes sub-basin comprises of two lakes; the Micro (small) Prespa shared by Greece and Albania, and the Macro (big) Prespa shared by Albania, Greece and North Macedonia. Water flows through underground karst channels from the Prespa to the Lake Ohrid. Shared by Albania and the North Macedonia, Ohrid is the largest lake in terms of water volume in SEE. The only surface outflow of Lake Ohrid, the Black Drin, flows north through the North Macedonia and it enters Albania where it meets the White Drin - originating from Kosovo- to form the Drin River. Flowing westward through Albania, the Drin joins the Buna/Bojana River 1 km downstream of the outlet of Lake Skadar/Shkoder, near the city of Shkodra. Shared by Albania and Montenegro, Skadar/Shkoder is the largest lake in terms of surface in SEE. The Buna/Bojana River drains Lake Skadar/Shkoder sub-basin and flows into the Adriatic Sea; its final tract (23 km) forms the Albania - Montenegro borderline.

The Drin transboundary system offers an excellent example of interdependencies created among different anthropogenic uses (agriculture, hydropower generation, industry, fisheries, tourism, urban settlements, etc.) as well as among uses and ecosystems, in four major inter-connected inland water bodies and a receiving sea.

The Drin Memorandum of Understanding

Following initial steps in 2008, a multi-stakeholders process for the establishment of a Shared Vision for the sustainable management of the Drin Basin, the *Drin Dialogue*, was formally launched on 1 December 2009, in Podgorica, Montenegro. The Dialogue was led by the competent Ministries of Albania, North Macedonia, Greece, Kosovo* and Montenegro. The Drin Dialogue was completed after two years, on 30 November 2011. It was a structured, stepwise process, facilitated by the Global Water Partnership – Mediterranean (GWP-Med) and the United Nations Economic Commission for Europe (UNECE). It comprised targeted assessment and a number of consultation meetings at national and transboundary levels. It engaged the competent ministries, national agencies, users, academia, private sector, international institutions, donor counties, etc. assisting towards establishing the necessary ownership by all parties on required actions for enhancing cooperation and solutions for sustainably managing the Basin.

A Situation Analysis was prepared to inform the discussions. It enabled the identification of the main transboundary issues and their causes as well as, to a certain extent, of the drivers that lie among the policies and the management instruments. The outcomes of the Situation Analysis were validated by the Riparians prior to being presented to the stakeholders for discussion and feedback.

The key outcome of the multi-stakeholders process was the development of the Shared Vision for the sustainable management of the Drin Basin and the signing of a related Memorandum of Understanding (Tirana, 25 November 2011) by the Ministers of the water and environment management competent ministries of the Drin Riparians i.e. Albania, The North Macedonia, Greece, Kosovo* and Montenegro.

The main objective of the Drin MoU is the attainment of the Shared Vision: *“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 Coordinated Action

A process called the Drin Coordinated Action “Drin CODA” for the implementation of the Drin MoU, was put in place after the signing of the latter.

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.
- Three **Expert Working Groups** (EWG) to assist the DCG in its work:
 - Water Framework Directive implementation EWG.
 - Monitoring and Information exchange EWG.
 - Biodiversity and Ecosystem EWG.

The **DCG Secretariat** provides technical and administrative support to the DCG; Global Water Partnership – Mediterranean (GWP-Med) serves by appointment of the Parties through the MoU as the Secretariat.

The GEF Drin Project

The GEF supported Project “Enabling transboundary cooperation and integrated water resources management in the extended Drin River Basin” (GEF Drin Project) is aligned in content, aims and objectives with the Drin MoU and the activities under the Drin CODA.

The objective of the project is to *promote joint management of the shared water resources of the transboundary Drin River Basin, including coordination mechanisms among the various sub-basin joint commissions and committees*. Albania, North Macedonia, Kosovo* and Montenegro are the Project beneficiaries.

The GEF Drin Project is structured around five components:

- Component 1: Consolidating a common knowledge base
- Component 2: Building the foundation for multi-country cooperation
- Component 3: Institutional strengthening for Integrated River Basin Management (IRBM)
- Component 4: Demonstration of technologies and practices for IWRM and ecosystem management
- Component 5: Stakeholder Involvement, Gender Mainstreaming and Communication Strategies

The Project is implemented by the 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 is responsible for the realization of the Project. The Drin Core Group is the Steering Committee (SC) of the Project.

B. The Study

1. Background

The Drin MoU includes short and medium-term activities designed to establish the foundations for the coordinated management of the Drin Basin and the achievement of the MoU goals and objectives.

An analysis made by the Secretariat indicates that almost the total of the short and medium-term activities contained in the Drin MoU have been implemented or will be implemented till the end of this phase of cooperation among the Drin Riparians, financed by the GEF Drin project.

