

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)



Purchase of national consultancy services on judiciary, access to justice and free legal aid in Ukraine in the light of the Council of Europe standards

Contract N° 8751/2021/1

The Council of Europe implements the Project "Support for judicial institutions and processes to strengthen access to justice in Ukraine" (hereinafter – the Project) to support development of legislation and strategic documents on the judiciary and access to justice; to support the Supreme Court and courts of appeal to ensure uniform application of law, a better access to justice and application of the legal certainty principle; to support the Ukrainian authorities in raising quality of the free legal aid system on civil and administrative cases in the light of the CoE standards.

In that context, it is looking for Provider(s) (see below) for the provision of national consultancy services on judiciary, access to justice and free legal aid system in Ukraine in the light of the CoE standards to be requested by the Council on an as needed basis, in compliance with the ordering procedure defined below.

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 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 – Application for the provision of national consultancy services, Contract no. 8751/2021/1.** 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: Questions - Application for the provision of national consultancy services, Contract no. 8751/2021/1.**

Type of contract ▶	Framework contract
Duration ▶	Until 31 December 2022
Deadline for submission of tenders/offers ▶	28 February 2021
Email for submission of tenders/offers ▶	DGI.Justice.Reform.Unit1@coe.int
Email for questions ▶	DGI.Justice.Reform.Unit1@coe.int
Expected starting date of execution ▶	20 March 2021

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 implements the Project "Support for judicial institutions and processes to strengthen access to justice in Ukraine". It will focus on support to development of legislation and strategic documents on the judiciary and access to justice; support to the Supreme Court and courts of appeal to ensure uniform application of law, a better access to justice and application of the legal certainty principle; support to the Ukrainian authorities in raising quality of the free legal aid system on civil and administrative cases in the light of the CoE standards.

The Council of Europe is looking for maximum of 28 Provider(s) (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on the fields indicated below:

- Judicial reform and access to justice in Ukraine
- Ensuring of uniform application of law and legal certainty principle by national courts
- Strengthening of quality of free legal aid advice in civil and administrative cases in the light of the CoE standards
- Legal Proofreading (including, texts with ECHR terminology)

This Contract is currently estimated to cover up to 30 activities, to be held by 31 December 2022. 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 700 000. 00 (seven hundred thousand) 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 Provide(s) to be selected
Lot 1 - Support to the judicial reform in Ukraine and to national institutions in ensuring access to justice, uniformity of case law and application of the legal certainty principle in line with the CoE standards	10
Lot 2 - Strengthening of quality of free legal aid advice in civil and administrative cases in the light of the CoE standards	10
Lot 3 - Legal Proofreading (including, texts with ECHR terminology)	8

Lot 1 concerns development of legislation on the judiciary and access to justice; development of amendments related to the legislation, including by-law acts, regulating the free legal aid system legislation and alternative dispute resolution; support to the Supreme Court and courts of appeals regarding implementation of the CoE standards on the legal certainty principle and uniformity of application of law.

Lot 2 concerns compliance of the practice of free legal aid and the respective legislative framework with the CoE standards; training of free legal aid professionals which may include but shall not be limited to training needs assessment, training course development and delivery of trainings, including those on Council of Europe standards and their application in civil and administrative cases

Lot 3 concerns legal proofreading of texts developed within the project with the specific legal terminology of the European Convention on Human Rights and the case-law of the European Court of Human Rights, legal proofreading of translations from English into Ukrainian and vice versa in order to ensure their accuracy, precision and high-quality of language.

The Council of Europe 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: Judicial reform and access to justice in Ukraine

- Assessment of legal acts and policy documents (draft documents and documents in force) and provision of advice (in the form of an oral and/or written advice), preparation of legal opinions, comments, recommendations, reports, surveys etc.
- Participation and contribution to the working group meetings, workshops, consultation meetings with national stakeholders, including through moderating/facilitating discussions and delivering presentations.
- Participation in and contribution to the conferences, round-tables, seminars, trainings and other relevant events, including through moderating/facilitating discussions and delivering presentations.
- Developing methodology and conducting needs assessment on specific, policy, legal, institutional and/or operational aspects related to the theme of the lot concerned.
- Monitoring of the practice of the Supreme Court and/or courts of appeal on the application of the legal certainty principle and uniformity of the application of law in the light of the CoE standards.
- Preparing and delivering training for judges/judges` assistants on legal certainty principle and the CoE standards in judiciary with the focus on civil and administrative cases.
- Contributing to the development of information, guiding materials, legal and internal regulatory documents, etc.

