

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

Purchase of national consultancy services under the Project "Promoting alternative dispute resolution mechanisms in Georgia"

Contract N° 1-17/01/2023-BH8887



The Council of Europe is currently implementing until 31 December 2023 a Project on "Promoting Alternative Dispute Resolution Mechanisms in Georgia". In that context, it is looking for Provider(s) for the provision of consultancy services to deliver legal expertise and capacity building activities in Alternative Dispute Resolution mechanisms 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, 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 - Purchase of consultancy services on legal expertise and capacity development.** 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 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: Tender - Purchase of consultancy services on legislative expertise and capacity development.**

Type of contract ►	Framework contract
Duration ►	Until 31 December 2023
Deadline for submission of tenders/offers ►	14 February 2023
Email for submission of tenders/offers ►	adr.mechanisms.georgia@coe.int
Email for questions ►	adr.mechanisms.georgia@coe.int
Expected starting date of execution ►	22 February 2023

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 CoE Project on “Promoting Alternative Dispute Resolution Mechanisms in Georgia” will last until 31 December 2023.

The Project aims to improve the effectiveness of the Georgian justice system and access to justice by providing a well-functioning and trusted alternative dispute resolution mechanism for Georgian citizens.

The objectives of the Project are: to raise awareness on alternative dispute resolution systems in criminal and civil law; to improve the knowledge, capacities and skills of the relevant stakeholders; to increase the capacity of the relevant institutions – the Mediators Association of Georgia and the the National Agency for Crime Prevention, Execution of Non-custodial Sentences and Probation.

The Project aims to support the key institutions - the Mediators Association of Georgia and the the National Agency for Crime Prevention, Execution of Non-custodial Sentences and Probation to effectively exercise their function. This involves identifying needs and challenges of restorative justice in Georgia, reviewing regulatory frameworks and developing relevant recommendations, carrying out research on best practices, conducting trainings, including ToT, developing relevant guidelines, etc. This will contribute to increasing institutional capacity and capacity of the staff to improve effectiveness of provided services.

In addition, the Project will promote dialogue between different professionals and support different institutions to coordinate policies and developments in the field of restorative justice, as well as encourage consultations between stakeholders aimed at developing a common understanding of the purpose of the restorative justice.

The Project will also focus on raising awareness of relevant professionals as well as of public in order to promote increased use of ADR mechanisms.

The Council of Europe is looking for a maximum of 15 Provider(s) (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on alternative dispute resolution mechanisms.

This Contract is currently estimated to cover up to 35 activities to be held by 31 December 2023. 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 560,000 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.

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
Lot 1: Restorative justice – regulatory framework and capacity building activities	15
Lot 2: Mediation – regulatory framework and capacity building activities	15
Lot 3: Awareness raising campaign on the ADR mechanisms	5

Lot 1 concerns support of the institutional strengthening of the of the National Agency for Crime Prevention, Execution of Non-custodial Sentences and Probation to ensure the enhancement of conciliation in criminal matters and its effective implementation. This includes reviewing and/or further development of the regulatory framework; conducting relevant research, needs assessment; drafting guidelines and other documents; conducting trainings and other activities as requested.

Lot 2 concerns support of the Mediators Association to increase the use and scope of mediation. This includes reviewing and/or further development of the regulatory framework; conducting relevant research, needs assessment; drafting guidelines and other documents; conducting trainings and other activities as requested.

Lot 3 concerns development of awareness raising campaign on the ADR mechanisms.

The Council will select the abovementioned number of Provider(s) per lot, provided enough tenders meet the criteria indicated below. Tenderers are invited to indicate which lot(s) they are tendering for (see Section A of the Act of Engagement).

Scope of the Framework Contract

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

Under Lot 1: Restorative justice

- Assess national legislation and practices on conciliation in criminal matters, including through a review of the rules and procedures and development of recommendations as to their improvement in the light of the Council of Europe standards;
- Assess the needs of the current system of conciliation in criminal law; provide comparative analysis of best practices in member States and existing international conciliation models;
- Conduct monitoring of the implementation of conciliation and practical application of existing regulations;
- Conduct research and needs assessment on specific activities such as trainings, provide recommendations and documents;
- Provide expertise and written contributions;
- Participate and provide written contributions to working group drafting sessions for development of specific documents and materials on given topics;
- Develop handbooks, general information leaflets, guidelines on specific topics;
- Deliver presentations on specific topics when needed;
- Check and ensure quality assurance of developed documents, materials and other outputs;
- Oversee the development of the deliverables under this component, coordinate with other short-term consultants, provide expertise, advice and revisions;
- Provide technical expertise for development/use of specific tools.

Under Lot 2: Mediation

- Assess national legislation and practices on mediation, including through a review of the rules and procedures and development of recommendations as to their improvement in the light of the Council of Europe standards;
- Assess the needs of the current system of mediation; provide comparative analysis of best practices in member States and existing international mediation models;
- Conduct monitoring of the implementation of mediation and practical application of existing regulations;
- Conduct research and needs assessment on specific activities, provide recommendations and documents;
- Provide expertise and written contributions;
- Participate and provide written contributions to working group drafting sessions for development of specific documents and materials on given topics;
- Develop handbooks, general information leaflets, guidelines on specific topics;
- Deliver presentations on specific topics when needed;
- Check and ensure quality assurance of developed documents, materials and other outputs;
- Oversee the development of the deliverables under this component, coordinate with other short-term consultants, provide expertise, advice and revisions.

Under Lot 3: Development of Awareness Raising Campaign on the ADR mechanisms

- Provide advice on the development of awareness raising strategy on the ADR mechanisms and its implementation.

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 3 (three) 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.

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, 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.

Lots 1 and 2

Eligibility criteria

- Minimum 5 years of work experience in the justice field (preferably restorative justice and/or mediation), dealing with at least one of the following issues:
 - needs assessment, research, legislative review and comparative analysis;
 - policy design and drafting of recommendations;
 - development and implementation of training programmes;
 - delivering seminars and trainings for justice professionals;
 - preparation of practical information tools for professionals and awareness raising materials for users.

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.

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 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.

Award criteria

- Quality of the offer (80%), including:
 - Relevant experience in the area;
 - Quality of sample deliverables produced by the tenderer, including: draft material recently produced by the tenderer in English; and/or training outlines or training methodologies employed by the tenderer in English and Georgian; and/or previous training development and provision experience;
 - Research, analytical and writing skills in English and Georgian.
- Financial offer (20%).

Lot 3*Eligibility criteria*

- Minimum 5 years of work experience of design of awareness raising strategy and public information campaigns.

Award criteria

- Quality of the offer (80%), including:
 - Relevant experience;
 - Quality of sample deliverables produced by the tenderer.
- 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.

G. DOCUMENTS TO BE PROVIDED

- **A completed and signed copy of the Act of Engagement⁴** (See attached);
- A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria;
- Registration documents, for legal persons only;
- A motivation letter describing how the tenderer meets the requirements of the expected types of deliverables (1 page maximum);
- At least 2 (two) examples of previous relevant work;
- Minimum two references (only phone numbers and emails).

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.