TENDER FILE / TERMS OF REFERENCE
(Restricted consultation procedure / Framework Contract)

Purchase of consultancy services as Lawyer for the JUSTROM2 Joint Programme in Romania
Ref. JUSTROM2(2018)/Lawyer/RO/01

The Council of Europe will implement the second phase of the JUSTROM Joint Programme on Access to Justice for Roma and Traveller Women[1] in Bulgaria, Greece, Ireland, Italy and Romania from 1 April 2018 until 31 March 2019. In that context, it is looking for Provider(s) of consultancy services as Lawyer for the JUSTROM2 Programme in Romania to be requested by the Council on **an as needed basis**.

A. TENDER RULES

This tender procedure is a restricted consultation procedure. **In accordance with Rule 1333 of the Secretary General of the Council of Europe on the procurement procedures of the Council of Europe[2], the Organisation shall invite to tender at least three potential providers for any purchase between €2,000 (or €5,000 for intellectual services) and €55,000 tax exclusive.**

This specific tender procedure aims at concluding a **framework contract** for the provision of deliverables described in the Act of Engagement (see attached). A tender is considered valid for 120 calendar days as from the closing date for submission. The selection of tenderers will be made in the light of the criteria indicated below. All tenderers will be informed in writing of the outcome of the procedure.

The tenderer must be either a natural person, or a duly registered company under sole proprietorship of a natural person, or equivalent, provided that the signatory of the Act of Engagement is individually liable for all obligations undertaken by the entity, and is the owner of the moral rights in any creations of the entity. If contracted by the Council of Europe, the signatory of the Act of Engagement shall provide the deliverables personally, in accordance with the terms as provided in the current Tender File, Act of Engagement and future Order Forms (see Section D below on ordering procedure).

Tenders shall be submitted **by email only** (with attachments) **to the email address indicated in the table below, with the following reference in subject: JUSTROM Lawyer - Romania.** Tenders addressed to another email address **will be rejected.**

The general information and contact details for this procedure are indicated on this page. You are invited to use the CoE Contact details indicated below for any question you may have. **All questions shall be submitted at least 5 (five) working days before the deadline for submission of the tenders and shall be exclusively addressed to the email address indicated below with the following reference in subject: Q&A – JUSTROM Lawyer - Romania**

Type of contract ►	Framework contract
Duration ►	Until 31 March 2019
Deadline for submission of tenders/offers ►	**15 April 2018**
Email for submission of tenders/offers ►	**justrom@coe.int**
Email for questions ►	justrom@coe.int
Expected starting date of execution ►	23 April 2018

[1] The term "Roma and Travellers" is used at the Council of Europe to encompass the wide diversity of the groups covered by the work of the Council of Europe in this field: on the one hand a) Roma, Sinti/Manush, Calé, Kaale, Romanichals, Boyash/Rudari; b) Balkan Egyptians (Egyptians and Ashkali); c) Eastern groups (Dom, Lom and Abdal); and, on the other hand, groups such as Travellers, Yenish, and the populations designated under the administrative term "*Gens du voyage*", as well as persons who identify themselves as Gypsies. The present is an explanatory footnote, not a definition of Roma and/or Travellers.

[2] The activities of the Council of Europe are governed by its Statute and its internal Regulations. Procurement is governed by the Financial Regulations of the Organisation and by Rule 1333 of 29 June 2011 on the procurement procedures of the Council of Europe.

B. EXPECTED DELIVERABLES

Background of the Project

JUSTROM2 is an extension of JUSTROM, a European Commission and Council of Europe Joint Programme on Access to Justice for Roma and Traveller women. The first phase of JUSTROM confirmed that Roma and Traveller women lack adequate access to justice due to numerous factors, including lack of information and education (illiteracy), lack of identity documents, statelessness, poverty and debts, disability, victimization, lack of access to a lawyer and discrimination. JUSTROM2 will therefore continue to place at its core Roma and Traveller women in Bulgaria, Greece, Ireland, Italy and Romania, and to enlarge its scope of empowering Roma and Traveller women by facilitating mentoring and promoting active citizenship in co-operation with Roma and Traveller women's associations and networks.

