

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

Purchase of *National Consultancy Services* Contract N° BH4728-2019-FA2



The Council of Europe is currently implementing a regional Project on "Strengthening the profession of lawyer in line with European standards" in Armenia, Georgia, The Republic of Belarus, The Republic of Moldova and Ukraine. In that context, it is looking for Provider(s) for the provision of consultancy services 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 Europe¹, 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: BH4728-2019-FA2.** 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_ BH4728-2019-FA2.**

Type of contract ▶	Framework contract
Duration ▶	Until 31 December 2021
Deadline for submission of tenders/offers ▶	11 November 2019
Email for submission of tenders/offers ▶	DGI.Justice.Reform.Unit1@coe.int
Email for questions ▶	DGI.Justice.Reform.Unit1@coe.int
Expected starting date of execution ▶	18 November 2019

¹ 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 objective of the Project “Strengthening the profession of lawyer in line with European standards” is to strengthen cooperation amongst the bar associations and law societies of Armenia, Georgia, The Republic of Belarus, The Republic of Moldova and Ukraine, with a view to improve the internal functioning and independence of the bar (including stronger links between the bar, legal professionals, judiciary and civil society, women lawyers’ and young lawyers’ associations).

The Council of Europe is looking for maximum of twenty five (25) Providers (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on internal functioning of bars and their associations, professional standards of lawyers on independence, confidentiality and conflict of interest, systems of provision of legal services on the national level of participating countries. The expertise shall be in the form of technical and analytical support to the team of international consultants to be mobilized within the Project and shall be carried out under their supervision.

This Contract is currently estimated to cover up thirty (30), to be held by 30 November 2021. 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 555,000 Euros and the total amount of the object of present tender **shall not exceed 30,000 Euros tax exclusive** for the whole duration of the Framework Contract. This information does not constitute any sort of contractual commitment or obligation on the part of the Council of Europe.

Lots

The present tendering procedure aims to select Provider(s) to support the implementation of the project and is divided into the following lots:

Lots	Maximum number of Providers to be selected
<p><u>Lot 1: Strengthening the profession of lawyer in Armenia in line with European standards.</u></p> <ul style="list-style-type: none"> ➤ Improvement of organization and functioning of the Chamber of Advocates of Armenia. ➤ Development of legal and institutional frameworks guaranteeing the independence of lawyers in Armenia. ➤ Development of legal and institutional frameworks for strengthening the provision of free legal services in Armenia. 	5
<p><u>Lot 2: Strengthening the profession of lawyer in Georgia in line with European standards.</u></p> <ul style="list-style-type: none"> ➤ Improvement of organization and functioning of the Georgian Bar Association. ➤ Development of legal and institutional frameworks guaranteeing the independence of lawyers in Georgia. ➤ Development of legal and institutional frameworks for strengthening the provision of free legal services in Georgia. 	5
<p><u>Lot 3: Strengthening the profession of lawyer in the Republic of Belarus in line with European standards.</u></p> <ul style="list-style-type: none"> ➤ Improvement of organization and functioning of the Republican Bar Association of the Republic of Belarus. ➤ Development of legal and institutional frameworks guaranteeing the independence of lawyers in the Republic of Belarus. ➤ Development of legal and institutional frameworks for strengthening the provision of free legal services in the Republic of Belarus. 	5

<p><u>Lot 4: Strengthening the profession of lawyer in the Republic of Moldova in line with European standards.</u></p> <ul style="list-style-type: none"> ➤ Improvement of organization and functioning of the Bar Association of the Republic of Moldova. ➤ Development of legal and institutional frameworks guaranteeing the independence of lawyers in the Republic of Moldova. ➤ Development of legal and institutional frameworks for strengthening the provision of free legal services in the Republic of Moldova. 	5
<p><u>Lot 5: Strengthening the profession of lawyer in line with European standards in Ukraine.</u></p> <ul style="list-style-type: none"> ➤ Improvement of organization and functioning of the Ukrainian National Bar Association. ➤ Development of legal and institutional frameworks guaranteeing the independence of lawyers in Ukraine. ➤ Development of legal and institutional frameworks for strengthening the provision of free legal services in Ukraine. 	5

Scope of the Framework Contract

The tender is divided into five lots. Tenderers may submit a tender for one lot only, subject to the fulfilment of the criteria listed in the Tender Rules for the lot(s) concerned.

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

- Participate in meetings and interviews in a format defined by international experts;
- Conduct desk reviews/assessments/compilations of the institutional, legislative and regulatory frameworks, policies and procedures in the pertinent sectors;
- Produce analytical reports and recommendations on the topics in focus, as appropriate;
- Support the international consultant in the delivery of the assessments and recommendations, as well as in the development of mechanisms and action-plans on improvement of particular legal and/or institutional frameworks;
- Support the organization of missions of the international consultants, scheduling and participating on the meetings and interviews with relevant stakeholders, provide briefings materials to facilitate the meetings and interviews of international consultants,
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- Contribute to organization of conferences and workshops and other events, prepare and deliver presentations as agreed with international experts;
- Contribute to defining, organization and implementation of capacity building activities;
- Conduct other activities, as requested by international experts and the Council of Europe.

