

Policy and Legal Advice Centre (PLAC III)

Terms of Reference (ToR) for a Short-Term assignment

Technical assistance requested:	One (1) Senior Non-Key Expert in the area of Ch. 3 - Right of Establishment and Freedom to Provide Services, Postal Services – Third Directive on Postal Services
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 for Ch. 3; The Ministry of Information and Telecommunications (MIT)
Budget Line / Expert Category:	One Senior Non-Key Expert
Duration of the assignment:	25 working days (WD) for SNKE, from April 2023 – 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 relevant national institutions in charge of alignment of national legal acts with 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 at fostering 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, 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

The Union acquis in Chapter 3 provides EU natural and legal persons with the right to establish themselves in any Member State and to provide cross-border services. In the postal sector, EU rules provide for the establishment of an internal market for postal services and a gradual opening up of postal services to competition.

In the Republic of Serbia, the Ministry of Internal and Foreign Trade is the competent authority for Chapter 3, whereas the Ministry of Information and Telecommunication is the competent authority for electronic communications and postal traffic. The Regulatory Agency for Electronic Communications and Postal Services (RATEL) is the national regulatory authority in the field of postal services.

The Serbia 2022 Country Progress Report issued by the European Commission states that Serbia is moderately prepared in the areas covered by Ch. 3. Limited progress was made on the right of establishment and freedom to provide services with the further alignment of sectoral laws with the EU acquis and the adoption of the Strategy for the development of postal services for the period from 2021-2025 (the “Strategy”)

Serbia should in particular “complete alignment of sectoral laws with the horizontal law and the Union acquis” and to “continue making progress on the alignment of national legislation with the EU postal acquis and further strengthen the capacity of the postal services inspectorate” (Serbia 2022 Country Progress Report, p. 91).

A legal gap analysis of the Law on Postal Services (“Official Gazette of the RS”, No. 77/19), which entered into force in November 2019 was completed under the PLAC III Project in December 2021.

The law is partially aligned with the Postal Service Directive and maintains a reserved area for the provision of universal service (Serbia 2022 Country Progress Report, p. 91). Full harmonisation was achieved with Directive 97/67/EC on common rules for the development of the internal market of Community postal services and the improvement of the quality of service as amended by Directive 2002/39/EC. However, Directive 2008/6/EC (Third Postal Directive) amending Directive 97/67/EC remains to be fully transposed. In addition, Serbia needs to further align its national legislation with Regulation (EU) 2018/644 on cross-border parcel delivery services (Serbia 2022 Country Progress Report, p. 91).

The Strategy envisages objectives aimed at the comprehensive development of the postal services market in the Republic of Serbia and its integration with the single European market. Based on the above, a strategic goal of ensuring the provision of accessible, reliable and efficient postal services in the RS in accordance with EU directives and recommendations of the Universal Postal Union has been defined.

Under this goal, the Action Plan of the Strategy envisages Measure 1.1 „Harmonization of postal regulations with EU and Universal Postal Union legislation in the field of postal services“. Within the Measure, Activity 1.1.1 “Adoption of the Law on amendments to the Law on Postal Services” is determined. This activity is planned to be completed in the 4th quarter of 2024, and the MIT is responsible for the implementation of the activities, and the partners in the implementation are RATEL and postal operators.

The development of the Strategy and a legal gap analysis (LGA) covering the Law on Postal Services and new by-laws adopted by the MoIT against the Third Postal Directive 2008/6/EC



amending Directive 97/67/EC and the Regulation on cross-border parcel delivery services has been supported by the PLAC III project. As well, the LGA assessed compliance of Serbian legislation with non-postal acquis (consumers rights, state aid, customs regulations, transport of postal items with dangerous goods by air etc.) which have a direct impact on the postal market.

