

Labor Management Procedure (LMP)
for the
Moldova
Higher Education Project

Ministry of Education, Culture and Research
November 2019

1. OVERVIEW OF LABOR USE ON THE PROJECT

Number of Project Workers: It is estimated that a total of **100-150 (to be specified)** construction workers may be employed for the performance of the minor civil works at the selected educational institutions. An estimated 25-50 persons will be hired either as individual consultants or staff of consulting companies to provide technical assistance services under the project.

It is expected that Project will engage the following categories of project workers as defined by ESS2:

Direct workers: Direct workers would include the individual consultants working for the Project Management Team. The number of direct workers would not exceed 5-7 individuals who will be responsible for the project management, fiduciary and compliance aspects of project implementation.

Contracted Workers: Contracted workers would be hired for minor works as well as for the technical assistance activities under the project. The number of contracted workers is currently estimated at 250, but it may vary depending on how many contracts a Contractor may be allowed to win.

Migrant workers: International migrants are not expected to be hired under the project. However, some internal migrants, i.e. workers from other regions of Moldova may be employed as construction workers outside their area of residence. The main risks associated with these workers is that they may be employed on part-time basis without written contracts. They may have to work overtime without appropriate overtime pay. Finally, appropriate accommodations may not be provided.

Also, teaching staff from other regions might temporarily migrate to get involved in developing the National Qualification Framework and curricula.

Timing of Labor Requirements: The timing and sequencing of labor on the project is being currently defined. This section can be filled once the sequencing of the implementation plan and procurement plans are finalized.

2. ASSESSMENT OF KEY POTENTIAL LABOR RISKS

Project activities

The Project activities includes systemic interventions in higher education quality monitoring capacity, financing and management, as well as a targeted program to be implemented by selected universities and pedagogical colleges to address some of their most pressing needs in labor market orientation. One of the eligible activities for the 6 pedagogical colleges under the Higher Education Improvement Program (HEIP) scheme is the minor works for renovation of learning spaces. The rest of the activities are mainly technical assistance and consulting activities to improve the quality and labor market orientation of higher education in Moldova.

Key Labor Risks

The key labor risks related to the occupational and health safety relate to the above-mentioned minor civil works. The specific civil works are not known currently as the colleges will have to define those in their applications during project implementation. However, it can be estimated that some of those generic risks would include, but not be limited to the following:

- Working at height;
- Moving objects;
- Slips, trips, and falls;
- Noise;
- Material and manual handling;
- Collapsing trenches;
- Asbestos;
- Electricity;
- Airborne fibers and materials.

While the Moldovan labor management and OHS legislation is extensive, its actual implementation and enforcement have proven to be lacking, particularly in terms of enforcement of safety and OHS regulations. This may particularly concern the hygiene, accommodation and employment rights of the seasonal workers who may not be residents of the locality where the minor works occur. Other labor risks are not considered to be significant. Moldova has few, if any, migrant workers and the project is evaluated low on gender-based violence risk. However, the PMT will monitor the development and adjust the risk profile in case of changes.

3. BRIEF OVERVIEW OF LABOR LEGISLATION: TERMS AND CONDITIONS

Below is the overview of the key aspects of national Labor Code with regards to terms and conditions of work (ESS2, para 11).

- ***Wages and deductions***

The amount and form of remuneration in Moldova is determined by the individual labor contract. The wage is paid at least monthly. The Government of Moldova sets the guaranteed minimum wage which was MDL 2,610 (approx. 157 USD) as of May 2019. The employers usually deduct the income tax and health and social insurance contributions automatically from the wages and transfer them to the appropriate fiscal, medical and social authorities. The total amount of deductions cannot exceed 50 percent from the wage to be paid to the employee.

- ***Working Hours***

The Moldovan Labor Code envisages a regular 40 hour work week. The work week is set at 24 hours for individuals aged 15-16 and 35 hours for those aged 16-18 as well as for individual working in hazardous sectors of the economy. Finally, disabled individual of category I and II are entitled to a 30-hour working week without the reduction in remuneration or other employment rights (Articles 95 and 96 of the Moldovan Labor Code).

