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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 Negotiating
Project Title:	Consumer and Health Protection, Ch. 28; Tobacco Control Policy and Legal Advice Centre (PLAC III), Serbia
Ref:	EuropeAid/139295/DH/SER/RS
Service Contract No.:	(CRIS) 2018/404-529
Main beneficiary:	The Ministry of European Integration of the Republic of Serbia and the Negotiating Team
Target Beneficiaries:	Negotiating Group Ch. 28; Ministry of Finance – Tobacco Administration
Budget Line / Expert Category:	One Senior and One Junior Non-Key Expert
Duration of the assignment:	60 working days (WD), from July 2019 until April 2021 (40 WD SNKE and 20 WD JNKE)

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 28 – Consumer and Health Protection; Tobacco Control

The Serbia 2019 Report (European commission, {COM(2019) 260 final}) states that Serbia is moderately prepared in consumer and health protection, Ch 28. Serbia shall in particular strengthen the administrative capacity of relevant authorities for consumer protection, market surveillance and sanitary inspection.

It is crucial that Serbia aligns its capacities in the field of consumer protection with those of the EU in order to properly respond to the obligations and responsibilities arising from the acquis. This in particular refers to the assessment of the degree of the alignment and implementing capacity stated in the Screening report on Chapter 28: “At the time of accession, Serbia will also need to be able to ensure adequate enforcement capacity and the application of the EU Regulation on Consumer protection cooperation, in particular regarding the minimum powers of enforcement authorities and the designation process for the competent authorities and the Single Liaison Office”.

Serbia Country report 2019, EC states also that tobacco control legislation is partly aligned with Union acquis, but the use of tobacco in public places is not aligned with EU standards.

The national legislation in this area is regulated by the following legal acts: Law on the Protection of the Population from Exposure to Tobacco Smoke (Official Gazette of the RS No. 30/10); Law on Ratification of the Protocol on Elimination of Illicit Trade in Tobacco Products (Official Gazette of the RS – International agreements no 2/17); Law on Tobacco (Official Gazette of the RS No. 101/05, 108/13); Law on Advertising (Official Gazette of the RS No. 6/16); Law on Ratification of the Framework Convention on Tobacco Control (Official Gazette of the RS SMNG, No. 16/05-03); Excise Tax Law (Official Gazette of the RS No. 22/01, 5/16); Law on Consumer Protection (Official Gazette of the RS No. 62/14 and 6/16).

The Law on Tobacco is partially aligned with the latest directive on tobacco products Directive 2014/40/EU on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products (repealing Directive 2001/37/EC), which has been applicable in the member states from May 2016 onwards and has introduced a number of new tobacco control measures.

However, the Law on Tobacco is not aligned with the Commission Delegated Directive 2014/109/EU amending Annex II to Directive 2014/40/EU by establishing the library of picture warnings to be used on tobacco products.

The Republic of Serbia has ratified the Framework Convention on Tobacco Control of the World Health Organization in February 2006, which is in accordance with the Council Decision 2004/513/EC on the conclusion of the Framework Convention on Tobacco Control of the WHO. The Tobacco Control Strategy in the Republic of Serbia for the period 2007 to 2015, which represented the strategic framework for the implementation of tobacco control in the past, was adopted in accordance with the Framework Convention on Tobacco Control of the WHO. On May 4 2017 the Republic of Serbia adopted the Law on Ratification of the Protocol on the Elimination of Illicit Trade in Tobacco Products.

Ministry of Finance – Tobacco Administration is interested in capacity building of institutions involved in tobacco control (NPAA 2018-2021 Third revision CH28; 3.28.2. Health protection; 3.28.2.2. Tobacco control) within PLAC III project. Trainings are needed for harmonisation of national legislation with Directive 2014/40/EU, especially in regard to traceability, production and trade of novel tobacco products and waterpipe tobacco trade. Through trainings provided by PLAC III, Tobacco Administration’s capacities would be built which will ensure effective and efficient harmonisation process in the future. Also, experience exchange with Member States would enable Tobacco Administration to get familiar with potential issues and effective solutions for negotiation process. In accordance with this, it is necessary to organize a workshop for the relevant institutions on working methods, necessary capacities and resources, as well as possible issues the competent EU institutions are facing in their work regarding cross-border issues.

The experts' assistance is needed in order to streamline the transposition, implementation and enforcement of the tobacco control legislation. In this context a comparative analysis of Serbian Law on Tobacco with Union *acquis* in this sector shall be carried out and a new Law on Tobacco drafted. An assessment of the existing institutional capacities shall be carried out as well and a proposal for the institutional set up drafted and reporting guidelines developed.

