



## THE REGIONAL ENVIRONMENTAL CENTRE FOR THE CAUCASUS

### Terms of Reference for Consultancy Services of National Legal Expert for Development of Legislative Package on Sustainable Management of Pasturelands

Publication Reference Number: 027RECC/G/FAO-25-2023

<b>Contract Title:</b>	<b>Consultancy Service of National Legal Expert for Development of Legislative Package on Sustainable Management of Pasturelands</b>		
<b>Contract Type:</b>	Fee-based		
<b>Contracting Organization:</b>	The Regional Environmental Centre for the Caucasus (RECC)		
<b>Division/Department:</b>	RECC Projects' Implementation Unit		
<b>Programme/Project Number:</b>	"Achieving Land Degradation Neutrality Targets of Georgia through Restoration and Sustainable Management of Degraded Pasturelands" (GEF Project ID: 10151 / FAO Entity Number: 654524 / FAO Project Symbol: GCP/GEO/006/GFF)		
<b>Duty Station:</b>	Tbilisi, Georgia		
<b>Expected Start Date of Assignment:</b>	February 20, 2023	<b>Duration:</b>	10 months up to 20 December 2023
<b>Reports to:</b>	Sophiko Akhobadze	RECC Executive Director	

## 1. DESCRIPTION OF OBJECTIVES OF THE ASSIGNMENT

### 1.1. Background

The Regional Environmental Centre for the Caucasus (RECC) as operational partner is involved in implementation of the Global Environmental Facility (GEF) financed project Achieving Land Degradation Neutrality Targets of Georgia through Restoration and Sustainable Management of Degraded Pasturelands – GEF Project ID: 10151<sup>1</sup> ("the Project"). GEF Implementing Agency for the Project is the Food and Agriculture Organization of the United Nations (FAO).

With the above regard, in May, 2020 the RECC and FAO signed Operational Partners Agreement (OPA) for implementation of the Grant Project "Achieving Land Degradation Neutrality Targets of Georgia through Restoration and Sustainable Management of Degraded Pasturelands". This Agreement governs the implementation by the RECC of the relevant parts of the Project as defined in the results matrix, work plan and budget in Annex 3 of the OPA. It describes the relationship between the RECC and FAO and their responsibilities.

Under the Project and within the context of Land Degradation Neutrality (LDN), Georgia aims to maintain and increase the amount of healthy and productive land resources in line with the national sustainable development

<sup>1</sup> Project "Achieving Land Degradation Neutrality Targets of Georgia through Restoration and Sustainable Management of Degraded Pasturelands (2020-2023)" - (GEF Project ID. : 10151, Focal Area: Land Degradation, GEF Period: GEF-7, Approved for Implementation: Feb-2020). <https://www.thegef.org/project/achieving-land-degradation-neutrality-targets-georgia-through-restoration-and-sustainable>

goals. Georgia has released five voluntary LDN targets. The project is directly linked to the implementation of two of these targets: Target 1: Integrate LDN principles into national policies, strategies and planning documents; and Target 4: Degraded land will be rehabilitated.

Project consists of four subsequent components: (1) Policy and Regulatory/Institutional, (2) Demonstration, (3) Capacity Building and (4) Knowledge Management.

**Component 1** represents cornerstone of the Project and particularly refers to development and formal adoption of *National Pastureland Management Policy Document (NPMPD)* that will be further used for drafting of **new national legislation on pastures** with focus on implementation of Land Degradation Neutrality (LDN) principles and integration into agricultural and other sectoral national policies and strategies.

The project sets out to support the national efforts to implement LDN targets of Georgia through restoration and sustainable management of the degraded pasturelands (Targets 1 and 4). It follows the STAP (GEF) guidelines “Scientific Conceptual Framework for Land Degradation Neutrality” and takes a phased approach. First, the country has selected three target municipalities based on the priorities of the LDN TSP, and the target landscapes for implementation activities. The target municipalities are located in the Eastern part of Georgia and include Dmanisi, Gurjaani, and Dmanisi. The target municipalities and landscapes have been characterized by key bio-physical and socio-economic parameters to set the project baseline in line with the voluntary LDN indicators.

