

# TENDER FILE / TERMS OF REFERENCE

(Restricted consultation procedure / Framework Contract)

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

## Purchase of local consultancy services in the area of criminal justice and on the reform of the Public Prosecution Service in the Republic of Moldova

The Council of Europe is currently implementing the Programme “**Promoting a human rights compliant criminal justice system in the Republic of Moldova**” (hereinafter - **HRCCJ MD Programme**). In that context, it is looking for Providers for the provision of local consultancy services in the area of criminal justice and on the reform of the Public Prosecution Service in the Republic of Moldova 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<sup>1</sup>, 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 legal person except consortia.

Tenders shall be submitted **by email only** (with attachments) **to the email addresses indicated in the table below, with the following reference in subject: Local Consultant\_Outcome 1\_HRCCJ MD Programme**. 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 3 (three) working days before the deadline for submission of the tenders and shall be exclusively addressed to the email addresses indicated below with the following reference in subject: Questions\_Local Consultant\_Outcome 1\_HRCCJ MD Programme**.

Type of contract ▶	Framework contract
Duration ▶	Until 01 September 2019
Deadline for submission of tenders/offers ▶	<b>20 August 2018</b>
Email for submission of tenders/offers ▶	marina.tabarna@coe.int nelea.bugaevski@coe.int
Email for questions ▶	marina.tabarna@coe.int nelea.bugaevski@coe.int
Expected starting date of execution ▶	10 September 2018

<sup>1</sup> 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 Council of Europe is currently implementing the Programme “**Promoting a human rights compliant criminal justice system in the Republic of Moldova**” (hereinafter - **HRCCJ MD Programme**). The Programme constitutes a part of the Council of Europe-Republic of Moldova Action Plan 2017-2020 and provides for a closer alignment of the country’s criminal justice system, including penitentiary and probation, with the Council of Europe standards and recommendations. It pursues the overall objective to ensure higher respect for human rights and rule of law in the Republic of Moldova by assisting the national authorities to build up an effectively functioning criminal justice system in line with European human rights standards, based on the principles of humanisation, resocialisation and restorative justice.<sup>2</sup>

The Programme is divided into two components:

**Component I. Consolidation of the criminal justice policy, legal framework and judiciary practice**, which is aimed at achieving a coherently designed and evidence-based criminal justice policy, a legal framework which is harmonised with the European standards, and a more effective prevention of human rights violations within the criminal justice system.

**Component II. Support to the reforms of the penitentiary and probation systems**, which is aimed at improving management of prison, rehabilitation and health care services for inmates and ensuring a more effective and targeted implementation of community sanctions and measures in support of offenders’ social reintegration.

**This call for tenders concerns only Component 1 (Outcome 1).** The main intervention areas under Component 1 cover policy/legal framework, institutional and practical implementation levels, with the focus on the following:

- Consolidation of criminal justice policy, legislation and judiciary practice in line with international standards with respect to the liberalization of criminal proceedings, including strengthening the application of non-custodial pre-trial preventive measures and sanctions, alternative sanctions in criminal cases, effective remedies as to detention conditions, implementation of release on parole mechanisms, etc.;
- Support towards the development of the capacities of criminal justice stakeholders in the light of the implementation of the on-going reforms, including judiciary, prosecution service reform.

Given the role the prosecutors have in the criminal justice chain and in the context of large-scale reforms in the criminal justice and in the light of the on-going institutional reform of the Public Prosecution Service (hereinafter -PPS) itself, the implementation of which has just gradually started, a specific focus under the Programme will be on further strengthening the PPS’s institutional/operational capacities.

The Programme ensures a combination of legislative expertise, institutional, operational and professional capacity building support, paying attention to impact and aiming at sustainability. The Programme disseminates good practices and contributes to raising the standards of human rights observance in Europe.

The Programme draws upon an extensive network of consultants with knowledge of international and European standards and different European systems (“international consultants”) and consultants with local expertise/knowledge of the domestic system in which the activities are implemented (“local consultants”) to carry out its work.

**This call for tenders is aimed at selecting “local consultants”.**

The Council of Europe is looking for a maximum of 15 Providers per Lot (provided enough tenders meet the criteria indicated below) in order to support the implementation of the Programme with a particular local expertise pertaining to the various aspects of the criminal justice policy, legal framework and **criminal justice actors practice with a specific focus on humanisation, resocialisation and restorative justice and on the reform of the Public Prosecution Service of the Republic of Moldova** in the thematic fields under the Lots below.

This Framework Contract is to be concluded until 01.09.2019. The Framework Contract may be renewed annually. It shall not be renewable beyond the end date of the project: 28.02.2021.

This Framework Contract is currently estimated to cover up to 150 activities, to be held by 28 February 2021. 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.

<sup>2</sup> See more about the Programme here: <https://www.coe.int/en/web/chisinau/human-rights-in-criminal-justice>

For information purposes only, 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

The tender is divided into the following three Lots. The Providers 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.

