

Purchase of services for implementation of general skills testing

[Contract N° 8423/2018/271]

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.**

A. SCOPE OF THE TENDER PROCEDURE AND TENDER RULES

The assignment is to be carried out under the framework of the Council of Europe Project "Continued Support to the Criminal Justice Reform in Ukraine" funded by the Government of the Kingdom of Denmark (Project).

The Project pursues the objective of supporting the primary target institutions, namely the Public Prosecutor's Office (PPO) and the Coordination Centre for Legal Aid Provision (CCLAP) under the Ministry of Justice (MoJ) to strengthen and apply their increased capacity to implement the criminal justice reform, ensuring full compliance with relevant Council of Europe standards. Among other areas, the Project is supporting the development of the system of merit-based recruitment and promotion in the Ukrainian public prosecution service.

The Law on the Public Prosecutor's Office of Ukraine adopted in October 2014 introduces a new system of recruitment of prosecutors in the local prosecutor's offices. The body responsible for this process is the Qualifications and Disciplinary Commission of Prosecutors (QDCP). According to the Law, the selection of candidates and their appointment to the positions of public prosecutors in the local prosecutor's office is carried out in line with the following scheme:

- The QDCP shall decide on launching of the selection process, which is announced publicly;
- Applicants shall submit the required documents to the QDCP;
- The QDCP shall check the applicants' compliance with the established requirements;
- **Applicants** (which comply with the established requirements) **shall pass the qualification exam**, which includes verification of the level of theoretical knowledge in the field of law, European standards of human rights, proper command of the state language, practical and **analytical skills**. The qualification exam consists of anonymous tests and practical exercises. The QDCP shall determine the passing score, which may not be less than 60 percent of the maximum possible score.
- The QDCP shall publish on its official web-site a list of candidates who successfully passed the qualification exam;
- The QDCP shall organize vetting of candidates who successfully passed the qualification exam;
- The QDCP shall compile a ranking list of those candidates who successfully passed the qualification exam and with regard to whom vetting results are positive, in accordance with their results at the qualification exam;
- The candidates for the position of the public prosecutor shall undergo an initial training (up to 1 year) in the National Academy of Public Prosecutors of Ukraine;
- Upon the successful completion of initial training, the QDCP shall add the candidates to the succession pool for filling vacancies of public prosecutors, in accordance with the previously established ranking. The candidates who are on the succession pool can participate in the competition for the positions of public prosecutors as those become vacant.

On 14 June 2018 the QDCP announced a new selection process to recruit 350 candidate prosecutors. After the verification of the applicants' compliance with the established requirements, 526 applicants have been selected for passing the qualification exam, which will imply qualification exam comprising: 1) testing professional and state language knowledge and 2) **testing general (analytical) skills**. The Project is supporting the QDCP in the implementation of the second element, i.e. testing of applicants' general skills.

Stemming from the above-mentioned, the Project is looking for a Provider with particular expertise in implementation of general (analytical) skills testing. The goal of the general skills tests is to evaluate intellectual/analytical abilities of an applicant, including his/her logical/abstract and verbal reasoning skills. **The premises and equipment for the testing will be provided by the QDCP.**

This specific tender procedure aims at concluding a **one-off contract** for the provision of the following deliverable:

Expected deliverable ▼	Nr of units ▼	Deadline ▼
Testing of general (analytical) skills (logical/abstract and verbal reasoning skills) of applicants for the selection of candidate public prosecutors.	526 applicants	31 October 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](#).

Specific requirements for the testing include the following:

- Provider should be able to legally apply testing questions (i.e. have a copyright, or a right to use);
- Provider should ensure provision of testing system (validated questions and method of administration) adapted to be used in Ukraine;
- Testing methodology and process should be clear and results easily interpreted;
- Tests should be in Ukrainian;
- Testing should be computer-based; Provider should be able to provide a testing system, which will be able to be accessed via web-browser and which will ensure effective implementation of testing process with a randomization function for questions. The testing software should ensure safe operation and recording of data, it should be compliant with Ukrainian information security standards. Provider has to ensure that there is no non-authorized access to questions and/or results;
- All types of database records which are related to exam results and personal data should be encrypted;
- Provider should provide necessary amount of representatives of a company at all testing locations for the duration of testing process.