The experiences of this project will be replicated across Georgia through activities of national and international partners, and shared with other countries in the region and at UNCCD.

## **1.2. General objective of the assignment**

**National Legal Expert for Development of Legislative Package on Sustainable Management of Pasturelands** (“National Legal Expert”) performs functions of the RECC Project Team National Expert for Specific Tasks and is responsible for providing consultancy services for development of Legislative Package on Sustainable Management of Pasturelands based on National Pasturelands Management Policy Concept developed within the Component one of the project.

National Legal Expert performs his/her tasks as lead lawyer in cooperation with project Pastureland Lawyer.

He/She will work under the overall guidance and supervision of the RECC Executive Director (*Project Policy and Institutional Advisor – Project Supervisor/Manager*), Technical Advisor in Agricultural Development (RECC Project Core Team Coordinator) and the technical guidance of the FAO Project Coordinator (PC) in close consultation with the government designated National Project Director (NPD) representing the Ministry of Environmental Protection and Agriculture of Georgia (MEPA).

## **2. SCOPE OF THE ASSIGNMENT**

### **2.1. Specific Task**

Specific task of the assignment is implementation of the following activities of Output 1.1.2 (*Pastureland management law and supplementary sub-laws drafted*) of Outcome 1.1 (*Enhanced policy and institutional frameworks for LDN with the focus on the implementation of SLM principles on pasturelands*) under the Component 1 (*Strengthening the regulatory and institutional framework for sustainable management of pasturelands in Georgia*) of the project:

**Activity 3:** Pastureland management law (legal package) presented to the national stakeholder platform

**Activity 4:** Stakeholder consultations of draft pastureland law/legal package (along with RIA) for wider review and arrangement of regional public hearing meetings and submission of final draft law to the Government for further formal governmental review procedure

### **2.2. Planed Activities under the Assignment**

The following steps are envisaged to be undertaken by the National Legal Expert within the assignment process:

**a. Development of composition and structure of new law on Pasturelands Sustainable Management with supplementary amendments to the existing legislation (as legal package) based on agreed national pastureland policy (National Pastureland Management Policy Document - NPMPD)**

Outline and content of the special law on Pasturelands Sustainable Management should be developed based on final draft of the National Pastureland Management Policy Document (NPMPD) that has been validated at the Multi-Stakeholder National Workshops.

Outline and content of the special law on Pasturelands Sustainable Management should include detailed list of supplementary amendments to existing legislation (supplementary draft laws), as well as justification for development of new (special) legislation on pasturelands management.

New legislation on Pasturelands Sustainable Management should include but not be limited the following elements:

*Setting the scene*

- Definition of which pastures are to be the subject of the law.
- Provisions for pasture identification, categorization, classification and zoning (zoning of pastures into village pastures, winter pastures and near and remote summer pastures).
- Definition of bodies responsible for pasture use planning, pasture disposal, management, monitoring and oversight at national and local levels (including provisions for creation of the pasture management councils).
- Outline of pasture use planning processes at local level including: referring to detailed bylaws on pasture zoning, user inventory, grazing unit designation and boundary setting.
- Basic selection criteria for pasture zoning for different types of pasture with references to bylaws with more detailed guidelines.
- Procedures to allocate pastures for use at inter-municipal level (for long distance migrations)
- Stronger legal status and protection of stock tracks (trails), including identity of responsible central state body managing and equipping these lands and associated infrastructure facilities.

*User rights and disposal to users*

- Description of the *forms of access* (user rights/tenure) for those pastures covered by the law.
- Arrangements for access under each of the user rights/tenure arrangements:
  - In the case of common use system, as there is no current legal form for these arrangements, then the law should create the PUU as a legal entity, describe the legal forms under which it may be registered; set criteria for membership eligibility and specify the type of title (use right) under which the PUU will access pasture. Much of the detail may be left to be elaborated in bylaws, such as a template charter and internal rules for the PUU.
  - In the case of leasehold, details should include criteria and process for leasehold award on pastures, which as suggested in this concept, should be different to those currently employed on other types of agricultural land categories.
- Provisions for exchange of grazing rights between common use groups, between common use groups and external users, and between leaseholders. This is extremely important and reduced the need for illegal subleasing and other shadow arrangements.
- Rights and obligations of users.
- Arrangements for taxation and fee setting.

