
Specifications – Tender No VT/2009/006

Mapping of the anti-discrimination legal, institutional and policy framework in Turkey and the Western Balkans

1- Title of the contract

Mapping of the anti-discrimination legal, institutional and policy framework in Turkey and the Western Balkans.

2-Background

2.1 The anti-discrimination legislative framework

According to Article 6(2) of the Treaty on European Union, the EU shall respect fundamental rights, as guaranteed by the European Convention on Human Rights.

The right of all individuals to equality before the law and to protection from discrimination is a fundamental right which is essential in order to allow any democratic society to function properly. It helps to achieve the objectives of promoting economic and social progress and a high level of employment by strengthening economic and social cohesion. In June 1997 in Amsterdam, the Heads of State and Government agreed to enhance the European Union's capacity to act in this area by introducing Article 13 of the Treaty establishing the European Community, which gives the Community specific powers to take action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

On 29 June and 27 November 2000, on the basis of proposals presented by the Commission in November 1999, the Council adopted three key instruments intended to prevent and combat discrimination based on racial or ethnic origin, religion or belief, age, disability or sexual orientation:

- Directive 2000/43/EC (Race Equality Directive), which prohibits discrimination on the grounds of racial or ethnic origin in a wider range of fields, such as employment, education, the provision of goods and services and social protection;
- Directive 2000/78/EC (Employment Equality Directive), which prohibits discrimination in employment and prohibits all discrimination on the grounds of religion or belief, disability, age or sexual orientation;
- a Community action programme to combat discrimination (Council Decision 2000/750/EC).

The strategy adopted, which is characterised by a combination of instruments (legislation backed up by an action programme) draws mainly on the Community's experience in combating gender discrimination. It is intended to achieve the following three strategic objectives:

- Ensuring the uniform application of Community law - The purpose of the EU anti-discrimination legislative framework is "to lay down a set of principles on equal treatment covering key issues, including the definition of discrimination extending to indirect discrimination, protection against harassment, the possibility of taking positive action, appropriate remedies and enforcement measures. These principles would be applicable to all Member States, thus guaranteeing all individuals the equal level of protection against discrimination which they are entitled to expect".
- Promoting effective policies to combat discrimination and promote equality – Although legislation prohibiting discrimination is an absolute prerequisite, it nevertheless cannot achieve a discrimination-free society on its own. Many deeply rooted forms of unequal treatment, often against specific population groups, prevent certain people from fully participating and contributing at all levels of society. Given the varying nature and the scale of discrimination, emphasis must once again be put on a more positive vision of equality, placing new responsibilities on governments to identify and address socio-economic inequalities and systematic manifestations of discrimination, and to implement structured legislative measures in both the public and the private sector.
- Changing attitudes and behaviour to achieve a society which is more conducive to equality - The aim of any law is to alter the behaviour of those subject to it in order to achieve the desired outcome. In this respect, the law is a catalyst or trigger for a process of social change. In the current context, it aims to promote recognition and acceptance within the community of the principle that all people, irrespective of their personal characteristics, are entitled to equal treatment, in the same way as other members of the community. Thus, the approach involves

bringing about change in community awareness (recognition) and behaviour (acceptance). Recognition implies an understanding or knowledge of the right of individuals not to suffer discrimination on the grounds of their personal characteristics. Acceptance goes even further by requiring the community to acknowledge that such rights are due to all individuals as legitimate, equal members of the community.

2.2 The anti-discrimination strand of PROGRESS

The Social Agenda (2005-2010) has fixed as its overall strategic goal to promote more and better jobs and to offer equal opportunities for all. The implementation of the Social Agenda is underpinned by a combination of instruments comprising EU legislation, the use of open methods of coordination in various policy fields and financial incentives such as the European Social Fund.

Decision No 1672/2006/EC establishing a Community Programme for Employment and Social Solidarity – PROGRESS was adopted by the European Parliament and the Council on 24 October 2006 and published in the Official Journal on 15 November 2006.

The purpose of the PROGRESS programme is to support the core functions of the European Community relating to the fulfilment of its Treaty-delegated tasks and the exercise of the powers conferred on it in the fields of employment and social affairs. PROGRESS aims to increase EU assistance to help Member States meet their commitments, create more and better jobs and build a more cohesive society. To that effect, PROGRESS will be instrumental in:

- providing analysis and advice in the PROGRESS policy fields;
- monitoring and reporting on the implementation of EU legislation and policies in the PROGRESS programme areas;
- promoting policy transfer, learning and support among the Member States with regard to EU objectives and priorities; and
- relaying the views of the stakeholders and society at large.

