



CALL FOR TENDERS

FOR THE PROVISION OF SHORT-TERM CONSULTANCY SERVICES ON THE COURT OF CASSATION IN TURKEY

INTERNATIONAL CONSULTANTS

2019/AO/63

Object of the procurement procedure ►	Consultative services to strengthen the institutional capacity of the Court of Cassation in Turkey – <u>International consultants</u>
Project ►	Strengthening the institutional capacity of the Court of Cassation
Organisation and buying entity ►	Council of Europe
Type of contract ►	Framework Contract
Duration ►	Until 28 February 2022
Expected starting date ►	07 October 2019
Tender Notice Issuance date ►	03 September 2019
Deadline for tendering ►	01 October 2019

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The TERMS OF REFERENCE describe what will be expected from the selected Providers.
- **The TENDER RULES**..... 8
The TENDER RULES explain the procedure through which the tenders will be submitted by the tenderers and assessed by the Council of Europe.
- **The ACT OF ENGAGEMENT (See Document attached)** is the document formalising the consent of the Parties to be bound by the LEGAL CONDITIONS, which are the legal provisions which will be applicable between the Council of Europe and the selected Providers. It also contains the TABLE OF FEES, which indicates the applicable fees, throughout the duration of the contract.

HOW DOES A FRAMEWORK CONTRACT WORK?

STAGE 1:

SELECTION of qualified Providers through a call for tenders and signature of a framework contract with all the pre-selected Providers.

STAGE 2:

ORDER(S) are addressed, on an as needed basis, throughout the duration of the contract, to the designated Provider(s).

EXECUTION as from the date of signature of each Order, unless the Order concerned provides otherwise.

HOW TO SUBMIT A TENDER?

STEP 1: Read the **TENDER FILE**

STEP 2: Complete the **ACT OF ENGAGEMENT** and collect the required **SUPPORTING DOCUMENTS**, as listed in section F of the terms of reference (below).

STEP 3: Send your **TENDER**, in accordance with the Tender Rules

PART I –TERMS OF REFERENCE

CALL FOR TENDERS

FOR THE PROVISION OF SHORT-TERM CONSULTANCY SERVICES ON THE COURT OF CASSATION IN TURKEY

INTERNATIONAL CONSULTANTS

2019/AO/63

A. BACKGROUND

Main aim of the project *Strengthening the Institutional Capacity of Court of Cassation* is further strengthening and making more concrete and visible the independence, the impartiality, the efficiency and the administration of the judiciary in Turkey.

Specific objectives of the project are:

1. Strengthening the institutional capacity of the Court of Cassation;
2. Enhancing the role of the Court of Cassation in preserving the uniform application of the law throughout the country.

The project is co-funded by the European Union and the Council of Europe under the Instrument for Pre-Accession Assistance (IPA) 2015 and has a total budget of 3.000.000 Euros.

It will last 3 years (February 2019 - February 2022) and its expected results are affecting both efficiency and quality aspects of the Court of Cassation:

- *Expected result 1:* The legal framework governing the appeal process and the structure and functioning of the Court of Cassation will be assessed and revised;
- *Expected result 2:* Working procedures and tools of the Court of Cassation will be revised, and new ones introduced to ensure a uniform practice by taking into account the best European practices;
- *Expected result 3:* The quality of the training policy and programme of the Court of Cassation will be improved by taking into account best European practices.

Target groups of the project are members, rapporteur judges, prosecutors, and auxiliary judicial staff of the Court of Cassation, for a total of approximately 3500 individuals.

Main stakeholders are first instance courts, appellate courts, the Constitutional Court and the Council of State as the supreme courts of Turkey, the Council of Judges and Prosecutors, the Ministry of Justice and the Ministry of Justice department of Training, the Union of Turkish Bar Associations.

Final beneficiaries are the court users and lawyers involved in the justice system on civil and criminal matters.

The Council of Europe is looking for a maximum of 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 building institutional capacity and efficiency of high courts.

This Contract is currently estimated to cover up to 50 activities to be held by 28 February 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 3.000.000 Euros and the total amount of the object of present tender should in principle not exceed 128.100 Euros 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.

