

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

Purchase of national consultancy services

Contract N° FC 8884/2023/31



The Council of Europe is currently implementing **the Project "Supporting Implementation of the European Human Rights Standards in Ukraine"**. The Project's general aim is to assist the Ukrainian authorities in implementation of the European human rights standards with a specific focus on strengthening of the Ombudspersons' Office operational capacity to protect human rights, aligning its legal and regulatory framework with the European standards, including in the field of data protection; to enhance the Ombudsperson's Office capacity to respond the challenges related to the reporting of gross human rights violations; strengthening of the National Preventive Mechanism (NPM) including on prevention and combatting ill-treatment and establishment of the rehabilitation mechanism for victims of torture.

In that context, it is looking for Provider(s) for the provision of the national 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 Europe¹, the Organisation shall invite to tender at least three potential providers for any purchase between €2,000 (or €6,000 for intellectual services) and €55,000 tax exclusive.**

This specific tender procedure aims at concluding a **framework contract** for the provision of deliverables described in the Act of Engagement (See attached). A tender is considered valid for 120 calendar days as from the closing date for submission. The selection of tenderers will be made in the light of the criteria indicated below. All tenderers will be informed in writing of the outcome of the procedure.

The tenderer must be either a natural person, 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 FC 8884/2023/31_ Experts name.** 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 8884/2023/31_ Question**

Type of contract ►	Framework contract
Duration ►	14 September 2023

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](#).

Deadline for submission of tenders/offers ▶	25 April 2023
Email for submission of tenders/offers ▶	dgi-coordination@coe.int
Email for questions ▶	dgi-coordination@coe.int
Expected starting date of execution ▶	01 May 2023

B. EXPECTED DELIVERABLES

Background of the Project

The Council of Europe under the newly adopted Action Plan for Ukraine "Resilience, Recovery and Reconstruction" 2023-2026 is implementing the Project "Supporting Implementation of the European Human Rights Standards in Ukraine". The Project's general aim is to support the Ukrainian authorities in implementation of the European human rights standards on the national level with a specific focus made on the following areas:

- Strengthening of the Ombudsperson's Office institutional capacity to protect human rights, enhance its efficiency in handling grave human rights violations, including the ones reported in the context of the military aggression;
- Alignment of the national policy, legislative framework and practice related to combatting ill-treatment with the international and European standards, including the creation of the rehabilitation mechanism for victims of torture;
- Harmonisation of the data protection policy, legal framework and practice with the European standards, primarily with the Council of Europe Convention 108+ and its Protocols;
- Awareness raising among the national authorities, legal professionals and public on human rights standards.

The Council of Europe is looking for a maximum of 55 Provider(s) (provided enough tenders meet the criteria indicated below) in order to support the implementation of the Project with a particular expertise on organisation of the Ombudsperson's Office work and its internal procedures, protection of personal data, prevention of ill-treatment via implementation of the NPM etc.

This Contract is currently estimated to cover up activities to be held by 14 September 2024. 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 899 963 Euros with a total amount of the tender object **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: Alignment of the legal and regulatory framework of the Ombudsperson's Office work, its institutional structure and internal procedures with the European human rights standards and best practices	15

LOT 2: Combatting ill-treatment through efficient realisation of the mandate of the National Preventive Mechanism (NPM) and implementation of the European human rights standards in the work of the social and psychiatric care institutions	15
LOT 3: Creation of the rehabilitation mechanism for victims of ill-treatment/torture, including the general policy concept, regulatory framework, and practice of the rehabilitation services provision	10
LOT 4: Alignment of the data protection policy, legal framework and practice with the European standards and the Council of Europe Convention 108+	15

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:

Lots	Maximum number of Providers to be selected
LOT 1: Alignment of the legal and regulatory framework of the Ombudsperson's Office work, its institutional structure and internal procedures with the European human rights standards and best practices The pre-selected Providers may be asked to advise on the topics within the thematic area of Lot 1. The list of expected deliverables is as follows (not exhaustive): • Provision of the expertise in the form of assessment, legal opinions of the legal acts and policy documents (draft documents and documents in force) and/or practice of their implementation; provision of advice (in the oral and/or written form), research, analytical notes, reports, comments etc. including on the issues of the efficient functioning of the national human rights institutions from the national perspective and its compliance with the international standards and recommendations of the Council of Europe; • Contribution to the preparation of the internal guidance, regulatory documents, methodologies based on a proper knowledge of the mandate and operational work of the Ombudsperson's Office, national legal framework and political context, as well as international standards; • Participation and contribution to the thematic working group meetings, expert meetings with the national stakeholders, including through moderating/facilitating discussions and delivering presentations; • Participation and contribution to the conferences, roundtables, seminars, trainings and other relevant events, including through moderating/facilitating discussions and delivering presentations. The thematic areas under Lot 1 will include inter alia the following: • Amendment of the current Law of Ukraine on "Ukrainian Parliament Commissioner for Human Rights" (appointment and dismissal procedure, immunity and social guarantees, accountability etc.) and other amendments that might be necessary in the military context;	15