Under Lot 2: Strengthening of quality of free legal aid advice in civil and administrative cases in the light of the CoE standards

- Deliver the survey on level of quality of the Ukrainian free legal aid services in civil and administrative cases.
- Provide support regarding the development and discussion of the draft legislative acts (by law regulations) as to the quality standards within the free legal aid service in civil and administrative cases.
- Deliver, in cooperation with the Free Legal Aid Coordination Centre, the assessment of needs of the free legal aid system regarding particular CoE standards knowledge of which is necessary for raising quality of the free legal aid services.
- Deliver an educational course/its parts and/or trainings for free legal aid providers on the CoE standards regarding protection of the human rights basing on the ECtHR case law.
- Deliver an survey on application of the CoE standards in the civil and administrative cases by the legal aid advocates.

Under Lot 3: Legal Proofreading (including, texts with ECHR terminology)

- Legal proofreading of texts in Ukrainian and English, including with the specific legal terminology of the European Convention on Human Rights and the case-law of the European Court of Human Rights.
- Legal proofreading of translations from English into Ukrainian with the specific terminology as mentioned above.

The above list is not considered exhaustive. The Council of Europe 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 of Europe – 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 of Europe to ensure continuing exchange of information relevant to the project implementation. This involves, among others, to inform the Council of Europe 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 of Europe, 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 of Europe will indicate on each Order Form (see Section D below) the number of units ordered, calculated on the basis of the unit fees, as agreed by this Contract.

The Council of Europe 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 of Europe).

Pooling

For each Order, the Council of Europe 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;

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.

- 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 of Europe, 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, 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.

Eligibility criteria

- University Degree in law or social sciences (political science, international relations, linguistics, public administration and related fields);
- At least 4 years of professional experience in areas related to the fields of expertise as described under the scope of the contract above/respective lot(s);
- Excellent knowledge of the Ukrainian language (mother tongue level). Very good knowledge of the English language (at least level B2 (for lot 3 – C2) of the Common European Framework of Reference for Languages);
- Knowledge of the standards and recommendations of the Council of Europe in areas related to the fields of expertise as described under the scope of the contract above/respective lot(s);
- A financial offer not exceeding the exclusion level set out in the Act of Engagement.

Award criteria

- Quality of the offer (80%), including:
 - Thematic local expertise and knowledge of the national context in the relevant areas covered by this call/respective Lot(s) (40%).
 - Knowledge of the standards and recommendations of the Council of Europe in the areas covered by this call/respective Lot(s) (20%).
 - Relevance of the experience of the tenderer in the areas covered by this call/respective lot(s), including some previous similar assignments with international organisations (20%).
- Financial offer (20%).

The Council of Europe reserves the right to hold interviews with eligible tenderers

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.

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

- Completed and signed copy of the Act of Engagement⁴
- A detailed CV, demonstrating clearly that the tenderer fulfils the eligibility criteria (4 pages maximum).
- A motivation letter providing information as to the thematic local expertise, relevance of experience and knowledge of the national context in relation to the fields of expertise as described under the scope of the contract above (1 page maximum).
- At least two examples of the previous work/deliverables links to or copies of publications, legal assessments/analyses, reports, studies, proofread texts etc. relevant to the experience the tenderer claims (in case links are provided, the full texts of the respective documents should be accessible via the provided links).
- Information about 2 (two) relevant references, from previous employers or clients (name, surname, position, phone number and e-mail).
- Registration documents (for legal persons only).

All documents shall be submitted in English, failure to do so will result in the exclusion of the tender. If examples of the previous work/deliverables are only in Ukrainian a tenderer can submit them in 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.