

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

### Purchase of international consultancy services for implementation of the project "Support to the Constitutional Court in Applying and Disseminating European Human Rights Standards – Phase II" Contract N° BH9196/01



The Council of Europe is currently implementing a Project on Support to the Constitutional Court of Kosovo\*<sup>1</sup> in Applying and Disseminating European Human Rights Standards – Phase II, for a duration of two years with a foreseen end on 31 December 2025. In that context, it is looking for Providers for the provision of international consultancy services to support project implementation in the fields of international/European human rights law, constitutional justice, human rights training development and delivery, legal drafting and research, legislation and caselaw analyses 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>2</sup>, the Organisation shall invite to tender at least three potential providers for any purchase between €6,000 and €55,000 tax exclusive.**

This specific tender procedure aims at concluding a **framework contract** for the provision of deliverables described below. 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 – International Consultancy - Contract No BH9196/01.** 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: Questions - Support to the Constitutional Court in Applying and Disseminating European Human Rights Standards – Phase II**

Type of contract ▶	Framework contract
Duration ▶	Until 31 December 2025
Deadline for submission of tenders/offers ▶	<b>20 February 2024 23h59 CET</b>
Email for submission of tenders/offers ▶	<a href="mailto:dqi-coordination@coe.int">dqi-coordination@coe.int</a>
Email for questions ▶	<a href="mailto:dqi-coordination@coe.int">dqi-coordination@coe.int</a>
Expected starting date of execution ▶	01 March 2024

<sup>1</sup> All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nations' Security Council Resolution 1244 and without prejudice to the status of Kosovo.

<sup>2</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 Council of Europe is currently implementing a Project on Support to the Constitutional Court of Kosovo\* in Applying and Disseminating European Human Rights Standards – Phase II, for a duration of two years with a foreseen end on 31 December 2025, and with the following expected outcomes:

1. Enhanced implementation of the European Convention on Human Rights (ECHR) in the judicial decisions of the Constitutional Court, through further strengthening of the professional capacities of judges and legal advisors of the Constitutional Court and support to the development of the Juris Consult Unit.
2. Consolidation of the role of the Constitutional Court in the national judicial system, through: a) the development of a monitoring mechanism to improve the execution of judgements, b) an enhanced judicial dialogue with Supreme, Appellate and Basic Courts, c) the development of effective tools to ensure consistency of case law and its alignment with the ECHR, and d) the optimisation of the upgraded electronic case management system of the Constitutional Court, *inter alia* to facilitate interoperability with ordinary courts.
3. Enhanced capacity of lawyers to represent right holders and to claim rights before the Constitutional Court, through thematic workshops for lawyers/bar associations on different human rights standards (corresponding to ECHR Articles 2, 3, 5, 6, 8, 10, 14), and placement of lawyers with European courts and/or the European Court of Human Rights (ECtHR).
4. Reinforced public outreach of the Constitutional Court, through the implementation of the Constitutional Court's Communication Strategy, follow-up on the recommendations of surveys on public perception, promotion of the cooperation of the Constitutional Court with the Faculty of Law and the Justice Academy.

The main project partners are the Constitutional Court, the Bar Association, ordinary courts, civil society, and academia.

### Scope of the Framework Contract

The Council of Europe is looking for a maximum of 25 Providers to support the implementation of the project, with a particular expertise on international/European human rights law, constitutional justice, human rights training development and delivery, legal drafting and research, legislation and caselaw analyses.

This Contract is currently estimated to cover up to 35 activities, to be held by 31 December 2025. 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 750,000 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.

Throughout the duration of the Framework Contract, pre-selected Providers may be requested:

- To draft analytical reports (assessments, legislation/caselaw analyses, research papers)
- To contribute to events (workshops, conferences, high level meetings)
- To develop training modules and training materials
- To deliver training sessions/workshops.

The above list is not exhaustive. The Council reserves the right to request deliverables not explicitly mentioned in the above list of expected services, but related to the fields of expertise object of the present Framework Contract.

In terms of **quality requirements**, pre-selected Service Providers must ensure, *inter alia*, that:

- The services are provided to the highest professional/academic standards;
- 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, informing the Council as soon as s/he 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. Tenderers 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 submitted on the basis of Order Forms submitted by the Council to the selected Provider (s), 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 requirements when assessed – for the Order concerned – against the criteria of:

- quality (including as appropriate: capability, expertise, earlier work experience, 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.

#### **Providers subject to VAT**

The Provider, **if subject to VAT**, shall also send, together with each signed Form, a quote<sup>3</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);
- 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.

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<sup>3</sup> 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.

## 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>4</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, 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;

### *Eligibility criteria*

- A university degree in law, human rights, political science, sociology, or any other relevant field;
- A minimum of 5 years of experience in either undertaking research and/or conducting legislative review and caselaw analyses in the field of ECHR implementation and/or constitutional law, or developing and delivering training to legal professionals in the field of human rights and/or constitutional law.
- A minimum of 5 years of experience in drafting analytical reports, delivering presentations, and/or designing policy recommendations in the field of human rights and/or constitutional law.

### *Award criteria*

- Quality of the offer (80%), including:
  - Demonstrated expertise and experience in the field of human rights and/or the functioning of constitutional courts, for instance through relevant publications, expert reports, or previous participation in relevant institutional strengthening/ capacity-building initiatives (50%)
  - Quality of presentations and/or reports submitted as work samples (30%)
- Financial offer (20%).

The Council reserves the right to hold interviews with 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.

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<sup>4</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 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.

## G. DOCUMENTS TO BE PROVIDED

- **A completed and signed copy of the Act of Engagement<sup>5</sup>** (See attached);
- Registration documents, for legal persons only;
- A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria;
- One or more sample(s) of previous work(s) in English (presentations, reports, publications).

**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>5</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.