

TERMS OF REFERENCE

Evaluator (Inception Study) to the Reform Support Team for Legal Approximation of Ukrainian Legislation to the EU acquis.

ToR Date of Issuance: 10.02.2023

Due Date for Applications: 01.03.2023

1. Background

Post-war recovery and reconstruction will continue to be a key focus of the Ukrainian administration and the country's international partners in the years to come. This presents a historic chance for Ukraine to transform its socio-economic fundamentals and lay the groundwork for a stable, green and digital transition to a modern and thriving economy. After receiving the EU candidate status earlier this year, Ukraine's recovery efforts are expected to be anchored to the process of EU accession. This will require a significant increase in internal capacity as the EU integration agenda will need to be embedded into the core business of government.

Given the unique features of Ukraine's governance structures, the Parliament (Verkhovna Rada of Ukraine/VRU/Rada) will be as important an actor as the government in the recovery and EU accession process. Timely adoption of critical reforms will to a large extent, depend on the Parliament's capacity to deliver in the area of EU acquis and specific sectoral expertise in areas covered by the EU negotiating chapters. At the time of writing, however, the Parliament and its respective committees do not possess the required capacity.

In his dialogue with the Commissioner for Enlargement Oliver Varhelyi in September 2022, the Speaker of the VRU shared a proposal for the establishment of an externally funded team for legal approximation and requested EU support for its operations. Following this, the office of the Chairman of the Parliament approached the EU Delegation (EUD) and the EBRD to support the creation of such a team to address the existing capacity gaps in parliamentary secretariats to carry out compliance assessment of laws in line with the parliamentary resolution of 29 July 2022 "On certain measures to fulfil Ukraine's obligations in the area of European integration"¹.

Establishing a Reform Support Team for Legal Approximation of Ukrainian Legislation to the EU acquis Approximation (hereafter - RST) under the umbrella of the Ukraine Reforms Architecture programme could help address the existing capacity gaps in the area of EU acquis transposition and provide much-needed support to accelerate critical reforms by the Parliament. The RST will be integrated into existing coordination mechanisms between the Parliament and the Government while maintaining close collaboration and coordination with other reform teams of the Ukraine Reforms Architecture (located in line ministries/agencies and the Secretariat of the Cabinet of Ministers), therefore contributing to increasing the effectiveness of national institutional framework for managing the EU integration process.

The Ukraine Reforms Architecture (URA) is a comprehensive technical assistance programme deployed by the EBRD, in partnership with the European Union, to support critical reform processes in Ukraine. It is financed from the Ukraine Stabilisation and Sustainable Growth Multi-Donor Account (MDA) managed by the EBRD.

URA was designed as a holistic mechanism for stimulating systemic change in Ukraine's public institutions and improving the business climate in the country. URA fills the critical capacity gaps by supplying reform talent at all levels of the government. Since 2016, more than 200 Ukrainian reformers have worked in the project's various components and contributed to dozens of reform outcomes, strategies and policies.

Currently URA is composed of two mutually reinforcing components:

¹ <https://zakon.rada.gov.ua/laws/show/2483-20#Text>

- The Reforms Delivery Office (RDO) placed in the Cabinet of Ministers of Ukraine, coordinating and overseeing the reform processes across the Ukrainian administration
- Reform Support Teams (RSTs) currently embedded in eight Ministries and Agencies to manage the implementation of sectoral reforms. RSTs are a group of Ukrainian experts, hired from outside the public administration, with the overall objective of facilitating implementation of key reforms and establishing a new generation of reform-oriented Ukrainian citizen. They provide targeted, temporary expert support to assist Ministries and agencies in the design and implementation of priority sectoral reforms and restructuring of the Ministries themselves. RSTs are active at the Ministries of Finance, Economy, Communities and Territories Development, Infrastructure, Environmental Protection and Natural Resources, Education and Science, Energy and the State Customs Service.

2. Objectives and Scope of the Services

The overall objective of this assignment is to provide high-quality expertise during Phase 1 of VRU RST. Specific objectives include (i) comprehensive analysis of the existing VRU governance structure and expert capabilities of Secretariat, particularly in the area of European Integration and legal analysis of compliance of draft legislation against EU acquis, (ii) proposal for its enhancement for greater process efficiency and results,; and (iii) creation of ex-ante monitoring and evaluation framework that will enable continuous assessment of VRU RST performance and course correction when needed.

