

TENDER FILE / TERMS OF REFERENCE

(Restricted consultation procedure / Framework Contract)

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Purchase of national consultancy services on the implementation of the rule of law in the activities of the parliament, law-making and legal practices in Ukraine

Contract N° 8561/2019/02FC

The Council of Europe is currently implementing a Programme “Supporting constitutional and legal reforms, constitutional justice and assisting the Verkhovna Rada in conducting reforms aimed at enhancing its efficiency” till 31 March 2020 in the framework of the Council of Europe Action Plan for Ukraine 2018-2021. The objectives of the project are aimed at supporting the reform of electoral legislation and practice, Supporting constitutional reforms and constitutional justice and assistance to the Verkhovna Rada in conducting reforms aimed at enhancing its efficiency. In that context, the Council of Europe is looking for Provider(s) for the provision of national expert services to support the implementation of the rule of law in the activities of the parliament, law-making and legal practices in Ukraine to be requested by the Council on an as needed basis.

A. TENDER RULES

This tender procedure is a restricted consultation procedure. **In accordance with Rule 1333 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 €5,000 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 duly registered private entrepreneur in accordance with the Ukrainian legislation. If contracted by the Council of Europe, the signatory of the Act of Engagement shall provide the deliverables personally, in accordance with the terms as provided in the current Tender File, Act of Engagement and future Order Forms (see Section D below on ordering procedure).

Tenders shall be submitted **by email only** (with attachments) **to the email address indicated in the table below, with the following reference in subject: call for national consultants_ rule of law implementation 8561/2019/02FC**. 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 3 (three) 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: call for national consultants_ rule of law implementation 8561/2019/02FC.**

Type of contract ▶	Framework contract
Duration ▶	Until 31 March 2020
Deadline for submission of tenders/offers ▶	28 March 2019
Email for submission of tenders/offers ▶	Anastasiia.devos@coe.int
Email for questions ▶	Anastasiia.devos@coe.int
Expected starting date of execution ▶	08 April 2019

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 1333 of 29 June 2011 on the procurement procedures of the Council of Europe](#).

B. EXPECTED DELIVERABLES

Background of the Project

The Council of Europe is currently implementing a Programme “*Supporting constitutional and legal reforms, constitutional justice and assisting the Verkhovna Rada in conducting reforms aimed at enhancing its efficiency*” till 31 March 2020 in the framework of the Council of Europe Action Plan for Ukraine 2018-2021. The objectives of the project are aimed at implementing the rule of law in the activities of the parliament, law-making and legal practices in Ukraine and providing the assistance to the Verkhovna Rada in conducting reforms aimed at enhancing its efficiency.

Component 3 **Implementing the rule of law in the activities of the parliament, law-making and legal practices in Ukraine** - foresees the provision of policy advice and legal assistance to the Ukrainian Parliament, CEC and other stakeholders, in line with Council of Europe standards (Venice Commission) and taking into account good practice of Council of Europe's member states.

- After the next legislative elections in October 2019 the newly elected Parliament Members need to be supported in performing their activities regarding the implementation of the rule of law in their work, especially in law-making and law-enforcement processes. They need to be provided with the fundamental theoretical methodology that will accumulate a number of principles based on the Rule of Law Checklist principle which they will use during their work.
- The summary of these principles will be published afterwards by the Council of Europe and will be distributed to each newly elected Parliament Member as the methodology handbook in order to stimulate and to reinforce the rule of law in the parliamentary activities and programs. Regarding these principles a number of capacity-building activities and discussions will be provided in order to ensure the implementation of the rule of law in all kinds of parliamentary activities with special focus on law-making process.

