**TENDER FILE / TERMS OF REFERENCE**

**(Competitive bidding procedure / Framework Contract)**

**Purchase of NATIONAL consultancy SERVICES CONCERNING A GAP ANALYSIS IN THE INVESTIGATION PROCEDURE AND PROSECUTION OF HUMAN TRAFFICKING CASES IN COURT**

"The Council of Europe is currently implementing (until May 2022) an action on “Strengthening the human rights protection of asylum seekers, migrants and victims of human trafficking in Turkey”. The action is implemented under the the joint European Union (EU) and the Council of Europe (CoE) programme “[Horizontal Facility](https://mail.coe.int/owa/redir.aspx?C=-MlBhZa-8WtLbm8KI50iLeC1El9KClgZVJdMS7ox9FqtTnW9ufXXCA..&URL=https%3a%2f%2fwww.coe.int%2fen%2fweb%2fprogrammes%2fhorizontal-facility) for the Western Balkans and Turkey II (2019-2022)”.

In that context, the Council of Europe is looking for two Providers for the provision of a gap analysis in the investigation procedure and prosecution of human trafficking cases in court, to be requested by the Council on an as needed basis.

1. 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[[1]](#footnote-2), 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: “HF30 - Gap Analysis in the Investigation Procedure and Prosecution of Human Trafficking Cases in Court in Turkey”.** 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 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: “HF30 - Gap Analysis in the Investigation Procedure and Prosecution of Human Trafficking Cases in Court in Turkey”.**

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| --- | --- |
| **Type of contract ►** | Framework contract  |
| **Duration ►** | Until 30 April 2022 |
| **Deadline for submission of tenders/offers ►** | 31 May 2020 |
| **Email for submission of tenders/offers ►** | ankara.office@coe.int |
| **Email for questions ►** | ankara.office@coe.int |
| **Expected starting date of execution ►** | 15 June 2020 |

1. EXPECTED DELIVERABLES

**Background of the Action**

The Council of Europe action “Strengthening the human rights protection of asylum seekers, migrants and victims of human trafficking in Turkey” is implemented under the [Horizontal Facility](https://www.coe.int/en/web/programmes/horizontal-facility) for the Western Balkans and Turkey II (2019-2022), a joint programme between the European Union (EU) and the Council of Europe (CoE). The first component of the action aims at strengthening institutional mechanisms in Turkey to co-ordinate and effectively apply the standards of the Council of Europe Convention on Action against Trafficking in Human Beings (THB) and developing knowledge and skills of key authorities responsible for preventing and combating trafficking in human beings.

Based on recommendations made by the Group of Experts on Action against Trafficking in Human Beings ([GRETA](https://www.coe.int/en/web/anti-human-trafficking/greta)) in its first evaluation report on Turkey[[2]](#footnote-3), the action will contribute to the areas that have been identified together with the public authorities based on their needs and priorities. One of the main outcomes of the action includes support to the Turkish authorities in adopting a comprehensive and integrated approach to addressing trafficking in human beings, including through strengthening the criminal justice response to human trafficking.

To achieve these objectives, the action foresees the following activities:

* Gap analysis of the investigation procedure and the prosecution of THB cases, with a view to ensuring effective, proportionate and dissuasive convictions;
* A conference to present the results of the gap analysis and discuss ways to improve Turkey’s criminal justice system response to human trafficking;
* Capacity building activities for law enforcement officials, prosecutors and judges on the specificity of THB cases for different purposes of exploitation, the collection of evidence, protection of victims, access to compensation.

The rationale for the gap analysis, to serve as guidance, is attached in Annex I.

The Council of Europe is aiming to establish a pool of maximum five consultants (provided enough tenders meet the criteria indicated below) in order to support the implementation of the action with a particular expertise on the fields explained in detail in the scope of the assignment.

This Contract is currently estimated to cover around 15 activities, to be held by 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 trafficking component of the action amounts to 1,350,000 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.

**Scope of the Framework Contract**

On the basis of available case law, the consultants will identify gaps in the relevant legislation and in the investigation and prosecution of THB cases, and will make recommendations for overcoming them. The purpose of the gap analysis is to lead to **the consideration and development of core guiding principles for criminal justice practitioners in Turkey in the investigation and prosecution of THB cases**.

The outcomes of the gap analysis will be used to develop training for law enforcement officials, prosecutors and judges (activities under Outcome 2). They will also help stimulate discussion about legislative and regulatory changes. Furthermore, it shall provide the background necessary to develop guidance for good practice.

Methodology

The gap analysis will be prepared by a team of one/or two international and two national consultants (ideally a researcher/academic and a legal practitioner). It is expected that the consultants deliver a written analysis in form of a report that includes a summary of findings, recommendations, as well as guidelines for practitioners, including examples of good practice. The consultants are also expected to present the gap analysis report at the National Conference on THB and the 2nd Action Steering Committee.

