



CALL FOR TENDERS

FOR THE PROVISION OF INTERNATIONAL CONSULTANCY SERVICES IN THE AREA OF CRIMINAL JUSTICE AND PREVENTION OF HUMAN RIGHTS VIOLATIONS BY THE OMBUDSPERSON INSTITUTION AND THE NATIONAL PREVENTIVE MECHANISM (NPM) IN THE REPUBLIC OF MOLDOVA

2021/AO/21

Object of the procurement procedure ►	International consultancy services in the area of criminal justice and prevention of human rights violations by the Ombudsperson Institution and the National Preventive Mechanism in the Republic of Moldova
Project ►	"Strengthening the human rights compliant criminal justice system in the Republic of Moldova"
Organisation and buying entity ►	Council of Europe DG1 Directorate General of Human Rights and Rule of Law Directorate of Human Rights Department for the Implementation of Human Rights, Justice and Legal Co-operation Standards
Type of contract ►	Framework Contract
Duration ►	Until 31 August 2023
Expected starting date ►	15 July 2021
Tender Notice Issuance date ►	29 April 2021
Deadline for tendering ►	21 May 2021

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The TERMS OF REFERENCE describe what will be expected from the selected Providers.

- **The TENDER RULES**..... 9

The TENDER RULES explain the procedure through which the tenders will be submitted by the tenderers and assessed by the Council of Europe.

- **The ACT OF ENGAGEMENT (See Document attached)** is the document formalising the consent of the Parties to be bound by the LEGAL CONDITIONS, which are the legal provisions which will be applicable between the Council of Europe and the selected Providers. It also contains the TABLE OF FEES, which indicates the applicable fees, throughout the duration of the contract.

HOW DOES A FRAMEWORK CONTRACT WORK?

STAGE 1:

SELECTION of qualified Providers through a call for tenders and signature of a framework contract with all the pre-selected Providers.

STAGE 2:

ORDER(S) are addressed, on an as needed basis, throughout the duration of the contract, to the designated Provider(s).

EXECUTION as from the date of signature of each Order, unless the Order concerned provides otherwise.

HOW TO SUBMIT A TENDER?

STEP 1: Read the **TENDER FILE**

STEP 2: Complete the **ACT OF ENGAGEMENT** and collect the required **SUPPORTING DOCUMENTS**, as listed in section F of the terms of reference (below).

STEP 3: Send your **TENDER**, in accordance with the Tender Rules

PART I –TERMS OF REFERENCE

CALL FOR TENDERS

FOR THE PROVISION OF INTERNATIONAL CONSULTANCY SERVICES IN THE AREA OF CRIMINAL JUSTICE AND PREVENTION OF HUMAN RIGHTS VIOLATIONS BY THE OMBUDSPERSON INSTITUTION AND THE NATIONAL PREVENTIVE MECHANISM (NPM) IN THE REPUBLIC OF MOLDOVA

2021/AO/21

A. BACKGROUND

The Council of Europe is currently implementing a 30-months Project on **“Strengthening the human rights compliant criminal justice system in the Republic of Moldova”** (hereinafter – the Project).

The proposed Project would pursue an overall objective of further ensuring higher respect for human rights in the functioning of the criminal justice system in the Republic of Moldova by assisting the national authorities to build up an effectively functioning criminal justice system which is in line with European human rights standards, based on the principles of humanisation, resocialisation and restorative justice.

The Project aims at further strengthening the criminal justice system of the Republic of Moldova in the areas of combatting ill-treatment and setting a basis for more humane approach towards sentencing in criminal cases.

The Project pursues to achieve its objectives through tackling several inter-related areas: pre-trial detention, criminal sentencing and enhancing the effectiveness of the mechanisms of control and monitoring (including the mechanisms available to the Ombudsperson Office and the National Preventive Mechanism) of places and conditions of detention, and contributing to reducing overcrowding in prison and encouraging the use of community sanctions and measures.

The Project will contribute to achieving the following outcomes:

Intermediate Outcome 1: Justice stakeholders apply pre-trial detention in compliance with the Council of Europe standards.

Intermediate Outcome 2: Justice stakeholders use a better criminal sentencing framework, including more effective community sanctions.

Intermediate Outcome 3: Stakeholders implementing external monitoring are more effective in prevention of human rights violations within the criminal justice system.

