

Policy and Legal Advice Centre (PLAC III)

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

Technical assistance requested:	One (1) Senior Non-Key Expert and 1 Junior Non-Key Expert in the area of Ch. 3 - Right of Establishment and Freedom to Provide Services; Postal Services
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:	The Ministry of European Integration of the Republic of Serbia and the Negotiating Team
Target Beneficiaries:	Negotiating Group Ch. 3; The Ministry of Trade, Tourism and Telecommunications (MTTT)
Budget Line / Expert Category:	Senior and Junior Non-Key Expert
Duration of the assignment:	50 working days, 20 working days (WD) for SNKE and 30 working days (WD) for JNKE, from February 2020 – September 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 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

The National Programme for Adoption of the EU Acquis (NPAA) envisages the transposition of Directive on Services 2006/123/EC with the adoption of the umbrella law on services and the harmonisation of sectoral regulations governing services that are the subject of the Directive.

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 (covering acquis areas of services, mutual recognition of professional qualifications and postal services) such as the Ministry of Education, Science, and Technological Development, Ministry of Health, Ministry of Justice, Ministry of Finance, Ministry of Agriculture, Forestry and Water Management, Ministry of Environmental Protection, Ministry of Construction, Transport and Infrastructure as well as other institutions.

Serbia 2019 Country Report issued by the European Commission states that Serbia is moderately prepared in the areas covered by Ch. 3. Some progress was made on the legislative alignment in the fields of services, postal services and mutual recognition of professional qualifications. The Negotiating Position, presenting the plans concerning future legislative and institutional framework aligned with the acquis in relation to services in the internal market was adopted by the Government in November 2019 and send to the EC on 5th December 2019.

In the sub-chapter Postal services, the governing legal framework in the Republic of Serbia is the Law on Postal Services ("Official Gazette of the RS", No. 77/19). The competent institutions for the transposition, implementation and enforcement of the acquis are the Ministry of Trade, Tourism and Telecommunications and the Regulatory Agency for Electronic Communications and Postal Services (RATEL). By adopting the Postal Services Law, which entered into force on November 8, 2019, as well as the by-laws (which shall be adopted within one year of the adoption of the law by the Ministry of Trade, Tourism and Telecommunications and the Regulatory Agency for Electronic Communications and Postal Services) full harmonisation will be achieved with:

1. Directive 97/67/EC on common rules for the development of the internal market of Community postal services and the improvement of quality of service,
2. Directive 2002/39/EC amending Directive 97/67/EC with regard to the further opening to competition of Community postal services,
3. The most of the provisions of Directive 2008/6/EC amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services, while full implementation is planned no later than the date of accession of the Republic of Serbia to the European Union.

The new law was adopted but it is necessary to adopt by-laws within a year. In connection with this, Ministry is obliged to adopt the Rulebook on the procedure and manner of performing expert supervision, in order to prescribe procedures to be implemented by the regulatory body, in performing of supervision. Also, during the process of further alignment with the acquis, special attention will be paid, by Ministry and regulatory body, to analyse the measures that EU Member States will take to comply with the Regulation on Cross-border delivery of packages adopted in 2018. Central attention will be given to the "best practices" of EU Member States with regard to the implementation of the acquis, as well as the decisions of the European Court of Justice.

An important element of the postal policy is the "Strategy for the development of postal services in the Republic of Serbia for the period 2017-2020. (Official Gazette of the Republic of Serbia, No. 84/2017), which sets strategic goals for the development and improvement of the postal services market in the period 2017-2020. in accordance with the acquis. The expert assistance is needed to support the MTTT in drafting new Strategy for 2020-2024 period. In addition, bearing in mind that there are provisions of the Third Directive which have not been transposed into the Law, and that since Regulation (EU) 2018/644 on Cross-border parcel delivery services was adopted, it is necessary to carry out an legal gap analysis (LGA) and recommend how the provisions of the aforementioned Regulation can be transposed into Serbian legislation (by-laws

or amendments to the Law). The Ministry of Trade, Tourism and telecommunications (MTTT) has also to draft a Rulebook on the procedure and manner of performing expert supervision.

