

## 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>	1 (one) Senior Non-Key Expert and 1 (one) Junior Non-Key Expert in the area of Negotiating Ch. 27, Environment and Climate Change – oversight and licensing of Extended Producer Responsibility collective compliance schemes
<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
<b>Target Beneficiaries:</b>	Negotiating Group Ch. 27; Ministry of Environmental Protection
<b>Budget Line/Expert Category:</b>	One Senior and one Junior Non-Key Expert
<b>Duration of the assignment:</b>	35 working days (25 WD SNKE and 10 WD for JNKE), from February until November 2023

### 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 Union *acquis* and to contribute to further building of capacities of relevant national structures for the 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 the successful carrying out of accession negotiations

In general, the Project aims to foster 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. Upon completion of the screening process in 2015, the Serbian public administration has entered into much more demanding and obliging exercises 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 and adequate institutional capacity of public administration with highly competent

staff are of crucial importance. In the core period of the negotiations, the PLAC III project shall support domestic line institutions and the negotiating structures both in the performance of quality operational work in relation to the 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 27 – Environment and Climate Change

Waste management is recognised as one of the most challenging and complex part of the Union acquis when it comes to harmonising national legislation with EU standards and norms. The application of legal norms in the environmental sector requires significant investments. Also, adequate and efficient institutional establishment and capacities at a national and local level are imperative for the application and implementation of the Union acquis in the field of environment.

The Government of Serbia submitted the negotiating position for Chapter 27 – environment and climate change (Negotiating Position) to the European Commission in January 2020. Serbia opened negotiations in Cluster 4 – Green Agenda and Sustainable Connectivity Green on 14 December 2021.

As indicated in the EU Common Position in Chapter 27, Serbia must dedicate “appropriate funding to infrastructure investments in line with relevant EU legislation, including the waste hierarchy”. In addition, Serbia must establish “waste prevention programmes and prepares waste management plans (WMP) – national and regional – that include information on all waste streams and the solutions to manage them, including the type and capacity of waste management infrastructure, separate collection schemes and economic instruments.”

In particular, “the EU encourages Serbia to pursue work for the full alignment with the Packaging and Packaging Waste, Waste Electric and Electronic Equipment (WEEE), Restriction of Hazardous Substances, Batteries and End-of-Life Vehicles Directives, including the establishment and/or alignment with the EU requirements of the extended producer’s responsibility system needed for the creation and management of individual and collective schemes” (EU Common Position in Chapter 27, p. 7)

The country progress report of the European Commission (EC) for Serbia for 2022 (Serbia 2022 Progress Report) SWD (2022) 338 final, states that Serbia has achieved *some level of preparation* in the field of environment and climate change. Regarding waste management, Serbia should considerably step-up implementation and enforcement work towards a green transition, waste reduction, separation, and recycling and enhance the administrative and financial capacity of central and local authorities.

Serbia has a good level of alignment with the Union acquis; however, implementation remains at an early stage. In 2020, the recycling rate in Serbia was 15.5% and fewer than 2% of recyclables came from households. In early 2022, Serbia adopted a national waste management program for 2022-2031 and a waste action plan for 2022-2024, which had been developed with EU and Swedish support. Additional economic instruments for special waste streams need to be urgently developed including collective schemes that assume producers’ responsibility for achieving the recycling and recovery goals outlined in the PPWD, WEEE, WBA, and ELV directives.

The PPW Directive is partially transposed by the Law on Packaging and Packaging Waste (“Official Gazette of the Republic of Serbia”, No. 36/09) and relevant bylaws. Likewise, WEEE Directive, WBA Directive and ELVs Directive are transposed partially through the Law on Waste Management (“Official Gazette of the Republic of Serbia”, Nos. 36/2009, 88/2010, 14/2016 and 95/2018) and implementing bylaws.

The extended producer responsibility (EPR) scheme has been implemented only partially for

the packaging producers in Serbia.

During the PLAC III project, an implementation gap assessment was developed with a set of operational recommendations for PPWD, WEEE WBA and ELVs on how to streamline national legislation and implement general minimum requirements for relevant EPR schemes in accordance with Directives (EU) 2018/851, 2018/252 and 2018/849. As indicated by the analysis of the best EPR practices in Member States the Producer Responsibility Organisations (PROs) in charge of collective compliance schemes must be licensed, monitored, and controlled from a central level to have a unified approach, consistent and effective performance.

