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Pravna podrška pregovorima - Policy & Legal Advice Centre

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

Technical assistance requested:	1 (one) Senior and 1 (one) Junior Non-Key Expert in the area of Ch. 12 – Food Safety; Food Contact Materials
Project Title:	Policy and Legal Advice Centre (PLAC III), Serbia
Ref:	EuropeAid/139295/DH/SER/RS
Service Contract No.:	(CRIS) 2018/404-529
Main beneficiary:	Ministry of European Integration of the Republic of Serbia and the Negotiating Team
Target Beneficiaries:	Negotiating Group Ch. 12; Ministry of Health
Budget Line / Expert Category:	One Senior and One Junior Non-Key Expert
Duration of the assignment:	45 working day (20 WD for NKSE and 25 WD for NKJE); the assignment period from May 2019 – February 2020

1. Relevant background information

The scope of PLAC III project is to provide support to relevant national institutions in charge of alignment of national legal acts with the EU *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 12 – Food safety, veterinary and phytosanitary policy

Serbia 2018 Report issued by the European Commission states that Serbia is moderately prepared in the area of food safety, veterinary and phytosanitary policy Chapter 12. There has been no progress in the reporting period. In the coming year, Serbia should among other things, develop a comprehensive strategy for transposition, implementation and enforcement of the acquis on food safety, veterinary and phytosanitary policy, substantially strengthen the administrative capacity of the veterinary, phytosanitary and national reference laboratories directorates and consistently apply and improve the risk-based approach to sanitary control at borders.

The Republic of Serbia (RS) is intensively preparing for negotiations with the EU regarding Chapter 12. One of the three opening benchmarks set by the EC is the adoption of the framework legislation that complies with the acquis. Four draft laws, which are important for this benchmark are in the parliamentary procedure (on plant protection products; on plant nutrition products and soil enhancers; on food safety; on plant health). Serbia will be ready soon to give a notice on the fulfilment of the first benchmark.

In line with Chapter 3.12.1 of the National Programme for Adoption of Acquis (Last revision of March 2018), and Screening and Progress report 2018, Serbia has to make progress and has yet to define a strategy and action plan for full transposition of the acquis. Serbia needs to increase the effectiveness of controls, in particular by strengthening its administrative capacity for inspections, applying risk-based checks.

The Food safety law (the Law on Food Safety, Official Gazette of the RS No 41/09) divides the competences in the area of food safety between the Ministry of Agriculture, Forestry and Water Management (MAFWM) and the Ministry of Health (MoH) depending on the type of food and the stage of production and sale. In relation to this assignment, Ministry of Health is a competent authority for establishment of the policy, legislative and official control functions in the area of materials and articles intended to come into contact with food.

The current number of staff and their qualifications is not sufficient to support transposition of the Union acquis in the area of food safety into the national legislation, and in particular for their implementation and application. Legislative framework of the RS, regulating the area of food contact materials and articles, is contained in the Law on Food Safety (The Official Gazette of the RS No 41/09) and the Law on Health and Safety of products of General Use (The Official Gazette of the RS No 92/11). In addition to the above laws, the Rulebook on Conditions in relation to Health and Safety of products of General Use that Can be Placed on the Market (The Official Gazette of the FRY No 26/83, 61/84, 56/86, 50/89 and 18/91) is adopted on the grounds of the Law on Health and Safety of Food and products of General Use (The Official Gazette of the FRY No 53/91, as amended) which was repealed in part related to food with the adoption of the Law on Food Safety.

The Rulebook on Conditions in relation to Health and Safety of products of General Use that Can be Placed on the Market regulates, in addition to materials and articles intended to come into contact with food (dishes and cutlery), regulates kid's toys, personal hygiene products, facial and body care products, cleaning products, as well as tobacco derivatives. Based of Article 6.2 and Art. 8.2 of the Law on Health Safety of products of General Use (The Official Gazette of the RS No 92/11), and Article 26.5 of the Law on Food Safety (The Official Gazette of the RS No 41/09), it is foreseen for adoption the Rulebook on Materials and Articles Intended to Come into Contact with Food, Including Products Intended for Infants and Children for

Facilitation of Feeding and Breastfeeding, Calming and Sleeping as well as Packaging for Food and Articles of General Use (transposing provisions of Regulation 1935/2004 and Regulation 2023/2006).

Law on products for general use (the legal basis for the adoption of a Rulebook on Materials and Articles Intended to Come into Contact with Food, Including Products Intended for Infants and Children for Facilitation of Feeding and Breastfeeding, Calming and Sleeping as well as Packaging for Food and Articles of General Use, is published in the Official Gazette of the RS No 25/19) will sufficiently transpose provisions of relevant EU regulations. The bylaw – Rulebook on Materials and Articles Intended to Come into Contact with Food, Including Products Intended for Infants and Children for Facilitation of Feeding and Breastfeeding, Calming and Sleeping as well as Packaging for Food and Articles of General Use, shall further specify provisions of the Law.

Harmonisation of the Law on products of General Use with relevant EU regulations is described in Part 3.1. Movement of Goods in the NPAA. Full harmonisation of national legislation in the area of food contact materials and articles is planned to be completed before end of December 2021.

