

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

Purchase of consultancy services in the field of enforcement of court decisions in civil and administrative matters



The Council of Europe is currently implementing the joint EU/CoE project on "Support to further strengthening the efficiency and quality of the judicial system in the Republic of Moldova". The duration of the project is until 31 October 2021. The Project is looking for national Providers for the provision of consultancy services in the field of enforcement of court decisions in civil and administrative matters to be requested by the Council of Europe 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: CoE consultancy services in the field of enforcement of court decisions.** 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: CoE consultancy services in the field of enforcement of court decisions.**

Type of contract ►	Framework contract
Duration ►	Until 31 October 2021
Deadline for submission of tenders/offers ►	28 May 2020
Email for submission of tenders/offers ►	Nadejda.plamadeala@coe.int
Email for questions ►	Nadejda.plamadeala@coe.int
Expected starting date of execution ►	15 June 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 of the Project

The Council of Europe is currently implementing the project on "Support to further strengthening the efficiency and quality of the judicial system in the Republic of Moldova" whose aim is to improve the functioning of the justice system through strengthened efficiency and quality of courts and a better system of enforcement of court decisions. The project is funded by the European Union and the Council of Europe and implemented by the Council of Europe.

The expected results of the project are:

1. The efficiency and quality of courts are enhanced through the application of CEPEJ tools at national level, while the mechanisms for judicial transparency and accountability are further consolidated.
2. The enforcement of court decisions in civil and administrative cases is improved through the implementation of the instruments developed by CEPEJ to analyse the functioning and efficiency of the system of enforcement.

The Council of Europe is looking for a maximum of 5 (five) Providers per LOT (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on enforcement of court decisions.

This Contract is currently estimated to cover up to 20 activities, to be held by 31 October 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 600,000.00 Euros. 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
<p>Lot 1 – Acting as national consultant to draft a new Commentary to the Enforcement Code of the Republic of Moldova.</p> <p>Providing written inputs for a new edition of the Commentary to the Enforcement Code of the Republic of Moldova in the field of civil and administrative matters (jointly with the other Council of Europe national and international consultants and in direct cooperation with the Council of Europe project team and the National Union of Bailiffs).</p> <p>A total of maximum 60 units fee will be allocated for the development of the Commentary to the Enforcement Code. Each consultant will be allocated approximately 36 articles of the Enforcement Code to comment upon.</p>	5
<p>Lot 2 – Training courses delivery for bailiffs and judges on the novelties of the Enforcement Code and, in particular, the following topics: 1) The particularities of examining the requests made by the bailiff in the court during the enforcement procedure; 2) Examination by the court of the appeals against the acts of a bailiffs; 3) Bailiff's statement of facts - scope, method of execution, and their evidentiary value.</p>	5

<p>A. Drafting the training programme and support material for 3 training session (corresponding to the mentioned topics) lasting up to 8 academic hours each;</p> <p>B. Delivery of 3 training sessions per each of the above mentioned topics (mixed groups of up to 30 trainees per session).</p> <p>A total of maximum 12 units fee will be allocated for the development of the training programme and support material on each of the mentioned topics. Each consultant will be allocated 1 unit fee for every training of 8 academic hours in which he or she will be involved (a maximum of 2 national consultants to be involved in each training session).</p>	
<p>Lot 3 – Training courses delivery for bailiffs on the professional use of ICT tools (Information Communication Technology tools)</p> <p>A. Drafting the training programme and support material for a training session lasting 4 academic hours;</p> <p>B. Delivery of 10 training sessions (up to 20 trainees per session).</p> <p>A total of maximum 10 units fee will be allocated for the development of the training programme and support material. Each consultant will be allocated 0,5 unit fee for every training of 4 academic hours in which he or she will be involved (a maximum of 2 national consultants to be involved in each training session).</p>	5

Lot 1 concerns: Acting as national consultant to draft a new Commentary to the Enforcement Code of the Republic of Moldova

Under this Lot, the selected consultant(s) will contribute to drafting a new Commentary to the Enforcement Code of the Republic of Moldova (jointly with the other Council of Europe national and international consultants and in direct cooperation with the Council of Europe project team and the National Union of Bailiffs). By Law of the Republic of Moldova no. 143 as of 02.07.2010 substantial amendments were brought to the Enforcement Code fundamentally reforming the enforcement system of the Republic of Moldova and assigning the status of “independent” professionals to bailiffs. A new Commentary to the Enforcement Code, which will include all novelties brought to the enforcement system during the last years, will support the professional activity of bailiffs and other legal professionals.