Taking into account the legal gap identified, the specific objective of this assignment is to provide expert assistance to the MoIT and the Negotiating Group in Ch. 3 (NG 3) in drafting amendments to the Law on Postal Services in order to achieve full transposition of Directive 2008/6/EC and full compliance with Regulation (EU) 2018/644 on cross-border parcel delivery services as well as with non-postal acquis (consumer rights, State aid, customs regulations, transport of postal items with dangerous goods by air etc.) which has a direct impact on the operation of the postal services market.

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 assist the MIT in the full alignment of postal legislation with Directive 2008/6/EC (Third Postal Directive) and Regulation (EU) 2018/644 on Cross-border parcel delivery services and in achieving its full compliance with mandatory requirements of the non-postal Union acquis (consumers rights, State aid, customs regulations, transport of postal items with dangerous goods by air, etc.) that have a direct impact on the postal services market.

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

- a. Drafting amendments to the Law on Postal Services in force fully transposing Directive 97/67/EC as amended by the Third Postal Directive and fully aligning and implementing Regulation (EU) 2018/644 on Cross-border parcel delivery services;
- b. Drafting amendments to the Law on Postal Services to achieve full compliance with requirements of non-postal Union acquis (consumers rights, State aid, customs regulations, transport of postal items with dangerous goods by air, etc.) that have a direct impact on the operation of the postal services market;
- c. Preparing tables of concordance for Directive 97/67/EC (as amended by Third Postal Directive) and Regulation (EU) 2018/644 on the basis of amendments to the Law on Postal Services proposed;
- d. Holding a workshop to present the results of the assignment to the MIT and representatives of NG 3.

The selected expert shall take into account the results of the previous PLAC III assignments for the purpose of delivering the outputs of this assignment.

3.2 Requested services

The Senior NKE is expected to provide the following services:

1. Assist the MIT in drafting of the Law on amendments of Law on Postal Services ("Official Gazette of the RS", No. 77/19) fully transposing Directive 97/67/EC (as amended by the



Third Postal Directive) and fully aligned with Regulation (EU) 2018/644 on Cross-border parcel delivery services and fully-compliant with the requirements of relevant non-postal Union acquis (the scope of non-postal acquis to be agreed on with the MIT);

2. Prepare the Tables of Concordance for Directive 97/67/EC (as amended by the Third Postal Directive) and Regulation (EU) 2018/644 on the basis of amendments to the Law on Postal Services proposed;
3. Deliver a workshop presenting the outputs of the assignment to the MIT and representatives of NG 3.

3.3 Outputs

The Senior NKE is expected to deliver the following outputs:

1. Draft Law on amendments of the Law on Postal Services, drafted;
2. Tables of Concordance, drafted;
3. Workshop held.

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 KE 2

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.

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

3.6 Expert's input

3.6.1 Total working days

25 working days for the Senior Non-Key Expert have been planned for this assignment.

3.6.2 Period of the assignment and Starting day



It is expected that the work will be performed within the period from April 2023 – February 2024. However, the exact starting date will be agreed on at a later stage.

3.6.3 Location/Place of assignment

The SNKE has to 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 prior approval by the EU Delegation Project Manager responsible for PLAC III project.

3.6.4 Working language

English

4. Expert's Profile - Senior NKE in the field of postal services (25 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
- Proficiency in the English language
- Computer literacy
- Proficiency in report drafting
- Excellent communication and analytical skills
- 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 in the field of postal services gained in an EU Member State, candidate, or potential candidate country

4.3 Specific professional experience (50 points)

- At least 3 years of previous professional experience related to harmonisation with Union acquis in Chapter 3 gained in an EU Member State, candidate, or potential candidate country
- Knowledge of the legal system of the Republic of Serbia will 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 akhani@dmiassociates.com no later than 27 March 2023, 17:00 hrs, titled:

“Application for the position – Senior NKE in the area of Negotiating Ch. 3, Right of Establishment and Freedom to Provide Services, Postal Services – Third Directive on Postal Services to provide services”

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.



Please note that pre-selected experts are 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 (if any) and within the number of working days requested.

For more information, please contact the Project Manager at DMI Associates Marion Bayard: mbayard@dmiassociates.com or Arianne Khani: akhani@dmiassociates.com