In the context of the above, in the area of materials and articles intended to come into contact with food (FCM) the activities are foreseen to take place in the second quarter of 2019. The PLAC III project assistance is therefore crucial for the implementation of the NPAA in this sector and in meeting the opening benchmarks set for Ch. 12.

At present, there is no on-going and/or planned assistance projects for the activities covered by this ToR.

3. Description of the assignment

3.1 Specific objectives

The specific objective of this assignment is to provide assistance to the Ministry of Health (MoH) more specifically, the support to the Sanitary Inspection in completing the work on the drafting of a Rulebook on Materials and Articles Intended to Come into Contact with Food (Including Products Intended for Infants and Children for Facilitation of Feeding and Breastfeeding, Calming and Sleeping as well as Packaging for Food and Articles of General Use) and a Guidelines for a proper implementation of official control on food contact materials and articles intended to come into contact with food.

In relation to the results of screening related to food contacts materials and articles, experts' support to MoH is needed in drafting harmonised legislation in this area and effectively implementing legislative measures and ensuring the necessary administrative capacity. The experts' assistance will enhance harmonisation with relevant EU regulations and their proper implementation and contribute to strengthening of administrative capacities of the sanitary inspectorate (preparation of a guide – guidelines for carrying out the official control of FCM).

Improving legislation quality and enhancing cooperation among cooperation among the market surveillance authorities. The sustainability of results, including ensuring the necessary capacities for implementation and follow-up, will be specifically in focus.

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

- **Draft a Rulebook on Materials and Articles Intended to Come into Contact with Food - FCM**, Including Products Intended for Infants and Children for Facilitation of Feeding and Breastfeeding, Calming and Sleeping as well as Packaging for Food and Articles of General Use – transposing and harmonising it with the relevant Union acquis as follows: Consolidated Commission Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food (31/01/2019 , Commission Regulation (EC) No 450/2009 of 29 May 2009 on active and intelligent materials and articles intended to come into contact with food; Consolidated Commission Regulation (EC) No 282/2008 of 27 March 2008 on recycled plastic materials and articles intended to come into contact with foods and amending Regulation (EC) No 2023/2006, Commission Directive 2007/42/EC of 29 June 2007 relating to materials and articles made of regenerated cellulose film intended to come into contact with foodstuffs; Consolidated Council Directive 84/500 of 15 October 1984 on the approximation of the laws of the Member States relating to ceramic articles intended to come into contact with foodstuffs , Commission Regulation (EU) No 284/2011 of 22 March 2011 laying down specific conditions and detailed procedures for the import of polyamide and melamine plastic kitchenware originating in or consigned from the People’s Republic of China and Hong Kong Special Administrative Region, China; Commission Regulation (EC) No 1895/2005 of 18 November 2005 on the restriction of use of certain epoxy derivatives in materials and articles intended to come into contact with food; Commission Directive 93/11/EEC of 15 March 1993 concerning the release of the N-nitrosamines and N- nitrosatable substances from elastomer or rubber teats and soothers; Council Directive 78/142/EEC of 30 January 1978 on the approximation of the laws of the Member States relating to materials and articles which contain vinyl chloride monomer and are intended to come into contact with foodstuffs); Commission Directive of 29 April 1981 laying down the Community method of analysis for the official control of vinyl chloride released by materials and articles into foodstuffs (81 /432/ EEC); Consolidated Council Directive 85/572/EEC of 19 December 1985 laying down the list of simulants to be used for testing migration of constituents of plastic materials and articles intended to come into contact with foodstuffs (31/12/2012 ; Consolidated Council Directive (82/711/EEC of 18 October 1982 laying down the basic rules necessary for testing migration of the constituents of plastic materials and articles intended to come into contact with foodstuffs)
- **Draft Guidelines for the proper implementation of official control of FCM**
- **Prepare and hold two workshops** presenting draft Rulebook on Materials and Articles Intended to Come into Contact with Food, Including Products Intended for Infants and Children for Facilitation of Feeding and Breastfeeding, Calming and Sleeping as well as Packaging for Food and Articles of General Use and Guidelines for the proper implementation of official control of FCM, as well as presenting practical examples of the best practices in the EU member states regarding the implementation the EU Regulations in the sector.

3.2 Requested services

3.2.1 The Senior NKE in the area of food safety is expected to provide the following services:

- a) Perform a legal analysis of the legislation of the Republic of Serbia in relation to the relevant EU laws in the area of food contact materials and articles intended to come into contact with food
- b) Drafting a Rulebook on materials and articles intended to come into contact with food, including products intended for infants and children for facilitation of feeding and breastfeeding, calming and sleeping as well as packaging for food and articles of general use

- c) Drafting Guidelines for the proper implementation of official control FCM in accordance with the newly adopted Law on products of general use and taking in particularly into account the negotiation process e.g. the remarks and suggestions that Republic of Serbia has received from European Commission in this respect and the relevant experiences from the selected EU member states
- d) Prepare and conduct two workshops with the following (indicative) topics: presentation a draft Rulebook on materials and articles intended to come into contact with food, including products intended for infants and children for facilitation of feeding and breastfeeding, calming and sleeping as well as packaging for food and articles of general use and of the draft Guidelines for the proper implementation of official control of FCM, as well as examples of the best practices in the selected EU member states regarding the implementation the EU Regulations – the best practices in the area.