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

In terms of **quality requirements**, the pre-selected Service 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.

If contracted by the Council of Europe, the deliverables shall be provided personally by the persons identified in the offer of the Provider whose CVs have been presented to the Council of Europe (See section E. below), in accordance with the terms as provided in the present Tender File and Act of Engagement.

In addition to the orders requested on an as needed basis, the Provider shall keep regular communication with the Council to ensure continuing exchange of information relevant to the project implementation. This involves, among others, to inform the Council as soon as it becomes aware, during the execution of the Contract, of

any initiatives and/or adopted laws and regulations, policies, strategies or action plans or any other development related to the object of the Contract (see more on general obligations of the Provider in Article 3.1.2 of the Legal Conditions in the Act of Engagement).

Unless otherwise agreed with the Council, written documents produced by the Provider shall be in English (see more on requirements for written documents in Articles 3.2.2 and 3.2.3 of the Legal Conditions in the Act of Engagement).

C. FEES

Tenderers are invited to indicate their fees, by completing and sending the table of fees, as attached in Section A to the Act of Engagement. These fees are final and not subject to review. Tenders proposing fees above the exclusion level indicated in the Table of fees will be **entirely and automatically** excluded from the tender procedure.

The Council will indicate on each Order Form (see Section D below) the global fee corresponding to each deliverable, calculated on the basis of the unit fees, as agreed by this Contract.

D. HOW WILL THIS FRAMEWORK CONTRACT WORK? (ORDERING PROCEDURE)

Once the selection procedure is completed, you will be informed accordingly. Deliverables will then be delivered on the basis of Order Forms submitted by the Council to the selected Provider (s), by post or electronically, on **an as needed basis** (there is therefore no obligation to order on the part of the Council).

Pooling

For each Order, the Council will choose from the pool of pre-selected tenderers for the relevant lot the Provider who demonstrably offers best value for money for its requirement when assessed – for the Order concerned – against the criteria of:

- quality (including as appropriate: capability, expertise, past performance, availability of resources and proposed methods of undertaking the work);
- availability (including, without limitation, capacity to meet required deadlines and, where relevant, geographical location); and
- price.

Each time an Order Form is sent, the selected Provider undertakes to take all the necessary measures to send it **signed** to the Council within 5 (five) 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 quote² (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.

² It must strictly respect the fees indicated in the Financial Offer attached to the original Provider's tender as recorded by the Council of Europe. In case of non-compliance with the fees as indicated in the original Provider's tender, the Council of Europe reserves the right to terminate the Contract with the Provider, in all or in part.

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)³

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 G):

- A university degree in law, public administration, political sciences or related fields;
- At least 5 years of professional experience in undertaking research and legal analysis;
- Full professional proficiency in English.

Award criteria

- Quality of the offer (90%), including:
 - Knowledge about structures, functions and operation modalities of bars, knowledge of legal and institutional frameworks guaranteeing the functioning and independence of lawyers, knowledge of system/models on provision of free legal services in respective participating country as relevant for the lot(s) tendered for;
 - Knowledge and understanding of the standards and recommendations of the Council of Europe, as well as of the best practices of the Council of Europe member states in the fields of the human rights, rule of law and justice, democracy and gender equality;
 - Experience of preparing legal analytical reports and recommendations;
 - Experience of working/consulting at a bar, lawyers professional unions/associations or at a free legal aid services is considered as an advantage.
- Financial offer (10%).

The Council reserves the right to hold interviews with eligible 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.

³ The Council of Europe reserves the right to ask tenderers, at a later stage, to supply the following supporting documents:

- An extract from the record of convictions or failing that an equivalent document issued by the competent judicial or administrative authority of the country of incorporation, indicating that the first three above listed exclusion criteria are met;
- A certificate issued by the competent authority of the country of incorporation indicating that the fourth criterion is met;
- For legal persons, an extract from the companies register or other official document proving ownership and control of the Tenderer.

G. DOCUMENTS TO BE PROVIDED

- A completed and signed copy of the **Act of Engagement**⁴ (See attached);
- A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria. Where the tenderer is a legal person, this shall include the CV of the person(s) who will be assigned to carry out the work.
- A scanned copy of a valid photographic proof of identity (e.g. passport), for natural persons only (including from owners and executive officers of legal persons);
- A list of all owners and executive officers, for legal persons only;
- Motivation letter in English, highlighting the specific area of expertise of the tenderer.
- Samples of previous work relevant to the lot(s) for which the tenderer is applying or any other documents/materials that the tenderer deems necessary to submit as an evidence of qualification and/or experience.
- Contact details of 3 (three) references (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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⁴ 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.