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Pravna podrška pregovorima - Policy & Legal Advice Centre

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

Technical assistance requested:	One (1) Senior Non-Key Expert in the area of Negotiating Ch. 9, Financial Services, Market abuse and criminal sanctions for market abuse
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:	Republic of Serbia Ministry of European Integration and the Negotiating Team
Target Beneficiaries:	Negotiating Group Ch. 9; Ministry of Finance, Securities Commission (SEC)
Budget Line / Expert Category:	Senior Non-Key Expert
Duration of the assignment:	15 working days (WD), from October 2019 until 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 9 – Financial services

Negotiating Chapter 9 – Financial services is of crucial importance to the Republic of Serbia as it is to ensure financial stability and adequate consumer and investor protection. Serbia has recently opened the negotiations on Chapter 9, which means that it has reached a satisfactory level of alignment for securities markets and investment services to open negotiations and that it partly applies the *acquis* in this area. However, the regulation in the field of financial services has been evolving rapidly during the last years. Phasing in of the new *acquis* is an on-going process. The EU has encouraged Serbia to continue the process of alignment with the *acquis* and its effective implementation and enforcement.

Moreover, the EU progress reports on Serbia for 2018 and for 2019 both state that Serbia is moderately prepared in the area of financial services. Some progress was made in this field, especially in the field of banks and financial conglomerates, but more work is required to implement the financial services *acquis*.

Furthermore, the EC Screening Report for Chapter 9 – Financial Services states that in the field of securities markets and investment services, “the Market Abuse Directive together with its amendments and implementing instruments introduce a harmonised and comprehensive administrative regime for prohibiting and prosecuting insider dealing and market manipulation”. As the EU regulatory landscape in the financial services sector is changing and taking into account the evolving nature of the *acquis* in the financial services field, Serbia needs to move forward and continue its efforts towards the next stage to the full implementation of the *acquis* in this area.

Namely, Directive 2003/6/EU on insider dealing and market manipulation has been largely implemented in the Serbian national law through the Law on the Capital Market and its bylaws. The EU has observed that the Republic of Serbia needs to take steps forward toward full alignment with Directive 2014/57/EU (MAD) on criminal sanctions for market abuse and to align with Regulation 596/2014 (MAR) on market abuse. Alignment is envisioned no later than six months prior to Serbia’s EU accession.

Considering the complexity of the issue, the relevant target beneficiaries would highly benefit from expert assistance in providing technical and legal advice on the substantial changes made by new Union *acquis*, drafting of supervision procedures for conducting oversight in accordance with MAD and MAR, the regimes and the training in conducting oversight in accordance with MAD and MAR.

There is no overlapping between this project or any other 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 expert assistance to the beneficiaries to conduct oversight in accordance with Directive 2014/57/EU on criminal sanctions for market abuse, Regulation 596/2014 on market abuse and to train employees of beneficiaries through workshops (four days for MAD and MAR, including best practices in the area) for all relevant institutions.

3.2 Requested services

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

1. Assist the beneficiary in drafting the Securities Commission (SEC) procedures for conducting the oversight in accordance with MAD and MAR and transposing Directive 2014/57/EU and Regulation No 596/2014/EU especially the following areas of MAD and MAR regimes: 1. delaying disclosure of inside information, 2. criteria

for setting the fines for market abuses and 3. market sounding and provide on the job training by providing the technical and legal advice on the substantial changes made by new acquis in accordance with Criminal sanctions for Market Abuse Directive 2014/57/EU (MAD) and Regulation 596/2014 on Market Abuse (MAR),

2. Organise and conduct a training for the SEC employees in charge of oversight in accordance with Criminal sanctions for Market Abuse Directive 2014/57/EU (MAD) and Regulation 596/2014/EU on Market Abuse (MAR) with an overview of best practices in the area

3.3 Outputs

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

- a) Procedures for conducting oversight in accordance with the listed acquis drafted and on the job training conducted
- b) 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 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 SNKE 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

The SNKE shall work under the guidance and follow the instructions of the Team Leader. The SNKE 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) in total have been planned for a Senior 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 October 2019 until February 2020. The exact starting date will be agreed at a later stage.

3.6.3 Location/Place of assignment

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

3.6.4 Working language

English

4. Expert's 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 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

4.2 General professional experience (25 points)

- At least 8 (eight) years of general postgraduate professional experience in harmonisation of legislation in relation to Union *acquis* and related to Chapter 9, Financial Services

4.3 Specific professional experience (50 points)

- Minimum 3 years of professional experience in the field of financial and investment services gained in an EU member state, candidate or potential candidate country
- Knowledge and/or experience with Directive 2014/57/EU (MAD) on criminal sanctions for market abuse and Regulation 596/2014 (MAR) on market abuse would be an advantage
- Knowledge of the legal system of the Republic of Serbia would be an advantage

5. Applications

Applications (EU format CV and application letter, both in English) need to be submitted by e-mail to mbayard@dmiassociates.com and ehoward@dmiassociates.com no later than October 18, 2019, 17:00 hrs, titled: **"Application for the position Senior NKE in the area of Negotiating Chapter Ch. 9, Financial Services, Market abuse and criminal sanctions for market abuse"**.

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.

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

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