

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 one (1) Junior Non-Key Expert in the area of Negotiating Ch. 27, Environment and Climate Change, Waste Management – waste oils and waste tyres
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. 27; Ministry of Environmental Protection
Budget Line /Expert Category:	One Senior and One Junior Non-Key Expert
Duration of the assignment:	55 working days (WD), from September 2020 until June 2021 (40 WD SNKE and 15 WD for 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 27 – Environment and Climate Change

Ch. 27 Union acquis, contains provisions addressing climate change, water and air quality, waste management, nature protection, industrial pollution, chemicals, noise and civil protection. The 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. In recent years, Serbia has advanced in harmonising its legal framework with the environment acquis, but the implementation of the legislative norms in environmental sector requires significant further investments.

Directive 2008/98/EC on waste repealing certain Directives, has been transposed into national legislation through the provisions of the Law on Waste Management (“Official Gazette of the Republic of Serbia, No. 36/9, 88/10 and 14/16) and more than 50 bylaws adopted during 2009 and 2018.

Overall, the Serbian legislative framework on the waste management is not yet fully aligned with the requirements of the Directive 2008/98/EC. Provisions remaining to be transposed concern i.e. recycling and recovery targets to be achieved by 2020, registration requirements and cooperation with MS in drawing up waste management plans. The requirements that have not yet been fully transposed relate to some of the definitions setting out the scope of application of the Directive, such as the application of the waste hierarchy, targets for re-use and recycling, producer responsibility for waste management, separate collection and treatment of bio-waste and requirements for the energy efficiency. Furthermore, decision on the transposition of the discretionary provision related to Extended Producer Responsibility (EPR) is missing. Full transposition is planned for 2021 through adoption of the relevant secondary legislation, which will be adopted pursuant to the Law on Waste Management.

The Waste Oil Directive 75/439/EEC was repealed as of 12 December 2010. Waste oils are now governed by the Waste Framework Directive 2008/98/EC, especially by Article 21, which stipulates that Member States shall take the necessary measures to ensure that waste oils are collected separately, are treated in accordance with Articles 4 (waste hierarchy) and art. 13 (protection of the environment and human health) and where this is technically feasible and economically viable, waste oils of different characteristics are not mixed and waste oils are not mixed with other kinds of waste or substances, if such mixing impedes their treatment.

The provisions of Directive (EU) 2018/851 amending Directive 2008/98/EC are not transposed yet.

Waste tyre management should be viewed, as well as waste oils in the context of the waste (management) hierarchy, which accords priority to waste prevention (for example, appropriate tyre maintenance) and reuse (for instance, direct reuse of partly worn tyres), followed by recovery, over final disposal.

The Council Directive 99/31/EC on landfill of waste (“Landfill Directive”), with amendments introduces a ban on the disposal in landfills of shredded and whole used waste tyres, excluding tyres used as engineering material. This ban does not apply to bicycle tyres and tyres with an outside diameter above 1.4 m. In addition, Directive 2000/53/EC on end-of life vehicles (“ELV Directive”), prescribes the minimum technical requirements for treatment operations in order to promote recycling, including “removal of tyres...if these materials are not segregated in the shredding process in such a way that they can be effectively recycled as materials”.

Based on the above mentioned, waste oils and waste tyres shall be regarded from a horizontal perspective being found in several EU Directives and based on that to develop a tailored national piece of legislation that respond to the particular challenges posed by a Serbian developing market.

Through the PLAC I project in 2014, the Ministry of the Environment has benefited from the project support in carrying out an assessment to establish if the current legislation creates an adequate legal basis for the correct and complete implementation of waste framework Directive. This assistance under PLAC III project aims to follow up and build upon the results from PLAC I by taking into account the new legislative and policy developments at the EU level. To be more accurate, the legislative changes from 2018 have come with new requirements mainly for the management of waste oils.

According to the latest version of the Negotiation position for Chapter 27, in the area of waste management – waste tyres and waste oils, the full transposition will be achieved by the end of 2021 through revision of the following legal acts:

- Amendments of the Waste Management Law (related to waste oils and waste tyres management);
- Amendments of the Rulebook on terms, manner and procedure of waste oils management;
- Amendments of the Rulebook on manner and procedure of waste tires management;
- Amendments of other sub-legal acts related to products that become special waste streams, i.e. related to the payment of fees for importing of oils (all mineral and synthetic oils and lubricants, as well as all edible oils) and tyres, economic incentives for the management of waste oils and waste tyres and the collection of reports from economic operators, operators and competent institutions;

The institutional framework related to this field is established, but in order to finalise the transposition process it is necessary to strengthen the administrative capacity as to ensure the planning, monitoring and enforcement of the Directive’ requirements. Necessary reforms are related to strengthening of the existing administrative capacity, which are involved in the planning and management, registration, control and monitoring process and the reporting system. It is important to emphasize that it is also necessary to create conditions for close cooperation between the competent authorities, and that it is necessary to strengthen the administrative capacities of the inspection bodies.

