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

Technical assistance requested:	One (1) Junior Non-Key Expert in the area of integrated pollution prevention (legal expert) One (1) Senior Non-Key Expert in the area of large combustion plants and waste management (co-)incineration plants (technical expert)
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:	Representatives of the Ministry of Agriculture and Environmental Protection, Department for Integrated Permits, Department for Waste Management and Department for Protection of Natural Resources
Content of the assignment:	Assistance in further harmonisation of national legislation for transposition of 2010/75/EU Industrial Emission Directive (IED) in relation to industrial pollution, waste management and large combustion plants (LCPs)
Budget Line / Expert Category:	Junior Non-Key Expert and Senior Non-Key Expert
Duration of the assignment:	30 WDs for JNKE and 10 WDs for SNKE, spent in the period from April 2017 to (tentatively) December 2017

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.



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Background information in relation to Chapter 27 – Environment and climate change and related to industrial pollution sector:

The Republic of Serbia is intensively preparing for negotiations with the EU regarding Chapter 27 – Environment and Climate Change. EU environmental policy is based on preventive action; the polluter pays principle, fighting environmental damage at source, shared responsibility and the integration of environmental protection into other EU policies. The acquis comprises of more than 200 major legal acts covering horizontal legislation relevant for the environment sector in general, as well as a sub-sector organized legal acts (e.g. water and air quality, waste management, nature protection, industrial pollution control, chemicals, noise and climate change). Environmental protection is recognised as one of the most challenging and complex chapter when it comes to harmonization of national legislation with the EU standards and norms. Moreover, implementation of legislative norms in environment sector requires significant investments. In addition, institutional set up and capacities at national and local level is the imperative for the application and enforcement of the environmental acquis.

In line with the results of explanatory and bilateral screening for Chapter 27, National Programme for Integration of the Republic of Serbia into the EU, Post screening document and other relevant documents, Serbia needs to finalise the alignment with the acquis and continue to prepare and conduct necessary reforms so as to demonstrate that it will be fully prepared for ensuring implementation and enforcement of the EU requirements at the date of accession. Full transposition is planned and expected by the end of 2018. In this connection, in the area of industrial pollution, further alignment of national legislation with the acquis in this sector is necessary.

In 2004, the Law on Integrated Pollution Prevention and Control was adopted in the Republic of Serbia. Through this Law and its by-laws, the provisions from IPPC Directive 1996/61/EC were transposed. In 2010, the revised IPPC Directive has become part of 2010/75/EU Industrial Emission Directive (IED). The IED has not been fully transposed into the Serbian national legislation and it requires further harmonization of the national legislation in the area of industrial pollution.

Regarding Chapters I and II of IED, some parts of this Directive are transposed through transposition of the IPPC Directive 1996/61/EC into 2004 Law on Integrated Pollution Prevention and Control (IPPC Law) and accompanying by-laws (including among others: definitions, obligation to hold a permit, granting of a permit, permit application procedure, permit conditions, changes by operators to installations, access to information and public participation in the permit procedure and other issues stipulated in the Directive related to Annex I activities).

In 2014, legal gap analysis of the existing Serbian legislation in comparison with IED requirements was carried out in scope of IPA 2011 Project "Law enforcement in the field of industrial pollution control, prevention of chemical accidents and establishment of the EMAS system in Serbia", EUROPEAID 131555/C/SERB/RS. Within the same project, in 2015, first draft of amendments to the Law on Integrated Pollution Prevention was prepared. According to revised NPAA 2016-2018, full transposition of the remaining provisions of IED should be completed by the end of 2018. In achieving full transposition, special attention should be paid to new provisions of Industrial Emission Directive, which are different from previous ones of IPPC Directive 2008/1/EC (codified version) and to provisions regarding industrial pollution, which are not properly transposed into the existing Serbian legislation.

Regarding Chapter III of IED and special provisions for large combustion plants, the national Regulation on Emission Limit Values of Pollutants into the Air from Combustion Plants (OG RS 6/16) laid down that criteria for determination of start-up and shut-down periods for large combustion plants shall be prescribed by a by-law.



In regard to Chapter IV of IED related to waste (co-)incineration plants, greater part of the Serbian national legislation has been aligned with its provisions. In order to be fully aligned with IED Chapter IV provisions, national legislation still has to be aligned with its Articles 42(1), 42(2), 44, 45(1)(a), 45(1)(c), 45(1)(e), 45(2)-45(4), 46(1), 46(3), 46(4), 46(6), 49, 51(1), 51(2), 51(3), 51(4), 54, 55(3) and related provisions of Annex VI and its parts 6 and 8. Apart from this, Serbian national legislation still remains to be harmonised with some related EU *acquis* in the field of waste management, in particular with Waste Framework Directive and its Article 23(4).

2. Description of the assignment

2.1 Specific objectives

The specific objective of this assignment is to provide assistance in further harmonisation of national legislation in relation to industrial pollution, waste management and large combustion plants (LCPs).

