



## CALL FOR TENDERS

### FOR THE PROVISION OF SHORT-TERM CONSULTANCY SERVICES ON STRENGTHENING INDEPENDENCE AND ACCOUNTABILITY OF THE JUDICIARY IN SERBIA

#### INTERNATIONAL CONSULTANTS

**2019/AO/72**

<b>Object of the procurement procedure</b> ▶	Short-term consultancy services on strengthening independence and accountability of the judiciary in Serbia – <u>International consultants</u>
<b>Project</b> ▶	Strengthening Independence and Accountability of the Judiciary in Serbia Horizontal Facility for the Western Balkans and Turkey II  Strengthening the Judiciary reform process in Serbia German Federal Foreign Office Funds
<b>Organisation and buying entity</b> ▶	Council of Europe Justice and Legal Co-operation Department DG I - Directorate General of Human Rights and Rule of Law
<b>Type of contract</b> ▶	<b>Framework Contract</b>
<b>Duration</b> ▶	Until 23 May 2022
<b>Expected starting date</b> ▶	15 October 2019
<b>Tender Notice Issuance date</b> ▶	11 September 2019
<b>Deadline for tendering</b> ▶	<b>10 October 2019</b>

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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 FOR THE PROVISION OF CONSULTANCY SERVICES ON STRENGTHENING INDEPENDENCE AND ACCOUNTABILITY OF THE JUDICIARY IN SERBIA

#### INTERNATIONAL CONSULTANTS

2019/AO/72

#### A. BACKGROUND

This Call for Tenders is meant to recruit service providers for two projects implemented in Serbia in the justice reform sector.

##### ***Strengthening Independence and Accountability of the Judiciary in Serbia project:***

As a part of the European Union and Council of Europe programmatic framework *Horizontal Facility for the Western Balkans and Turkey II*, the Council of Europe is currently implementing the project *Strengthening Independence and Accountability of the Judiciary in Serbia*. The project focuses on building capacities of judges, prosecutors, judicial and prosecutorial assistants to detect and counter risks of undue influence. It also contributes to reinforcing internal mechanisms, rules and procedures within the High Judicial Council (HJC) and the State Prosecutorial Council (SPC) to ensure guarantees of judicial and prosecutorial independence. The project is also aiming to address shortcomings in the Serbian judiciary in the sphere of competencies, ethics and discipline by improving the relevant legislature, supporting the HJC and the SPC ethics committees, and by designing measures to introduce a system of confidential counselling within both the judiciary and the prosecution service. The project aims as well at establishing a fair and merit-based system of performance evaluation and career advancement of judicial professionals. Finally, the Action intends to enhance cooperation and information flow between the executive and the judiciary.

Beneficiaries of the project are Serbian national authorities – the Ministry of Justice, the High Judicial Council, the State Prosecutorial Council, and the Judicial Academy; activities implemented in cooperation with the beneficiaries will contribute to strengthening independence and accountability of the judiciary and of the prosecutorial service. The implementation period of the project will terminate on 23 May 2022 and the overall budget is 750,000 Euros.

##### ***Strengthening the judiciary reform process in Serbia project:***

Funded by the German Foreign Office funds – Stability Pact Funds for Western Balkans Directorate, the Council of Europe is currently implementing the project *Strengthening the judiciary reform process in Serbia*. The project will facilitate the creation of the drivers of change among the Serbian judiciary and engage them as critical stakeholders for promoting judicial independence, impartiality and integrity and enable judges and prosecutors, and the Judicial and Prosecutorial Councils to further the reform process by well-informed and evidence based policy-making. It will also support the translation of the international and Council of Europe standards best practices of member states into national policies and operational measures and assist in establishing a constructive dialogue among the judiciary, legislative and executive, as well as non-state organisations and professional organisations in preparation for post-Constitutional reform process and changes foreseen.

