

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Purchase of Consultancy Services

The Council of Europe is currently implementing a Project on "Improving the Effectiveness of the Administrative Judiciary and Strengthening the Institutional Capacity of the Council of State" in Turkey. In that context, it is looking for Provider(s) for the provision of consultancy services 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, 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: Administrative Justice Project**. Tenders addressed to another email address **will be rejected**.

The general information and contact details for this procedure are indicated on this page. You are invited to use the CoE Contact details indicated below for any question you may have. **All questions shall be submitted at least 5 (five) working days before the deadline for submission of the tenders and shall be exclusively addressed to the email address indicated below with the following reference in subject: Administrative Justice Project**.

Type of contract ▶	Framework contract
Duration ▶	Until 19 December 2021
Deadline for submission of tenders/offers ▶	27 August 2020
Email for submission of tenders/offers ▶	ankara.office@coe.int
Email for questions ▶	ankara.office@coe.int
Expected starting date of execution ▶	01 September 2020

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

The Council of Europe is currently implementing a project on Improving the Effectiveness of the Administrative Judiciary and Strengthening the Institutional Capacity of the Council of State, aiming to foster public confidence in the administrative judiciary by further strengthening its independence, impartiality and effectiveness, and increasing its public awareness.

The Council of Europe is looking for 65 Provider(s) (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on providing trainings, trainings of trainers, adult training, preparing necessary training materials and training methodology in the fields of Administrative Law, European Court of Human Rights Jurisdiction, Turkish Constitutional Court (TCC) Jurisdiction, CJEU, ECHR for judges and case & time management for court staff.

This Contract is currently estimated to cover up to 41 activities, to be held by December 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 3.335.000 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 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: Capacity Building (Trainings) of Administrative Judges	20
LOT 2: Capacity Building (Trainings) of Administrative Court Staff	15
LOT 3: Education experts	15
LOT 4: Roundtable meetings on ECtHR / TCC / CJEU and Preparing a Compendium on their Case-Law	15

Lot 1 concerns **Consultancy for subject experts for the capacity building of administrative judges**

Lot 2 concerns **Consultancy for subject experts for the capacity building of administrative courts' staff**

Lot 3 concerns **Consultancy Services for Education Experts**

Lot 4 concerns **Consultancy Services for Subject Experts for Peer to peer trainings /round table meetings on ECtHR / TCC / CJEU and Preparing a Compendium on their Case-Law**

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:

UNDER LOT 1: Consultancy Services for Subject Experts for Capacity Building of administrative judges

Curricula and Training Materials Development, Delivery of Training of Trainers and Pilot Cascade Trainings for Administrative Judges

Training Modules / Course Topics to be prepared:

Module 1: Legal Reasoning and Legal Drafting (LRLD)

Module 2: ECtHR and Turkish Constitutional Court Rulings in the Case-Law of Administrative justice.

Module 3: Fair Trial – Reasonable Time (FTRT)

Tasks and Deliverables for Subject Experts

1. Preparation of training programme, training modules and training materials for training of trainers (ToT), pilot cascade trainings and regular cascade trainings for judges through desk-top studies and face to face meetings and workshops.
The training materials will include tool kits mainly for **trainer book and relevant materials for TOTs, trainees' book and other relevant materials** for cascade trainings which will be conducted for developing curricula and training materials including incorporation of legislation, jurisprudence, case studies and other information into the identified parts of module instructions and training materials based on TNA recommendations and results, adapted to training of administrative law judges.
2. Adaptation of the selected training and materials to an on-line or remote course that can be used for continuing in-house learning for the judges and other relevant staff in the administrative justice system, as needed.
3. Delivery of three ToTs as a lead trainer through facilitation of trainings and applying training methodology in the training agenda together with the thematic topics that will be implemented in two and a half days as specialized ToT trainings, for each training course/topic mentioned above.
4. Supporting for preparation of an assessment report on the results and outcome of ToTs.
5. Co-delivery of pilot trainings and revision of the training curriculum and materials after the training for wider dissemination of cascade trainings.
6. Co-delivery and supporting the cascade trainings through facilitation of trainings including individual and online support to the trainers.
7. Preparation of the assessment reports on the results and outcome of the cascade trainings and revise the training materials after completion of the cascade training sessions, for future training and dissemination among other administrative justice courts.