JUSTROM2 will also continue to involve and target equality bodies, national human rights institutions and National Roma Contacts Points (NRCPs) and members of the Council of Europe Ad Hoc Committee of Experts on Roma and Traveller Issues (CAHROM) in dealing with non-discrimination cases related to Roma and Travellers, in line with their mandates and priorities. For this reason, JUSTROM2 will seek to strengthen links, exchanges and partnerships with and among actors at different levels, such as local, national, regional, supra-national and European level, including local and central government institutions, human rights organisations, equality bodies, Bar associations and legal aid bureaus, Roma and Traveller women non-governmental organisations and Roma and Traveller communities themselves. These will create an inclusive and enabling environment leading to accountability and sustainable change in Roma and Traveller communities.

During the implementation of JUSTROM, particular issues were identified in each country. In JUSTROM2, such issues will therefore be prioritised, although the legal clinics will keep on addressing all cases brought by the communities. Thus, in Romania, the project will focus, inter alia, on property and housing rights and child protection/children's rights.

JUSTROM2 maintains its long-term objectives, including a) support the empowerment of Roma and Traveller women through increasing their awareness about discrimination, complaint mechanisms, the justice system and human rights institutions/equality bodies; b) increase the number of cases of discrimination against Roma and Traveller women admitted by human rights institutions, equality bodies and courts; c) enhance professional resources used at national level by the judiciary, law enforcement and NGOs/human rights advocates regarding the application of anti-discrimination standards with a focus on multiple discrimination, gender equality and Roma and Traveller women and d) increase synergy between the institutional frameworks of the EU and Council of Europe, including through NRCPs and CAHROM, and with national and local authorities on national Roma integration strategies and civil society regarding access to justice.

The JUSTROM teams will consist of a lawyer, a legal assistant and a facilitator in each legal clinic, overseen by the National Coordinator. **In Romania, 2 legal clinics have been established in Bucharest and Calarasi, respectively.**

The present tendering procedure aims at selecting up to 3 Service Providers per lot for 3 (three) lots (provided enough tenders meet the criteria indicated below) in order to provide consultancy services as lawyers:

- **Lot 1:** consultancy services as lawyer to be provided at the legal clinic in Bucharest;
- **Lot 2:** consultancy services as lawyer to be provided at the legal clinic in Calarasi.

This Contract is currently estimated to cover up to 12 days per month, for 11 months, between April 2018 and March 2019 (132 days in total). This estimate is for information only and shall not constitute any sort of contractual commitment on the part of the Council of Europe. The Contract may potentially represent a higher or lower number of activities, depending on the evolving needs of the Organisation.

For information purposes only, the total budget of the project amounts to 866,222 Euros and the total amount of the object of present tender **shall not exceed 55,000 Euros tax exclusive** for the whole duration of the Framework Contract. This information does not constitute any sort of contractual commitment or obligation on the part of the Council of Europe.

Scope of the Framework Contract

Throughout the duration of the Framework Contract, pre-selected Providers may be asked to:

Contribute to the implementation of the JUSTROM2 programme in Romania, between April 2018 and March 2019, including:

- Ensure the effective and timely implementation of JUSTROM project activities at local level and contribute to achieving the thematic priorities set at national level;
- Coordinate the work of the legal assistant and of the facilitator under the guidance of the national coordinator;
- Submit a narrative report to the JUSTROM Management Team and the national coordinator on a monthly basis, based on the template provided and the respective order forms;
- Access Roma communities with the assistance of the facilitator and the legal assistant, as needed;
- Provide legal information, advice/assistance to the target community(ies) with priority to Roma women beneficiaries;
- Represent Roma women before courts, where relevant, and upon agreement with the project manager;