In view of the urgent need to start laying the groundwork for Ukraine's recovery and EU accession, prompt mobilization of support (Pilot Team) would enable to address the most critical gaps Ukraine faces in its ability to start preparing for the EU integration process. At the same time, to ensure sustainability of support provided, it needs to be based on prior research, clear on the evidence base and supported by a robust M&E framework.

In this regard, the conduction of the **inception study** during the Phase 1 of the project will serve to:

- **Analyze the current and expected** (following the adoption of amendments to the Rada Rules of Procedure) **procedural and institutional model of management of legal approximation and European Integration (EI) process in the Parliament**, with a view to defining institutional weaknesses and risks as well as developing a detailed proposal for RST that would be fully integrated in the future parliamentary model of managing EI and legal approximation;
- **Assess** capacity and expertise gaps in relation to compliance assessment of draft legislation against EU acquis within the parliamentary secretariat, including secretariats of the parliamentary committees;
- Based on the above **assessment of capacity and expertise gaps on legal approximation matters within the parliamentary secretariat**, **map existing and future expertise and capacity** in the area of legal approximation and EI within the URA teams (RDO and RSTs), as well as within other technical assistance projects cooperating with URA teams;
- Subject to approval of the parties (EBRD, EU, Rada), including the parliamentary secretariat (legal and expert departments), secretariats of the parliamentary committees, and Rada Research Service, **formulate a detailed project proposal for the full roll-out of support (Phase 2)**, foreseen for up to 3 years starting from the full set-up of the RST, to the VRU that addresses these needs and establishes a solid foundation for the RST's functioning, including potential adoption of dedicated VRU decision on the RST scope of work; taking into account the parliamentary model for managing the EI and legal approximation process based on appropriate changes to the Rules of Procedure and other legal acts;
- **Propose models of effective use of resources** through identification of barriers and risks prior to a full roll-out of larger scale support;
- **Establish mechanisms for mitigating the identified risks**, including for avoiding duplication with the growing volume of projects geared towards supporting the recovery and EU integration of Ukraine by different donors;

- **Reflect (within the Scoping Study document) on sustainability** of the future team in terms of coherence of its integration into the formal structures of the Parliament, aligned with VRU's own plans for reorganisation in light of the requirements of legal approximation policy.

The result of this work will be summarized by the Expert in the **Inception Report** outlining results of the Pilot Team's findings and suggestions for a design of a more comprehensive support to the Parliament (Phase 2).

Establishment of the Pilot Team will help test in practice initial assumptions of how assistance in the form of a more substantial team should work, including how it can ensure that conflicts of legal opinions are addressed early in the drafting process, by spearheading consensus building initiatives and working to resolve differences of interpretation among interested stakeholders, including by promoting wider policy debates within relevant parliamentary committees with the involvement of the Government and the line ministries. Experts of the Pilot RST will be embedded in the Parliamentary Secretariat, working in direct coordination with the Office of the Chairman of the VRU and leadership of the parliamentary secretariat. The team will be led by a Team Lead who will be the primary point of contact for coordination within the VRU and in relation to other parts of the GoU involved in the EI process.

3. Expected Deliverables

The Expert, supported by Pilot Team experts, will be expected to deliver:

- Interim Inception Report
- Final Inception Report

Inception Report

The inception study will set the groundwork for an effective work of the future Reform Support Team for Legal Approximation of Ukrainian Legislation to the EU acquis. During Phase 1 and based on the analysis of the pilot outcomes and encountered challenges, the Expert, in close coordination with the Pilot Team (RST), the EBRD and the EUD, will produce a **detailed report**, including:

