

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)



Purchase of *consultancy service*.

Supporting the civil justice reforms - strengthening the judicial system in Belarus.

The Council of Europe is currently implementing and until 31 December 2021 a Project "Supporting the civil justice reforms - strengthening the judicial system in Belarus" funded by the EU within the "EU-CoE Programmatic Cooperation Framework (PGG Phase II) in the Eastern Partnership countries". The project aims to support the Belarusian authorities to carry out the current judicial reform and to provide better alternative dispute resolution mechanisms for citizens to settle disputes before lodging a complaint before courts and help take the pressure from the courts. The project has two outcomes: 1) Improve the functioning of regional courts and strengthening their capacities, procedures, and practices in civil cases; 2) Facilitate the implementation of effective mediation procedure in civil cases. In that context, it is looking for Provider(s) for the provision of *consultancy service* 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, 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: Tender_consultancy_Belarus_2345**. 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: Tender_consultancy_Belarus_2345**

Type of contract ▶	Framework contract
Duration ▶	Until 31 December 2021
Deadline for submission of tenders/offers ▶	10 August 2020
Email for submission of tenders/offers ▶	DGI.Justice.Reform.Unit1@coe.int
Email for questions ▶	DGI.Justice.Reform.Unit1@coe.int
Expected starting date of execution ▶	01 September 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](#).

EXPECTED DELIVERABLES

Background of the Project

The current "EU-CoE Programmatic Cooperation Framework (PGG Phase II) in the Eastern Partnership countries" supports the implementation of judicial reform in the Republic of Belarus. The Justice and Legal Cooperation Department implements the project "Supporting the civil justice reforms – strengthening the judicial system in the Republic of Belarus" in co-operation with the Supreme Court and the Ministry of Justice of Belarus and other national partners to support the judicial reform in Belarus in 2019-2021.

The Council of Europe is looking for a maximum of 16 Provider(s) (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on improving court efficiency, support the development mediation and ADR, e-justice and development IT tools in the court system, and access to court information. More specifically (the list is not exhaustive):

- Selection, appointment, evaluation and promotion of judges and prosecutors
- Ethics, liability, integrity and disciplinary rules and procedures for judges, prosecutors, advocates, notaries, public bailiffs, court experts and court interpreters
- Financial, administrative and human resource management, strategic planning and coordination, communication and external relations, as well as roles and responsibilities of press judges and prosecutors, and on-line media presence of the judiciary and state prosecution service
- Organisation, administration and management, external relations and communication, initial and in-service programme design and their continuous assessment and evaluation, training of trainers and mentors, e-learning programs for judges, prosecutors and other court staff of the training institutions for judges and prosecutors
- Roles and responsibilities of court presidents and heads of prosecution services
- Alternative dispute resolution and mediation, its system and legal framework, capacity and skills of mediators, quality standards for mediation, accountability and ethics in mediation, awareness raising and promotion
- Organisation, administration and management (including aspects of human resources and financial management), efficient functioning and coordination, strategic development and planning, communication and external relations of the Mediation as will be requested by the Ministry of Justice
- Other field of experience related reform of the justice system, independence, accountability and liability of the judiciary and prosecutors, e-justice and other legal professions, ADR and mediation services.

This Contract is currently estimated to cover up to *25 activities*, to be held by 31 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 240 000 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: Supporting the Supreme Court of the Belarus Republic in improving its efficiency in court administration and functioning for a better efficiency.	4
Lot 2: Supporting the Ministry of Justice of the Belarus Republic in the implementation of mediation legislation and related areas.	4
Lot 3: Supporting the development of IT knowledge and e-justice tools for the Belarusian judiciary.	4
Lot 4: Supporting the development of the national legislation on access to court work and information.	4

Lot 1 concerns supporting the Supreme Court, the court presidents and court staff in acquiring new knowledge on court management and administration, as well as acquiring knowledge of CoE standards concerning judiciary and court management and functioning of the court.

Lot 2 concerns development of mediation mechanisms to reduce the courts' workload of civil cases.

Lot 3 concerns supporting the development of a strategy for introduction of e-justice tools in the Belarusian judiciary.

Lot 4 concerns supporting the development of the national legislation on access to court information and activities, including court judgments.

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 for each Lot, pre-selected Providers may be asked to:

- Draft analytical reports (assessments, gap analysis, etc.)
- Develop strategical papers / documents with recommendations
- Participate at the project events (workshops, conferences, high level meetings)
- Prepare training modules and training materials
- Conduct trainings/workshops/ seminars in person or online.

