

## Policy and Legal Advice Centre (PLAC III)

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

<b>Technical assistance requested:</b>	1 (one) Senior Non-Key Expert in the area of EU Negotiating Ch. 12, Food Safety, Veterinary and Phytosanitary Policy - the redistribution of surplus food and food donation
<b>Project Title:</b>	Policy and Legal Advice Centre (PLAC III), Serbia
<b>Ref:</b>	EuropeAid/139295/DH/SER/RS
<b>Service Contract No.:</b>	(CRIS) 2018/404-529
<b>Main beneficiary:</b>	The Ministry of European Integration of the Republic of Serbia
<b>Target Beneficiaries:</b>	Negotiating Group Ch. 12; Ministry of Agriculture, Forestry and Water Management
<b>Budget Line/Expert Category:</b>	One Senior Non-Key Expert
<b>Duration of the assignment:</b>	25 working days, from June 2023 until 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 12 – Food Safety, Veterinary and Phytosanitary Policy

In the EU, from agricultural production to final household consumption, around 88 million tonnes of food waste is generated annually (or 173 kg per person) – it is around 20% of all food produced - with related costs estimated at 143 billion€/year. It is estimated that around 170 million tonnes of CO<sub>2</sub> is emitted from the production and disposal of EU food waste. Tackling food waste means working together with public and private sectors in order to find solutions to prevent food waste and optimise the use of food resources along the food and feed chain.

In Serbia, according to estimates, about 247 thousand tons of food is thrown away annually, which is about 30-40 kg per inhabitant. However, there is a possibility that this amount is much higher because, unlike many developed countries, food waste in Serbia is generally not separated from other municipal waste. Also, according to estimates, 50% of the total municipal waste is kitchen waste and 40,000 t of food waste is generated annually by the catering sector.

The revised Waste Framework Directive adopted on 30 May 2018, requires Member States to reduce food waste at each stage of the food supply chain, monitor food waste levels and report back regarding the progress made. Moreover, it lays down obligations for Member States to: prepare food waste prevention programmes as well as redistribution of food surplus for human consumption

The primary focus of food waste prevention should be to act directly at the source by limiting the generation of surplus food at each stage in the food supply chain (i.e. production, processing, distribution and consumption). If this cannot be achieved, the best destination for food surplus, which ensures the highest value use of edible food resources in line with the waste hierarchy, is to redistribute this food for human consumption where safe to do so.

A study carried out by the European Commission (2018), estimates that up to 10% of food waste generated annually in the EU is linked to date marking. Therefore, better understanding and use of date marking on food, i.e. "use by" and "best before" dates, by all actors concerned, can prevent and reduce food waste in the EU.

As a result, the European Commission amended EU food hygiene rules in order to lay down certain requirements to promote and facilitate food donation, whilst guaranteeing its safety for consumers. These amendments concern, in particular:

- In Annex II to Regulation (EC) No 852/2004 of the European Parliament and of the Council on the hygiene of foodstuffs, a new chapter on food redistribution (CHAPTER Va Redistribution of food) that addresses how the "use by" and "best before" dates shall be applied in the context of food redistribution while not jeopardising food safety and which aspects shall be taken into account when assessing food safety (by the Commission Regulation 2021/382 amending the Annexes to Regulation No 852/2004, published on 4 March 2021).
- In Annex III to Regulation (EC) No 853/2004 of the European Parliament and of the Council on specific hygiene requirements for food of animal origin, freezing of meat at retail would be authorised under certain conditions, aiming to facilitate the safe redistribution of meat products by food banks and other charities (by the Commission

Delegated Regulation 2021/1374 amending Annex III to Regulation No 853/2004, published on 20 August 2021).

Furthermore, the EU Platform on Food Losses and Food Waste (FLW) was established in 2016 and in June 2020 the European Commission adopted guidance on food safety management systems for food retail activities, including food donations (the EU Food Donation Guidance) with the aim to:

- Facilitate the compliance of providers and recipients of surplus food with relevant requirements laid down in the EU regulatory framework (e.g. food safety, food hygiene, traceability, liability, VAT, etc.);
- Promote common interpretation by regulatory authorities in the EU Member States of EU rules applying to the redistribution of surplus food.

The EU Food Donation Guidance is based on opinions of the European Food Safety Authority (EFSA) that contain recommendations on hazard analysis approaches for certain small retail establishments:

- In view of the application of their food safety management systems (EFSA Journal 2017;15(2):4697, 62 pp.); and
- Food donation (EFSA Journal 2018;16(11):5432, 64 pp).

In 2019, the Council for Philanthropy of the Government of the Republic of Serbia established a Working Group to improve the legal framework for donating surplus food, which produced a draft for the rulebook on food donation, as well as an analysis of food donation practices and related costs and benefits.

