



Project funded by the European Union  
Projekat finansira Evropska unija



Pravna podrška pregovorima - Policy & Legal Advice Centre

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

<b>Technical assistance requested:</b>	1 (one) Senior and 1 (one) Junior Non-Key Expert, EU Negotiating Ch.3, in the area of professional qualifications and services in the field of planning and construction
<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>	Ministry of European Integration of the Republic of Serbia and the Negotiating Team
<b>Target Beneficiaries:</b>	Negotiating Group Ch. 3; Ministry of Construction, Transport and Infrastructure (MCTI)
<b>Budget Line / Expert Category:</b>	One Senior and One Junior Non-Key Expert
<b>Duration of the assignment:</b>	40 working day; (20 WD for NKSE and 20 WD for NKJE); the assignment period from May 2019 – October 2019

### 1. Relevant background information

The scope of 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 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 successful carrying out of accession negotiations

In general, the project aims at fostering 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. After completion of screening process in 2015, Serbian public administration has entered into much more demanding and obliging exercise 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, adequate institutional capacity of public administration with highly competent staff is of crucial importance. In the core period of the negotiations, PLAC III Project shall support domestic line institutions and the negotiating structures both in performance of quality operational work in relation to 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 3 - Right of Establishment and Freedom to Provide Services**

After the screening meetings held in 2015, the following benchmark for the opening of negotiation in Chapter 3 was set by the European Commission, "Serbia submits to the Commission a comprehensive and detailed strategy for alignment with the professional qualifications acquis. The strategy must cover all the reforms necessary in terms of legislative alignment and institutional capacity building for the recognition of professional qualifications acquired in other Member States and for the provision of assistance to professionals who qualified in Serbia and wish to provide services in other Member States. The strategy must also cover any adjustments to the training of doctors, dentists, nurses responsible for general care, midwives, pharmacists, veterinary surgeons, and architects necessary to comply with the minimum training requirements outlined in Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications. A deadline, a responsible entity and a clear indication of the corresponding provision of EU law must be specified for each action covered by the strategy".

In connection with the opening benchmark, the Programme on Professional Qualifications with the Action Plan (in continuation: The Programme) was adopted by the Government and by the EC in 2018 Serbia is invited to prepare the Negotiation position.

By the date of the accession to the EU, all the outstanding parts of Chapter 3 acquis will have to be transposed into Serbian legislation, addressing the requirements of three general areas of the acquis.

Finalising of Draft Negotiating Position is in progress, presenting the plans concerning future legislative and institutional framework aligned with the acquis in relation to services in the internal market, i.e. Ch 3 - Right of Establishment and Freedom to Provide Services. In the Republic of Serbia, the Ministry in charge of Chapter 3 is the Ministry of Trade, Tourism and Telecommunications (MTTT). Other ministries are also involved in the harmonisation of the Serbia legislation with Chapter 3 acquis (covering acquis areas of services, mutual recognition of professional qualifications and postal services) such as the Ministry of Education, Science, and Technological Development, Ministry of Health, Ministry of Justice, Ministry of Finance, Ministry of Agriculture and Environmental Protection, Ministry of Construction, Transport and Infrastructure as well as other institutions.

Serbia 2018 Country Report issued by the European Commission states that Serbia is moderately prepared in these areas. Some progress was made on the legislative alignment in the fields of postal services and mutual recognition of professional qualifications. In the coming year, Serbia should in particular:

1. adopt the umbrella law on services, continue to harmonise sectoral regulation with the umbrella law and the acquis and establish a point of single contact as a one-stop-shops for service providers to obtain information and complete administrative formalities online;
2. adopt a new law on mutual recognition of professional qualifications and implement the adopted strategy and action plan;

For the profession of architects and the provision of architectural services, additional support is required in the process of harmonisation of legislation. Services and professional qualifications in the planning and construction sector are governed by the Law on Planning and Construction ("Official Gazette of RS", No. 72/2009, 81/2009 (corrigendum), 64/2010 (CC), 24/2011, 121/2012, 42/2013 (CC), 50/2013 (CC), 98/2013 (CC) and the Law on State Survey and Cadastre ("Official Gazette of RS" No. 72/09, 18/10, 65/13, 132/14, 145/14 and 83/18), as well as by-laws issued on the basis of these regulations.

Relating to the architects profession specifically, as well as other regulated professions in the planning and construction Sector, the Law on Planning and Construction has to be harmonised with the Professional Qualifications Directive and the Law on Recognition of Professional Qualifications which is to be further amended (regards to the persons who are architects, and other regulated professions in the field of planning and construction, their professional title, professional training, knowledge of languages, approval for performance of

regulated profession – license/authorisation for carrying out professional activities independently, temporary licencing, proof of citizenship, etc.) by the end of 2019. As the recent amendments to the Law on Planning and Construction are adopted, relevant bylaws, rulebooks are to be developed accordingly. According to the above-mentioned amendments, the Ministry in charge of planning and construction should develop a Register of licenced architects, engineers and spatial planners, as well as a register of companies and other legal entities or entrepreneurs for carrying out specific activities in the field of planning and construction in the forthcoming period.