As regards industrial pollution, the existing Law on Integrated Pollution Prevention and Control (OG 135/04 and 25/15) and by-laws need to be harmonized with Industrial Emissions Directive 2010/75/EC.

Regarding Chapter III of IED and its special provisions on large combustion plants (LCP), the specific objective of this assignment is to provide assistance in preparing draft Rulebook on Determination of Start-up and Shut-down Periods for Large Combustion Plants, in order to properly reflect the scope of the provisions of IED and related Commission Implementing Decision regarding that specific topic (2012/249/EU), and this in such manner that defined periods could be applied to thermal power plants, district heating plants and industrial power plants, where emission limit values had not been applied. In Serbia, LCPs are regulated by the Law on Air Protection (OG RS 36/09 and 10/13) and two related by-laws (Regulation on Emission Limit Values of Pollutants into the Air from Combustion Plants (OG RS 6/16) and Regulation on emission measurements of pollutants into air from stationary pollution sources (OG RS 5/16)).

Further on, assistance shall be provided in further harmonisation of national legislation in the area of waste management with Waste Framework Directive 2008/98/EC and Chapter IV of IED related to special provisions for waste (co-)incineration plants. The existing by-law, i.e. the Governmental Order on Types of Waste subject to Thermal Treatment, Conditions and Criteria for Determination of Location, Technical and Technological Conditions for Projecting, Construction, Equipping and Work of the Thermal Waste Treatment Plants and Handling of Combustion Residues (OG 102/10 and 50/12-corr.) needs to be improved according to the Law on Waste Management in force (OG 36/09, 88/10 and 14/16).

2.2 Requested services

The **Junior NKE (legal expert)** is expected to provide the following services:

- a) To present some example(s) of best transposition of IED 2010/75/EC into national legislation of EU Member State(s);
- b) To analyse, from the legal point of view, the existing 2015 amendments to draft Law on IPPC;
- c) To assist the staff of MAEP, Department for Integrated Permits and respective Legal Service at MAEP in finalising the first version of new Draft Law on IPPC;
- d) To analyse the existing Serbian legislation in the area of LCP from the legal point of view (Law on Air Protection and two related by-laws);
- e) To develop a draft of the new Rulebook on Determination of Start-up and Shut-down Periods for Large Combustion Plants by including as well SNKE's inputs providing technical solutions, in order



- to properly transpose IED LCP provisions and related Commission Implementing Decision 2012/249/EU into Serbian legal order;
- f) To analyse the existing Governmental Order on Types of Waste subject to Thermal Treatment, and perform gap analysis of its compliance with Directive 2008/98/EC and Chapter IV of IED;
 - g) To develop proposals for necessary improvements of Governmental Order on Types of Waste subject to Thermal Treatment, by taking into account proposals for improvements provided by SNKE and tackling challenges in terms of full technical transposition of special provisions on waste (co)incineration plants;
 - h) To provide recommendations in relation to specific legal issues of Directive 2008/98/EC and Chapter IV of IED.

The **Senior NKE (technical expert)** is expected to provide the following services:

- a) To analyse the existing Serbian legislation in the area of LCP from the technical point of view (Law on Air Protection and two related by-laws);
- b) To present some example(s) of best transposition of Commission Implementing Decision of 7 May 2012 concerning the determination of start-up and shut-down periods for the purposes of IED 2010/75/EU into national legislation of EU Member State(s);
- c) To develop proposals for improvements that should be reflected in the new Rulebook on Determination of Start-up and Shut-down Periods for Large Combustion Plants, in order to properly transpose into Serbian legal order LCP provisions of IED and related Commission Implementing Decision 2012/249/EU in terms of technical solutions;
- d) To analyse, from the technical point of view, the existing Governmental Order on Types of Waste subject to Thermal Treatment and its compliance with Directive 2008/98/EC and Chapter IV of IED;
- e) To suggest technical improvements to target beneficiary (Waste Management Department) and assist JNKE in charge of translating the latter into proposals for amendments of relevant provisions of the Governmental Order on Types of Waste subject to Thermal Treatment;
- f) To draft a proposal listing waste incineration plants and waste co-incineration plants with a nominal capacity of less than 2 tonnes per hour (the List shall be finally drawn up by the competent authority).