Current topics of interest for the implementation of the rule of law in the activities of the parliament, law-making and legal practices in Ukraine include (but are not limited to this list of issues):

- The implementation of the principles of legality, legal certainty, proportionality and others in the work of Ukrainian Parliament based on the Rule of Law Checklist (developed and approved by Venice Commission)
- Recommendations on the elaboration of the new laws and their implementation based on the Rule of Law Checklist principle
- Features of the law-making activities and legal practices in other countries
- Ways of implementation of international law-making practices in Ukraine
- Appeal against violations of the rule of law and democracy in the parliamentary activities
- Informational support for law-making and law-enforcement processes
- Issues of responsibility for law-making activities which do not correspond the Rule of Law Checklist criteria
- Questions relating to the law-making competence of the Ukrainian Parliament
- Council of Europe (Venice Commission) standards and documents and their implementation in Ukrainian law-making practices

In this context the Programme is looking for maximum 15 Providers (provided enough tenders meet the criteria indicated below), in order to ensure implementation of the Programme with a particular expertise on (i) the implementation of the rule of law in the activities of the parliament, law-making and legal practices in Ukraine, (ii) Council of Europe (Venice Commission) standards and recommendations in the field.

This Contract is currently estimated to cover more than 20 activities, to be held by 31 March 2020. 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 length of the Programme and evolving needs of the Organisation.

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.

Scope of the Framework Contract

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

- provide legal and policy advice in the field of the implementation of the rule of law in the activities of the parliament, as well as the law-making and law-enforcement activities in Ukraine: assess and comment on legal and policy documents, prepare overviews in line with the Council of Europe's (Venice Commission) standards and identified good practice;
- prepare analytical reports and recommendations;

- participate in events (meetings, round tables, workshops, seminars, working groups, trainings, conferences, high level meetings, study visits, regional events), prepare and make presentations;
- moderate/facilitate discussions;
- development of training materials, methodological manuals and other publications related to the implementation of the rule of law in the activities of the parliament, law-making and legal practices in Ukraine
- developing methodologies, training courses, strategies and conducting needs assessment on specific institutional aspects related to the topic of the lot;
- other deliverables related to the topic above and as requested by the Council of Europe.

The above lists is not considered exhaustive. The Council reserves the right to request deliverables not explicitly mentioned in the above lists of expected services, but related to the field of expertise object of the present Framework Contract.

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.

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 Ukrainian and/or English specified in concrete order of the Council (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 this consultation and the subsequent selection are 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 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;

² 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.

- 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)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.

Eligibility criteria

- Master's Degree (or equivalent: specialist) in law, public administration, public policy, political science, sociology, economics, or other sciences in a related field;
- Minimum five years of relevant experience at the national or regional level in the sphere of Ukrainian and international legislation, providing expert advice in the relevant field and/or preparation of analytical articles;
- Excellent Ukrainian language skills.

Award criteria

Quality of the offer (90%), including:

Thematic knowledge and related experience (45%), including:

- in the field of the implementation of the rule of law in the activities of the parliament, law-making and law-enforcement activities in Ukraine,
- in the development and implementation of national policy and reform papers,
- in providing legal and policy advice to national, regional and local authorities,
- in drafting analytical articles on issues relating to parliamentary reform and legislation,
- in conducting training for members of the Ukrainian Parliament and MP's assistants
- excellent knowledge on the international standards in legislation sphere;
- knowledge of one of the official languages of the Council of Europe (English, French) would be an advantage;

Level and relevance of the capacities of the tenderer (45%), including:

- research, analysis, writing and reporting;
- communication and team work, in an international environment.

- Financial offer (10%).

Multiple tendering is not authorised.

F. DOCUMENTS TO BE PROVIDED

- A completed and signed copy of the **Act of Engagement**⁴ (See attached);

³ 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.

- A **detailed CV in English**, demonstrating clearly that the tenderer fulfills the eligibility criteria;
- Registration documents for private entrepreneurs only (including those that prove the ability to carry out the respective types of economic activities)
- A list of drafted expert opinions, legislation assessments, reports and other relevant materials with active links to them to the extent possible (but not less than 2) on the topics covered by this tender

Act of Engagement and CV shall be submitted in English, failure to do so will result in the exclusion of the tender. Other supporting documents can be provided in English or Ukrainian.

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.