*Administrative provisions and procedures*

All administrative provisions and procedures concerning implementation of the pasture management reform under the National Pastureland Management Policy Document (NPMPD) should be detailed in the new Draft Law itself as much as possible and, where appropriate, they could be provided in a form of an annex (or the annexes) to the Draft.

These provisions and procedures will include, but will not be limited to:

- Administrative procedures for establishment of municipal-level pasture management council.

- Administrative procedures for establishment of pasture users' unions (PUU) at the level of villages and transfer of user rights for management of grazing units on village pastures, near summer pastures and remote pastures to these PUUs.
- Conclusion of user rights agreements between PUUs on one hand and state/municipalities.
- Opening of leasehold auctions or application processes for grazing units to be leased.
- Conclusion of contracts with leaseholders.
- Administrative procedures for pasture use planning at the municipal level.
- Procedures for assessment of traditional claims to pasture and for establishment of PUUs.
- Template PUU charter, internal rules etc.
- Template for pasture lease contract.
- Detailed regulations for running application/auction process for leasing on pastures.
- Etc.

#### *Step-by-step implementation of pasture management reform and transitional provisions*

Provisions related *step-by-step (gradual) implementation of pasture management reform from pastures identification stage to pastures disposal and full-scale implementation stages should be accurately grouped as transitional provisions of the Draft Law – accompanied with enactment time table for these transitional provisions.*

#### Legislative package

The new legislation on sustainable pasture management (new legal framework) should be prepared in the form of a legislative package. Taking into account the wide range of issues to be regulated by the new legislation, it causes the need to amend at least the following legislative and normative acts:

- *Law on State Property (2010) and complementary secondary legislation;*
- *Law on Determination of the Designated Purpose of Land and on Sustainable Management of Agricultural Land (2019) and, if appropriate, complementary secondary legislation*
- *Forest Code (2020) and, if appropriate, complementary secondary legislation*
- *Law on System of Protected Areas (1996) and complementary secondary legislation (e.g., Governmental Decree #125 of May 22, 2013 on Leasing in Protected Areas – repealed by Governmental Decree #235 of May 10, 2022 on Disposal and Special Use Rules in Protected Areas)*
- *Local Self-Government Code and, if appropriate, complementary secondary legislation*

Depending on the regulatory scope of the new Law on Pasturelands Sustainable Management, the following existing legislation should also be reviewed to identify needs for further amendments:

- *Tax Code (2010)*
- *Law on Development of High Mountainous Regions (2015)*
- *Food/Feed Safety, Veterinary and Plant Protection Code (2012)*
- *Spatial Planning, Architectural and Construction Activities Code (2018)*
- *Law on Public Registry (2008)*
- *Law on Recognition of Property Rights on Land Plots that are Possessed (Used) by Natural Persons and Legal Entities under Private Law (2007)*
- *Law on Procedure for Systematic and Sporadic Registration of Rights to Land Plots and Improvement of Cadastral Data (2016)*
- *Law on Conservation of Soils and Restoration and Improvement of Soil Fertility (2003)*
- *Law on Soil Protection (1994)*
- *Framework Law on Fees (1998)*

Outline and content of new law on Pasturelands Sustainable Management will be validated at national validation workshop. Based on outcomes of the national validation workshop and received comments from stakeholders, National Legal Expert will prepare final version of outline and content for new legislation and/or revisions of existing legislation.

#### **b. Drafting of new legislation on pasturelands sustainable management and supplementary amendments to existing legislation**

National Legal Expert will develop legal package on Pasturelands Sustainable Management and supplementary amendments to existing legislation (draft laws on amending other legislative acts that results from the adoption of

the new law or that determines the liability for violating the norms established by the normative act) based on validated outline and content.