B. SCOPE OF THE FRAMEWORK CONTRACT

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

LOT 1. Research, analysis, legal review, development of recommendations and assessment tools in relation to the efficient and effective functioning of high courts which involves:

- Carrying out base-line and end-line studies gathering data on the legislative and regulatory framework, competence of the Court of Cassation and assessment of the satisfaction of court users; these studies will include comprehensive desk reviews, on-line surveys, focus groups interviews, and reporting;
- Drafting an assessment and recommendations report reviewing the legal and regulatory framework of the Court of Cassation, based on the inputs collected from desk review, and design preparatory and presentation workshops;
- Developing a reference book including European standards, framework, tools, case studies and best practices regarding effective functioning of the high courts;
- Undertaking in-depth assessments of the performance of the Court of Cassation, identifying and examining the perceptions and expectations of general public about deficiencies and possible areas for improvement, including effective public relations and communication policies;
- Drafting a road map for changes in the current legal and regulatory framework of the Court of Cassation, including proposals for amendments to relevant laws and regulations, explaining reasons and objectives of such a reform;
- Preparing a report on recommendations to increase the efficiency and effectiveness of procedures, rules and practices of the Court of Cassation, based on the findings of the desk review, and focus group interviews, and design a final presentation meeting;
- Developing a list of recommendations and proposed tools, including an Internal Assessment Guide, in relation to the strengthening of the role of Court of Cassation in enhancing the consistency of case-law, and contribute to the organisation of a preparatory workshop, regional workshops, national case-law forum and monitoring working group meetings;
- Conducting a study elaborating new assessment tools and standards concerning the efficiency and effectiveness of the Court of Cassation, based on the pilot testing;
- Contributing to the preparation of publications related to the above.

LOT 2. Raising awareness initiatives in relation to the role of the Court of Cassation which involves:

- Facilitating or contributing to the design and implementation of working groups meetings, roundtables and workshops where finding of reviews, assessments, desk research, base-line and end-line studies are presented and discussed with beneficiaries and stakeholders;
- Preparing concept notes and agendas, delivering speeches and drafting reports in various outreach events, including international seminars, regional workshops, and launching and closing conferences;
- Designing and developing awareness raising materials and online and printed documents on the role and functions of the Court of Cassation and its relationship with appellate courts and first instance courts in light of the latest developments;
- Contributing to the preparation of publications related to the above.

LOT 3. Building the institutional capacity of the Court of Cassation and the individual capacities of rapporteur judges, public prosecutors and court staff, which involves:

- Designing and implementing a Training Needs Assessment (TNA) and related working groups, and preparing relevant reports;
- Contributing to the development of a new training strategy for the Court of Cassation and of the related action plan, addressing the needs identified by the TNA;
- Facilitating the working groups for the development of a new training curriculum and finalize training books and materials;
- Designing and conducting training of trainers (ToT) for Court of Cassation judges/rapporteur judges, and prosecutors;
- Preparing the induction course (training methodology and modules) for newly assigned rapporteur judges;
- Contributing to the preparation of publications related to the above.

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.

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 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 unit fees, by completing the table of fees, as attached in Section A of 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 **Error! Reference source not found.** below) the global fee corresponding to each deliverable, calculated on the basis of the daily 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 carried out on the basis of Order Forms submitted by the Council to the selected Service Provider(s), by post or electronically, on **an as needed basis** (there is therefore no obligation to order on the part of the Council).

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.

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.

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 Service 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 quote¹ (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 Service 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 (by signing the Act of Engagement, you declare on your honour not being in any of the below situations)²

¹ It must strictly respect the fees indicated in Section A of the Act of Engagement as recorded by the Council of Europe. In case of non-compliance with the fees as indicated in the Act of Engagement, the Council of Europe reserves the right to terminate the Contract with the Service Provider, in all or in part.

² The Council of Europe reserves the right to ask tenderers, at a later stage, to supply the following supporting documents:

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).

Eligibility criteria

Tenderers shall demonstrate that they fulfil the following criteria (to be assessed on the basis of all supporting documents listed in Section F):

For LOT 1:

- University degree in law, political sciences, social sciences, international relations or related fields;
- At least 5 years of professional experience in areas related to judiciary and to the efficacy and efficiency of justice, of which at least 3 years acquired in an international context and in technical co-operation projects;
- Knowledge of European and Council of Europe standards related to efficiency and efficacy of justice;
- Excellent drafting and analytical skills;
- Excellent knowledge of English language (at least level C1 of the CEFR).

For LOT 2:

- University degree in law, political sciences, social sciences, international relations or related fields;
- At least 5 years of professional experience in areas related to the judiciary and to the efficacy and efficiency of justice, of which at least 3 years acquired in an international context in technical co-operation projects;
- Knowledge of European and Council of Europe standards related to efficiency and efficacy of justice;
- Proven track record in designing, organising and implementing international seminars, regional workshops and other similar events, including preparing concept notes and agendas, delivering speeches and drafting relevant reports;
- Excellent knowledge of English language (at least level C1 of the CEFR).