The Council of Europe is looking for a maximum of **20 providers** for **Lot 1** and a maximum of **20 providers** for **Lot 2** (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise pertaining to various aspects of the criminal justice policy, legal framework and criminal justice actors practice with a specific focus on the principles of humanisation, resocialisation and restorative justice as well as prevention of human rights violations through enhancing the mechanisms of control and monitoring of the Ombudsperson Institution and National Preventive Mechanism.

This Contract is currently estimated to cover up to *100 of activities*, to be held by *31 August 2023*. 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 *866,000* Euros and the total amount of the object of present tender should in principle not exceed *120,000* Euros 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.

B. LOTS

The Project aims at further strengthening the criminal justice system of the Republic of Moldova in the areas of combatting ill-treatment and setting a basis for more humane approach towards sentencing in criminal cases.

The Project pursues to achieve its objectives through tackling several inter-related areas: pre-trial detention, criminal sentencing and enhancing the effectiveness of the mechanisms of control and monitoring (including the mechanisms available to the Ombudsperson Institution and the National Preventive Mechanism) of places and conditions of detention, and contributing to reducing overcrowding in prison and encouraging the use of community sanctions and measures.

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: International consultancy services on <i>further strengthening the criminal justice policy, legal framework, and criminal justice actors practices in the Republic of Moldova in line with the European human rights standards</i> in the following areas: pre-trial detention, criminal sentencing framework, investigations into ill-treatment and torture, evidence collection and presentation in courts, combating ill-treatment and management of places of pre-trial detention, non-custodial measures at the pre-trial stage of criminal proceedings, use of community sanctions and measures, etc.	20
Lot 2: International consultancy services on <i>further enhancing the exercise of the mandate of the Ombudsperson Institution and the National Preventive Mechanism (NPM) of the Republic of Moldova</i> in the following areas: improvement of legislative and internal regulatory framework related to the functioning of the Ombudsperson's Institution and the NPM, enhancing the mechanisms of control and monitoring of prison conditions, facilitation in increasing public trust and efficiency pertaining to Ombudsperson Institution and NPM, improvement of operational capacities of the NPM and Ombudsperson Institution, etc.	20

Lot 1 concerns provision of international consultancy services to further strengthen the criminal justice policy, legal framework and criminal justice actors practices in the Republic of Moldova in line with the European human rights standards.

Lot 2 concerns provision of international consultancy services to further enhance the exercise of the mandate of the Ombudsperson Institution and the National Preventive Mechanism.

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).

C. SCOPE OF THE FRAMEWORK CONTRACT

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

Under Lot 1:

- Developing baseline studies/research/progress reviews/needs assessments in order to measure progress and provide for the updates/roadmap summing up needs and actions required to be taken on specific aspects related to the themes of this lot;
- Assessing legal acts, policy documents (draft documents and documents in force) and/or practice and providing expert advice (in the form of an oral and/or written advice), preparing and/or delivering the

legal review of legal opinions, comments, recommendations, reports, etc. related to the themes of this lot;

- Participating at and contributing to the conferences, round tables, seminars, trainings, working group/expert meetings/focus group meetings, workshops, consultation meetings and other relevant events with national stakeholders including through moderating/facilitating discussions and delivering presentations in the areas specific to this lot;
- Developing guiding documents, institutional internal regulations and information materials on specific aspects related to the themes of this lot;
- Developing the methodology and conducting training needs assessment to evaluate their impact/effectiveness and developing reports/recommendations thereof on specific aspects related to the themes of this lot;
- Conducting training needs assessments and developing reports/recommendations;
- Providing recommendations on draft curricula, training courses and materials of trainings on specific aspects related to the themes of this lot;
- Developing training programmes/courses and materials, designing, adapting/ preparing/implementing training course/modules and delivering trainings on specific aspects related to the themes of this lot;
- Preparing and delivering presentations, moderating/facilitating discussions during workshops, seminars, conferences, round tables, ToT activities and other relevant events dedicated to the training needs of criminal justice legal professionals on specific aspects related to the themes of this lot;
- Providing advice and delivering trainings on adult learning methodology in the justice area;
- Providing advice on the organisation of different awareness-raising activities pertaining to the areas specific to this lot;
- Providing other deliverables as related to the above and as requested by the Council of Europe.