Furthermore, the project "Toward better food waste management in the Republic of Serbia" was realised in the period of January 2018 - June 2022 with the support of the German Federal Ministry for Economic Cooperation and Development (BMZ) through the **develoPPP**, a BMZ's funding programme. As part of the project's outputs, a Guide for the proper management of food waste was delivered (hereinafter the "Guide") for the catering services sector and other commercial and public entities that generate food waste through the operation of their kitchens and during food preparation and after consumption by users. The Guide aimed at supporting the catering service sector in acquiring the necessary knowledge for responsible food waste management to join the system of sustainable food waste disposal.

Taking into account the above, the expert's support to the Ministry of Agriculture, Forestry and Water Management (MAFWM) is needed to develop a legal gap analysis of existing and proposed regulatory and policy measures with the assessment of the best practices in the selected EU Member States, and provide a policy proposal to close the legal gap identified in relation to the relevant Union acquis on the prevention of the food waste through the redistribution of surplus food and food donations.

There are no ongoing or planned assistance projects regarding the activity covered by this ToR.

### 3. Description of the assignment:

#### 3.1 Specific objectives

The specific objective of this assignment is to assist the MAFWM in the preparation of detailed legal gap assessments of the legislative framework taking into account the relevant Union acquis on the food donations and the redistribution of surplus food and in defining the policy proposal recommending possible options for the improvement of the legal and fiscal framework in Serbia to facilitate the redistribution of the surplus food and food donations.

In the scope of this objective, support from the selected expert is needed for the following activities:

- a. Assistance to the MAFWM in conducting a legal gap analysis of the national policies and legislation in force (and in preparation) with the assessment of best practices in selected Member States for the implementation of the legal requirements of the relevant EU legislation and policies governing the redistribution of food and food donations, in particular Regulation (EC) No 852/2004 requirements in Annex II, Chapter Va, Regulation (EC) No 853/2004 requirements in Annex III, and the EU Food Donation Guidance (C/2017/6872);
- b. Support to the MAFWM in developing a policy proposal for the establishment of the legal and fiscal framework in Serbia for the redistribution of surplus food related to date marking and food waste and the redistribution of surplus food related to taxation to fully implement Regulation (EC) No 852/2004 requirements in Annex II, Chapter Va, Regulation (EC) No 853/2004 requirements in Annex III and the EU Food Donation Guidance;
- c. Hold a workshop/training presenting the results.

During the delivery of the assignment, the expert shall take into account the documents provided by the MAFWM relevant to the food waste redistribution of food, food donations, including a draft rulebook on food donation as well as an analysis of food donation practices and related costs and benefits produced by the Working Group of the Council for Philanthropy of the Government of Serbia and the Guide produced under the project "Toward better food waste management in the Republic of Serbia".

### 3.2 Requested services

**The Senior NKE in the area of redistribution of food and food donations shall:**

1. Assist the MAFWM in preparation of the detailed legal gap assessment (LGA) report providing information on the status of national legislation in force (and in preparation) compared to the legal and policy requirements of Regulation (EC) No 852/2004 in Annex II, Chapter Va, Regulation (EC) No 853/2004 in Annex III and the EU Food Donation Guidance (C/2017/6872) with the best practices assessment of legal and fiscal framework on redistribution of food and food donations in (at least three) Member States;
2. On the basis of the LGA report, assist the MAFWM in the preparation of a policy proposal with legal, institutional and/or policy steps/measures/options identified for the establishment of the legal and fiscal framework in Serbia for the redistribution of surplus food related to date marking and food waste and the taxation of the redistribution of surplus food to fully implement Regulation (EC) No 852/2004 requirements in Annex II, Chapter Va, Regulation (EC) No 853/2004 requirements in Annex III and the EU Food Donation Guidance;
3. Prepare and hold a workshop presenting the results of the assignment.

### 3.3 Outputs

The Senior NKE is expected to deliver the following outputs:

1. The legal gap assessment report with the best practices assessment in (at least three) Member States, drafted;
2. The policy proposal with legal, institutional and/or policy steps/measures/options identified to fully implement the Union acquis, drafted;
3. 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

25 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 June 2023 until December 2023. However, the starting date will be confirmed at a later stage.

#### 3.6.3 Location/place of assignment

The SNKE 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 (25 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 in fields such as law, economics, agriculture, food technology 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 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 food safety, food waste and/or food redistribution;
- Knowledge of the Serbian legal system would 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](mailto:mbayard@dmiassociates.com) and [akhani@dmiassociates.com](mailto:akhani@dmiassociates.com) no later than 16 June 2023, 17:00 hrs, titled:

**“Application for the position – Senior NKE in the area of EU Negotiating Ch. 12, Food safety, Veterinary and Phytosanitary Policy - the redistribution of surplus food and food donation”**

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](mailto:mbayard@dmiassociates.com) or Arianne Khani: [akhani@dmiassociates.com](mailto:akhani@dmiassociates.com).