2.3 Outputs

The **Junior NKE (legal expert)** is expected to deliver the following outputs:

- Presentation of some example(s) of best transposition of IED 2010/75/EC into national legislation of EU Member State(s);
- A report on findings of the legal analysis of the existing 2015 amendments to draft Law on IPPC;
- Final draft of improved version of amended Law on IPPC in order to address the drawbacks identified and to be fully harmonized with IED;
- A report on findings of the legal analysis of the existing Serbian legislation in the area of LCP (Law on Air Protection and two related by-laws);
- Draft proposal of a new Rulebook on Determination of Start-up and Shut-down Periods for Large Combustion Plants, whereby taking into account proposals by SNKE on technical solutions for proper transposition of IED LCP provisions and related Commission Implementing Decision 2012/249/EU into Serbian legal order;
- A report on findings of the legal analysis of the existing Governmental Order on Types of Waste subject to Thermal Treatment, including gap analysis of its compliance with Directive 2008/98/EC and Chapter IV of IED;



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- Draft proposal of necessary improvements to Governmental Order on Types of Waste subject to Thermal Treatment, taking into account SNKE's inputs tackling challenges in terms of full technical transposition of special provisions on waste (co)incineration plants;
- Recommendations in relation to specific legal issues of Directive 2008/98/EC and Chapter IV of IED.

The **Senior NKE (technical expert)** is expected to deliver the following outputs:

- A report on findings of the analysis of the existing Serbian legislation in the area of LCP from the technical point of view (Law on Air Protection and two related by-laws);
- Presentation of some example(s) of best transposition in technical terms of Commission Implementing Decision of 7 May 2012 concerning the determination of start-up and shut-down periods for the purposes of IED 2010/75/EU into national legislation of EU Member State(s);
- Proposals for improvements in terms of technical solutions that should be reflected in the new Rulebook on Determination of Start-up and Shut-down Periods for Large Combustion Plants, in order to properly transpose IED LCP provisions and related Commission Implementing Decision 2012/249/EU into Serbian legal order;
- A report on findings of the analysis from the technical point of view of the existing Governmental Order on Types of Waste subject to Thermal Treatment and its compliance with Directive 2008/98/EC and Chapter IV of IED;
- Proposal for improvements from the technical point of view that should be reflected in amendments to relevant provisions of the Governmental Order on Types of Waste subject to Thermal Treatment;
- Proposal on Draft List of waste incineration plants and waste co-incineration plants with a nominal capacity of less than 2 tonnes per hour (the List shall be formally drawn up by the competent authority).

2.4 Reporting

The NKEs 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:

- All reports 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 reports.
- The reports and all prepared documents shall be submitted in hard copy and electronic version to the Team Leader of the Project.

2.5 Specifics

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



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The NKEs' 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 finalizing draft Law on IPPC in the area of industrial pollution, as well as assistance in drafting by-laws in the area of waste management and LCP will contribute to harmonisation of national legislation with the relevant *acquis* in these two areas, to application of EU standards in the implementation and facilitate adoption of national legal acts within set time lines. Full transposition of 2010/75/EU IED in the Republic of Serbia should be achieved by the end of 2018.

3. Expert input

3.1 Total working days

40 working days (WDs) in total have been planned for this assignment, of which 30 WDs for JNKE and 10 WDs for SNKE.

3.2 Period of the assignment

April 2017 – (tentatively) December 2017.

Two NKEs shall, at some point, work in parallel. Details regarding the most relevant timing of their missions shall be agreed at a later stage.

3.3 Starting day

It is expected that the work will be performed during several short-term missions in the period from April 2017 – (tentatively) December 2017, and starting with the IPPC part, at the earliest from April 17, 2017 onwards. Missions on LCPs and waste management (co-)incineration plants will run in the period from September – (tentatively) December 2017. However, exact starting dates will be agreed at a later stage.

3.4 Location/Place of assignment

The NKEs have to deliver 100% of the input in Belgrade, Serbia.

3.5 Working language

English

4. Expert Profile

4.1 The Junior NKE (legal expert) in the area of IPPC

4.1.1 Qualifications and skills (25 points)

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



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4.1.2 *General professional experience (25 points)*

- Min 5 years preferably 8 years of postgraduate professional experience in the field of environmental protection, related to EU policies or EU integration gained in an EU Member State or candidate country

4.1.3 *Specific professional experience (50 points)*

- Proven professional experience in drafting of national legal acts in the area of integrated pollution prevention and control, in direct relation with Directive on Industrial Emissions 2010/75/EU
- Previous professional experience, and/or knowledge of the legislation, of the Republic of Serbia in the respective area would be an advantage.

4.2 **The Senior NKE (technical expert) in the area of large combustion plants and waste management (co-)incineration plants**

4.2.1 *Qualifications and skills (25 points)*

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

4.1.2 *General professional experience (25 points)*

- Minimum 10 preferably 12 years of postgraduate professional experience in the field of environmental protection, related to EU policies or EU integration gained in an EU member state or candidate country

4.1.3 *Specific professional experience (50 points)*

- Proven professional experience in application of legislation in relation to Directive on Industrial Emissions 2010/75/EU and related to LCPs and waste management (co-)incineration plants
- Previous professional experience, and/or knowledge of the legislation, of the Republic of Serbia 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, **31 March 2017**, titled: **"Application for the position – Junior NKE (legal expert) in the area of IPPC" or "Senior NKE (technical expert) in the area of LCPs and waste management (co-)incineration plants"**.

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