The project will address a wide range of stakeholders: the National Assembly of the Republic of Serbia, the Ministry of Justice, the high Judicial Council, the State prosecutorial Council, the Commissioner for autonomy of the Prosecution, the Supreme Court of Cassation, the Judicial Academy, the Judges' Association of Serbia, the Prosecutors' Association of Serbia, civil society organisations, the academia and representatives of the media. The implementation period will terminate on 31 May 2020 and the overall budget is 214,400 Euros.

The Council of Europe is looking for a maximum of 20 providers (provided enough tenders meet the criteria indicated below) in order to support the implementation of the two projects with a particular expertise on:

- Justice reforms and stakeholders engagement in the reforms;
- Organisational and individual independence and impartiality of judges and prosecutors;
- Protection of the independence of individual judges and prosecutors and of their impartiality;
- Competencies, ethics, integrity, discipline and confidential counselling in the judiciary;
- Performance evaluation and career advancement of judges and prosecutors;
- Media relations for the judiciary;
- Other field of experience related to rule of law, and independent and impartial tribunals.

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 two projects amounts to 964.400 Euros and the total amount of the object of present tender should in principle not exceed 78.000 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:

### **LOT 1. Research, analysis, legal review which involves:**

- Analysis of specific laws and practices of implementation of existing mechanisms, rules and procedures, including the ones for dealing with undue pressure within judicial and prosecutorial services, implementation of the code of ethics, and performance evaluation of judges and prosecutors, as well as drafting recommendations;
- Analysis of justice reform processes (including Constitutional reforms) and related laws;
- Review of policy documents (e.g. national action plans and strategies);
- Research, such as mapping exercises of specific national situations, research on new trends in judicial and prosecutorial independence and accountability and similar activities.

### **LOT 2. Institutional capacity building, which involves:**

- Providing support for development of tools and guidelines to deal with undue pressure within judicial and prosecutorial services, to build capacities of judicial and prosecutorial bodies in charge of ethics, performance evaluation and relations with the media;
- Supporting dialogue among the judiciary, legislative and executive powers, as well as Civil Society Organisations and Professional organisations in preparation for post-Constitutional process;
- Delivering training sessions and workshops, including training and education materials for judges, prosecutors, members of their independent bodies, ethics committees, and to judicial and prosecutorial assistants;
- Developing informational and awareness raising materials on the topics of the projects ;
- Moderating or participating as keynote or contributing speakers in conferences, seminars, roundtable discussions and public debates with judges, prosecutors, members of their independent bodies, parliamentarians and other stakeholders;
- Co-ordinating and supporting working groups in charge of legislative reviews, especially in the field of Constitutional reforms and post-Constitutional reform processes, undue pressure, competencies, ethics, integrity, discipline and performance evaluation of judges and prosecutors;
- Developing strategies and Action Plans on the issues addressed within the framework of the projects.

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.

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 quote<sup>1</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 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)<sup>2</sup>

<sup>1</sup> 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.

<sup>2</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 requirements listed above under "exclusion criteria" are met;

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):

##### LOT 1 - Research, analysis, legal review:

- 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 rule of law and the judiciary, of which at least 3 years must have been acquired in an international context and in technical cooperation projects;
- Knowledge of European and Council of Europe standards related to independence and accountability of justice;
- Excellent drafting and analytical skills;
- Excellent knowledge of English language (at least level C1 of the CEFR3).

##### LOT 2 – Institutional capacity building:

- 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 rule of law and the judiciary, of which at least 3 years must have been acquired in an international context and in technical cooperation projects;
- Knowledge of European and Council of Europe standards related to independence and accountability of justice;
- Proven track record in designing, organising and implementing seminars, 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 CEFR4).

