

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 Ch.13, Fisheries; Law on Structural Support and Market Organisation in Fisheries
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 of European Integration of the Republic of Serbia
Target Beneficiaries:	Negotiating Group (NG) Ch. 13; Ministry of Agriculture, Forestry and Water Management
Budget Line/Expert Category:	One Senior Non-Key Expert
Duration of the assignment:	25 working days (WD) from April until November 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 Union *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 13 – Fisheries

The common fisheries policy lays down rules on fisheries management, protects living resources of the sea and limits the environmental impact of fisheries. This includes setting catch quotas, managing fleet capacity, rules on markets and aquaculture and support for fisheries and coastal communities.

The acquis in this chapter consists of regulations, which do not require transposition into national legislation.

Serbia does not have a coastline, therefore a large part of the EU *acquis* on fisheries is not applicable. Fisheries consist of inland fisheries and aquaculture operations. As a result, substantial parts of the acquis within Chapter 13 - Fisheries will not require particular implementation efforts.

However, national legislation has to be adapted in some cases, in order to ensure correct implementation, and certain measures need to be implemented to ensure the correct application of the acquis by competent authorities as of the date of the accession.

As indicated in the Screening Report for Chapter 13, Serbia does not have a law regulating the market, common marketing standards, and producers' organisations in the fisheries or aquaculture fields. "Existing rules for marketing and labelling of fish and fishery products are only partially aligned with EU requirements. Substantial amendments will be necessary before accession to ensure full alignment". Serbia may as well "consider before accession to establish producers' organisations in relation to aquaculture, although this is not an EU requirement" (Screening Report for Chapter 13 – Fisheries, p. 6).

To provisionally close negotiations in Chapter 13, Serbia is required to present "an action plan that will ensure full compliance with the requirements of the EU legislation by the date of accession, in particular regarding the organisation of markets, aquaculture, data collection and control measures against illegal, unreported and unregulated fishing".

An advanced draft action plan for the alignment with the EU acquis, which remains to be adopted, was presented to the European Commission (Serbia 2022 Progress Report, SWD (2022) 338 final, p. 127). In addition, an Assessment Report on the steps needed to improve institutional capacity in fisheries was completed by the Ministry of Agriculture, Forestry and Water Management (MAFWM) in April 2022. Therefore, limited progress was made with the completion of an institutional capacity assessment report, nevertheless, "legislation on market policy still needs to be adopted, in line with the EU acquis" (Serbia 2022 Progress Report, p. 127).

As a result, Serbia needs to adopt a new Law on the Structural Support and Market Organisation in Fisheries to ensure the correct application of the acquis.

The National Plan for the Adoption of the Acquis (NPAA) envisages the adoption of the Law on Structural Support and Market Organisation in Fisheries in 2023 (NPAA, 2022-464).

The new law is aimed at creating conditions for activating selected measures of market regulation and creating conditions for their gradual alignment with key EU legislation governing structural and market policy.

In particular, the new legislation aims to provide a basis for the implementation of Regulation (EU) 2021/1139 establishing the European Maritime, Fisheries and Aquaculture Fund and amending Regulation (EU) 2017/1004, Regulation (EC) No 1379/2013 on the common organisation of the markets in fishery and aquaculture products, Regulation (EC) No 1380/2013 on the Common Fisheries Policy, Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing and other linked regulations.

The MAFWM has prepared a first draft/working version of legislation governing the support and market organisation in the fisheries sector.

To that end, expert assistance is needed in order to assist the MAFWM and the Negotiating Group for Ch. 13 (NG 13) in assessing the compliance of the working text of the Ministry with the relevant Union acquis, to draft a revised Law on the Structural Support and Market Organisation in Fisheries taking into account the legal gaps identified and to prepare Tables of Concordance on the basis of the new legal text.

Under IPA 2021, a twinning light project (TW light project) is envisaged to assist the MAFWM in the process of alignment and implementation of the EU legal framework in the area of fisheries. This assignment is complementary to the IPA 2021 TW light project and will contribute to its implementation.

3. Description of the assignment:

3.1 Specific objectives

The specific objective of this assignment is assistance to the MAFWM and NG 13 in the development of the legal gap assessment of the working version of the draft law prepared by the Ministry and in the drafting of the new Law on Structural Support and Market Organisation in Fisheries taking into account the gaps identified, in order to provide an efficient and effective system for implementing structural and market policies fully in compliance with the relevant Union acquis in Chapter 13.

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

- a. Development of the legal gap assessment of the existing draft Law on the Structural Support and Market Organisation in Fisheries prepared by the MAFWM against the requirements of the Union acquis governing structural and market policy;
- b. Drafting the revised draft Law on the Structural Support and Market Organisation in Fisheries policies fully in compliance with provisions of Regulation (EU) 2021/1139, Regulation (EC) No 1379/2013, Regulation (EC) No 1380/2013, Council Regulation (EC) No 1005/2008;
- c. Drafting Tables of Concordance on the basis of the revised draft law covering provisions of Regulation (EU) 2021/1139, Regulation (EC) No 1379/2013, Regulation (EC) No 1380/2013, Council Regulation (EC) No 1005/2008; and
- d. Holding a workshop to present the results of the legal gap assessment and the final draft of the law to the representatives of NG 13.

The expert's engagement would be focused on the implementation of the reformed Common Fisheries Policy (CFP) into national legislation.

The selected expert shall take into account the Assessment Report on the steps needed to improve institutional capacity and draft an action plan for the alignment with the Union acquis in Ch. 13.

The expert will cooperate with the representatives of NG 13 in charge of the contents of certain chapters in the Law, individually, and during group work through the envisaged workshop.

3.2 Requested services

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

1. To deliver a legal gap assessment (LGA) of the current draft Law on the Structural Support and Market Organisation against provisions of Regulation (EU) 2021/1139, Regulation (EC) No 1379/2013, Regulation (EC) No 1380/2013, Council Regulation (EC) No 1005/2008 with a proposal of measures to close the gap identified;
2. Drafting a revised draft Law on the Structural Support and Market Organisation in Fisheries fully in compliance with provisions of Regulation (EU) 2021/1139, Regulation (EC) No 1379/2013, Regulation (EC) No 1380/2013, Council Regulation (EC) No 1005/2008; and
3. Drafting Tables of Concordance (ToCs) based on the revised draft law covering provisions of Regulation (EU) 2021/1139, Regulation (EC) No 1379/2013, Regulation (EC) No 1380/2013, Council Regulation (EC) No 1005/2008;
4. To 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. LGA with a proposal of measures to close the gap, drafted;
2. A revised draft Law on the Structural Support and Market Organisation in Fisheries, drafted;
3. ToCs, drafted;
4. Workshops 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 NKEs 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

25 working days (WDs) in total have been planned for the Senior NKE.

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 April until November 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 (25 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, agriculture, natural sciences, economy 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 Union *acquis* in the area of fisheries, 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 Union *acquis* in the area fisheries;
- Knowledge of the Serbian legislative will be an advantage.

5. Applications

Applications (EU format CV and application letter in English) need to be submitted by email to mbayard@dmiassociates.com and akhani@dmiassociates.com no later than 17 March 2023, 17:00 hrs, titled:

“Application for the position – Senior NKE in the area of Ch. 13, Fisheries – Law on Structural Support and Market Organisation in Fisheries”

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.