

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. 27, Environment and Climate Change, alignment of the legislation with the EU Wildlife Trade Regulation
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 Ch. 27; the Ministry of Environmental Protection
Budget Line/Expert Category:	One Senior Non-Key Expert
Duration of the assignment:	30 working days from June to December 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 Ch. 27, Environment and Climate Change

Environmental protection is recognised as one of the most challenging and complex acquis when it comes to harmonisation of national legislation with the EU standards and norms. Moreover, implementation of the legislative norms in the environmental sector requires significant investments. Adequate and efficient institutional setup and capacities at a national and local level are imperative for the application and enforcement of the environmental acquis.

The Government of Serbia submitted the negotiating position for Chapter 27 – Environment and Climate Change (Negotiating Position) to the European Commission in January 2020. The Action Plan for the Administrative Capacities Development has been annexed to the Negotiating Position.

Serbia opened negotiations in Cluster 4 – Green Agenda and Sustainable Connectivity Green on 14 December 2021.

In the EU Common Position, the EU “notes that Serbia is partially aligned with EU legislation on nature protection” (p. 11). In view of enforcement, the EU emphasised the importance of improving the efficiency of Serbia’s wildlife trade controls and it took “note of Serbia’s plans to be fully aligned with the EU Wildlife Trade Regulation” and underlined “the importance of increasing both human and material resources in the CITES Management Authority as well as in the relevant enforcement bodies” (p. 11).

The country progress report of the European Commission (EC) for Serbia for 2022 (Serbia 2022 Progress Report) SWD (2022) 338 final) states that alignment with the Union acquis in the field of nature protection is moderate (p. 122). Institutional and human resource capacity at a national and local level remains weak, in particular as regards enforcement and wildlife trade (Ibid.).

The Republic of Serbia is intensively preparing for the next stages of negotiations with the EU regarding Chapter 27 – Environment and Climate Change.

Wildlife trade in Serbia has been regulated by the framework Law on Environmental Protection (“Official Gazette of RS” 135/2004, 36/2009, 36/2009 - other law, 72/2009 - other law, 43/2011 - Decision of the Constitutional Court of the RS, 14/2016, 76/2018, 95/2018 - other law and 95/2018 - other law), Law on Nature Protection (“Official Gazette of RS”, no. 36/2009, 88/2010, 91/2010 – corr. and 95/2018- other law, 71/21), and relevant bylaws and other sectoral laws.

Serbia ratified the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES Convention) in 2001 (“Official Gazette of the FRY”, No. 11/01), and has progressively adopted national legislation in accordance with the basic provisions, thus providing for the implementation of the main provisions of the CITES Convention.

In particular, the amendments to the Law on Nature Protection and the Law on Environmental Protection in 2016 allowed for the implementation of CITES Convention and the Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein (the EU Wildlife Trade Regulation).

CITES permits and certificates are issued on the basis of the Law on the Ratification of the CITES Convention, the Law on Environmental Protection, the Law on Nature Protection and the Rulebook on Cross-Border Traffic and Trade in Protected Species (“Official Gazette of RS”, number 99/09).

The structure for implementation of the EU Wildlife Trade Regulations is in place on a national and provincial level. The Ministry of Environmental Protection (Group for implementation of the

CITES Convention) is an authority competent for all tasks of the CITES Management Authority. Inspection for Environmental Protection within the Ministry of Environmental Protection performs controls and monitoring of the legality of ownership, breeding and domestic trade in specimens of protected species, as well as providing support to other agencies for border control and monitoring during controls of cross-border movement, where needed.

Customs Administration and the Border Police Directorate are authorities competent for control of cross-border movement and trade of goods, and of people and vehicles, respectively. The Ministry of the Interior is in charge of prevention of illegal activities under the Criminal Code, illegal cross-border movement and trade, smuggling, hurting and killing of protected species.

The Institute for Nature Conservation of Serbia and the Provincial Institute for Nature Conservation are the two main designated authorised scientific and expert organisations.

The national legislation has been aligned with the EU Wildlife Trade Regulation (EU WTR) except in the areas modified by the European Commission's implementing regulations. Namely, amendments to the EU WTR are frequent, hence, the national legislation has to be updated in order to fully align all the amendments to the EU WTR. As a result, it is necessary to assess relevant legal gaps and to prepare amendments to the national legislation.

The Revised National Programme for the Adoption of the Acquis (NPAA) 2022-2025 envisages the adoption of the amendments to the relevant legislation in force (NPAA, 2022-207 and 2022-209) to fully align with the EU WTR.

In addition, a detailed assessment of the current institutional setup at a national and local level is needed to identify the appropriate steps needed to upgrade it to meet the implementation requirements of the EU WTR.

For this reason, expert assistance is required to help the Ministry of Environmental Protection (MoEP) to develop a detailed legal and institutional gap assessment with recommendations on steps needed to close the gaps identified and to prepare amendments to the relevant legislation to fully align the national legislation with the relevant Union acquis.

