

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

Purchase of consultancy services

Contract N° 232/2020/DGI



The Council of Europe Department of the European Social Charter is providing secretariat support and ensures the functioning of the European Committee of Social Rights. In that context, it is looking for Provider(s) for the provision of consultancy services under the Framework Contract 232/2020/DGI 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 €150,000 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: Call for consultancy services on social rights.** 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_Call for consultancy services on social rights**

Type of contract ▶	Framework contract
Duration ▶	Until 31 July 2023
Deadline for submission of tenders/offers ▶	24 July 2020
Email for submission of tenders/offers ▶	social.charter@coe.int
Email for questions ▶	social.charter@coe.int
Expected starting date of execution ▶	03 August 2020

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 Information

The **European Social Charter** is a Council of Europe treaty that guarantees fundamental social and economic rights as a counterpart to the European Convention on Human Rights, which protects civil and political rights. It guarantees a broad range of everyday human rights related to employment, housing, health, education, social protection and welfare.

The Charter lays specific emphasis on the protection of vulnerable persons such as older people, children, people with disabilities and migrants. It requires that enjoyment of the abovementioned rights be guaranteed without discrimination.

No other legal instrument at pan-European level can provide such an extensive and complete protection of social rights as that provided by the Charter, which also serves as a point of reference in European Union law; most of the social rights in the EU Charter of Fundamental Rights are based on the relevant articles of the Charter.

The Charter is therefore seen as the **Social Constitution of Europe** and represents an essential component of the continent's human rights architecture.

Enforcement of the Revised Charter is under the same monitoring mechanism as the 1961 Charter, i.e. the reporting system; this system was further developed and strengthened in 1991 by an Amending Protocol (ETS No. 142), which is applied on the basis of a decision taken by the States concerned.

For the States parties which have accepted it, the reporting system is complemented by the Additional Protocol of 1995 providing for a system of collective complaints (ETS No. 158).

In this framework, the honouring of commitments entered into by the States Parties is subject to the monitoring by the **European Committee of Social Rights** (hereinafter-Committee).

The **Department of the European Social Charter** (hereinafter-Department) provides secretariat support to the Committee in implementation of the Charter's monitoring mechanism.

The Council of Europe is looking for maximum of 50 Provider(s) (provided enough tenders meet the criteria indicated below) in order to support the implementation of the tasks of the Department with a particular expertise on social rights.

This Contract is currently estimated to cover up to 80 activities, to be implemented by 31 July 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 amount of the object of present tender **shall not exceed 150,000 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 Department's activities and is divided into the following lots:

Lots	Maximum number of Providers to be selected
Lot 1: Consultancy services on economic and social rights, particularly rights guaranteed under the European Social Charter and European Code of Social Security, as well as on social cohesion	30
Lot 2: Consultancy services for the revision and updating of the Digest of the case law of the European Committee of Social Rights	5
Lot 3: Consultancy services with particular expertise in editorial and legal proofreading	15

Lot 1 concerns the European Social Charter, its implementation at the national and international levels, its monitoring mechanism and acceptance of its provisions by the member States; implementation of the European Code of Social Security and the regular update of the Mutual Information System on Social Protection of the Council of Europe; as well as Council of Europe actions in the area of social cohesion.

Lot 2 concerns the Digest of the European Committee of Social Rights case law, its regular update and legal proofreading.

Lot 3 concerns the legal proofreading and language check of the European Committee of Social Rights Conclusions, Decisions and documents prepared by the Department.

Scope of the Framework Contract

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

Under Lot 1:

- Analysis and/or expertise of laws, drafts, strategies and policies, or the situation in practice as a result of the application of those laws and policies, in light of the European Social Charter, case law of the European Committee of Social rights and by taking account of relevant social, economic and policy considerations;
- Preparation of reports, legal opinions, comments, recommendations, etc on the implementation of the provisions of the European Social Charter, European Code of Social Security, social protection and social cohesion;
- Assessment of legal acts and policy documents (draft documents) and/or practice and provision of advice (in the form of oral and/or written contributions);
- Development of methodology and conduct of needs assessment on specific aspects related to the theme of the lot;
- Research, study and sharing the best European practices related to the theme of the lot;
- Participation and contribution to the organisation and to the conduct of conferences, round-tables, seminars, trainings, working group meetings, workshops, consultation meetings and other relevant events, including through moderating/facilitating discussions and delivering presentations (travel may be required);
- Development of institutional internal regulations, guidelines and information materials on specific aspects related to the theme of the lot;
- Development of the methodology and conduct of training needs assessment, evaluation of their impact/effectiveness and development of reports/recommendations thereof on specific aspects related to the theme of the lot;
- Development, adaptation of training courses (including on-line) and materials and provision of trainings on specific aspects related to the theme of the lot;
- Development of awareness raising materials, such as leaflets, brochures, etc on specific aspects related to the theme of the lot;
- Provision of other deliverables related to the above as requested by the Council of Europe.

