

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

### Purchase of national consultancy services in the field of media pluralism, audiovisual regulation and access to information in the Republic of Moldova

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

#### **Contract N° BH8809/2022/9**

The Council of Europe is currently implementing until June 2024 the Project "Support for Media Pluralism and Freedom of Expression in the Republic of Moldova", in the framework of the Council of Europe Action Plan for the Republic of Moldova 2021-2024. The project aims to assess the needs of the country to strengthen media and broadcasting sector through the implementation of Council of Europe and European standards.

In that context, the Project is looking for Provider(s) for the provision of national consultancy services in drafting and implementation of the regulatory framework related to media pluralism, freedom of expression, audiovisual services, ethical journalism, and the enhancement of the work of the National Public Broadcaster, independent media outlets, 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: BH8809 – application national consultancy services in the field of 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 – application national consultancy services in the field of media pluralism.**

<b>Type of contract ▶</b>	Framework contract
<b>Duration ▶</b>	Until 30 June 2024
<b>Deadline for submission of tenders/offers ▶</b>	<b>04 April 2022</b>
<b>Email for submission of tenders/offers ▶</b>	<b>ana.chiriac@coe.int</b>
<b>Email for questions ▶</b>	ana.chiriac@coe.int
<b>Expected starting date of execution ▶</b>	18 April 2022

<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. EXPECTED DELIVERABLES

### Background of the Project

The Council of Europe is currently implementing a Project on "Support for Media Pluralism and Freedom of Expression in the Republic of Moldova" until June 2024. The Project aims at supporting the implementation of activities addressing the need for legislative reforms in the audiovisual field, capacity-building for media professionals, content diversification within the National Public Broadcaster and strengthening the access to information legal framework and its implementation in the Republic of Moldova.

The activities are structured around these components:

- I. The improvement of the regulatory framework related to media pluralism, audiovisual regulation and access to information, by providing support:
  - In drafting, assessing and reviewing existing legal framework relevant to freedom of expression, media pluralism, access to information in close consultation with international consultants;
  - To the broadcasting regulatory authority (the Audiovisual Council) to increase its capacity to work in an independent and transparent manner;
  
- II. Enhancing professionalism of independent media outlets, journalists and the national public service broadcaster, by providing support aiming at:
  - The improvement and diversification of editorial policies within the Public Broadcaster, in particular production of documentary films and political/electoral programmes in line with international best practices;
  - Support to the public broadcaster in the digitalization process, enhancement of multimedia capacities;
  - Support to independent media outlets within the field of emerging new media products, support for initiatives in the field of information disorder, gender equality, journalism ethics, access to information, etc.;
  - Capacity building activities for journalists and media professionals on access to information, information disorder, new media, CoE media standards, gender equality, etc.
  
- III. Support to the implementation of the regulatory framework related to media pluralism, audiovisual regulation and access to information, by providing support:
  - 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, information disorder etc.
  - To the civil society and regulatory authorities in the field of media in the implementation of the Audiovisual Media Services Code and connected laws.

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: January 2022 – June 2024

The Council of Europe is looking for 8 (eight) Provider(s) per lot (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on the project background and Project lots.

This Contract is currently estimated to cover up to 30 activities, to be held by June 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 budget of the project amounts to 500 000 Euros and 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 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: "Assessment, review and improvement to the existing audiovisual, media and access to information legal 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 audiovisual regulation, media pluralism;</li> <li>2. Regulatory framework related to transparency of media ownership and media pluralism in line with European standards;</li> <li>3. European best practices for non-linear audio-visual services;</li> <li>4. European best practices in information security and protection of national audio-visual sphere;</li> <li>5. Effective models of media co-regulation in the Council of Europe member states;</li> <li>6. European best practices in the field of alignment of Access to Information and Information disorder to national context.</li> <li>7. Revision of Media monitoring strategy for the audiovisual regulatory authority in line with EU standards.</li> </ol>	8
<p><b>Lot II "Enhancing the capacities of independent media outlets and independence of the Public Service Broadcaster"</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. National best practices in planning and production of documentary films about human rights and social issues and courses for filmmakers on development of documentary films;</li> <li>2. Standards and best practices of elections' coverage by public service broadcasters in Europe;</li> <li>3. European models and best practices in designing editorial policies and standards for media outlets and public service broadcasting;</li> <li>4. Practices and trends in digitization, marketing strategies, multimedia development and promotion of media content.</li> <li>5. Support to independent media outlets in the development of new-media successful products (such as story-telling, podcasts, video and other multimedia resources);</li> </ol>	8
<p><b>Lot III "Raising awareness activities and implementation of media pluralism standards, access to information, coverage of elections and information disorder"</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, regulation of information disorder, access to information in the Council of Europe member states;</li> <li>2. Ethical and journalistic standards and legal aspects of journalists' work during the elections;</li> </ol>	8