For LOT 3:

- University degree in Education, Adult Education, law, political sciences, social sciences, international relations or related fields;
- At least 5 years of experience in implementing Training Needs Assessments (TNA) and functional reviews of training structures and processes, and in designing, organising, conducting tailor-made, interactive training programmes and modules, online and offline;
- Excellent knowledge of English language (at least level C1 of the CEFR).

Award criteria

For LOT 1:

Criterion 1: Quality of the offer (90%), including:

- Relevance of the experience of the tenderer in the areas covered by this call, including in technical co-operation programmes and projects at international level (40%);
- Drafting and analytical skills in the preparation of in-depth assessment reports, research papers, recommendations, road maps and assessment tools in the field of judiciary (30%);
- Experience of working in the region (20%).

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- 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 requirements listed above under "exclusion criteria" are met;
 - A certificate issued by the competent authority of the country of incorporation indicating that the fourth requirement is met;
 - For legal persons, an extract from the companies register or other official document proving ownership and control of the Tenderer.

Criterion 2: Financial offer (10%).

For LOT 2:

Criterion 1: Quality of the offer (90%), including:

- Relevance of the experience of the tenderer in the areas covered by this call, including in technical co-operation programmes and projects at international level (40%);
- Experience in designing, facilitating and contributing as a speaker to seminars, workshops, working groups meetings and other events, including outreach events (30%);
- Experience of working in the region (20%).

Criterion 2: Financial offer (10%).

For LOT 3:

Criterion 1: Quality of the offer (90%), including:

- Relevance of the experience of the tenderer in the areas covered by this call, including in technical co-operation programmes and projects at international level (40%);
- Experience in the field of adult education, online and offline (50%);

Criterion 2: Financial offer (10%).

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

Multiple tendering is not authorised.

F. DOCUMENTS TO BE PROVIDED

- **Two** completed and signed copies of the Act of Engagement;³
- A list of all owners and executive officers, for legal persons only;
- 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 detailed CV (maximum length 5 pages) , demonstrating clearly that the tenderer fulfils the eligibility criteria, including relevance of the experience of the tenderer and the level of oral and written English language;
- Contact details of 3 (three) references;
- Sample of an English text (article, concept note, legal opinion, strategy etc.) recently drafted by the tenderer, maximum length 5 pages;
- Motivation letter, maximum length one page, describing how the tenderer meets the requirements of the expected services (see Section B above) including indication of specific areas of expertise and specific experience;
- 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 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.

* * *

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.

PART II – TENDER RULES CALL FOR TENDERS

FOR THE PROVISION OF SHORT-TERM CONSULTANCY SERVICES ON THE COURT OF CASSATION IN TURKEY

2019/AO/63

ARTICLE 1 – IDENTIFICATION OF THE CONTRACTING AUTHORITY

1.1 Name and address

COUNCIL OF EUROPE

Justice and Legal Co-operation Department, Directorate General Human Rights and Rule of Law.

Avenue de l'Europe, F67075 Strasbourg Cedex, France.

Background

The activities of the Organisation are governed by its Statute. These activities concern the promotion of human rights, democracy and the rule of law. The Organisation has its seat in Strasbourg and has set up external offices in about 20 member and non-member states (in Ankara, Baku, Belgrade, Brussels, Bucharest, Chisinau, Erevan, Geneva, Kyiv, Lisbon, Moscow, Paris, Podgorica, Pristina, Rabat, Sarajevo, Skopje, Tbilisi, Tirana, Tunis, Warsaw, Venice and Vienna).

Council of Europe procurements are 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.

The Organisation enjoys privileges and immunities provided for in the General Agreement on Privileges and Immunities of the Council of Europe, and its Protocols, and the Special Agreement relating to the Seat of the Council of Europe.⁴

Further details on the project are provided in the Terms of Reference.

ARTICLE 2 – VALIDITY OF THE TENDERS

Tenders are valid for 120 calendar days as from the closing date for their submission.

ARTICLE 3 – DURATION OF THE CONTRACT

The duration of the framework contract is set out in Article 2 of the Legal Conditions in the Act of Engagement.

ARTICLE 4 – CHANGE, ALTERATION AND MODIFICATION OF THE TENDER FILE

Any change in the format, or any alteration or modification of the original tender will cause the immediate rejection of the tender concerned.

