

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

Purchase of national consultancy services on national minorities and combating discrimination and hate crimes in Ukraine

Contract N° FC 4986/2023/7



The Council of Europe is currently implementing the project "Support for implementing European standards relating to anti-discrimination and rights of national minorities in Ukraine". The Project is implemented for 36 months (1 July 2023 – 30 June 2026) by the Anti-Discrimination Department of the Council of Europe, as co-funded by the Council of Europe and the European Union. In that context, it is looking for Provider(s) for the provision of national consultancy services on national minorities and combating discrimination and hate crimes in Ukraine 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 €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 180 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 consortia of legal and/or natural persons.

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 – 2023 Ukraine experts on anti-discrimination.** 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 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 – 2023 Ukraine experts on anti-discrimination.**

Type of contract ▶	Framework contract
Duration ▶	Until 30 June 2026
Deadline for submission of tenders/offers ▶	26 January 2024 23h59 CET
Email for submission of tenders/offers ▶	Tenders.antidiscrimination@coe.int
Email for questions ▶	Tenders.antidiscrimination@coe.int
Expected starting date of execution ▶	01 February 2024

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 Project "Support for implementing European standards relating to anti-discrimination and rights of national minorities in Ukraine" (the Project) aims at supporting Ukraine in the earlier phases of EU accession negotiations, notably by following up on the 2022 Opinion on Ukraine's application for membership of the European Union by aligning legislation and policy related to the protection from discrimination and rights of persons belonging to national minorities with European standards.

Furthermore, it aims at raising awareness, at the institution and societal levels, on issues related to diversity and combating intolerance and stereotypes against vulnerable groups, including in the context of the EU accession process. Ultimately, it aims at better protecting the rights of victims of discrimination and hatred, notably those belonging to vulnerable groups and minority communities.

The project contains two components:

Component 1: Support Ukrainian beneficiaries in analysing the current legislation and policy in combating discrimination and hate crimes and identify gaps to align them with European standards, including EU acquis. It fosters inter-service coordination on discrimination issues and the involvement of CSOs in the reform work. Provision of legal and policy assistance is envisaged to address those gaps, including relevant institutions and stakeholders' practice – first and foremost strengthening the role of the Ombudsperson as national equality body. Work with non-state actors, notably CSOs, to promote standards with the public at large and support vulnerable groups, including LGBTI persons in seeking protection from discrimination.

Component 2: Support Ukrainian beneficiaries in implementing the legal framework on national minorities at central and local level. Provision of legal and policy expertise is ensured, to address gaps related to European standards in the reform implementation, including on education and minority language issues. Work with non-state actors, notably CSOs and minority communities, to enhance their dialogue with authorities, is reinforced through pilot projects with selected schools and municipalities; standards are promoted with the public and community members supported in accessing their rights, including those of Roma communities and minority/Roma internally displaced persons, especially in the context of the war.

The Council of Europe is looking for **50 Provider(s)** (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on of national consultancy services on national minorities and vulnerable groups in Ukraine.

This Contract is currently estimated to cover up to 80 activities, to be held by 30 June 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 1 999 997 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 SUPPORT IN THE ANTI-DISCRIMINATION DOMAIN	15
Lot 2: LEGISLATIVE AND POLICY SUPPORT IN THE RIGHTS OF NATIONAL MINORITIES	15
Lot 3: CAPACITY BUILDING SUPPORT	10
Lot 4: RAISE AWARENESS AT THE SOCIETAL LEVEL ON DISCRIMINATION AND RIGHTS OF VULNERABLE GROUPS	10

Lot 1 Concerns consultancy services to be provided with regards to the analysing the current legislation and policy in combating discrimination and hate crimes and identify gaps to align them with European standards, including EU acquis.

Lot 2 Concerns consultancy services to be provided with regards to the enhancing the implementation of the relevant laws/policies and other standards in the field of the protection of national minorities, including Roma, and minority languages.

Lot 3 Concerns consultancy services to be provided through training programs and similar activities, including peer to peer, to support project partners in implementing policies to address discrimination and hate crimes, as well as to protect rights of national minorities.

Lot 4 Concerns consultancy services to be provided to raise awareness in promoting a diverse and tolerant society, addressing stereotypes and stigmatizations against vulnerable social groups.

