

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

Purchase of international consultancy services

Contract N° BH8732/2020/2



The Council of Europe is currently implementing, until 31 December 2021, the Project: "Initiative for Legal Certainty and Efficient Judiciary in Bosnia and Herzegovina -Phase II" funded by Norwegian Government. In that context, it is looking for Providers for the provision of consultancy services for the implementation of series of capacity building activities with relevant beneficiaries to be requested by the Council on an as needed basis.

TENDER RULES

This tender procedure is a competitive bidding procedure. **In accordance with Rule 1395 of the Secretary General of the Council of Europe on the procurement procedures of the Council of Europe¹, the Organisation shall invite to tender at least three potential providers for any purchase between €2,000 (or €5,000 for intellectual services) and € 55,000 tax exclusive.**

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

The tenderer must be either a natural person, or a legal person except consortia.

Tenders shall be submitted **by email only** (with attachments) **to the email address indicated in the table below, with the following reference in subject: Tender File for international consultancy for Initiative for Legal Certainty and Efficient Judiciary in Bosnia and Herzegovina – Phase II.** 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 – Tender File for international consultancy for Initiative for Legal Certainty and Efficient Judiciary in Bosnia and Herzegovina- Phase II.**

Type of contract ▶	Framework contract
Duration ▶	Until 31 December 2021
Deadline for submission of tenders/offers ▶	30 October 2020
Email for submission of tenders/offers ▶	tender.BiH-BH8732@coe.int
Email for questions ▶	tender.BiH-BH8732@coe.int
Expected starting date of execution ▶	05 November 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](#).

A. EXPECTED DELIVERABLES

Background of the Project

The Project aims at supporting a more coherent application of judicial practice in Bosnia Herzegovina, essential to ensuring legal certainty for the people and functioning of an efficient and human rights -friendly judiciary. The project works on the streamlining legal provisions regulating the functioning of case law departments within the Supreme Courts of the entities and the Appellate Court of Brčko District; supporting the discussion within the judiciary on the modalities of the creation of a State-level case law database, including the protocols of updating the information, its accessibility to judges and other legal professionals and optimal IT solutions to be applied; ensuring the case law databases and case management systems used by courts in Bosnia and Herzegovina apply the same methodology of case classification and, in relation to human rights issues, use the vocabulary and descriptors compatible with the approach of the European Court of Human Rights (ECtHR); sharing practical knowledge on the use of different tools for the harmonisation of judicial practice through study visits to the ECtHR and a Council of Europe member state; supporting the implementation of legislation to provide legal remedy for the excessive length of judicial proceedings; providing tailor-made training sessions for judges and judicial associates of case law departments on legal drafting and methodology of interpretation of case law; developing modules on the ECHR for the initial training of judges; enlarging a sustainable pool of trainers on legal drafting and by organising training-of-trainers' (ToT) sessions in co-operation with Judicial and Prosecutorial Training Centres of the two Entities; strengthening the sustainability of human rights legal clinics through ToTs for teaching staff on the use of the methodology of the Council of Europe Programme on Human Rights Education for Legal Professionals (HELP)- methodology, and inclusion the legal clinics of Bosnia and Herzegovina into a larger European network of legal clinics; assessing the training curriculum of a law faculty in Bosnia and Herzegovina against the integration of training on the ECHR.

The Council of Europe is looking for 10 Providers (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on the application of the European Convention of Human Rights, case law and functioning of the European Court of Human Rights and execution of judgments of the European Court of Human Rights and the functioning of case law departments within the highest instance courts.

This Contract is currently estimated to cover up to 20 activities, to be held by 31 December 2021. This estimate is for information only and shall not constitute any sort of contractual commitment on the part of the Council of Europe. The Contract may potentially represent a higher or lower number of activities, depending on the evolving needs of the Organisation.

For information purposes only, the total budget of the project amounts to 500.000 Euros and the total amount of the object of present tender **shall not exceed 55,000 Euros tax exclusive** for the whole duration of the Framework Contract. This information does not constitute any sort of contractual commitment or obligation on the part of the Council of Europe.

Lots

The present tendering procedure aims to select Provider(s) to support the implementation of the project and is divided into the following lots:

Lots	Maximum number of Providers to be selected
Lot 1: Capacity Building - Training and resource materials development and delivery	10

Lot 1 concerns delivering trainings for judges, judicial associates, prosecutors, legal professionals (within case law departments of the highest instance courts in BiH), and law students on issues related to the ECHR and case law of the ECtHR and their application in Bosnia and Herzegovina.

