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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 and 1 (one) Junior Non-Key Expert, EU Negotiating Ch. 3, Professional qualifications, nurses, craft, sport and recreation
<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>	Ministry of European Integration of the Republic of Serbia and the Negotiating Team
<b>Target Beneficiaries:</b>	Negotiating Group Ch. 3; Ministry of Education, Science and Technological Development (MESTD), Ministry of Economy
<b>Budget Line / Expert Category:</b>	One Senior and One Junior Non-Key Expert
<b>Duration of the assignment:</b>	32 working days (27 WD for NKSE and 5 WD for NKJE); the assignment period September 2019 – February 2020

### 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 3 - Right of Establishment and Freedom to Provide Services**

In the Republic of Serbia, the Ministry in charge of Chapter 3 is the Ministry of Trade, Tourism and Telecommunications (MTTT). Other ministries are also involved in the harmonisation of the Republic of Serbia (RS) legislation with Chapter 3 acquis (covering acquis areas of services, mutual recognition of professional qualifications and postal services) such as the Ministry of Education, Science, and Technological Development (MESTD., responsible for sub-chapter Professional qualifications), Ministry of Health, Ministry of Justice, Ministry of Finance, Ministry of Agriculture and Environmental Protection, Ministry of Construction, Transport and Infrastructure as well as other relevant institutions.

After the screening meetings held in 2015, the following benchmark for the opening of negotiation in Chapter 3 was set by the European Commission, "Serbia submits to the Commission a comprehensive and detailed strategy for alignment with the professional qualifications acquis. The strategy must cover all the reforms necessary in terms of legislative alignment and institutional capacity building for the recognition of professional qualifications acquired in other Member States and for the provision of assistance to professionals who qualified in Serbia and wish to provide services in other Member States. The strategy must also cover any adjustments to the training of doctors, dentists, nurses responsible for general care, midwives, pharmacists, veterinary surgeons, and architects necessary to comply with the minimum training requirements outlined in Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications. A deadline, a responsible entity and a clear indication of the corresponding provision of EU law must be specified for each action covered by the strategy".

In connection with the opening benchmark, the Programme on Professional Qualifications with the Action Plan (in continuation: The Programme) was adopted by the Government and by the EC in 2018 Serbia is invited to prepare the Negotiation position. By the date of the accession to the EU, all the outstanding parts of Chapter 3 acquis will have to be transposed into Serbian legislation, addressing the requirements of three general areas of the acquis.

Serbia 2019 Country Report issued by the European Commission states that Serbia remains moderately prepared in these areas. No progress was made on the right of establishment and freedom to provide services. The Commission recommendations from 2018 were not implemented and remain fully valid. In the coming year, Serbia should in particular:

- adopt the umbrella law on services, complete harmonisation of sectoral laws with the umbrella law and the acquis and establish a point of single contact, as a portal that allow service providers to get information and complete administrative procedures online;
- adopt the law on postal services as well as relevant implementing legislation and increase the capacity of the postal services inspectorate;
- adopt a new law on mutual recognition of professional qualifications

The Law on Regulated Professions and Recognition of Qualifications is adopted by the Government in the beginning of July and is in the procedure of adoption by the National Assembly. The next step of alignment is harmonisation of sectoral laws and by-laws. According to the Action plan and NPAA full alignment with the Directive should be achieved by the end of 2021. Legal basis for few professions (the profession of nurses of general care should, in the field of sport, craftsman) should be aligned with Annex V of the Directive, as well as curriculum, trainings for nurses. The first assessment of alignment is prepared by the experts from PLAC project in 2016 and 2017.

The first preliminary list of regulated profession is prepared by the PLAC project in 2017. and should be revised/checked. After adoption of the Law, bylaw that prescribes a list of regulated professions should be prepared and adopted.

Finalising of the Draft Negotiating Position is in progress, presenting the plans concerning future legislative, administrative and institutional framework alignment. European commission “confirms that it is a solid draft, with a satisfactory level of maturity. It includes a comprehensive description of areas in which legal and administrative frameworks still need to be aligned with the *acquis*, as well as a coherent plan on how to do it.” They note that “many modifications are envisaged in the period 2019-2021, while on certain specific matters (e.g. European Professional Card, IMI), full harmonisation will be only achieved by the time of accession.”

Having the above in mind, the assistance of PLAC III project to the MESTD and other relevant ministries is needed in harmonisation of the umbrella law with sectoral laws and relevant by-laws with Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications.

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 MESTD and relevant ministries in harmonisation of the umbrella law with sectoral laws and relevant by-laws with Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications. The assistance will enhance harmonisation with relevant EU rules and their proper implementation.

