**TENDER FILE / TERMS OF REFERENCE**

**(Competitive bidding procedure / Framework Contract)**

**Purchase of intellectual services at local level to support the implementation of the action “Strengthening the efficiency and quality of justice in Kosovo[[1]](#footnote-2)” (KoSEJ III), based on CEPEJ tools and methodology**

**Contract N° KOSEJ III/2023/3**

Under the framework of the third phase of European Union/Council of Europe Horizontal Facility for the Western Balkans and Türkiye — Phase III (HFIII), the Council of Europe is currently implementing the third phase of the KoSEJ Action (January 2023 – December 2026) with the KoSEJ III to continue to improve the efficiency and quality of jutice until December 2026. In that context, it is looking for 10 Provider(s) for the provision of intellectual consultancy services (local consultants) to be requested by the Council on an as needed basis.

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[[2]](#footnote-3), 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 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 local consultancy services\_ Contract N° KOSEJ III/2023/3

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 - Consultancy services on efficiency and quality of justice.**

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| --- | --- |
| **Type of contract ►** | Framework contract |
| **Duration ►** | Until 31 December 2026 |
| **Deadline for submission of tenders/offers ►** | **05 May 2023** |
| **Email for submission of tenders/offers ►** | **kosej.pristina@coe.int** |
| **Email for questions ►** | **kosej.pristina@coe.int** |
| **Expected starting date of execution ►** | 26 May 2023 |

1. EXPECTED DELIVERABLES

**Background of the Project**

Under the framework of the third phase of European Union/Council of Europe Horizontal Facility for the Western Balkans and Türkiye (HFIII), the Council of Europe is currently implementing the third phase of the KoSEJ Action (January 2023 – December 2026) with the KoSEJ III to continue to improve the efficiency and quality of jutice until December 2026.

The project KOSEJ III builds upon the progress achieved under KoSEJ I (July 2016 - May 2019) and KoSEJ II (May 2019 -December 2022) and aims at further improving the quality and efficiency of justice in accordance with the tools developed by CEPEJ and in connection with the Strategy on Rule of Law Sector 2021-2026 and the Action Plan (RoLS) adopted in August 2021.

One of the main objectives of the project is to successfully foster the implementation of the RoLs by sustaining and expanding CEPEJ tools and methodologies notably on judicial time management, digitalisation of justice and e-filling, alternative dispute resolution (ADR), judicial map, organisation and accessibility of court premises, etc. At central level, the action will support policy making bodies and authorities in charge of the administration of justice: Ministry of Justice, Kosovo Justice Academy, Kosovo Judicial Council, Kosovo Prosecutorial Council.

Courts and prosecution services will also be more efficient using active case management, improved working methods with lawyers and new information technologies. Specific needs of justice professionals and court users will be addressed, based on strengthened communication between courts and their users and access to courts. Additionally, and in coordination with the “Dashboard Western Balkan” project, the collection, processing, and analysis of data on the functioning of the judicial system and judicial statistics will be improved.

The Council of Europe is looking **for up to 10 Provider(s)** (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project.

This Contract is currently estimated to cover up to 2 activities per month. 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 779,000.00 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.

**Scope of the Framework Contract**

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.

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).]

1. 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.]

1. 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 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[[3]](#footnote-4) (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.

1. 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)[[4]](#footnote-5)

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;
* [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*

* An advanced university degree in law, management, political science, or related fields;
* At least 5 years’ previous professional experience at the national level in areas of work related to

the efficiency and quality of justice and/or court administration.

* Excellent communication skills; confirmed drafting skills and excellent spoken English at B2 level.

*Award criteria*

* Quality of the Offer (70%), including:

- Understanding of the justice system and legislation in Kosovo (35%)

- Experience in working with judicial statistics (collection and analysis of quantitative and qualitative judicial data); or case and time management at central and/or court level; or functioning of courts and prosecutions offices (court management, communication, human resources, evaluation, judicial decisions); or cyberjustice; or mediation (25%)

- Understanding of CEPEJ tools and methodology (10%)

* Criterion 2: Financial Offer (30%)

The Council reserves the right to hold interviews with tenderers.

Multiple tendering is not authorised.

1. NEGOTIATIONS

The Council reserves the right to hold negotiations with the bidders in accordance with Article 20 of Rule 1395.

1. DOCUMENTS TO BE PROVIDED

* **A completed and signed copy of the** **Act of Engagement[[5]](#footnote-6)** (See attached);
* A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria;
* A list of all owners and executive officers, for legal persons only;
* 3 (three) referees' contact details

**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.**

**\* \* \***

1. This designation is without prejudice to positions on status and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence. [↑](#footnote-ref-2)
2. The activities of the Council of Europe are governed by its [Statute](https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680306052) 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](https://search.coe.int/intranet/Pages/result_details.aspx?ObjectId=090000168094853e). [↑](#footnote-ref-3)
3. It must strictly respect the fees indicated in the Act of Engagement. In case of non-compliance with these fees, the Council of Europe reserves the right to terminate the Contract with the Provider, in all or in part. [↑](#footnote-ref-4)
4. 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). [↑](#footnote-ref-5)
5. 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. [↑](#footnote-ref-6)