

TENDER FILE / TERMS OF REFERENCE (Competitive bidding procedure / Framework Contract)

Purchase of local consultancy services for the development of institutional capacities and improvement of regulatory framework to support implementation of ECtHR judgments by Azerbaijan *Contract N° 12/2022/02*

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

The Council of Europe is currently implementing and until 29 February 2024 will implement a Project on "Support for the improvement of the execution of the European Court judgments by Azerbaijan". In that context, it is looking for Provider(s) for the provision of local consultancy services for the development of institutional, functional capacities of national stakeholders and improvement of regulatory framework to support implementation of ECtHR judgments by Azerbaijan to be requested by the Council on an as needed basis.

A. TENDER RULES

This tender procedure is a competitive bidding procedure. **In accordance with Rule 1395 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, a legal person or consortia of legal and/or natural persons.

Tenders shall be submitted **by email only** (with attachments) **to the email address indicated in the table below, with the following reference in subject: "Call for tenders for local short-term consultancy to support implementation of ECtHR judgments by Azerbaijan".** 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: "Questions - Call for tenders for local short-term consultancy to support implementation of ECtHR judgments by Azerbaijan".**

Type of contract ▶	Framework contract
Duration ▶	Until 30 January 2024
Deadline for submission of tenders/offers ▶	25 January 2023
Email for submission of tenders/offers ▶	fieldbaku@coe.int
Email for questions ▶	fieldbaku@coe.int
Expected starting date of execution ▶	6 February 2023

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 1395 of 20 June 2019 on the procurement procedures of the Council of Europe](#).

B. EXPECTED DELIVERABLES

Background of the Project

In the framework of the Action Plan for Azerbaijan 2022-2025, the Council of Europe and the Azerbaijani authorities have agreed to continue to carry out jointly, through co-operation programmes, reforms to, inter alia, improve the implementation of the European Court of Human Rights (ECtHR) case law and judgments at the national level, improve the criminal justice system and ensure fundamental freedoms, further increase the effectiveness, accountability and transparency of the judiciary.

In this regard, the Council of Europe is currently implementing a Project on "Support for the improvement of the execution of the European Court judgments by Azerbaijan" in order to support the implementation of human rights and fundamental freedoms in Azerbaijan in line with the European Convention on Human Rights (ECHR), ensure timely and effective execution of the judgments of the ECtHR and other relevant instruments of the Council of Europe. The project aims to achieve these objectives through strengthening the capacity of national stakeholders to implement harmonised evidence-based judicial policy and practice, and, through analysing and improving framework and practices for facilitation of the execution of the judgments of the ECtHR. To enhance the effective implementation of the ECtHR judgments, the Council of Europe will also provide capacity building and institutional strengthening to the training institutions of the law enforcement and judiciary (judges, prosecutors, lawyers/advocates). Furthermore, project will support professionals to get acquainted with new rules and regulations, international standards, best practices and practical implementation as well as methodologies of monitoring and data collection. The duration of the project is 18 months from the 1st of September 2022 through the 29th of February 2024.

In this context, the Council of Europe is looking for a maximum of 30 (thirty) Provider(s) (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on the capacity development, evidence-based criminal policy and practice, implementation of the ECHR, the execution of the ECtHR judgments the European standards and best practices in the field of criminal justice system and on the effectiveness, accountability and transparency of the judiciary.

This Contract is currently estimated to cover activities, planned to be held by 29 February 2024. 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 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 Provider(s) to support the implementation of the project and is divided into the following lots:

Lots	Maximum number of Providers to be selected
Lot 1: Provision of consultancy services for capacity development for the national stakeholders to implement harmonised, ECHR-compliant, evidence -based criminal, judicial policy and practice	15
Lot 2: Provision of consultancy services for harmonization, improvement and better application of regulatory and institutional framework for the facilitation of execution of the ECtHR judgments	15

Lot 1 concerns the enhancement of capacities of the national justice stakeholders in application of human rights concepts, and harmonization and application of judicial administration and practices more in line with European standards

Lot 2 concerns improvement and better application of regulatory and institutional framework for the facilitation of execution of the ECtHR judgments, including the reinforcement of the Supreme Court's role in shaping a harmonised ECHR-compliant judicial practice, and the reinforcement of the capacity of the Government Agent's Office staff for better execution of ECtHR judgments

The Council will select the abovementioned number of Provider(s) 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).

Scope of the Framework Contract

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

Under **Lot 1**. Provision of consultancy services for capacity development for the national stakeholders to implement harmonised ECHR-compliant, evidence -based criminal, judicial policy and practice by:

- Assessment of training capacity and needs, development or updating of training methodology, training modules and teaching materials;
- Conducting trainings and/or facilitating peer to peer trainings for the justice stakeholders on topics, including but not limited to, ECHR and other human rights instruments, prevention and remedying of violations of the Convention for the protection of human rights and fundamental freedoms, effective execution of the ECtHR judgments, ethical conduct for criminal justice actors, judicial data collection, analysis and management, etc;
- Participation in and/or facilitation of discussions, making presentations during training sessions, workshops and round-tables, providing technical advice and developing methodological tools, proposing tools for evaluation of the outcome of the capacity development activities.