Experts support to MESTD is needed in drafting harmonised legislation in education (nurses), economy (crafts) and sport sectors in order to be fully harmonised and to accurately anticipate implications of its implementation.

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

1. Support to the Beneficiary in drafting a by-law on the list of regulated professions
2. Drafting recommendations on how to achieve a full alignment for medical nurses of general care (what has to be changed in curriculum in the relations between theory and practice) with Annex V of the Directive on Mutual Recognition of Professional Qualifications 2013/55/EC amending Directive 2005/36/EC)
3. Support to the Ministry of Economy in preparation of the analysis of the best practices concerning craft and craftsmen and recommendation for drafting of the Law on Craft
4. Perform an analysis of a need for further additional drafting of a list of regulated professions with the focus on the field of craft and sport as well as which conditions has to be achieved to be included on the list of regulated professions
5. Comparative analysis of the practices of the selected EU countries, e.g. the bodies in charge for implementation of Directive on recognition of qualifications and preparation of list of all training needs

for contact point which has to pass all institutions in charge of the implementation of recognition of qualifications

6. Organising and holding a workshop presenting the outcomes of the assignment, e.g. gap analysis, amendments to the law, by-laws, recommendations for further alignment of the acquis, as well as the best practice in the selected EU MS related to implementation of the Directive to the administration and the relevant professional bodies

### **3.2 Requested services**

#### **3.2.1 The Senior NKE in the area of mutual recognition of qualifications is expected to provide the following services:**

- a) Prepare the draft by-law on the list of regulated professions
- b) Provide recommendation using the best EU practice on preparing and drafting Law on Crafts
- c) Draft revisions of the list of regulated profession based on the analysis of a needs for further additional drafting of regulated professions in the field of crafts and sports and conditions which has to be achieved to be included on the list of regulated profession
- d) Assess training needs for the contact point for all institutions in charge of the implementation of recognition of qualifications
- e) Conduct a comparative analysis of the practices of the selected EU countries which have the bodies in charge for implementation of recognition of qualifications
- f) Organise and hold a workshop presenting the outputs of the assignment

#### **3.2.2 The Junior NKE in the area of mutual recognition of qualifications is expected to provide the following services:**

- a) Organise and hold two WS/trainings for civil servants in institutions regulating the profession of nurses of general care. Trainings will help civil servants in the new institutions in charge of education as well as new employees in all institutions to gain knowledge of the best practice in Europe for the profession of nurses of general care. The trainings will elevate the knowledge of the participants in relation to the curriculum - what has to be changed and the relations between theory, exercises and practice.

### **3.3 Outputs**

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

- A draft bylaw on the list on regulated professions prepared
- Curricula for medical nurses of general care drafted
- Comparative analyses of the practices of the selected EU countries done
- Recommendations for drafting of Law on Crafts prepared
- Training needs assessment for the contact points defined
- WS held

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

- Trainings 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 both NKEs 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**

27 working days (WDs) in total have been planned for Senior Non-Key Expert and 5 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 September 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.

### **3.6.4 Working language**

English

## **4. Expert's Profile - Senior NKE (27 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 in 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 in the field of EU Negotiating Ch. 3 mutual recognition of qualifications (regulated professions) gained in an EU member state, candidate or potential candidate country

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

- Postgraduate professional experience in harmonisation of legislation in relation to Union acquis in regard to regulated professions and services
- Postgraduate professional experience in implementation of Directive on Mutual Recognition of Professional Qualifications 2013/55/EC amending Directive 2005/36/EC would be an advantage.

## **5. Expert Profile - Junior NKE (5 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 in 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

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

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

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

- Postgraduate professional experience related to areas of mutual recognition of qualifications (regulated professions), gained in an EU member state, candidate or potential candidate country

- Knowledge of the Serbian legal system would 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 [ehoward@dmiassociates.com](mailto:ehoward@dmiassociates.com) no later than 23 August 2019, 17:00 hrs, titled: **“Application for the position – Senior or Junior NKE in the area of EU Negotiating Ch.3, professional qualifications in the field of education (nurses), economy (crafts) and sport sectors”**

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.

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*Please note that all the pre-selected experts are requested to sign a Statement of Availability (SoA) in which they acknowledge and confirm their availability to accomplish this assignment within the indicated period, at the indicated starting date (if any) and within the number of working days requested.*

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For more information, please contact Project Manager at DMI Associates Marion Bayard: mail to [mbayard@dmiassociates.com](mailto:mbayard@dmiassociates.com) or Elizabeth Howard [ehoward@dmiassociates.com](mailto:ehoward@dmiassociates.com)