More specifically, PROGRESS will support:

- (1) the implementation of the European Employment Strategy (Section 1);
- (2) the implementation of the open method of coordination in the field of social protection and inclusion (Section 2);
- (3) an improvement in the working environment and conditions, including health and safety at work and the reconciliation of work and family life (Section 3);
- (4) the effective implementation of the principle of non-discrimination and the promotion of its mainstreaming in all EU policies (Section 4);
- (5) the effective implementation of the principle of gender equality and the promotion of its mainstreaming in all EU policies (Section 5).

This call for tenders is issued in the context of the implementation of the 2009 Annual Work Programme, which can be consulted at: http://ec.europa.eu/employment_social/progress/annwork_en.htm

3 - Purpose of the contract

The purpose of this contract is to prepare a study on discrimination and on the anti-discrimination legislation, stakeholders and policies in Turkey and the Western Balkans.

By "Western Balkans", this study refers to the following countries: Albania, Croatia, Bosnia and Herzegovina (BiH), Serbia, Kosovo (according to UN Security Council Resolution 1244/99), Montenegro, and the Former Yugoslav Republic of Macedonia (FYROM).

The aim of the study is to give an overview of the anti-discrimination and equality legislation and policies, and establish an inventory of discrimination and a map of the stakeholders involved in combating discrimination and promoting the principle of equality.

It will cover discrimination linked to racial and ethnic origin, religion and belief, age, disability and sexual orientation in the fields of employment, education, training, social protection, access to goods and services, social advantages and membership of a workers' organisation. The gender dimension to each of these types of discrimination must be considered, as must the aspects linked to multiple discrimination.

4- Participation in the contract procedure

It should be noted that:

Participation is open on equal terms to all natural or legal persons coming within the scope of the Treaties and any other natural or legal persons from a third country which has concluded a specific agreement with the Communities in the area of public contracts, subject to the conditions provided for in that agreement.

Where the Multilateral Agreement on Public Contracts concluded within the framework of the World Trade Organisation applies, the contracts are also open to nationals of States which have ratified this Agreement, under the conditions provided for therein. It should be noted that research and development services, which come under Category 8 of Annex II A to Directive 2004/18/EC, are not covered by this Agreement.

5- Tasks to be carried out by the contractor

The tasks to be carried out by the contractor:

Task 1: carry out a study (described in point 5.1).

Task 2: organise a conference to validate this study (described in point 5.2).

Task 3: finalise the study according to the outcome of the validation conference (described in point 5.3).

5.1- Task 1: the contractor must prepare a study to analyse the anti-discrimination legislation, stakeholders and policy in Turkey and the Western Balkans.

The contractor must draw up a study in close cooperation with the Commission services which must meet the requirements set out below.

The scope of the study shall be limited to the scope of Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (the Race Directive) and of Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (the Employment Equality Directive).

In accordance with Articles 1 and 3 of Directive 2000/43/EC, the scope of the study shall be limited to discrimination based on racial or ethnic origin against all persons, in both the public and the private sector (including public bodies and the armed forces), in relation to:

- conditions of access to employment, self-employment and occupation, including the selection criteria and recruitment conditions, irrespective of the branch of activity and at all levels of the professional hierarchy, also covering promotion;
- access to all types and all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience;
- employment and working conditions, including dismissals and pay;
- membership of and involvement in a workers' or employers' organisation, or any organisation whose members carry out a particular profession, including the benefits offered by such organisations;
- social protection, including social security and healthcare;
- social advantages;
- education;
- access to and supply of goods and services which are available to the public, including housing.

In accordance with Articles 1 and 3 of Directive 2000/78/EC, the scope of the study shall be limited to discrimination based on religion or belief, disability, age or sexual orientation, in both the public and the private sector (including public bodies and the armed forces):

- conditions of access to employment, self-employment and occupation;
- access to all types and all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience;
- employment and working conditions, including dismissals and pay;
- membership of, and involvement in, an organisation of workers or employers, or any organisation whose members carry out a particular profession, including the benefits offered by such organisations.

This study will present:

- by way of introduction, the anti-discrimination legislation currently in force;
- a map of the stakeholders involved and their role;
- the most common forms of discrimination;
- anti-discrimination policies and good practices;
- lessons for the future.

