

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, Professional qualifications, Harmonisation of legislation - Regulated professions
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 Education, Science and Technological Development (MESTD)
Budget Line / Expert Category:	One Senior Non-Key Expert
Duration of the assignment:	10 working days; from September until November 2021

1. Relevant background information

Background information relevant to the PLAC III project:

The scope of the 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 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 the 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, the PLAC III Project shall support local line institutions and negotiating structures both in performance of quality operational work in relation to the harmonisation process and in the effective coordination during various stages and phases in the process relevant to different negotiation chapters.

2. Background information in relation to Chapter 3 - Right of Establishment and Freedom to Provide Services

For the purpose of conducting negotiations within the Chapter 3, the negotiation group led by the Ministry of Trade, Tourism and Telecommunications has been established. Other ministries are also involved in the harmonisation of the Serbian legislation with *acquis* under Chapter 3, such as the Ministry of Education, Science, and Technological Development, which is responsible for sub-chapter on Professional qualifications, Ministry of Health, Ministry of Justice, Ministry of Finance, Ministry of Agriculture and Environmental Protection, Ministry of Construction, Transport and Infrastructure as well as other relevant institutions.

The Screening report was delivered in March 2015 to RS by the EC stating that Serbia has to fulfil certain benchmarks in order to open negotiations: submit to the EC a comprehensive and detailed strategy for alignment with the professional qualifications' *acquis*.

As an opening benchmark, the Programme for the Harmonisation of Serbian Legislation with the EU *acquis* on Professional Qualifications was prepared and it was adopted by the Serbian Government on November 1, 2017. The Program was sent to the EC on November 23. On December 15, Serbia submitted the updated Action Plan of the Program to the EC. The Opening Benchmark Assessment Report (OBAR) was adopted on March 19, 2018 and it states that Serbia fulfilled opening benchmark and is ready to open negotiations in the Chapter 3.

Serbia prepared and sent to the EC the first draft Negotiating Position and on July 2, 2019 received opinion for its adoption. The draft Negotiating Position was adopted by the Government on November 28 2019. The Negotiating Position was submitted to the EU Presidency on December 5, 2019. In the Working Party on Enlargement and Countries Negotiating Accession to the EU (CoELA), it has obtained 6 EU Member States approvals so far (Czech Republic, Hungary, Slovenia, Austria, Italy, Portugal).

According to the 2020 Serbia Report of the EC, Serbia is moderately prepared in the area of right of establishment and freedom to provide services and in the coming period should in particular: a) adopt the horizontal law on services, complete harmonisation of sectoral laws with the horizontal law and the EU *acquis* and establish a point of single contact via a portal that offers online information to service providers, including all relevant

administrative procedures, b) finalise the adoption of secondary legislation in the area of postal services and increase the capacity of the postal services inspectorate, and c) continue harmonisation on mutual recognition of professional qualifications.

Republic of Serbia adopted the Law on regulated professions and recognition of professional qualification on September 16, 2019. The Law has effect from the moment of the RS accession to EU. The law regulates the general system of recognition and automatic system of recognition of qualifications. With the adoption of the Law, Directive 2005/36/EC on the recognition of professional qualifications, Directive 2013/55/EU amending the Directive 2005/36/EC and Regulation 1024/2012 on administrative cooperation through the Internal Market Information System ("IMI Regulation") have been transposed into domestic legislation.

The next step of alignment is adoption of by-laws and harmonisation of sectorial laws and by-laws. According to the Action Plan and the National Programme for the Adoption of the Acquis, the process in ongoing and full alignment with the Directive 2005/36/EC should be achieved by the end of 2021. Related to this, the preliminary list of regulated professions was prepared in 2017 and should be revised after which the bylaw prescribing the list of regulated professions should be prepared and adopted. Curricula for 7 professions in the system of automatic recognition of qualifications were analysed and partially harmonized. An analysis of curricula for the profession of nurses of general care in line with Annex V of the Directive has been prepared as well. Certain steps have also been made with preparation of the analysis of the EU practice for craft and sport professions. The Law on Amendments and Modifications to the Law on Planning and Construction was adopted in 2020 and after submitted to the EC. Additionally, screening of sector of environment in order to assess level of harmonisation of corresponding sectorial laws is ongoing.