- ***Rest Breaks***

Employees are entitled to a lunch break of at least half an hour each workday. The exact duration of the lunch break rest is stipulated in the collective labor agreement or the internal regulations of the entity. Meal breaks, with the exceptions specified in the collective labor contract or entity internal regulations, shall not be included in the working time. The duration of the daily break, that is the time between the end of the working program and the start of the work program the following workday cannot be less than the double

duration of the daily working time (Article 107). Weekly rest is granted for 2 consecutive days, usually Saturday and Sunday.

- *Leaves*

The right to annual leave is guaranteed to all employees. Any employee who works based on an individual labor contract shall benefit from the right for annual rest leave which can be used after the first six months of employment. All the employees are entitled to paid annual rest leave, with a duration of minimum 28 calendar days. Leave does not include a period of temporary disability, and maternity leave. In addition, employees may request up to 60 calendar days of unpaid leave with a justification and agreement from the employer. Short-term and seasonal contracts are not clearly covered in the Moldovan Labor Code and practically, those employees do not benefit from annual leaves.

- *Overtime Work*

An employer can order overtime work in case that is related to national defense or emergencies. Normally, at employer's request, employees can perform overtime work up to 120 hours during the calendar year. In exceptional cases, this limit can be extended to 240 hours with the agreement of both parties (Article 104). Employers must keep a record of worked performed outside normal working hours. The overtime work is paid at 1.5 the amount of the regular hourly rate for the first two hours of overtime work and at 2 times the regular rate for the subsequent hours.

- *Labor Disputes*

The Labor Code of Moldova includes provisions that allow workers to resolve individual and collective disputes between the employer and the employee(s) over the terms and conditions of a labor agreement or other aspects of work, including occupational and labor safety (Articles 357-361). The disagreements and disputes may be solved through conciliation. A conciliation commission should be set not later than three days from the registration of the labor dispute and conflict. The commission should notify the parties in writing within five days from reaching an agreement on how to settle the dispute. If the parties do not agree with the recommendations of this commission, the conflict shall be settled in court.

4. BRIEF OVERVIEW OF LABOR LEGISLATION: OCCUPATIONAL HEALTH AND SAFETY

The Moldovan Labor Code as well as the Law on Occupational Health and Safety (OHS) (2008) set the framework for occupational health and safety in Moldova. Several Government orders and decisions detail how these are to be implemented and outline the list of hazardous industries and occupations in the country. Overall, the Moldovan OHS legislation is extensive and generally in line with the provisions set out in ESS2, paragraphs 24 to 30, the main challenge being the implementation and enforcement of these provisions.

- *Employers' Obligations*

Article 198 of the Labor Code envisages that each business entity or organization should have internal regulations that outline, among other things, the occupational health and safety provisions of the organization. Articles 9 and 10 of the Law on OHS makes the employers responsible for ensuring the health and safety of the employees, for identifying and preventing work-related risks, for informing and training staff on the risks and organizational OHS provisions. The employer must provide the necessary means and

equipment and adapt the working environment to prevent and minimize the occupational risks. Article 11 mandates the employer to assign at least one trained individual within the organization responsible for ensuring the OHS provisions. The employer may set a collective OHS committee made up of both employee and employer's representatives to supervise the OHS arrangements in the work place. In case of emergencies, the employer must take immediate action to provide emergency response and evacuation of workers from the premises/site (Article 12 of the OHS law).

- ***Employers' Rights and Obligations***

Employees have the right and obligation to inform the employer of any emerging hazard or malfunctioning equipment as well as make suggestions on how to improve the OHS rules at the workplace. Employees have the right to refuse to work if the working place does not meet the OHS requirements. They are entitled to be informed and trained about the occupational risks and be provided the required protective gear by the employer at the employer's expense.