Therefore, the assistance of the PLAC III project is needed in order to accomplish the above, as well as to transfer know-how and experience from EU Member States and to fully harmonise with the Union legislation in this field.

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 assist the MTTT in drafting new Strategy for 2020-2024 period and in drafting of a Rulebook on the procedure and manner of performing expert supervision as well in harmonising postal regulations with the complete Third Postal Directive and Regulation (EU) 2018/644 on Cross-border parcel delivery services.

3.2 Requested services

The Senior NKE is expected to provide the following services:

1. Perform a legal gap analysis (LGA) of the Law on Postal Services ("RS Official Gazette", No.77/19) and by-laws in force (which were adopted as by-laws under the former Law on postal services ("RS Official Gazette", No. 18/05, 30/10, 62/14) and Third Postal Directive 2008/6/EC amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services as well as with Regulation (EU) 2018/644 on cross-border parcel delivery services
2. Based on the LGA make recommendations how to further harmonise with the Union acquis
3. Assist in drafting necessary amendments to the existing by-laws - Rulebook on the sustainability and improvement of universal postal services and Rulebook on fulfilment of conditions for the commencement of performing activities of postal services
4. Assist the beneficiary in drafting a Rulebook on the procedure and manner of performing expert supervision, harmonizing with Third Postal Directive 2008/6/EC and Regulation (EU) 2018/644 on Cross-border parcel delivery services
5. Present main findings to the target beneficiaries in a workshop

The Junior NKE is expected to provide the following services:

1. Analyse the needs of the users of postal services in the Serbian postal market, the requirements defined by the relevant postal directives, the strategic directions set by the Government as well as current Strategy for 2017-2020, and based on it suggest an outline of the new Strategy for 2020-2024 period
2. Develop a proposal for the new Strategy in relation to the relevant acquis in the sector of postal services
3. Present the proposal of the new Strategy to target beneficiaries in a workshop or a retreat (to be decided)

3.3 Outputs

The Senior NKE is expected to deliver the following outputs:

1. A Legal gap analysis (LGA) report with the recommendations how to further harmonise with the acquis in this field prepared

2. Amendments to relevant by-laws drafted (see 3.2.3)
3. A Rulebook on the procedure and manner of performing expert supervision drafted
4. Workshop held

The Junior NKE is expected to deliver the following outputs:

1. A proposal of a new Strategy for 2020-2024 period drafted
2. Workshop/retreat 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 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 both 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

The 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's input

3.6.1 Total working days

50 working days (WDs) in total have been planned for this activity. 20 WD for Senior Non-Key Expert and 30 working days (WDs) have been planned 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 within the period from February 2020 – September 2020. However, 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 Serbia.

3.6.4 Working language

English

4. Expert's Profile - Senior NKE in the field of postal services (20 WD):

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 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 postal services gained in an EU Member State, candidate or potential candidate country

4.3 Specific professional experience (50 points)

- At least 3 years of previous professional experience in drafting and/or implementing legislation in the field of postal services related to harmonisation with Chapter 3 acquis gained in an EU Member State, candidate or potential candidate country
- Knowledge of the Court of Justice of the European Union jurisprudence (case law) will be an advantage
- Knowledge of the legal system of the Republic of Serbia will be an advantage

5. Expert's Profile - Junior NKE in the field of postal services (30 WD):

5.1 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 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 with the field of postal services gained in an EU Member State, candidate or potential candidate country

5.3 Specific professional experience (50 points)

- Proven professional experience in drafting of strategic documents in the field of postal services in connection with harmonisation with Negotiating Chapter 3 of Union acquis gained in 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 and ehoward@dmiassociates.com no later than January 6, 2020, 17:00 hrs, titled: "Application for the position – Senior NKE or Junior NKE in the area of Negotiating Ch. 3, freedom to provide services and recognition of professional qualifications in the field of postal services."

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 a **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
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