The Council will select the abovementioned number of Provider(s), provided enough tenders meet the criteria indicated below.

Scope of the Framework Contract

Throughout the duration of the Framework Contract, pre-selected Providers may be asked, Under Lot 1, to:

- Prepare materials for training sessions/workshops, with regard to the needs specific for a certain group of training attendees;
- Delivering training/workshop, with regard to the needs specific for a certain group of training attendees;
- Preparing and delivering presentations and/or lectures for law students;
- Preparing post-training/workshop report.
- Depending on the COVID 19 pandemic and sanitary restrictions, the Provider might be asked to use online platform to deliver trainings/workshops and participate in meetings.

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.

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 the Act of Engagement.

In addition to the orders requested on an as needed basis, the Provider shall keep regular communication with the Council to ensure continuing exchange of information relevant to the project implementation. This involves, among others, to inform the Council as soon as it becomes aware, during the execution of the Contract, of any initiatives and/or adopted laws and regulations, policies, strategies or action plans or any other development related to the object of the Contract (see more on general obligations of the Provider in Article 3.1.2 of the Legal Conditions in the Act of Engagement).

Unless otherwise agreed with the Council, written documents produced by the Provider shall be in English (see more on requirements for written documents in Articles 3.2.2 and 3.2.3 of the Legal Conditions in the Act of Engagement).

B. FEES

Tenderers are invited to indicate their fees, by completing and sending the table of fees, as attached in Section A to the Act of Engagement. These fees are final and not subject to review. Tenders proposing fees above the exclusion level indicated in the Table of fees will be **entirely and automatically** excluded from the tender procedure.

The Council will indicate on each Order Form (see Section D below) the global fee corresponding to each deliverable, calculated on the basis of the unit fees, as agreed by this Contract.

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

Once the selection procedure is completed, you will be informed accordingly. Deliverables will then be delivered on the basis of Order Forms submitted by the Council to the selected Provider (s), by post or electronically, on **an as needed basis** (there is therefore no obligation to order on the part of the Council).

Pooling

For each Order, the Council will choose from the pool of pre-selected tenderers for the relevant lot the Provider who demonstrably offers best value for money for its requirement when assessed – for the Order concerned – against the criteria of:

- quality (including as appropriate: capability, expertise, past performance, availability of resources and proposed methods of undertaking the work);
- availability (including, without limitation, capacity to meet required deadlines and, where relevant, geographical location); and
- price.

Each time an Order Form is sent, the selected Provider undertakes to take all the necessary measures to send it **signed** to the Council within 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.

D. ASSESSMENT

Exclusion criteria and absence of conflict of interests

(by signing the Act of Engagement, you declare on your honour not being in any of the below situations)³

Tenderers shall be excluded from participating in the tender procedure if they:

- have been sentenced by final judgment on one or more of the following charges: participation in a criminal organisation, corruption, fraud, money laundering;
- are in a situation of bankruptcy, liquidation, termination of activity, insolvency or arrangement with creditors or any like situation arising from a procedure of the same kind, or are subject to a procedure of the same kind;
- have received a judgment with res judicata force, finding an offence that affects their professional integrity or serious professional misconduct;
- do not comply with their obligations as regards payment of social security contributions, taxes and dues, according to the statutory provisions of their country of incorporation, establishment or residence;
- are or are likely to be in a situation of conflict of interests.

Eligibility criteria

- University degree in law, international relations, political studies or related fields;
- At least 5 (five) years of professional experience in the field related to human rights, rule of law and judiciary;
- Advanced knowledge of European human rights standards, ECHR and case law of the ECtHR.

Award criteria

- Quality of the offer (90%), including:
 - Expertise in the field of human rights, rule of law and judiciary (60%);
 - Experience in delivering presentations, trainings and legal analyses (20%);
 - Knowledge of one of the local languages (10%)
- Financial offer (10%).

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

Multiple tendering is not authorised.

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 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, and a certificate issued by the competent authority of the country of incorporation indicating that the fourth criterion is met.

E. NEGOTIATIONS

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

F. DOCUMENTS TO BE PROVIDED

- A completed and signed copy of the **Act of Engagement**⁴ (See attached);
- A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria;
- Registration documents, for legal persons only;
- A sample of previous similar engagement in English or one of the local languages (according to the selected lots);
- Contact details of 2 (two) referees (i.e. current or previous employee, client).

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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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.