



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

Technical assistance requested:	One (1) Senior Non-Key Expert in the area of State aid No 3
Project Title:	Support to Commission for State aid Control (CSAC),
Ref:	EuropeAid/139349/IH/SER/RS
Service Contract No.:	48-00-0029/2017-28
Main beneficiary:	Ministry of Finance of the Republic of Serbia
Target Beneficiaries:	Commission for State Aid Control and Department for State Aid Control at the Ministry of Finance,
Content of the assignment:	Support the Government of the Republic of Serbia, and in particular the existing State aid control and granting bodies, in further development and implementation of the system of rules and procedures in the area of State aid.
Expert Category:	Senior Non-Key Expert
Duration of the assignment:	30 WDs for SNKE, spent during several missions in the period from April 2019 until (tentatively) November 2019

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1. Relevant background information

Background information in relation to Support to Commission for State aid control project:

The overall objective of the project is to further support Serbia's progress on its EU accession path (among others through alignment with *acquis communautaire*) specifically for what relates to Chapter 8- competition Policy.

The Project purpose

Purpose of the project is to support the Government of the Republic of Serbia, and in particular the existing State aid control and granting bodies, in further development and implementation of the system of rules and procedures in the area of State aid.

Their main features can be summarised as follows:

Component 1- Alignment of State aid rules and schemes with *EU acquis*

Result 1: State aid rules and schemes aligned with *EU acquis*

Component 2 – Capacity building of the Department and the Commission for State Aid Control in decision making on solving state aid cases

Result 2: Improved capacity of the Department and the Commission for State Aid Control in decision making and solving state aid cases

Component 3 - Support in improving mechanisms of coordination between Commission, Department and other State aid stakeholders and in increasing awareness on state aid control

Result 3: Improved mechanisms of coordination between Commission, department and other State aid stakeholders and increased awareness on state aid control

Component 0 – Transversal activities - Support activities to the EU accession negotiating team for Chapter 8 in resolving the Opening Benchmarks (activity 0.1) and the management of communication and visibility (0.2)

As one of the most important Project goals which will provide long term sustainability of the results Project emphasis:

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- Institutional Memory is created in public sector of Serbia, shared by a group of educated staff, and a network of people who are involved in state aid issues.

2. Description of the assignment

2.1 Specific objectives

The purpose of this assignment is to provide support and assistance to the Ministry of Finance-Department for State aid control and Commission for State aid control in relation to:

Activity 1.2 Supporting the Department in the creation of a Draft New List of Existing state aid schemes/ State aid inventory and in the creation of a Draft Action Plan for the Alignment of All Remaining Aid Schemes or equivalent measures

In its Screening report on Serbian preparedness for negotiation in Chapter 8 – Competition, European Commission has stated that *“In line also with its obligation under Article 73(6) of the SAA, Serbia must establish a comprehensive inventory of aid schemes instituted before the establishment of the CSAC and align them with the EU State aid rules. Special attention must be paid to the existing fiscal schemes, i.e. the Law on Corporate Income Tax, the Law on Personal Income and the Law on Free Zones, which have a strong potential distortive effect on competition, and which raise complex issues such as acquired rights.”*³

This requirement is further highlighted in the Opening Benchmarks for opening negotiations on Chapter 8: *“Serbia completes its inventory of existing State aid measures within the meaning of Article 73(6) of the SAA and defines an action plan, accepted by the Commission, with a clear timetable for the alignment of all remaining existing aid schemes or equivalent measures identified as incompatible with the obligations resulting from the SAA”* (OB #3).

In line with these requirements, the Serbian authorities must scan their legal acts and, where they find that it constitutes potential unlawful or non-compliant aid, make amendments to it in order to fully align it with EU state aid *acquis*. Such alignment of aid schemes with State aid rules, has been expected to be completed within a period of no more than four years as per the SAA. The Government of the Republic of Serbia initially adopted in September 2011 an initial List of aid schemes and other legal documents in effect on the basis of which State aid had been granted before the establishment of the Commission: 20 measures requiring alignment with the EU State aid rules were identified. Furthermore, in July 2014 a new list was submitted to the Government to be adopted as a List of existing aid schemes. The completion of an inventory of existing state aid measures and the adoption of an action plan with a clear timetable for the alignment of all remaining existing aid schemes is therefore an important milestone to be covered by the project.