- Outline of existing capacity needs within the relevant structures of the VRU with respect to planning and implementation of EU integration and legal approximation;
- Outline of ongoing and upcoming institutional, legal and HRM transformations linked to EI process to be implemented by the VRU in line with the recommendations prepared under the leadership of former President of the European Parliament Pat Cox.
- Proposals for prioritization of support to clearly identified areas and functions based on the list of priority laws in the area of EI (or joint Rada-CMU plan of legislative work for EI);
- Proposed design of the RST, including team size and composition, reporting lines and coordination mechanisms with the VRU/Government as well as with other actors supporting the EU integration of Ukraine (other donor projects, civil society, etc.);
- Mechanism for interaction and coordination with other URA structures, RDO and RSTs (such as regular coordination meetings between with RDO and other RSTs), as well as EU-funded sectoral projects;
- Underlying risks and strategies for their mitigation, including but not limited to risks related to the political environment and electoral cycle, coordination (both internal and external), capacity development and long term sustainability;
- Key milestones and indicators for determining progress and triggering programme review/adaptation/exit;
- Key capacity gaps within the VRU and an outline of a capacity development plan to ensure necessary increase of capacity of the parliamentary secretariat on legal approximation and of sustainability of the RST (in close coordination with the EBRD, EUD and other relevant stakeholders).

The specified lists of scope and specification of the services and expected deliverables are not exhaustive and can be modified and supplemented on request and agreement with EUD/EBRD or on request from the VRU.

Inception Report timeline

The Inception Report will consist of two parts a) Interim Report, to be submitted within 2 months of the Phase 1 launch and b) Final Report, to be submitted within 3 months of the Phase 1 launch.

The key beneficiary of the specified list of expected deliverables from the Parliament's side will be the Parliamentary Secretariat.

4. Reporting Line

The Expert will be directly reporting to designated URA manager within the EBRD team.

5. Duration of the Assignment

The duration of the assignment is a 3 months. Subject to funding availability and the RST performance this appointment may be extended.

6. Key Skills, Qualifications and Experience Required

The Expert will have competence in project/programme evaluation and substantial experience completing similar assignments in the context of international development projects.

Professional experience:

- Comprehensive experience in legislative and policy-making/or legal advice and/or legal research in Ukraine.
- Extensive experience (minimum 7 years) in ex-ante and/or ex-post programme evaluation, particularly relating to national reforms, institutional capacity building and development. This shall be demonstrated through direct involvement in preparation of at least 3 evaluation reports (titles/links to be provided in the application form).
- At least 3 years of professional experience relevant to EU law and legal approximation of Ukrainian legislation to EU acquis.
- Strong knowledge of the relevant methodological approaches and experience in applying qualitative and quantitative evaluation methods and tools.
- Deep knowledge and understating of VRU's internal processes and regulations, legislative procedure and operational mechanisms.
- Knowledge of the EU acquis in respective areas proven by relevant experience or training in:
 - understanding of policymaking processes in the EU;
 - strong planning, stakeholder coordination, and team management skills.

Other experience:

- Good understanding of the reform agenda in Ukraine and policy formulation processes.
- Experience of working with the governmental bodies in Ukraine, good knowledge of their mandate and processes.

Qualifications and skills:

- Master's degree in law, economics, finance, business, public administration or other relevant fields.
- Strong ethical standards.
- Strong communication and presentation skills.
- Strong organisational and analytical skills, with the ability to interpret complex legal, commercial and financial information.
- Excellent written and verbal skills in English and Ukrainian.
- Agility and ability to work under pressure

7. Funding Source

The funding source of this assignment is the EBRD Ukraine Stabilisation and Sustainable Growth Multi-Donor Account (MDA). Contributors to the MDA are Denmark, Finland, France, Germany, Italy, Japan, the Netherlands, Norway, Poland, Sweden, Switzerland, the United Kingdom, the United States and the European Union, the largest donor.

8. Submissions

Submissions must be prepared in English and delivered electronically by 01.03.2023 to the following email address: **[recruitment.ura@gmail.com]**

All submissions must include:

- Completed, signed and scanned/photographed Application Form;
- Completed, signed and scanned/photographed Non-Disclosure Agreement Form;
- Applicant's CV;
- At least one reference letter from a recent supervisor/manager (in English or Ukrainian with English translation), signed by the referee and scanned/photographed;
- Contact details for two further referees who, if contacted, can attest to the professional and/or educational background of the candidate.

Only applications which have been submitted using the correct template and are fully completed will be considered.

9. Selection Procedure

Following the evaluation of all applications received, selected candidates will be invited for further testing. Only shortlisted candidates will be invited to the interview.