

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 with the invasive alien species Union acquis
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:	35 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 Chapter 27 – Environment and Climate Change

Environmental protection is recognised as one of the most challenging and complex acquis when it comes to the harmonization 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 set-up 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 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), while “final assessment of the conformity of Serbia's legislation with the acquis and of its implementation capacity can only be made at a later stage of the negotiations” (p. 19).

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 EU 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.

Nature protection 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”, Nos. 36/2009, 88/2010, 91/2010 – corr., 95/2018- other law and 71/2021), and relevant bylaws and other sectoral laws.

According to Article 6 of the Law on Nature Protection, the protection and conservation of nature shall be provided for by the following institutions, within their respective competences:

- 1) The Republic of Serbia,
- 2) Autonomous province,
- 3) Municipality, city and the City of Belgrade (local self-government unit),
- 4) Manager of the protected area,
- 5) Legal entities, entrepreneurs and private entities which use natural resources and protected natural goods in carrying out their business and other activities,
- 6) Professional and scientific organisations and other public services,

7) Citizens, groups of citizens, their associations, professional or other organisations.

Regulation (EU) No 1143/2014 on the prevention and management of the introduction and spread of invasive alien species (as amended by Regulation (EU) 2016/2031) sets out rules to prevent, minimise and mitigate the adverse impact on the biodiversity of the introduction and spread within the Union, both intentional and unintentional, of invasive alien species.

Articles 82 and 83 of the Law on Nature Protection regulate the introduction of allochthonous wild species into the wild and the unintentional introduction of allochthonous wild species and hybrids thereof into the wild on the territory of the Republic of Serbia.

These provisions prescribe a mechanism for declaring invasive species on the territory of the Republic of Serbia, based on acknowledged international criteria, scientific findings and obligations arising from international agreements and international documents.

However, the provisions mentioned above are not aligned with Regulation (EU) 1143/2014 and related implementing regulations of the European Commission.

The revised National Programme for the Adoption of the Acquis (NPAA) 2022- 2025 envisages the adoption of the amendments to the Law on Nature Protection (NPAA, 2022-207) and the rulebook (NPAA, 2022-214) to achieve full compliance with the invasive alien species (IAS) acquis.

For this reason, expert assistance is required to help the Ministry of Environmental Protection (MoEP) for the development of a detailed legal and institutional gap assessment with recommendations on steps needed to close the gaps identified, to prepare amendments to the provisions of the Law on Nature Protection governing IAS and a draft by-law 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

Expert support to the MoEP is needed in assessing the legal and institutional gap assessment and in development of the compliant legislation to enable full implementation of the Union acquis in the area of the IAS: Regulation (EU) 1143/2014 on the prevention and management of the introduction and spread of invasive alien species (Regulation (EU) 1143/2014 on IAS); Commission Implementing Regulation (EU) 2019/1262 updating the list of invasive alien species of Union concern; Commission Delegated Regulation (EU) 2018/968 with regard to risk assessments in relation to invasive alien species; Commission Implementing Regulation (EU) 2018/1454 specifying the technical format for reporting by the Member States; Commission Implementing Regulation (EU) 2017/1263 updating the list of invasive alien species of Union concern; Commission Implementing Regulation (EU) 2016/1141 adopting a list of invasive alien species of Union concern; and Commission Implementing Regulation (EU) 2016/145 adopting

the format of the document serving as evidence for the permit issued by the competent authorities of Member States.

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

- 1) The legal gap analysis of the legislation of the Republic of Serbia in force, relevant for regulating the invasive alien species with the Union acquis in the area of the IAS with recommendations on how to close the legal gaps identified;
- 2) The institutional gap assessment and prepared recommendations for further upgrading of the institutional set-up for proper implementation of the Union acquis in the area of IAS;
- 3) Drafting of amendments to the provisions of the Law on Nature Protection regulating IAS to align it with the requirements of Regulation (EU) 1143/2014 on IAS and related Commission Implementing Regulations;
- 4) Preparation of a draft rulebook for regulating the invasive alien species fully aligned with Regulation (EU) 1143/2014 on IAS and related Commission Implementing Regulations.

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

3.2 Requested services

The Senior NKE in the area of invasive alien species 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 IAS with recommendations on 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 IAS,
- c. Prepare draft amendments to the provisions of the Law on Nature Protection regulating IAS aligned with the Union acquis in the area of IAS;
- d. Prepare a draft rulebook for regulating invasive alien species aligned with the Union acquis in the area of IAS;
- e. Deliver the workshop to present findings of the legal and institutional gap assessment with recommendations as well as a draft amendment to the provisions of the Law on Nature Protection governing the IAS and a draft rulebook for regulating the invasive alien species to 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. The report on the legal gap assessment of the legislation in the area of invasive alien species with recommendations, drafted;
2. The report on the institutional gap assessment with recommendations for the upgrading of an institutional set-up in the area of invasive alien species, drafted;

3. The draft amendments to the provisions of the Law on Nature Protection in the area IAS fully aligned with the relevant Union acquis, drafted;
4. The draft rulebook for regulating invasive alien species fully aligned with the relevant Union acquis, drafted;
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

35 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 (35 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 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 Union acquis the area of invasive alien species 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 with the invasive alien species Union acquis”

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