

## Policy and Legal Advice Centre (PLAC III)

---

### 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. 2 Freedom of movement for workers and Ch. 24, Justice, freedom and security – legislation on reside and employment of foreigners
<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 of European Integration of the Republic of Serbia
<b>Target Beneficiaries:</b>	The Ministry of European Integration of the Republic of Serbia
<b>Budget Line/Expert Category:</b>	One Senior Non-Key Expert
<b>Duration of the assignment:</b>	10 working days (WD) from March until April 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 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 the area of Chapter 24, the EU has common rules governing border control, visas, residence and work permits, external migration and asylum. Schengen cooperation entails the lifting of border controls inside the EU. Member States also cooperate with Serbia in the fight against organised crime and terrorism, and on judicial, police and customs matters; all with the support of EU justice and home affairs agencies.

In accordance with Union acquis in Chapter 2 citizens of one Member State have the right to work in another Member State and must be given the same working and social conditions as other workers.

The Commission's fourth report under the visa suspension mechanism of August 2021 concluded that Serbia continues to meet the visa liberalisation benchmarks. The visa information system is operational in all diplomatic missions and consular posts. The issuing of visas at the national border crossing points is exceptional (European Commission Serbia 2022 Country Progress Report, p. 63).

However, the fourth report indicated that the Serbian visa issuing system is partially in line with the EU visa code. For further compliance, Serbia has to adjust visa procedures and visa regimes, to bring them into line with relevant EU regulations. In addition, Serbia needs to further align with the EU's common visa policy and further efforts are needed in the areas of integrated border management, anti-money laundering, counter-terrorism and in the prevention and fight against corruption and organised crime.

Furthermore, Serbia 2022 Country Progress Report of the European Commission states that "the procedures issuing work permits to EU citizens, who are currently covered by rules for third-country nationals, need to be further simplified" and that Serbia should continue to enhance cooperation with EU Member States on coordination of social security systems (Serbia 2022 Country Progress Report, p. 90).

The Law on Foreigners ("Official Gazette of the RS", Nos. 24/2018 and 31/2019) and the Law on Employment of Foreigners ("Official Gazette of the RS", Nos. 128/14, 113/17, 50/18 and 31/19) govern the conditions for the entry, movement, stay and return of foreigners, and conditions and procedure for the employment of foreigners in the Republic of Serbia and other matters of importance for the employment and work of foreigners, respectively.

The Ministry of Internal Affairs is the competent authority for regulating the entry, movement, stay and return of foreigners, while the National Employment Service is responsible for issuing work permits.

The National Programme for the Adoption of the Acquis (NPAA) envisages the adoption of the Law amending the Law on Foreigners (NPAA, 3.24.1. Migration, 2022-592) and the Law on Employment of Foreigners (NPAA, 3.2.1. Access to Labour Market, 2022-331) with the aim of aligning with Directive 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State and other relevant Union acquis.

The inter-ministerial working group prepared the draft amendments to the Law on Employment of Foreigners and the draft amendments to the Law on Foreigners.

The subject matter regulated by the draft laws includes the process of applying for visas, processing and approving applications for visas, single permits and permanent residence; deadlines; employment categories of foreigners; a foreign residence permit as a ground for stay; guarantee for foreigners.

In particular, the draft Law on Amendments to the Law on the Employment of Foreigners aims at further simplifying the procedure by which a foreigner is granted employment in the Republic of Serbia by introducing a single permit for residence and work. Also, the draft envisages a complete digitization of the procedure for issuing the single permit, which will contribute to the development of a more favourable business environment and facilitate foreign investments. Furthermore, a more flexible concept of employment of foreigners is being introduced to enable foreigners to exercise the right to temporary residence and the right to work at the same time in a faster and easier way.

To complement the amendments to the Law on the Employment of Foreigners, the draft amendment to the Law on Foreigners envisages a simplified procedure and introduces a single permit for temporary residence and work.

As a result, the introduction of a single permit, i.e. a permit for temporary residence and work, requires a simultaneous adoption of amendments to the Law on Employment of Foreigners and the Law on Foreigners to introduce a single procedure and uniform and efficient application of rules in the field of employment of foreigners.

Based on the competence of several institutions for the abovementioned laws, as well as the competence of the Ministry of European Integration in the process of coordinating the harmonisation of legislation with the Union acquis, expert assistance is needed in order to assist the MEI in producing the relevant tables of concordance assessing the impact on the level of compliance of the draft laws with the relevant Union acquis.

There is no ongoing technical assistance for this area.

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

#### **3.1 Specific objectives**

The specific objective of this assignment would be to provide assistance to the MEI in preparing the tables of concordance assessing the level of transposition and alignment of the legislation with the relevant Union acquis achieved by the draft amendments to the Law on Foreigners and the draft amendments to the Law on Employment of Foreigners.

In the scope of this objective, the selected expert shall develop Tables of Concordance based on the Law on Foreigners and the Law on Employment of Foreigners as amended by new drafts for the following Union acquis:

- Directive 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State;
- Directive 2003/86/EC of 22 September 2003 on the right to family reunification;
- Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents;
- Directive (EU) 2016/801 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (recast);

- Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code);
- Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals;
- Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, and who cooperate with the competent authorities.

For the purposes of delivering the outputs of the assignment, the selected expert will use existing tables of concordance developed on the basis of the laws in force, information provided by the MEI, and will closely cooperate with the representatives of the MEI.

### 3.2 Requested services

The Senior NKE is expected to provide the following services:

Drafting Tables of Concordance (ToCs) assessing the level of transposition and alignment of the relevant legislation based on Draft Amendments to the Law on Foreigners and the Draft Amendments to the Law on Employment of Foreigners covering Directives 2011/98/EU, 2003/86/EC, 2003/109/EC, (EU) 2016/801 (recast), 2008/115/EC, 2004/81/EC and Regulation (EC) No 810/2009

### 3.3 Outputs

The Senior NKE is expected to deliver the following output:

- ToCs, drafted.

### 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 the activities and outputs provided by the SNKE in the context of this assignment;
- A brief Interim Report - only upon the 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.

### **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 for this assignment.

#### **3.6.2 Period of the assignment and starting day**

It is expected that the work will be finished by the end of April 2022. The starting date will be confirmed at the 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 in law, economics 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*, gained in an EU Member State, a candidate or a potential candidate country.

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

- At least 6 (six) years of postgraduate professional experience in drafting legislation gained in an EU Member State, a candidate or a potential candidate country;
- Experience in drafting legislation in the field of free movement of workers 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 24 March 2023, 17:00 hrs, titled:

**“Application for the position – Senior NKE in the area of Negotiating Ch. 2 Freedom of movement for workers and Negotiating Ch. 24, Justice, freedom and security – legislation on reside and employment of foreigners”**

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.

Please note that pre-selected experts are 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 (if any) and within the number of working days requested.

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)