A tender is considered valid for 120 calendar days as from the deadline for submission (see table below). The selection of tenderers will be made in the light of the criteria indicated under Section C below. All tenderers will be informed in writing of the outcome of the procedure.

The tenderer must be a legal person except consortia.

Tenders shall be submitted **by email only** (scans) **to the email address indicated in the table below, with the following reference in subject: Tender – General skills testing of candidate prosecutors_CJR Project**. 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: Question - General skills testing of candidate prosecutors _CJR Project.**

Type of contract ►	One-off contract
Duration ►	Until complete execution of the obligations of the parties (See Article 2 of the Legal conditions)
Deadline for submission of tenders/offers ►	30 September 2018
Email for submission of tenders/offers ►	kyiv@coe.int
Email for questions ►	kyiv@coe.int
Expected starting date of execution ►	08 October 2018

B. FEES

Tenderers shall send **a quote (Pro Forma invoice)** on their letterhead including:

- the Service Provider's name and address;
- its VAT number;
- the fee per unit/per applicant (including fees for all the relevant services related to the testing, in Euros, tax exclusive);
- the total amount (in Euros), tax exclusive, the applicable VAT rate, the amount of VAT and the amount VAT inclusive .

The advance payment under the contract concluded upon this tender procedure shall in any case not exceed 30 % of the total amount payable.

C. ASSESSMENT

Exclusion criteria and absence of conflict of interests (See declaration in Appendix I)

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

- Tenderer should be registered as a legal entity under the Ukrainian legislation and authorized to carry out the requested services;
- Tenderer should have at least 3 years of experience of provision of the requested services;
- Tenderer should be able to legally apply the test items and process (i.e. have a copyright, or a right to use);

Award criteria

- Expertise and experience of the applicant in the delivery of the requested services (30%), experience of delivery of requested services for public sector institutions and ability to suggest standardised testing scores for legal professionals would be considered as an asset;
- Quality of the offer (30%), including:
 - Methodology and approach proposed (20%)
 - Capacity to meet the Council's contractual requirements (10%);
- Financial offer (40%).

D. DOCUMENTS TO BE PROVIDED

Tenderers are invited to submit:

1. A completed and signed declaration on exclusion criteria (see Appendix I)
2. A quote, describing their financial offer, in line with the requirements of Section B of the Tender File (see above);
3. Copies of documents* certifying the registration of the tenderer and proving that the tenderer is entitled to carry out services requested in Ukraine;
4. A document proving that the Applicant is able to legally apply the test items and process (i.e. have a copyright, or a right to use)*;
5. Technical offer describing in detail the methodology of testing, including components of testing, rules and procedures of passing testing, standardised testing scores for legal professionals (if tenderer possesses such information), time allocated for testing, number of questions per component and total number of questions in the bank, scoring methods, system and timelines of result demonstration, result submission modalities and timeframes, samples of typical questions/test items, reports, information about software and requirements for browser (if any) etc.;
6. Information on the previous experience, including: a list of principal services and deliverables provided by the tenderer during the period of reference relevant to the assignment concerned as required in the Eligibility Criteria above (at least 3 years of experience);
7. Contact details of 2 referees;
8. Information with regard to the clauses (if any) of the Council of Europe's standard Legal Conditions that the tenderer is unable to accept, together with a justification for this, and a proposal of alternative clause(s).

All documents shall be submitted in English², failure to do so will result in the exclusion of the tender. If any of the documents listed above are missing, the Council of Europe reserves the right not to consider the tender.

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.

E. CONTRACTUAL REQUIREMENTS

Tenderers will find below in the Appendix II a copy of the **Council of Europe's standard Legal Conditions** for this type of contract.

