

## TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

### Purchase of *International Consultancy Services* *Contract N° BH4728-2019-FA1*



The Council of Europe is currently implementing a regional Project on "Strengthening the profession of lawyer in line with European standards" in Armenia, Georgia, The Republic of Belarus, The Republic of Moldova and Ukraine. In that context, it is looking for Provider(s) for the provision of consultancy services 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 Europe<sup>1</sup>, 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: BH4728-2019-FA1**. 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\_ BH4728-2019-FA1**

Type of contract ►	Framework contract
Duration ►	Until 31 December 2021
Deadline for submission of tenders/offers ►	<b>04 November 2019</b>
Email for submission of tenders/offers ►	<b>DGI.Justice.Reform.Unit1@coe.int</b>
Email for questions ►	<b>DGI.Justice.Reform.Unit1@coe.int</b>
Expected starting date of execution ►	<b>11 November 2019</b>

<sup>1</sup> 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 objective of the Project "Strengthening the profession of lawyer in line with European standards" is to strengthen cooperation amongst the bar associations and law societies of Armenia, Georgia, The Republic of Belarus, The Republic of Moldova and Ukraine, with a view to improve the internal functioning and independence of the bar (including stronger links between the bar, legal professionals, judiciary and civil society, women lawyers' and young lawyers' associations).

The Council of Europe is looking for maximum of thirty (30) Providers (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on internal functioning of bars and their associations, professional standards of lawyers on independence, confidentiality and conflict of interest, systems of provision of legal services.

This Contract is currently estimated to cover up thirty (30), to be held by 30 November 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 555,000 Euros and the total amount of the object of present tender **shall not exceed 44,000 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: Improvement of organization and functioning of bar associations at the national level in participating countries.	10
Lot 2: Development of legal and institutional frameworks guaranteeing the independence of lawyers in participating countries.	10
Lot 3: Development of legal and institutional frameworks for strengthening the provision of free legal services in participating countries.	10

Lot 1 concerns to improvement of organization and functioning of bar associations at the national level in participating countries.

Bar associations are the integral parts of the legal profession and have crucial role for independent, qualified and ethical exercise of the profession of lawyer. Thus, the Council of Europe advocates strengthening of internal organization and functioning of bar associations in its Member States. This component is focused on revision of structural frameworks of the bar associations in the participating countries and development of consolidated recommendations on their improvement based on the European standards and best practices.

Lot 2 concerns to development of legal and institutional frameworks guaranteeing the independence of lawyers in participating countries.

The many duties to which a lawyer is subject require the lawyer's absolute independence, free from all other influence, especially such as may arise from his/her personal interests or external pressure. Such independence is as necessary to trust in the process of justice as the impartiality of the judge. Therefore the Council of Europe attaches utmost importance to continuous improvement and enforcement of the statutory framework regulating independence of the legal profession in its Member States. This component is aimed on revision and further improvement of legal and institutional frameworks enabling independence of lawyers in line with the Council of Europe standards and recommendations and best practices of the Council of Europe member states.

Lot 3 concern to development of legal and institutional frameworks for strengthening the provision of free legal services in participating countries.

Access to justice is an essential democratic right. According to Article 6 of the European Convention on Human Rights, governments have the obligation to provide legal aid where it is needed. The Council of Europe has addressed this matter in detail in several different resolutions and recommendations adopted by the Committee of Ministers. Particularly the Resolution (78) 8 of the Committee of the Ministers on legal aid and advice requires states to set up an appropriate legal aid system. Within this component it is expected to analysis effectiveness of the existing models on provision of free legal services in participating countries and to elaborate recommendations their further enforcement with reference to Council of Europe standards and recommendations.

## **Scope of the Framework Contract**

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

Under Lot 1 - Improvement of organization and functioning of bar associations at the national level in participating countries.

- Conduct overview and comparative assessment of existing national legal and institutional frameworks on structure and functioning of bar associations in participating countries.
- Develop recommendations on improvement of the legislative and institutional frameworks, particularly in respect to strengthening the functionality and quality of legal services and with reference to the Council of Europe standards and recommendations, Gender Equality Strategy, as well as best practices of the Council of Europe member states.
- Develop two country-specific action plans in line with the agreed recommendations. Develop proposals on support to the implementation of the country-specific action plans.
- Assess current level, status and platforms (domestic and regional) of cooperation and interactions between bars and lawyers' professional associations of the participating countries. Develop recommendations for further introduction (or expansion) of cooperation networks and platforms, introduce mechanisms for coordination and provision of sustainability of these networks.
- Develop draft statute of the regional network of bar associations of participating countries. Harmonization of the statute with the bars.
- Define capacity building activities to be conducted in each participating country. Contribute to organization and implementation of defined capacity building activities.
- When necessary contribute to planning and organization of regional and local conferences, round-table discussions, consultations and meetings.
- Conduct missions to the participating countries in order to deliver expected studies and outcomes.
- Conduct other activities, as requested by the Council of Europe.

Under Lot 2 - Development of legal and institutional frameworks guaranteeing the independence of lawyers in participating countries.

- Conduct cross-country review and comparative assessment of legal and institutional frameworks in participating countries regulating functioning, independence, procedural safeguards and interaction mechanisms of lawyers.
- Develop recommendations on improvement of the procedural and legislative frameworks with reference to the Council of Europe standards, Gender Equality Strategy, as well as best practices of the Council of Europe member states.
- Based on the recommendations above develop/revise the mechanisms on insurance of functioning and independence of lawyers. Define priority activities on introduction of the proposed mechanisms to be supported in two participating countries and contribute to their organization and implementation.
- Define capacity building activities to be conducted in each participating country. Contribute to organization and implementation of defined capacity building activities.
- When necessary contribute to planning and organization of other regional and local conferences, round-table discussions, consultations and meetings, including planning and organization of meetings of judges and lawyers on implementation of CCJE Opinion no. 16.
- Conduct missions to the participating countries in order to deliver expected studies and outputs.
- Conduct other activities, as requested by the Council of Europe.