Furthermore, the existing Amendments to the Law on Planning and Construction as of 6 November 2018, has to be revised in order to be harmonised with the Directive on mutual recognition of professional qualifications and Directive on Services, along with other bylaws which are to be adopted in the meantime. In order to analyse the compliance of the current legislation with the mentioned Directives, an expert support is needed. Along with the drafting amendments to the Law and relevant by-laws, an analysis of a need for further additional drafting of a legislation regarding services and regulated professions in the field of planning and construction should also be taken into account and the recommendation given in this respect.

### **3. Description of the assignment**

#### **3.1 Specific objectives**

The specific objective of this assignment is to provide assistance to the MCTI in harmonisation of sectoral law (Law on Planning and Construction) and relevant by-laws with Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications and Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market. The assistance will enhance harmonisation with relevant EU rules and their proper implementation. By strengthening the administrative capacities of the MCTI the crucial support will also be provided in drafting amendments to the Serbian Law on planning and construction based on the comparative analysis with relevant directives.

Experts support to MCTI is needed in drafting harmonised legislation in planning and construction sector in order to be fully harmonised and to accurately anticipate implications of its implementation.

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

1. Gap analysis of Serbian legislation (Law on planning and Construction and relevant bylaws) with Union acquis (Directive on Services 2006/123/EC and Directive on Mutual Recognition of Professional Qualifications 2013/55/EC amending Directive 2005/36/EC);
2. Drafting amendments to the Law on planning and Construction and drafting relevant by-laws and harmonising national legislation with EU rules - Directive 2006/123/EC, and Directive 2013/55/EC amending Directive 2005/36/EC, regarding establishment and freedom to provide services and mutual recognition of qualifications (regulated professions), in the planning and construction Sector.
3. Support to the MCTI in preparation of Tables of Concordance (ToC) on Directive on Services 2006/123/EC and Directive on Mutual Recognition of Professional Qualifications 2013/55/EC amending Directive 2005/36/EC
4. Perform an analysis of a need for further additional drafting of a legislation regarding services and regulated professions in the field of planning and construction and

5. Draft recommendations on how to achieve a full alignment with the directives (Directive on Services 2006/123/EC and Directive on Mutual Recognition of Professional Qualifications 2013/55/EC amending Directive 2005/36/EC)
6. Organising and holding a workshop presenting the outcomes of the assignment, e.g. gap analysis, ToCs, amendments to the Law, by-laws, recommendations for further alignment of the acquis, as well as the best practice in the selected EU MS related to implementation of the Directive to the administration and the relevant professional bodies

## **3.2 Requested services**

### **3.2.1 The Senior NKE in the area of freedom to provide services and mutual recognition of qualifications is expected to provide the following services:**

- a) Perform a legal gap analysis of alignment of the sectoral law (Law on Planning and Construction) and relevant by-laws with Directive 2006/123/EC on Services and Directive on Mutual Recognition of Professional Qualifications 2013/55/EC amending Directive 2005/36/EC.
- b) Based on a legal gap analysis and the findings from ToCs, draft the amendments on the Law on planning and Construction and relevant by-laws harmonised with the Directive 2006/123/EC on Services and Directive on Mutual Recognition of Professional Qualifications 2013/55/EC amending Directive 2005/36/EC.
- c) Based on the analysis (*see 3.2.2. item c*) of a need for further additional drafting of a legislation regarding services and regulated professions in the field of planning and construction, draft recommendations on how to achieve a full alignment with the directives (Directive 2006/123/EC on Services and Directive on Mutual Recognition of Professional Qualifications 2013/55/EC amending Directive 2005/36/EC)
- d) Organising and holding a presentation on the outcomes and results of the assignment - the ToC and the amendments to the Law and relevant bylaws, and further recommendations to the administration and professional bodies as well as on EU MS best practices in a workshop.

### **3.2.2 The Junior NKE in the area of freedom to provide services and mutual recognition of qualifications (regulated professions) is expected to provide the following services:**

- a) Drafting of ToCs of Directive 2006/123/EC on Services and Directive on Mutual Recognition of Professional Qualifications 2013/55/EC amending Directive 2005/36/EC and draft of the legislation amendments
- b) Provide inputs to the drafting of the amendments on the Law on planning and Construction and relevant by-laws harmonised with the Directive 2006/123/EC on Services and Directive on Mutual Recognition of Professional Qualifications 2013/55/EC amending Directive 2005/36/EC,
- c) Perform an analysis of a need for further additional drafting of legislation regarding services and regulated professions in the field of planning and construction in order to achieve a full alignment with the directives.
- d) Presentation of the outcomes and results of the assignment - the ToCs and the analysis (*item c*) of a need for further additional drafting of a legislation regarding services and regulated professions in the field of planning and construction and (in conjunction with the SNKE, as applicable).

