

## Policy and Legal Advice Centre (PLAC III)

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

<b>Technical assistance requested:</b>	One (1) Senior and one (1) Junior Non-Key in the area of Negotiating Ch.27, Environment and Climate Change; Harmonisation of national legislation related to financial guaranties, insurance policy or other instruments for covering the cost on environmental damage with the European Union in waste management sector
<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>	The Ministry of European Integration of the Republic of Serbia and the Negotiating Team
<b>Target Beneficiaries:</b>	Negotiating Group Ch. 27; Ministry of Environmental Protection
<b>Budget Line /Expert Category:</b>	One Senior and One Junior Non-Key Expert
<b>Duration of the assignment:</b>	40 working days (WD) from February 2020 until July 2020 (10 WD SNKE and 30 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 27 – Environment and Climate Change**

The Negotiating Chapter 27 is one of the most challenging and costly chapters in the process of the Republic of Serbia's accession negotiations with EU, especially in the area of waste management. The Republic of Serbia (RS) is intensively preparing for negotiations with the EU regarding Chapter 27 – Environment and Climate Change. The Second draft of the Negotiating position has been sent to the European Commission (EC) in December 2018 and the EC sent at the end of February. EU environmental policy is based on preventive action; the polluter pays principle, fighting environmental damage at source, shared responsibility and the integration of environmental protection into other EU policies. Implementation of legislative norms in environment sector requires significant investments as well as institutional set up and developed capacities at national and local level as an imperative for the application and enforcement of the environmental acquis.

Serbia 2019 Report issued by the European Commission states that Serbia has some level of preparation in the area of environment and climate change. Some progress has been made in further aligning with the acquis and strategic planning. The EC stressed the Serbia need to put the more efforts into waste management sector.

In line with the results of explanatory and bilateral screening for Chapter 27, NPAA 3.27.2 National Programme for Adoption of Acquis (Last revision of February/March 2018), Post screening document and Progress report 2018, Serbia has to make progress in horizontally related acquis. In the area of horizontal legislation, Serbia has achieved a high level of alignment with the acquis. Predictable financing based on the polluter pays principle is needed to raise investment levels in the sector, but further progress is needed on transposing and implementing the remaining horizontal legislation, in particular the Environmental Liability Directive 2004/35 EC in line with new Waste Framework Directive 2018/851 which amends Directive 2008/98/EC and Regulation on shipments of waste 1013/2006/EC on shipments of waste in relation to Basel Convention and the Control of Transboundary Movement of Hazardous waste and their Disposal. The Draft Law on Environmental Liability is developed with support of PLAC I project and is planned to be under the public debate and governmental procedure in December 2019.

On the other side, the Law on Waste Management (LWM) was adopted in 2009, as well as a large number of by-laws. In 2016, new amendments of the LWM were adopted, by which a large number of provisions of Directive 2008/98/EC (Waste Framework Directive; WFD) have been transposed in the national law. Some provisions of WFD still have to be transposed in the next period through new by-laws, based on in 2016 adopted amendments of LWM. In addition, for full transposition of WFD into the Serbian national legislation, new amendments of Law on Waste Management is prepared and its adoption has been planned for December 2019. In this connection, the type and amount of the financial guarantee or other instrument for covering the costs of waste management operations and transboundary movements of hazardous waste shall be defined with the provisions laid down in the proper national Regulations.

The assistance from PLAC III will contribute to and enhance harmonisation with relevant EU regulations and their proper implementation and provide a support especially regarding to alignment of the existing financial guarantees on environmental damage and with EU best practices financial warranties in the field of waste management.

At present, there is no on-going 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 the expert assistance to the Ministry of Environmental Protection to transpose EU environmental *acquis* in waste sector in particularly Environmental Liability Directive 2004/35 EC, Waste Framework Directive 2008/98/EC and Regulation on shipments of waste 1013/2006/EC) in the field of financial guarantees, insurance and other financial instruments.

The expert focus will be on the guaranties, insurance and other financial instruments related to waste management operations, including the collection, storage, transport, recovery and disposal of waste and hazardous waste, as well as the supervision of such operations and after-care of disposal sites on territory of Serbia and transboundary movements of hazardous and other wastes subject to permit or registration.