Throughout the duration of the Framework Contract, being instructed, supervised and coordinated by the designated staff members from the Council of Europe Office in Moldova and from the Council of Europe Headquarters, the pre-selected Providers may be asked to provide through the Programme the advice and local expertise pertaining to the various aspects of the **criminal justice policy, legal framework and criminal justice actors practice with a specific focus on humanisation, resocialisation and restorative justice and on the reform of the Public Prosecution Service of the Republic of Moldova** in the thematic fields as described below.

Lot 1	<p>Local consultancy services on <b><u>harmonisation of criminal justice policy, legal framework, and criminal justice actors implementation practices in the Republic of Moldova with European standards</u></b> in one or more of the following areas: liberalization of criminal proceedings; application of pre-trial preventive measures; use of alternative settlements in criminal cases (mediation, reconciliation); implementation of domestic judicial remedies against poor conditions of detention; use of criminal punishments; decriminalisation of offences; length of prison sentences; use of prison regimes and security requirements; progressive execution of punishments; use of probation services; use of community sanctions and measures; use of conditional release (release on parole).</p> <p><i>The indicative list of expected deliverables unde Lot 1 is as follows (not exhaustive):</i></p> <ul style="list-style-type: none"> <li>• <i>Contribution to the assessment of legal acts and policy documents (draft documents and documents in force) and/or practice and provision of advice (in the form of an oral and/or written advice), preparation of legal opinions, comments, recommendataions, reports etc.;</i></li> <li>• <i>Development of methodology and conduct of needs assessment on specific aspects related to the theme of the lot;</i></li> <li>• <i>Participation and contribution to the conferences, round-tables, seminars, trainings, working group meetings, workshops, consultation meetings and other relevant events with national stakeholders, including through moderating/facilitating discussions and delivering presentations;</i></li> <li>• <i>Development of institutional internal regulations, guidelines and information materials on specific aspects related to the theme of the lot;</i></li> <li>• <i>Support international short term consultants with documents (legislation, rules, modules and any relevant document) and written advice on the Moldovan background on specific topics;</i></li> <li>• <i>Provision of other deliverables as related to the above and as requested by the Council of Europe.</i></li> </ul>
Lot 2	<p>Local consultancy services on <b><u>further alignment of the Prosecution Service in the Republic of Moldova with Council of Europe standards and its effective functioning</u></b> in one or more of the following areas: institutional and operational development of the public prosecution service; institutional and operational development of the prosecutorial self-governing bodies (Superior Council of Prosecutors and its colleges); independence of prosecutors; disciplinary liability, recruitment and career development of prosecutors, including performance evaluation of prosecutors.</p> <p><i>The indicative list of expected deliverables under Lot 2 is as follows (not exhaustive):</i></p> <ul style="list-style-type: none"> <li>• <i>Contribution to the assessment of legal acts and policy documents (draft documents and documents in force) and/or practice and provision of advice (in the form of an oral and/or written advice), preparation of legal opinions, comments, recommendataions, reports, etc.;</i></li> <li>• <i>Development of methodology and conduct of needs assessment on specific institutional and operational aspects related to the functioning of the Public Prosecution Service;</i></li> <li>• <i>Participation and contribution to the conferences, round-tables, seminars, working group meetings, workshops, consultation meetings and other relevant events with national stakeholders, including through moderating/facilitating discussions and delivering presentations;</i></li> </ul>

	<ul style="list-style-type: none"> <li>• <i>Development of the curricula, adaptation/preparation of training courses and materials of trainings, and delivery of trainings on specific aspects related to the theme of the lot;</i></li> <li>• <i>Development of institutional internal regulations, guidelines and information materials on specific aspects related to the theme of the lot;</i></li> <li>• <i>Support international short term consultants with documents (legislation, rules, modules and any relevant document) and written advice on the Moldovan background on specific topics;</i></li> <li>• <i>Provision of other deliverables as related to the above and as requested by the Council of Europe.</i></li> </ul>
Lot 3	<p>Local consultancy services on <b>training needs assessment, training course development and impact/effectiveness assessment, delivery of trainings, for criminal justice legal professionals</b> on specific aspects related to the themes of the above mentioned Lot 1 and broader spectrum of criminal justice administration vis-à-vis standards of the European Convention on human Rights (ECHR) ;</p> <p><i>The indicative list of expected deliverables unde Lot 3 is as follows (not exhaustive):</i></p> <ul style="list-style-type: none"> <li>• <i>Development of the methodology to assess the needs/impact/effectiveness of trainings on specific aspects related to the themes of the above mentioned Lot 1;</i></li> <li>• <i>Conduct of training needs assessment and development of reports/recommendations;</i></li> <li>• <i>Provision of recommendations on draft curricula, training courses and materials of trainings on specific aspects related to the themes of the above mentioned Lot 1 and broader spectrum of criminal justice administration;</i></li> <li>• <i>Development of the design, adaptation/preparation of training courses and materials of trainings, and delivery of training on specific aspects related to the themes of the above mentioned Lot 1 broader spectrum of criminal justice administration;</i></li> <li>• <i>Provision of advice and delivery of trainings on adult learning methodology for criminal justice legal professionals;</i></li> <li>• <i>Preparation and delivery of trainings on the national application of the ECHR standards (i.e. articles 2,3,5,6,8,13) and respective case-law of the European Court on Human Rights for criminal justice legal professionals;</i></li> <li>• <i>Preparation and delivery of presentations during workshops, seminars, conferences, round-tables and other relevant events dedicated to the training needs of criminal justice legal professionals;</i></li> <li>• <i>Support international short term consultants with documents (legislation, rules, modules and any relevant document) and written advice on the Moldovan background on specific topics;</i></li> <li>• <i>Provision of other deliverables as related to the above and as requested by the Council of Europe.</i></li> </ul>