**c. Presentation of pastureland management draft law and supplementary amendments to existing legislation at the national stakeholder's workshop**

National legal expert will elaborate presentation in cooperation with pasturelands lawyer and present pastureland management draft law and supplementary amendments at national stakeholder's workshop and prepare workshop report.

**d. Elaboration of final version of pastureland sustainable management draft law and supplementary amendments to existing legislation based on stakeholder comments**

Based on stakeholders comments, National Legal Expert will prepare final version of pastureland sustainable management draft law and supplementary amendments.

Along with written comments, consultations and interviews with stakeholder groups will be one of the most effective ways for finalizing of legal package on Pasturelands sustainable management.

**e. Preparation of explanatory notes on Draft Pasturelands Sustainable Management Law and supplementary amendments to existing legislation**

National legal expert will develop explanatory note for Draft Pasturelands Sustainable Management Law, as well as explanatory notes for each supplementary amendment to existing legislation - according to the requirements of Article 17 of Organic Law of Georgia on Normative Acts<sup>2</sup> – except such parts of the explanatory notes as:

- Assessment of a financial impact of the draft law in the medium term (the year the draft law enters into force and the next 3 years)
- Evaluation of the impact of the draft law on the legal status of a child
- Assessment of impact of the draft law on gender equality

**2.3. Reporting Obligations: Deliverables, Reporting Schedule and Estimated Time Input**

National Legal Expert will report to the RECC Executive Director (Project Policy and Institutional Advisor – Project Supervisor/Manager) and Technical Advisor in Agricultural Development (RECC Project Core Team Coordinator).

National Legal Expert will submit reports (in soft copies) to the following deliverables in Georgian Language.

*Table 1. Reporting Obligations*

Report Index	Name of Deliverable/Mean of Verification	Estimated Number of Working Days	Time of Submission
<b>R1</b>	(i) Draft version of outline and content of new law on Pasturelands Sustainable Management with supplementary amendments to the existing legislation	3	March, 2023
<b>R2</b>	(ii) Final version of outline and content of special law on Pasturelands Sustainable Management with supplementary amendments to the existing legislation	2	April, 2023
<b>R3</b>	(iii) Draft Law on pastureland management and supplementary amendments to existing legislation along with their explanatory notes	20	June, 2023

<sup>2</sup> <https://matsne.gov.ge/en/document/view/90052?publication=34>

<b>R4, R5</b>	(iv) Final version of pastureland management draft law and supplementary amendments to existing legislation based on stakeholder comments  and  (v) Explanatory note for <u>Draft Pasturelands Management Law, as well as explanatory notes for each supplementary amendment to existing legislation</u>	15	November, 2023
<b>Total</b>		<b>40</b>	

All deliverables should be sub are subject for review and approval by the RECC.

## 2.4. Payment Schedule

National Legal Expert shall submit to the RECC the reports in the form and within the time periods specified in Table 1 (Reporting Obligations) as per Terms of Reference, acceptable to the RECC. The payment mode for the service will be applied based on delivered reports and acts of acceptance (*Service Delivery Acceptance Acts*) signed by both sides (RECC and National Legal Expert) and submitted by the National Legal Expert of original invoices to the RECC.

The schedule of payments is specified below:

*Table 2. Payment Schedule*

Report Index	Name of Report	% of total contract ceiling for the Services (total Value of the Service)
<b>R1, R2</b>	(i) Draft version of outline and content of special law on Pasturelands Sustainable Management with supplementary amendments to the existing legislation; (ii) Final version of outline and content of special law on Pasturelands Sustainable Management with supplementary amendments to the existing legislation	10%
<b>R3</b>	(ii) Draft Law on pastureland management and supplementary amendments to existing legislation	40%
<b>R4, R5</b>	(iii) Final version of pastureland management draft law and supplementary amendments to existing legislation based on stakeholder comments  and  Explanatory note for <u>Draft Pasturelands Management Law, as well as explanatory notes for each supplementary amendment to existing legislation</u>	50%
		100%

