

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 in the area of Negotiating Chapter 8, State Aid - research, development and innovation
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. 8; Commission for State Aid Control (CSAC)
Budget Line /Expert Category:	One Senior Non-Key Expert
Duration of the assignment:	25 working days (WD), from September 2021 until March 2022

1. Relevant background information

Background information in relation 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 EU 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 EU 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 8 – Competition Policy - State Aid

Negotiating Chapter 8 is one of the most crucial and difficult chapters in the process of the Republic of Serbia's accession negotiations with EU, especially in the area of state aid. The aim for Republic of Serbia (RS) is to harmonise its legislation and establish a strong state aid control system in order to enable the strengthening of free competition.

In the Screening Report for Chapter 8 – Competition policy, the European Commission recommended the opening of the negotiations on Chapter 8 after Serbia fulfils certain benchmarks. One of the benchmarks is that Serbia ensures the State Aid Authority's (the Commission for State Aid Control (CSAC). operationally independency and has been assigned the powers and the resources necessary for the full and proper application of state aid rules, in line with obligations under the SAA.

Serbia is moderately prepared in the area of competition policy. In the Country Progress Report for 2020 the EC states that Serbia needs further alignment, especially as regards implementing legislation. The existing aid schemes, namely the fiscal state aid schemes part of the laws on corporate income tax, on personal income tax and on free zones, are not yet harmonised with the EU acquis. Some progress has been noted on creation of a new inventory of schemes. The CSAC made progress in fulfilling its obligations under Article 73(5) of the SAA to provide the European Commission with information on individual decisions approving large amounts of state aid. Drafting of the regional aid map is pending.

Serbia adopted a new Law on state aid control in October 2019, which entered into force on January 1, 2020. The new legislative framework is broadly in line with the EU acquis and the relevant provisions of the SAA. However, further alignment is needed, especially as regards implementation of the legislation.

The CSAC is responsible for implementing the Law on state aid control. The newly adopted law has increased the CSAC's operational independence, which the CSAC will need to confirm by checking through its track record of implementing this Law. According to the new legislative provisions, the CSAC is accountable to the Parliament, but CSAC's enforcement capacity remains insufficient.

Due to the COVID-19 outbreak, the CSAC started to allow, as of March, the granting of aid as part of recovery measures, in accordance with the national state aid law and the Article 107(3)(b) of TFEU. Within the temporary framework for state aid measures, the Government adopted two decrees in April 2020, earmarking budget funds for direct cash subsidies to private sector (cc. EUR 831.6 million), adopting the financial programme of favourable loans delivered through the Development Fund (cc. EUR 200 million), state guarantee scheme for loans through commercial banks (cc. EUR 2 billion), direct cash subsidies to agriculture sector (cc. EUR 9.82 million), and favourable loans to agriculture sector (cc. EUR 12.39 million). Additional financial aid in form of support schemes to tourism and transport sectors has been announced during the reporting period. Serbia needs to ensure that allocation of state funds under this economic recovery framework is conducted in a non-discriminatory and transparent way.

The assistance from the PLAC III project will contribute to and enhance harmonisation with relevant EU regulations and their proper implementation and provide a support in meeting the opening benchmarks set for Chapter 8. Considering the obligations under the SAA, the selected experts' assistance will contribute to improved capacities, in particularly a higher level of knowledge of state aid rules by the Commission for State Aid Control.

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 Commission for State Aid Control (CSAC) more specifically, the support to the professional service in implementing EU state aid acquis in area of research, development and innovation. The assistance will enhance harmonisation with relevant EU regulations and their proper implementation and provide support in meeting the opening benchmarks set for Chapter 8.

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

- Prepare an analysis including practices of granting of State aid for research, development and innovation and prepare information on relevant EU cases in those areas
- Assist the CSAC in drafting Guidelines on harmonisation of the unaligned schemes in State aid for research, development and innovation
- Hold a workshop to present the analysis and the draft Guidelines on harmonisation of the schemes in line with EU state aid rules

3.2 Requested services

The Senior NKE in the area of state aid is expected to provide the following services:

1. Prepare a comparative analysis of State aid for research, development and innovation in RS and EU member states (at least three MS, to be determined in the inception) and an analysis of the position of the existing draft schemes and individual aid in RS in relation to the EU state aid rules.
2. Assist the CSAC in drafting the guidelines on harmonisation of financing of State aid for research, development and innovation in line with EU state aid rules.
3. Prepare and hold the WS and present the outputs of the assignment.

3.3 Outputs

Senior NKE is expected to deliver the following outputs:

1. Comparative analysis drafted
2. Guidelines on harmonisation of financing of State aid drafted
3. Workshop 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 SNKE 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**

25 working days (WDs) in total have been planned for the Senior 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 March 2022. However, the starting date will be confirmed at the later stage.

3.6.3 Location/Place of assignment

The SNKE has to deliver 100% of the input in 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. Experts' Profile – Senior NKE (25 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 such as law, economy, finance or similar, relevant to the assignment.
- Computer literacy

- Proficiency in report drafting
- Excellent communication and analytical skills
- Proficiency in the 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 related to Ch. 8 - state aid, of the EU acquis gained in an EU member state, candidate or potential candidate country.

4.3 Specific professional experience (50 points)

- Postgraduate professional experience in harmonisation of the national legislation with EU state aid rules related to research, development and innovation
- Postgraduate professional experience in a State Aid regulatory authority of an EU Member State, candidate or potential candidate country will be an advantage.

5. Applications

Applications (EU format CV and application letter in English) need to be submitted by e-mail to mbayard@dmiassociates.com and akhani@dmiassociates.com no later than 9 August 2021, 17:00 hrs, titled:

“Application for the position – SNKE in the area of Ch. 8, Harmonisation of state aid rules with that of the European Union, in State aid for research, development and innovation.”

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 Arianne Khani mail to akhani@dmiassociates.com