UNDER LOT 2: Consultancy Services for Subject Experts for Capacity Building of administrative courts' staff

Curricula and Training Materials Development, Delivery of Training of Trainers and Pilot and Cascade Trainings for Administrative Court Staff

Training Module to be prepared:

Module 1: Case & Time Management (CTM) for administrative court staff

Tasks and Deliverables for Subject Experts

1. Preparation of training programme, training modules and training materials for training of trainers (ToT), pilot cascade trainings and regular cascade trainings for court staff through desk-top studies and face to face meetings and workshops.
The training materials will include in-service tool kits mainly for **trainer book and relevant materials for TOTs, participant book and other relevant materials** for cascade trainings which will be conducted for developing curricula and training materials including incorporation of legislation, court-staff /registry regulation on case management, time management including existing IT/UYAP applications, analytical skills jurisprudence, case studies and other information into the identified parts of module instructions and training materials based on TNA recommendations and results, adapted to training of administrative court staff.
2. Adaptation of the selected training and materials to an on-line or remote course that can be used for continuing in-house learning for administrative court staff and other relevant staff in the administrative justice system, as needed.
3. Delivery of one ToT as a lead trainer through facilitation of trainings and applying training methodology in the training agenda together with the thematic topics that will be implemented in two and a half days as specialized ToT training, for the training course/topic mentioned above.
4. Supporting for preparation of an assessment report on the results and outcome of ToT.
5. Co-delivery of pilot trainings and revision of the training curriculum and materials after the training, for wider dissemination of cascade trainings.
6. Co-delivery and supporting the cascade trainings through facilitation of trainings including individual and online support to the trainers.
7. Preparation of the assessment reports on the results and outcome of the cascade trainings and revise the training materials after completion of the cascade training sessions, for future training and dissemination among other administrative justice courts/registries and offices.

UNDER LOT 3: Consultancy Services for Education Experts

Curricula and Training Materials Development, Training of Trainers and Pilot and Cascade Trainings for Administrative Judges and Administrative Court Staff

Training Modules / Course Topics to be prepared:

1. Legal Reasoning and Legal Drafting (LRLD) for administrative judges
2. ECtHR and Turkish Constitutional Court Rulings in the Case-Law of Administrative justice for administrative judges
3. Fair Trial – Reasonable Time (FTRT) for administrative judges
4. Case & Time Management (CTM) for administrative court staff

Tasks and Deliverables for Education Experts

1. Education experts work with the subject matter experts in preparation of in-service training tool kits / training materials including trainer book with adapted methodology book, participant book and testing and evaluation materials to assist in refining content, scope, duration, and sequencing of components of the curriculum by utilizing the principles of adult learning and instructional design of the modules. Supervise and assist in directing the work of subject matter experts and resource trainers (working group members) and ensure compliance with curriculum standards and best practices.
2. Coordinate and monitor the initial testing (piloting) of the training modules for ToTs and cascade training programmes.
3. Assist in revision of the training curriculum and materials for ToTs and cascade trainings.
4. Assist in adaptation of the selected modules into on-line modules.
5. Establish a methodology/framework for measuring the effectiveness of the overall training, including methods for skills assessment and on-line training as well as any recommendations for longitudinal tracking. At the end of the training programmes, prepare a final training assessment report.

UNDER LOT 4: Consultancy Services for Subject Experts for Peer to peer training / round table meetings

4.1 Consultancy on the European Court of Human Rights (ECHtR), Turkish Constitutional Court and CJEU's (Court of Justice of the European Union) Case Law

Tasks and Deliverables:

1. Participation, delivery of presentations and facilitation of the above-mentioned round table meetings on ECtHR / Turkish Constitutional Court Case Law on administrative justice.
2. Preparation and co-moderation of the roundtable meetings on the agreed dates.
3. Contributing to the round table meetings on the basis of own expertise, facilitating groups' discussions and acting as rapporteur, as needed.
4. Delivery of presentation and moderating of the group sessions.
5. Drafting a brief report with recommendations in line with the conclusions of the roundtable meeting. Inputs to the relevant reports and meeting reports. Evaluation and assessment of the activity's impact.
6. Co-develop with the international consultant a proposed approach/mechanism with clear indication of objectives, timeline and responsible actors/institutions, "a pilot networking group" as well as a set of recommendations to be reviewed by the networking group to function as a self-sustainable network of legal practitioners, mostly judges, to ensure continued peer-to-peer exchanges and updating on relevant ECHtR, Turkish Constitutional Court and CJEU case law.