Tenderers are invited to read these conditions, and to specify in their offer any of these clauses which they are unable to accept, together with a justification for this, and a proposal of alternative clause(s).

Alternatively, tenderers may provide a copy of their own standard legal conditions. However, tenderers should note that the capacity to meet the Council's contractual requirements is one of the award criteria to be taken into account when the Council assesses tenderers' offers. Tenderers should also note that any contract signed following this consultation will have to contain the following clauses: Article 3.6 (Disclosure of the terms of the contract), Article 3.7 (Use of name) and Article 11 (Disputes). Moreover, the Council reserves the right to ask for the contract proposed by the selected Provider to be amended in order to protect the Council's interests, to meet the requirements of its status as an international organisation, and to keep a fair balance between the parties.

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Appendix I – Declaration on the exclusion criteria

Appendix II – Legal Conditions

² Documents indicated with an asterisk (*) may be submitted in English or in Ukrainian.

Appendix I – Declaration on the exclusion criteria

Name of the signatory ►	
Name of the Provider ►	
Full address of the Provider ►	

I hereby declare³ that neither I, nor the company I represent:

- 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.

Name ►	
Date ►	
Signature ►	

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.

Appendix II – Legal Conditions

ARTICLE 1 – GENERAL PROVISIONS

1.1 The Provider undertakes, on the conditions and in the manner laid down by common agreement hereafter excluding any accessory verbal agreement, to provide the list of deliverables reproduced in the Terms of reference (see Section A) related to the present contract and in the tender submitted by the Provider.

1.2 The present contract is composed, by order of precedence, of:
a) the Act of Engagement, in its entirety (cover page, Sections A and B and the present Legal Conditions) and b) the tender submitted by the Provider.

1.3 Any general purchasing terms and conditions of the Provider shall never prevail over these legal conditions. Any provision proffered by the Provider in its documents (general conditions or correspondence) conflicting with the clauses of these legal conditions shall be deemed void, except for any clauses which may be more favourable to the Council.

1.4 For the purposes of this Contract:

- a) "Contract" shall refer to the documents described in 1.2, above;
- b) "Council" shall mean the Council of Europe;
- c) "Deliverables" shall mean the services or goods as described in the Terms of reference;
- d) "Parties" shall mean the Council and the Provider;
- e) "Provider" shall mean the legal or physical person selected by the Council for the provision of the Deliverables.

ARTICLE 2 – DURATION

The contract is concluded until complete execution of the obligations of the parties and takes effect as from the date of its signature by both parties. The services shall be executed in accordance with the timeframe indicated in the Terms of reference or, by default, in the tender submitted by the Provider.

ARTICLE 3 – OBLIGATIONS OF THE PROVIDER

3.1 General obligations

3.1.1 The Provider bears sole responsibility for all the decisions made and the human, technical, logistic and material resources used in the context of the Contract in order to provide the deliverables, with due respect for the Council of Europe's needs and constraints, as contractually defined.

3.1.2 The Provider recognises that it is subject to a general obligation to provide advice, including, but not limited to, an obligation to provide any relevant information or recommendations to the Council. In this context, the Provider shall supply to the Council all the advice, warnings and recommendations necessary particularly in terms of quality of deliverables, security and compliance with professional standards. The Provider also undertakes 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.

3.2 Intellectual services

3.2.1 The provisions of Articles 3.2.2 to 3.2.8 shall apply to the provision of intellectual services only.

3.2.2 Unless agreed otherwise by the Parties, any written documents prepared by the Provider under the contract shall be written in English and produced on a word processing file. In case the Parties agree that a written document shall be prepared in a language other than English or French, a summary in English or French shall be included in the said document.

3.2.3 Unless agreed otherwise by the Parties, all written documents of more than 1,500 words shall be preceded or accompanied by a text summarising the subject and main conclusions and shall not, unless specifically required, exceed 5,000 words.

