

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

### Purchase of international consultancy services in the field of media pluralism and audio-visual regulations in the Republic of Moldova



**Contract N° BH 8709/2020/1**

The Council of Europe is currently implementing until 30 of April 2021 the Project on Promoting European standards in the audio-visual regulation in the Republic of Moldova, in the framework of the [Council of Europe Action Plan for the Republic of Moldova](#). The project aims to assess the needs of the country to strengthen media and broadcasting sector through implementation of European standards.

In that context, it is looking for Providers for the provision of international consultancy services in drafting and implementation of the regulatory framework related to media pluralism, freedom of expression, audio-visual services, ethical journalism, including in enhancing the professionalism of national public service broadcasters, 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 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 address indicated in the table below, with the following reference in subject: MOL/CoE international consultancy services on media pluralism.** 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/CoE international consultancy services on media pluralism Moldova.**

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

<b>Type of contract ▶</b>	Framework contract
<b>Duration ▶</b>	Until 30 April 2021
<b>Deadline for submission of tenders/offers ▶</b>	<b>20 May 2020</b>
<b>Email for submission of tenders/offers ▶</b>	<a href="mailto:natalia.rusu@coe.int">natalia.rusu@coe.int</a>
<b>Email for questions ▶</b>	<a href="mailto:natalia.rusu@coe.int">natalia.rusu@coe.int</a>
<b>Expected starting date of execution ▶</b>	22 June 2020

## B. EXPECTED DELIVERABLES

### Background of the Project

**On the 1<sup>st</sup> of March 2020, the Council of Europe** started the implementation of project “Promoting European standards in the audio-visual regulation in the Republic of Moldova”.

The proposed project will address the needs of the country to strengthen the media and broadcasting sector through implementation of European standards in drafting and implementation of the regulatory framework related to media pluralism and in enhancing the professionalism of public service broadcasters based on activities that are structured around two components:

- I. The improvement and proper implementation of the regulatory framework related to media pluralism, by providing support:*
  - In drafting, assessing and review and of existing legal framework relevant to freedom of expression and media pluralism, in close consultation with other selected consultant(s);
  - to the broadcasting regulatory authority to increase its capacity to work in an independent and transparent manner;
  - to the Audiovisual Council to facilitate the proper implementation of Audiovisual Media Services Code, efficient media monitoring during the election campaign, prevent excessive concentration of media ownership, etc.
- II. Enhancing professionalism of national public service broadcaster, by providing support to Teleradio Moldova company aiming at:*
  - The improvement and diversification of editorial policies, in particular production of documentary films and political/electoral programmes in line with international best practices;
  - initiation of a newsroom convergence process (producing and delivering news content across traditional radio, television and new online platforms);
  - enhancing the capacity of the Company’s Ombudsperson.

In the course of its implementation, the Project 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 Moldovan context in which the activities are implemented (“national consultants”) to carry out its work.

**Duration of the Project:** March 2020 – April 2021

The Council of Europe is looking for a maximum of seven Providers per LOT (provided enough tenderers meet the criteria indicated below) in order to support the implementation of the project with a particular expertise related to the project background and description of Lots.

This Contract is currently estimated to cover up to 20 activities, to be held by 30 April 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.

For information purposes only, the total budget of the project amounts to 310 000 Euros and the total amount of the object of the 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 tender is divided into the following three Lots.

The present tendering procedure aims to select Provider(s) to support the implementation of the project by following lots:

