



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 Ch. 1, Free movement of goods - conformity assessment and acceptance of the machinery products
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
Target Beneficiaries:	Negotiating Group Ch. 1; Ministry of Economy
Budget Line/Expert Category:	One Senior Non-Key Expert
Duration of the assignment:	17 working days from March 2023 until September 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 1, Free movement of goods

The free movement of goods is one of the four fundamental freedoms of the single market of the European Union.

The free movement of goods ensures that products can be placed on a single market and traded freely across the EU based on common rules and procedures. Removing barriers to trade is achieved by the harmonisation of technical regulations, while ensuring a high level of safety of life and health, protection of animals and plants, environmental protection, consumer protection etc.

Where products are governed by national rules, i.e. absent the harmonised rules at the EU level, the principle of the free movement of goods prevents these creating unjustified barriers to trade.

The harmonised European product legislation, which needs to be transposed by each Member State, represents the largest part of the *acquis* under this chapter. It is based on the “old approach” (imposing precise product specifications) and the “new and global approach” (imposing general product requirements).

The New and Global Approach product legislation covers machinery, among other products.

The Serbian Law on Technical Requirements for Products and Conformity Assessment is the general legal basis for the adoption of technical regulations in Serbia.

Serbian legislation is fully aligned with Directive 2006/42/EC on machinery (including the last amendments by Regulation (EU) 2019/1243). The only departure from the requirements of the directive is related to the fact that products imported in these sectors are subjected to additional marking with a Serbian conformity mark (3A mark) prior to placing these products on the Serbian market.

In accordance with Article 77 of the Stabilisation and Association Agreement (SAA) Serbia undertook an obligation to take the necessary measures in order to gradually achieve conformity with Community technical regulations and European standardisation, metrology, accreditation and conformity assessment procedures. Where appropriate, Parties to the SAA may conclude an Agreement on Conformity Assessment and Acceptance of Industrial Products (hereinafter referred to as the “ACAA”) once the legislative framework and the procedures of Serbia are sufficiently aligned on that of the Community and appropriate expertise is available.

Regarding the process of negotiations within Chapter 1 – Free movement of goods, the Republic of Serbia is obliged to provide 2 benchmarks in order to open negotiations in this chapter. After explanatory and bilateral meetings held in June and September 2014, the European Commission submitted a Report on a performed screening for Chapter 1 - Free movement of goods. The opening of this chapter could be envisaged once the following benchmarks are met:

Benchmark 1: Serbia shall provide the Commission with an action plan for compliance with Articles 34-36 TFEU, including milestones for the internal screening of domestic legislation and administrative practices, and for the introduction of mutual recognition clauses, and for the necessary subsequent amendments or changes;

Benchmark 2: Serbia shall present to the Commission a strategy and an action plan with milestones for the implementation of the EU legislation in this chapter. These should cover both the vertical (New Approach and Old Approach) and horizontal legislation and the relevant horizontal institutions (standardisation, accreditation, metrology, and market surveillance). They should also set out how and by when Serbia will remove barriers to trade with regard to products covered by this chapter, notably additional border controls. They should define clear responsibilities for introducing and effectively implementing legislative measures and for ensuring administrative capacity.

The latest versions of the abovementioned strategic documents have been provided to the Commission in November 2022. The Commission's answer is expected in the first quarter of 2023.

Therefore, the signing of an ACAA would certify the level of compliance with the Serbian legislation and remove further non-tariff barriers for the free circulation of industrial goods between the Parties on the basis of mutual recognition of conformity assessment procedures and products on the basis of harmonised EU rules.

The official opening of negotiations is subject to the prior assessment of the candidate country's preparedness, which is assessed by the EU. In particular, the level of preparedness is assessed through analysis of the compliance of the legislation in force, conformity assessment bodies, institutions, administrative capacities, relevant producers/companies and market surveillance with the directive. Key conditions for successful negotiations and implementation of ACAA are an adequate level of human and technical capacities of certification bodies, harmonised legislation, strong and capable institutions and complete information about situations on the market in the product area.