• Organisational framework of the Ombudsperson's Office work with a focus on enhancement of its operational capacities in specific areas as individual complaint handling procedure, case management procedure with a prioritization of the cases of extreme emergency and their prompt address etc.; Cooperation and coordination with the Council of Europe consultants (national and international) and contribution to the working meetings with them.	
LOT 2: Combatting ill-treatment through efficient realisation of the National Preventive Mechanism (NPM) and implementation of the European human rights standards into the work of the social and psychiatric care institutions The pre-selected Providers may be asked to advise on the topics within the thematic area of the Lot 2. The list of expected deliverables is as follows (not exhaustive): • Provision of the expertise in the form of assessment, legal opinions of the legal acts and policy documents (draft documents and documents in force) and/or practice of their implementation, provision of advice (in the oral and/or written form), comments, recommendations, reports, etc. based on a proper knowledge of the national legislation and policy context, including the National Human Rights and Antitorture Strategies, as well as domestic context of the NPM mechanism realisation; • Participation and contribution into the working group meetings, expert consultations, meetings with the national stakeholders, conferences, seminars and other relevant events, including through moderating/facilitating discussions and delivering presentations on the various thematic issues related to the human rights protection, prevention of ill-treatment in various places of deprivation of liberty with a special focus made on the psychiatric and social care institutions; • Contribution to the development and revision of the internal guidance, instructions regulating the NPM's activity including monitoring methodologies and techniques, monitoring checklists, reporting and recommendations' provision etc.; • Contribution to the development of information and guiding materials on standards of ill-treatment prevention, including medical, psychological and social aspects, in different places of deprivation of liberty with due reference to the challenging issues raised by the Ombudsperson in the Annual reports and those identified by the national human rights NGOs; • Provision of recommendations regarding the development of efficient modalities of cooperation between the Ombudsperson's Office namely the NPM, law enforcement bodies, state authorities and local self-government bodies, as well as public monitors aimed at elimination and effective investigation of ill-treatment cases in line with the national strategies on combatting torture and ill-treatment; • Contribution to the development of the comprehensive practically oriented training system covering various thematic issues of the NPM's operation including on human rights-based outreach standards in the context of the ongoing military aggression for the Ombudsperson's Office staff and civil monitors; • Preparation of the capacity needs assessment of the NPM staff of the Ombudsperson's Office and its regional representatives;	15

• Contribution to the preparation and delivering of the training on methodology of adult learning with a further series of ToTs on the basic NPM training course for the Ombudsperson's Office staff; • Development of the tailored on-line educational content, video-lecturing on standards of human rights protection and ill-treatment prevention in placed of deprivation of liberty for the public authorities and professional groups; • Cooperation and coordination with the Council of Europe consultants (national and international) and contribution to the working meetings with them. The consultants can be asked to undertake missions to provide the expected deliverables. The costs of the missions will be covered by the CoE Secretariat.	
LOT 3: Creation of the rehabilitation mechanism for victims of ill-treatment/torture, including the general policy concept, regulatory framework, and practice of the rehabilitation services provision The pre-selected Providers may be asked to advise on the topics within the thematic area of the Lot 3. The list of expected deliverables is as follows (not exhaustive): • Provision of the expertise in the form of assessment, legal opinions of the legal acts and policy documents (draft documents and documents in force) and/or practice of their implementation, provision of advice (in the oral and/or written form), comments, recommendations, reports, etc. based on a proper knowledge of the national legislative and policy context of Ukraine in the field; • Participation and contribution to the working group meetings, expert consultations, meetings with the national stakeholders, conferences, seminars and other relevant events, including through moderating/facilitating discussions and delivering presentations on the various thematic issues related to the development and design of the national psychological support programmes and policies including on rehabilitation for victims of torture and other gross human rights violations; • Contribution to the development of the strategic documents, policies, concept papers, analysis on the current legal, social and administrative grounds for creation of the rehabilitative mechanism for victims of torture in Ukraine; • Contribution to the development of information and guiding materials/manuals/instructions for the public authorities on creation of the holistic rehabilitation system (combination of the medical, psychological, legal and social components) for the victims of torture based on the exiting international experience; • Participation and contribution to the awareness raising initiatives for public authorities and interagency professional exchange on creation of the rehabilitation services/mechanism for victims of torture; Cooperation and coordination with the Council of Europe consultants (national and international) and contribution to the working meetings with them.	10
LOT 4: Alignment of the Data Protection policy, legal framework and practice with the European standards and the Council of Europe Convention 108+	

