

Policy and Legal Advice Centre (PLAC III)

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

Technical assistance requested: 1 (one) Senior Non-Key Expert, EU Negotiating Ch.3, right of establishment and freedom to provide 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: Ministry of European Integration of the Republic of Serbia and the Negotiating Team

Target Beneficiaries: Negotiating Group Ch. 3; Ministry of Culture and Media, Ministry of Trade, Tourism and Telecommunications (MTTT)

Budget Line / Expert Category: One Senior Non-Key Expert

Duration of the assignment: 15 working days; assignment period October 2020 – May 2021

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 Chapter3 - 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. 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 and Serbia is invited to prepare the Negotiation position.

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. 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 Law on Regulated Professions and Recognition of Qualifications was adopted by the Government in the beginning of July and in September by the National Assembly. The next step of alignment is harmonisation of sectorial laws and by-laws. According to the Action plan and NPAA full alignment with the Directive should be achieved by the end of 2021. In the Negotiating Position, the plans concerning future legislative, administrative and institutional framework alignment are presented. 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. 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.” The Law on Services was two times adopted by the Government and due to Governmental reconstruction and elections was not adopted by the Parliament. The plan is to finish the whole procedure by the end of 2020.

In a period July 2019 – July 2020, PLAC III has secured SNKE support to screening of national sectoral legislation compatibility with provisions of Services Directive in key sectors (e.g. trade, tourism, construction and certain no. of business services (real estate agents, IPR representatives, VET, driving schools etc.). It is to be reported that a total of 28 laws and 38 by-laws were identified as falling under the scope of SD and therefore screened, out of which 23 laws and 22 by-laws will have to be amended

in order to bring them in conformity with the provisions of the Directive. This number of legislation in total regulates impressive number of more than 130 services/professional activities in Serbia.

The whole action was carried out under new methodology for screening that was introduced, as already tested in EU MS`s and some candidate countries, and covered desk research of relevant legislation and execution of a number of working sessions on the justification/proportionality assessments with direct participation of teams of representatives from line ministries ministries/competent authorities. As of September 2020, additional SNKE support is targeting sector of environment, and it is to be executed under the same methodology and in close coordination with MTTT.

Having the above in mind, the assistance of PLAC III project to the Ministry of Culture and Media and other relevant ministries is needed for further harmonisation with Directive 2006/123/EC of the European Parliament and Council of 12 December 2006 on services in the internal market.

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 Culture and Media of the Republic of Serbia in harmonisation of laws and relevant by-laws in the field of culture and media with Directive 2006/123/EC of the European Parliament and Council of 12 December 2006 on services in the internal market. The assistance will enhance harmonisation with relevant EU rules and their proper implementation.

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

- Conducting a comparative, legal gap analysis of Serbian legislation in the fields of culture and media with Directive 2006/123/EC on services in the internal market
- Drafting recommendations on how to achieve a full alignment of Serbian legislation in the field of culture and media with Directive 2006/123/EC on services in the internal market
- Holding trainings for civil servants responsible for drafting the laws in the field of culture and media.

3.2 Requested services

3.2.1 The Senior NKE in the area of right of establishment and freedom to provide services in the internal market is expected to provide the following services:

- 1) Conducting a comparative, legal gap analysis of Serbian legislation in the field of culture and media with Directive 2006/123/EC on services in the internal market

- 2) Provide recommendations on how to achieve a full alignment of Serbian legislation in the field of culture and media with the Directive 2006/123/EC on services in the internal market
- 3) Organise and hold a training for civil servants responsible for drafting the legislation in the field of culture and media

3.3 Outputs

The Senior NKE is expected to deliver the following outputs:

1. A gap analysis and recommendations on how to achieve the full alignment with the Directive 2006/123/EC in culture and media field, drafted
2. Training held

3.4 Reporting

The SNKEs 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 mission report - only upon a request of the PLAC III team; the 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 SNKE 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

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 mission.

3.6 Expert input

3.6.1 Total working days

15 working days (WDs) in total have been planned for Senior Non-Key Expert.

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 2020 – May 2021. The exact starting date will be agreed at later stage.

3.6.3 Location/Place of assignment

The SNKE has to deliver 100% of the input in Belgrade, Serbia, unless otherwise agreed due to extraordinary circumstances (i.e. COVID-19). Home-based days are subject to a prior approval by the EU Delegation Project Manager responsible for PLAC III project.

3.6.4 Working language

English

4. Expert's Profile - Senior NKE (15 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 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 related to the harmonisation of national legislation with Union acquis, gained in an EU member state, candidate or potential candidate country

4.3 Specific professional experience (50 points)

- Postgraduate professional experience in the field of harmonisation of national legislation in relation to the freedom of establishment for service providers and the free movement of services gained in an EU member state, candidate or potential candidate country
- Postgraduate professional experience in harmonisation of Union acquis on freedom of establishment for service providers and the free movement of services related to culture and

media, gained in an EU member state, candidate or potential candidate country, will be an advantage

- Knowledge of the Serbian legal system will 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 September 30, 17:00 hrs, titled: **“Application for the position – Senior NKE in the area of EU Negotiating Ch.3, in the area of right of establishment and freedom to provide services in the internal market.”**

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 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

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