

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)



Purchase of

LOCAL CONSULTANCY SERVICES IN THE FIELD OF EXECUTION BY ARMENIA OF JUDGMENTS OF THE EUROPEAN COURT OF HUMAN RIGHTS IN THE FRAMEWORK OF THE PROJECT

“SUPPORT FOR THE EXECUTION BY ARMENIA OF JUDGMENTS IN RESPECT OF ARTICLE 6 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS”

The Council of Europe is currently implementing and until 31/12/2022 will implement a Project “SUPPORT FOR THE EXECUTION BY ARMENIA OF JUDGMENTS IN RESPECT OF ARTICLE 6 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS”. In that context, it is looking for Provider(s) for the provision of National consultancy services for the Council of Europe Project supporting the execution of judgments of the European Court by Armenia 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 €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, a legal person or consortia of legal and/or natural persons.

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 – BH8740-2021-01**. 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 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 BH8740-2021-01**

Type of contract ▶	Framework contract
Duration ▶	Until 31 December 2022
Deadline for submission of tenders/offers ▶	06 April 2021
Email for submission of tenders/offers ▶	tender.armenia-BH8740@coe.int
Email for questions ▶	tender.armenia-BH8740@coe.int
Expected starting date of execution ▶	15 April 2021

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 overall objective of the project "Support for the execution by Armenia of judgments in respect of Article 6 of the European Convention on Human Rights" is to further promote the execution process of the European Court's judgments with a special focus on Article 6 violations. The project will address the general measures as regards the access to justice, the late or non-enforcement of domestic judgments, lengthy proceedings, re-opening of proceedings, impartiality and independence of judiciary, issues related to Protocol 16 (advisory opinions), via preparation of recommendations on legislative and practical changes, strategies, software, information databases, conducting trainings and other methods. The project will last 24 months.

The Council of Europe is looking for an overall maximum of twenty-five (25) national service providers (provided enough tenders meet the criteria indicated below) in order to support the implementation of the cooperation activities with a particular expertise in the field of execution of the judgments of the European Court and specifically experience in the following fields;

- **Independence, impartiality and efficiency of the judiciary including reduction of the length of proceedings:** Implementation of the Council of Europe standards and procedures regarding the execution of judgments through providing recommendations and revising national legal frameworks and practice regarding the general measures indicated by the European Court in the judgments against Armenia, internal capacity building with a particular focus on Council of Europe standards on efficiency of justice, fair trial, access to justice, independence and impartiality of judges, expertise and knowledge regarding the execution process in general and main standards and criteria enshrined in the case law of the European Court, the practice of the Committee Ministers and others bodies of the Council of Europe, excellent knowledge of the Armenian legislation and practice in the above mentioned domains.
- **Improvement of the national system of the execution of judgments of the European Court:** Implementation of Council of Europe standards in relation to institutional capacity building of the Government Agents office, and other national entities responsible for the execution of judgments. Implementation of the Council of Europe standards and best practices of member states on ICT tools case management, creation of information and analytical databases.
- **Protocol 16 to the European Convention on Human Rights and re-opening of proceedings:** The scope, field of application of the Protocol 16, legal drafting of advisory opinions, the place, influence and interaction of the advisory opinions with the national legal system, practical and legislative issues regarding the smooth application of the Protocol 16. Implementation of the Council of Europe standards in the sphere of re-opening of proceedings following the European Court's judgment, legal or practical problems or gaps regarding the existing system of re-opening of proceedings and actions needed for improvement of the system.

This Contract is currently estimated to cover up to sixteen (16) activities, to be held by 31 December 2022. 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 750,000 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.

Scope of the Framework Contract

Throughout the duration of the Framework Contract, pre-selected Providers may be asked to provide the deliverables listed below. This list is considered exhaustive.

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: <i>Enhancement of the independence, impartiality and efficiency of the judiciary including reduction of the length of proceedings</i>	10
Lot 2: <i>Improvement of the national system of the execution of judgments of the European Court</i>	10
Lot 3: <i>Protocol 16 to the European Convention on Human Rights and re-opening of proceedings</i>	5

Lot 1 concerns the Enhancement of the independence, impartiality and efficiency of the judiciary including reduction of the length of proceedings

The pre-selected provider may be asked to advise, where appropriate, in cooperation with international and/or national experts or independently on the topics listed below, in the form of oral and/or written advice, including but not limited to draft documents, internal rules, procedures, recommendations and evaluation documents. The list of expected deliverables (not exhaustive):

- Assessing the draft legal acts and the legal acts that are in force, doing comparative analysis with other CoE member states and the European Court and the Committee of Ministers practice to ensure that the principle of external and internal independence and impartiality of the judiciary, fair trial, access to justice are respected and complied with Council of Europe standards;
- Assessing the compliance of national legal frameworks in the field of civil justice, administrative justice, enforcement of judicial acts and etc. to the Council of Europe standards and recommendations;
- Preparing recommendations, with reference to Council of Europe standards and best practices of Council of Europe member states in the areas of independence, impartiality, efficiency and quality of the judiciary in the light of the general measures deriving from the judgments of the European Court against Armenia;
- Providing legal and policy advice, undertaking specific research, carrying out analysis of legal texts and data, providing recommendations on the topics including, but not limited to independence, impartiality, efficiency and quality of the judiciary, delayed or non-execution of domestic judgments and other related issues;
- Carrying out work aimed at disclosing the legislative and practical reasons of lengthy proceedings as well as providing legal advice, recommendations, carrying out analysis of legal texts and data in this domain;
- Participating in expert working groups, workshops, seminars, round tables and conferences, delivering presentations, providing written inputs to peer reviews;
- Other deliverables, as requested by the Council of Europe.

