



Policy and Legal Advice Centre (PLAC III)

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

Technical assistance requested:	2 (two) Senior Non-Key Experts and 1 (one) Junior Non-Key Expert in the area of Negotiating Ch. 15, Energy - Energy Performance of Buildings (Directive 2010/31/EU)
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. 15; Ministry of Construction, Transport and Infrastructure and Ministry of Mining and Energy
Budget Line/Expert Category:	Two Senior Non-Key Experts and one Junior Non-Key Expert
Duration of the assignment:	60 working days (50 WDs for 2 SNKE and 10 WDs for JNKE), from March 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 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 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 is 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 15, Energy - Energy Performance of Buildings

Energy efficiency in the building sector is one of the most challenging and complex areas of the EU acquis in the matter of harmonising national legislation with EU standards, especially when it comes to the implementation of adopted policy measures.

Collectively, buildings in the EU are responsible for 40% of energy consumption and 36% of greenhouse gas emissions, which mainly stem from construction, usage, renovation and demolition.

To achieve the target of a minimum of 55% reduction of greenhouse gas emissions by 2030, (compared to the 1990 levels, proposed by the European Commission on Sept. 2020) the EU must reduce buildings' greenhouse gas emissions by 60%, their energy consumption by 14%, and the energy consumption of heating and cooling by 18%.

The Government of Serbia submitted the negotiating position for Chapter 15 – Energy (Negotiating Position) to the European Commission (EC) on June 7th, 2021. Serbia opened negotiations in Cluster 4 – Green Agenda and Sustainable Connectivity on December 14th, 2021.

To progress in negotiations for Cluster 4, Serbia needs to make significant efforts to further align its legislation with the energy efficiency acquis in Ch. 15.

The Serbia progress report for 2022 of the European Commission states that “Serbia continued to progress in aligning with the Union acquis on energy efficiency by adopting implementing legislation under the new Law on Energy Efficiency and Rational Use of Energy” and notes that in “February 2022, Serbia adopted a long-term building renovation strategy until 2050 with targets to renovate the existing public buildings stock by 2050 and to introduce nearly zero energy buildings (NZEB) standards for all new public and commercial buildings” (Serbia 2022 Progress Report, p. 118). However, „Serbia still needs to adopt further primary and secondary legislation to achieve full alignment with the Directive on the energy performance of buildings 2010/31/EU (EPBD) and on energy labelling, including defining NZEB standards” (Ibid.).

In accordance with the main conclusions from the meeting of the Sub-Committee on Transport, Energy, Environment, Climate Change and Regional Development of the Stabilisation and Association Agreement, held on December 9th, 2021 (Operational conclusions, p.1) Serbia was invited by the EC to announce if there are any concrete actions or plans such as a National Energy and Climate Plan and the Long-Term Building Renovation Strategy that IPA can contribute to.

Directive 2010/31/EU of 19 May 2010 on the energy performance of buildings was amended by Directive (EU) 2018/844 and Regulation (EU) 2018/1999 (further on referred to as the “EPBD (recast)”).

In order to implement Article 2a of the EPBD (recast) Serbia adopted the Long-Term Renovation Strategy for Encouraging Investments in Renovation of the National Building Stock of the Republic of Serbia by 2050 (“Official Gazette of the RS”, No. 27/2022-05) in February 2022 (hereinafter referred to as the Building Renovation Strategy).



The Building Renovation Strategy indicates the need for Serbia to set stricter levels of energy efficiency in buildings, i.e. new minimum energy performance requirements, to define the nearly zero energy building level (NZEB), increase the percentage of use of renewable energy sources (RES) and to amend the Law on Planning and Construction, to fortify a system of independent professional control and establishing penal provisions and sanctioning improper certification of the energy performance of buildings, and to ensure full alignment with the provisions of the EPBD (recast).

The National Programme for Adoption of Acquis 2022-2025 (NPAA) envisages the adoption of amendments to the Rulebook on Energy Efficiency of Buildings and the Rulebook on the Conditions, Content and Manner of Issuing Certificates on the Energy Properties of Buildings by the end of IIIQ 2024 as steps to transpose the EPBD (recast) (NPAA, p.291).

Currently, new definitions of stricter levels of energy efficiency of buildings (Articles 4, 6 EPBD) and the use of RES in a higher percentage (Articles 3, 4, 5 EPBD) have not been fully transposed and requirements of nearly zero energy building (NZEB) (Article 9 EPBD) have yet to be introduced. Furthermore, a system of independent professional control, penal provisions and sanctions in case of improper certification are not fully in place requiring amendments to the Law on Planning and Construction (Articles 12, 13, 17, 18, 27. EPBD).