The text must not exceed 50 pages (not including annexes of country-specific information, eight to ten pages per country).

- The contractor must submit the entire study (and a five-page summary) in English, French and German.
- The text should be provided to the European Commission in Word, and charts in Excel format.
- The contractor must secure the rights and provide the Commission with ten photographs to illustrate the text.
- The layout, printing and distribution of the study are not covered by this call for tender. It is understood that these tasks will be undertaken by the company which holds the publication framework contract with DG Employment, Social Affairs and Equal Opportunities and by the Office for Official Publications of the European Communities.

The publication will be ready for distribution by the time of the conference referred to in point 5.2.

5.1.1- Legislation in force

The scope of the report shall be limited to the national provisions which implement or comply with Directives 2000/43/EC and 2000/78/EC.

The Commission will therefore provide the contractor with the reports analysing the Community legislation which transposes these texts for the candidate countries (Croatia, Turkey, FYROM), and any other documents in its possession for the other countries (studies of legislation which complies with European standards).

The legislative analysis will be limited to the main principles and provisions implemented at national level. The objective is to draw up an inventory of the legislation in force.

In particular, the contractor must give a description of the national legal provisions which implement or comply with the following aspects covered by the Directives:

- the concept of direct and indirect discrimination;
- positive action;
- access to justice, including procedural guarantees (legal aid, the role of associations in legal proceedings, the existence of effective penalties and compensation in the event of discrimination);
- the shift in the burden of proof;
- protection against retaliation;
- the dissemination of information;
- the role of social dialogue;
- dialogue with the NGOs;
- bodies which promote equal treatment.

This inventory must be presented in a synoptic table for each of the countries analysed, summarising the fields covered by the legislation, the provisions in force and their correspondence with the provisions of the Directives.

5.1.2- Stakeholders and their role

The contractor must establish a map of the stakeholders involved in combating discrimination and promoting the principle of equality, covering in particular:

- national and local administrations;
- equality bodies within the meaning of Directive 2000/43/EC;
- independent authorities (mediators, etc.);
- the NGOs;
- civil society;
- trade unions;
- public and private companies;
- academia.

The contractor must assess their degree of involvement according to the grounds for discrimination in question using an estimate of:

- their financing (origin, amount);
- their form of administration (public, private, semi-public);
- the number of members and employees (paid and voluntary);
- how their role and missions concern the fight against discrimination, possibly in relation to other tasks.

To do this, the contractor will draw on a study of the available literature and of interviews carried out on location with the stakeholders in question.

This inventory must be accompanied by a synoptic table summarising the types of stakeholder for each country and the information requested on each one.

5.1.3- Inventory of discrimination

Within the scope of the study specified in point 5, and bearing in mind the difficulty of gaining a precise understanding of the phenomenon of discrimination, the contractor will endeavour to describe the most widespread types of discrimination in each of the countries concerned.

It will draw on a study of available literature, existing statistics and interviews carried out on location with the stakeholders referred to in point 5.1.2 and with involved institutions in these countries (OECD, Council of Europe).

The contractor must cover:

- the grounds for the discrimination observed;
- the field in which it occurs;
- the forms which the discrimination takes;
- an evaluation of the number of cases and their recurrence;
- the global sociological, economic and political context which could to a certain extent explain their occurrence;
- an estimate of the number of cases which may have been brought before the civil and criminal courts, followed by a concise description.

This inventory must be accompanied by a synoptic table summarising the forms taken by the discrimination in each country and a quantitative evaluation of their significance.

5.1.4- Anti-discrimination policy

Within the scope of the study defined in point 5, the contractor must provide a description of the policies and good practices to combat discrimination and promote equality, conducted and developed by the stakeholders referred to in point 5.1.2.

In particular, it must describe:

- the framework documents on strategy, reflection or policy planning adopted by the political authorities in addition to legislation;
- the information and awareness-raising campaigns;
- the financing of implementation plans;
- the training measures;
- the measures to help victims;
- the measures to facilitate access to justice;
- the financing and support for NGOs.

To do this, the contractor will draw on a study of the available literature and of interviews carried out on location with the stakeholders referred to in point 5.1.2.

This inventory must be accompanied by a synoptic table summarising the types of action taken for each country, the information requested and an estimate of their budget.

5.1.5- Lessons for the future

Based on the information gathered and its own analysis, the contractor will propose a list of lessons for the future, concerning in particular the main problems encountered in relation to discrimination and to the good practices implemented or to be implemented in these countries.