Under Lot 2:

- Assessing legal acts, policy documents (draft documents and documents in force) and/or practice and providing expert advice (in the form of an oral and/or written advice), preparing and/or delivering the legal review of legal opinions, comments, recommendations, reports, etc. with reference to the theme of the lot;
- Participating at and contributing to the conferences, round tables, seminars, trainings, working group/expert meetings/focus group meetings, workshops, consultation meetings and other relevant events with national stakeholders including through moderating/facilitating discussions and delivering presentations in the areas specific to this lot;
- Developing guiding documents, institutional internal regulations and information materials on specific aspects related to the themes of this lot;
- Developing the methodology and conducting training needs assessment to evaluate their impact/effectiveness and developing reports/recommendations thereof on specific aspects related to the theme of this lot;
- Conducting training needs assessments and developing reports/recommendations on specific aspects related to the theme of this lot;
- Providing recommendations on draft curricula, training courses and materials of trainings on specific aspects related to the themes of this lot;
- Developing training programmes/courses and materials, designing, adapting/ preparing/implementing training course/modules and delivering trainings on specific aspects related to the themes of this lot;
- Preparing and delivering presentations, moderating/facilitating discussions during workshops, seminars, conferences, round tables, ToT activities and other relevant events dedicated to the training needs of national stakeholders on specific aspects related to the themes of this lot;
- Providing advice and delivering trainings on adult learning methodology;
- Providing advice on the organisation of different awareness-raising activities pertaining to the areas specific to this lot;
- Providing other deliverables as related to the above and 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.

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).

D. FEES

Tenderers are invited to indicate their unit fees, by completing the table of fees, as attached in Section A of 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 **Error! Reference source not found.** below) the global fee corresponding to each deliverable, calculated on the basis of the daily fees, as agreed by this Contract.

E. HOW WILL THIS FRAMEWORK CONTRACT WORK? (ORDERING PROCEDURE)

Once this consultation and the subsequent selection are completed, you will be informed accordingly. Deliverables will then be carried out on the basis of Order Forms submitted by the Council to the selected Service Provider(s), 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 for the relevant lot 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 quote¹ (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 Service 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.

F. ASSESSMENT

Exclusion criteria (by signing the Act of Engagement, you declare on your honour not being in any of the below situations)²

¹ It must strictly respect the fees indicated in Section A of the Act of Engagement as recorded by the Council of Europe. In case of non-compliance with the fees as indicated in the Act of Engagement, the Council of Europe reserves the right to terminate the Contract with the Service Provider, in all or in part.

² 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 requirements listed above under "exclusion criteria" are met;
- A certificate issued by the competent authority of the country of incorporation indicating that the fourth requirement is met.

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 or are likely to be in a situation of conflict of interests.

Eligibility criteria

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

- A university degree in law, political sciences, social sciences, international relations, public administration or related fields;
- At least 5 years of professional experience in areas related to the fields of expertise as described within the specific LOTs under the scope of the contract above, out of which at least 2 acquired in an international context;
- Excellent knowledge of the English language (at least level C1 of the Common European Framework of Reference for Languages).

Award criteria

- Criterion 1: Quality of the offer (90%), including:
 - Thematic expertise in the relevant area, knowledge of the standards and recommendations of the Council of Europe in the areas covered by this call (40%);
 - Relevance of the experience of the tenderer in the areas covered by this call, including previous similar assignments with international organisations (40%);
 - Knowledge of the national and regional context in the areas covered by this call (10%).
- Criterion 2: Financial offer (10%).

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

Multiple tendering is not authorised.

G. DOCUMENTS TO BE PROVIDED

- **One** completed and signed copy of the Act of Engagement³;
- A declaration certifying that the Tenderer is not in any of the situations mentioned in the exclusion criteria;
- Registration documents, for legal persons only;
- A detailed CV, demonstrating clearly that the tenderer fulfils the eligibility and award criteria (4 pages maximum).
- A Motivation letter describing how the tenderer meets the requirements of the expected types of deliverables related to the fields of expertise as described under the scope of the contract above (1 page maximum).
- At least two examples of the previous work/deliverables in Word/PDF formats and reference/links, if any, to publications, legal assessments/analyses, reports, studies, etc. relevant to the experience the tenderer claims.
- Contact details of 3 (three) relevant referees, from among previous employers or clients (name, surname, phone number or e-mail).