Lot 2 concerns Improvement of the national system of the execution of judgments of the European Court:

The pre-selected provider may be asked to advise, where appropriate, in cooperation with international and/or national experts or independently on the topics listed below, in the form of oral and/or written advice, including but not limited to draft documents, internal rules, procedures, recommendations and evaluation documents. The list of expected deliverables (not exhaustive):

- Drafting a national strategy for the execution of judgments as well as providing recommendations on creation of national platform of interaction and information database of the execution of judgments of the European Court;
- Providing recommendations aimed at institutional capacity building of the Government Agents office, and other national entities responsible for the execution of judgments, considering the Council of Europe standards and best practices of Council of Europe member states on ICT tools case management;
- Participating in expert working groups, workshops, seminars, round tables and conferences, delivering presentations, providing written inputs to peer reviews;
- Other deliverables as requested by the Council of Europe.

Lot 3 concerns Protocol 16 to the European Convention on Human Rights and re-opening of proceedings:

The pre-selected provider may be asked to advise where appropriate, in cooperation with international and/or national experts or independently on the topics listed below, in the form of oral and/or written advice, including but not limited to draft documents and recommendations. The list of expected deliverables (not exhaustive):

- Recommendations in the field of application of the Protocol 16, as well as legal drafting of advisory opinions;
- Conduct awareness raising activities and training about the place, influence and interaction of the advisory opinions with the national legal system, practical and legislative issues regarding the smooth application of the Protocol 16;
- Analysis of the current system of re-opening of proceedings in the national law, comparative analysis of the best practice within the Council of Europe, with consideration of the European Court's case law and the Committee of Ministers practice;
- Identification of legislative and practical shortcomings regarding the re-opening procedures and providing recommendations aimed at improvement of the situation;
- Participating in expert working groups, workshops, seminars, round tables and conferences, delivering presentations, providing written inputs to peer reviews;

- Other deliverables 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.

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).

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, 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):

Lot 1: Enhancement of the independence, impartiality and efficiency of the judiciary including reduction of the length of proceedings

- Master's Degree or equivalent in Law, Public Administration, Public Policy, Political Science or a related field;
- At least seven years of professional experience in the areas related to the rule of law, the human rights and the judiciary, at least five years of experience in undertaking specific research, providing legal advice, legal opinions, recommendations in the field of judiciary or human rights with reference to relevant international standards;
- Fluency in Armenian (mother tongue)
- Knowledge of English (B1 or B2 level [CEFR](#)).

Lot 2. Improvement of the national system of the execution of judgments of the European Court:

- Master's Degree or equivalent in Law, Public Administration, Public Policy, Political Science or a related field

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.

- At least seven years of professional experience in the areas related to the rule of law, the human rights and the judiciary, at least five years of experience in undertaking specific research, providing legal advice, legal opinions, recommendations in the field of judiciary or human rights with reference to relevant international standards;
- For the information database and ICT (software). Master's Degree or equivalent in Public Administration, Public Policy, Economics, , Sociology, IT or a related field; minimum five years of relevant experience designing and developing TOR as well as developing regulations, administrative frameworks as well as IT solutions for different public authorities, undertaking specific research, collecting and consolidating data as well as other relevant tasks related to the assignment.
- Fluency in Armenian (mother tongue)
- Knowledge of English (B1 or B2 level [CEFR](#)).

Lot 3 – Protocol 16 to the European Convention on Human Rights and re-opening of proceedings

- Master's Degree or equivalent in Law, Public Administration, Public Policy, Political Science or a related field;
- At least seven years of professional experience in the areas related to the rule of law, the human rights and the judiciary or the European Court of Human Rights, at least five years of experience in undertaking specific research, providing legal advice, legal opinions, recommendations in the field of judiciary or human rights with reference to relevant international standards;
- Fluency in Armenian (mother tongue)
- Knowledge of English (B1 or B2 level [CEFR](#)).

Award criteria

The following criteria will be applied in the assessment of each of the Lots for which the tenderer submits a tender:

Criterion 1: Relevance of the experience of the tenderer in the areas covered by this call, including previous assignments with international organisations (30%);

Criterion 2: Knowledge of the standards and recommendations of the Council of Europe in the fields of the rule of law and justice (30%);

Criterion 3: Knowledge of the national and regional context in the field of the judiciary or/and knowledge of contexts that are relevant to the areas covered by this call (30%);

Criterion 4: The financial offer as indicated in the Table of fees (10%).

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

Multiple tendering is not authorised.

F. NEGOTIATIONS

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

G. DOCUMENTS TO BE PROVIDED

- **Two** completed and signed copies of the Act of Engagement.⁴
- Registration documents, for legal persons only;
- A detailed CV in English, preferably in Europass format, demonstrating clearly that the tenderer fulfils the eligibility criteria; Where the tenderer is a legal person, this shall include the CV of the person(s) who will be assigned to carry out the work;
- Three referees' contact details (contacts, including phone number and e-mail address);
- Samples of previous work relevant for the lot(s) tendered for (draft legal act, legal opinion, presentation, training module, research paper, etc.) in English or Armenian;
- Motivation letter in English, demonstrating experience, expertise and skills and capacities as set out under the award criteria,
- Tenderers may supplement motivation letters with documents proving their knowledge, such as programmes of events and descriptions of projects they participated in, titles and references of research they undertook and summaries of reports they produced;
- A scanned copy of all registration documents, for legal persons only (in Armenian with a translation into English certified by the tenderer);
- A list of all owners and executive officers, for legal persons only;

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.

All documents shall be submitted in English (or Armenian, where specified), 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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