

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 Chapter 12, Food safety, veterinary and phytosanitary policy - draft Law on Sustainable Use of Pesticides
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 for European Integration of the Republic of Serbia
Target Beneficiaries:	Negotiating Chapter 12, Ministry of Agriculture, Forestry and Water Management
Budget Line/Expert Category:	One Senior Non-Key Expert
Duration of the assignment:	30 working days from January until September 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 EU *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

The Republic of Serbia (RS) is intensively preparing for negotiations with the EU regarding Chapter 12 (Food safety, veterinary and phytosanitary policy).

The Country Progress Report of the European Commission (EC) for Serbia for 2022 (Serbia 2022 Progress Report) states that Serbia is *moderately prepared* in the area of food safety, veterinary and phytosanitary policy.

Serbia was invited by the European Commission to, among other things, develop a comprehensive strategy for transposition, implementation and enforcement of the *acquis* on food safety, veterinary and phytosanitary policy, substantially strengthen the administrative capacity of the veterinary, phytosanitary and national reference laboratories directorates and consistently apply and further improve the application of the risk-based approach to official controls (Serbia 2022 Progress Report, p. 125).

In the area of the phytosanitary policy, limited progress has been achieved through the adoption of legislation and the start of implementation of the Law on Plant Protection Products ("Official Gazette of RS" Nos. 41/09 and 17/19). In particular, the rulebooks have been adopted implementing the legislation and provisions regarding the training of professional users and periodic inspections of pesticide application devices. However, further efforts are needed in the phytosanitary policy area (Serbia 2022 Progress Report, p. 126).

The Law on Plant Protection Products (further referred to as the "Law on PPPs"), which entered into force on June 10, 2009, partially transposed Directive 91/414/EC concerning the placing of plant protection products (PPP) on the market, and, only to a lesser extent, was aligned with the provisions of Regulation (EC) No 1107/2009 on the placing of PPP on the market and Directive 128/2009/EC establishing a framework for Community action to achieve the sustainable use of pesticides (further referred to as the "Framework Directive") that were adopted in the same year.

In addition, the Law was partially aligned with the provisions of Regulation (EC) No 396/2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin.

The Law on Amendments to the Law on PPPs was adopted and published on March 2019 ("Official Gazette of RS" No. 17/19). With the amendments of 2019, the Law has been further aligned with Framework Directive 128/2009/EC.

The transposed provisions from the Framework Directive cover procedures for the sustained use of pesticides, provisions related to periodic inspection of equipment in use of pesticides, training of professional users of pesticides that do not endanger the life and health of humans and animals and the environment, and to conditions and method of handling, storage, transport and disposal of pesticides.

As regards the establishment of harmonised risk indicators, the Framework Directive was subject to amendments by Commission Directive (EU) 2019/782 of 15 May 2019 amending Directive 2009/128/EC.

The Law on PPPs in force governs two major areas, the registration of plant protection products and the sustainable use of pesticides.

However, to achieve a greater degree of compliance of the national legislation with the EU legal framework in the field of sustainable use of pesticides (together with changes to the Framework Directive adopted in the meantime) adoption of the new Law on Sustainable Use of Pesticides is needed. In addition, the adoption of the new law will provide clearer regulatory framework and grounds for greater protection of human and animal health, the environment enabling the production and placing on the market of safe food.

Therefore, the National Plan for Adoption of the Acquis (NPAA) 2022-2025, sub-section 3.12.5 (Plant Protection Products and Residues), envisages the adoption of the new Law on Sustainable Use of Pesticides.

In particular, expert assistance to the Plant Protection Directorate of the Ministry of Agriculture, Forestry and Water Management (MAFWM) is needed in order to identify legal gaps in the legislation in force and to draft the Law on Sustainable Use of Pesticides to achieve a greater degree of compliance of the national legislation with the Framework Directive including all its modifications adopted in the meantime and to ensure greater protection of human and animal health, the environment and placing on the market of safe food.

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 goal of this assignment is to provide assistance to the Plant Protection Directorate of the MAFWM, and the Negotiating Group for Ch. 12 to prepare a draft Law on Sustainable Use of Pesticides aligned with Directive 128/2009/EC establishing a framework for Community action to achieve the sustainable use of pesticides as last time amended by Regulation (EU) 2019/1243 (Consolidated text).

The assignment will contribute to completing the transposition of Directive 128/2009/EC and improve clarity to the legal framework for protection of the health of people, animals and the environment, through the further strengthening of the institutional and administrative capacities of the Directorate for Plant Protection of the MAFWM.

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

1. Assistance to the MAFWM and the Plant Protection Directorate in conducting an assessment of legal gaps in the national legislation in force compared to the legal requirements of the relevant EU legislation governing the sustainable use of pesticides with a table of concordance;
2. Assistance to the MAFWM and the Plant Protection Directorate in drafting the Law on Sustainable Use of Pesticides transposing Directive 128/2009/EC (as last time amended by Regulation (EU) 2019/1243);
3. Assistance to the MAFWM and the Plant Protection Directorate in the preparation of a table of concordance for the draft Law on Sustainable Use of Pesticides according to Directive 128/2009/EC (as last time amended by Regulation (EU) 2019/1243)
4. Hold a workshop presenting the results of the legal gap assessment, the new draft Law on Sustainable Use of Pesticides text proposed and on implementation of new provisions in accordance with the relevant acquis.

3.2 Requested services

The Senior NKE (SNKE) in the field of legislation on plant protection products is expected to provide the following services:

1. Assist the MAFWM and the Plant Protection Directorate in drafting:
 - a. A legal gap analysis of the national legislation in force and the table of concordance with regard to the provisions of Directive 128/2009/EC establishing a framework for Community action to achieve the sustainable use of pesticides as last time amended by Regulation (EU) 2019/1243 (Consolidated text);
 - b. A draft Law on Sustainable Use of Pesticides transposing Directive 128/2009/EC (as last time amended by Regulation (EU) 2019/1243);
 - c. A table of concordance on Directive 128/2009/EC (as last time amended by Regulation (EU) 2019/1243) taking into account the provisions of the draft Law;
2. Prepare and hold a Workshop presenting the legal gaps identified by the assessment of the legislation in force, the draft of the new Law on Sustainable Use of Pesticides, including gaps addressed by new provisions and their implementation in accordance with the relevant Union acquis.

3.3 Outputs

The SNKE is expected to deliver the following outputs:

1. The legal gap analysis drafted;
2. The Table of Concordance on Directive 128/2009/EC (as last time amended by Regulation (EU) 2019/1243) drafted;
3. The Law on Sustainable Use of Pesticides drafted;
4. The Table of Concordance on Directive 128/2009/EC (as last time amended by Regulation (EU) 2019/1243) taking into account the provisions of the draft Law on Sustainable Use of Pesticides prepared;
5. The 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

30 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 January until September 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 (30 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 such as agronomy engineering, plant protection, crop science
- 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 EU acquis, gained in an EU Member State, candidate or 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 EU acquis in the sustainable use of pesticides;
- 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 16 December 2022, 17:00 hrs, titled:

“Application for the position – Senior NKE in the area of Ch. 12 (Food Safety, Veterinary and Phytosanitary Policy), sustainable use of pesticides”

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

6. Disclaimer

The implementation of the requested technical assistance and the start of the short-term assignment is subject to the signing and entry into force of the addendum to Service Contract No. (CRIS) 2018/404-529 between the Contracting Authority and the Contractor on the extension of the period of implementation of the tasks of the Policy and Legal Advice Centre (PLAC III) project under IPA 2021 framework.