Experts’ assistance s needed and would be useful for Serbia in order to move even further towards the full transposition and implementation of the waste management acquis and strengthen the RS negotiating positions for the sector.

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 Environmental Protection (MEP) to transpose the Union acquis in waste sector in particularly the Consolidated version of the Directive 2008/98/EC on waste, including the latest Directive 2018/851 (as regards articles related to the management of waste tyres and waste oils);

The experts' support to the MEP is also needed to assess the current institutional framework in order to identify how the responsibilities arising from the new EU policy shall be assigned having in mind the circular economy where waste hierarchy is promoted and waste are channelled back into the economy.

3.2 Requested services

The Senior NKE in the area of environment and climate change is expected to provide the following services:

- a) Perform a legal gap analysis and identify the legislative gaps and propose measures how to bridge them
- b) Drafting and/or updating Tables of Concordance (ToC) on the consolidated version of the Directive 2008/98/EC on waste, including the latest Directive 2018/851 (in regard to the articles related to the management of waste tyres and waste oils);
- c) Assist the MEP in drafting legal act(s) and amending or recasting the relevant national legislation in force, in line with the consolidated version of Directive 2008/98/EC on waste, including the latest Directive 2018/851 (as regards the articles related to the management of waste tyres and waste oils);
- d) Organise and deliver a training (workshop) on main aspects related to the latest EU policy development to the representative of Ministry of Environmental Protection and present the main findings of the assessment process of Serbian legislation for the management of waste tyres and waste oils and to present example(s) of best practice(s) in the implementation of waste oils and waste tyres in selected MS.

The Junior NKE in the area of environment and climate change is expected to provide the following services:

- e) Prepare a report on the institutional and legal framework in Republic of Serbia related to waste management sector with focus on the management of waste oils and waste tyres - identifying how the responsibilities arising from the legislation in force are shared and performed including the fulfilment of the targets set by legislation.
- f) Prepare and deliver a training in cooperation with the Senior NKE and present the outputs of the assignment.

3.3 Outputs

Senior NKE is expected to deliver the following outputs:

1. Legal gap analysis report for waste oils and waste tyres drafted

2. Tables of concordance (ToC) on the consolidated version of the Directive 2008/98/EC on waste, including the latest Directive 2018/851 (on regard to the articles related to the management of waste tyres and waste oils), drafted
3. Legal acts and/or amendments to the relevant national legislation harmonised with the consolidated version of the Directive 2008/98/EC on waste, including the latest Directive 2018/851 (as regards the articles related to the management of waste tyres and waste oils), drafted
4. Training delivered.

Junior NKE is expected to deliver the following outputs:

1. A report on the institutional and legal framework in the RS in waste management sector related to the management of waste oils and waste tyres drafted;
2. 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 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 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

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

40 working days (WDs) in total have been planned for Senior Non-Key Expert and 15 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 September 2020 to June 2021. The 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 Serbia.

3.6.4 Working language

English.

4. Experts' Profile – Senior NKE (40 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 environmental, natural or technical sciences, law 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 related to Ch. 27 Union acquis gained in an EU member state, candidate or potential candidate country

4.3 Specific professional experience (50 points)

- At least 3 years of postgraduate professional experience in development of legislation and/or drafting and/or implementing strategies, policies in the waste management sector gained in an EU member state, candidate or potential candidate country
- Postgraduate professional experience in transposition and/or implementation of EU legislation on waste related to waste oils and tyres
- Postgraduate professional experience drafting ToC, will be an advantage;
- Knowledge of Serbian legal system and/or EU negotiation process will be an advantage.

5. Experts' Profile – Junior NKE (15 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 environmental, natural or technical science, law 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 waste management sector i.e. in developing waste management plans, waste characterization and/or morphology
- Postgraduate professional experience in performing reviews of institutional and /or legal framework related to environmental sector will be an advantage
- 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 and ehoward@dmiassociates.com no later than 31 July 2020, **17:00 hrs**, titled:

“Application for the position – Senior or Junior NKE in the area of Negotiating Ch. 27, Environment and Climate Change, Waste Management – waste oils and waste tyres”.

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 or Elizabeth Howard ehoward@dmiassociates.com