The contractor will also submit proposals and recommendations for action for the European Commission.

5.2- Task 2: the contractor must organise a conference to validate the study.

A one-day conference will be organised by the contractor in order to validate its intended study. It will be attended by the representatives of national, regional and local government, the representatives of the NGOs covering all the Member States participating in the study, and the Commission.

The conference will be organised 15 months after the signing of the contract and will involve 100 participants from the sectors listed in point 5.1.2. It will be held in one of the countries covered by the study at an external venue such as the congress centre of a hotel, and not on Commission premises.

The contractor must:

- select a suitable venue with a view to holding the validation conference (accessible for disabled participants);
- reserve meeting rooms (for a plenary meeting);
- draft the agenda in English;
- contact and invite speakers;
- send invitations to the participants;
- reserve accommodation and flights for the participants (the contractor will cover the costs for a maximum of 100 participants);
- organise interpreting services in English and French.

A concise report of the discussions held at the conference and the main conclusions will be submitted to the Commission in English. This will make it possible to identify any changes which need to be made to the study to reflect the outcome of the conference. The report should be no longer than ten pages.

5.3- Task 3: finalisation of the study

In agreement with the Commission, and in the 16th month following the signing of the contract, the contractor must update the study to bring it into line with the conference conclusions.

The contractor is required to translate the finalised study into French and German.

The Commission is responsible for printing and disseminating the report for publication.

6- Professional qualifications required

See Annex IV to the specimen contract.

7- Guide on how the activities should be carried out

The PROGRESS Programme aims to promote gender mainstreaming in its five policy sections and in commissioned or supported activities. Consequently, the contractor must take the necessary steps to ensure that:

- in preparing the technical bid, questions relating to equality between men and women, including the situation and needs of men and women, are taken into account where necessary;
- the gender dimension is systematically taken into account when providing the service;
- performance monitoring includes the collection and gathering of data broken down by gender where necessary;
- the proposed team and/or staff respects the gender balance at all levels.

Equally, the needs of disabled people must be duly acknowledged and respected in providing the requested service. This will in particular entail ensuring that, when the contractor organises training sessions or conferences, issues publications or develops dedicated websites, people with disabilities have equal access to the facilities or services provided.

Lastly, the contracting authority encourages the contractor to promote equal employment opportunities for all its staff and team. This requires the contractor to ensure an appropriate mix of people, regardless of their ethnic origin, religion, age or qualifications.

In its activity report accompanying the request for the final instalment, the contractor will be required to detail the steps and achievements it made towards meeting these contractual requirements.

8- Time frame and reports

See Article I.2. of the contract.

The duration of the contract shall be 18 months from the date of signature. The plan of the activities to be carried out must respect the following order:

Time frame	To be supplied or carried out
8.1 one week after signing the contract	Opening meeting between the contractor and the members of the Commission on Commission premises in Brussels
8.2 two months after signing the contract	Initial report from the contractor (three to four pages) outlining the measures taken and planned
8.3 six months after signing the contract	Interim report (15-20 pages maximum) to be submitted to the Commission
8.4 twelve months after signing the contract	task 1: submission of the draft study
8.5 fifteen months after signing the contract	task 2: conference to validate the draft study
8.6 sixteen months after signing the contract	Report on the validation conference (ten pages maximum) and draft of the finalised study
8.7 eighteen months after signing the contract	task 3: finalised study accompanied by a summary and activity report (five pages) together with the application for the last instalment.

9- Publicity and information requirements

In accordance with the General Terms and Conditions, all contractors must mention that this service or study has been commissioned by the European Community in all formats, on paper or other media, in particular in the final deliverable(s), the related report, brochures, press releases, video, software, etc., and also at conferences or seminars. In the context of the Community programme for employment and social solidarity – PROGRESS, such references must read as follows:

This (publication, conference, training session) has been carried out under the Community programme for employment and social solidarity (2007-2013). This programme is managed by the Directorate-General for Employment, Social Affairs and Equal Opportunities of the European Commission. It was established to financially support the pursuit of the European Union objectives in the fields of employment and social affairs, as set out in the Social Agenda, and thereby contribute to the achievement of the Lisbon Strategy goals in these fields.

The seven-year Programme targets all stakeholders who can help shape the development of appropriate and effective employment and social legislation and policies, across the EU-27, the EFTA/EEA countries and EU candidate and pre-candidate countries.