The short and medium-term activities were designed to also create the basis for the implementation of the long-term actions i.e. the development of the river basin management plan at the Drin basin level and the enhancement of official cooperation. With the regard to the latter the Drin MoU in its Article 4, point 2 item e. indicates the "Establishment of basin-wide cooperative management on the basis of an agreement among the Parties and the establishment of a Basin Commission" as one of the long terms actions.

The 17th DCG-8th SC meeting decided that a roadmap for upgrading the role of the Drin Core Group to form a Drin Commission. This should include a timeframe of actions for the development of a legal and institutional study on options for enhancing cooperation for the coordinated management of the Drin Basin and a feasibility study for a joint commission and should explain the necessary sources to cover related costs.

2. Description of the Assignment

The aim of this assignment is to foster the establishment of an appropriately scaled institutional arrangement to enable coordinated and sustainable management of the Drin Basin building upon and evolving the institutional structure established through the Drin MoU.

Two studies will be prepared to serve this aim.

(i) A Legal and Institutional Options Analysis (Analysis)

The Analysis will identify, analyze and describe **options** regarding legal and institutional arrangements appropriate for the coordinated management of the Drin Basin.

The options described in the Analysis will be discussed in a DCG meeting by the Riparians to choose 2 options that will be assessed through a Feasibility Study (see below).

(ii) A Feasibility Study

The study will assess the feasibility of the two options to be chosen by the Drin Riparians. The results will assist the Riparians choosing the one that is most appropriate at technical, socio-economic and political level for the coordinated management of the Drin Basin.

The study will also include a draft text of a Legal and Institutional Arrangement and ToR for a Basin Commission (as provided by the Drin MoU).

The Analysis and the Feasibility Study will draw on and use the following:

- (i) Outputs of the Drin Project;
- (ii) Results of the work for the implementation of the Drin MoU including these of the current organizational scheme for the coordinated management of the Drin Basin;
- (iii) Input from the representatives of the Riparians in the DCG;
- (iv) 1992 UNECE Helsinki Water Convention and the 1997 UN New York Convention on international water-course;
- (v) Barcelona Convention;
- (vi) International experience on bilateral/multilateral arrangements on shared water resources management;
- (vii) Expert opinion.

The nature and level of action needed as well as the purpose of cross-border cooperation will be taken into consideration as both are parameters that influence the needs in terms of decision-making mechanisms and therefore the mandate and the specific characteristics of any institutional structure.

The outputs of this assignment will enable the Drin Riparians to discuss and decide the future of their cooperation for the management of the Drin Basin.

Objectives

The objective of this assignment is two-fold:

- to identify, analyse, describe and provide the Drin Riparians with options in terms of legal and institutional arrangements for the management of the Drin Basin to choose from.
- to assess the feasibility of the options that the Drin Riparians will choose and, using the results of this assessment, to design the legal and institutional arrangement.

The source-to-sea concept and approach should in doing the above.

Requested Services

The Legal and Institutional Expert (hereinafter “Consultant”) should:

A. Developing the Analysis

1. Analyse the needs in terms of transboundary cooperation in the Drin Basin using as basis at least the following:
 - a. Drin MoU
 - b. ToR for the Drin Core Group and its Expert Working Groups
 - c. Thematic Report on Institutional and Legal setting
 - d. Transboundary Diagnostic Analysis (Synthesis Report)
 - e. Strategic Action Program
 - f. Input provided by key stakeholders including the DCG members.
2. Describe four to six options in terms of legal and institutional arrangements at the transboundary level to respond to the identified needs. Doing so, the consultant will use both the following: (i) examples of existing arrangements of interstate cooperation for the management of transboundary aquifers and lakes/river basins and (ii) provisions of international law.

Each option should refer to and elaborate on the items listed below:

- a. Type of legal arrangement (International Agreement, Memorandum of Understanding or other type of legal arrangement) and its scope both geographically as well as in terms of fields (possibly extending beyond the water sector per se).
- b. Type and characteristics of institutional arrangement / structure for the management of the Basin (e.g. joint commission or other type of arrangement) and related decision making process, type and level of its mandate in terms of responsibilities and decision making (whether decisions will have a binding character or not etc.); existence and level of responsibilities of a Secretariat.
- c. Related (to point b. above) services offered by an institutional structure in terms of policy level cooperation, technical cooperation (e.g. capacity to supervise the development of a joint management plan; sustain information and data exchange and management), dispute resolution, participation of stakeholders, etc.
- d. Necessary capacities of an institutional structure, depending on its type and characteristics and the services it offers.