3.2.2 The Junior NKE in the area of food safety is expected to provide the following services:

- e) Drafting Part II of the Rulebook (in accordance with the new Law on products of general use and experience from the negotiation process (remarks and suggestions that Republic of Serbia has received from European Commission), and respecting national methodology for drafting of legislation.
- f) Drafting and/or updating Tables of concordance on Consolidated Commission Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food (31/01/2019) Commission Regulation (EC) No 450/2009 of 29 May 2009 on active and intelligent materials and articles intended to come into contact with food; Consolidated Commission Regulation (EC) No 282/2008 of 27 March 2008 on recycled plastic materials and articles intended to come into contact with foods and amending Regulation (EC) No 2023/2006); Commission Directive 2007/42/EC of 29 June 2007 relating to materials and articles made of regenerated cellulose film intended to come into contact with foodstuffs; Consolidated Council Directive 84/500 of 15 October 1984 on the approximation of the laws of the Member States relating to ceramic articles intended to come into contact with foodstuffs; Commission Regulation (EU) No 284/2011 of 22 March 2011 laying down specific conditions and detailed procedures for the import of polyamide and melamine plastic kitchenware originating in or consigned from the People’s Republic of China and Hong Kong Special Administrative Region, China; Commission Regulation (EC) No 1895/2005 of 18 November 2005 on the restriction of use of certain epoxy derivatives in materials and articles intended to come into contact with food; Commission Directive 93/11/EEC of 15 March 1993 concerning the release of the N-nitrosamines and N- nitrosatable substances from elastomer or rubber teats and soothers; Council Directive 78/142/EEC of 30 January 1978 on the approximation of the laws of the Member States relating to materials and articles which contain vinyl chloride monomer and are intended to come into contact with foodstuffs); Commission Directive of 29 April 1981 laying down the Community method of analysis for the official control of vinyl chloride released by materials and articles into foodstuffs (81 /432/ EEC); Consolidated Council Directive 85/572/EEC of 19 December 1985 laying down the list of simulants to be used for testing migration of constituents of plastic materials and articles intended to come into contact with foodstuffs (31/12/2012) ; Consolidated Council Directive (82/711/EEC of 18 October 1982 laying down the basic rules necessary for testing migration of the constituents of plastic materials and articles intended to come into contact with foodstuffs (01/09/1997)
- g) Participate in the WSs presenting the outputs

3.3 Outputs

The **Senior NKE** are expected to deliver the following outputs:

- A Draft Rulebook on Materials and Articles Intended to Come into Contact with Food, Including Products Intended for Infants and Children for Facilitation of Feeding and Breastfeeding, Calming and Sleeping as well as Packaging for Food and Articles of General Use
- A Draft Guidelines for the proper implementation of official control of FCM
- Two WS held

The **Junior NKE** are expected to deliver the following outputs:

- ToCs on relevant EU laws prepared (see 3.2.2 point f)
- Draft Part II of the Rulebook on Materials and Articles Intended to Come into Contact with Food, Including Products Intended for Infants and Children for Facilitation of Feeding and Breastfeeding, Calming and Sleeping as well as Packaging for Food and Articles of General Use in accordance with the new Law on products of general use
- Two WS 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 both NKEs in the context of this assignment.
- A brief interim report - only upon a request of the PLAC III team: TL and/or KE2.

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 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 mission.

3.6 Expert input

3.6.1 Total working days

20 working days (WDs) in total have been planned for Senior Non-Key expert and 25 working days for Junior Non-Key expert for this assignment

3.6.2 Period of the assignment and Starting day

It is expected that the work will be performed during several missions in the period from May 2019 – February 2020. The exact starting date will be agreed at later stage.

3.6.3 Location/Place of assignment

The SNKE and JNKE has to deliver 100% of the input in Belgrade, Serbia.

4. Expert Profile - Senior NKE:

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 in law, public administration, food safety 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 in food safety sector gained in an EU member state, candidate or potential candidate country

4.3 Specific professional experience (50 points)

- Postgraduate professional experience in the field of harmonisation of legislation of the Union food contact material acquis
- Previous professional experience in implementation of relevant FCM Regulations would be an advantage

5. Expert Profile - Junior NKE

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 in law, public administration 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 the Union *acquis* gained in an EU member state, candidate or potential candidate country.

5.3 *Specific professional experience (50 points)*

- Postgraduate professional experience in harmonisation of legislation in relation to Union food safety *acquis*
- Previous professional experience in drafting Tables of Concordance (ToC)
- Knowledge of the 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 and nderxen@dmiassociates.com no later than 20 May 2019, 17:00 hrs, titled: **“Application for the position – Senior or Junior NKE in the area of food safety – Food Contact Materials”**

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 or Nina Derxen: nderxen@dmiassociates.com.