#### *Award criteria*

LOT 1 – Research, analysis, legal review:

- Quality of the offer (90%), including:
  - Relevance of the experience of the tenderer in the areas covered by this call, including previous assignments with international organisations (30%);
  - Drafting and analytical skills in the field of research, analysis and legal review (30%);
  - Knowledge of the national and regional context in the field of the judiciary or/and knowledge of contexts that are relevant to the areas covered by this call (30%).
- Financial offer (10%).

LOT 2 – Institutional capacity building:

- Quality of the offer (90%), including:

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- A certificate issued by the competent authority of the country of incorporation indicating that the fourth requirement is met;  
 - For legal persons, a scanned copy of a valid photographic proof of identity (e.g. passport) of legal representatives.

<sup>3</sup> [http://www.coe.int/t/dg4/linguistic/Source/Framework\\_EN.pdf](http://www.coe.int/t/dg4/linguistic/Source/Framework_EN.pdf)

<sup>4</sup> [http://www.coe.int/t/dg4/linguistic/Source/Framework\\_EN.pdf](http://www.coe.int/t/dg4/linguistic/Source/Framework_EN.pdf)

- Relevance of the experience of the tenderer in the areas covered by this call, including previous assignments with international organisations (30%);
  - Experience in designing, facilitating and contributing as a speaker to seminars, workshops, working groups meetings and other events, including outreach events (30%);
  - Knowledge of the national and regional context in the field of the judiciary or/and knowledge of contexts that are relevant to the areas covered by this call (30%).
- 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.<sup>5</sup>
- Registration documents, for legal persons only;
- 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;
- An extract from the companies register including the names of executive officers and owners, for legal persons only;
- A 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. For legal persons, the CV of all natural persons designated to execute the contract must be provided;
- Contact details of 3 (three) references;
- Sample of an English text (article, legal opinion, report etc.) recently drafted by the tenderer, maximum length 5 pages;
- Motivation letter describing how the tenderer meets the requirements of the expected services, maximum length 1 page (see Section B above)

**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.

# PART II – TENDER RULES

## CALL FOR TENDERS

### FOR THE PROVISION OF CONSULTANCY SERVICES ON STRENGTHENING INDEPENDENCE AND ACCOUNTABILITY OF THE JUDICIARY IN SERBIA

#### INTERNATIONAL CONSULTANTS

2019/AO/72

#### ARTICLE 1 – IDENTIFICATION OF THE CONTRACTING AUTHORITY

##### 1.1 Name and address

##### COUNCIL OF EUROPE

Justice and Legal Cooperation Department

Directorate General Human Rights and Rule of Law – DG I

##### 1.2 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.<sup>6</sup>

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: DGI.HF.SLGIT.BELGRADE@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](mailto: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 CONSULTANCY SERVICES ON  
STRENGTHENING INDEPENDENCE AND ACCOUNTABILITY  
OF THE JUDICIARY IN SERBIA  
INTERNATIONAL CONSULTANTS  
2019/AO/72  
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 10 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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<sup>6</sup> Available on the website of the Council of Europe Treaty Office: [www.conventions.coe.int](http://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.<sup>7</sup>
- Registration documents, for legal persons only;
- 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;
- An extract from the companies register including the names of executive officers and owners, for legal persons only;
- A 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. For legal persons, the CV of all natural persons designated to execute the contract must be provided;
- Contact details of 3 (three) references;
- Sample of an English text (article, legal opinion, report etc.) recently drafted by the tenderer, maximum length 5 pages;
- Motivation letter describing how the tenderer meets the requirements of the expected services, maximum length 1 page (see Section B above)

## 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](mailto: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 CONSULTANCY SERVICES ON  
STRENGTHENING INDEPENDENCE AND ACCOUNTABILITY  
OF THE JUDICIARY IN SERBIA  
INTERNATIONAL CONSULTANTS  
2019/AO/72  
B.P. 7  
F – 67075 STRASBOURG Cedex  
FRANCE**

- 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 10 October 2019 as evidenced by the postmark, or by the receipt of delivery provided by the dispatching company.

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<sup>7</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.