<ol style="list-style-type: none"> <li>3. Media monitoring of electoral and political pluralism, inflammatory speech, xenophobia and racism, hate speech and defamation;</li> <li>4. European self-regulatory practices for media in the context of elections;</li> <li>5. Physical and digital safety of journalists, as well as sensitive approach to conflicts and war reporting;</li> <li>6. Regulation of political advertising during elections in the member states of the Council of Europe;</li> <li>7. Information disorder and emerging new challenges (false news, deep fakes etc.) in the media;</li> <li>8. Gender equality in mass-media, tackling hate speech in the audiovisual environment.</li> </ol>	
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The list of expected deliverables within above Lots I-III will include (but not be limited to) the following:

**Lot I: "Assessment, review and improvement to the existing audiovisual, media and access to information legal framework" and it concerns:**

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, Law on Access to Information, Fiscal Code, Law on Information Security 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. Expert assistance in putting into practice the regulatory framework related to the Audiovisual Media Services by organising trainings related to coverage of election campaigns, media monitoring methodology etc.,
4. Engage in the revision of the Media Monitoring Strategy and Methodology of the national audiovisual regulatory authority.

**Lot II "Enhancing the capacities of independent media outlets and independence of the Public Service Broadcaster" and it concerns:**

1. Expert assistance in the digitization process of the National Public Broadcaster through strategy development, action plan, capacity building events;
2. Expert support to the Public Broadcaster in the development of the organisation's 5-year Strategy and Action Plan;
3. Conceptual support and expert assistance to several independent media outlets in the development of successful new-media products on key relevant issues (podcasts, VOX populi, story-telling, social media strategies, etc.);
4. Supporting filmmakers through the delivery of seminars on human rights and social issues documentaries and their coaching on producing documentaries based on best European practices;

**Lot III "Raising awareness activities and implementation of media pluralism standards, access to information, coverage of elections and information disorder" and it concerns:**

1. Providing expert support and guidance to the relevant institutions and audiovisual regulatory bodies, in particular the Parliamentary Committee for mass-media, Ministry of Justice, the Audiovisual Council, the National Public Service Broadcaster, journalists, as well as other institutional actors by conducting 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, 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.;
- h) promotion of gender equality in the media field;
- i) European practices and trends in tackling and combating information disorder
- j) Conflict-sensitive approach to journalistic reporting.

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 (depending on the evolving COVID-19 pandemic situation). 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.

Throughout the duration of the Framework Contract, pre-selected Providers may be asked to provide the deliverables listed in the Act of Engagement (See Section A – Terms of reference).

The above list 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 Romanian/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).

### **J. 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 K below) the global fee corresponding to each deliverable, calculated on the basis of the unit fees, as agreed by this Contract.

## K. 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), electronically, on **an as needed basis** (there is therefore no obligation to order on the part of the Council).

### Pooling

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

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

Each time an Order Form is sent, the selected Provider undertakes to take all the necessary measures to send it **signed** to the Council within 2 (two) working days after its reception. If a Provider is unable to take an Order or if no reply is given on his behalf within that deadline, the Council may call on another Provider using the same criteria, and so on until a suitable Provider is contracted.

### Providers subject to VAT

The Provider, **if subject to VAT**, shall also send, together with each signed Form, a 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.

## L. 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, 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 or are likely to be in a situation of conflict of interests.

<sup>2</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>3</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.

*Eligibility criteria*

- A university degree in law/political sciences/social sciences/international relations/public administration/ journalism/marketing, IT 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, new media, digitalisation 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.).
- At least 5 (five) proven years of experience working with media, journalists, public service broadcaster, national public institutions, and regulatory bodies;
- Be proficient in English (at least level B1/B2 of the Common European Framework of Reference for Languages).

*Award criteria for Lots I - III*

Quality of the offer (70%), including:

- 50%: relevance of the experience and level of expertise of the tenderer in the areas covered by specific Lot;
- 20%: previous assignments with international organisations;
- Financial offer (30%).

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

Multiple tendering is not authorised.

## M. NEGOTIATIONS

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

## N. 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.
- Up to three samples of articles/study/research, legal opinion, report, short essay, analysis, multimedia products, communications and marketing strategy, event/workshop presentations, documentaries, or other relevant material produced in the last 5 years shall be submitted in Romanian or English by the tenderer covering challenges with regards to the specific and/or preferred fields of expertise: **Lot I: "Assessment, review and improvement to the existent audiovisual, media and access to information legal framework"; Lot II "Enhancing the capacities of independent media outlets and independence of the Public Service Broadcaster"; Lot III "Raising awareness activities and implementation of media pluralism standards, access to information, coverage of elections and information disorder"**
- Registration documents, for legal persons only;

**All documents shall be submitted in English (with the exception of legal registration documents and/or samples of work), 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.