The expert is expected to provide support “on the job” under the *Activity 1.2 Supporting the Department in the creation of a Draft New List of Existing state aid schemes/ State aid inventory and in the creation of a Draft Action Plan for the Alignment of All Remaining Aid Schemes or equivalent measures.*

Also, the expert is expected to provide training during workshops/ conferences about the founding’s and recommendations for alignment of state aid schemes in accordance with EU rules complemented with practical examples.

2.2 Requested services

The Senior NKE is expected to provide the following services:

- To identify all existing state aid schemes in view of establishing a comprehensive list of existing schemes. To support scanning/ analyzing Serbia’s legislation in order to identify measures/ schemes (legal acts, i.e. laws, regulations, decrees, rulebooks, etc.), which are subject to state aid granting and needs to be aligned with EU *acquis*.

It is envisaged that this inventory would comprise the following data:

Scheme no.	Title of the scheme/ act that requires harmonisation	List of articles/ provisions - for granting state aid that the harmonisation pertains to	Competent body - professional carrier of harmonisation (Ministry, Agency, Fund)	Harmonisation method (state rules on state aid that the act needs to be harmonised with)	Notes – has the Committee provided an opinion on harmonisation? Is the scheme currently undergoing harmonisation procedure? etc

- To develop Action Plan including dynamics based on the expected timeline to perform alignment activities, as well as general guidelines for future alignment of all state aid schemes;

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- To prepare suitable training material on the State aid acquis/Law on State aid Control in Serbia and by-laws that is relevant for the participants of the trainings. The areas of specific interest and subject of training shall be agreed upon with the beneficiary;
- To deliver training during workshops / conferences about of work done to the beneficiary and state aid stakeholders and/or delivering training to raise the awareness of grantors and other state aid stakeholders adapted to the respective level of knowledge.
- To draft a General guidelines for future alignment of all State aid schemes

2.3 Outputs

The Senior NKE is expected to deliver the following outputs:

- Draft New List of Existing state aid schemes/ State aid inventory;
- Draft Action Plan for the Alignment of All Remaining Aid Schemes or equivalent measures;
- Draft General guidelines for future alignment of all State aid schemes;
- Presentation of work done to the beneficiary and state aid stakeholders and/ or delivering training to raise the awareness of grantors and other state aid stakeholders adapted to the respective level of knowledge.

2.4 Reporting

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

- Brief Mission Report with description of activities and outputs provided, at the end of each mission, during which tasks under this assignment have been carried out.
- 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.

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- 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 in electronic version to the Team Leader of the Project.

2.5 Specifics

The 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

In its Screening report on Serbian preparedness for negotiation in Chapter 8 – Competition, European Commission has stated that *“In line also with its obligation under Article 73(6) of the SAA, Serbia must establish a comprehensive inventory of aid schemes instituted before the establishment of the CSAC and align them with the EU State aid rules. Special attention must be paid to the existing fiscal schemes, i.e. the Law on Corporate Income Tax, the Law on Personal Income and the Law on Free Zones, which have a strong potential distortive effect on competition, and which raise complex issues such as acquired rights.”*³

This requirement is further highlighted in the Opening Benchmarks for opening negotiations on Chapter 8: *“Serbia completes its inventory of existing State aid measures within the meaning of Article 73(6) of the SAA and defines an action plan, accepted by the Commission, with a clear timetable for the alignment of all remaining existing aid schemes or equivalent measures identified as incompatible with the obligations resulting from the SAA”* (OB #3).



In line with these requirements, the Serbian authorities must scan their legal acts and, where they find that it constitutes potential unlawful or non-compliant aid, make amendments to it in order to fully align it with EU state aid *acquis*. Such alignment of aid schemes with State aid rules, has been expected to be completed within a period of no more than four years as per the SAA. The Government of the Republic of Serbia initially adopted in September 2011 an initial List of aid schemes and other legal documents in effect on the basis of which State aid had been granted before the establishment of the Commission: 20 measures requiring alignment with the EU State aid rules were identified. Furthermore, in July 2014 a new list was submitted to the Government to be adopted as a List of existing aid schemes. The completion of an inventory of existing state aid measures and the adoption of an action plan with a clear timetable for the alignment of all remaining existing aid schemes is therefore an important milestone to be covered by the project.