The pre-selected Providers may be asked to advise on the topics within the thematic area of the Lot 4. The list of expected deliverables is as follows (not exhaustive):

- Provision of the expertise in the form of assessment, legal opinions of the legal acts and policy documents (draft documents and documents in force) and/or practice of their implementation; provision of advice (in the oral and/or written form), research, analytical notes, reports, comments etc. including on the issues of the national data protection legal framework and requirements of the Modernised Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108+) of the Council of Europe, EU General Data Protection Regulation (GDPR), ECtHR case-law;
- Participation and contribution to the working group meetings, workshops, expert meetings with the national stakeholders, conferences, roundtables, seminars, trainings including through moderating/facilitating discussions and delivering presentations on the issues covering, Convention 108+ and the European legal regulations in the field of data protection including on specific and interrelated thematic fields (special data processing, video surveillance, data processing in the military context etc.) ;
- Contribution to the development of the information and guiding materials, instructions for the public authorities on the latest amendments of the EU data protection legal framework and Convention 108+ including on specific practice of their implementation and application at the national level (public governance, law-enforcement activities etc.);
- Contribution to the development of the information and guiding materials, instructions on establishment of an independent oversight authority in the field of data protection and access to public information from the national perspective and compliance with the international standards and recommendations of the Council of Europe;
- Contribution to the development and revision of the internal guidance, instructions regulating the Ombudsperson's Office data protection activity including monitoring methodologies and techniques, reporting and recommendations' provision etc.;
- Preparation of the capacity needs assessment of the Ombudsperson's Office data protection staff and its regional representatives;
- Contribution to the development of the comprehensive practically oriented training system covering various thematic aspects of data protection for the Ombudsperson's Office staff, regional representatives, monitors;
- Development of the tailored on-line educational content, video-lecturing on data protection for general public and professional groups (law enforcement, prosecutors, judges, lawyers);
- Contribution to the preparation and delivering of the training on methodology of adult learning with a further series of ToTs on the training course on Data Protection for the Ombudsperson's Office staff;
- Thematically focused proofreading of the various documents on data protection including the latest European regulations, recommendations and decisions issued by the EU and CoE regulatory and monitoring bodies, relevant cases of the ECtHR, information, and educational/training materials;

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| <ul style="list-style-type: none"> • Cooperation and coordination with the Council of Europe consultants (national and international) and contribution to the working meetings with them. | |
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The consultants can be asked to undertake missions to provide the expected deliverables. The costs of the missions will be covered by the CoE Secretariat.

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;

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.

- are an entity created to circumvent tax, social or other legal obligations (empty shell company), have ever created or are in the process of creation of such an entity;
- have been involved in mismanagement of the Council of Europe funds or public funds;
- are or appear to be in a situation of conflict of interests;
- are retired Council of Europe staff members or are staff members having benefitted from an early departure scheme;
- have not fulfilled, in the previous three years, their contractual obligations in the performance of a contract concluded with the Council of Europe leading to a total or partial refusal of payment and/or termination of the contract by the Council of Europe.

Eligibility criteria

- University degree in law / political sciences / social sciences / international relations / public administration or related fields, medicine and medical science.
- At least 5 years of professional experience in the areas mentioned as topics of Lots 1-4 (consulting, academic research, analytical work, expert assessments, working as trainer, contribution to the events as speaker, etc.);
- For legal persons and private entrepreneurs, being authorized to carry out the respective economic activities.

Award criteria

- Quality of the offer (80%) that means relevance of the experience and level of expertise of the tenderer, knowledge of regional and national context in the areas covered by the specific Lots, including previous assignments with the international organisations that would be regarded as an asset.
- Financial offer (20%).

The Council reserves the right to hold interviews with 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**⁴ (See attached);
- A detailed **CV**, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria (e.g. education and professional experience);
- A list of all owners and executive officers, for legal persons only;
- Registration documents for legal persons and private entrepreneurs (including those that prove the ability to carry out the respective types of economic activities);
- **A list of drafted expert opinions, legislation assessments, reports, training curriculum and materials** and other relevant documents **with active links** to them to the extent possible on the topics covered by the Lots 1-4 above produced in the last 5 years.

Act of Engagement, CV, list of owners should be submitted in English, other documents can be submitted in Ukrainian, 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.

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.

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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