- e. Benefits that it will present in assisting the Drin Riparians to optimize the use of resources, increasing efficiency and addressing intersectoral impacts.
 - f. Approximate cost of different options and possible financing schemes.
3. Describing the different options, the consultant should:
- a. Indicate in enough detail the suitability of each option to the Drin Basin case in terms of:
 - i. Achieving smooth evolution from the current arrangement of transboundary cooperation to any new option.
 - ii. Compatibility with institutional and legal frameworks at Drin Riparian/national level.
 - iii. The specificities in the area in terms of (i) water availability; (ii) economic activities; (iii) socio-economic and political situation.
 - b. Present existing examples from around the world of legal and institutional arrangements for cooperation.

B. Developing the Feasibility Study

The consultant will:

1. Assess the conditions under which each one of the two options for a legal and institutional arrangement (L&IA) chosen by the Drin Riparians are feasible to implement and sustainable to operate and propose and describe the elements of two sets of L&IA. The conditions to be assessed and the elements to be proposed should be related to the issues listed below. The list is not exhaustive; the consultant will appropriately adjust/amend it to respond to the objective and the conditions of this call and will finalise it after discussion with and receiving guidance from GWP-Med.
 - a. The L&IA type, geographical scope as well as its goals and objectives;
 - b. The mandate of the L&IA in terms of fields of basin management that will be covered or in others words the transboundary issues that cooperation will address, extending its scope as appropriate, possibly beyond the water sector;
 - c. The L&IA mandate in terms of decision-making power; this will reflect the level of cooperation among countries;
 - d. Functions and means of action to achieve determined goals and objectives;
 - e. Governance procedure and bodies including their organizational structure, decision making process, synthesis and membership;
 - f. The modalities and steps for the establishment of the L&IA including related legal arrangements;
 - g. Capacities necessary for the operation of the L&IA e.g. human and financial capacities.

The Feasibility Study will be presented to the DCG for the Drin Riparians to choose one of the two proposed sets of L&IA.

2. Develop the draft text of the Drin Legal and Institutional Arrangement and the ToR for a Basin Commission that should elaborate on the following; the list is not exhaustive and the consultant is expected to amend/adjust the list as appropriate to serve the aims and objectives of this call:
 - a) Type of legal arrangements necessary to realise the option chosen by the countries: an international agreement, a memorandum of understanding or some other type of legal arrangement;
 - b) Shared vision statement, goals and aims of cooperation;
 - c) Scope of the L&IA including: geographical scope; definitions in terms of areas and means cooperation; defining of the Parties to the L&IA etc.
 - d) Substantive rules including objectives, duties and obligations of the Drin Riparians etc.
 - e) Procedural rules possibly including: description of priority measures to address transboundary issues; notifications including type of and related means to use; exchange of information including type of information, and the institutions involved; etc.
 - f) Operating procedures;
 - g) Institutional / Governance mechanisms:

- i) Organizational structure, organigram;
- ii) Basin Commission describing: mandate; responsibilities; synthesis; etc. Decision-making process, rules of procedure. Existence or not and responsibilities of a Secretariat including its organigram, reporting responsibilities etc.
- iii) Existence or not, number, type and responsibilities of expert working groups;
- h) Implementation monitoring mechanisms; dispute settlement etc.
- i) approximate cost of the proposal and funding schemes.

Steps

A. Overall

- 1) The consultant develops a detailed workplan/ timeline of activities and agree this with the DCG Secretariat.
- 2) The DCG Secretariat provides background material listed in point A.1 under “Requested Services” and additional material the consultant may request, provided that this is in the possession of the Secretariat.
- 3) The consultant reviews the background material.

B. Developing the Analysis

- 1) The consultant prepares a:
 - a) questionnaire to be used for internet-based interviews or to be filled in by stakeholders, that is discussed with and agreed upon the DCG Secretariat
 - b) list of stakeholders to be interviewed that is discussed with and agreed upon with the DCG Secretariat
- 2) The consultant makes the internet-based interviews
- 3) The consultant prepares a draft Analysis
- 4) The DCG Secretariat provides input/comments
- 5) The consultant prepares a second draft Analysis
- 6) The second draft Analysis is presented to the Drin Core Group for adoption and for choosing the two L&IA options.

C. Developing the Feasibility Study

- 1) The consultant prepares a:
 - a) questionnaire to be used for the interviews, that is discussed with and agreed upon the DCG Secretariat
 - b) list of stakeholders to be interviewed that is discussed with and agreed upon with the DCG Secretariat
- 2) The Secretariat prepares the interview schedule and arranges the appointments for the interviews. The consultant is responsible for making travel arrangements. The consultant makes the interviews
- 3) The consultant prepares a draft Feasibility Study describing the two sets of L&IA
- 4) The DCG Secretariat provides input/comments
- 5) The consultant prepares a second draft Feasibility Study describing the two sets of L&IA
- 6) The second draft Feasibility Study is presented to the Drin Core Group for adoption
- 7) The consultant develops the draft text of the Drin Legal and Institutional Arrangement and the ToR for a Basin Commission

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 except the advance payment 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 perform the interviews for the development of the feasibility study and to participate in DCG meetings. GWP-Med will arrange traveling and will cover travel costs will be covered by GWP-Med.