As a result, to fully transpose the EPBD (recast) the implementation of strategy measures and packages, and the amending of the Law on Planning and Construction and by-laws in energy efficiency.

In order to achieve effective transposition of the EPBD (recast) as envisaged by the Building Renovation Strategy and the NPAA the technical support of selected experts is required to assist the Ministry of Construction, Transport and Infrastructure (MoCTI) and the Negotiating Group for Ch. 15 in drafting amendments to the Law on Planning and Construction and amendments to the Rulebook on Energy Efficiency of Buildings and Rulebook on the Conditions, Content and Manner of Issuing Certificates on the Energy Properties of Buildings.

At present, there is no ongoing assistance on 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 MoCTI and the Negotiating Group for Ch. 15 in order to enhance harmonisation with Directive (EU) 2010/31/EU of 19 May 2010 on the energy performance of buildings as amended by Directive (EU) 2018/844 and Regulation (EU) 2018/1999 (recast) and its effective implementation.

The aligned regulatory framework shall cover in particular:

- Definitions;
- New building minimum energy performance requirements;
- Measures to ensure that existing buildings meet the minimum energy performance requirements in so far as this is technically, functionally and economically feasible;
- Optimisation of the energy uses of technical building systems;
- Nearly zero-energy buildings;
- Energy performance certificates;
- Inspection of heating systems;
- Independent control system;
- System of penalties, etc.

In the scope of this objective, the selected experts shall assist the MoCTI in conducting the legal gap assessment having regard to the provisions of the EPBD 2010/31/EU (recast), collecting, identifying and analysing best practices (from at least three Member States) for cost-effective implementation of minimum energy performance requirements, energy performance certificates and independent control systems and in drafting the amendments of the Law on Planning and Construction and amendments of Rulebook on Energy Efficiency of Buildings and Rulebook on the Conditions, Content and Manner of Issuing Certificates on the Energy Properties of Buildings fully harmonised with the EPBD (recast).

At the end of the activity, a workshop on the presentation of the new legal framework, the advantages of the adopted solutions, as well as on the way of implementing the draft legal documents, will be held.

3.2 Requested services

The Senior NKE in the area of energy performance of buildings (SNKE 1) is expected to provide the following services in cooperation with SNKE2:

1. Assist the MoCTI in drafting:
 - a. A legal gap analysis and the Table of Concordance, having regard to the provisions of the EPBD 2010/31/EU (recast) governing minimum energy performance requirements, optimisation of the energy uses of technical building systems, NZEB and Inspection of heating systems (EPBD, Articles 6-16 and relevant definitions and penalties)
 - b. Amendments to the Law on Planning and Construction fully harmonised with the EPBD (recast), governing minimum energy performance requirements, optimisation of the energy uses of technical building systems, NZEB and Inspection of heating systems (EPBD, Articles 6-16 and relevant definitions (EPBD, Art. 2) and penalties (EPBD, Art. 27));
 - c. Amendments to the Rulebook on energy efficiency of buildings fully harmonised with the EPBD (recast), Articles 6-16 and relevant definitions (EPBD, Art. 2);
 - d. Amendments to the Rulebook on the conditions, content and manner of issuing certificates on the energy properties of buildings fully harmonised with the EPBD (recast), Articles 6-16 and relevant definitions (EPBD, Art. 2).
2. Prepare and hold a workshop or training and present the outputs of the assignment.

The Senior NKE in the area of energy efficiency legislation (SNKE 2) is expected to provide the following services in cooperation with SNKE 1:

1. Assist the MoCTI in drafting:
 - a. A legal gap analysis and the Table of Concordance having regard to the provisions of the EPBD 2010/31/EU (recast) governing independent experts' accreditation, independent control system and information dissemination (EPBD, Articles 17, 18, 20, 21 including relevant definitions and penalties in Arts. 2 and 27);
 - b. Amendments to the Law on Planning and Construction fully harmonised with the EPBD (recast), governing independent experts' accreditation, independent control

system and information dissemination (EPBD, Articles 17, 18, 20, 21 and relevant definitions (EPBD, Art. 2) and penalties (EPBD, Art. 27)

- c. Amendments to the Rulebook on energy efficiency of buildings fully harmonised with the EPBD (recast), Articles 17, 18, 20, 21 and relevant definitions (EPBD, Art. 2) and penalties (EPBD, Art. 27);
- d. Amendments to the Rulebook on the conditions, content and manner of issuing certificates on the energy properties of buildings fully harmonised with the EPBD (recast), Articles 17, 18, 20, 21 and relevant definitions (EPBD, Art. 2) and penalties (EPBD, Art. 27);

2. Prepare and hold a workshop or training and present the outputs of the assignment.

The Junior NKE in the area of energy efficiency policy is expected to provide the following services:

1. Collect, identify, process and analyse data and information on best practices for implementation of EPBD (recast) minimum energy performance requirements, energy performance certification, independent control system, consultation and penalties relevant to Serbia (from at least three Member States) for the purposes of drafting legal gap analysis;
2. Draft a report on the best practices;
3. Prepare and hold a workshop or training and present the outputs of the assignment in cooperation with the SNKEs.