Under **Lot 2**. Provision of consultancy services for harmonization and improved application of regulatory and institutional framework for the facilitation of execution of the ECtHR judgments, including the reinforcement of the Supreme Court's role in shaping a harmonised, ECHR-compliant judicial practice, and reinforcement of the capacity of the Government Agent's Office staff for better execution of ECtHR judgments by:

- Assessment of current legal, regulatory framework and practices in Azerbaijan;
- Assessment of institutional, functional needs of justice stakeholders, including but not limited to the assessment of the current data collection processes of relevant stakeholders and development of a new methodology for enhancement of research, analysis and data processing, and news system for data registration and case-management;
- Provision of technical assistance for improvement of legal and regulatory framework for harmonisation of human-rights compliant practices, and submission of recommendations for further institutional, structural reforms;
- Development of and/or contributing to the development of respective strategy documents and action plans, action reports, technical consultancy papers for improved execution of the ECtHR judgments;
- Taking part in the establishment and/or functioning of a working group to develop effective inter agency coordination mechanism;
- Taking part in the discussion of a national action plan and strategy documents;
- Participation in consultation meetings, facilitation of discussions and/or making presentations during workshops and round-tables, providing technical advice and developing methodological tools.

The above list is illustrative, and is not exhaustive. The Council reserves the right to request deliverables not explicitly mentioned in the above list of expected services, but related to the object of the project and 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.

If contracted by the Council of Europe, the deliverables shall be provided personally by the persons identified in the offer of the Provider whose CVs have been presented to the Council of Europe (See section E. below), in accordance with the terms as provided in the present Tender File and Act of Engagement.

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 and/or Azerbaijani (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 the selection procedure is 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 for the relevant lot 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);

² It must strictly respect the fees indicated in the Financial Offer attached to the original Provider's tender as recorded by the Council of Europe. In case of non-compliance with the fees as indicated in the original Provider's tender, the Council of Europe reserves the right to terminate the Contract with the Provider, in all or in part.

- 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, terrorist financing, terrorist offences or offences linked to terrorist activities, child labour or trafficking in human beings;
- 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 an entity created to circumvent tax, social or other legal obligations (empty shell company), have ever created or are in the process of creation of such an entity;
- have been involved in mismanagement of the Council of Europe funds or public funds;
- are or appear to be in a situation of conflict of interest;
- are retired Council of Europe staff members or are staff members having benefitted from an early departure scheme;
- have not fulfilled, in the previous three years, their contractual obligations in the performance of a contract concluded with the Council of Europe leading to a total or partial refusal of payment and/or termination of the contract by the Council of Europe.

Eligibility criteria

- Graduate university degree in law, international law or in a field relevant to the objectives of the project;
- Having at least 5 years of professional experience in fields relevant to the objectives of the project and to the scope of this tender file;
- Demonstrated knowledge of the thematic subject areas, and the knowledge of the Azerbaijani domestic legislation and practices relevant to the objectives of the project and the scope of the tender file;
- Prior experience in conducting similar technical consultancy and/or capacity development programs would be an advantage;
- Working knowledge of English would be an advantage;
- Strong interpersonal and communication skills;
- A financial offer not exceeding the exclusion level set out in the Act of Engagement.

Award criteria

- Quality of the offer (80%), including:

³ The Council of Europe reserves the right to ask tenderers, at a later stage, to supply the following supporting documents:

- 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 and sixth above listed exclusion criteria are met;
- A certificate issued by the competent authority of the country of incorporation indicating that the fourth criterion is met.

- Relevance of expertise, knowledge and professional experience demonstrating a capacity to successfully perform assistance activities in the given fields, including knowledge of relevant Azerbaijani domestic legislation and practices (40%);
 - Knowledge of and work experience on implementation of the ECHR and execution of ECtHR judgments and (20%);
 - Capacity to adapt to the context and familiarity with providing consultancy service including workshops, in particular preferably in the field of administration of justice and/or protection of human rights (20%).
- Financial offer (20%).

The Council reserves the right to hold interviews with tenderers.

Multiple tendering is not authorised.

F. NEGOTIATIONS

The Council reserves the right to hold negotiations with the bidders in accordance with Article 20 of Rule 1395.

G. DOCUMENTS TO BE PROVIDED

- **A completed and signed copy of the Act of Engagement⁴** (See attached);
- **A detailed CV**, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria;
- Registration documents, for legal persons only.

All documents shall be submitted in English and/or Azerbaijani, 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 to reject 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.

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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.