

# TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)



## Purchase of consultancy services in relation to the HFIII project HF30 "Combating discrimination and promoting diversity in Serbia" **Contract N° BH5046/2023/2**

The Council of Europe is currently implementing - and until 31 December 2026 will implement - the joint Council of Europe / European Union Horizontal Facility Action HF30 on "Combating discrimination and promoting diversity in Serbia". 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 Europe<sup>1</sup>, the Organisation shall invite to tender at least three potential providers for any purchase between €2,000 (or €6,000 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 consortium of natural and/or legal person.

Tenders shall be submitted **by email only** (with attachments) **to the email address indicated in the table below, with the following reference in subject: Tender – HF30 Serbia local consultancy pool.** 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 7 (seven) 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 – HF30 Serbia local consultancy pool**

<b>Type of contract ▶</b>	Framework contract
<b>Duration ▶</b>	Until 31 December 2026
<b>Deadline for submission of tenders/offers ▶</b>	<b>30 April 2023</b>
<b>Email for submission of tenders/offers ▶</b>	<b>TENDERS.ANTIDISCRIMINATION@COE.INT</b>
<b>Email for questions ▶</b>	<b>TENDERS.ANTIDISCRIMINATION@COE.INT</b>
<b>Expected starting date of execution ▶</b>	15 May 2023

<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

“Combating discrimination and promoting diversity in Serbia” is an Action implemented in Serbia within the framework of the third phase of the European Union / Council of Europe Joint Programme Horizontal Facility for the Western Balkans and Türkiye (HF III).

Through the Horizontal Facility, the European Union and the Council of Europe assist Beneficiaries to comply with Council of Europe standards and European Union acquis in the framework of the enlargement process. The Horizontal Facility relies on the Council of Europe’s unique working methods, whereby tailor-made technical co-operation activities are based on conclusions and recommendations of the Council of Europe’s monitoring bodies. These conclusions and recommendations highlight for the Beneficiaries areas where improvements are needed in their legislation and policies to comply with the Organisation’s treaties and other standards. Themes covered by the Horizontal Facility include ensuring justice; fighting economic crime; combating discrimination and protecting the rights of vulnerable groups (including LGBTI, minorities and Roma); freedom of expression and freedom of the media. All the themes are key priorities of the two Organisations in the Western Balkans region and Türkiye.

The aim of this specific Action for Serbia is to contribute to improving the functioning of anti-discrimination mechanisms and their accessibility by vulnerable groups, in line with European standards and best practices. In specific, it will work on combating different grounds of discrimination, including combating hate speech and hate crime as well as protecting rights of national minorities. This will be achieved by instruments such as legislative and policy reviews, capacity building and raise awareness initiatives implemented at various levels, including the local. The Action is based on the CoE findings and recommendations of the [European Commission against Racism and Intolerance](#) (ECRI) and of the [Advisory Committee of the Framework Convention for the Protection of National Minorities](#), as well as on the CoE’s Committee of Ministers Recommendations [on hate speech \(2022\)](#) and on [measures to combat discrimination on grounds of sexual orientation or gender identity \(2010\)](#).

The Action is implemented throughout the period of 48 months (1 January 2023 – 31 December 2026) by the Anti-Discrimination Department of the Council of Europe and the project team based in the Council of Europe Office in Belgrade. The main partners of the project are the Protector of Citizens (Ombudsman), the Ministry of Human and Minority Rights and Social Dialogue and the Commissioner for Protection of Equality. Partner institutions will include local municipalities and NGOs active in the field of combating discrimination.

The Council of Europe is looking for a maximum of 30 providers (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project. Providers should have experience on European standards and practices in the following areas:

- General combat of **discrimination**, including on the different protected grounds as included in the grounds addressed by ECRI (“race”, ethnic/national origin, colour, citizenship, religion, language, sexual orientation, gender identity and sex characteristics);
- The protection of the rights of persons belonging to **national minorities** in line with the standards set in the Framework Convention for the Protection of National Minorities; and diversity management in general.
- Combating **hate speech** through improving the legal and policy framework, the empowerment of relevant bodies/institutions and by raising awareness among the general public about its negative effects. Providing support to local activists and human rights advocates to better respond to hatred, intolerance, and racism with particular attention will be paid to the local civic initiatives in the field of youth and sports.
- Conducting research and data collection on discrimination-related topics to support institutions and inform evidence-based policy

This Contract is currently estimated to cover up to 50 activities, to be held by 31 December 2026. 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 800,000 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: LEGISLATIVE AND POLICY	10
Lot 2: CAPACITY BUILDING	10
Lot 3: RAISING AWARENESS	10

Lot 1 Concerns consultancy services to be provided with regards to supporting the authorities to enhance the compatibility of the legislation/policy relating to different forms of discrimination, protection of rights of persons belonging to national minorities, racism, hate crime and hate speech, in line with European standards and CoE monitoring bodies' recommendations.