Task	Deliverables	Deadline	Payment
Advance Payment			30%
1) Preparation of a detailed workplan/timeline of actions	Detailed workplan/timeline of actions		25%
2) Development of a questionnaire to be used for internet-based interviews	Questionnaire		
3) Internet-based interviews			
4) Development of a draft Analysis	Draft Analysis		
5) Incorporation of input/comments by the DCG Secretariat and development of second draft Analysis	Second Draft Analysis	30 May 2020	25 %
6) Presentation of the second draft Analysis in the DCG meeting			
7) Incorporation of input/comments by the DCG and development of final Analysis	Analysis	30 June 2020	
8) Development of a questionnaire for the feasibility study	Questionnaire		
9) Conducting the interviews			20%
10) Development of a draft Feasibility Study describing the two sets of L&IA	Draft Feasibility Study		
11) Incorporation of input/comments by the DCG Secretariat and development of second draft Feasibility Study describing the two sets of L&IA	Second draft Feasibility Study		
12) Presentation of the second draft Feasibility Study to the DCG meeting		26 November 2020	
13) Incorporation of input/comments by the DCG and development of final Feasibility Study	Feasibility Study		20%
14) Development of the draft text of the Drin Legal and Institutional Arrangement and the ToR for a Basin Commission	Draft text of the Drin Legal and Institutional Arrangement and the ToR for a Basin Commission		

15) Incorporation of comments and development of the second draft text of the Drin Legal and Institutional Arrangement and the ToR for a Basin Commission	Second draft text of the Drin Legal and Institutional Arrangement and the ToR for a Basin Commission	15 January 2021	
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Expert working days and Duration of the Contract

The consultancy will commence work on February 2020 and continue until completion but no later than 15 January 2021.

Location and Language of the Assignment

The consultant will work from a place of her/his choice.

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

A university degree in law and post graduate or working experience in international water law or transboundary water resources management or equivalent is required.

b. Work Experience

The Consultant is required to have:

- Minimum 10 years of professional experience in the water sector and particularly on governance of with emphasis on legislative/institutional aspects.
- Minimum 7 years of experience on governance of transboundary water bodies and/or aquifers, including elaboration of related multidisciplinary research, legal and institutional analysis and assessments or equivalent.
- Experience on designing the legal and/or institutional arrangements for the establishment of a basin or aquifer commission.

c. Key Competencies

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

Evaluation Criteria

Criteria - min. 100 points, max 150 points per Criterion:

- A university degree in law and post graduate or working experience in international water law or transboundary water resources management or equivalent is required.
If the above are not met the offer will be disqualified.
- Number of years of professional experience in the water sector and particularly on governance of with emphasis on legislative/institutional aspects.
Minimum of 10 years of experience are required.

- Number of years of experience on governance of transboundary water bodies and/or aquifers, including elaboration of related multidisciplinary research, legal and institutional analysis and assessments or equivalent.
Minimum of 7 years of experience are required.
- Number of assignments (at least 1 assignment is necessary) related to the designing of legal and/or institutional arrangements for the establishment of a basin or aquifer commission.

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)
A university degree in law and post graduate or working experience in international water law or transboundary water resources management or equivalent	20%		
<i>Number of years of professional experience in the water sector and particularly on governance of with emphasis on legislative/institutional aspects</i>	20%		
<i>Number of years of experience on governance of transboundary water bodies and/or aquifers, including elaboration of related multidisciplinary research, legal and institutional analysis and assessments or equivalent</i>	30%		
Number of assignments related to the designing of legal and/or institutional arrangements for the establishment of a basin or aquifer commission	30%		
<i>UTO</i>	100%		

In case of equality of overall scores, the retained offer is the one whose corresponding technical Offer received the highest rating.

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:

$$\text{UTO} = w_1 \times c_1 + w_2 \times c_2 + \dots$$

$$\text{where } w_1 + w_2 + \dots = 100$$

For the overall score which will determine the ranking of offers, technical evaluation will be weighted with 70%.

Evaluation of the Financial Offer

Each financial offer is evaluated on the basis of the following formula:

$$\text{UFO} = 100 \times \text{max amount} / \text{financial offer}$$

For the overall score which will determine the ranking of offers, financial evaluation will be weighted with 30%.

Offers which have been rejected as inadmissible or as not meeting the minimum requirements shall not be evaluated.

Identification of the most economically advantageous offer on the basis of best price / quality ratio

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

$$U = \text{UTO} \times 70\% + \text{UFO} \times 30\%$$

Where U is the total scoring if each offer

The most economically advantageous offer is the one with the greater value of U.