3.2.4 The Provider guarantees that the deliverables conform to the highest academic standards.

3.2.5 The Provider cedes irrevocably and exclusively to the Council throughout the entire world and for the entire period of copyright protection, all rights on the deliverable(s) produced as a result of the execution of the present contract. Such rights shall include in particular the right to use, reproduce, represent, publish, adapt, translate and distribute – or to have used, reproduced, represented,

published, adapted, translated and distributed - in any country, in any language, in any form and on any kind of support, including on a CD-ROM or the Internet, the said deliverables, or any part thereof.

3.2.6 The Council reserves the right to exercise the above-mentioned rights for any purpose falling within its activities.

3.2.7 The Provider guarantees that use by the Council of the deliverable(s) produced as a result of the execution of the present contract will not infringe the rights of third parties. However, should the Council incur liability as the result of any such infringement; the Provider will compensate it in full for any damage it may suffer in consequence.

3.2.8 Notwithstanding the provision in Article 3.2.5 above, the Council may, on prior application by the Provider, authorise the Provider to use the deliverable(s) referred to above. When giving the Provider such authority, the Council will inform the Provider of any conditions to which such use may be subject.

3.3 Health and social insurance of the Provider or its employees

The Provider shall undertake all necessary measures to arrange for health and social insurance during the entire contract. The Provider acknowledges and accepts in this regard that the Council shall not assume any responsibility for any health and social risks concerning illness, maternity or accident which might occur during the performance of work under the contract.

3.4 Fiscal obligations

The Provider undertakes to inform the Council about any change of its status with regard to VAT, to observe all applicable rules and to comply with its fiscal obligations in:

- a) submitting a request for payment, or an invoice, to the Council in conformity with the applicable legislation;
- b) declaring all fees received from the Council for tax purposes as required in his/her/its country of fiscal residence.

3.5 Loyalty and confidentiality

3.5.1 In the performance of the present contract, the Provider will not seek or accept instructions from any government or any authority external to the Council. The Provider undertakes to comply with the Council's directives for the completion of the deliverables and to refrain from any word or act that may be construed as committing the Council.

3.5.2 The Provider shall observe the utmost discretion in all matters concerning the contract, and particularly any matters or data that have been or are to be recorded that come to the Provider's attention in the performance of the contract. Unless obliged to do so under the terms of the contract, or expressly authorised to do so by the Secretary General of the Council, the Provider shall refrain at all times from communicating to any person, legal entity, government or authority external to the Council any information which has not been made public and which has come to the Provider's notice as a result of dealings with the Council. Nor shall the Provider seek to gain private benefit from such information. Neither the expiry of the contract nor its termination by the Council shall lift these obligations.

3.6 Disclosure of the terms of the contract

3.6.1 The Provider is informed and gives an authorisation of disclosure of all relevant terms of the contract, including identity and price, for the purposes of internal and external audit and to the Committee of Ministers and to the Parliamentary Assembly of the Council with a view to these latter discharging their statutory functions, as well as for the purpose of meeting the publication and transparency requirements of the Council of Europe or its donors. The Provider authorises the publication, in any form and medium, including the websites of the Council of Europe or its donors, of the title of the contract/projects, the nature and purpose of the contract/projects, name and locality of the Provider and amount of the contract/project.

3.6.2 Whenever appropriate, specific confidentiality measures shall be taken by the Council to preserve the vital interests of the Provider.

3.7 Use of the Council of Europe's name

The Provider shall not use the Council's name, flag or logo without prior authorisation of the Council.

3.8 Data Protection

Without prejudice to the other provisions of this Contract, the Parties undertake, in the execution of this contract, to comply at all times with the legislation applicable to each of them concerning the processing of personal data.