5. RESPONSIBLE STAFF

The overall responsibility for the implementation of all aspects of the project lies with the Project Director (PD) who will be a staff of the Ministry of Education, Culture and Research. The Minister of Education, Culture and Research will appoint the PD. The responsibility for substantive input will rely primarily on the existing departments within the MoECR responsible for the areas covered by the project.

A Project Management Team (PMT), comprised by one Project Coordinator, one Project and GRM Assistant, one Procurement Specialist, one Procurement assistant, one Financial Management Specialist, is already in place and helping to implement the ongoing Moldova Education Reform Project. Both the Ministry and the World Bank team expect the same PMT to continue with the implementation of the Moldova Higher Education Project. The PMT may have to hire an environmental and social safeguards consultant to monitor the enforcement of the World Bank's Environmental and Social Safeguards standards. Alternatively, the functions may be reallocated to the existing consultants.

The Project Director will be responsible for implementing the labor management procedures concerning the direct workers.

The PMT (a person designated within the PMT which is likely to be the GRM specialist), will be responsible for the following aspects of the labor management procedures:

- Ensure that contractor(s) responsible for the civil works under the project prepare the OHS plan to meet the requirements of national occupational health and safety regulations before the start of the works;
- Monitor regularly that the Contractor(s) are meeting contractual obligations towards contracted and sub-contracted workers as included in the General Conditions of Contract the World Bank Standard Bidding Documents, and in line with ESS2 and the national Labor Code;
- Monitor that OHS standards are met at work places in line with national occupational health and safety legislation and Occupational Health and Safety Plan;
- Ensure that the workers for all contractors and subcontractors are aware about the grievance redress mechanism;
- Ensure that grievances are registered and addressed properly by the appropriate party.

The civil works Supervision Consultant(s) (if envisaged by the project) will oversee labor and safety performance on a regular basis (daily) on behalf of the Employer (PMT and the MoECR and/or the universities depending on who will have the primary responsibility for contract management). The ESMP

requires the Supervision Consultant to employ qualified experts for such oversight and to report on performance to the PMT monthly.

The Contractor(s) will be responsible for the following:

- Assigning or employing a person responsible for the adaption and implementation of the OHS plan to the requirements of the project;
- Maintaining records of recruitment and employment process of contracted workers;
- Communicating clearly job description and employment conditions to contracted workers;
- Having a system for regular review and reporting of labor, and occupational safety and health performance on site;
- Developing and implementing a grievance registration mechanism that would record and address the grievances raised by the workers;
- Delivering regular orientation and OHS training to employees.

6. POLICIES AND PROCEDURES

This section sets out information on OHS, reporting and monitoring and other general project policies related to the management of project-related labor pool.

All the contractors under the project will have to comply with the Moldovan OHS legislation and Labor Code as well as the provisions set under the World Bank's ESSF2. The contractor(s) will have to prepare or adjust their internal regulations, in case they do not comply with the current legislation. They will also make them known and available to their staff and workers and will cover the following aspects:

- ***Non-discriminatory Nature of Employment***

All the workers hired under the project, whether direct, contracted or sub-contracted, will be employed based on the principles of non-discrimination. As per Article 8 of the Moldovan Labor Code, any discrimination based on gender, age, race, ethnicity, political option, social origin, residence, handicap, status or trade union activity, as well as other criteria not related to his professional qualities, shall be prohibited.

- ***Terms of Employment***

All workers will have **written contracts** describing terms and conditions of work. Workers will sign the employment contract in two copies. Terms and conditions of employment will be available at work sites. Each staff or worker will receive a brief orientation covering the contents of the contract; the internal regulations of the institution; the work safety and OHS arrangements in the work place.

The PMT will have to ensure that all part-time and seasonal construction workers all have written contracts as unpaid overtime work and generally failure to pay individuals who do not have signed contracts is one of the main risks of abuse in the Moldovan construction industry.

- ***Employee Rights and Obligations***

The section should specify the employee rights in line with the Moldovan legislation which include, among others, the right to a safe working environment; lunch breaks and rest days; timely payment of wages and

salaries; the right to appeal to employers, trade unions and authorities in case of labor disputes; the right to associate freely.

