

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

Purchase of international consultancy services in the field of media pluralism and audiovisual regulation in the Republic of Moldova



Contract N° BH8709/2021/25

The Council of Europe is currently implementing until December 2021 the Project "Promoting European standards in the audio-visual regulation in the Republic of Moldova", in the framework of the Council of Europe Action Plan for the Republic of Moldova 2021-2024. The project aims to assess the needs of the country to strengthen media and broadcasting sector through the implementation of European standards.

In that context, the Project is looking for Provider(s) for the provision of international consultancy services in drafting and implementation of the regulatory framework related to media pluralism, freedom of expression, audio-visual services, ethical journalism, and the enhancement of the work of the National Public Broadcaster, 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 – Application media international consultancy services.** 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 media international consultancy services**

Type of contract ►	Framework contract
Duration ►	Until 31 December 2021
Deadline for submission of tenders/offers ►	29 June 2021
Email for submission of tenders/offers ►	ana.chiriac@coe.int
Email for questions ►	ana.chiriac@coe.int
Expected starting date of execution ►	15 July 2021

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

On the 1st of March 2020, the Council of Europe started the implementation of project "Promoting European standards in the audio-visual regulation in the Republic of Moldova" to run until December 2021. The project addresses the needs of the country to strengthen the media and broadcasting sector through implementation of European standards in drafting and implementation of the regulatory framework related to media pluralism and in enhancing the professionalism of public service broadcasters based on activities that are structured around two components:

I. The improvement and proper implementation of the regulatory framework related to media pluralism, by providing support:

- In drafting, assessing and reviewing existing legal framework relevant to freedom of expression and media pluralism;
- To the broadcasting regulatory authority to increase its capacity to work in an independent and transparent manner;
- To the Audiovisual Council to facilitate the proper implementation of Audiovisual Media Services Code, efficient media monitoring during the election campaign, prevent excessive concentration of media ownership, etc.

II. Enhancing professionalism of national public service broadcaster, by providing support to Teleradio-Moldova company aiming at:

- The improvement and diversification of editorial policies, in particular production of documentary films and political/electoral programmes in line with international best practices;
- Initiation and support to the newsroom convergence process (producing and delivering news content across traditional radio, television and new online platforms);
- Enhancing the capacity of the Company's Ombudsperson;
- The digitization of the company's platforms and enhancing the communication capacities of the company and staff.

The Council of Europe is looking for 7 (seven) Provider(s) per lot (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on the project background and Project lots.

This Contract is currently estimated to cover up to 20 activities, to be held by December 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 470 000 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 I: "Legal approximation of media regulatory framework"	7
Lot II "Enhancing independence and capacity of Public Service Broadcasting and its digital transition"	7
Lot III "Raising awareness on media pluralism, ethical journalism, coverage of elections and information disorder"	7

Lot 1 concerns:

1. EU Audiovisual Media Services Directive and the Council of Europe standards in the area of audiovisual regulation;
2. Audiovisual media services legislation in line with the Council of Europe standards and its implementation;
3. Regulatory framework related to transparency of media ownership and media pluralism in line with European standards;
4. European best practices in information security and protection of national audio-visual sphere;
5. Effective models of media co-regulation in the Council of Europe member states;
6. European best practices in the field of alignment of Access to Information and Data protection.

Lot 2 concerns:

1. Standards and models of newsroom convergence process in public service broadcasting (strategies, action plans, business plans, etc.);
2. International best practices in planning and production of documentary films about human rights and social issues;
3. Standards and best practices of elections' coverage by public service broadcasters in Europe;
4. European models and best practices in designing editorial policies and standards in public service broadcasting;
5. European standards and practices in designing and developing external and internal communication of public service broadcasters;
6. European models in organisation of activities of the service of the Ombudsman within the public service broadcasters;
7. Practices and trends in digitization, strategic positioning, marketing strategies and promotion of public service broadcasts content.

Lot 3 concerns:

1. Practices and legal framework of media coverage of elections in the Council of Europe member states;
2. Ethical and journalistic standards and legal aspects of journalists' work during the elections;
3. Media monitoring of electoral and political pluralism, inflammatory speech, xenophobia and racism, hate speech and defamation;
4. European self-regulatory practices for media in the context of elections;
5. Physical and digital safety of journalists;
6. Regulation of political advertising during elections in the member states of the Council of Europe;
7. Information disorder and new challenges (fake news, etc.) in the media etc.;
8. Gender equality in mass-media, tackling hate speech in the audiovisual environment.