The **expected outputs** of the gap analysis are as follows:

* Analysis of the national legal framework relevant to combating THB and its compliance with the international legal framework, including international human rights law and COE human rights and trafficking standards
* Desk research on related national publications/studies and other relevant documents;
* Development of a questionnaire as the basis for face-to-face interviews with law enforcement officers (including border guards and officials working in detention centres), prosecutors, judges, lawyers and civil society actors engaged in the action against THB. The questionnaire should allow to gain in particular information for the collation of information in particular on:
	+ Roles and responsibilities of different actors, their perception, knowledge and experience of THB cases;
	+ Key challenges related to identification of victims of THB, assistance to victims, investigations, prosecution, protection of victims and witnesses, compensation of victims, adjudication of THB cases.
* Analysis of cases of THB and related offences, for different forms of exploitation
* Preparation of a final report, including summary of findings/gaps identified as well as recommendations to overcome obstacles to investigation and prosecution
* Presentation of the final report and guidelines to the Action beneficiaries at the National Conference on THB and the 2nd Action Steering Committee (tentatively in September 2021).

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

1. Deliver key questions and areas of focus for the gap analysis report, develop an outline of the research, work plan and questionnaire, prepare a list of participants and agenda of interviews with key informants.
2. Submit the first draft of the introduction, conclusions and recommendations, including an analysis of selected cases of THB and related offences, a summary of findings/gaps identified, and recommendations to overcome obstacles to investigation and prosecution
3. Submit the draft final report
4. Submit the revised and final draft of the report (50 pages) **(deadline: 31 August 2020)**
5. Present the report to beneficiaries at the National Conference on THB
6. Present the report to beneficiaries at the 2nd Action Steering Committee

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 action’s 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).]

1. FEES

Tenderers are invited to indicate their daily 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](#bookmark) below) the global fee corresponding to each deliverable, calculated on the basis of the unit fees, as agreed by this Contract.

1. 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.

**Providers subject to VAT**

The Provider, **if subject to VAT**, shall also send, together with each signed Form, a quote[[3]](#footnote-4) (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 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.

1. 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)**[[4]](#footnote-5)**

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

Tenderers shall demonstrate that they fulfil the following criteria (to be assessed on the basis of all supporting documents listed in Section F). These minimum criteria apply to each person(s) whose CV is provided:

* Proven professional experience in criminal law research, preferably in the field of trafficking in human beings (minimum 5 years)
* University degree in Law, Public Policy, Social Sciences, Political Sciences, or in other relevant fields;
* Fluency in Turkish (preferably mother tongue level);
* Knowledge of English (at least B1 or B2 level [CEFR](https://www.coe.int/en/web/common-european-framework-reference-languages/table-2-cefr-3.3-common-reference-levels-self-assessment-grid)).

Award criteria

* Quality of the offer (90%), including:
	+ Thematic expertise related to criminal law and trafficking in human beings gained from experience in drafting knowledge products such as books, articles, research and policy papers, baseline and comparative studies, desk reviews, legal advice/opinions, recommendations, handbooks, etc. and/or thematic expertise gained from experience in developing or applying methodologies, protocols, guidelines, toolkits, courses, teaching/learning materials or from carrying out trainings, etc.
	+ Drafting skills in Turkish and in English;
	+ Previous experience in the relevant type of activity and/or conducting work in international context / within international organisations.
* Financial offer (10%).

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

Multiple tendering is not authorised.

1. NEGOTIATIONS

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

1. DOCUMENTS TO BE PROVIDED
* A completed and signed copy of the **Act of Engagement[[5]](#footnote-6)** (See attached);
* A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria;
* A list of all owners and executive officers, for legal persons only;
* A motivation letter in English (1 page maximum, in which to specify a suggested methodology and number of working days required to complete the final report);
* At least 1 sample of previous work relevant to the tender theme (articles, handbooks, research analysis, policy opinions, presentations, training materials, etc.) in English or Turkish;
* Two references (contacts including phone number and e-mail address).

**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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1. The activities of the Council of Europe are governed by its [Statute](https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680306052) 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](https://search.coe.int/intranet/Pages/result_details.aspx?ObjectId=090000168094853e). [↑](#footnote-ref-2)
2. [The report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Turkey, GRETA (2019)11](https://www.coe.int/en/web/anti-human-trafficking/turkey)  [↑](#footnote-ref-3)
3. 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. [↑](#footnote-ref-4)
4. 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. [↑](#footnote-ref-5)
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. [↑](#footnote-ref-6)