

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. 10 – Information society and media
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. 10; Ministry Trade, Tourism and Telecommunications (MTTT)
Budget Line /Expert Category:	One Senior Non-Key Expert
Duration of the assignment:	40 working days (WD), from March 2021 until October ¹ 2021

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

¹ The deadline is a subject to the approval of the extension of the PLAC project duration

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 10 – Information Society and Media

The negotiating Chapter 10 is an important chapter in the process of the Republic of Serbia's accession negotiations with EU, encompassing electronic communications, information society services and audio-visual policy.

In the Screening Report from July 2014, Serbia was considered to be sufficiently prepared at that stage for negotiations on Chapter 10. Therefore, the Commission recommended the opening of accession negotiations with Serbia on Chapter 10 – Information Society and Media. Subsequently, Serbia was invited to present its Negotiating Position for Chapter 10. As a result of informal consultations with the Commission regarding the Draft Negotiation Position, in December 2020 Serbia was invited to finalize the Negotiation Position by aligning it with informal Commission's comments.

The current Law on Electronic Communications was enacted in 2010, after which it has been changed four times, including through the Constitutional Court's repeal of several provisions (related to traffic data retention and use of the regulatory authority's revenues) and through adoption of the Law on Fees for Using Public Goods was adopted in December 2018. This law regulates, inter alia, fee for the use of numbering and fee for the use of radio frequencies, as fees for public goods. Therefore, from 1st January 2019, the provisions of the Law on Electronic Communications related to these fees have ceased to be valid. The Law on Electronic Communications aligns the national legislation largely with the EU 2002 regulatory framework for e-communications.

A new draft law on electronic communications, aiming at full alignment with the EU 2009 regulatory framework, was first prepared and public consultations were initiated in November 2016. Upon completion of the procedure, in October 2017 the Government adopted the Law on Electronic Communications Proposal. Due to huge list of proposals of laws waiting to be adopted by Parliament, adoption of some of them have been delayed. Therefore, it happened that several articles in the Law on Electronic Communications Proposal, after the adoption of other laws, became in collision with them. For the harmonization of laws purposes, the Ministry of Trade, Tourism and Telecommunications has taken the Law Proposal out from the procedure of adoption in the Parliament. So, necessary changes in its text have to be prepared in order to start the new law adoption process. The draft law is expected to be adopted in the second quarter of 2021.

In the Communication on EU Enlargement Policy from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – 2020 Country Report for Serbia, Serbia was assessed as moderately prepared in the field of information society and media. One of the recommendations in the Report is to align the electronic communications legislation with the updated EU regulatory framework. Also, Serbia has the obligation under Article 106 of the SAA to fully align with the *acquis* on electronic communications.

The assistance from PLAC III will contribute to and enhance harmonisation with relevant EU regulations and their proper implementation and provide a support in meeting the recommendations set for Chapter 10, specifically in the field of electronic communications.

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 expert assistance to the Ministry of Trade, Tourism and Telecommunications (MTTT) that will enhance harmonisation with relevant EU regulations and their proper implementation and provide support in fulfilling the recommendations from the EC 2020 Serbia Country Report.

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

Support in the process of adoption of the new Law on Electronic Communications taking into account Serbian regulatory practice and market developments, by:

- Preparing a comparative analysis of the changes introduced by the European Electronic Communications Code with the current Serbian legislation in the sector
- Assist and support the MTTT during the public consultations process, alignment with received comments, suggestions and opinions obtained from professional and general public and relevant institutions
- Assist and support the MTTT in drafting bylaw on the technical conditions for mandatory registration of prepaid SIM card users based on the new draft Law on electronic communications

3.2 Requested services

The Senior Expert in the area of electronic communications is expected to provide the following services:

1. Prepare a comparative analysis of the changes introduced by the European Electronic Communications Code compared to the Draft Law on Electronic Communications and an assessment of the impact of new provisions on market developments.
2. Prepare Table of Concordance of Serbian legislation with Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code
3. Assist the MTTT in the public consultations process and in the finalisation of the acquis-compliant Draft Law on Electronic Communications
4. Provide recommendations on how to achieve full alignment having in mind the comments, suggestions and opinions received during the consultative process with professional and general public and other relevant institutions
5. Assist the MTTT in drafting of the bylaw on technical conditions for mandatory registration of prepaid SIM users, as well as provide guidelines for its implementation.

3.3 Outputs

The Senior NKE is expected to deliver the following outputs:

1. A comparative analysis of the Draft Law on Electronic Communications with the changes introduced by the European Electronic Communications Code and an assessment of the impact of new provisions on market developments drafted
2. A Table of Concordance of Serbian legislation with the European Electronic Communications Code drafted

3. Public consultations held²
4. Recommendations on how to achieve alignment of the Draft Law on Electronic Communications with comments, suggestions and opinions obtained from professional and general public and relevant institutions during public consultation process drafted
5. Bylaw on technical conditions for mandatory registration of prepaid SIM users, as well as guidelines for its implementation drafted

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 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 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

40 working days (WDs) in total have been planned for 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 performed during several missions in the period from March 2021 until October 2021. However, the starting date will be confirmed at the later stage.

3.6.3 Location/Place of assignment

² Depending on the beneficiary's organisation of the consultations

The SNKE has to deliver 100% of the input in Belgrade, Serbia unless otherwise agreed due to extraordinary circumstances (i.e. COVID-19). Home-based days are subject to a prior approval by the EU Delegation Project Manager responsible for PLAC III project.

3.6.4 Working language

English

4. Experts' Profile – Senior NKE (40 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 economy, finance, law 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 the Ch 10 of the Union acquis, gained in an EU member state or a candidate country.

4.3 Specific professional experience (50 points)

- Postgraduate professional experience in transposition and/or implementation of electronic communication sector regulations
- Postgraduate professional experience working in an electronic communications regulatory body/authority gained in an EU member state or EU candidate country will be an asset
- Knowledge of Serbian legal system will be an advantage

6. Applications

Applications (EU format CV and application letter in English) need to be submitted by e-mail to ehoward@dmiassociates.com, mbunga@dmiassociates.com, and akhani@dmiassociates.com no later than 11 March 2021, 17:00 hrs, titled:

“Application for the position – Senior NKE in the area of Ch. 10. Information Society and Media – Electronic Communications”

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 Elizabeth Howard ehoward@dmiassociates.com, Mareva BUNGA mbunga@dmiassociates.com, and Ariane KHANI akhani@dmiassociates.com.