3.3 Outputs

Senior NKE 1 is expected to deliver the following outputs:

1. The legal gap analysis having regard EPBD 2010/31/EU (recast) requirements in Articles 2, 6-16 and 27 drafted;
2. The Table of Concordance on Directive (EU) 2010/31/EU (recast) covering provisions in Articles 2, 6-16 and 27, drafted;
3. A draft Law amending the Law on Planning and Construction drafted fully in compliance with Directive (EU) 2010/31/EU (recast), Articles 2, 6-16 and 27, drafted;
4. A draft Rulebook amending the Rulebook on the Conditions, Content and Manner of Issuing Certificates on the Energy Properties of Buildings Transposing Directive (EU) 2010/31/EU (recast), Articles 2. and 6-16, drafted;
5. A draft Rulebook amending the Rulebook on Energy Efficiency of Buildings transposing Directive (EU) 2010/31/EU (recast), Articles 2. and 6-16, drafted;
6. Workshop or training held (in collaboration with SNKE 2 and JNKE).

Senior NKE 2 is expected to deliver the following outputs:

1. The legal gap analysis having regard EPBD 2010/31/EU (recast) requirements in Articles 2, 17, 18, 20, 21 and 27 drafted;



2. The Table of Concordance on Directive (EU) 2010/31/EU (recast) covering provisions in Articles 2, 17, 18, 20, 21 and 27 drafted;
3. The Draft Law amending the Law on Planning and Construction drafted fully in compliance with Directive (EU) 2010/31/EU (recast) requirements in Articles 2, 17, 18, 20, 21 and 27, drafted;
4. The draft Rulebook amending the Rulebook on the Conditions, Content and Manner of Issuing Certificates on the Energy Properties of Buildings Transposing Directive (EU) 2010/31/EU (recast), Articles 2, 17, 18, 20 and 21), drafted;
5. The draft Rulebook amending the Rulebook on Energy Efficiency of Buildings transposing Directive (EU) 2010/31/EU (recast), Articles 2, 17, 18, 20 and 21, drafted;
6. Workshop or training held (in collaboration with SNKE 1 and JNKE).

The Junior NKE is expected to deliver the following outputs:

1. The report on the best practices for transposition and implementation of EPBD (recast), drafted;
2. Workshop or training held (in collaboration with SNKEs).

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

60 working days (WDs) in total have been planned for this assignment (30 WDs for SNKE 1, 20 WDs for SNKE 2 and 10 WDs for the JNKE)

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 until September 2023. However, the starting date will be confirmed at a later stage.

3.6.3 Location/place of assignment

The NKEs 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 1 in the in the area of energy performance of buildings (30 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 or engineering, 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*, 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 energy performance of buildings;

- Knowledge of the Serbian legal system will be an advantage.

5. Experts' profile – Senior NKE 2 in the in the area of energy efficiency legislation (20 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 or engineering, 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.

5.2 General professional experience (25 points)

- At least 8 (eight) years of general postgraduate professional experience related to the Union *acquis*, gained in an EU Member State, a candidate or a potential candidate country

5.3 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 energy efficiency;
- Knowledge of the Serbian legal system will be an advantage.

6. Experts' Profile – Junior NKE in the area of energy efficiency policy (10 working days):

6.1 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, engineering 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.

6.2 General professional experience (25 points)



- At least 5 (five) years of general postgraduate professional experience related to Union acquis gained in an EU Member State, candidate or potential candidate country.

6.3 Specific professional experience (50 points)

- At least 2 (years) preferably (3) (three) years of postgraduate professional experience in drafting and/or implementing legislation in relation to Union acquis in the energy efficiency;
- Postgraduate professional experience in harmonisation of the national legislation with the Union acquis;
- Knowledge of the Serbian legal system will be an advantage.

7. 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 27 March 2023, 17:00 hrs, titled:

“Application for the position – Two (2) Senior NKEs and one (1) JNKE in the area of Energy, Ch. 15, Energy Performance of Buildings (Directive 2010/31/EU)”.

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.