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

Technical assistance requested:	One (1) Senior Non-Key Expert in the area of payment services
Project Title:	Policy and Legal Advice Centre (PLAC II), Serbia
Ref:	EuropeAid/137065/DH/SER/RS
Service Contract No.:	(CRIS) 2016/375-724
Main beneficiary:	The European Integration Office of the Republic of Serbia and the Negotiating Team
Target Beneficiaries:	National Bank of Serbia (NBS)
Content of the assignment:	Assistance in drafting amendments to the Law on Payment Services and relevant by-laws
Budget Line / Expert Category:	Senior Non-Key Expert
Duration of the assignment:	20 working days, spent in several missions in the period from April 2017 until (tentatively) March 2018

1. Relevant background information

Background information in relation to PLAC II project:

The scope of PLAC II project is to provide support to relevant national institutions in charge of alignment of national legal acts with the EU acquis and to contribute to further building of capacities of relevant national structures for successful carrying out of accession negotiations.

The PLAC II 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 at fostering the process of accession negotiations of Serbia by supporting the effective alignment of national legislation with the acquis and its implementation and by further building the capacities of involved carriers of the EU integration process in Serbia. After completion of screening process in 2015, Serbian public administration has entered into much more demanding and obliging exercise 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, adequate institutional capacity of public administration with highly competent staff is of crucial importance. In the core period of the negotiations, PLAC II Project shall support domestic line institutions and the negotiating structures both in performance of quality operational work in relation to harmonisation process and in the effective coordination during various stages and phases in the process for different negotiation chapters.

Background information in relation to Chapter 4 – Free movement of capital and related to the area of Payment systems:

EC Screening report for Chapter 4 states that Serbia has overall reached a satisfactory level of alignment and applies a substantial part of the acquis in the fields covered by this chapter. However, Serbia needs to continue its efforts in order to fully align with the acquis and implement it. As per EC Screening Report for Chapter 4 – Free movement of capital, in the area of Payment systems, the current legal framework of Serbia on payment services had reached a good level of alignment with the acquis. Further, in the



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Report it was noticed that the capacity of the competent authorities would need to be strengthened accordingly. The Commission recommended the opening of accession negotiations with Serbia on Chapter 4 - Free movement of capital.

With the adoption of the Law on Payment Services and relevant by-laws, Serbia has largely aligned its legislation with the Payment Services Directive 2007/64/EC, with the Electronic Services Directive 2009/110/EC and with the provisions of the Settlement Finality Directive 98/26/EC relating to the payment system. During the preparation of the Law, Tables of Concordance for the above-mentioned Directives have been made.

During the period of screening meetings of national authorities with the EC, Directive 2007/64/EC has been revised and repealed with a new Directive on Payment Services. The revised Directive 2015/2366 of the European Parliament and of the Council of 25 November 2015 on Payment Services in the Internal Market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC was adopted on 25 November 2015. Member States are obliged to adopt and publish the measures necessary to comply with this Directive by 13 January 2018 and apply those measures from the same date. Due to the revision of Directive on Payment Services and the obligation of Serbia to fully comply with the *acquis*, Serbia will need to harmonise national legislation governing payment services with Directive 2015/2366 on payment services in the internal market in the near future.

2. Description of the assignment

2.1 Specific objectives

The specific objective of this assignment is to provide assistance to the NBS as the target beneficiary in harmonisation of national legislation in the area of payment services with Directive 2015/2366 on Payment Services in the Internal Market. In scope of planned assistance, drafting amendments is required in connection with the Law on Payment Services (OG RS 139/2014) and by-laws, i.e. (1) Decision on Capital and Capital Adequacy of Payment and Electronic Money Institutions (OG RS 55/2015) and (2) Decision on the Contents of Registers of Payment Institutions and Electronic Money Institutions, as well as on Detailed Conditions and Manner of Maintaining these Registers (OG RS 55/2015).

