

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. 15, Energy - organisation and duration of the permit-granting process for renewable energy plants (Directive (EU) 2018/2001)
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 Ch. 15; Ministry of Energy and Mining
Budget Line/Expert Category:	One Senior Non-Key Expert
Duration of the assignment:	20 working days, from September 2023 until 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 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 15 – Energy

EU energy policy in Chapter 15 covers energy supply, infrastructure, the internal energy market, consumers, renewable energy, energy efficiency, nuclear energy, nuclear safety and radiation protection.

In accordance with the Treaty on the Establishment of the Energy Community that entered into force in 2006, the European Commission constantly monitors and reports on the degree of compliance of the Republic of Serbia's national legislations in the field of energy with the Union acquis through bodies of the Energy Community (EC) established by the Treaty.

The Stabilization and Association Agreement (signed in 2008 and entered into force in 2013), highlights the necessity of regional cooperation in the energy field with the aim of gradual integration into the European energy market.

In accordance with the new EU methodology for accession negotiation (COM(2020) 57 final), Chapter 15 is a part of Cluster 4 – Green Agenda and Sustainable Connectivity. Cluster 4 includes four chapters: 14 - Transport policy, 15 - Energy, 21 - Trans-European networks and 27 - Environment and climate change. Compliance with the acquis of the Cluster is critical for the implementation of the Green Agenda for the Western Balkans, which Serbia approved in November 2020 and which is closely related to the Economic Program reforms of the Republic of Serbia and to the European Economic and Investment Plan for Western Balkans adopted by the European Commission. Negotiations in Cluster 4 opened on 14 December 2021.

The Country Progress Report of the European Commission (EC) for 2022 (Serbia 2022 Progress Report) states that Serbia has achieved limited progress in Chapter 15. In 2021 new legal regulations were adopted in the field of energy, as well as renewable energy, which increased alignment with the Union acquis especially in the area of renewable energy. The level of alignment with the Union acquis on security supply has been assessed as high and in the field of internal energy market, the basic legislation of Serbia is harmonised with the third EU energy package. In the coming period, Serbia should finalise and implement the National Energy and Climate Plan (NECP) and Energy Sector Development Strategy in accordance with the Green Agenda for the Western Balkans and the obligations from the Energy Community Treaty and advance on the green energy transition by increasing the share of renewables (Serbia 2022 Progress Report, p. 116).

The Ministerial Council of the Energy Community adopted Decision No: 2021/14/MC-EnC, dated 30.11.2021, by which Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources from 11 December 2018 (RED II), was included in the regulations of the Energy Community and adapted for use in the Energy Community. Also, the Ministerial Council of the Energy Community adopted Decision No: 2022/02/MC-EnC, dated 15.12.2022, on amending Decision No: 2021/14/MC-EnC.

According to Decision No: 2021/14/MC-EnC, the Republic of Serbia, as a Contracting Party to the Treaty on the Establishment of the Energy Community, has the obligation to transpose the provisions of RED II into the national legislation. i.e. to bring into force the laws, regulations and administrative provisions necessary to comply with Directive (EU) 2018/2001.

After the adoption of the Law on Renewable Energy in April 2021, Serbia continued alignment with RED II by adopting a set of by-laws for renewable energy sources (RES).

However, Serbia has yet to fully implement Art. 16 (Organisation and duration of the permit-granting process) of RED II which requires the designation of a single contact point responsible for the permit-granting process and governs other issues related to issuing administrative permits needed for building, repowering and operating plants for the production of energy from renewable sources and assets necessary for their connection to the grid.

In order to fulfil the obligations stemming from the Energy Community acts, and in particular for full transposition and implementation of Article 16 of RED II governing organisation and duration of the permit-granting process, it is necessary to perform a detailed analysis of legal and institutional gaps in the existing national legal and institutional framework, propose key modifications to the existing institutional and regulatory framework and to prepare drafts of legislative acts that would transpose and implement the provision of Directive (EU) 2018/2001.

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 Mining and Energy (MoME) and the Negotiating Group Ch. 15 (NG 15) in order to align Serbian legislation in renewables with RED II requirements for the organisation and duration of the permit-granting process and to comply with the decision of the Ministerial Council of the Energy Community 2021/14/MC-EnC and the decision of the Ministerial Council of the Energy Community 2022/02/MC-EnC.

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

Expert support to the MoME is required to identify the legal and institutional gaps in the existing national legal and institutional framework in relation to the transposition of Article 16 of RED II into the legislation of the Republic of Serbia, to determine the level of amendments and additions that need to be implemented and propose key modifications, to prepare drafts of legislative acts amending the existing regulatory framework including the text of new implementing legislation, tables of concordance for RED II.

The legal and institutional gap analysis should include in particular assessment of the compliance of national legislation in force governing unified procedures for issuing construction permits with Art. 16 of RED II and propose solutions to facilitate and fast-track the permitting procedures of RES projects taking into account Recommendation (EU) 2022/822 on speeding up permit-granting procedures for renewable energy projects and facilitating power purchase agreements, environmental acquis and the requirements of the Law on Energy relevant to permitting RES projects.

At the end of the activity, a presentation of the legal gap assessment, new drafts of legislation, changes to the institutional and regulatory framework envisaged by the new legislation and their expected impacts shall be held.

3.2 Requested services

The Senior NKE is expected to provide the following services:

1. Assist the MoME in:

- a. Preparing analysis of legal and institutional gaps in the existing national legal and institutional framework in relation to the transposition of Article 16 of RED II and taking into account Recommendation (EU) 2022/822 on speeding up permit-granting procedures for renewable energy projects and facilitating power purchase agreements (EU Recommendation) and environmental acquis and the Law on Energy requirements relevant to the permitting of RES projects;
- b. Identifying the degree of amendments and key modifications to the existing institutional and regulatory framework needed to close the gap identified and to achieve full transposition and implementation of Article 16 of RED II with solutions for facilitating and fast-tracking the permitting process taking into account EU Recommendation and environmental acquis and the Law on Energy requirements relevant to the permitting of RES projects;
- c. Preparing drafts of legislative acts amending the existing regulatory framework including the text of new implementing by-law(s) enabling full transposition of Art. 16 of RED II and fast-tracking of the permitting process;
- d. Preparing a table of concordance for Art. 16 provisions of RED II; and
- e. Delivering a workshop to the MoME and NG 15 representatives presenting the results of the activity.

3.3 Outputs

The Senior NKE is expected to deliver the following outputs:

1. Legal and institutional gap assessment report with a proposal for institutional and regulatory framework modifications needed to close the gap for full transposition and implementation of Article 16 of RED II and fast-tracking the permitting process for RES projects in compliance with the acquis, drafted;
2. Draft law/laws amending the existing legislation, drafted;
3. By-law(s) enabling full transposition of Art. 16 of RED II and fast-tracking the permitting process for RES projects in compliance with the acquis, drafted;
4. Table of concordance, 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

20 working days (WDs) in total have been planned for 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 September 2023 until February 2024. 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.

3.6.4 Working language

English

4. Experts' profile – Senior NKE (20 working days):

4.1 Qualifications and skills (25 points)

- A level of education which corresponds to completed university studies of at least 5 years, attested by a diploma such as law, economy, energy 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 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 or a 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 renewable energy sector;
- Knowledge of the Serbian legal system 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 31 August 2023, 17:00 hrs, titled:

“Application for the position – Senior NKE in the area of Energy, Ch. 15, organisation and duration of the permit-granting process for renewable energy plants (Directive (EU) 2018/2001)”.

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.