As a result, in order to effectively implement the latest general minimum requirements, as part of Article 8a of the Waste Framework Directive (WFD) as amended by Directive 2018/851/EU and to facilitate streamlining of all pieces of legal acts governing relevant waste streams in a single process it was recommended to design a centralised supervisory body, and define its operations, functions and competences acting as a licencing authority for Producer Responsibility Organisations (PROs) and as a platform for facilitating coordination between private and state actors guaranteeing compliance with the waste management targets.

To accomplish the above, the assistance of experts is required and beneficial in order to progress toward the transposition and full implementation of the acquis on waste management, as well as to strengthen the negotiating positions of the RS corresponding to this sector, in particular, in relation to the requirement to communicate to the EU plans and solutions to the waste streams management as part of the closing benchmarks that Serbia must meet to provisionally close Chapter 27.

At present, there are no ongoing 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 Ministry of Environmental Protection (MoEP) and Negotiating Group for Ch. 27 (NG 27) to set up a unified system for authorising and overseeing the implementation of extended producer responsibility obligations for each waste stream (PPW, WEEE, WBA, and ELVs) in particular:

- a. By developing a comparative analysis of best practices in EU Member States for setting up a centralised authority in charge of authorisation and oversight of PROs established to implement EPR through collective compliance schemes across all waste streams;
- b. By designing the legislative framework governing setup, competences, powers and operation of a single body/central authority in charge of authorising, licensing and oversight of all PROs across all streams in accordance with general minimum requirements for EPR (Arts. 8 and 8a of the WFD as amended by Directive (EU) 2018/851) and in compliance with Directive (EU) 2018/852 amending the Directive 94/62/EC on packaging and packaging waste (PPW), and Directive (EU) 2018/849 amending Directive 2012/19/EU on waste electrical and electronic equipment (WEEE), the Directive 2000/53/EC on end-of-life vehicles and the Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators (WBA);
- c. By preparing an assessment of the current status of data reporting on PPW, EEE, BA, and ELVs, and then propose a way to improve the quality of information and data to meet the reporting requirements of the relevant Union acquis.

The assignment will help the MoEP establish the unified legislative mechanism that standardises across the waste streams, the authorisation, oversight and operation of PROs that implement EPR collective compliance schemes to avoid that multiple PROs exist only “on paper” making it difficult to determine if they are operational and capable of meeting targets prescribed by the relevant acquis.

The experts shall take into account outputs of the previous PLAC assignments, data and information available in waste management strategies, plans and programmes adopted by Serbian authorities, the EU Common Position in Chapter 27 and the Serbian negotiating position in Ch. 27 including the Action Plan for the Development of Administrative Capacities (APDAC) and directive specific implementation plans (DSIPs) annexed to the negotiating position relevant to the assignment.

At the end of the activity, a workshop presenting the outputs shall be held.

### 3.2 Requested services

**The Senior NKE in the area of waste management is expected to provide the following services:**

1. Assist the MoEP and NG 27 in preparing an assessment of the best practices across the EU Member States on an institutional setup of central body/authority in charge of authorising and overseeing the implementation of extended producer responsibility obligations by PROs for PPW, WEEE, WBA, and ELVs. The analysis shall include recommendations on organisational setup, competences, the manner of operation of the body in charge of centralised authorisation and oversight of PPW, WEEE, WBA, and ELVs collective schemes and on the best method of licensing EPR schemes and PROs implementing EPR obligations in accordance with general minimum requirements (Articles 8a of the WFD as amended by Directive 2018/851/EU);
2. Assist the MoEP and NG 27 in developing legislative acts governing institutional setup, competences and powers of the centralised body including licensing and oversight of the implementation of operational agreements with PROs managing EPR collective schemes for PPW, WEEE, WBA, and ELVs in accordance with general minimum requirements (Articles 8a of the WFD as amended by Directive 2018/851/EU) and acquis applicable to the waste stream;
3. Prepare and hold a Workshop and present the outputs of the assignment.