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

- Prepare a comparative analysis of good examples and relevant cases of existing financial guarantees, insurance and other instruments in the field of waste management operations (including transboundary movement of hazardous wastes) in the selected EU member states
- Carry out a comparative analysis of Serbian legislation and the Union *acquis* in the field of financial guaranties - waste management sector (including transboundary movement of hazardous wastes) and damage made to environment by waste management operations. Prepare a legal gap analysis of national legislation and the institutional review in the field of financial guaranties, insurance and other financial instruments to cover costs of waste management operations (including transboundary movement of hazardous wastes) and environmental damage.
- Drafting Regulations on financial guarantees, insurance and other instruments for covering the reasonable costs and conditions in waste sector (waste management operations, transboundary movements of waste and environmental damage) in line with EU waste management rules
- Hold a workshop to present the best practices and good examples of financial guaranties in selected EU countries, the draft Regulations on financial guaranties in waste sector in line with EU waste rules
- Hold a workshop presenting the results of the assignment

#### **3.2 Requested services**

**The Senior NKE in the area of financial guarantees, insurance and other financial instruments in the field of waste management is expected to provide the following services:**

1. Perform a comparative analysis of the solutions from selected MS (two-three) and relevant cases and examples of existing financial guarantees, insurance and other financial instruments in the field of waste management operations (collection, transport, storage, recovery and disposal) as well as transboundary movement of hazardous wastes
2. Organise and deliver a workshop on the main aspects related to the EU policy development on financial guaranties, insurance and other financial instruments in the field

of waste management operations to the relevant stakeholders - the Ministry of Environmental Protection and other competent authorities - also with the example(s) of best practice(s) in the field of environmental liability i.e. financial guaranties.

**The Junior NKE in the area of financial guaranties, insurance and other financial instruments in the field of waste management is expected to provide the following services:**

1. Perform a legislative gaps analysis and identify discrepancies related to rules on financial guaranties/insurance in the field of waste management operations and transboundary movement of hazardous and other wastes and prepare including the national legal and institutional framework in RS and compliance report in this field including drafting and/or updating ToC (as applicable - see 3.3.2.)
2. Assist the Department for Waste Management of the MEP and respective Legal Service in developing a regulation/legal act on financial guaranties, insurance and other instruments in the field of waste management operations and transboundary movement of hazardous wastes
3. Participate in the workshop organised under point 3.2.2 - on the main aspects of EU legislation and policy related to financial guaranties/insurance for waste management operations and transboundary movement of hazardous and other wastes and the example(s) of best practice(s) in the field of environmental liability i.e. financial guaranties.
4. Organise and hold a workshop presenting the outputs of the assignment.

### **3.3 Outputs**

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

1. A comparative analysis from selected MS (two or three - to be decided) related to regulation on financial guaranties, insurance and other financial instruments in the field of waste management operations and transboundary movement of hazardous waste drafted
2. Workshop held

**Junior NKE is** expected to deliver the following outputs:

1. Legal Gap Analysis report on the legal an institutional framework in RS related to financial guaranties in the field of waste management operations and transboundary movement of hazardous and other waste drafted
2. Tables of concordance (TOC) on Environmental Liability Directive 2004/35/EC, Waste Framework Directive 2008/98/EC and Regulation on shipments of waste 1013/2006/EC updated/drafted (as applicable) updated and/or drafted
3. Regulation/Legal acts on financial guaranties, insurance and other instruments for covering the reasonable costs and conditions in waste management sector (collection, transport, storage, recovery and disposal) and transboundary movement of hazardous and other waste drafted
4. Workshop(s) held

### **3.4 Reporting**

SNKE and JNKE 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 KE2

### **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 JNKE 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 and JNKE shall work under the guidance and follow the instructions of the Team Leader. The SNKE and JNKE 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**

40 working days (WDs) in total have been planned (10 WD for Senior Non-Key Expert and 30 working days (WD) 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 February 2020 until July 2020 and starting, at the earliest 24 February 2020 onwards. However, the starting date will be confirmed at the later stage.

#### **3.6.3 Location/Place of assignment**

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

#### **3.6.4 Working language**

English.

### **4. Experts' Profile – Senior NKE (10 working days):**

#### **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 in law, economy, environmental economics or engineering, finance 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 related to the Union acquis gained in an EU member state, candidate or potential candidate country

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

- At least 2 years of postgraduate professional experience in harmonisation of the national waste management legislation with the Union acquis
- Postgraduate professional experience in a waste management regulatory authority of an EU Member State, candidate or potential candidate country will be an advantage

### **5. Experts' Profile - Junior NKE (30 working days):**

#### **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 in law, environmental engineering 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 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 the national legislation with the Union acquis in the field of waste management including transboundary movement of hazardous wastes gained in an EU Member states, candidate or potential candidate country
- Knowledge of Serbian legal system will be an advantage.

### **6. Applications**

Applications (EU format CV and application letter 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 **13 January 2020**, 17:00 hrs, titled:

“Application for the position Senior or Junior NKE in the area of Ch. 27, Harmonisation national legislation of financial guarantee, insurance policy or other instruments for covering the cost on environmental damage with the European Union in waste management sector.”

References must be available on request. Only short-listed candidates will be contacted.

Pre-selected experts will be 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 and within the number of working days requested.

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@dmiassociates.com](mailto:mbayard@dmiassociates.com) or Elizabeth Howard [ehoward@dmiassociates.com](mailto:ehoward@dmiassociates.com) .