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Pravna podrška pregovorima - Policy & Legal Advice Centre

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

Technical assistance requested:	1 (one) Senior and 1 (one) Junior Non-Key Expert in the area of Negotiating Ch. 27, Environment and Climate Change, RIA on Environmental Liability Law
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 and the Negotiating Team
Target Beneficiaries:	Negotiating Group Ch. 27; The Ministry of Environmental Protection
Budget Line / Expert Category:	One Senior and One Junior Non-Key Expert
Duration of the assignment:	40 working days (WD), from May 2019 until October 2019 (15 WD SNKE and 25 WD JNKE)

1. Relevant background information

Background information in relation to PLAC III project:

The scope of 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 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 27 – Environment and Climate Change

Environmental protection is recognised as one of the most challenging and complex acquis when it comes to harmonization of national legislation with the EU standards and norms. Moreover, implementation of the legislative norms in environmental sector requires significant investments. Adequate and efficient institutional set up and capacities at national and local level is imperative for the application and enforcement of the environmental acquis.

The Republic of Serbia is intensively preparing for negotiations with the EU regarding Chapter 27 – Environment and Climate change. The Second draft of the Negotiating position has been sent in December 2018 and the answer from the EC is expected. Serbia 2018 Report issued by the European Commission states that Serbia has some level of preparation in the area of environment and climate change. Some progress has been made in further aligning with the acquis, strategic planning and addressing the 2016 recommendations.

In line with the results of explanatory and bilateral screening for Chapter 27, NPAA 3.27.2 National Programme for Adoption of Acquis (Last revision of February/March 2018), Post screening document and Progress report 2018, Serbia has to make progress in horizontally related acquis. In the area of horizontal legislation, Serbia has achieved a high level of alignment with the acquis. The new financing facility (the Green Fund) is not yet operational. Predictable financing based on the polluter pays principle is needed to raise investment levels in the sector, but further progress is needed on transposing and implementing the remaining horizontal legislation, in particular the Environmental Liability Directive 2004/35 EC.

The Draft Law on Environmental Liability is developed with support of PLAC I project. Ministry of Environmental Protection also formed a working group for the preparation of the Draft Law on Environmental Liability. Currently, the draft law is under the consultation with stakeholders and member of working group regarding discussion on some of the drafted provisions. The start for the adoption procedure of the Law on Environmental Liability is planned for September 2019. (e.g. public debate, requesting opinions of the relevant ministries, etc).

In the context of the above, in the area of liability for environmental damages, activities relating to aligning national legislation with the acquis and reorganising responsible institutions in most effective manner for the application and enforcement of the relevant acquis have been given utmost priority.

3. Description of the assignment:

3.1 Specific objectives

The specific objective of this assignment is to provide assistance to the Ministry of Environmental Protection (MoEP) in developing Regulatory Impact Assessment (RIA) of the Draft Law on Environmental Liability (LEL) as aligned with the Environmental Liability Directive 2004/35 EC (EDL).

Expert support to MoEP is needed in assessing the effects and overall impact of the Law transposing Environmental Liability Directive 2004/35 EC to be fully harmonised and to accurately anticipate financial implications of its implementation

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

Development of the RIA applied to the Draft Law on Environmental Liability consisting of but not limited to:

- 1) Review of the financial implication of the adoption of the Law transposing Environmental Liability Directive 2004/35 EC (LEL) on different sectors;
- 2) Drafting an explanatory note accompanying the adoption of the LEL;
- 3) Investigate and prepare an explanatory review on who will be affected and how will be affected with the solutions proposed by the LEL;
- 4) Analysis on the costs that law enforcement will bring to citizens and economy, especially small and medium-sized enterprises;
- 5) Analysis on whether the positive effects of the adoption of the LEL justify the costs of its implementation;
- 6) Projection on whether the LEL will encourage the emergence of new companies in the market and market competition.