The project "EU for Green Agenda in Serbia", with the technical and financial support of the European Union and in partnership with the MoEP, is implemented by UNDP, in cooperation with the Embassy of Sweden and the European Investment Bank (EIB), with additional funding from the Governments of Sweden, Switzerland and Serbia. One of its objectives is protection and investment in biodiversity and water for enhanced climate resilience, which is complementary to this PLAC III project activity.

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 provide assistance to the Ministry of Environmental Protection (MoEP) in the alignment of the national legislation with Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein (the EU Wildlife Trade Regulation).

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

- 1) Preparation of a legal gap assessment of the legislation of the Republic of Serbia in force relevant for full implementation of the EU Wildlife Trade Regulation (as last time amended

by Commission Regulation (EU) 2021/2280);

- 2) Performing the institutional gap assessment and preparing recommendations for the upgrading of the institutional setup needed for full implementation of the EU Wildlife Trade Regulation (as last time amended by Commission Regulation (EU) 2021/2280);
- 3) On the basis of the findings of the legal gap assessment, drafting the amendments to by-laws in force and drafting new by-laws to close the legal gap and fully align legislation with the EU Wildlife Trade Regulation (as last time amended by Commission Regulation (EU) 2021/2280).

The provisions proposed by the selected expert amending the existing, and/or new legislation must, in particular, reflect all the periodic amendments to the EU WTR and the CITES Annexes.

At the end of the activities, a workshop presenting the outputs of the assignment to the representatives of the key national institutional stakeholders and broader stakeholders' group shall be held.

3.2 Requested services

The Senior NKE in the area of the EU Wildlife Trade Regulation is expected to provide the following services:

- a. Prepare a legal gap assessment report on the Serbian legislation in force in relation to the Union acquis in the area of wildlife trade, with recommendations on the legal steps needed to close the gap;
- b. Prepare a report on the institutional gap assessment, with recommendations for the upgrading of an institutional set-up of the Republic of Serbia to enable full implementation of the Union acquis in the area of wildlife trade;
- c. Prepare a draft rulebook amending the Rulebook on Transboundary Movement and Trade in Protected Species ("Official Gazette of RS", No. 99/09) fully aligned with the EU Wildlife Trade Regulation (as last time amended by Commission Regulation (EU) 2021/2280);
- d. Prepare a draft rulebook on the conditions and manner of dealing with specimens whose owners were registered, the method of registration, the species to be registered, fully aligned with the EU Wildlife Trade Regulation (as last time amended by Commission Regulation (EU) 2021/2280);
- e. Deliver a workshop to present the findings of the legal and institutional gap assessment with recommendations and drafts of the legislation to the representatives of the key national (institutional) stakeholders and broader stakeholders' group.

3.3 Outputs

The Senior NKE is expected to deliver the following outputs:

1. A report on the legal gap assessment of the legislation in the area of wildlife trade with recommendations, drafted;
2. A report on the institutional gap assessment with recommendations for the further upgrading of the institutional setup of the Republic of Serbia for full implementation of the EU Wildlife Trade Regulation, drafted;
3. Provide a draft of the rulebook amending the Rulebook on Transboundary Movement and Trade in Protected Species fully aligned with the EU Wildlife Trade Regulation (as last time amended by Commission Regulation (EU) 2021/2280);

4. Provide a draft of the rulebook on the conditions and manner of dealing with specimens whose owners were registered, the method of registration, the species to be registered fully compliant with the EU Wildlife Trade Regulation (as last time amended by Commission Regulation (EU) 2021/2280);
5. 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

30 working days (WDs) in total have been planned for Senior Non-Key Expert.

3.6.2 Period of the assignment and starting day

It is expected that the work will be performed during several missions in the period from June until December 2023 at the latest. However, the exact starting date will be agreed upon 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 (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 in the relevant field attested by a diploma such as law, environment, nature conservation or similar, relevant to the assignment
- Proficiency in the English language;
- Computer literacy;
- Be proficient in report drafting;
- Excellent communication and analytical skills;
- Be independent and free from conflicts of interest in the responsibilities they take on;

4.2 General professional experience (25 points)

- At least 10 (ten) years of general postgraduate professional experience, related to the harmonisation of legislation in relation to the Union environmental acquis, gained in an EU member state, candidate or potential candidate country;

4.3 Specific professional experience (50 points)

- Minimum 5 preferably 8 years of experience in drafting legislation and/or performance of legal and/or institutional gap analysis and/or transposition and implementation planning in relation to the Union acquis in the area of nature protection;
- Proven experience in work related to the EU Wildlife Trade Regulation such as the establishment of legal framework, implementation planning, and/or delivery of trainings;
- Previous professional experience and/or knowledge of the legislation, of the Republic of Serbia in the respective area 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 9 May 2023, 17:00 hrs, titled:

“Application for the position – Senior NKE in the area of Environment and Climate Change, Ch. 27, alignment of the legislation with the EU Wildlife Trade Regulation”

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