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Pravna podrška pregovorima - Policy & Legal Advice Centre

## Terms of Reference (ToR) for a Short-Term assignment

<b>Technical assistance requested:</b>	1 (one) Senior Non-Key Expert and 1 (one) Junior Non-Key Expert in the area of Negotiating Ch. 8, State Aid; Analysis of the position of Free zones, Industrial and Technological parks in relation to the state aid rules
<b>Project Title:</b>	Policy and Legal Advice Centre (PLAC III), Serbia
<b>Ref:</b>	EuropeAid/139295/DH/SER/RS
<b>Service Contract No.:</b>	(CRIS) 2018/404-529
<b>Main beneficiary:</b>	The Ministry of European Integration of the Republic of Serbia and the Negotiating Team
<b>Target Beneficiaries:</b>	Negotiating Group Ch. 8; Ministry of Finance,
<b>Budget Line / Expert Category:</b>	One Senior Non-Key Expert and One Junior Non-Key Expert
<b>Duration of the assignment:</b>	30 working days (15 working days for Senior NKE and 15 working days for Junior NK) from May 2019 to July 2019

### 1. Relevant background information

#### Background information in relation to PLAC III project:

The scope of PLAC III project is to provide support to relevant national institutions in charge of alignment of national legal acts with the Union *acquis* and to contribute to further building of capacities of relevant national structures for successful carrying out of accession negotiations.

The PLAC III project should achieve two results:

**RESULT 1** - Enhanced compatibility of national legislation with EU legislation and its effective implementation

**RESULT 2** - Enhanced capacities of the relevant national structures for successful carrying out of accession negotiations

In general, the project aims at fostering the process of accession negotiations of the Republic of Serbia by supporting the effective alignment of national legislation with the Union *acquis* and its implementation and by further building the capacities of involved carriers of the EU integration process in the Republic of Serbia. After completion of screening process in 2015, Serbian public administration has entered into much more demanding and obliging exercise of accession negotiations, whereby each step and every decision should result in approaching actual membership in the EU. For this scenario to happen in accordance with planned dynamics, preparedness, adequate institutional capacity of public administration with highly competent staff is of crucial importance. In the core period of the negotiations, PLAC III Project shall support domestic line institutions and the negotiating structures both in performance of quality operational work in relation to harmonisation process and in the effective coordination during various stages and phases in the process for different negotiation chapters.

## **2. Background information in relation to Chapter 8 – Competition Policy**

The Negotiating Chapter 8 – Competition Policy is one of the most crucial and difficult chapters in the process of Serbian accession negotiation with EU, especially in the area of state aid. The aim is for Republic of Serbia (RS) to harmonise its legislation and establish a strong state aid control system in order to enable the strengthening of free competition.

In the Screening Report for Chapter 8 – Competition policy, the European Commission recommended the opening of the negotiations on Chapter 8 after Serbia fulfils certain six benchmarks. One of the benchmarks is that Serbia ensures the State Aid Authority's operational independence and assign it the powers and the resources necessary for the full and proper application of State aid rules, in line with obligations under SAA.

In the Country Progress Report for 2018 the EC states that Serbia has some level of preparation/is moderately prepared in the area of competition policy. No progress has been made in the field of legislative alignment and enforcement of state aid rules. It is expected that Inter alia, Serbia should pay particular attention to and step up its efforts to make the Commission for State Aid Control (CSAC) more independent and effective.

The assistance will enhance harmonisation with relevant EU regulations and their proper implementation and provide support in meeting the opening benchmarks set for Chapter 8, especially regarding to alignment of the existing fiscal aid schemes, such as Law on Free zones.

Considering the obligations under the SAA, the expert assistance will contribute to improved capacities, in particularly a higher level of knowledge of state aid rules by Commission for State Aid Control and its professional service Department for State aid control and relevant state aid grantors. In this view, the assistance provided under this assignment will complement the activities planned under IPA Project titled "Support to Commission for State Aid Control", which started in February 2019 and aimed at further harmonisation of national legislation with the acquis and development of the capacities for its enforcement. There is no overlapping between the PLAC III and this project.