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:

Lot I: "Legal approximation of media regulatory framework"

1. Provide (in writing or in the form of oral presentations for trainings and seminars) expert opinions with recommendations and legal assessments of acts, policy documents, draft documents and bills already in force such as but not limited to: Advertising Law, amendments to Law on Access to Information, Law on Freedom of Expression, Law on Personal Data Protection, Law on Access to Information, Fiscal Code etc;
2. Develop gap analysis reports, revision of by-laws, drafting legal opinions with recommendations concerning the proper implementation of the Audiovisual Media Service Code in line with the European standards, in particular but not limited to political pluralism, inflammatory speech, xenophobia and racism, hate speech and defamation etc;
3. Provide guidance and expert support in updating the existing software and hardware in order to guarantee an effective monitoring system within the Audiovisual Council;
4. Provide expert assistance in putting into practice the regulatory framework related to Audiovisual Media Services by organising trainings related to coverage of election campaigns etc., and software on media monitoring etc.

Lot II "Enhancing independence and capacity of Public Service Broadcasting and its digital transition"

1. Contribute to the establishment of contemporary, convergent and semantic newsroom framework for Public Broadcaster to support the production of news in an integrated, interactive and cybernetic manner, through:
 - a) draft one business plan of the newsroom convergence strategy;
 - b) providing detailed guidance to the staff and entity's management on approaches and key-aspects of the newsroom convergence business plan;
2. Provide expert assistance in supporting the establishment of children's radio station within the National Public Broadcaster, by content and concept elaboration for the application, as well as supporting in the promotion of the radio as a national brand etc.
3. Provide expert assistance in strengthening the Ombudsperson capacity within the National Public Broadcaster through developing methodology for audiovisual content monitoring, as well as providing the European best practices models on efficient functioning of Ombudsperson service;
4. Support filmmakers through the delivery of up to 5 seminars on human rights and social issues documentaries and their coaching on producing up to 8 short films (documentaries) based on European practices.
5. Assist the National Public Broadcaster with its communication and marketing strategies, strategic positioning (through the design of marketing strategies, trainings and seminars) and its transition to the digital.

Lot III "Raising awareness on media pluralism, ethical journalism, coverage of elections and information disorder"

Provide expert support and guidance to the Moldovan audiovisual regulatory bodies, in particular the Audiovisual Council, National Public Service Broadcasting and Ombudsperson of Public Service Broadcasting, journalists, as well as other institutional actors such as representatives of the Standing Parliamentary Committees in the field of human rights and media on European standards and legal practices, by conducting up to fifteen awareness raising and outreach activities directed to the staff and management of the mentioned entities such as workshops trainings/seminars, round-tables, meeting participation with national stakeholders including through facilitating discussions, mentoring and delivering presentations/training materials with relevant case-studies based on the ECHR judgements, in terms of:

- a) media pluralism and freedom of expression and access to information;
- b) media coverage and elections;
- c) journalistic ethics, transparency and media financing and independence;
- d) independent editorial policy, advertising, in line with the European legal practices;
- e) production and moderating of political/electoral TV and radio programmes in line with international best practices;
- f) application into practice the provisions of the Audiovisual Media Service Code;
- g) professional ethics and pluralism of opinions, presentation of live TV programmes for journalists etc.;
- h) promotion of gender equality in the media field;
- i) European practices and trends in tackling and combating information disorder.

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 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:

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.

- 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.

Eligibility criteria

- A university degree in law/political sciences/social sciences/international relations/public administration/ journalism/marketing or related fields;
- At least 5 years of professional experience in the areas mentioned as topics of Lots I-III (consulting, legal assessment and review, audiovisual production or similar with proven experience in awareness and outreach campaigns; development and promotion of audiovisual services, capacity-building, academic/legal research, analytical work, expert assessments, working as trainers, contribution to the events as speakers etc).
- 5 proven years showcasing extensive experience working with media, public service broadcaster and regulatory bodies;
- Fluent/proficient in English (at least level B2 of the Common European Framework of Reference for Languages).

Award criteria

- Quality of the offer (80%), including:
 - 60%: relevance of the experience and level of expertise of the tenderer in the areas covered by specific Lots I-III;
 - 10%: previous assignments with international organisations;
 - 10%: previous experience with Eastern Partnership countries/Moldovan context.
- Financial offer (20%).

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.

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;
- Registration documents, for legal persons only;
- Up to three samples of articles/study/research, legal opinion, report, short essay, analysis, communications and marketing strategy, event/workshop presentations, documentaries, or other

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.

relevant materials, including at least one published online, with an active link, produced in the last 5 years shall be submitted in English by the tenderer covering challenges with regards to the specific and/or preferred fields of expertise: **Lot I: "Legal approximation of media regulatory framework"; Lot II "Enhancing independence and capacity of Public Service Broadcasting and its digital transition", Lot III "Raising awareness on media pluralism, ethical journalism, coverage of elections and information disorder."**

All documents shall be submitted in English (with the exception of registration documents for legal persons), 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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