Under Lot 2:

- Check the Digest of the case law of the European Committee of Social Rights and its Appendix for substantive accuracy, identify any inconsistencies (including in the footnotes);
- Update the Digest of the case law of the European Committee of Social Rights and its Appendix to reflect recent conclusions and decisions of the European Committee of Social Rights;
- Provision of legal proofreading and language check (English and/or French) of the updated Digest of the case law of the European Committee of Social Rights and its Appendix;
- Provision of other deliverables related to the above as requested by the Council of Europe.

Under Lot 3:

- Provision of legal proofreading by checking the accuracy and legal terminology of translations from French into English and *vice versa* of the European Committee of Social Rights Conclusions, Decisions and other documents produced by the Department;

- Provision of language check (English and/or French) of the European Committee of Social Rights Conclusions, Decisions and other documents produced by the Department;
- Provision of other deliverables related to the above as requested by the Council of Europe.

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 object of the Contract. 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 and/or French (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:

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.

- 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;
- 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.

For Lot 1

Eligibility criteria (to be assessed on the basis of all supporting documents listed in Section G):

- A university degree in law, social sciences, international relations, political sciences, human rights or related fields;
- At least 5 years of professional experience in areas related to the fields of expertise as described under the scope of the lot above, inter alia acquired in an international context;
- Demonstrable competence or expertise (legal or policy) in one or more areas covered by the European Social Charter (e.g. labour and employment, children's rights, equality and non-discrimination, social security and social assistance, etc.) or related to social cohesion and other Council of Europe activities;
- Excellent knowledge of the English and/or French language.

Award criteria

- Quality of the offer (90%), including:
 - Thematic expertise in the relevant area, knowledge of the European Social Charter, European standards and recommendations of the Council of Europe, European Committee of Social Rights and European Court of Human Rights case law in the areas covered by this call (40%);
 - Relevance of the experience of the tenderer in the areas covered by this call, including previous similar assignments with international organisations (40%);
 - Knowledge of the national and regional context in the field of the social rights and policies relevant to the areas covered by this call (10%).

³ The Council of Europe reserves the right to ask tenderers, at a later stage, to supply 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, and a certificate issued by the competent authority of the country of incorporation indicating that the fourth criterion is met.

- Financial offer (10%).

For Lot 2

Eligibility criteria (to be assessed on the basis of all supporting documents listed in Section G):

- Academic excellence in law, social science, human rights, international relations, political sciences or related fields and experience in conducting research/study in these areas;
- Demonstrable competence or expertise (legal or policy) in one or more areas covered by the European Social Charter (e.g. labour and employment, childer rights, equality and non-discrimination, social security and social assistance, etc.) or related to social cohesion and other Council of Europe activities;
- Excellent knowledge of the English and/or French language.

Award criteria

- Quality of the offer (90%), including:
 - Thematic expertise in the relevant area, knowledge of the European Social Charter, European standards and recommendations of the Council of Europe, European Committee of Social Rights and European Court of Human Rights case law in the areas covered by this call (40%);
 - Relevance of the experience of the tenderer in the areas covered by this call (40%);
 - Knowledge of regional context in the field of the social rights and policies relevant to the areas covered by this call (10%).
- Financial offer (10%).

For Lot 3

Eligibility criteria (to be assessed on the basis of all supporting documents listed in Section G):

- A university degree in law, international relations, political sciences, human rights, linguistics or related fields;
- Experience in providing similar services as described under the lot above;
- Excellent knowledge of the English and/or French language (at least level C2 of the Common European Framework of Reference for Languages).

Award criteria

- Quality of the offer (90%), including:
 - Level and relevance of the experience (40%);
 - French and English language skills (30%);
 - Capacity to meet the deadlines (20%).
- 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.

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;
- Detailed CV(s) of experts to be assigned, for legal persons only;
- At least 2 (two) samples of work/deliverables reference/links to publications, legal assessments/analyses, reports, studies, etc. relevant to the experience the tenderer claims in the areas covered by this call;
- Contact details of 3 (three) relevant referees, from among previous employers or clients (name, surname, phone number or e-mail).

All documents shall be submitted in English or French, 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.