Where the Provider, pursuant to its obligations under this contract, processes personal data on behalf of the Council, it shall:

- a) Process personal data only in accordance with written instructions from the Council;
- b) Process personal data only to the extent and in such manner as is necessary for the execution of the contract, or as otherwise notified by the Council;
- c) Implement appropriate technological measures to protect against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any authorised or unlawful processing, accidental loss, destruction, or damage and having regard to the nature of the personal data which is to be protected;
- d) Take reasonable steps to ensure the reliability of any of the Provider's employees having access to the personal data and that employees are informed of the confidential nature of the personal data and comply with the obligations set out in this Contract;
- e) Obtain written consent from the Council prior to any transfer of possession or responsibility for the personal data to any subcontractors;
- f) Notify the Council within five working days if it receives:
 - a. A request from a data subject to have access (including rectification, deletion and objection) to that person's personal data; or
 - b. A complaint or request related to the Council's obligations to comply with the data protection requirements.
- g) Provide the Council with full assistance in relation to any such request or complaint;
- h) Allow for and contribute to checks and audits, including inspections, conducted or mandated by the Council or by any authorised third auditing person. The Provider shall immediately inform the Council about any audit not conducted or mandated by the Council;
- i) Not process personal data outside the jurisdiction of a Council of Europe Member State without the prior authorisation of the Council;
- j) Upon the Council's request, provide information relating to its compliance with its obligations under the contract in connection with the processing of personal data and the rights of data subjects;
- k) Upon the Council's request, delete or return to the Council all personal data and any existing copies, unless the applicable law requires storage of the personal data.

3.9 Other obligations

3.9.1 In the performance of the present contract, the Provider undertakes to comply with the applicable principles, rules and values of the Council.

3.9.2 The Staff Regulations and the rules concerning temporary staff members shall not apply to the Provider.

3.9.3 Nothing in this contract may be construed as conferring on the Provider the capacity of a Council of Europe staff member or employee.

ARTICLE 4 – FEES, EXPENSES AND MODE OF PAYMENT

4.1 Fees

4.1.1 In return for the fulfilment by the Provider of its obligations under the contract, the Council undertakes to pay the Provider fees in Euros (unless otherwise provided in the Terms of reference), as indicated in the Provider's offer.

4.1.2 Amounts are final and not subject to review.

4.2 VAT

4.2.1 Should the Provider not be subject to VAT, the amount invoiced shall be net fixed amount. Should the Provider be subject to VAT, the amount shall be invoiced as indicated in Articles 4.2.2 to 4.2.5.

4.2.2 Should the deliverables be taxable in France, the amount invoiced shall be VAT inclusive.

4.2.3 Should the deliverables be taxable in another EU country, and unless otherwise agreed between the Parties, the Council will provide the Provider with an exemption certificate prior to the signature of the contract. The exemption certificate sent by the Council of Europe should be retained by the Provider and presented to the relevant tax authorities to justify tax-free invoicing. In accordance with Article 2 b) of Council Directive 2001/115/EC, the following should be stated in the invoice: *"Intra-Community sale/service to an exempted organisation: Articles 143 and 151 of Council Directive 2006/112/EC"* and should indicate the final total amount excluding VAT. In case the CoE will not be in a position to provide the said certificate, the Council will pay the invoice with VAT included.

4.2.4 Should the deliverables be taxable in a non-EU country, the amount invoiced will not include VAT if the local (national) legislation allows for it, or if the Council of Europe enjoys tax exemption through other means in the country concerned. Otherwise, it shall include VAT.

4.2.5 For the provision of "online services", should the Provider be established either in an EU country (other than France) or in a non-EU country, the invoiced amount shall include French VAT at the applicable rate. The invoice shall indicate the total amount without taxes, the rate and the amount of the VAT and the total amount 'all tax included'. The invoice shall also stipulate the following statement: *"Intra-community sale/service: French VAT collected by the Provider and paid to the Mini One-Stop shop in [Address/Country]"*.

4.3 Invoicing and payment

4.3.1 Upon acceptance of the deliverable[s] by the Council, the Provider shall submit an invoice or a request for payment in triplicate and in Euros in conformity with the applicable legislation.

