



TENDER FILE / TERMS OF REFERENCE

(Restricted consultation procedure / Framework Contract)

Purchase of consultancy services on hate crimes and hate speech

The Council of Europe (the CoE) is currently implementing a Project on fight against discrimination, hate crimes and hate speech in Georgia. The Project contributes to ensuring that the legal framework is in place, institutions and key stakeholders implement policies tackling discrimination, racism, homophobia, transphobia and hate speech in Georgia. In that context, it is looking for several Providers for the provision of consultancy services for development of the online skills development HELP course on investigation techniques for cases of hate crimes and hate speech.

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 Europe¹, 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: Hate_crimes/hate_speech_expertise_international**. 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 2 (two) 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: Questions: Hate_crimes/hate_speech_expertise_international**.

Type of contract ▶	Framework contract
Duration ▶	Until 31 December 2019
Deadline for submission of tenders/offers ▶	09 July 2018
Email for submission of tenders/offers ▶	DGI-HRImplementation@coe.int
Email for questions ▶	DGI-HRImplementation@coe.int
Expected starting date of execution ▶	27 August 2018

¹ 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

The CoE is currently implementing the project "Fight against discrimination, hate crimes and hate speech in Georgia" funded by the Government of Denmark.

Specific objectives of the project are:

1. To review national legislation on anti-discrimination, anti-racist and anti-homo-/ trans-phobic hate speech for its compliance with European standards and recommend amendments to criminal, civil and administrative laws;
2. To support capacity building measures of relevant national authorities in fighting discrimination and intolerance;
3. To assist the authorities in establishing effective monitoring systems for racist and homo/trans-phobic hate speech.

All capacity development activities will be organised using the HELP methodology and tools.

The CoE through this project will provide expertise, build competences, advocate and raise awareness among policy makers, legal and law enforcement agencies and civil society organisations to enable them to:

- fully align national legislation and bylaws on anti-discrimination, hate crimes and hate speech and monitoring mechanism in accordance with European standards
- contribute to its effective implementation
- increase public awareness and appreciation for the laws' contribution towards democracy, human rights, peace and prosperity in Georgian society.

In that context, the CoE is looking for a maximum of 14 Providers/Consultants (provided enough tenders meet the criteria indicated below) for the provision of consultancy services for development of the online skills development HELP course on investigation techniques for cases of hate crimes and hate speech (hereinafter the Course) in Georgia. A maximum of 6 of the selected consultants will be invited to become members of a Working Group for the development of the HELP course.

The Course will target three groups of legal professionals: judges, prosecutors and investigators. The Course is foreseen to be developed as online interactive course which will include the simultaneous participation of the three groups and each of the target groups will, by participating in the course, contribute to its dynamic, content and structure. The Working Group can further decide to include a fourth category of professionals (lawyers) in the structure of the course.

Following its development in English language, the Course will be translated to Georgian language and launched for several groups of Georgian legal professionals.

The selected Consultants are expected to participate in 5 (five) Working Group (WG) Meetings.

The aim of the first WG meeting is to introduce consultants to each other and to introduce them to the HELP Programme and its methodology (in particular the e-learning course development approach). By the end of the meeting, consultants have to agree on the first draft of the course outline, the training needs, the overall learning objectives, the format of the course, share tasks among them and set the timeframe. Given the innovative nature of the course, the WG is also expected to produce the main tree of possible learning scenarios.

The aim of the second WG meeting is to discuss the contribution of each consultant in order to edit them accordingly. Consultants are asked to deliver a short presentation about their respective contribution. Interactivity is addressed as well. By the end of the meeting, consultants have to agree on the changes to be made in the respective contributions and on the list of multimedia tools to be added. They also need to agree on finer details and branches of the learning scenarios tree.

The aim of the third and fourth WG meetings is to discuss and approve the final version of training materials. By the end of the fourth meeting, consultants have to agree on the final changes to be made on the content of the drafted contributions.

The fifth WG meeting (the Storyboard meeting) is dedicated to finalizing the interactive version of the course and its e-learning design. All or some WG members may be invited to the Storyboard meeting, alongside the e-learning designer.