Having in mind broader requirements of Directive 2015/2366 in connection with required incident management procedures in the process of getting authorisation and incident reporting to the competent authority, assistance is needed in assessing whether amendments to (3) Decision on Implementation of Provisions of the Law on Payment Services Relating to Issuing of Licenses and Approvals of the National Bank of Serbia (OG RS 55/2015) and (4) Decision on Governance and Internal Controls Systems of Payment and Electronic Money Institutions and on Safeguarding Funds of Payment Service Users and Electronic Money Holders (OG RS 55/2015) should be drafted as well, based on the amendments to the Law on Payment Services.

2.2 Requested services

The Senior NKE is expected to provide the following services:

- a) To analyse the existing Serbian legislation in the area of payment system, in particular the Law on Payment Services and relevant by-laws (Decision on Capital and Capital Adequacy of Payment and Electronic Money Institutions; Decision on the Contents of Registers of Payment Institutions and Electronic Money Institutions, as well as on Detailed Conditions and Manner of Maintaining these Registers; Decision on Implementation of Provisions of the Law on Payment Services Relating to



- Issuing of Licenses and Approvals of the National Bank of Serbia; Decision on Governance and Internal Controls Systems of Payment and Electronic Money Institutions and on Safeguarding Funds of Payment Service Users and Electronic Money Holders);
- b) To perform gap analysis in order to detect discrepancies between the national legislation of Serbia, in particular the Law on Payment Services, Decision on Capital and Capital Adequacy of Payment and Electronic Money Institutions and Decision on the Contents of Registers of Payment Institutions and Electronic Money Institutions, as well as on Detailed Conditions and Manner of Maintaining these Registers and the new EU Directive 2015/2366 on Payment Services in the Internal Market and provide proposals for necessary improvements/amendments;
- c) To assist the staff of NBS to properly understand regulatory requirements prescribed in Directive 2015/2366 on Payment Services in the Internal Market and incorporate specific provisions of Directive 2015/2366 in drafts of the amended versions of the Serbian Law on Payment Services, Decision on Capital and Capital Adequacy of Payment and Electronic Money Institutions and Decision on the Contents of Registers of Payment Institutions and Electronic Money Institutions, as well as on Detailed Conditions and Manner of Maintaining these Registers;
- d) To assess and provide opinion on the necessity for amending the Decision on Implementation of Provisions of the Law on Payment Services Relating to Issuing of Licenses and Approvals of the National Bank of Serbia and the Decision on Governance and Internal Controls Systems of Payment and Electronic Money Institutions and on Safeguarding Funds of Payment Service Users and Electronic Money Holders, for their alignment with Directive 2015/2366.

2.3 Outputs

The Senior NKE is expected to deliver the following outputs:

- A report on the findings of the analysis of the existing national legislation in the area of payment system, in particular the Law on Payment Services and relevant by-laws (Decision on Capital and Capital Adequacy of Payment and Electronic Money Institutions; Decision on the Contents of Registers of Payment Institutions and Electronic Money Institutions, as well as on Detailed Conditions and Manner of Maintaining these Registers; Decision on Implementation of Provisions of the Law on Payment Services Relating to Issuing of Licenses and Approvals of the National Bank of Serbia; Decision on Governance and Internal Controls Systems of Payment and Electronic Money Institutions and on Safeguarding Funds of Payment Service Users and Electronic Money Holders);
- Table of Concordance providing overview of the level of compliance of the existing national legislation in the area of payment system, in particular of the Law on Payment Services, Decision on Capital and Capital Adequacy of Payment and Electronic Money Institutions and Decision on the Contents of Registers of Payment Institutions and Electronic Money Institutions, as well as on Detailed Conditions and Manner of Maintaining these Registers with the new EU Directive 2015/2366 on Payment Services in the Internal Market;
- Recommendation to the NBS on necessary amendments to the Law on Payment Services, Decision on Capital and Capital Adequacy of Payment and Electronic Money Institutions and Decision on the Contents of Registers of Payment Institutions and Electronic Money Institutions, as well as on Detailed Conditions and Manner of Maintaining these Registers, in order to comply with Directive 2015/2366;



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- Recommendation to NBS based on the assessment of the necessity for amending the Decision on Implementation of Provisions of the Law on Payment Services Relating to Issuing of Licenses and Approvals of the National Bank of Serbia and Decision on Governance and Internal Controls Systems of Payment and Electronic Money Institutions and on Safeguarding Funds of Payment Service Users and Electronic Money Holders in order to be aligned with Directive 2015/2366.

