

# TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

## Purchase of consultancy service

### Contract N° BH5025/2023/21



The Council of Europe is currently implementing, until *31 December 2026*, the action "Strengthening human rights protection in Serbia", which is being implemented within the EU/CoE joint programme "Horizontal Facility for the Western Balkans and Türkiye". In that context, it is looking for Provider(s) for the provision of consultancy services in the context of establishing and strengthening effective mechanism for the execution of the ECtHR judgements on domestic level, strengthening capacity of legal professionals, primarily current representatives of judiciary/ prosecution and judicial academy trainees, as well as fostering systemic approach to improvement of human rights education for law students, 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>1</sup>, the Organisation shall invite to tender at least three potential providers for any purchase between €2,000 (or €6,000 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 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 consortium of natural and/or legal person.

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 – BH5025/2023/21**. 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 – Tender BH5025/2023/21**

<b>Type of contract</b> ▶	Framework contract
<b>Duration</b> ▶	Until 31 December 2026
<b>Deadline for submission of tenders/offers</b> ▶	<b>17 November 2023, 23h59 CET</b>
<b>Email for submission of tenders/offers</b> ▶	<a href="mailto:dgi-coordination@coe.int">dgi-coordination@coe.int</a>
<b>Email for questions</b> ▶	<a href="mailto:dgi-coordination@coe.int">dgi-coordination@coe.int</a>
<b>Expected starting date of execution</b> ▶	15 December 2023

<sup>1</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 action "Strengthening human rights protection in Serbia", is implemented within the EU/CoE joint programme "Horizontal Facility for the Western Balkans and Türkiye", in Serbia, from 1 January 2023 to 31 December 2026. The action facilitates and contributes to the protection of human rights in Serbia by and before domestic judicial authorities in line with European human rights standards. In particular, it focuses on reinforcing domestic capacity for effective implementation of judgments of the European Court of Human Rights (ECtHR). In parallel the action also contributes to improving quality of justice through human-rights oriented adjudication facilitated with tailor-made capacity-building for legal professionals and advancement of human-rights teaching at the law faculties. It also serves as a platform for regular transfer of knowledge and exchange of information between the ECtHR and domestic highest (superior) courts which will facilitate effective implementation of the European Convention on Human Rights (ECHR) and standards arising from the ECtHR case law in coherent manner. The action is being implemented in close co-operation and partnership with (in alphabetical order): Constitutional Court, Judicial Academy, Ministry of European Integration, Ministry of Justice, Representative of the Republic of Serbia before the European Court of Human Rights, Supreme Court of Cassation, Supreme Public Prosecutor and public law faculties.

The Council of Europe is looking for 16 Providers (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on implementation of the European Convention of Human Rights, standards arising from the case-law of the ECtHR and on process of the execution of judgments of the ECtHR.

This Contract is currently estimated to cover up to 40 activities to be held by 31 December 2026. 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 1,000,000 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: Conducting research and analysis , and delivering training/presentations related to the execution of judgments of the European Court of Human Rights from the point of view of the Council of Europe standards and comparative perspective	4
Lot 2: Delivering training/presentations on topics related to ECHR and relevant standards arising from the ECtHR case law for judges, prosecutors Judicial Academy trainees and representatives of other relevant national authorities	6
Lot 3: Conducting research and analysis, providing recommendations, and delivering training in the context of a systemic introduction of human rights curricula at the public law faculties, to law faculties' teaching staff or students, with reference to comparative solutions and Council of Europe standards	6

Lot 1 concerns conducting research of and providing analytical reports (including recommendations) based on legislation, including bylaws and administrative instructions, relevant Council of Europe documents, and

good practices in other Council of Europe member states in respect to the execution of judgments of the European Court of Human Rights; delivering training/presentations on various aspects relevant/connected to the process of the execution of the ECtHR judgements;

Lot 2 concerns preparing (developing/drafting) human rights training modules and training materials and delivering trainings and presentations for judges, prosecutors, trainees of Judicial Academy and representatives of other relevant national authorities on the protection of human rights in line with the European human rights standards, most notably ECHR and standards arising from the case-law of the ECtHR;

Lot 3 concerns conducting research of and providing analytical reports (with recommendations) based on relevant documents, including curricula, teaching programmes rules of procedure and statutes, relevant Council of Europe documents, and good practices in other Council of Europe member states in respect to the systemic introduction and implementation of the human rights teaching at the law faculties; delivering training on ECHR and relevant standards arising from the ECtHR case-law, as well as on relevant teaching/training methodologies to law faculties' teaching staff or students.

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:

- Draft comparative analytical reports (assessments, analysis, reviews) of existing mechanisms, rules and procedures and providing recommendations in line with Council of Europe standards and comparable good practices, in the domain of the execution of judgements of the European Court of Human Rights on domestic level in different countries;
- Prepare and deliver presentations while focusing on international context, participate as keynote or contributing speakers in the expert workshops (discussions, conferences and round tables, working meetings, informative sessions);
- Facilitate expert workshops (discussions, conferences and roundtables, working meetings, informative sessions);
- Prepare and/or produce material for publications related to the topic of execution of the ECtHR judgements in different countries and taking into account Council of Europe standards;
- Prepare materials for training sessions/workshops, with regard to the needs specific for different target groups;
- Deliver training/workshops, with regard to the needs specific for different target groups
- Conduct training evaluation;
- Prepare post-training/workshop reports.

