



Policy and Legal Advice Centre (PLAC III) ACT

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

Technical assistance requested:	1 (one) Senior Non-Key Expert in the area of negotiating Ch. 27 Environment and Climate Change; Transposition of the Union Climate Acquis – drafting legislation according to MRVA of EU ETS and Effort Sharing
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; Ministry of Environmental Protection
Budget Line /Expert Category:	One Senior Non-Key Expert
Duration of the assignment:	30 working days (WD), from May 2020 until December 2020

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 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 27 – Environment and Climate Change

Republic of Serbia is a candidate country for accession to EU and as such requires harmonisation of national legislation with the EU environmental acquis. In the process of transposition of EU Climate Acquis, as part of the Chapter 27 - Environment and Climate Change, Ministry of Environmental Protection (MoEP) has prepared a **Draft Law on climate change** (hereinafter referred to as: Draft Law). The Draft Law is transposing relevant EU legislation in the field of climate change, mainly Directive 2003/87/EC, Regulation (EU) 525/2013 together with Regulation (EU) 749/2014 and Regulation (EU) 666/2014, Decision No 406/2009 and Directive 1999/94/EC. The Draft Law has been prepared with the support of two EU funded Twinning projects¹.

Aim of the Draft Law is to establish a system for the reduction of emissions of greenhouse gases (hereinafter referred to as: GHG) and adaptation to climate change, fulfilling obligations toward United Nations Framework Convention on Climate Change and its Paris Agreement and alignment with EU Climate acquis.

The Draft Law provides, inter alia, a strategic framework for mitigation and adaptation to the climate change, and establishes a permitting system for operators of the stationary installations and aircraft operators as regard their GHG emissions, a monitoring, reporting and verification system for the GHG emissions from these installations and aircraft activities. It is expected that the Draft Law will be adopted by the end of 2020 while by-laws are prescribed to be adopted up to a year after adoption of the Draft Law.

EU Climate acquis which were transposed into the draft Law, were in the meantime amended in the period following the preparation of the draft Law. The main EU acquis affected by the amendments are as follows:

1. Directive (EU) 2018/410 of the European Parliament and of the Council of 14 March 2018 amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments, and Decision (EU) 2015/1814 (Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 9 October 2019.)
2. Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012.
3. Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018 on the verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council. It shall apply from 1 January 2019.
4. Regulation (EU) 2018/842 of the European Parliament and of the Council on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013

¹Creation of a monitoring, reporting and verification system for the successful implementation of EU Emissions Trading System (2013-2015); Establishment of a mechanism for implementation of Monitoring Mechanism Regulation (MMR) (2015-2017).

All above-mentioned directives and regulations are amending or repealing existing EU legal acts, which are transposed by the Draft Law and its by-laws.

Therefore, the PLAC project assistance and expertise is needed to finalise the transposition of the missing provisions of the EU climate acquis as listed above. The changes are quite comprehensive and require a detailed gap analysis before the drafting amendments to the draft Law and subsidiary legislation can commence.

At present, there is no on-going and/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 Ministry of Environmental Protection, the Climate Change Department, in preparation of amendments to the Draft Law and (re)drafting secondary legislation, namely by updating the existing and preparation of remaining by-laws (in draft) in accordance with the new EU climate acquis.

Considering the complexity and technicality of relevant EU Climate acquis, e.g. Regulation 2018/2066 has 78 articles and 10 Annexes, while Regulation 2018/2067 has 79 articles and 3 Annexes, the senior expert support to MEP is necessary in updating Draft Law as well as redrafting of existing and/ or drafting of new by-laws, as indicated in the ToR for the assignment.

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

1. A legal gap analysis of Serbian legislation compared to that of EU acquis, namely Directive (EU) 2018/410, Regulation (EU) 2018/2066, Regulation (EU) 2018/2067 and Regulation (EU) 2018/842, all in the context of the draft Law and its accompanying draft by-laws, that transposed Regulation (EU) No 600/2012 and Regulation (EU) No 601/2012
2. Preparation of amendments to the draft Law on Climate Change in line with the results of the above-mentioned legal gap analysis
3. Drafting of new and/or redrafting of the already drafted by-laws that transpose Regulation (EU) 2018/2067 and Regulation (EU) 2018/2066.
4. Preparation of Tables of Concordance for Directive (EU) 2018/410, Regulation (EU) 2018/2066, Regulation (EU) 2018/2067 and Regulation (EU) 2018/842.

3.2 Requested services

The Senior NKE for transposition of the EU Climate Acquis is expected to provide the following services:

1. Prepare a legal gap analysis of Serbian legislation of that of EU acquis, namely Directive (EU) 2018/410, Regulation (EU) 2018/2066, Regulation (EU) 2018/2067 and Regulation (EU) 2018/842 in the context of the draft Law and its accompanying draft by-laws due for adoption by December 2020 and a year after that respectively.
2. Prepare amendments to the Draft Law based on the results of the legal gap analysis
3. Draft new or re-draft already drafted by-laws accompanying the draft Law on Climate Change that transpose Regulation (EU) 2018/2067 and Regulation (EU) 2018/2066;

4. Prepare Tables of Concordance for the Directive (EU) 2018/410, Regulation (EU) 2018/2066, Regulation (EU) 2018/2067 and Regulation (EU) 2018/842.

3.3 Outputs

The Senior NKE for transposition of the EU Climate Acquis is expected to deliver the following outputs:

1. Legal Gap Analysis drafted
2. Proposal for amendments to the draft Law on Climate Change drafted
3. By-laws and/or amendments to bylaws drafted
4. Tables of Concordance for the Directive (EU) 2018/410, Regulation (EU) 2018/2066, Regulation (EU) 2018/2067 and Regulation (EU) 2018/842 drafted

3.4 Reporting

The SNKE shall provide the following reports 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 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 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 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.

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

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

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 2020 until end of December 2020. However, the starting date will be confirmed at the later stage.

3.6.3 Location/Place of assignment

The SNKE has to deliver 100% of the input in Serbia.

3.6.4 Working language

English.

4. Experts' Profile – Senior NKE (30 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, environmental science, natural and climate science, or similar relevant to the assignment
- Computer literacy
- Be proficient in report drafting
- Excellent communication and analytical skills
- Proficiency in English language
- 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 Ch. 27 of the Union environmental and climate acquis, gained in an EU member state, candidate or potential candidate country.

4.3 Specific professional experience (50 points)

- At least 3 years of postgraduate professional experience in harmonisation of legislation with the EU Climate acquis
- Postgraduate professional experience in an environmental regulatory authority of an EU Member State, candidate or potential candidate country will be an advantage.
- Knowledge of 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 and ehoward@dmiassociates.com no later than April 10 2020, 17:00 hrs, titled:

“Application for the position – Senior Non-Key Expert in the area of Ch. 27, Transposition of the Union Climate Acquis, drafting legislation according to MRVA of EU ETS and Effort Sharing”.

References must be available on request. Only short-listed candidates will be contacted.

Pre-selected experts will be requested to sign Statement of Availability (SoA) in which they acknowledge and confirm the 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 Project Manager at DMI Associates Marion Bayard: mail to mbayard@dmiassociates.com or Elizabeth Howard ehoward@dmiassociates.com .