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by the European Union  
and the Council of Europe



Implemented  
by the Council of Europe

## TENDER FILE / TERMS OF REFERENCE (Competitive bidding procedure / Framework Contract)

### Purchase of consultancy services *Contract N° BH 4652/2019/19*

The Council of Europe is currently implementing, until 23 May 2022, the Action "Strengthening the effective legal remedies to human rights violations in Serbia", within the co-operation framework co-funded by the European Union and the Council of Europe known as the "Horizontal Facility for the Western Balkans and Turkey II". In that context, it is looking for Providers for the provision of consultancy services for building the capacity of legal professionals and law students in Serbia to apply provisions of the European Convention on Human Rights (ECHR) and the European Court of Human Rights (ECtHR) case law, and providing expertise on case law harmonization and effective implementation of the ECtHR judgements in relation to Serbia 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 €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: Tender File Strengthening effective legal remedies to human rights violations in Serbia.** 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 Council of Europe 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: Question- Strengthening effective legal remedies to human rights violations in Serbia.**

Type of contract ▶	Framework contract
Duration ▶	Until 23 May 2022
Deadline for submission of tenders/offers ▶	<b>30 September 2019</b>
Email for submission of tenders/offers ▶	<b>DGI-HRImplementation@coe.int</b>
Email for questions ▶	<b>DGI-HRImplementation@coe.int</b>
Expected starting date of execution ▶	07 October 2019

<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

The Action's main goal is to strengthen the overall protection of human rights in Serbia in line with European standards. To achieve this, the Project will focus on: improving national mechanisms for the consistent application of the ECHR and case law of the ECtHR, as well as the national judicial practice; fostering the national implementation of European human rights standards, including the execution of judgments of the ECtHR. The methodology will include: building the capacity of legal professionals, including judges, prosecutors, lawyers and legal assistants, to apply the provisions of the ECHR and the ECtHR case law; strengthening case law departments in courts of all levels to make them capable to preventively identify potential violations. The Action's core beneficiaries and partners are (in alphabetic order): Constitutional Court, Government Agent before the ECtHR, High Judicial Council, Judicial Academy, Law Faculty of the University of Belgrade, Ministry of European Integrations, Ministry of Justice, Republic Public Prosecutor's Office, State Prosecutorial Council and Supreme Court of Cassation.

The Council of Europe is looking for 31 Providers (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on the application of the European Convention of Human Rights, case law and functioning of the European Court of Human Rights and execution of judgments of the European Court of Human Rights.

This Contract is currently estimated to cover up to 60 activities to be held by 23 May 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 900,000 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 Providers to support the implementation of the project and is divided into the following lots:

Lots	Maximum number of Providers to be selected
Lot 1: Conducting research and providing expertise on solutions and tools within the judiciary to ensure a coherent judicial practice	5
Lot 2: Training for legal professionals and law students on the Council of Europe standards, ECHR and case law of the European Court of Human Rights	15
Lot 3: Providing expertise on the right to a trial within reasonable time for the purpose of developing HELP (The European Programme for Human Rights Education for Legal Professionals) on-line course on the topic	6
Lot 4: Conducting research and providing expertise related to the execution of judgments of the European Court of Human Rights	5

Lot 1 concerns conducting research of relevant legislation, including bylaws and administrative instructions, and good practices in respect to mechanisms for the consistent application of the ECHR and case law of the ECtHR, and ensuring the coherence of national judicial practice;

Lot 2 concerns delivering trainings for judges, prosecutors, legal professionals (within public institutions and civil society organisations), lawyers and law students on the protection of human rights in line with the Council of Europe standards, ECHR and its protocols and ECtHR case law;

Lot 3 concerns providing expertise, by participating and or coordinating in the working group and producing and/or preparing material, tasked for designing HELP on-line course on the right to a fair trial within reasonable time;

Lot 4 concerns conducting research of relevant legislation and practices and providing expertise (needs assesment, analysis of effects, impact analysis) related to the execution of judgments of the ECtHR.

The Council will select the abovementioned number of Providers 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 provide the following services:

#### **Under Lot 1:**

- Drafting analytical reports (assesments, analysis, reviews) of existing mechanisms, rules and procedures in the field of case law harmonization,
- Preparing and delivering presentations, participating as a keynote or contributing speaker in the expert workshops (discussions, conferences and round tables);
- Facilitating expert workshops (discussions, conferences and round tables);
- Preparing and delivering presentations and/or lectures for law students.
- Preparing and/or producing material for publications related to the topic of case law harmonization.

#### **Under Lot 2:**

- Preparing material for training sessions/workshops, with regard to the needs specific for a certain group of training attendees;
- Delivering training/workshop, with regard to the needs specific for a certain group of training attendees;
- Preparing post-training/workshop report.

#### **Under Lot 3:**

- Participation to the WG meetings and contribute to the discussion related to the development.
- Drafting parts (modules) of the HELP model course in English language

In addition, the WG coordinator will:

- Drafting an initial outline of the HELP course
- Liaise regularly with the COE Secretariat and the WG members to ensure the timely submission of their contributions.
- Supervising the drafting process and reviewing and consolidating the draft-submissions submitted by other WG members before Working Group meetings in order to ensure the complementarity of the content of the submissions and uniformity of terminology and style.
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#### **Under Lot 4:**

- Drafting analytical reports (assesments, analysis, reviews) of existing legislation, mechanisms, rules and procedures related to the execution of judgements
- Preparing and delivering presentations, participating as keynote or contributing speaker in the expert workshops (discussions, conferences and round tables);
- Facilitating expert workshops (discussions, conferences and round tables);
- Preparing and delivering presentations and/or lectures for law students.
- Preparing and/or producing material for publications related to the execution of judgements of the ECtHR.

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 Provider 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 the 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);

<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.

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

#### *Eligibility criteria*

- University degree in law;
- At least 8 (eight) years of professional experience in the field related to human rights, rule of law and judiciary, of which at least 3 (three) years acquired in an international context;
- Advanced knowledge of European human rights standards, ECHR and case law of the ECtHR;
- Knowledge of Serbian legal framework and context;
- Excellent knowledge of English language, spoken and written (at least level C1 of the CEFR3).

#### *Award criteria*

- Quality of the offer (90%), including:
  - Expertise in the field of human rights, rule of law and judiciary (40%);
  - Proposed methods of undertaking the work (25%);
  - Capacity to meet the required deadline (10%);
  - Capacity to adapt to the context (20%);
- Financial offer (10%).

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

Multiple tendering is not authorised.

### **F. NEGOTIATIONS**

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<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.

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;
- 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;
- Contact details of 3 (three) referees (i.e. current or previous employee, client);
- Motivation letter outlining proposed methodology which bidder intends to apply while conducting task(s).

**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.