

## Policy and Legal Advice Centre (PLAC III)

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

<b>Technical assistance requested:</b>	One (1) Senior Non-Key Expert in the area of Ch. 3 - Right of Establishment and Freedom to Provide Services; Postal Services
<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. 3; The Ministry of Trade, Tourism and Telecommunications (MTTT)
<b>Budget Line / Expert Category:</b>	Senior Non-Key Expert
<b>Duration of the assignment:</b>	13 working days (WD) for SNKE, from July 2021 – December 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 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 2020 Country Report issued by the European Commission states that Serbia is moderately prepared in the areas covered by Ch. 3. Good 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 were adopted in 2020, 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 was 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.

Law was adopted in 2019 and all by-laws were adopted in 2020, 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. In connection with this, during the process of further alignment with the acquis, special attention will be paid, by Ministry and regulatory body, to analyse the measures that must be taken to comply with Directive 2008/6/EC. 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. Also, and bearing in mind that postal service providers and delivery are also affected by horizontal regulations, which apply to all service providers in general, and that the rules relating to e-commerce, customs and VAT transactions and the environment have the greatest

impact, it is necessary to form a proposal for the manner of their implementation in the postal regulations, taking into account comparable solutions in the EU member states. In addition to the above, and given that postal services around the world are undergoing a process of diversification and creation of new integrated postal services, it is necessary to consider the possibility of establishing electronic postal delivery, in accordance with EU regulations in this area and in accordance with best practices of EU member states, to support the public postal operator, currently the only universal service provider in the entire territory of the RS, to advance its business and meet the new, changing needs of all users for electronic delivery.

PLAC III has already partly supported a legal gap analysis (LGA) including the Law on Postal Services ("RS Official Gazette", No.77/19) and new by-laws which Ministry adopted in 2020 against 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. It is necessary to continue the analysis of by-laws adopted by the regulatory body by the end 2020 and in 2021, taking into account the amendments to the regulations adopted by the ministry in 2021 (e.g. Ordinance on amendments to the Regulation on detailed conditions for the start of activities of providing postal services from March 2021).

Therefore, the assistance of PLAC III project is needed 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 fully harmonising postal regulations with the Third Postal Directive and Regulation (EU) 2018/644 on Cross-border parcel delivery services and analysing of compliance of regulations on the postal services market with non-postal regulations (consumers rights, state aid), which have a direct impact on the postal market and analysing of possibility of ensuring of electronic postal delivery.

#### **3.2 Requested services**

**The Senior NKE is expected to provide the following services:**

1. Based on the experience from EU member countries, provide recommendations on how to transpose and implement provisions of Regulation (EU) 2018/644 on cross-border parcel delivery services, in order to ensure electronic postal delivery services.
2. Perform an analysis on the compliance of regulations on the postal services market in Serbia with non-postal regulations (consumers rights, state aid, customs regulations, transport of postal items with dangerous goods by air etc.), which have a direct impact on the postal market, in order to bring postal regulations in line with EU regulations in this field.
3. Perform an analysis related to possibilities of the alternative dispute resolution, particularly in out-of-court dispute settlement, in the field of postal services, between consumers and postal operators and between postal operators themselves and propose the best solution for RS
4. Present main findings to the target beneficiaries in a workshop.

### **3.3 Outputs**

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

1. A draft analysis on the implementation possibilities of Regulation (EU) 2018/644 on cross-border parcel delivery services, based on the experience from EU countries with the recommendations on improvements of the national legislation to achieve full harmonisation in this respect. The document will also contain an analysis of the compliance of regulations on the postal services market in Serbia with non-postal regulations as well as possibilities of the alternative dispute resolution in the field of postal services. Recommendations will be given to the problems and questions that arise from electronic postal substitutions as well as recommendations on the alternative dispute resolution procedure based on best practice in EU.
2. Workshop 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 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 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 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**

SNKE shall work under the guidance and follow the instructions of the Team Leader. 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's input**

#### **3.6.1 Total working days**

13 working days for Senior Non-Key Expert have been planned 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 July 2021 – December 2021. However, 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, 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 in the field of postal services (13 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 related to harmonisation with negotiating Chapter 3 Union 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 asset
- Knowledge of the legal system of the Republic of Serbia 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](mailto:mbayard@dmiassociates.com) and [ehoward@dmiassociates.com](mailto:ehoward@dmiassociates.com) no later than 2 July 2021, 17:00 hrs, titled: "Application for the position – Senior 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  
Marion Bayard: mail to [mbayard@dmiassociates.com](mailto:mbayard@dmiassociates.com) or Elizabeth Howard  
[ehoward@dmiassociates.com](mailto:ehoward@dmiassociates.com)