



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 3, Right of Establishment and Freedom to Provide Services, professional qualifications – lists of the evidence of formal qualifications for health sector 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:	The Ministry of European Integration of the Republic of Serbia
Target Beneficiaries:	Negotiating Group for Ch. 3; Ministry of Health
Budget Line /Expert Category:	One Senior Non-Key Expert
Duration of the assignment:	20 working days (WD), from April 2023 until February 2024

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 the 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 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 3 – Right of Establishment and Freedom to Provide Services

Union acquis in Chapter 3 provides rules on the right of natural and legal persons to establish themselves in any Member State and to provide cross-border services. For certain regulated professions, there are specific rules on mutual recognition of qualifications.

The Ministry of Internal and Foreign Trade (MoIFT) is in charge of the coordination of the adoption of the acquis in Chapter 3 and leads the Negotiating Group for Ch. 3 (NG 3). The Ministry of Health is a member of NG 3 and the competent authority responsible for the sub-chapter covering mutual recognition of professional qualifications regarding health workers.

Directive 2005/36/EC on the recognition of professional qualifications sets up a system for the mutual recognition of professional qualifications in the European Union (EU) and European Economic Area (EEA) and Switzerland. The directive provides for automatic recognition for professions whose minimum training conditions are harmonised to a certain extent at an EU level: doctors, nurses responsible for general care, dentists, veterinary surgeons, midwives, pharmacists and architects. The Directive introduced a mutual evaluation of national professional regulations and a transparency exercise (i.e. screening the entry restrictions to professions and assessing whether they are necessary). It also contains ongoing transparency obligations requiring all Member States to report on the professions they regulate, and to communicate to the European Commission the reasons for considering that the existing or new requirements comply with the principles of non-discrimination and proportionality.

Following the screening in 2015, a benchmark for the opening of negotiations in Chapter 3 was set, requiring Serbia to “submit to the Commission a comprehensive and detailed strategy for alignment with the professional qualifications acquis. The strategy must cover all the reforms necessary in terms of legislative alignment and institutional capacity building for the recognition of professional qualifications acquired in other Member States and for the provision of assistance to professionals who qualified in Serbia and wish to provide services in other Member States. The strategy must also cover any adjustments to the training of doctors, dentists, nurses responsible for general care, midwives, pharmacists, veterinary surgeons, and architects necessary to comply with the minimum training requirements outlined in Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications. A deadline, a responsible entity and a clear indication of the corresponding provision of EU law must be specified for each action covered by the strategy”.

To meet the opening benchmarks, the Programme on Professional Qualifications with the Action Plan (hereinafter referred to as the “Programme”) was adopted by the Government and submitted to the EC in 2018. The Negotiating Position was submitted to the EU Presidency on December 5, 2019.

The Republic of Serbia adopted the Law on Regulated Professions and Recognition of Professional Qualification on September 16, 2019. The law regulates the general system of recognition and the 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 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 Law has effect from the date of the RS accession to the EU.

Furthermore, the relevant national legislation in this area of health workers is the Law on Healthcare (Official Gazette of the RS, No. 25/19) and the Law on the Chambers of Health Professionals (Official Gazette of the RS, No. 107/05 and 99/10).

The Law on Healthcare, in particular, regulates professional development, which includes specialisation and sub-specialisation and continuing education, the conditions for approval of specialisation and sub-specialisation in accordance with the Professional Development Plan, as well as requirements for specialisation in the understaffed fields of medicine, dentistry, and pharmacy.

The programme for specialisation in the field of public health for medical doctors together with the Rulebook on specialisation and sub-specialisation of health workers and health associates, ("Official Gazette of the Republic of Serbia" Nos. 10/2013, 91/2013, 113/2013, 109/2014, 53/2018, 17/2021, 77/2022 and 6/2023) implements the Law on Health Care in compliance with Directive 2005/36/EC as amended by Directive 2013/55/EC.

In addition, the Law provides the obligation of the health professional or health associate to stay employed at the health institution from the Network Plan for twice as long as the period of specialization or sub-specialization, after passing the specialist exam.

The Ministry of Health plans to adopt the Personnel Plan for employees in healthcare institutions based on the Network Plan and on the basis of the personnel analysis and steps to improve the personnel structure and data prepared from the database on the total number of personnel run by the Institute of Public Health of Serbia in cooperation with regional institutes of public health.