- Refer cases to free legal aid and, where needed, assist beneficiaries in their application to free legal aid;
- Refer cases to relevant institutions and, where needed, assist beneficiaries with submissions to the Ombudsman, the National Council for Combating Discrimination (NCCD), Child protection, Police, Municipalities and Social assistance services, Embassies, etc.;
- Identify and launch strategic litigation cases with particular focus on country priorities, upon agreement with the Project Management Team, the lawyer shall be under a moral obligation to continue representing the plaintiffs to the best of his/her abilities and subject to his/her time availability even after the end of the programme; the Council of Europe shall, on its part, make every reasonable effort to ensure the provision of support and assistance to the lawyers after the conclusion of the programme;
- Implement Alternative Dispute Resolution (ADR) whenever possible to avoid trial;
- Signal administrative or legal obstacles stemming from the substantive work of the clinic which would require the involvement of lobbying and discussions with key stakeholders;
- Provide directions to the legal assistant to ensure maintenance and management of cases registered by the legal clinic;
- Promote the concept of legal clinics with lawyers and bar associations and other stakeholders whenever possible;
- Provide information and counsel to the target communities on human rights, discrimination and legal solutions during the monthly awareness-raising gatherings, organised together with the legal assistant, facilitator and/or national coordinator;
- Prepare updates on the work of the legal clinic for the quarterly meetings with implementing partners such as Equality Bodies, Legal Aid Board, the National Roma Contact Point, CAHROM member and bar associations, as relevant;
- Facilitate together with the national coordinator 4 info days by municipalities with beneficiaries on local services, including social benefits;
- Conduct the seminars with free legal aid lawyers on Roma issues and findings of the legal clinic;
- Facilitate the visit of the expert(s) conducting the independent project evaluation (January-March 2019);
- Ensure confidentiality of JUSTROM clients in accordance with the national regulations on confidentiality and data protection; use the information from the cases for the purposes of the JUSTROM programme only; restrict access to sensitive information about beneficiaries to the legal assistant;
- Contribute to a monthly work plan for the local team, including the achievement of monthly indicators and mitigation solutions;
- Participate in Skype meetings;
- Ensure the achievement of monthly and overall indicators of the JUSTROM programme as well as contribute to the thematic priorities set at national level;
- Ensure a smooth communication with and between the legal assistant and facilitator;
- Inform the national coordinator of any significant problems encountered by the local team in achieving the programme objectives or in situations of conflict regarding team members or with a third party;
- Represent the Council of Europe before stakeholders, as agreed with the Council of Europe Secretariat;
- Promote Council of Europe values.

The above list is not considered exhaustive. The Council reserves the right to request deliverables not explicitly mentioned in the above list of expected services, but related to the field of expertise object of the present Framework Contract.

In terms of **quality requirements**, the pre-selected Service Providers must ensure*, inter alia*, that:

- The services are provided to the highest professional/academic standard;
- Any specific instructions given by the Council – whenever this is the case – are followed.

In addition to the orders requested on an as needed basis, the Provider shall keep regular communication with the Council to ensure continuing exchange of information relevant to the project implementation. This involves, among others, to inform the Council as soon as it becomes aware, during the execution of the Contract, of any initiatives and/or adopted laws and regulations, policies, strategies or action plans or any other development related to the object of the Contract (see more on general obligations of the Provider in Article 3.1.2 of the Legal Conditions in the Act of Engagement).

Unless otherwise agreed with the Council, written documents produced by the Provider shall be in English (see more on requirements for written documents in Articles 3.2.2 and 3.2.3 of the Legal Conditions in the Act of Engagement).

C. FEES

Tenderers are invited to indicate their fees, by completing and sending the table of fees, as attached in Section A to the Act of Engagement. These fees are final and not subject to review. Tenders proposing fees above the exclusion level indicated in the Table of fees will be **entirely and automatically** excluded from the tender procedure.

The Council will indicate on each Order Form (see Section D below) the global fee corresponding to each deliverable, calculated on the basis of the unit fees, as agreed by this Contract.

D. HOW WILL THIS FRAMEWORK CONTRACT WORK? (ORDERING PROCEDURE)

Once this consultation and the subsequent selection are completed, you will be informed accordingly. Deliverables will then be delivered on the basis of Order Forms submitted by the Council to the selected Provider(s), by post or electronically, on **an as needed basis** (there is therefore no obligation to order on the part of the Council).

Ranking

Each time an Order Form is sent, the selected Provider undertakes to take all the necessary measures to send it **signed** to the Council **within 5 (five) working days** after its reception. Orders will be addressed in priority to the first Provider on the ranking list of the tender. If this Provider is unable to take the Order or if no reply is given on his behalf within that deadline, the Council may call on the second Provider on the ranking list of the tender, and so on down the list.

Providers subject to VAT
The Provider, **if subject to VAT**, shall also send, together with each signed Form, a quote[3] (Pro Forma invoice) in line with the indications specified on each Order Form, and including:

- the Service Provider's name and address;
- its VAT number;
- the full list of services;
- the fee per type of deliverables (in the currency indicated on the Act of Engagement, tax exclusive);
- the total amount per type of deliverables (in the currency indicated on the Act of Engagement, tax exclusive);
- the total amount (in the currency indicated on the Act of Engagement), tax exclusive, the applicable VAT rate, the amount of VAT and the amount VAT inclusive.