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;
- Draft analytical and evaluation expert reports and assessments, collect data and provide recommendations from discrimination and hate crimes on the protection of vulnerable groups, including LGBTI persons, in line with the Council of Europe standards, the ECtHR case-law and the EU acquis.
- Prove needs assessment, design and conduct surveys on perception of discrimination and hatred at the societal level.
- 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;

Under LOT 2:

- Conduct analysis of legal acts/policies;
- Draft analytical and evaluation expert reports and assessments, collect data and provide recommendations on the protection of national minorities, including Roma, and minority languages, in line with the Council of Europe and other European standards.
- 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.

Under LOT 3:

- Contribute to different events related to anti-discrimination and rights of minorities and vulnerable groups protection: round tables, working groups, trainings, seminars, workshops, consultations, advocacy meetings, conferences, high level meetings/conferences.
- Prepare interactive and detailed training/seminar curricula, modules and training/seminar materials in relation to anti-discrimination, combating hate crime and rights of vulnerable groups, including LGBTI persons, national minorities and Roma in Ukraine.
- Conduct training sessions for representatives of the media, the Ombudsman's office, non-governmental organizations, law enforcement, and national, regional, and local authorities in Ukraine regarding anti-discrimination, hate crimes, and the protection of vulnerable groups, including LGBTI persons, either individually or in cooperation with other national or international experts.
- Conduct trainings for the presentatives of media, national minorities, law enforcement and national, regional and local authorised in Ukraine in relation to the protection of national minorities, including Roma, and minority langauges, solely or in cooperation with other national or international experts.

Under LOT 4:

- Design/support/facilitate public awareness raising activities/workshops/public initiatives in relation to anti-discrimination, hate crimes and rights of vulnerable groups, including LGBTI persons, and other related subjects;

- Design/support/facilitate public awareness raising activities/workshops/public initiatives in relation to the protection of national minorities, including Roma, and minority languages and other related subjects;
- Develop informative and promotional materials and other texts/publications;

The consultant can be asked to participate in regular on-line or in-person meetings/conferences/webinars (via Teams or Zoom video conferencing platforms) to provide the expected deliverables.

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;
- The services provided reflect Council of Europe standards for the human rights, democracy and rule of law.

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 or Ukrainian (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).

- *By submitting an offer in the framework of the present Call for Tenders, the Tenderer acknowledges that the persons involved in the implementation of the contract will be exposed to an increased risk of death and injury due to the ongoing war against Ukraine. The Tenderer also acknowledges that, if selected, it will carry out the implementation of the contract at its own risk.*
- *The Tenderer confirms in addition that, if selected, it will perform systematic security assessments before implementing any activity related to the implementation of the contract. The Tenderer acknowledges that the Council of Europe does not assume any liability for the death, any injury, or any damage that the Provider or persons involved in the implementation of the contract may sustain in Ukraine.*

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 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.

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)²

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;
- are currently employed by the Council of Europe or were employed by the Council of Europe on the date of the launch of the procurement procedure;
- 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 all Lots:

- A university degree in law, political sciences, social sciences, human rights, international relations, public or business administration, communication or related fields;
- At least 5 years of professional experience in areas related to human rights/anti-discrimination, and/or hate crimes, and/or protection of national minorities in Ukraine;
- At least 3 years of proven professional experience relevant for the duties described under the Lots for which the candidate is applying, including in dealing with European standards on the topics covered by the reference Lot;

² 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 and sixth 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).

- Very good knowledge of the Ukraine political structure, domestic context, legislative framework and implementation in the field of human rights/anti-discrimination hate crime, protection of rights of national minorities;
- Excellent knowledge of oral and written Ukrainian and English.

Award criteria

- Quality of the offer (90%), including:
 - Thematic expertise in the relevant area, primarily the in-depth knowledge of the Ukrainian legislation and implementation practices as well as the knowledge of the international standards and recommendations of the Council of Europe in the areas covered by this tender;
 - Relevance of the experience and competences of the tenderer in the areas covered by this call, including previous similar assignments at the local level and/or with international organisations;
 - Very good knowledge of Council of Europe standards and of the EU acquis in the field of human rights/anti-discrimination and/or hate speech, protection of national minorities;
- Financial offer (10%).

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**³ (See attached);
- A detailed CV in English, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria and with three references contacts;
- Motivation letter, demonstrating experience and expertise required (in English);
- Sample of relevant work, at least one in English and one in Ukrainian (article, report, research analysis, training material) enclosed by email or links to relevant work present online;
- 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;

All documents shall be submitted in English in pdf. format, failure to do so will result in the exclusion of the tender.

Please, use clear reference to the above documents in the files to be provided.

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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³ 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.