## **3. Description of the assignment:**

### **3.1 Specific objectives**

The specific objective of this assignment is to provide expert assistance to the Ministry of Finance more specifically, the support to the Department for State Aid Control in implementing EU state aid acquis in area of financing of Free zones, Industrial and Technological parks. The assistance will enhance harmonisation with relevant EU regulations and their proper implementation and provide support in meeting the opening benchmarks set for Chapter 8, especially regarding to alignment of the existing fiscal aid schemes, such as Law on Free zones.

In the scope of this objective, these activities are foreseen:

- Prepare a comparative analysis of financing of Free zones, Industrial and Technological parks in Republic of Serbia and EU member states and analysis of the position of the existing Free zones, Industrial and Technological parks in RS in relation to the state aid rules.
- Draft guidelines on harmonisation of financing of Free zones, Industrial and Technological parks in line with state aid rules and to present the most relevant EU case law in this area.
- Prepare and hold a workshop to present the EU Commission's most relevant assessments and decisions on Member States' notified measures in the light of Article 107 and 108 of the TFEU as well as case law of Court of Justice of the European Union (ECJ) in this area.

### 3.2 Requested services

Senior NKE in the area of state aid is expected to provide the following services:

- a) Collect, identify, process and analyse data and information on relevant cases of financing of Free zones, Industrial and Technological parks in RS and EU member states (as agreed) in relation to the state aid rules
- b) Prepare a comparative analysis of financing of Free zones, Industrial and Technological parks in RS and EU member states (at least three MS, to be determined during the kick off) and analysis of the position of the existing Free zones, Industrial and Technological parks in RS in relation to the state aid rules.
- c) Draft guidelines on harmonisation of financing of Free zones, Industrial and Technological parks in line with state aid rules.
- d) Prepare and hold a workshop to present the EU Commission's most relevant assessments and decisions on Member States' notified measures in the light of Article 107 and 108 of the TFEU as well as case law of Court of Justice of the European Union (ECJ) in this area

Junior NKE in the area of state aid is expected to provide the following services

- a) Collect, identify, process and analyse data and information on relevant cases of financing of Free zones, Industrial and Technological parks in RS and EU member states (as agreed) in relation to the state aid rules, which would serve as an input to the comparative analyses (*see point 3.2. item a*) and to the Draft guidelines on harmonisation of financing of Free zones, Industrial and Technological parks in line with state aid rules (*see point 3.2. item b*).
- b) Participate in the WS (*see point 3.2. item c*) and present the outputs of the assignment

### 3.3 Outputs

#### 3.3.1 The Senior NKE is expected to deliver the following outputs:

- a) A draft comparative analysis of financing of Free zones, Industrial and Technological parks in RS and EU member states and analyses of the position of the existing Free zones, Industrial and Technological parks in RS in relation to the state aid rules.
- b) A draft guideline on harmonisation of financing of Free zones, Industrial and Technological parks in line with state aid rules
- c) Workshop held

#### 3.3.2 The Junior NKE is expected to deliver the following outputs:

- a) A report on collection and process of data/information on relevant cases of financing of Free zones, Industrial and Technological parks in RS and EU member states in relation to the state aid rules for the draft comparative analysis and the draft guidelines
- b) Workshop held

### 3.4 Reporting

The SNKE shall provide the following reports by using the templates of the Project:

- **Final Mission Report**, no later than 1 week after completion of tasks under this assignment. This report will include description of all activities and outputs provided by the SNKE and the JNKE in the context of this assignment.

- A brief interim report - only upon a request of the PLAC III team: TL and/or KE 2

Submission of reports:

- Draft mission report shall be submitted to the Team Leader of the Project for a review and comments at the completion of the mission.
- Final version of the mission report prepared in the agreed quality shall be submitted to the Team Leader of the Project for a review, comments and the final approval at the agreed time, but not later than 7 days after the TL comments on the draft mission report have been submitted to the expert.
- The reports shall be signed by the SNKE and the Team Leader, who is responsible for endorsing the reports.
- The mission report and all prepared documents shall be submitted in a hard copy and in an electronic version to the Team Leader of the project.