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 Finance – Tobacco Administration (TA) in assessing national legislation and its compliance with the Union *acquis*, as well as drafting *acquis*-compliant regulations and thus harmonising national legislation with Union *acquis* (Directive 2014/40/EU) in regard to tobacco sector, with consideration of the practical aspects and challenges in the implementation of the harmonised legislation.

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

1. Prepare a comprehensive review of national legislation including institutional review
2. Carrying out a comparative analysis of Serbian legislation with the Union *acquis*
3. Assessment of necessary technical and human capacities
4. Propose an institutional set-up to ensure coordination and unity of purpose in specific parts of the *acquis*
5. Drafting of the *acquis*-compliant legislation
6. Organisation of a workshop for Tobacco Administration related to important aspects of Directive 2014/40/EU with a focus on experiences in reporting to competent authorities (experience in the EU MS) and controls, the best practice in Member States

3.2 Requested services

The Senior NKE in the area of tobacco sector is expected to provide the following services:

- a) Conduct and prepare a compliance report of Serbian legislation with the Union *acquis*
- a) Conduct the assessment of necessary technical and human capacities and propose institutional set up.
- b) Assist the Beneficiary in drafting the Law on Tobacco
- c) Develop reporting guidelines in regard to reporting toward EU
- d) Design and deliver training on harmonisation of national legislation with Directive 2014/40/EU, especially in regards to traceability, production and trade of novel tobacco products and waterpipe tobacco trade including examples of the best practice in Member States

The **Junior NKE** in the area of tobacco sector the following services:

- a) Prepare a comprehensive review of national legislation including institutional review
- b) Update and/or draft new Tables of Concordance
- c) In conjunction with the SNKE design and deliver training; harmonisation of national legislation with Directive 2014/40/EU, especially in regards to traceability, production and trade of novel tobacco products and waterpipe tobacco trade including examples of the best practice in Member States

3.3 Outputs

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

- A compliance report on the analysis of Serbian legislation with the Union *acquis* drafted
- A Proposal for the institutional set up drafted
- A draft Law on Tobacco

- Reporting guidelines developed
- Training delivered

Junior NKE is expected to deliver the following outputs:

- Report on the review of Serbian legislation in Tobacco sector including institutional set up drafted
- Table of concordance drafted
- Training delivered

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 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 review and comments at the end of the mission.
- Final version of the mission report reports prepared in the agreed quality shall be submitted to the Team Leader of the Project for a review, comments and the final approval. The reports shall be signed by the NKEs and the Team Leader, responsible for endorsing the reports.
- The reports and all prepared documents shall be submitted in a hard copy and 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 planned mission.

3.6 Expert input

3.6.1 Total working days

60 WD in total is envisaged for this activity. 40 working days (WDs) in total have been planned for Senior Non-Key Expert and 20 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 July 2019 until April 2021. However, exact starting date will be agreed at a later stage.

3.6.3 Location/Place of assignment

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

3.6.4 Working language

English

4. Experts' Profile - Senior NKE (40 WD):

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 law, economy, agriculture, financing and accounting, political science or similar, relevant to the assignment
- Computer literacy
- Be proficient in report drafting
- Excellent communication and analytical skills
- Proficiency in English language
- 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 harmonisation of legislation with Union *acquis*, gained in an EU member state, candidate or potential candidate country

4.3 Specific professional experience (50 points)

- Postgraduate professional experience in drafting tobacco related legislation
- Postgraduate professional experience in developing and/or assessing the institutional and human resources
- Postgraduate professional experience in implementing tobacco related legislation will be an advantage

5. Expert's Profile - Junior NKE (20 WD):

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, agriculture, financing and accounting, political science or similar, relevant to the assignment
- Computer literacy
- Be proficient in report drafting
- Excellent communication and analytical skills;
- Proficiency in English language
- Be independent and free from conflicts of interest in the responsibilities they take on

5.2 General professional experience (25 points)

- At least 5 (five) years of general postgraduate professional experience in harmonisation of legislation with Union *acquis*, gained in an EU member state, candidate or potential candidate country

5.3 Specific professional experience (50 points)

- Postgraduate professional experience in drafting tables of concordance
- Postgraduate professional experience gained in the tobacco sector will be an advantage
- 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@dmiasociates.com and ehoward@dmiasociates.com no later than 4th July 2019, 17:00 hrs, titled: **“Application for the position – Senior or Junior NKE in the area of Consumer and Health Protection, Tobacco Control, Ch. 28 Harmonisation of legislation with Union *acquis* in tobacco sector”**.

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: mail to mbayard@dmiasociates.com or Elizabeth Howard ehoward@dmiasociates.com