The purpose of PROGRESS is to strengthen the EU contribution in support of Member States' commitments and efforts to create more and better jobs, and build a more cohesive society. To that effect, PROGRESS will be instrumental in:

- *providing analysis and advice on PROGRESS policy areas;*
- *monitoring and reporting on the implementation of EU legislation and policies in PROGRESS policy areas;*
- *promoting policy transfer, the exchange of knowledge and support among the Member States as regards EU objectives and priorities;*
- *relaying the views of the stakeholders and society at large.*

For more information:
<http://ec.europa.eu/progress>

The following reference must be included for all publications: *"The information contained in this publication does not necessarily reflect the position or opinion of the European Commission"*.

The contractor will aim to include the European logo in all communication and publication plans linked to the work in question and, where appropriate, all other logos developed in the field of employment and social affairs, referring to the European Commission as the contracting authority in all publications and material developed under this contract.

10- Reporting requirements

PROGRESS will be implemented in line with the principle of results-based management (RBM). Management centred on outcomes and results aims to maximise the impact for European citizens and involves:

- identifying the most important results for European citizens;
- managing for these results, in particular by setting clear objectives, implementing plans based on these results and learning about "what works" in the process;
- seizing opportunities to work together which help to achieve the results.

As a first step, a strategic framework for the implementation of PROGRESS has been developed in collaboration with the Member states and civil society organisations. It provides the framework for implementing PROGRESS and is complemented by the performance measurement, which determines the PROGRESS mandate and its long-term and specific outcomes. The performance measurement framework is summarised in the Annex. For more information on the strategic framework, please visit the PROGRESS website.

In this context, the Commission will monitor the impact of the initiatives supported or commissioned by PROGRESS and consider how these initiatives contribute to the results specified in the strategic framework. Accordingly, the contractor will be asked to work in close cooperation with the Commission and/or persons authorised by it to define the expected contributions and the set of performance measurements against which the contribution will be assessed. The contractor will be called upon to collect data and report to the Commission and/or appointed persons on its own performance using a model to be annexed to the contract. Furthermore, the contractor will make available to the Commission and/or persons authorised by it all documents or information which make it possible to correctly measure the performance of PROGRESS, and will give them right of access.

11- Payments and standard contract

In drawing up the bid, the provisions of the standard contract, which includes the General Terms and Conditions applicable to Service Contracts, must be taken into account.

Article 1(4) thereof sets out the terms of payment.

Payments will be made at intervals throughout the contract period according to the progress made, the reports and products submitted and their quality.

The terms applicable to this contract are as follows:

11.1 Interim payments

Requests from the contractor for interim payments will be admissible only if they meet the following conditions:

• **Six months after signing the contract**, the contractor may submit to the Commission a formal request for a first interim payment, accompanied by the first interim report referred to in point 8.3 and invoices relating to the actual costs, provided that it has submitted the initial report referred to in point 8.2. Acceptance by the Commission of the interim note and the initial report is a precondition for payment.

The total amount of this first interim payment cannot exceed 20% of the total amount specified in point I.3.1 of the contract.

• **Twelve months after signing the contract**, the contractor may submit to the Commission a formal request for a second interim payment for an amount not exceeding 40% of the total specified in point I.3.1. of the contract, accompanied by the draft study referred to in point 8.4 and the corresponding invoice covering the actual costs incurred. Acceptance by the Commission of the draft study is a precondition for payment.

• **Sixteen months after signing the contract**, after submission of the report on the validation conference and the draft of the finalised study as specified in point 8.6 and after organising the one-day conference as specified in point 8.5, the contractor may submit to the Commission a formal request for a third interim payment for an amount not exceeding 20% of the total specified in point I.3.1. of the contract, accompanied by the corresponding invoice covering the actual costs incurred.

The total amount of these three interim payments cannot exceed 80% of the total specified in point I.3.1 of the contract.

For each payment request, the Commission has 60 days from receipt to approve or reject the interim report or any other deliverables specified under point 8, and the contractor has 30 days in which to submit additional information or a new deliverable.

Within 30 days of the date on which the reports or the study are approved by the Commission, an interim payment corresponding to the relevant invoices shall be made.

11.2 Payment of the balance

• **Eighteen months after signing the contract**, the Commission can make a last payment covering the balance due, which is payable on written request presented at the same time as the finalised study and the activity report referred to in point 8.7, a final financial statement on the implementation of the total budget and a final invoice, and after all these documents have been approved by the Commission.