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).

B. 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 C below) the global fee corresponding to each deliverable, calculated on the basis of the unit fees, as agreed by this Contract.

C. 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 3 (three) 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.

D. 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;

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 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 or related fields;
- Knowledge of European and Council of Europe standards related to independence and accountability of justice;
- Excellent drafting and analytical and presentation skills;
- Cultural sensitivity;
- Excellent knowledge of English language (at least level C1 of the CEFR4);
- A financial offer not exceeding the limit set out in the Act of Engagement;
- Good knowledge of Russian language, specifically reading, presenting and writing is desirable;

And more specific eligibility criteria for each lot:

LOT 1 – Supporting the Supreme Court of the Belarus Republic in improving its efficiency in court administration and functioning for a better efficiency.

- At least 5 years of professional experience in areas related to institutional capacity development of the judicial corps, of which at least 2 years must have been acquired in an international context and/or in technical cooperation projects.

LOT 2 – Supporting the Ministry of Justice in the implementation of mediation legislation and related areas.

- Proven track record in the field of mediation, ADR and related areas with at least 3 years of professional experience in these areas.

LOT 3 – Supporting the development of IT knowledge and e-justice tools for the Belarusian judiciary.

- At least 3 years of professional experience in areas related institutional capacity development in the field of electronic justice and e-learning programmes of the judiciary or other legal professions.

LOT 4 – Supporting the development of the national legislation on access to court work and information.

- Proven track record of analysing and developing legislative documents with at least 5 years of professional experience in this area.

Award criteria

For Lot 1:

- Quality of the offer (90%), including:
 - Proven experience in the management and implementation of justice sector reform processes and/or capacity development initiatives and/or in the reform of national legislation, particularly considering the compliance with the relevant European standards of knowledge of the national context in the relevant areas covered by the call (30%);
 - Drafting and analytical skills in the preparation of legislation documentation, in-depth assessment reports, research papers, recommendations, and assessment tools in the field of judiciary considering the compliance with the relevant European standards of knowledge of the national context in the relevant areas covered by the call (30%);
 - Writing and presenting skills in English (20%);
 - Experience of working in the region (10%).
- Financial offer (10%).

⁴ http://www.coe.int/t/dg4/linguistic/Source/Framework_EN.pdf

For Lot 2:

- Quality of the offer (90%), including:
 - Relevant experience of the tenderer in the areas covered by this call, including knowledge of the European context and previous experience in technical co-operation on the issues and topics covered by the call (60%);
 - Writing and presenting skills in English (20%);
 - Experience of working in the region (10%).
- Financial offer (10%).

For Lot 3:

- Quality of the offer (90%), including:
 - Relevant experience of the tenderer in the areas covered by this call, including knowledge of the European context and previous experience in technical co-operation on the issues and topics covered by the call (60%);
 - Writing and presenting skills in English (20%);
 - Experience of working in the region (10%).
- Financial offer (10%).

For Lot 4:

- Quality of the offer (90%), including:
 - Relevant experience of the tenderer in the areas covered by this call, including knowledge of the European context and previous experience in technical co-operation on the issues and topics covered by the call (30%);
 - Drafting and analytical skills in the preparation of legislation documentation, in-depth assessment reports, research papers, recommendations, and assessment tools in the field of judiciary considering the compliance with the relevant European standards of knowledge of the national context in the relevant areas covered by the call (30%);
 - Writing and presenting skills in English (20%);
 - Experience of working in the region (10%).
- Financial offer (10%).

The Council reserves the right to hold interviews with eligible tenderers.

Multiple tendering is not authorised.

E. NEGOTIATIONS

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

F. DOCUMENTS TO BE PROVIDED

- A completed and signed copy of the **Act of Engagement**⁵ (See attached);
- A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria, including relevance of the experience of the tenderer;
- A list of all owners and executive officers, for legal persons only;
- For tenderers subject to VAT only: a quote, describing the financial offer, in line with the requirements of the section C of the Tender File (see above);
- Contact details of 3 (three) references;
- Sample, not exceeding 3 pages (i.e. an extract) of an article, legal opinion, report or other professional writing recently drafted and providing evidence for experience in and knowledge of the issues covered by the Call in English and Russian by the tenderer;
- Motivation letter not exceeding one page, describing how the tenderer meets the requirements of the expected services (see section B above).

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.

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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