

## Policy and Legal Advice Centre (PLAC III)

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

<b>Technical assistance requested:</b>	1 (one) Senior Non-Key Expert in the area of Negotiating Ch. 15, Energy, common rules for the internal market for electricity (Directive (EU) 944/2019)
<b>Project Title:</b>	Policy and Legal Advice Centre (PLAC III), Serbia
<b>Ref:</b>	EuropeAid/139295/DH/SER/RS
<b>Service Contract No.:</b>	(CRIS) 2018/404-529
<b>Main beneficiary:</b>	The Ministry for European Integration of the Republic of Serbia
<b>Target Beneficiaries:</b>	Negotiating Group Ch. 15; Ministry of Mining and Energy
<b>Budget Line/Expert Category:</b>	One Senior and Non-Key Expert
<b>Duration of the assignment:</b>	50 working days, from January until October 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 15 – Energy

In accordance with the Treaty on the Establishment of the Energy Community that entered into force in 2006, the European Commission through the body of the Energy Community (EnC), constantly monitors the degree of compliance of the Serbian national legislation in the field of energy with the Union acquis.

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 energy market of Europe.

In accordance with the new EU methodology for accession negotiation, 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. This cluster is the core 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.

In the first half of 2021, Serbia submitted action plans on oil stocks and for the separation of the activities in the gas sector, thus fulfilling the remaining conditions for opening the negotiations in Cluster 4 which opened on 14 December 2021.

The country progress report of the European Commission (EC) for Serbia for 2022 (Serbia 2022 Progress Report) Concerning the internal energy market, Serbia's primary legislation is compliant with the EU's third energy package. Serbia has aligned legislation with Electricity Regulation (EC) No 714/2009 on the conditions for access to the network for cross-border exchanges in electricity and transposed Electricity Directive 2009/72/EC concerning common rules for the internal market in electricity by adopting the Energy Law ("Official Gazette of RS", Nos.145/2014, 95/2018 – other law and 40/2021) and implementing by-laws.

However, Electricity Regulation (EC) No 714/2009 and Electricity Directive 2009/72/EC were revised as part of the Clean Energy for All Europeans package in 2019. The package consists of new legislation on the EU electricity market design aimed at better integration of renewables in electricity markets, empowering consumers, and improved managing of electricity flows across the EU. In particular, new rules were introduced by Regulation (EU) 943/2019 on the internal market for electricity and Directive (EU) 944/2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU.

Directive (EU) 944/2019 establishes common rules for the generation, transmission, distribution, energy storage and supply of electricity, together with consumer protection provisions, with a view to creating truly integrated competitive, consumer-centred, flexible, fair and transparent electricity markets in the Union.

In order to fulfil obligations which are undertaken by the Treaty establishing the Energy Community (decision of the Ministerial Council of the Energy Community 2021/13/MC-EnC dated 30 November 2021) and by the National Programme for Adoption of Acquis 2022-2025 (NPAA, Section 3.15.1) the Republic of Serbia must bring into force the laws, regulations and administrative provisions necessary to comply with Directive (EU) 944/2019 by 31 December 2023.

Directive (EU) 944/2019 will be transposed into Serbian legislation by means of the amendment of the Energy Law and the amendment of the relevant by-law. Therefore, the outputs of this assignment (the legal and institutional gap assessment and preparation of a new draft amending the Energy law and draft by-law amending by-law in force) will contribute to the progress in the accession negotiations in Cluster 4 and Chapter 15 and to the

enforcement of the internal market for electricity in compliance with all requirements of Directive (EU) 944/2019.

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 Negotiating Group Ch. 15 in order to transpose Directive (EU) 944/2019 into national legislation.

The selected expert support to the MoME is needed for drafting harmonised legislation on the internal market for electricity with the EU *acquis* in order to fulfil obligations which are undertaken under the framework of the Treaty establishing the Energy Community in accordance with the decision of the Ministerial Council of the Energy Community 2021/13/MC-EnC dated 30 November 2021.

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

Assistance to the MoME in conducting the legal gap assessment with advice on the substantial changes made by Directive (EU) 944/2019 and on the competences and appropriateness of certain authorities and institutions to be in charge of specific requirements of the Directive, drafting and updating a Table of Concordance for Directive (EU) 944/2019, drafting amendments of the Energy Law and amendments to the Government's Decree on the conditions of delivery and supply of electricity ("Official Gazette of RS" Nos. 63/2013 and 91/2018) to transpose Directive (EU) 944/2019 into national legislation.

At the end of the activity, a presentation of the legal gap assessment, new drafts of legislation, substantial changes in the electricity market envisaged by the drafts and an analysis of the impacts of their implementation shall be held.

#### 3.2 Requested services

**The Senior NKE is expected to provide the following services:**

1. Assistance to the MoME in drafting:
  - a. Legal and institutional gap analysis with advice on the substantial changes made by Directive (EU) 944/2019 and on the competences and appropriateness of certain authorities and institutions to be in charge of specific requirements of the Directive with recommendations to achieve full compliance;
  - b. The Table of Concordance to the provisions of Directive (EU) 944/2019 in relation to the national legislation in force;
  - c. The amendments of the Energy Law fully harmonised with Directive (EU) 944/2019;
  - d. The amendments of the Government's Decree on the conditions of delivery and supply of electricity fully transposing Directive (EU) 944/2019;
  - e. Updated Table of Concordance having regard to the provisions of drafted amendments of the Energy Law and amendments of the by-law.

3. Prepare and hold a workshop to present the outputs of the assignment.

### 3.3 Outputs

The Senior NKE is expected to deliver the following outputs:

1. Legal and institutional gap analysis with advice and recommendations drafted;
2. Table of Concordance on Directive (EU) 944/2019 drafted;
3. Law Amending the Energy Law drafted;
4. Government Decree amending the Government Decree on the conditions of delivery and supply of electricity drafted;
5. Updated Table of Concordance on Directive (EU) 944/2019 having regard to the provisions of amendments to the Energy Law and the Government Decree drafted;
6. 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 the tasks under this assignment. This report will include a description of all the 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 in English and Serbian

### 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

50 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 October 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 (50 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 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 EU *acquis*, gained in an EU Member State, a candidate or a 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 the EU *acquis* in the electricity sector;
- Knowledge of the Serbian legal system will be an advantage.

## 5. Applications

Applications (EU format CV and an application letter in English) need to be submitted by e-mail to [mbayard@dmiassociates.com](mailto:mbayard@dmiassociates.com) and mail to [akhani@dmiassociates.com](mailto:akhani@dmiassociates.com) no later than 9 December 2022, 17:00 hrs., titled:

**“Application for the position – Senior NKE in the area of Energy, Ch. 15, internal market for electricity”.**

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: mail to [mbayard@dmiassociates.com](mailto:mbayard@dmiassociates.com) or Arianne Khani: mail to [akhani@dmiassociates.com](mailto: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 the implementation of the tasks of the Policy and Legal Advice Centre (PLAC III) project under IPA 2021 framework.