Lot 2 concerns: Training courses delivery for bailiffs and judges on the novelties of the Enforcement Code

Under this Lot, the selected consultant(s) will contribute to strengthening the capacity of bailiffs and judges to apply the enforcement legislation of the Republic of Moldova, especially in the fields of examining by the court of the requests made by the bailiff during the enforcement procedure; examination by the court of the appeals against the acts of a bailiffs as well as bailiff's statement of facts and their evidentiary value. The events will also create a forum of discussions and exchange of experience and best practices among relevant practitioners on the above mentioned topics.

Lot 3 concerns: Training courses delivery for bailiffs on the professional use of ICT tools

Under this Lot, the selected consultant(s) will contribute to strengthening the capacity of bailiffs in applying ICT tools (cyber-justice tools) during their day-to-day work. The trainings will support the use of new communication technologies and IT procedures in the forced execution system of the Republic of Moldova in line with EU provisions that recommend their use by the member states (e.g. case management systems, registers of enforceable documents and procedures, on-line platforms for auctioning of seized goods, etc.).

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, pre-selected Providers may be asked to:

Under Lot 1:

- Attending meetings of the Working Group tasked with drafting the Commentary of the Enforcement Code of the Republic of Moldova;
- Drafting and delivering written inputs to the Commentary of the Enforcement Code of the Republic of Moldova.

Under Lot 2:

- Drafting the training program and training materials;
- Conducting trainings for legal professionals (bailiffs and judges).

Under Lot 3:

- Drafting the training program and training materials;
- Conducting trainings for legal professionals (bailiffs).

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 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;
- 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).

Eligibility criteria

Lot 1

- University Degree in law or other field relevant for the Project's thematic area;

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).

- Professional experience of 10 years or more in the area of enforcement of court decisions in civil and administrative matters;
- Professional experience of 5 years or more in legal drafting in the field of civil law and/or in the Project's thematic area;
- Excellent oral and written Romanian;
- Intermediate knowledge of English/French.

Lot 2

- University Degree in law or other field relevant for the Project's thematic area;
- Professional experience of 10 years or more in the area of enforcement of court decisions in civil and administrative matters;
- Professional experience of 5 years or more in delivering presentations and trainings for legal professionals in the field of enforcement of court decisions (preferably previous experience as trainer within the National Institute of Justice);
- Excellent oral and written Romanian;
- Intermediate knowledge of English/French.

Lot 3

- University Degree in law, IT or other field relevant for the Project's thematic area;
- Professional experience in developing ICT tools for the justice system and/or delivering presentations and trainings for legal professionals in the use of ICT tools within the justice system;
- Excellent oral and written Romanian;
- Intermediate knowledge of English/French.

Award criteria

Lot 1

- Quality of the offer (90%), including:
 - Thematic expertise (50%)
 - Excellent legal drafting skills (40%)
- Financial offer (10%).

Lot 2

- Quality of the offer (90%), including:
 - Thematic expertise (50%)
 - Capacity building experience (delivery of trainings and training materials) (40%)
- Financial offer (10%).

Lot 3

- Quality of the offer (90%), including:
 - Thematic expertise (50%)
 - Capacity building experience (delivery of trainings and training materials) (40%)
- Financial offer (10%).

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

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);

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.

- 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;
- At least 2 (two) examples (ex. Examples of legal drafting, presentation for a training course, study, analysis, agenda etc) of previous relevant work;
- Motivation letter;
- 2 (two) 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.

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