The project will produce a draft New list of existing state aid schemes, as well as an Action plan for their alignment, in coordination with the DSAC and line ministries/ bodies responsible for their application. This will be done based on a **thorough analysis of the legal system of the Republic of Serbia in order to identify all existing state aid schemes** in view of establishing a comprehensive list of existing schemes.

It is envisaged that this inventory would comprise the following data:

Scheme no.	Title of the scheme/ act that requires harmonisation	List of articles/ provisions - for granting state aid that the harmonisation pertains to	Competent body - professional carrier of harmonisation (Ministry, Agency, Fund)	Harmonisation method (state rules on state aid that the act needs to be harmonised with)	Notes – has the Committee provided an opinion on harmonisation? Is the scheme currently undergoing harmonisation procedure? etc
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The project will support scanning/ analyzing Serbia's legislation in order to identify measures/ schemes (legal acts, i.e. laws, regulations, decrees, rulebooks, etc.), which are subject to state aid granting and needs to be aligned with EU *acquis*. Once the inventory is completed, it should be adopted by the Commission for State Aid Control, and further submitted to the Government of the Republic of Serbia for adoption (as was done for the first Inventory), with a proposal of conclusion with method and manner for aligning identified



schemes in order to international obligations stemming from Article 73. of the SAA. An Action Plan will then be developed including dynamics based on the expected timeline to perform alignment activities, as well as general guidelines for future alignment of all state aid schemes. To ensure actual harmonization of state aid schemes, which is necessary for the fulfilment of obligations stemming from the SAA and the progress of the negotiation process (as part of the Opening Benchmarks), we will suggest that this Inventory and the Action Plan are included in the National Plan of the Republic of Serbia for the adoption of EU *Acquis*. Indeed, as highlighted by the Road Map, *“Experience has shown that only through continual monitoring and “constructive pressure” on professional bearers of such tasks relating to the accession process, adoption of EU Acquis and harmonization of national legislation with the obligations undertaken (under the SAA), can the set objectives and expected results be achieved.”* The project will also support the CSAC/ DSAC (beneficiaries) in meetings with relevant authorities which are in charge for drafting listed schemes (laws and by-laws) in order to carefully explain the rationale and procedure for such initiative. It will also support CSAC/DSAC in explaining the proposed EU rules according to which schemes should be aligned. The process that will be followed to perform this activity can be summarized as follows

3. Expert input

3.1 Total working days

30 working days have been planned for this assignment.

3.2 Period of the assignment

April 2019 - (tentatively) November 2019

3.3 Starting day

It is expected that the work will be performed during several missions in the period from April 2019 - (tentatively) November 2020 and starting, at the earliest, from 22 April 2019 onwards. However, exact starting date will be agreed at a later stage.

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3.4 Location/ Place of assignment

Belgrade and home based (up to 12 work days home-based).

3.5 Working language

English/ Serbian (Croatian/Montenegrin/Bosnian)

4. Expert Profile

Required Candidate Qualifications

The candidate must possess the qualifications and skills as highlighted below.

4.1 Qualification and skills (25 points)

- A level of education which corresponds to completed University studies of at least four (4) years in in the field for which the expert is mobilized,
- Good knowledge of requirements, directives, regulations and rules of EU state aid;
- Working knowledge of English language (at least average 2 on a scale of 1 to 5; where 1 – excellent as max and 5 – basic as min);
- Computer literacy (MS Office applications)
- Good knowledge of local language – Serbian language will be considered as an asset;

4.2 General professional experience (25 points)

- Minimum 5, preferably 7 years of postgraduate professional experience in the field of state aid;

4.3 Specific professional experience (50 points)

- Minimum 5, preferably 7 years of professional experience in state aid comparative analysis of national and EU legislation on state aid, preparation of the Program of adjustment of existing State aid to the rules of the EU;
- Minimum of 5 years of relevant working experience in tasks similar to the tasks to be provided, gained in the same sector and with similar projects to those to be undertaken;

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- Previous professional experience, and/or knowledge of the legislation of the Republic of Serbia or other IPA countries 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 radmila@state-aid.rs and stevan@alternative-consulting.com no later than 15:00 hrs,(CET) 22 April, 2019, titled: "Application for the position – Senior NKE in the area of State aid No 3".

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, Republic of Serbia.

For more information and for application, please contact:

Team Leader: Radmila Mihic radmila@state-aid.rs

Project Director: Stevan Pechitch stevan@alternative-consulting.com

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