**Throughout the duration of the Framework Contract, pre-selected Providers may be asked to provide deliverables as indicatively described above under each lot.**

The above indicative lists of deliverables are 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/scope of the present Framework Contract.

The Providers can be asked to undertake missions to provide the expected deliverables. Travel and other expenses incurred by the Providers in this regard will be reimbursed by the Council in accordance with the applicable Rules<sup>3</sup> (see Article 4.4 of the Legal Conditions for further details).

The Council will order (see Section D below on ordering procedure) specific deliverables similar to the ones listed above, provided they correspond to the project implementation needs and are within the range of the competencies of the selected Provider.

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.

<sup>3</sup> See the Revised Rules concerning the reimbursement of travel and subsistence expenses to government experts and other persons travelling at the charge of Council of Europe budgets: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016805ce9c4](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805ce9c4)

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).

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.

#### 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.

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 quote<sup>4</sup> (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)<sup>5</sup>

<sup>4</sup> 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.

<sup>5</sup> 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.

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.

#### CRITERIA FOR NATURAL PERSONS

##### *Eligibility criteria*

- A university degree in law, political sciences, social sciences, international relations, public administration or related fields;
- At least 3 years of professional experience at national level (in Moldova) in the areas related to the fields of expertise as described within the specific LOTs under the scope of the contract above;
- Excellent knowledge of the Romanian language and good command of English language;

##### *Award criteria*

- Quality of the offer (90%), including:
  - Thematic expertise in the relevant area, primarily the in-depth knowledge of the Moldovan legislation and implementation practices as well as the basic international standards and recommendations of the Council of Europe in the areas covered by this call (40%)
  - Relevance of the experience of the tenderer in the areas covered by this call, including previous similar assignments with international organisations (40%)
  - Capacity to adapt to the context in the areas covered by this call (10%)
- Financial offer (10%).

#### CRITERIA FOR LEGAL PERSONS

##### *Eligibility criteria*

- At least 3 years of experience at national level (in Moldova) in the areas related to the fields of expertise as described within the specific LOTs under the scope of the contract above;

*For all natural persons (experts) allocated to the execution of the contract within the Tender submitted by the legal person:*

- A university degree in law, political sciences, social sciences, international relations, public administration or related fields;
- At least 3 years of professional experience at national level (in Moldova) in the areas related to the fields of expertise as described within the specific LOTs under the scope of the contract above;
- Excellent knowledge of the Romanian language and good command of English language;

##### *Award criteria*

- Quality of the offer (90%), including:
  - Thematic expertise in the relevant area, primarily the in-depth knowledge of the Moldovan legislation and implementation practices as well as the basic international standards and recommendations of the Council of Europe in the areas covered by this call (40%)
  - Relevance of the experience of the tenderer in the areas covered by this call, including previous similar assignments with international organisations (40%)
  - Capacity to adapt to the context in the areas covered by this call (10%)
- Financial offer (10%).

If the bid of a legal person is considered eligible, the award criteria shall then be applied both to the Tenderer/legal person and individually to all natural persons proposed by the legal person and the assessment shall be carried out cumulatively.

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

#### F. DOCUMENTS TO BE PROVIDED

Tenderers are invited to submit:

- A completed and signed copy of the Act of Engagement.<sup>6</sup>
- Registration documents, for legal persons only;
- A detailed CV, demonstrating clearly that the tenderer fulfils the eligibility and award criteria (4 pages maximum). *For legal persons, the CV of each natural person who shall be allocated to the execution of the contract should be submitted;*
- A Motivation letter describing how the tenderer meets the requirements of the expected types of deliverables related to the fields of expertise as described under the scope of the contract above (1 page maximum). *For legal persons, this letter should include a list of all natural persons who shall be allocated to the execution of the contract; this list may not be altered in the event that the legal person's bid is successful;*
- At least two examples of the previous work/deliverables reference/links to publications, legal assessments/analyses, reports, studies, etc. relevant to the experience the tenderer claims, one in English and one in Romanian. *For legal persons, at least two examples of the previous work/deliverables reference/links to publications, legal assessments/analyses, reports, studies, etc. relevant to the experience the tenderer claims, one in English and one in Romanian, and produced by the natural persons allocated to the execution of the contract.*
- Contact details of 3 (three) relevant referees, from among previous employers or clients (name, surname, phone number or e-mail).

**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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<sup>6</sup> 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.