### 3.3 Outputs

The **Senior NKE** are expected to deliver the following outputs:

- A legal gap analysis prepared (*see 3.2.1 item a*)
- Draft amendments to the Law on Planning and Construction and relevant by-laws prepared
- Draft recommendations on how to achieve a full alignment with the directives
- WS held

The **Junior NKE** are expected to deliver the following outputs:

- ToCs on Directive 2006/123/EC on Services and Directive on Mutual Recognition of Professional Qualifications 2013/55/EC amending Directive 2005/36/EC prepared
- Inputs to draft amendments to the Law on Planning and Construction and relevant by-laws and
- An analysis (*see 3.2.2. item c*) of a need for further additional drafting of a legislation regarding services and regulated professions in the field of planning and construction in order to achieve a full alignment with the directives prepared
- WS held

### 3.4 Reporting

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

- **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 both NKEs in the context of this assignment.
- A brief interim report - only upon a request of the PLAC III team: TL and/or KE2.

Submission of reports:

- Draft mission report shall be submitted to the Team Leader of the Project for a review and comments at the completion of the mission.
- Final version of the mission report prepared in the agreed quality shall be submitted to the Team Leader of the Project for a review, comments and the final approval at the agreed time, but not later than 7 days after the TL comments on the draft mission report have been submitted to the expert.
- The reports shall be signed by the SNKE and the Team Leader, who is responsible for endorsing the reports.
- The mission report and all prepared documents shall be submitted in a hard copy and in an electronic version to the Team Leader of the project.

### 3.5 Specifics

Both NKEs 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.

Each of the short-term missions, the timing and duration shall be agreed with the Beneficiary and the PLAC team prior to each mission.

### **3.6 Expert input**

#### **3.6.1 Total working days**

20 working days (WDs) in total have been planned for Senior Non-Key Expert and 20 working days for Junior 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 during several missions in the period from May 2019 until October 2019. The exact starting date will be agreed at later stage.

#### **3.6.3 Location/Place of assignment**

The SNKE and JNKE has to deliver 100% of the input in Belgrade, Serbia.

#### **3.6.4 Working language**

English

### **4. Expert Profile - Senior NKE:**

#### **4.1 Qualifications and skills (25 points)**

- A level of education, which corresponds to completed university studies of at least 3 years in the relevant field attested by a diploma in law, architecture, engineering or similar, relevant to the assignment
- Proficiency in English language
- Computer literacy
- Be proficient in report drafting
- Excellent communication and analytical skills
- Be independent and free from conflicts of interest in the responsibilities they take on

#### **4.2 General professional experience (25 points)**

- At least 8 (eight) years of general postgraduate professional experience, related to the freedom to provide services and mutual recognition of qualifications (regulated professions) gained in an EU member state, candidate or potential candidate country

#### **4.3 Specific professional experience (50 points)**

- Postgraduate professional experience in the field of harmonisation of legislation in relation to Union acquis specifically in regard to regulated professions and services
- Postgraduate professional experience in implementation of Directive 2006/123/EC on Services and Directive on Mutual Recognition of Professional Qualifications 2013/55/EC amending Directive 2005/36/EC would be an advantage.

## 5. Expert Profile - Junior NKE

### **5.1 Qualifications and skills (25 points)**

- A level of education, which corresponds to completed university studies of at least 3 years in the relevant field attested by a diploma such as law, architecture, engineering or similar, relevant to the assignment
- Proficiency in English language
- Knowledge of Serbian language will be an advantage
- Computer literacy
- Be proficient in report drafting
- Excellent communication and analytical skills
- Be independent and free from conflicts of interest in the responsibilities they take on

### **5.2 General professional experience (25 points)**

- At least 5 (five) years of general postgraduate professional experience related to related to Union acquis gained in an EU member state, candidate or potential candidate country

### **5.3 Specific professional experience (50 points)**

- Postgraduate professional experience developing Tables of Concordance (ToC) and drafting legislation
- Postgraduate professional experience related to areas of freedom to provide services and mutual recognition of qualifications (regulated professions), gained in an EU member state, candidate or potential candidate country, would be an advantage
- Knowledge of the Serbian legal system would be an advantage

## 6. Applications

Applications (EU format CV and application letter, both in English) need to be submitted by e-mail to [mbayard@dmiassociates.com](mailto:mbayard@dmiassociates.com) and [nderxen@dmiassociates.com](mailto:nderxen@dmiassociates.com) no later than 6 May 2019, 17:00 hrs, titled: "Application for the position – Senior or Junior NKE in the area of EU Negotiating Ch.3, professional qualifications and services in the field of planning and construction."

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 posts are not available to civil servants or other officials of the public administration in the beneficiary country, Serbia.

For more information, please contact Project Manager at DMI Associates Marion Bayard: [mbayard@dmiassociates.com](mailto:mbayard@dmiassociates.com) or Nina Derxen: [nderxen@dmiassociates.com](mailto:nderxen@dmiassociates.com).