Lot 2 Concerns consultancy services to be provided with regards to the enhancing the implementation of the relevant laws/policies and other standards, through training programs and similar activities, including peer to peer.

Lot 3 Concerns consultancy services to be provided with regards to raise awareness on the dangers posed by discrimination and hate speech and in promoting a diverse and tolerant society, especially at local level.

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). Tenderers may tender for one, two or all lot(s).

## Scope of the Framework Contract

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

### Under Lot 1:

- Conduct analysis of legal acts/policies;
- Review of policy documents, legalisations, strategies;
- Provide national and local expertise and coordination to the working groups, as well as background support to international experts in the process of upgrading of the existing laws and policies;
- Participate, involve and/or facilitate events (workshops, working groups, conferences, high level meetings);
- Help the international expert in his/her work;
- Contribute to the Steering committee meetings.

### Under Lot 2:

- Provide technical trainings/workshops/round tables for different professional groups on topics related to anti-discrimination, protection of national minorities, combating hate speech, hate crime and racism;
- Development of guidelines, training curricula, training modules, training materials and support the production/produce different specialised materials based on the participants needs analysis;
- Participate in and, where applicable, facilitate conferences, seminars, workshops, roundtables, training of trainers and work with different target groups;
- Develop materials/resources/tools that will enhance the capacity of different target groups to remove prejudices and discriminatory approaches towards vulnerable groups and condemn hate speech;
- Provide national and local expertise and coordination to working groups and support international experts;
- Conduct baseline research, evaluation, analysis, produce impact assessments, project and activity-based evaluation, project results, and other reports.

**Under Lot 3:**

- Design/support/facilitate public awareness raising activities/workshops/public initiatives in relation to the combat of hate speech, inclusion and promotion of tolerance, diversity in the society and other related subjects;
- Develop informative and promotional materials and other texts/publications;
- Prove needs assessment, design and conduct surveys on perception of such phenomena.

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 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.

### 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, 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;
- 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](http://www.sanctionsmap.eu)).

#### *Eligibility criteria*

##### General for all Lots:

- University degree in human rights, law, political science, social science, criminalistics, pedagogy, psychology, public relations, journalism, or any related field **or** equivalent working experience;

<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.

<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.

- 5 years of professional experience in areas related to human rights/anti-discrimination, and/or hate speech, hate crime, anti-racism in Serbia;
- At least 3 years of proven professional experience relevant for the duties described under the Lots for which the candidate is applying;
- Very good knowledge of the Serbian political structure, domestic context, legislative framework and implementation in the field of human rights/anti-discrimination and/or hate speech, hate crime, anti-racism;
- Demonstrated ability to work in multi-cultural environments, and demonstrated analytical, research and reporting skills,
- Excellent communication and interpersonal skills;
- Excellent drafting skills;
- Excellent written and oral Serbian and English;
- ICT skills: sound computer skills of standard tools in office applications.

#### *Award criteria*

- Quality of the offer (80%), including:
  - Relevance of the experience and expertise of the tenderer in the policy areas covered by this call;
  - Excellent understanding of the national legal and policy framework;
  - Very good knowledge of Council of Europe standards and other relevant international standards in the field of human rights/anti-discrimination and/or hate speech, hate crime, anti-racism;
  - Capacity to meet the required deadlines.
- Financial offer (20%).

The Council reserves the right to hold interviews with eligible 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 Engagement**<sup>4</sup> (See attached);
- A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria and list of 3 references/recent employers;
- A scanned copy of a valid photographic proof of identity (e.g. passport), for natural persons only (including from owners and executive officers of legal persons);
- A list of all owners and executive officers, for legal persons only;
- For legal persons, registration documents or other official documents proving ownership and control of the tenderer;
- Sample of relevant work (article, report, research analysis, training material) enclosed by email or links to relevant work present online;
- A motivation letter highlighting relevant skills and experience.

**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.