

## 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 EU Negotiating Ch. 12, Food Safety, Veterinary and Phytosanitary Policy, Placing on the market of food, feed and animal by-products – the risk-based approach to official controls of food business operators
<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. 12; Ministry of Agriculture and Water Management, and Ministry of Health
<b>Budget Line/Expert Category:</b>	One Senior Non-Key Expert
<b>Duration of the assignment:</b>	10 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.

The EU considers that the opening of this chapter could be envisaged once, among other things, it is agreed by the EU that Serbia has adopted the framework legislation that complies with the *acquis*, enables full transposition of the *acquis* in this chapter and makes provisions for a clear assignment of responsibilities, in particular for control bodies (hereinafter referred to as the “opening benchmark”).

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. The Commission expects that in the coming year, Serbia:

- Adopts a comprehensive strategy for transposition, implementation and enforcement of the *acquis* on food safety, veterinary and phytosanitary policy,
- Continues strengthening the capacities of the line Directorates and inspection services (Veterinary, Agricultural, Phytosanitary and National Reference Laboratories); and
- Improves the risk-based approach to official controls.

In particular, “while monitoring and official control programmes were adopted for food of animal and plant origin as well as animal feed, Serbia still needs to considerably improve its risk-based approach for imported foods” (Serbia 2022 Progress Report, p. 126)

Regulation (EC) No 178/2002 and Union agri-food chain legislation (hereinafter the “EU Food Law”) is based on the principle that operators at all stages of production, processing and distribution which are under their control are responsible for ensuring compliance with the requirements relevant to their activities established by Union agri-food chain legislation.

The responsibility to enforce Union agri-food chain legislation lies with Member States, whose competent authorities monitor and verify, through the organisation of official controls, that relevant Union requirements are effectively complied with and enforced.

Regulation (EU) 2017/625 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products (hereinafter - Official Controls Regulation) represents a harmonised framework for the performance of such official controls and activities along the entire agri-food chain. In particular, the Official Controls Regulation prescribes that competent authorities should perform official controls regularly, on a risk basis and with appropriate frequency, in all the sectors and in relation to all operators, activities, animals and goods governed by Union agri-food chain legislation.

Member States have to put in place a control system, which ensures that animals and goods, including plants, entering the European Union, as well as those commodities on the market comply with the EU legislation aimed at preventing risks and at certain aspects of promotion of quality of production.

In accordance with the Law on Food Safety (“Official Gazette of the RS” Nos 41/09 and 17/19), which governs general food safety (reflecting the Union rules with regard to food and feed law laid down in Regulation (EC) No 178/2002) placing unsafe food and feed on the market is

prohibited as is using unsafe feed as nourishment for animals who are used for the manufacture of feed.

Pursuant to the Law on Food Safety (LFS), food safety is determined on the basis of conditions in each stage of production, processing and circulation of food, as well as preparation and manner of consumption of food by the consumer, in accordance with its application and information available to the consumer, international certificates, documents accompanying the food in circulation and data from declarations, with regard to preventing specific harmful effects of certain species or food categories on human health.

Food and feed business operators are responsible for ensuring and proving the fulfilment of requirements prescribed by the LFS and other special regulations, in all stages of production, processing and circulation.

Article 37(1) of the LFS prescribes that food and feed which is imported into Serbia in order to be placed on the market must fulfil requirements in accordance with food regulations or requirements that Serbia has recognised as identical to them, or, if there is a specific international treaty, with requirements contained in such an agreement.

Article 69(1) of the LFS prescribes that, for the purpose of protection of food and feed safety, the Ministry of Agriculture, Forestry and Water Management (MAFWM) and Ministry of Health (MoH) in accordance with their competences, shall adopt a planning document for conducting controls with regard to food and feed safety, respectively.

Art. 9 of the Law on Inspection Supervision (“Official Gazette of the RS”, Nos. 41/09 and 17/1936/2015, 44/2018 – other law, and 95/2018) prescribes that an inspection shall be based on the risk assessment and be proportionate to the estimated risk, as well as that an inspection plan shall be based on the established facts in the area of the inspection and the risk assessment. Also, the Law defines that the inspectorate is obliged to develop a strategic (multiannual) and annual inspection plan (Article 10, paragraph 12).

In 2019-2020, the PLAC III project provided assistance and support to the MAFWM and MoH in drafting national regulations related to official control of food and the preparation of a suitable system of authorisation and coordination of official laboratories for food testing, including the designation of reference laboratories all in line with relevant provisions of the Official Controls Regulation.

In order to enable smooth day-to-day implementation and enforcement of rules on official controls in compliance with the risk-based approach required by the EU Food Law and Official Controls Regulation, further assistance to the MAFWM and MoH is needed to develop adequate Guidance on the Inspection of Food Businesses including criteria for ranking establishments and activities according to their “Relative Risk Level” taking into consideration direct and indirect risks alike.

In the context of the above, PLAC III project assistance is therefore crucial for the implementation of the NPAA in this sector and in meeting the opening benchmarks as set for Ch. 12.

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 MAFWM and Ministry of Health (MoH) in order to enhance proper implementation and day-to-day enforcement of the

inspection controls of food business operators in compliance with the EU Food Law and Regulation (EU) 2017/625 requirements on risk-based official controls.

The selected expert support to the MAFWM and MoH is needed in drafting Guidance on the Inspection Controls of Food Businesses in compliance with the EU Food Law and Regulation (EU) 2017/625 requirements on risk-based official controls. The Guidance shall entail in particular criteria on ranking and profiling of food establishments and activities according to their “Relative Risk Level” and instructions on their employment by inspections taking into consideration both direct and indirect risks;

At the end of the activity, a workshop on the presentation of the outputs of the assignment shall be held.

### 3.2 Requested services

**The Senior NKE in the area of FCM is expected to provide the following services:**

1. Assist the MAFWM and MoH in drafting Guidance on the Inspection Controls of Food Businesses in compliance with the EU Food Law and Regulation (EU) 2017/625 requirements on risk-based official controls and entailing, in particular, criteria on the ranking and profiling of food establishments and activities according to their *Relative Risk Level* taking into consideration both direct and indirect risks;
2. Prepare and hold a Workshop and present the outputs of the assignment.

### 3.3 Outputs

The Senior NKE is expected to deliver the following outputs:

1. Guidance on the Inspection Controls of Food Businesses drafted;
2. 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**

10 working days (WDs) in total have been planned for the Senior Non-Key Expert.

#### **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 (10 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, food safety 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 implementing legislation in relation to EU *acquis* in the food safety;
- 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](mailto:mbayard@dmiassociates.com) and [akhani@dmiassociates.com](mailto:akhani@dmiassociates.com) no later than 14 December 2022, 17:00 hrs, titled:

**“Application for the position – Senior NKE in the area of Ch. 12 (Food Safety, Veterinary and Phytosanitary Policy) the risk-based approach to official controls of food business operators”**

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