Lots	Maximum number of Providers to be selected
<p><b>Lot I: “Legal approximation of media regulatory framework”</b></p> <p><b>Topics within this Lot</b> will include but are not limited to:</p> <ol style="list-style-type: none"> <li>1. EU Audiovisual Media Services Directive and the Council of Europe standards in the area of national audio-visual regulation;</li> <li>2. Audio-visual media services legislation in line with the Council of Europe standards and its implementation;</li> <li>3. Regulatory framework related to transparency of media ownership and media pluralism in line with European standards;</li> <li>4. European best practices for non-linear audio-visual services;</li> <li>5. European best practices in information security and protection of national audio-visual sphere;</li> <li>6. Effective models of media co-regulation in the Council of Europe member states;</li> <li>7. European best practices and standards in protection of children and national minorities in non-linear audio-visual services.</li> </ol>	<p>7</p>
<p><b>Lot II “Enhancing independence and capacity of Public Service Broadcasting”</b></p> <p><b>Topics within this Lot</b> will include but are not limited to:</p> <ol style="list-style-type: none"> <li>1. Standards and models of newsroom convergence process in public service broadcasting (strategies, action plans, business plans, etc.);</li> <li>2. International best practices in planning and production of documentary films about human rights and social issues;</li> <li>3. Standards and best practices of elections’ coverage by public service broadcasters in Europe;</li> </ol>	<p>7</p>

<ol style="list-style-type: none"> <li>4. International best practices in production and moderating of political/electoral TV and radio programmes;</li> <li>5. European models and best practices in designing editorial policies and standards in public service broadcasting;</li> <li>6. European models in organisation of activities of the service of the Ombudsman within the public service broadcasters.</li> </ol>	
<p><b>Lot III “Raising awareness on Media and Elections, as well as Political Advertising standards”</b></p> <p><b>Topics within this Lot</b> will include but are not limited to:</p> <ol style="list-style-type: none"> <li>1. Practices and legal framework of media coverage of elections in the Council of Europe member states;</li> <li>2. Council of Europe standards and recommendations on media coverage of elections;</li> <li>3. Ethical and journalistic standards and legal aspects of journalists’ work during the elections in the European countries;</li> <li>4. Media monitoring of electoral and political pluralism, inflammatory speech, xenophobia and racism, hate speech and defamation;</li> <li>5. European self-regulatory practices for media in the context of elections;</li> <li>6. Physical and digital safety of journalists during the elections period in Europe;</li> <li>7. Regulation of political advertising during elections in the member states of the Council of Europe;</li> <li>8. Information disorder and new challenges (fake news, etc.) in media in context of elections, etc.</li> </ol>	7

The list of expected deliverables within above Lots I-III will include (but not be limited to) the following:

**Lot I: “Legal approximation of media regulatory framework”:**

1. Providing (in writing or in the form of oral presentations for trainings and seminars) expert opinions with recommendations and legal assessments of acts, policy documents, draft documents and bills already in force such as but not limited to: Advertising Law, amendments to Law on Access to Information, Law on Freedom of Expression, Law on Personal Data Protection, Fiscal Code etc;
2. Development of gap analysis reports, revision of by-laws, drafting legal opinions with recommendations concerning the proper implementation of the Audiovisual Media Service Code in line with the European standards, in particular but not limited to political pluralism, inflammatory speech, xenophobia and racism, hate speech and defamation etc;
3. Providing guidance and expert support in updating the existing software and hardware in order to guarantee an effective monitoring system within the Audiovisual Council;
4. Expert assistance in putting into practice the regulatory framework related to Audio-visual Media Services by organising trainings related to coverage of election campaigns etc., and software on media monitoring etc.

## **Lot II “Enhancing independence and capacity of Public Service Broadcasting”**

1. Contributing to the establishment of contemporary, convergent and semantic newsroom framework for Public Broadcaster to support the production of news in an integrated, interactive and cybernetic manner; through:
  - a) development of a needs assessment report with recommendations;
  - b) drafting one newsroom convergence strategy and action plan for its implementation;
  - c) providing detailed guidance to the staff and entity’s management on approaches and key-aspects of the newsroom convergence strategy and action plan;
2. Expert assistance in supporting the establishment of children's radio station within the National Public Broadcaster, by content and concept elaboration for the application, as well as supporting in the promotion of the radio as a national brand etc.
3. Expert assistant in strengthening the Ombudsperson capacity within the National Public Broadcaster through developing methodology for audiovisual content monitoring, as well as providing the European best practices models on efficient functioning of Ombudsperson service;
4. Supporting young film-makers through the delivery of up to 5 seminars on human rights and social issues documentaries and their coaching on producing up to 3 films based on European practices.