Expert support is needed to assist the MoE in the preparation of detailed institutional and implementation gap assessment reports on the quality infrastructure system in Serbia in relation to the machinery products that fall under the scope of the Directive with the relevant data regarding legislation (current status of harmonisation with the relevant Union acquis), the status of institutions and administrative capacities, designated bodies, market surveillance and data for production, import and export of selected group of products in Serbia. The reports have to provide sufficient information and data necessary to certify preparedness for the start of negotiations on signing an ACAA agreement between the EU and Serbia for products falling within the scope of the Directive on Machinery.

There are no ongoing or planned assistance projects regarding the activity 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 Economy and the Negotiating Group for Chapter 1 (NG 1) in the preparation of detailed institutional and implementation gap assessments of quality infrastructure systems in Serbia, which would include a detailed analysis of technical legislation, institutional structure and capacity, designated bodies production capacities, trade and market conditions, and market surveillance for products falling under the scope of Directive 2006/42/EC on machinery (as last time amended by Regulation (EU) 2019/1243).

The assessments of the quality infrastructure system shall include information on the Serbian market including data for the production, import and export of products that fall under the scope of the Directive.

The expected final outputs of the assignment shall contribute to the overall assessment of the level of preparedness of Serbian quality infrastructure in the selected fields for starting negotiation to sign an ACAA agreement (Acceptance of Conformity Assessment and Industrial Products) between Serbia and the EU).

The expert will use data that is publicly available and data and information provided by the beneficiaries and cooperate with the representatives of the Ministry of Economy and NG 1 in the development of the reports.



The expert shall hold a workshop presenting the results of the assignment and how they will contribute to the preparedness of Serbia to negotiate and execute the ACAA agreement.

3.2 Requested services

The Senior NKE in the area of free movement of goods:

1. Assist the MoE and NG 1 in preparation of the detailed institutional and implementation gap assessment reports providing information and data about the status of quality infrastructure systems in Serbia for machinery product groups that fall under Directive 2006/42/EC on machinery covering the following areas:
 - Legislation (including assessment of its compliance with the relevant Union acquis and its implementation and enforcement);
 - Institutions and administrative capacities in charge of implementation and enforcement;
 - Designated bodies;
 - Assessment of the market conditions, in particular producers, their capacities and the areas of their interest, importers and detailed analysis of the structure of imported goods, as well as of exports, the quantity of goods, and structure, and targeted markets;
 - Market surveillance
2. Prepare and hold a workshop for the members of NG 1 presenting the assessment reports.

3.3 Outputs

The Senior NKE is expected to deliver the following outputs:

1. The institutional and implementation gap assessment report on the status of quality infrastructure systems in Serbia in relation to Directive 2006/42/EC on machinery (as last time amended by Regulation (EU) 2019/1243), drafted;
2. Workshop held.

3.4 Reporting

The Senior NKE 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 SNKE 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 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

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.

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

17 working days (WDs) in total have been planned for the 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 through several missions during the period from March 2023 until September 2023). However, the starting date will be confirmed at a later stage.

3.6.3 Location/place of assignment

The SNKE 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 (17 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 in fields such as law, economy, management, technical field 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 undertaken responsibilities.

4.2 General professional experience (25 points)



- At least 8 (eight) years of general postgraduate professional experience related to the Union acquis in the field of free movement of goods, gained in an EU Member State, a candidate or a 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 in relation to Union acquis in the free movement of goods sector;
- Experience in operation of a conformity assessment body and/or accreditation or standardisation body would be an advantage;
- Knowledge of the Serbian legal system would 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 24 February 2023, 17:00 hrs, titled:

“Application for the position – Senior NKE in the area of Ch. 1 (Free Movement of Goods), conformity assessment and acceptance of the machinery products”

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 or Arianne Khani: akhani@dmiassociates.com.