In the Action Plan and the Negotiating Position, the plans concerning future legislative, administrative and institutional 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. Serbia is obliged to adopt bylaw with the list of regulated professions. Related to this, an assessment and review of the preliminary list need to be performed. It is necessary to perform analyses and consultations with several sectors, sectors of transport, economy, crafts, etc. The first preliminary list of regulated professions was prepared in 2016 and 2017, but and in the meantime, a new legislation has been adopted so the assessment should be redone including the current status of this process.

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 MESTD and relevant ministries in preparation of the list of regulated profession and a bylaw in line with the Law on regulated professions and recognition of professional qualification and Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications.

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

- Perform a review of the preliminary list of regulated professions and identify the shortcomings
- Assist in drafting a Rulebook and the updated list of regulated professions based on the findings
- Organising and holding a workshop presenting the outcomes of the assignment, e.g. review and findings, the draft Rulebook, the list of regulated professions.

3.2 Requested services

The Senior NKE in the area of mutual recognition of qualifications is expected to provide the following services:

1. Perform a review of the preliminary list of regulated profession and identify the shortcomings
2. Assist the beneficiaries in drafting a Rulebook and the updated list of regulated professions
3. Organise and hold a workshop presenting the outputs of the assignment

3.3 Outputs

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

1. A Rulebook with the updated list of regulated profession drafted
2. WS held

3.4 Reporting

The SNKE shall provide the following reports by using the templates of the Project:

- Final Mission Report, not later than one week after the completion of tasks under this assignment. This report will include the description of all activities and outputs provided by the SNKE in the context of this assignment.
- A brief interim report - only upon request of the PLAC III team: the TL and/or KE2

Submission of reports:

- A draft mission report shall be submitted to the Team Leader of the Project for review and comments by the end of the mission.
- The final version of the mission report, prepared in the agreed quality, shall be submitted to the Team Leader of the Project for review, comments and final approval.
- The reports shall be signed by the JNKE and the Team Leader, responsible for endorsing the reports.
- The reports and all prepared documents shall be submitted in hard copy and 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 the representatives of the relevant beneficiary institutions.

Each of the short-term missions, their timing and duration shall be agreed with the Beneficiary and the PLAC project team prior to each planned mission.

3.6 Expert input**3.6.1 Total working days**

10 working days (WDs) in total have been planned for Senior 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 2021 until November 2021. However, the starting date will be confirmed at the later stage.

3.6.3 Location/Place of assignment

The SNKE shall 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 the PLAC III project.

3.6.4 Working language

English

4. Expert's Profile - Senior NKE (10 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
- Computer literacy
- Proficiency in report drafting
- Excellent communication and analytical skills
- Proficiency in English language
- Independent and free from conflicts of interest in the undertaken responsibilities

4.2 General professional experience (25 points)

- At least 8 (eight) years of general postgraduate professional experience in the field of Ch. 3 - mutual recognition of qualifications, gained in an EU member state, candidate or potential candidate country

4.3 Specific professional experience (50 points)

- Postgraduate professional experience in drafting national legislation harmonising it with the EU acquis regarding regulated professions, gained in an EU member state, candidate or potential candidate country
- Postgraduate professional experience in implementation of Directive 2005/36/EC as amended by Directive 2013/55/EC, gained in an EU member state, candidate or potential candidate country, would 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 9 August 2021, 17:00 hrs, titled:

“Application for the position – Senior NKE in the area of EU Negotiating Ch.3, professional qualifications; Regulated professions - drafting a Rulebook”

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.

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