## **Lot III “Raising awareness on Media and Elections, as well as Political Advertising standards”**

Providing expert support and guidance to the audiovisual regulatory bodies, in particular the Audiovisual Council, National Public Service Broadcasting and Ombudsperson of Public Service Broadcasting, as well as other institutional actors such as representatives of the Standing Parliamentary Committees in the field of human rights and media, including media professionals on European standards and legal practices, by conducting up to fifteen awareness raising and outreach activities directed to the staff and management of the mentioned entities such as workshops trainings/seminars, round-tables, meeting participations with national stakeholders including through facilitating discussions, mentoring and delivering presentations/training materials with relevant case-studies based on the ECHR judgements, in terms of:

- a) media pluralism and freedom of expression and access to information;
- b) media coverage and elections;
- c) journalistic ethics, transparency and media financing and independence;
- d) independent editorial policy, advertising, in line with the European legal practices;
- e) production and moderating of political/electoral TV and radio programmes in line with international best practices;
- f) application into practice the provisions of the Audiovisual Media Service Code;
- g) professional ethics and pluralism of opinions, presentation of live TV programmes for journalists etc.

Provider(s) selected for the provision of expertise in all fields (Lots) should include *gender mainstreaming* in their work in line with the Council of Europe standards and policies.

The consultants may be asked to undertake missions to provide the expected deliverables within Lots I-III. Costs of any authorised missions will be reimbursed by the Council of Europe.

## Scope of the Framework Contract

Throughout the duration of the Framework Contract, being instructed, supervised and coordinated by the designated staff members from the Council of Europe Office to the Republic of Moldova and from the Council of Europe Headquarters, the pre-selected Providers may be asked to provide through the Project the advice and expertise pertaining to the various aspects of the media sphere, public broadcasting, audio-visual services in the Council of Europe member states, etc.

The list above 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.

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 (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.

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.

### Providers subject to VAT

The Provider, **if subject to VAT**, shall also send, together with each signed Form, a quote<sup>2</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.

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<sup>2</sup> 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.

## 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>3</sup>

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*

- A university degree in law/ political sciences/ social sciences/ international relations/ public administration/ journalism or related fields;
- At least 5 years of professional experience in the areas mentioned as topics of Lots I-III (consulting, legal assessment and review, audiovisual production or similar with proven experience in awareness and outreach campaigns; development and promotion of audiovisual services, capacity-building, academic/legal research, analytical work, expert assessments, working as trainers, contribution to the events as speakers etc).
- Extensive experience working with media and regulatory bodies;
- Fluent/proficient in English (at least level B2 of the Common European Framework of Reference for Languages).

### *Award criteria*

- Quality of the offer (70%), divided as follows:
  - 50%: relevance of the experience and level of expertise of the tenderer in the areas covered by specific Lots;
  - 10%: previous assignments with international organizations;
  - 10%: previous experience with Eastern Partnership countries/Moldovan context.
- Financial offer (30%).

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

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<sup>3</sup> 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 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;
- For legal persons, an extract from the companies register or other official document proving ownership and control of the Tenderer;
- For natural persons (including owners and executive officers of legal persons), a scanned copy of a valid photographic proof of identity (e.g. passport).

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 Engagement**<sup>4</sup> (See attached).
- A detailed CV, preferably in [Europass Format](#), demonstrating clearly that the tenderer fulfils the eligibility criteria.
- For legal persons, detailed CVs of the delegated persons to apply, preferably in [Europass Format](#), demonstrating clearly that the tenderer fulfils the eligibility criteria.
- A sample of an article/study/research, legal opinion, report, short essay, analysis, event/workshop presentations or another relevant text, including at least one published online, with an active link, produced in the last 5 years shall be submitted in English by the tenderer covering challenges with regards to the specific and/or preferred fields of expertise: **Lot I: “Legal approximation of media regulatory framework”**; **LOT II “Enhancing independence and capacity of Public Service Broadcasting”**, **Lot III “Raising awareness on Media and Elections, as well as Political Advertising standards”**.
- Registration documents for legal persons only.

**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 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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<sup>4</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.