**The Junior NKE in the the area of waste management legislation is expected to provide the following services:**

1. Analyse data and information on how the PROs in the field of PPW, EEE, BA, and ELVs in Serbia operate in order to assist the SNKE in determining the most appropriate method for Serbia for authorising, licensing and overseeing of all PROs in a unified manner.
2. Prepare an assessment of data reporting on PPW, EEE, BA, and ELVs, and then propose a way to improve them in accordance with reporting requirements of the relevant Union acquis.
3. Prepare and hold the Workshop and present the outputs of the assignment.

### 3.3 Outputs

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

1. A comparative assessment of the best practices across the EU Member States with operational recommendations on the institutional setup of the centralised body/authority in charge of authorising, licensing and overseeing the implementation of EPR obligations by PROs for PPW, EEE, BA, and ELVs in accordance with the general minimum requirements (Articles 8a of the WFD as amended by Directive 2018/851/EU), drafted;
2. Legal acts prescribing the institutional setup, competences and powers of the centralised body/authority in charge of authorisation and oversight of PROs and the method of licensing EPR schemes for each waste flow (PPW, WEEE, WBA, ELVs) in accordance with Art. 8a of the WFD and the Union acquis applicable to the relevant waste stream, drafted.
3. Workshop held.

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

1. An assessment report on the operation of the PROs in the field of PPW, EEE, BA, and ELVs in Serbia and recommendations on steps and measures needed to improve the quality of information and data to comply with reporting requirements of the relevant Union acquis, drafted;
2. Workshop held.

### 3.4 Reporting

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

- A Final Mission Report, no later than 1 week after the completion of tasks under this assignment. This report will include a description of all activities and outputs provided by the NKEs in the context of this assignment;
- A brief Interim Report - only upon request of the PLAC III team: TL and/or KE2.

Submission of reports:

- A Final 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 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

The 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.

For each of the short-term missions, the timing and duration shall be agreed upon with the Beneficiary and the PLAC III team prior to each planned mission.

### 3.6 Expert input



### 3.6.1 Total working days

20 working days (WDs) in total have been planned for the Senior Non-Key Expert and 10 working days (WDs) for the 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 through several missions during the period from February until November 2023. However, the starting date will be confirmed at a later stage.

### 3.6.3 Location/place of assignment

The SNKE and the JNKE must deliver 100% of the input in Serbia, unless otherwise agreed due to extraordinary circumstances (i.e., COVID-19). All home-based days are subject to prior approval by the EU Delegation Project Manager responsible for the 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, economic, natural, environmental engineering, or technical sciences, relevant to the assignment;
- Computer literacy;
- Proficiency in report drafting;
- Excellent communication and analytical skills;
- Proficiency in the English language;
- Independence and freedom from conflicts of interest in the undertaken responsibilities.

### 4.2 General professional experience (15 points)

- At least 8 (eight) years of general postgraduate professional experience related to the Union acquis gained in an EU member state, candidate or potential candidate country.

### 4.3 Specific professional experience (50 points)

- At least 3 (three) preferably 5 (five) years of postgraduate professional experience in drafting and/or implementing legislation and/or strategies and policies in the waste management sector, gained in an EU member state, candidate or potential candidate country.
- Knowledge of the Serbian legal system will be an advantage.

## 5. Experts' Profile – Junior NKE (10 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 such as law, economic, natural, environmental engineering or technical science or similar, relevant to the assignment.
- Computer literacy
- Proficiency in report drafting
- Excellent communication and analytical skills
- Proficiency in the English language
- Independence and freedom 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 related to the 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](mailto:mbayard@dmiassociates.com) and [akhani@dmiassociates.com](mailto:akhani@dmiassociates.com) no later than 24 February 2023, 17:00 hrs, titled:

**“Application for the position – Senior NKE or Junior NKE in the area of Ch. 27, Environment and Climate Change, Waste Management – oversight and licensing of Extended Producer Responsibility collective compliance schemes”**

References must be available on request. Only short-listed candidates will be contacted.

Pre-selected experts will be 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 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 the Project Manager at DMI Associates Marion Bayard: [mbayard@dmiassociates.com](mailto:mbayard@dmiassociates.com) or Arianne Khani: [akhani@dmiassociates.com](mailto:akhani@dmiassociates.com).