4.3.2 Before accepting the deliverable(s), the Council reserves the right to ask the Provider to submit any other document or information that may serve the purpose of establishing that the Contract has been duly executed.

4.3.3 In the case of event organisation, the Provider shall in any case submit any document that proves that the event took place, including but not limited to an attendance sheet broken down into half days specifying the location, date(s) and time(s) of the event(s) or activity(ies), to be individually signed by each participant and the Provider.

4.3.4 The payment for the Deliverables to be paid by the Council shall be made within 60 calendar days of submission of the invoice described in Article 4.3.1, subject to the submission of the deliverable(s) described in the Terms of reference and its/their acceptance by the Council.

4.3.5 In cases where an advance payment is foreseen, it shall be paid within 60 calendar days upon signature of the contract.

4.4 Other expenses

4.4.1 In the event of the Provider being required to travel for the purposes of the contract, and provided the Terms of reference do not stipulate that the fees already include travel and subsistence expenses, the Council undertakes, subject to its prior agreement, to reimburse travel and subsistence allowances in compliance with the Council's applicable Rules.

4.4.2 Travel expenses referred to under 4.4.1 will be reimbursed on the basis of the rail fare (first class) or air fare (tourist class) upon presentation of an invoice on the letterhead of the relevant vouchers. Subsistence expenses (including travel expenses within the locality visited) will be reimbursed at the applicable daily rate.

4.4.3 In the event of the Provider being required to travel for the purposes of the contract, the duration of the Provider's travel and stays will be covered by an insurance policy with the insurers CHARTIS (Policy No. 2.004.761). A telephone helpline is available in case of emergency (+ 32 (0)3 253 69 16). The said insurance will cover specific risks related to travel and stay of the Provider (including medical costs related to unforeseen illness or accident, repatriation, death, cancellation of journey or flight, theft or loss of personal possessions). The insurance policy does not cover persons over 75 years of age.

ARTICLE 5 - BREACH OF CONTRACT

5.1 In the event that the Provider does not satisfy the conditions laid down in this contract or those resulting from any modifications duly accepted in writing by both parties, in accordance with the provisions of Article 6 below, or the deliverables provided as referred to under Article 1.1 do not reach a satisfactory level, the Council shall consider there to have been a breach of contract and may consequently refuse to pay to the Provider the amounts referred to in Article 4.1 above.

5.2 In the cases described in paragraph 5.1 above, the Council reserves further, at any moment and further to prior notification to the Provider, the right to terminate the contract. In case of termination, the Council shall pay only the amount corresponding to the deliverables actually and satisfactorily provided at the time of termination of the contract and shall request reimbursement of the sums already paid for Deliverables not provided.

5.3 The outstanding sums shall be paid to the Council's bank account within 60 calendar days from the notification in writing by the Council to the Provider regarding the outstanding sums to be paid.

ARTICLE 6 - MODIFICATIONS

6.1 The provisions of this contract cannot be modified without the written agreement of both parties. This agreement may take the form of an exchange of emails provide it is done using the contact details specified in Article 8.

6.2 Any modification shall not affect elements of the contract which may distort the initial conditions of the tendering procedure or give rise to unequal treatment between the tenderers.

6.3 This contract may not be transferred, in full or in part, for money or free of charge, without the Council's prior authorisation in writing.

6.4 The Provider may not subcontract all or part of the deliverables without the written authorisation of the Council.

ARTICLE 7 - CASE OF FORCE MAJEURE

7.1 In the event of force majeure, the parties shall be released from the application of this contract without any financial compensation. Force majeure is defined as including the following: major weather problems, earthquake, strikes affecting air travel, attacks, a state of war, health risks or events that would require the Council or the Provider to cancel the contract.

7.2 In the event of such circumstances each party shall be required to notify the other party accordingly in writing, within a period of 7 calendar days.