³ 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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PART II – TENDER RULES

CALL FOR TENDERS

FOR THE PROVISION OF INTERNATIONAL CONSULTANCY SERVICES IN THE AREA OF CRIMINAL JUSTICE AND PREVENTION OF HUMAN RIGHTS VIOLATIONS BY THE OMBUDSPERSON INSTITUTION AND THE NATIONAL PREVENTIVE MECHANISM (NPM) IN THE REPUBLIC OF MOLDOVA 2021/AO/21

ARTICLE 1 – IDENTIFICATION OF THE CONTRACTING AUTHORITY

1.1 Name and address

COUNCIL OF EUROPE

DG1 Directorate General of Human Rights and Rule of Law
Directorate of Human Rights
Department for the Implementation of Human Rights,
Justice and Legal Co-operation Standards

1.2 Background

The activities of the Organisation are governed by its Statute. These activities concern the promotion of human rights, democracy and the rule of law. The Organisation has its seat in Strasbourg and has set up external offices in about 20 member and non-member states (in Ankara, Baku, Belgrade, Brussels, Bucharest, Chisinau, Erevan, Geneva, Kyiv, Lisbon, Moscow, Paris, Podgorica, Pristina, Rabat, Sarajevo, Skopje, Tbilisi, Tirana, Tunis, Warsaw, Venice and Vienna).

Council of Europe procurements are 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.

The Organisation enjoys privileges and immunities provided for in the General Agreement on Privileges and Immunities of the Council of Europe, and its Protocols, and the Special Agreement relating to the Seat of the Council of Europe.⁴

Further details on the project are provided in the Terms of Reference.

ARTICLE 2 – VALIDITY OF THE TENDERS

Tenders are valid for 120 calendar days as from the closing date for their submission.

ARTICLE 3 – DURATION OF THE CONTRACT

The duration of the framework contract is set out in Article 2 of the Legal Conditions in the Act of Engagement.

ARTICLE 4 – CHANGE, ALTERATION AND MODIFICATION OF THE TENDER FILE

Any change in the format, or any alteration or modification of the original tender will cause the immediate rejection of the tender concerned.

ARTICLE 5 – CONTENT OF THE TENDER FILE

The tender file is composed of:

- Technical specifications/Terms of reference;
- Tender rules;
- An Act of Engagement, including the Legal Conditions of the contract.

ARTICLE 6 – LEGAL FORM OF TENDERERS

The tenderer must be either a natural person, a legal person or consortia of legal and/or natural persons.

ARTICLE 7 – SUPPLEMENTARY INFORMATION

General information can be found on the website of the Council of Europe: <http://www.coe.int>

Other questions regarding this specific tendering procedure shall be sent at the latest **seven (7) days before the deadline for submissions of tenders**, in English, and shall be exclusively sent to the following address: DGI-HRImplementation@coe.int

This address is to be used for questions only; for modalities of tendering, please refer to the below Article.

ARTICLE 8 – MODALITIES OF THE TENDERING

Tenders must be sent to the Council of Europe **electronically**.

Electronic copies shall be sent only to cdm@coe.int. Tenders submitted to another e-mail account will be excluded from the procedure.

ARTICLE 9 – DEADLINE FOR SUBMISSION OF TENDERS

The deadline for the submission of tenders is 21 May 2021

ARTICLE 10 – ASSESSMENT OF TENDERS

Tenders shall be assessed in accordance with Rule 1395 of 20 June 2019 on the procurement procedures of the Council of Europe. Assessment shall be based upon the criteria as detailed in the Terms of Reference.

ARTICLE 11 – NEGOTIATIONS

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

* * *

⁴ Available on the website of the Council of Europe Treaty Office: www.conventions.coe.int

FINAL CHECK LIST

1) BEFORE SENDING YOUR TENDER, CHECK THAT IT INCLUDES:

- **One** completed and signed copy of the Act of Engagement;
 - A declaration certifying that the Tenderer is not in any of the situations mentioned in the exclusion criteria;
 - Registration documents, for legal persons only;
 - A detailed CV, demonstrating clearly that the tenderer fulfils the eligibility and award criteria (4 pages maximum);
 - A Motivation letter describing how the tenderer meets the requirements of the expected types of deliverables related to the fields of expertise as described under the scope of the contract above (1 page maximum);
 - At least two examples of the previous work/deliverables in Word/PDF format and reference/links, if any, to publications, legal assessments/analyses, reports, studies, etc. relevant to the experience the tenderer claims;
 - Contact details of 3 (three) relevant referees, from among previous employers or clients (name, surname, phone number or e-mail).
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2) HOW TO SEND TENDERS?

Tenders must be sent to the Council of Europe **electronically**.

Electronic copies shall be sent only to cdm@coe.int. Tenders submitted to another e-mail account will be excluded from the procedure.

The deadline for the submission of tenders is 21 May 2021