### **3.5 Specifics**

Both selected NKES shall work under the guidance and follow the instructions of the Team Leader. The NKES shall collaborate with the project team, other experts involved and representatives of the relevant beneficiary institutions.

Each of the short-term missions, the timing and duration shall be agreed with the Beneficiary and the PLAC team prior to each planned mission.

### **3.6 Expert input**

#### **3.6.1 Total working days**

15 working days (WDs) for Senior Non-Key Expert and 15 working days (WDs) for Junior Non-Key Expert have been planned for this assignment.

#### **3.6.2 Period of the assignment and Starting day**

It is expected that the work will be performed during in the period from May 2019 until July 2019 at latest. The exact starting date will be agreed at a later stage.

#### **3.6.3 Location/Place of assignment**

The NKES have to deliver 100% of the input in Belgrade, Serbia.

#### **3.6.4 Working language**

English

## **4. Expert's Profile – Senior Non-Key Expert**

### **4.1 Qualifications and skills (25 points)**

- A level of education, which corresponds to completed university studies of at least 3 years in the relevant field attested by a diploma such as economy, finance, law or similar, relevant to the assignment
- Proficiency in English language

- Computer literacy
- Be proficient in report drafting
- Excellent communication and analytical skills
- Be independent and free from conflicts of interest in the responsibilities they take on

#### **4.2 General professional experience (25 points)**

- At least 8 (eight) years of general postgraduate professional experience related to the EU state aid *acquis* gained in an EU member state, candidate or potential candidate country

#### **4.3 Specific professional experience (50 points)**

- Postgraduate professional experience in harmonisation of the national State aid legislation with the Union *acquis*
- Postgraduate professional experience in a state aid regulatory authority of an EU Member State, candidate or potential candidate country
- Postgraduate professional experience with the tax and Customs Union law

### **5. Expert's Profile – Junior Non-Key Expert**

#### **5.1 Qualifications and skills (25 points)**

- A level of education, which corresponds to completed university studies of at least 3 years in the relevant field attested by a diploma such as law, economy, finance or similar, relevant to the assignment
- Proficiency in English language
- Computer literacy
- Be proficient in report drafting
- Excellent communication and analytical skills
- Be independent and free from conflicts of interest in the responsibilities they take on
- Knowledge of Serbian language will be an advantage

#### **5.2 General professional experience (25 points)**

- At least 5 (five) years of general postgraduate professional experience related to state aid gained in an EU member state, candidate or potential candidate country

#### **5.3 Specific professional experience (50 points)**

- Postgraduate professional experience in harmonisation of the national State aid legislation with the Union *acquis*
- Postgraduate professional experience in public administration of an EU Member State, candidate or potential candidate country
- Knowledge of Serbian legal system will be an advantage

### **6. Applications**

Applications (EU format CV and application letter, both in English) need to be submitted by e-mail to [mbayard@dmiassociates.com](mailto:mbayard@dmiassociates.com) and [nderxen@dmiassociates.com](mailto:nderxen@dmiassociates.com) no later than 8 May 2019, 17:00 hrs, titled:

**“Application for the position – Senior NKE in the area of Ch. 8, Competition Policy, Analysis of the position of Free zones, Industrial and Technological parks in relation to the state aid rules”**

References must be available on request. Only short-listed candidates will be contacted.

The Project is an equal opportunity employer. All applications will be considered strictly confidential.

Advertised posts are not available to civil servants or other officials of the public administration in the beneficiary country, Serbia.

For more information, please contact Project Manager at DMI Associates Marion Bayard: [mbayard@dmiassociates.com](mailto:mbayard@dmiassociates.com) or Nina Derxen: [nderxen@dmiassociates.com](mailto:nderxen@dmiassociates.com).