ARTICLE 8 - COMMUNICATION BETWEEN THE PARTIES

8.1 The Contact point within the Council of Europe is indicated on the cover page of the Act of Engagement.

8.2 The Provider can be reached through the means indicated in the Act of Engagement.

8.3 Any communication is deemed to have been made when it is received by the receiving party, unless the Contract refers to the date when the communication was sent.

8.4 Electronic communication is deemed to have been received by the receiving party on the day of successful dispatch of that communication, provided that it is sent to the addressees listed in paragraphs 1 and 2 above. Dispatch shall be deemed unsuccessful if the sending party receives a message of non-delivery. In this case, the sending party shall immediately send again such communication to any of the other addresses listed in paragraphs 1 and 2 above. In case of unsuccessful dispatch, the sending party shall not be held in breach of its obligation to send such communication within a specified deadline, provided the communication is dispatched by another means of communication without further delay.

8.5 Mail sent to the Council using the postal services is considered to have been received by the Council on the date on which it is registered by the department identified in paragraph 1 above.

8.6 Formal notifications made by registered mail with return receipt or equivalent, or by equivalent electronic means, shall be considered to have been received by the receiving party on the date of receipt indicated on the return receipt or equivalent.

ARTICLE 9 - ACCEPTANCE

The provision of deliverables referred to in this contract shall be the subject of a written acceptance procedure. If acceptance is refused, the Council shall inform the Provider accordingly, giving reasons, and may set new modalities for the provision of the deliverables. If acceptance is refused again, the Council may terminate the Contract in whole or in part without previous notice and without paying any financial compensation.

ARTICLE 10 - CHANGES IN THE PROVIDER'S SITUATION OR STANDING

10.1 The Provider shall inform the Council without delay of any changes in their address or legal domicile or in the address or legal domicile of the person who may represent them.

10.2 The Provider shall inform also inform the Council without delay:

- a) if they are involved in a merger, takeover or change of ownership or there is a change in their legal status;
- b) where the Provider is a consortium or similar entity, if there is a change in membership or partnership.
- c) if they are sentenced by final judgment on one or more of the following charges: participation in a criminal organisation, corruption, fraud, money laundering;
- d) if they 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 is not subject to a procedure of the same kind;
- e) if they have received a judgment with *res judicata force*, finding an offence that affects their professional integrity or serious professional misconduct;
- f) If they do not comply with his obligations as regards payment of social security contributions, taxes and dues, according to the statutory provisions of their country of legal domicile;
- g) If they are or are likely to be in a situation of conflict of interests.

ARTICLE 11 - DISPUTES

11.1 Any dispute regarding this Contract shall - failing a friendly settlement between the Parties - be submitted to arbitration.

11.2 The Arbitration Board shall be composed of two arbitrators each selected by one of the parties, and of a presiding arbitrator, appointed by the other two arbitrators; in the event of no presiding arbitrator being appointed under the above conditions within a period of six months, the President of the Tribunal de Grande Instance of Strasbourg shall make the appointment.

11.3 Alternatively, the parties may submit the dispute for decision to a single arbitrator selected by them by common agreement or, failing such agreement, by the President of the Tribunal de Grande Instance of Strasbourg.

11.4 The Board referred to in paragraph 2 of this Article or, where appropriate, the arbitrator referred to in paragraph 3 of this Article, shall determine the procedure to be followed.

11.5 If the parties do not agree upon the law applicable the Board or, where appropriate, the arbitrator shall decide *ex aequo et bono* having regard to the general principles of law and to commercial usage.

11.6 The arbitral decision shall be binding upon the parties and there shall be no appeal from it.

ARTICLE 12 - ADDRESSES AND BANK DETAILS OF THE PARTIES

The bank details of the Provider are indicated on the first page of this Act of Engagement. The bank details of the Council of Europe are the following:

Bank address: F-67075 Strasbourg Cedex, France

Bank name: Société Générale Strasbourg

Code IBAN: FR76 30003 02360 001500 1718672

SWIFT Code: SOGEFRPP