Annex V of Directive 2005/36/EC (the "Directive") contains lists of the evidence of formal qualifications of doctors of medicine, nurses responsible for general care, dental practitioners, veterinary surgeons, midwives and pharmacists on a country-by-country basis.

Each Member State is required to notify the Commission of the laws, regulations and administrative provisions which it adopts with regard to the issuing of evidence of formal qualifications in the professions covered by Chapter III of Title III of the Directive.

In order to take due account of legislative and administrative developments in the Member States, the Commission is empowered to amend certain points in Annex V concerning the updating of the titles adopted by the Member States for evidence of formal qualifications and, where appropriate, the body which issues the evidence of formal qualifications, the certificate which accompanies it and the corresponding professional title (the Directive, Art. 21a.4).

As a result, to progress in the negotiations Serbia must, on the basis of its legislative and administrative developments, provide an appropriate justification for the adjustments of lists of Annex V of the Directive in relation to health workers taking into account, in particular, conditions set out in Chapter III of Title III of Directive 2005/36/EC.

Having the above in mind, the assistance of the PLAC III project to the MoH is needed in order to prepare a justification for insertion in the lists of Annex V of Directive 2005/36/EC of evidence of formal qualifications regarding doctors of medicine in connection to certain specialisations and sub-specialisations and health sector professions from Serbia subject to automatic recognition.

At present, there are no ongoing 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 MoH in drafting the justifications for the proposal of adjustments of the lists in Annex V of Directive 2005/36/EC as amended by Directive 2013/55/EC regarding doctors of medicine with certain specialisations and sub-specialisations and certain health sector professions from Serbia.

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

- a. Assisting the MoH in the drafting of justifications for a request of adjustments of lists in Annex V of Directive 2005/36/EC regarding doctors of medicine from Serbia with certain specialisations and sub-specialisations taking into account, in particular, conditions set out in Chapter III of Title III of Directive 2005/36/EC;
- b. Assisting the MoH in drafting justifications for a request of adjustments of lists in Annex V of Directive 2005/36/EC regarding certain health sector professions from Serbia, taking into account, in particular, conditions set out in Chapter III of Title III of Directive 2005/36/EC.

The experts shall take into account the Serbian negotiating position in Ch. 3, the EU Common Position in Ch. 3, the Programme on Professional Qualifications with the Action Plan, legislation, documents and programmes adopted by Serbian authorities in relation to the specialisation of health sector professions.

3.2 Requested services

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

1. Drafting justification for a request of the adjustments of the lists in Annex V.1 (Sections 5.1.1 -5.1.4) of Directive 2005/36/EC (as last time amended by the Commission Delegated Decision (EU) 2021/2183) regarding doctors of medicine from Serbia with certain specialisations and sub-specialisations;
2. Drafting justification for a request of the adjustments of the lists in Annex V of Directive 2005/36/EC (as last time amended by the Commission Delegated Decision (EU) 2021/2183) regarding certain health sector professions from Serbia.

3.3 Outputs

The Senior NKE is expected to deliver the following outputs:

1. The justification for a request of adjustments of lists in Annex V.1 (Sections 5.1.1 -5.1.4) of Directive 2005/36/EC regarding doctors of medicine, drafted;
2. The justification for a request of adjustments of lists in Annex V.1 (Sections 5.1.1 -5.1.4) of Directive 2005/36/EC regarding other health sector professions drafted (the exact scope of the professions shall be agreed upon with the MoH at the start of the assignment).

3.4 Reporting

The SNKE 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 a 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 SNKEs shall work under the guidance and follow the instructions of the Team Leader. The SNKEs 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 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 April 2023 until February 2024. However, the starting date will be confirmed at a later stage.

3.6.3 Location/Place of assignment

The SNKE has to deliver 100% of the input in Belgrade, Serbia.

3.6.4 Working language

English

4. Experts' Profile – Senior NKE (20 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;
- Independence and freedom 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 EU Negotiating Ch. 3 mutual recognition of qualifications gained in an EU member state or candidate country.

4.3 Specific professional experience (50 points)

- Postgraduate professional experience in the implementation of Directive 2005/36/EC on professional qualifications and Directive 2013/55/EC related to the area for health workforce;
- Knowledge of the Serbian Legal System 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 7 April 2023, 17:00 hrs, titled:

“Application for the position – Senior NKE in the area of Negotiating Chapter 3, Right of Establishment and Freedom to Provide Services, professional qualifications - lists of the evidence of formal qualifications for health sector professions”

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.