Signature of orders
An Order Form is considered to be legally binding when the Order, signed by the Provider, is approved by the Council, by displaying a Council's Purchase Order number on the Order, as well as by signing and stamping the Order concerned. Copy of each approved Order Form shall be sent to the Provider, to the extent possible on the day of its signature.

E. ASSESSMENT

Exclusion criteria and absence of conflict of interests
(by signing the Act of Engagement, you declare on your honour not being in any of the below situations)[4]

Tenderers shall be excluded from participating in the tender procedure if they:

- have been sentenced by final judgment on one or more of the following charges: participation in a criminal organisation, corruption, fraud, money laundering;
- are in a situation of bankruptcy, liquidation, termination of activity, insolvency or arrangement with creditors or any like situation arising from a procedure of the same kind, or are subject to a procedure of the same kind;
- have received a judgment with res judicata force, finding an offence that affects their professional integrity or serious professional misconduct;
- do not comply with their obligations as regards payment of social security contributions, taxes and dues, according to the statutory provisions of their country of incorporation, establishment or residence;
- are or are likely to be in a situation of conflict of interests.

Eligibility criteria

- University degree in Law;
- At least two years' experience post-qualification in litigation;
- Experience in civil, administrative and/or criminal law;
- Experience working with vulnerable or minority groups;
- Fluency in written and spoken Romanian;
- **A valid practising license for the project implementation period** (in case the tenderer is not in a position to provide a valid license, a supporting document proving that there is on-going request). In cases where the tenderer has a valid license at the time of tendering, but with an expiring date in the middle of the implementation period, the tenderer should be in a position to renew it in a timely manner which does not negatively impact the project implementation).

[3] It must strictly respect the fees indicated in the Act of Engagement. In case of non-compliance with these fees, the Council of Europe reserves the right to terminate the Contract with the Provider, in all or in part.
[4] The Council of Europe reserves the right to ask tenderers, at a later stage, to supply an extract from the record of convictions or failing that an equivalent document issued by the competent judicial or administrative authority of the country of incorporation, indicating that the first three above listed exclusion criteria are met, and a certificate issued by the competent authority of the country of incorporation indicating that the fourth criterion is met.

Award criteria

- Quality of the offer (90%), including:
  - Understanding the Council of Europe's needs;
  - Quality in reporting;
  - Knowledge of the European Convention on Human Rights and the European Court of Human Rights' case law on non-discrimination;
  - Experience in working on Roma women's issues;
  - Knowledge of Romani language;
  - Relevant previous involvement with programmes on access to justice for Roma;
  - Depth of experience in dealing with Roma plaintiffs;
  - Knowledge and/or expertise of non-discrimination and/or gender equality provisions at national level.

- Financial offer (10%).

The Council reserves the right to hold interviews with eligible tenderers.

Multiple tendering is not authorised.

F. DOCUMENTS TO BE PROVIDED

- A completed and signed copy of the **Act of Engagement**[5] (See attached);
- A signed Declaration of honour (See attached);
- A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria;
- Motivation letter;
- A detailed work plan for the first month (including how outreach in Roma communities will be envisaged);
- 2 (two) referees' contact details;
- **A valid practising license for the project implementation period** (in case the tenderer is not in a position to provide a valid license, a supporting document proving that there is on-going request). In cases where the tenderer has a valid license at the time of tendering, but with an expiring date in the middle of the implementation period, the tenderer should be in a position to renew it in a timely manner which does not negatively impact the project implementation).

All documents shall be submitted in English, French or Romanian, failure to do so will result in the exclusion of the tender. Please note that the Act of Engagement must be filled in in English only.
If any of the documents listed above are missing, the tender will not be considered.

The Council reserves the right to reject a tender if the scanned documents <u>are of such a quality that the documents cannot be read once printed.</u>

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[5] The Act of Engagement must be completed, signed and scanned in its entirety (i.e. including all the pages). The scanned Act of Engagement may be sent page by page (attached to a single email) or as a compiled document, although a compiled document would be preferred. For all scanned documents, .pdf files are preferred.