During the development process, the consultant is expected to:

- review the existing materials and training courses on the topic and get familiar with the HELP methodology and its online courses;
- draft selected modules/parts of the course as agreed with other participants in the WG. While drafting those materials the consultant undertakes to use the templates which are provided by the CoE Secretariat. Furthermore when the WG member refers to ECtHR judgments or decisions, he/she undertakes to insert the hyperlink in the text (preferably, to the press-release of the judgment/decision);
- build and maintain a close working relationship with the members of the WG in order to communicate with each other and exchange training materials during the drafting process;

- keep the CoE Secretariat regularly updated on the development of the drafting process;
- meet the deadlines when submitting the draft and final contributions.

At the first WG meeting, a coordinator of the WG will be selected from among the selected consultants.

In addition to the above tasks, the coordinator will be expected to:

- liaise regularly with the COE Secretariat and the WG members to ensure the timely submission of their contributions; and
- review the draft submissions by other WG members before Working Group meetings in order to ensure the complementarity of the content of the submissions and uniformity of terminology and style.

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.

Lots

The present tendering procedure aims to select Providers to support the development of the HELP Course and is divided into the following lots:

Lots ▼	Maximum number of Providers to be selected ▼
<p>Lot 1. Course development with focus on procedural and practical aspects of hate crimes and hate speech investigation</p> <p>A. Participation as a member or coordinator at all of the WG meetings and, upon a request of the CoE Secretariat, at the Storyboard meeting for the course finalization</p> <p>B. Course module development, preparation of contributions with focus on investigation of hate crimes and hate speech and coordination of the final Course outline with other WG members and CoE Secretariat</p>	10
<p>Lot 2. Course development with focus on the Georgian context</p> <p>A. Participation as a member at all of the WG meetings and, upon a request of the CoE Secretariat, at the Storyboard meeting for the course finalization</p> <p>B. Course module development, preparation of contributions with focus on investigation in the Georgian context, and coordination of the final Course outline with other WG members and CoE Secretariat</p>	4

Lot 1 concerns: Course development with focus on procedural and practical aspects of hate crimes and hate speech investigation

Strengthening the capacity of the judges, prosecutors and investigators to properly investigate cases of hate crimes and hate speech helps to ensure that they have sufficient capacity to effectively fulfil their role. The Course is aimed at groups which are directly responsible for implementing the ECHR standards on hate crimes and hate speech.

The course will aim at addressing both procedural and practical aspects of hate crimes and hate speech investigation. The core of the innovative nature of the course will be the possibility of various groups of participants to interact in a simulated case environment providing contributions and making choices of simulated actions approximated to a real-life scenario of investigating a hate crime.

Lot 2 concerns: Course development with focus on the Georgian context

Strengthening the capacity of the judges, prosecutors and investigators to properly investigate cases of hate crimes and hate speech helps to ensure that they have sufficient capacity to effectively fulfil their role. The Course is aimed at groups which are directly responsible for implementing the ECHR standards on hate crimes and hate speech.

The core of the innovative nature of the course will be the possibility of various groups of participants to interact in a simulated case environment providing contributions and making choices of simulated actions approximated to a real-life scenario of investigating a hate crime. This part of the work is intended to make the course/parts of the course adapted to legal procedure realities of investigating a hate crime in the Georgian context.

The tender is divided into two Lots. The Council will select the abovementioned number of Providers per lot, provided enough tenders meet the criteria indicated below. Tenderers are invited to indicate which lot(s) they are tendering for (see Section A of the Act of Engagement). Consultants may submit a tender for one, several or all Lots subject to the fulfilment of the criteria listed in the Tender Rules for the Lots concerned. The Provider can apply for all or specific Lots listed in the Act of Engagement (See Section A – Terms of reference).