## 3. OVERALL DUTIES AND RESPONSIBILITIES, QUALIFICATIONS, EXPERIENCE AND TECHNICAL COMPETENCIES

### 3.1. Overall Duties and Responsibilities

National Legal Expert will have the following tasks:

- Liaise with the RECC Executive Director (*Project Policy and Institutional Advisor – Project Supervisor/Manager*), Technical Advisor in Agricultural Development (RECC Project Core Team Coordinator), FAO, MEPA, project partners and other stakeholders to ensure flow of expected deliverables under this Terms of Reference;
- Present draft law on Pasturelands Sustainable Management on workshops and/or hearings to discuss the draft law, explain and discuss content of the law to the audience;
- to prepare matrix reflecting remarks/comments received and consequent updates of the draft law;
- Incorporate acceptable comments in the draft law on Pasturelands Sustainable Management and prepare (jointly with pasturelands lawyer) the final draft Law ready for submission to the Ministry of Environmental Protection and Agriculture of Georgia.

### **3.2. Qualifications and Experience Requirements**

National Legal Expert should have:

- At least master's degree in administrative law, comparative law institutional development, public management, or a related field (minimum requirement);
- At least 10 years of experience as a consultant in providing lawmaking and legal consultancy services that would include elaboration of legislative acts in the fields of administrative, environmental and natural resources, including land resources management law;
- Specific Knowledge of Georgia's policy, legislative and institutional frameworks related to environment protection, agriculture and land management, as well as related EU legislation;
- Demonstrated experience in conducting legal consultancy for public agencies;
- Experience in performing of analytical and policy work in the field of environmental, natural resources and land management.

### **3.3. Technical Competencies**

- Good analytical and managerial skills, ability to express ideas clearly and concisely both orally and in writing;
- Ability to establish and maintain working relations with a variety of stakeholders;
- Ability to work under pressure;
- Ability to plan and manage tasks independently;
- Ability and willingness to work independently;
- Good interpersonal and communication skills;
- Good reporting skills;
- Good organizational and communication capacity;
- Good written and oral working knowledge in Georgian
- Advanced computer skills.

## **4. AWARD CRITERIA**

Evaluation will be made in accordance with the quality/price-based selection method per REC Caucasus procedures and rules. The best value for money will be established by weighing technical quality against price on an 80/20 basis.

The quality of each technical offer will be evaluated in accordance with the award criteria and the associated weighting as detailed in the evaluation grid specified in Annex 1 of this Terms of Reference.

## Annex 1. Evaluation Grid

Ref. Number: 027RECC/G/FAO-25-2023	
<b>National Legal Expert for Development of Legislative Package on Sustainable Management of Pasturelands</b>	
<b>EVALUATION GRID</b>	<b>Maximum</b>
<b>Organisation and Methodology</b>	
<b>(Max 20 points)</b>	
<i>Rationale</i>	5
<i>Strategy</i>	5
<i>Timetable of activities</i>	10
<b>Total score for Organisation and methodology</b>	<b>20</b>
<b>Expert</b>	
<b>(Max 80 points)</b>	
<b>Qualifications and skills</b>	
<i>Adequacy of Educational background for tasks</i>	10
<b>General professional experience</b>	
<i>At least 10 years of experience as a consultant in providing law-making and legal consultancy services that would include elaboration of legislative acts in the fields of administrative, environmental and natural resources, including land resources management law</i>	20
<b>Specific professional experience</b>	
<i>Specific Knowledge of Georgia's policy, legislative and institutional frameworks related to environment protection, agriculture and land management, as well as related EU legislation</i>	10
<i>Demonstrated experience in conducting legal consultancy for public agencies</i>	20
<i>Experience in performing of analytical and policy work in the field of environmental, natural resources and land management</i>	10
<b>Specific Qualifications and skills</b>	
<i>Writing and communication skills in Georgian and also strong interpersonal and general communication skills, strong cultural sensitivity and ability to work in multi-cultural environments; Basic knowledge of written and oral English language (Good knowledge of written and oral English language as an asset)</i>	10
<b>Total score for Expert</b>	<b>80</b>
<b>Overall total score</b>	<b>100</b>