Under Lot 2:

- Develop/draft human rights training modules and adequate teaching methodology based on the European Court of Human Rights case-law, with regard to the needs specific for a certain group of participants;
- Prepare material for training sessions/workshops on ECHR standards and/or comparative practice in the implementation of these standards, with regard to the needs specific for a certain group of participants;
- Deliver training/workshop/presentations, with regard to the needs specific for different target groups;
- Conduct training evaluation;
- Prepare post-training/workshop reports.

Under Lot 3:

- Draft comparative analytical reports (assessments, analysis, reviews) of human rights teaching programmes and provide recommendations in line with Council of Europe standards and comparative good practices, in the domain of human rights teaching at the law faculties;
- Prepare and deliver presentations, participate as keynote or contributing speakers in the expert workshops (discussions, conferences and round tables, working meetings, informative sessions);
- Facilitate expert workshops (discussions, conferences and round tables, working meetings, informative sessions);
- Prepare and/or produce material for publications related to the topic of human rights teaching at the law faculties;
- Prepare material for training sessions/workshops, with regard to the needs specific for a certain group of training attendees;
- Deliver training/workshops, with regard to the needs specific for a certain group of training attendees;
- Conduct training evaluation;
- Prepare post-training/workshop reports.

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 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<sup>2</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.

## **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>3</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;

<sup>2</sup> 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.

<sup>3</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;
- For legal persons, an extract from the companies register or other official document proving ownership and control of the Tenderer;
- For natural persons (including owners and executive officers of legal persons), a scanned copy of a valid photographic proof of identity (e.g. passport).

- have not fulfilled, in the previous three years, their contractual obligations in the performance of a contract concluded with the Council of Europe leading to a total or partial refusal of payment and/or termination of the contract by the Council of Europe;
- 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*

- University degree in one of the following fields: law, political and/or social sciences,
- At least 8 (eight) years of professional experience in the human rights or rule of law field, of which at least 3 (three) years acquired in an international context;
- Advanced knowledge of European human rights standards, ECHR and ECtHR case law, demonstrated through previous experience (e.g. published papers or alternatively submitted samples of previous written work, experience in giving lectures on relevant topics, etc.);
- Excellent knowledge of English language, spoken and written (at least level C1 of the CEFR3)

#### *Award criteria*

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

##### Lot 1

- Expertise in the field of execution of judgements of the European Court of Human Rights (50%);
- Capacity to conduct research and draft analytical reports (10%);
- Capacity to prepare, deliver and evaluate trainings (10%);
- Capacity to meet the required deadline (10%);
- Capacity to adapt to the context (10%);

##### Lot 2

- Expertise in the field of ECHR and standards arising from the ECtHR case-law(50%);
- Capacity to develop/draft human right training modules (10%)
- Capacity to prepare, deliver and evaluate trainings for judiciary (10%);
- Capacity to meet the required deadline (10%);
- Capacity to adapt to the context (10%);

##### Lot 3

- Expertise in the field of ECHR and standards arising from the ECtHR case-law (50%);
- Capacity to conduct research and draft analytical reports (10%);
- Capacity to prepare, deliver and evaluate trainings to law students and teaching staff (10%);
- Capacity to meet the required deadline (10%);
- Capacity to adapt to the context (10%);

- Financial offer (10%).

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 Engagement<sup>4</sup>** (See attached);
- A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria;
- Registration documents, including a list of all owners and executive officers, for legal persons only;
- Contact details of 3 (three) referees (i.e. current or previous employer, client);

At least one sample of previous work (articles, handbooks, research analyses, presentations, training materials, etc. in the area of the ECHR) in English

At the time a specific assignment is ordered from a tenderer (natural person) belonging to the category of local<sup>5</sup> civil servant or other public administration staff under the third phase of the Horizontal Facility, the respective tenderer will be required to submit a written confirmation by his/her employer that secondary activities are allowed by national/local legislation and that the employer authorises the tenderer to carry out the object of this tender procedure as a secondary activity. In the absence of such a confirmation, the Council of Europe reserves the right to withdraw the order.

Alternatively, at the time a specific assignment is ordered from a tenderer (legal person) assigning the production of the expected deliverables to an individual belonging to the category of local civil servant or other public administration staff under the third phase of the Horizontal Facility, the respective tenderer will be required to verify and provide the Council of Europe with the necessary supporting documents confirming that this individual submitted a written confirmation by his/her employer that secondary activities are allowed by national/local legislation and that the employer authorises the individual to carry out the object of this tender procedure as a secondary activity. In the absence of such a confirmation, the Council of Europe reserves the right to withdraw the order.

**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>4</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.

<sup>5</sup> For the purpose of this document, the term « local » designates consultants from one of the Horizontal Facility Beneficiaries region and Türkiye.