ARTICLE 5 – CONTENT OF THE TENDER FILE

The tender file is composed of:

- Technical specifications/Terms of reference;
- Tender rules;
- An Act of Engagement, including the Legal Conditions of the contract.

ARTICLE 6 – LEGAL FORM OF TENDERERS

The tenderer must be either a natural person, or a legal person except consortia.

ARTICLE 7 – SUPPLEMENTARY INFORMATION

General information can be found on the website of the Council of Europe: <http://www.coe.int>

Other questions regarding this specific tendering procedure shall be sent at the latest by **one week before the deadline for submissions of tenders**, in [English or French], and shall be exclusively sent to the following address: dg1.court cass.tr@coe.int

This address is to be used for questions only; for modalities of tendering, please refer to the below Article.

ARTICLE 8 – MODALITIES OF THE TENDERING

Tenders must be sent to the Council of Europe **both electronically and in paper hardcopy**.

Electronic copies shall be sent only to cdm@coe.int. Tenders submitted to another e-mail account will be excluded from the procedure;

Paper hardcopies shall be sent in A4 format (21x29.7 cm) by post, as specified below:

- Tenders shall be submitted in a sealed envelope. The first sealed envelope shall be placed inside a second envelope addressed to the Tenders Board, showing the file reference number and object, as follows:

COUNCIL OF EUROPE
For the attention of the Tenders Board
CALL FOR PROVISION OF SHORT TERM CONSULTANCY SERVICES ON THE COURT OF CASSATION IN TURKEY – INTERNATIONAL CONSULTANTS
2019/AO/63
B.P. 7
F – 67075 STRASBOURG Cedex
FRANCE

- Tenderers are requested to indicate their names and address on the outside envelope for identification purposes.

- Tenders submitted to another postal address will be excluded from the procedure.

ARTICLE 9 – DEADLINE FOR SUBMISSION OF TENDERS

The deadline for the submission of tenders is **01 October 2019** as evidenced by the postmark, or by the receipt of delivery provided by the dispatching company.

ARTICLE 10 – ASSESSMENT OF TENDERS

Tenders shall be assessed in accordance with Rule 1395 of 20 June 2019 on the procurement procedures of the Council of Europe. Assessment shall be based upon the criteria as detailed in the Terms of Reference.

ARTICLE 11 – NEGOTIATIONS

The Council reserves the right to hold negotiations with the bidders in accordance with Article 20 of Rule 1395.

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⁴ Available on the website of the Council of Europe Treaty Office: www.conventions.coe.int

FINAL CHECK LIST

1) BEFORE SENDING YOUR TENDER, CHECK THAT IT INCLUDES:

- **Two** completed and signed copies of the Act of Engagement;⁵
- A list of all owners and executive officers, for legal persons only;
- 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 detailed CV (maximum length 5 pages) , demonstrating clearly that the tenderer fulfils the eligibility criteria, including relevance of the experience of the tenderer and the level of oral and written English language;
- Contact details of 3 (three) references;
- Sample of an English text (article, concept note, legal opinion, strategy etc.) recently drafted by the tenderer, maximum length 5 pages;
- Motivation letter, maximum length one page, describing how the tenderer meets the requirements of the expected services (see Section B above) including indication of specific areas of expertise and specific experience;
- Registration documents, for legal persons only.

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2) HOW TO SEND TENDERS?

Tenders must be sent to the Council of Europe **both electronically and in paper hardcopy.**

Electronic copies shall be sent only to cdm@coe.int. Tenders submitted to another e-mail account will be excluded from the procedure;

Paper hardcopies shall be sent in A4 format (21x29.7 cm) by post, as specified below:

- Tenders shall be submitted in a sealed envelope. The first sealed envelope shall be placed inside a second envelope addressed to the Tenders Board, showing the file reference number and object, as follows:

<p>COUNCIL OF EUROPE For the attention of the Tenders Board CALL FOR PROVISION OF SHORT TERM CONSULTANCY SERVICES ON THE COURT OF CASSATION IN TURKEY 2019/AO/63 B.P. 7 F – 67075 STRASBOURG Cedex FRANCE</p>

- Tenderers are requested to indicate their names and address on the outside envelope for identification purposes.
- Do not send a copy of your tender to the buyer entity. Tenders submitted to any other postal address than the one indicated above will be excluded from the procedure.

The deadline for the submission of tenders is 01 October 2019 as evidenced by the postmark, or by the receipt of delivery provided by the dispatching company.

⁵ 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.