Scope of the Framework Contract

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

Under all Lots:

- A. Attend the I WG meeting and contribute to the development of the Course outline. (Date: 27-28 August 2018)
 - B. Submit the first draft of the training materials to the CoE Secretariat, the WG Coordinator and the WG members. The contribution is drafted in line with the HELP training methodology, in the provided templates by the CoE Secretariat and following the agreement with other WG members. (One month after the I WG meeting)
 - C. Attend the II WG meeting, present the contribution and contribute to the review of the other WG members' contributions. (Tentative date: 1-2 October 2018)
 - D. Submit the second draft of the training materials to the WG Coordinator, to the CoE Secretariat and the WG members. The contribution is drafted and/or edited according to the WG and HELP Secretariat comments and feedbacks. (One month after the II WG meeting)
 - E. Attend the III WG Meeting, present the contribution and review of the materials prepared by the WG. (Tentative date: 14-15 January 2019)
 - F. Submit the updated draft of the training materials to the WG Coordinator, to the CoE Secretariat and the WG members. The contribution is drafted and/or edited according to the WG and CoE Secretariat comments and feedbacks. (One month after the III WG meeting)
 - G. Attend the IV WG Meeting, present the contribution and review of the materials prepared by the WG. (Date TBD)
 - H. *Submit the final draft of the training materials to the WG Coordinator, to the CoE Secretariat and the WG members. The contribution is drafted and/or edited according to the WG and CoE Secretariat comments and feedbacks. (One month after the IV WG meeting)*
 - I. Attend the Storyboard meeting, if invited by the CoE Secretariat. Discuss and review the interactive version and visual aspects of the course. (Date TBD)
- In addition, the WG Coordinator will:
- J. Liaise regularly with the COE Secretariat and the WG members to ensure the timely submission of their contributions.
 - K. Review the draft-submissions submitted by other WG members before Working Group meetings in order to ensure the complementarity of the content of the submissions and uniformity of terminology and style.

The consultants will be required to undertake missions to Strasbourg, France to provide the expected deliverables within the duration of the Framework Contract. The costs of the missions will be covered by the CoE Secretariat.

The above list of expected deliverables 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 for the lot concerned.

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).

Pooling

For each Order, the Council will choose from the pool of pre-selected tenderers the Provider who demonstrably offers best value for money for its requirement when assessed – for the Order concerned – against the criteria of:

- quality (including as appropriate: capability, expertise, past performance, availability of resources and proposed methods of undertaking the work);
- availability (including, without limitation, capacity to meet required deadlines and, where relevant, geographical location); and
- price.

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 2 (two) working days after its reception. If a Provider is unable to take an Order or if no reply is given on his behalf within that deadline, the Council may call on another Provider using the same criteria, and so on until a suitable Provider is contracted.

Providers subject to VAT

The Provider, **if subject to VAT**, shall also send, together with each signed Form, a quote² (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)³

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;

² 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.

³ 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.

- 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

Lot 1

- Advanced university Degree in law or human rights;
- Professional experience of 5 years or more in the topic of hate crimes and hate speech;
- Excellent knowledge of the procedural **and/or** practical aspects of investigation of hate crimes and hate speech as well as relevant international standards in the field of hate speech and hate crimes and in particular those set by the Council of Europe;
- Excellent analytical and drafting skills;
- Excellent oral and written English;
- A financial offer not exceeding the exclusion level set out in the Act of Engagement.

Lot 2

- Advanced university degree in law or human rights;
- Professional experience of 5 years or more in the area of hate crimes and hate speech;
- Excellent knowledge of the Georgian legal context and Georgian criminal procedure as well as relevant international standards in the field of hate speech and hate crimes in particular those set by the Council of Europe;
- Excellent analytical and drafting skills;
- Excellent oral and written English;
- A financial offer not exceeding the exclusion level set out in the Act of Engagement.

Award criteria

Lot 1

- Quality of the offer (90%), including:
 - Relevant experience in the area of hate crimes and hate speech, including previous similar assignments with international organisations (30%)
 - Thematic expertise with focus on procedural aspects (40%)
 - Research, analytical and writing skills (20%)
- Financial offer (10%).

Lot 2

- Quality of the offer (90%), including:
 - Relevant experience in the area of hate crimes and hate speech (30%)
 - Thematic expertise with focus on the Georgian context (40%)
 - Research, analytical and writing skills (20%)
- 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**⁴ (See attached);
- A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria;

⁴ 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.

- A motivation letter describing how the tenderer meets the requirements of the expected types of deliverables (1 page maximum);
- At least 2 (two) examples of previous relevant work;
- Minimum two references (only phone numbers and emails).

**All documents shall be submitted in English, failure to do so will result in the exclusion of the tender.
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 are of such a quality that the documents cannot be read once printed.

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