- ***Occupational Safety and Health***

This section should cover the obligations of the employer to provide a healthy work environment; the obligation to assign an individual who will be responsible for the OHS arrangements at work and on site; describe and explain the main risks of the work involved to the employee; train employees and workers on the OHS arrangements at the enterprise; provide appropriate protective equipment, clothing and gear to mitigate the existing risks; record and report the work incidents on site; ensure that first-aid help is available on site and have emergency and evacuation protocols prepared and explained to staff and workers in case of emergencies.

- ***Useful References***

A complete labor guide for employers and contractors is available at the website of Moldovan Labor Inspectorate at: <https://ism.gov.md/ro/content/ghid-pentru-angajatori>. Article 199 of the Labor Code provides the minimum structure of the internal regulations of an enterprise. A sample of internal regulations for contractors can be found here:

<http://editurastatistica.md/sites/default/files/2019/Regulament%20intern%20I.S.%20Editura%20de%20Iprime%20STATISTICA.pdf>

7. AGE OF EMPLOYMENT

Moldovan labor legislation prohibits anyone under 18 from performing hazardous work, and construction is considered hazardous (Government Decision #264 as of 06.10.93 on the list of hazardous occupations). Therefore, the Contractors will not hire individuals under 18 years for construction work. They will be required to verify the age of all workers. If a child under the minimum age is discovered working on the project, the relevant supervisor will take the required actions to terminate responsibly the employment of the child, considering the best interest of the child.

8. TERMS AND CONDITIONS

- The terms and conditions of employment applying to all types of project workers shall be governed by the internal regulations of contractors and suppliers in line with the Moldovan Labor Code and other labor-related legislation. These terms and conditions will be clearly mentioned in the written contracts for all type of workers, whether full-time or part-time, and be made known to project workers prior to commencement of work;
- The work hours are 40 per week for all workers. The number of weekly overtime hours and the payment of overtime shall be governed by the provisions of the Moldovan Labor Code which is in line with the ESS2;
- There is no project-wide collective labor agreement.

9. GRIEVANCE MECHANISM

The Moldova Higher Education Project has a GRM in place available for project stakeholders, all types of project workers and other interested parties to submit questions, comments, suggestions and/or complaints and provide any form of feedback on all project-funded activities.

The Contractor(s) will have to inform their workers, and sub-contractor(s), and display publicly on work-site the information about the existing project GRM which will include:

- a brief description of the GRM mechanism and what it is used for;
- the process to send grievances such as comments/complaints forms via suggestion boxes, email, a telephone hotline with an indication of the email, telephone number, fax; mailing address;
- the responsible unit (PMT and/or person) for reviewing the submitted grievances;
- stipulated timeframes to respond to grievances;

10. CONTRACTOR MANAGEMENT

Whether the Moldova Higher Education Project will use the Bank's 2017 Standard Procurement Documents for solicitations and contracts or National Procurement Guidelines, both will include language referring to labor and occupational, health and safety requirements that must comply with the Moldovan national legislation and ESS2.

The PMT generally, and a specific assigned person within the PMT, will monitor the performance of Contractor(s) in relation to contracted workers. This may include periodic audits, inspections, and/or spot checks of project locations or work sites and/or of labor management records and reports compiled by contractors. Contractors' labor management records and reports may include: (a) a representative sample of employment contracts or arrangements between third parties and contracted workers; (b) records relating to grievances received and their resolution; (c) reports relating to safety inspections, including fatalities and incidents and implementation of corrective actions; (d) records relating to incidents of non-compliance with national law; and (e) records of training provided for contracted workers to explain labor and working conditions and OHS for the project.

11. COMMUNITY WORKERS

No community contribution is expected under the project and no community workers will be involved in the project's minor works.

12. PRIMARY SUPPLY WORKERS

The project will finance minor rehabilitation works and the primary suppliers will be suppliers of construction materials, tools and equipment. There are little or no risk of child or forced labor or serious safety issues in relation to primary suppliers under the Moldova Higher Education Project.