2.4 Reporting

The NKE shall provide the following reports by using the templates of the Project:

- Brief Mission Reports with description of activities and outputs provided, at the end of each mission under this assignment,
- Final Mission Report, no later than 1 week after completion of tasks under this assignment. This report will include description of all activities and outputs provided by the NKE in the context of this assignment.

Submission of reports:

- Draft mission report shall be submitted to the Team Leader of the Project for review and comments at the end of the mission.
- Final version of the mission report prepared in the relevant quality shall be submitted to the Team Leader of the Project for review, comments and final approval. The reports shall be signed by the NKE and the Team Leader responsible for endorsing the report.
- The report and all prepared documents shall be submitted in hard copy and electronic version to the Team Leader of the project.

2.5 Specifics

The Senior NKE shall work under the guidance and follow the instructions of the Team Leader. The NKE shall collaborate with the project team, other experts involved and representatives of beneficiary institutions and national structures, as relevant.

The NKE's activities and outputs mentioned above may be adjusted by the Team Leader at any stage in the implementation of the Project, depending on the evolving needs of the Project and main beneficiaries. Each of the short-term mission, its timing and duration shall be agreed with the Team Leader prior to each mission.

2.6 Final use of intervention and perspectives for the future

Assistance in drafting of the amendments to the Law on Payment Services and relevant by-laws will contribute to harmonisation of national legislation with the new Directive in the area of payment services. No other technical assistance has been planned in relation to further alignment of Serbian Law on Payment Services.

The amendments of national legal acts in the area of Payment System have been planned in the revised NPAA, under Section 3.4.2.

3. Expert input

3.1 Total working days

Project implemented by
Projekat sprovodi



in consortium with:
u konzorcijumu sa:

IRZ, European Profiles,
Eurosupport and Eptisa



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20 working days (WDs) in total have been planned for this assignment.

3.2 Period of the assignment

April 2017 – (tentatively) March 2018

3.3 Starting day

It is expected that the work will be performed during several missions in 2017 and 2018 and starting, at the earliest from 24 April 2017 onwards. However, exact starting date will be agreed at a later stage.

3.4 Location/Place of assignment

The NKE has to deliver 100% of the input in Belgrade, Serbia.

3.5 Working language

English

4. Expert Profile

4.1 Qualifications and skills (25 points)

- University degree (where a university degree has been awarded on completion of three years' study in a university or equivalent institution) in Law, Economics, Management or similar, relevant to the assignment,
- Proficiency in English language,
- Computer literacy (MS Office applications);

4.2 General professional experience (25 points)

- Minimum 10, preferably 12 years of postgraduate professional experience gained in the regulatory body for payment system of an EU Member State;

4.3 Specific professional experience (50 points)

- Proven professional experience in drafting legislation and/or implementing activities in the field of EU acquis related to payment services, gained in an EU member state,
- Previous professional experience, and/or knowledge of the Serbian legislation in the respective area would be an advantage.

5. Applications

Applications (EU format CV and application letter, both in English) need to be submitted by e-mail to SEPLAC@altairasesores.es no later than 17:00 hrs, **05 April 2017**, titled: **“Application for the position – Senior NKE in the area of payment services”**.

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 post is not available to civil servants or other officials of the public administration in the beneficiary country, Serbia.

For more information, please contact Project Manager at Altair Asesores S.L.: m.garcia@altairasesores.es / Tel. +34 91 3952798.