Under Lot 3 - Development of legal and institutional frameworks for strengthening the provision of free legal services in participating countries.

- Conduct cross-country expert review and comparative analysis of the effectiveness of the existing systems/models on provision of free legal services in each participating country. Conduct assessment of its impact on the access to justice.
- Develop recommendations on improvement of current systems/models with reference to Council of Europe standards and recommendations, and Gender Equality Strategy, as well as best practices of the Council of Europe member states.
- Based on the recommendations above develop two country-specific improvement plans of measures. Define priority activities on delivery of the specified measures to be supported in two participating countries. Contribute to organization and implementation of defined activities.
- Define capacity building activities to be conducted in each participating country. Contribute to organization and implementation of defined capacity building activities.
- When necessary contribute to planning and organization of regional and local conferences, round-table discussions, consultations and meetings.
- Conduct missions to the participating countries in order to deliver expected studies and outputs.
- Conduct other activities, as requested by the Council of Europe.

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 5 (five) 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<sup>2</sup> (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)<sup>3</sup>

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;
- 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)).

<sup>2</sup> 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.

<sup>3</sup> 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.

*Eligibility criteria*

Tenderers shall demonstrate that they fulfil the following criteria (to be assessed on the basis of all supporting documents listed in Section G):

- A university degree in law, public administration, political sciences or related fields as relevant for the lot(s) tendered for;
- At least 5 years of professional experience in the areas related to the justice, in conducting of legal analysis and drafting, development of statutory regulations, recommendations, strengthening the professional and institutional capacities, which at least 2 years acquired in an international context;
- Excellent knowledge of the English language (at least level C1 under [CEFR](#)).

*Award criteria*

For Lot 1 - Improvement of organization and functioning of bar associations at the national level in participating countries:

- Quality of the offer (90%), including:

Relevant knowledge (45%):

- Knowledge about structures, functions, capacities and modalities of operation of bars and professional associations in member states of the Council of Europe;
- Knowledge of the standards and recommendations of the Council of Europe, as well as of the best practices of Council of Europe member states in the fields of the human rights, rule of law and justice, democracy and gender equality.

Relevant experience (45%):

- Experience of conducting assessments, comparative reviews and analysis of legislative and institutional frameworks, functions, cooperation networks and interaction mechanisms;
- Experience of preparing recommendations, policies and statutory documents, preparing and delivery of development plans/mechanisms;
- Experience of conducting of capacity building needs assessment and their delivery;
- Experience of planning and delivery of conferences and other outreach events;
- Experience of working/consulting at a bar is considered as an advantage.

- Financial offer (10%).

For Lot 2 - Development of legal and institutional frameworks guaranteeing the independence of lawyers in participating countries:

- Quality of the offer (90%), including:

Relevant knowledge (45%):

- Knowledge about legal and institutional frameworks guaranteeing the functioning and independence of lawyers in member states of the Council of Europe;
- Knowledge of the standards and recommendations of the Council of Europe, as well as of the best practices of Council of Europe member states in the fields of the human rights, rule of law and justice, democracy and gender equality.

Relevant experience (45%):

- Experience of conducting assessments, comparative reviews and analysis of legislative and institutional frameworks;
- Experience of preparing recommendations, policies and statutory documents, preparing and delivery of development plans/mechanisms;
- Experience of conducting of capacity building needs assessment and their delivery;
- Experience of planning and delivery of conferences and other outreach events.
- Experience in legal profession and/or in consulting lawyers professional unions/associations is considered as an advantage;

- Financial offer (10%).

For Lot 3 - Development of legal and institutional frameworks for strengthening the provision of free legal services in participating countries:

- Quality of the offer (90%), including:

Relevant knowledge (45%):

- Knowledge about system/models on provision of free legal services in member states of the Council of Europe;
- Knowledge of the standards and recommendations of the Council of Europe, as well as of the best practices of Council of Europe member states in the fields of the human rights, rule of law and justice, democracy and gender equality.

Relevant experience (45%):

- Experience of conducting assessments, comparative reviews and analysis of legislative and institutional frameworks;
- Experience of preparing recommendations, policies and statutory documents, preparing and delivery of development plans/mechanisms;
- Experience of conducting of capacity building needs assessment and their delivery;
- Experience of planning and delivery of conferences and other outreach events.
- Experience of working/consulting at a free legal aid services is considered as an advantage.

- 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**<sup>4</sup> (See attached);
- A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria. Where the tenderer is a legal person, this shall include the CV of the person(s) who will be assigned to carry out the work.
- A scanned copy of a valid photographic proof of identity (e.g. passport), for natural persons only (including from owners and executive officers of legal persons);
- A list of all owners and executive officers, for legal persons only;
- Motivation letter in English, highlighting the specific area of expertise of the tenderer.
- Samples of previous work relevant to the lot(s) for which the tenderer is applying (no more than two samples per lot) or any other documents/materials in reasonable volumes that the tenderer deems necessary to submit as an evidence of qualification and/or experience.
- Contact details of 3 (three) references (including phone number and e-mail address);

**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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<sup>4</sup> 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.