

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

Purchase of consultancy services on Independence Accountability and Transparency of Justice System

Contract N° 15.05.2022/3



The Council of Europe is currently implementing a Project on “Strengthening independence and professionalism of justice in Georgia”. The Project is being implemented under the EU-CoE Partnership for Good Governance (PGG) and will last until 28 February 2026.

In this context, the CoE is looking for several Providers for the provision of consultancy services on legislation related to functioning justice system including criminal justice, respective strategies, policies, practices training programmes and materials and capacity building of judges, prosecutors, investigators respective legal staff of partners institutions also based on European Convention on Human Rights (ECHR) and case-law of the European Court of Human Rights (ECtHR) 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 €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 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 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: Purchase of consultancy services on legislative 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 (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 - Purchase of consultancy services on legislative expertise and capacity development.**

Type of contract ►	Framework contract
Duration ►	Until 28 February 2026
Deadline for submission of tenders/offers ►	15 July 2023
Email for submission of tenders/offers ►	dgi-coordination@coe.int
Email for questions ►	Giorgi.giorgadze@coe.int
Expected starting date of execution ►	31 July 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 Council of Europe is currently implementing a Project on "Strengthening independence and professionalism of justice in Georgia"

Specific objectives of the project are:

- Enhancing independence, transparency, accountability of the judicial system and impartiality of judges;
- Strengthening capacity of General Prosecutor's Office for the implementation of coherent and evidence-based criminal justice policy;
- Further aligning criminal justice legislation with international and European human rights standards;
- Strengthening ECHR national implementation by the courts and prosecution.

Furthermore, the project aims to support the Georgian stakeholders in bringing justice legislation closer to the European standards. This includes work on criminal substantive and procedural legislation, assistance in reforming Code of Administrative Offenses, reforming the investigative system by separation of investigative and prosecutorial functions; strengthening collegial bodies of the General Prosecutor's Office and prosecutorial self-governance. Moreover, the action will support implementation of judicial reform strategy in line with VC recommendations in respect of justice reform in Georgia to ensure functioning of independent, accountable transparent judiciary. Hence, entire judicial institutional chain.

With a view to achieving these results expertise of specific fields of legislation, strategies, policies, practices training programmes and materials and capacity building of judges, prosecutors, investigators respective legal staff of partners institutions are planned.

The Council of Europe is looking for 26 a maximum of number Provider(s) (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise in justice field.

Lot 1: Independence of the judiciary concerns implementation of transparent and effective judicial reform strategy and action plan post-2021 based to ensure functioning of independent accountable and impartial judiciary. More specifically this includes reform of the High Council of Justice, judicial appointments, evaluation and promotion of judges, recusal from trial and disciplinary procedures, remuneration and social guarantees. Further, under this lot it is expected to work on rules and modalities for publication of the judicial decisions delivered within the scope of public hearings by Common Courts of Georgia.

Lot 2: Accountability of the judiciary concerns accountability of the judicial system, disciplinary proceedings. According to Georgian legislation Independent Inspector is the only authorised body who is granted the authority to initiate disciplinary proceedings and conduct preliminary examination against a judge, independently from the HCoJ. The legal framework on the appointment, dismissal, transparency, decision-appeal and investigation-launching procedures and standard of proof of the Independent Inspector needs to be improved. Additionally, capacity building in order for Independent Inspector to provide well-reasoned decisions needs to be looked at.

Lot 3: Constitutional Court of Georgia: legislative work and capacity building activities for the staff and communication (both: at Common Courts and Constitutional Court) concerns revision of the Rules and Procedures of the Constitutional Court. More specifically, legislative framework on the Rules and Procedures of the Constitutional Court needs to be revised to ensure more efficient and effective functioning of the Court; also, capacity building of the Constitutional Court staff, especially analytical skills, need to be enhanced in order to better apply research tools, including the I Case-law of the Venice Commission database (CODICES). Additionally, it also concerns enhanced external communication of the Constitutional Court and courts of general jurisdiction in order to improve its public outreach and public awareness on the functioning of the Court.

In all assignments, post activity reports as a rule the consultant(s) shall elaborate on gender dimension and possible impact of proposed changes on gender equality.

For information purposes only, the total budget of the project amounts to 1 305 000 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.

The tender is divided into 3 (three) Lots. Consultants may submit a tender for one, several or all Lots subject to the fulfilment of the criteria listed in the Tender Rules for the Lots concerned. The Provider can apply for all or specific Lots listed in the Act of Engagement (See Section A – Terms of reference).

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: Independence of the judiciary	10
Lot 2 : Accountability of the judiciary	8
Lot 3: Constitutional Court of Georgia: legislative work and capacity building activities for the staff and communication (both: at Common Courts and Constitutional Court)	8

Scope of the Framework Contract

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

Under Lot 1

- Undertake assessment visit(s) to Georgia;
- Analyse information and data gathered during assessment visit(s);
- Prepare assessment report(s) in specific directions;
- Hold bilateral meetings;
- Participate in working group meetings;
- Review curricula;
- Draft analytical reports;
- Conduct trainings/workshops;
- Participate at the events (workshops, conferences, high level meetings);
- Conduct analysis of legal acts, respective policies and practice, implementation of strategies to provide legal and technical expertise on specific issues and propose changes, develop respective thematic guidebooks provide written recommendations.

Under Lot 2

- Undertake assessment visit(s) to Georgia;
- Analyse information and data gathered during assessment visit(s);
- Prepare assessment report(s) in specific directions;
- Hold bilateral meetings;
- Participate in working group meetings;
- Review curricula;
- Draft analytical reports;
- Conduct trainings/workshops;
- Participate at the events (workshops, conferences, high level meetings);

- Conduct analysis of legal acts, respective policies and practice, implementation of strategies to provide legal and technical expertise on specific issues and propose changes, develop respective thematic guidebooks provide written recommendations.

Under Lot 3

- Undertake assessment visit(s) to Georgia;
- Analyse information and data gathered during assessment visit(s);
- Prepare assessment report(s) in specific directions;
- Hold bilateral meetings;
- Participate in working group meetings;
- Review curricula;
- Draft analytical reports;
- Conduct trainings/workshops;
- Participate at the events (workshops, conferences, high level meetings);
- Conduct analysis of legal acts, respective policies and practice, implementation of strategies to provide legal and technical expertise on specific issues and propose changes, develop respective thematic guidebooks provide written recommendations.

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).

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:

- 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;

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;
- 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).

- 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

- University degree in law, political sciences, social sciences, international relations, public administration, communication or related fields;
- At least 5 years of experience in the field of rule of law, human rights and/or justice, of which at least 3 years acquired in an international context;
- Excellent analytical and drafting skills;
- Excellent oral and written English;
- A financial offer not exceeding the exclusion level set out in the Act of Engagement.

Award criteria

- Quality of the offer (90%),
including: Relevant experience in the area of rule of law, human rights and or justice including previous similar assignments with international organisations (30%)
Thematic expertise (40%)
- Research, analytical and writing skills (20%)
- 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 Engagement⁴** (See attached);
- A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria;
- Sample of previous work;
- A list of all owners and executive officers, for legal persons only;

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.