4.2 Preparation of a Compendium in National Context for the "Casebook on European Fair Trial Standards" which is translated into Turkish

Tasks and Deliverables:

1. Preparing, drafting and editing an addendum for the translated "Casebook on European Fair Trial Standards in Administrative Justice" (can be found on: <https://www.coe.int/en/web/cdcj/publications>) (herein after called the Casebook) developed by the Council of Europe.
2. The Addendum will be a complementary and up-dated resource book to the Casebook to include case-law and decisions of the European Court of Human Rights (ECtHR), Turkish Constitutional Court and the Council of State as well as and the CJEU (Court of Justice of the European Union) pertaining to Turkish Administrative Justice.
3. Conducting a comprehensive research and case study on the jurisprudence of the ECtHR, Turkish Constitutional Court and the Council of State as well as CJEU pertaining to Turkish Administrative Justice.
4. Attending meetings / workshops / roundtables which will be conducted for the compendium development.

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 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 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);
- 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.

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.

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;
- 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;
- are or if their owner(s) or executive officer(s), in the case of legal persons, are included in the lists of persons or entities subject to restrictive measures applied by the European Union (available at www.sanctionsmap.eu).

Eligibility criteria

For LOT 1

1. University degree in law, public administration or social sciences with a preferable specialisation in administrative law or public law
2. Minimum 5 years of professional experience in the judiciary, administrative courts, academy, civil society or administration system
3. Experience in the design and provision of training to legal professionals
4. Significant experience in providing capacity building to the judiciary and experience in training context under projects, particularly taking into account the compliance with relevant Council of Europe and European standards

For LOT 2

1. University degree in law, public administration or social sciences with a preferable specialisation in administrative law or public law
2. Minimum 5 years of professional experience in the judiciary, administrative courts, academy, vocational school of justice, civil society or administration system
3. Experience in the design and provision of training to court staff
4. Significant experience in providing capacity building to the judiciary and experience in training context under projects, particularly taking into account the compliance with relevant Council of Europe and European standards

For LOT 3

1. University degree in education, law, social sciences or humanities
2. Minimum 5 years of proven work experience in one or more of the following areas in the field of education: curriculum development and assessment, development of education materials, adult training and policy and strategy development
3. Good command of written and spoken English (Minimum B2 level);
4. Mother tongue-level knowledge of Turkish;

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 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).

5. Proven experience in working with national authorities or having an experience in providing capacity building to the judiciary and experience in training context under projects
6. Having experience on designing, developing or adapting an on-line training module would be an asset

For LOT 4

1. University degree in law with a preferable specialisation in administrative law, public law, constitutional law or human rights law
2. Minimum 5 years of professional experience in the judiciary, academy, civil society or administration system
3. Proved experience in conducting research on human rights, European Convention on Human Rights, ECtHR and its case law, CJEU and Turkish Constitutional Court's Case Law, Council of State Case Law; compilation of high courts' case law
4. Familiarization with capacity building to the judiciary, particularly taking into account the compliance with relevant Council of Europe and European standards
5. Working experience at the ECtHR or having studies on the case-law of the ECtHR would be an asset;
6. Good command of written and spoken English or French (Minimum B2 level)

Award criteria

- **Quality of the offer (90%), including:**
 - Relevance of the experience of the tenderer in the areas covered by this call **(50%)**;
 - Experience in providing trainings in the context of judiciary **(25%)**;
 - Experience in judicial capacity building, particularly taking into account the compliance with relevant European standards or knowledge of the national context in the fields of Administrative Law and Public Administration System and capacity to adapt to the context that are relevant to the areas covered by this call **(15%)**
- **Financial offer (10%)**

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

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**⁴ (See attached);
- A detailed CV in English, highlighting experience in the specific lots and areas covered by this call;
- A motivation letter in English up to 1 page, highlighting experience in the specific lots and areas covered by this call
- A sample (not more than 10 pages) in Turkish or English, of a report, training module, book, policy paper, article, or legal opinion, prepared by the tenderer
- A list of all owners and executive officers, for legal persons only;

All documents shall be submitted in English (unless indicated otherwise), 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.