3.2 Requested services

The **Senior NKE** in the area of environmental protection and finances is expected to provide the following services:

Development of the RIA applied to the Draft Law on Environmental Liability (LEL):

- a) Prepare a Report on the financial implication of the adoption of the LEL;
- b) Prepare a Report on costs of implementation and enforcement of the Law to citizens and economy, especially small and medium-sized enterprises;
- c) Prepare a draft projection on whether the LEL will encourage the emergence of new companies in the market and market competition.

The **Junior NKE** in the area of environmental protection and finances is expected to provide the following services:

Development of the RIA applied to the Draft Law on Environmental Liability (LEL):

- a) Prepare a Review of the goal regarding the adoption of the LEL and drafting an explanatory note accompanying the adoption of the LEL;
- b) Prepare a Review on who will be affected and how will be affected with the solutions proposed by the LEL;
- c) Prepare an analysis on whether the positive effects of the adoption of the LEL justify the costs of its implementation
- d) In cooperation with the SNKE prepare an explanation on costs of implementation and enforcement of the Law to citizens and economy, especially small and medium-sized enterprises;

3.3 Outputs

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

A draft RIA applied to the Draft Law on Environmental Liability (in conjunction with the JNKE) containing:

- A Report of the financial implication of the adoption of the LEL and on the impact - the costs that law implementation and enforcement will bring to citizens and economy, especially small and medium-sized enterprises
- A draft projection on whether the LEL encourage the emergence of new companies in the market and market competition

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

- **An Explanatory note accompanying the draft Law on Environmental Liability (LEL)**
- **A draft RIA applied to the Draft Law on Environmental Liability containing (in conjunction with the SNKE):**
 - An analysis on who will be affected and how will be affected with the solutions proposed by the LEL;
 - An Analysis on whether the positive effects of the adoption of the LEL justify the costs of its implementation

Both experts are expected to work together and coordinate all their activities in the highest degree possible as well as plan the activities in conjunction with the Beneficiary and under the supervision of the PLAC team.

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 the SNKE and JNKE_in the context of this assignment.
- A brief interim report - only upon a request of the PLAC III team: TL and/or KE 2

Submission of reports:

- Draft mission report shall be submitted to the Team Leader of the Project for review and comments at the end of the mission.
- Final version of the mission report reports prepared in the agreed quality shall be submitted to the Team Leader of the Project for a review, comments and the final approval. The reports shall be signed by the NKE 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

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 planned mission.

3.6 Expert input

3.6.1 Total working days

15 working days (WDs) in total have been planned for Senior Non Key Expert and 25 working days for Junior Non Key Expert for this assignment.

3.6.2 Period of the assignment

May 2019 – October 2019

3.6.3 Starting day

It is expected that the work will be performed during several missions in the period from May 2019 until October 2019 at latest and starting, at the earliest, from 7 May 2019 onwards. However, exact starting date will be agreed at a later stage.

3.6.4 Location/Place of assignment

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

3.6.5 Working language

English

4. Experts' 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 such as law, economy, environmental engineering, environmental financing and accounting political science 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 harmonisation of legislation in relation to EU environmental *acquis*, gained in an EU member state, candidate or potential candidate country;

4.3 Specific professional experience (50 points)

- Postgraduate professional experience in developing RIA or developing financial projections of impacts of legislative or other measures on economy
- Postgraduate professional experience in transposition and/or implementation of Directive 2004/35/EC on environmental liability with regard to the prevention and remedying of environmental damage (ELD)
- Knowledge of Serbian legal system will be an advantage

5. Expert's 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 law, economy, environmental engineering, environmental financing and accounting, political science 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 harmonisation of legislation in relation to EU *acquis and/or* drafting legislation gained in an EU member state, candidate or potential candidate country.

5.3 Specific professional experience (50 points)

- Postgraduate professional experience in developing RIA of national and/or EU legislation
- Postgraduate professional experience with transposition and/or implementation of EU environmental *acquis* will be an advantage
- Knowledge of Serbian legal system will 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 and nderxen@dmiassociates.com no later than 8 April 2019, 17:00 hrs, titled: **“Application for the position – Senior or Junior NKE in the area of Environment and Climate Change, Ch. 27, RIA on Environmental Liability Law.**

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 or Nina Derxen: nderxen@dmiassociates.com.