The Commission has 60 days from receipt to approve or reject the finalised report and/or the activity report. The contractor has 30 days in which to submit additional information, a new study report and/or a new activity report.

The balance of the total referred to in point I.3.1 will be paid within 30 days of the date on which the finalised study and the activity report are approved by the Commission.

In particular, as indicated in point 7 "Guide on how the activities should be carried out", the contractor is required to explain in its final activity report how it met the gender equality requirements.

12 - Price

Under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities, the latter are exempt from all charges, taxes and dues, including value-added tax. Therefore these charges cannot be included when calculating the price. The amount of VAT should be shown separately.

The **maximum** amount available for this invitation to tender is **€ 500 000 (five hundred thousand euros)**. Tenderers should note that any bids exceeding this limit will not be considered.

Prices must be in euros (€), excluding VAT (using the conversion rates published in the Official Journal of the European Union, C series, and applicable on the day on which the invitation to tender is published), and broken down in accordance with the model in Annex III included in the enclosed specimen contract, so as to include the following:

Professional fees and direct costs

- the fees, expressed as the number of person-days multiplied by the unit price per working day for each expert proposed. The unit price must cover the experts' fees and total administrative expenditure, namely:
 - travel and subsistence expenses relating to the research and analysis tasks;
 - the travel and subsistence expenses of the contractor, its staff and its experts for all the necessary meetings with the European Commission in Brussels;
 - all the documents and costs relating to the performance of their tasks;
- the translation costs linked to the final publication of the study;
- all the costs (including, in particular, accommodation, subsistence and travel expenses for all participants) relating to the organisation of a one-day conference for around 100 people.

Maximum total price: €500 000

13- Consortia of economic operators

Bids may be submitted by consortia of service-providers which will not be required to adopt a specific legal form before the contract is awarded. However, any consortium chosen may have to adopt a certain legal form when the contract is awarded, depending on whether such a step is necessary for its proper implementation¹. Any

¹ These bodies may or may not have their own legal personality, but they must guarantee sufficient protection of the Commission's contractual interests (depending on the Member State concerned, they may be, for example, a consortium or a temporary association). **The contract must be signed by all members of the consortium** or just one of them, duly mandated

consortium of economic operators will have to appoint one party to receive and process payments for all the members and to be responsible for overall management and coordination. The documents required and listed in sections 14 and 15 below must be supplied by every member of the group. Each member of the group shall assume joint and several liability towards the Commission.

14- Exclusion criteria and supporting documents

1) Tenderers must provide a duly signed and dated declaration on their honour mentioning that they are not in one of the situations referred to in Articles 93 and 94(a) of the Financial Regulation.

These articles provide as follows:

"Article 93:

1. Applicants or tenderers shall be excluded if:

they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

they have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata;

they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;

they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;

they have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;

they are currently subject to an administrative penalty referred to in Article 96(1)²;

(...)

Article 94:

Contracts may not be awarded to candidates or tenderers which, during the procurement procedure:

are subject to a conflict of interest;

are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information. (...)"

2) The tenderer to which the contract is to be awarded shall provide, within a time limit defined by the contracting authority and

preceding the signature of the contract, the evidence referred to in Article 134 of the Implementing Rules, confirming the declaration referred to in point 1.

Article 134 of the Implementing Rules - Supporting documents

§3. The contracting authority shall accept as satisfactory evidence that the candidate or tenderer to which the contract is to be awarded is not in one of the situations described in Article 93(1)(a), (b) or (e) of the Financial

by the others (power of attorney or another valid form of authorisation must be enclosed with the contract) if the tenderers have not formed their own legal personality.

² "Article 96(1): The contracting authority may impose administrative or financial penalties on the following:

a) candidates or tenderers in the cases referred to in Article 94(b);

b) contractors who have been declared to be in serious breach of their obligations under contracts covered by the budget. (...)"

Regulation, a recent extract from the judicial record or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. The contracting authority shall accept, as satisfactory evidence that the candidate or tenderer is not in the situation described in Article 93(1)(d) of the Financial Regulation, a recent certificate issued by the competent authority of the State concerned.

Where no such document or certificate is issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in its country of origin or provenance.

§4. Depending on the national legislation of the country in which the tenderer or candidate is established, the documents referred to in paragraph 3 shall relate to legal persons and/or natural persons, including, where considered necessary by the awarding authority, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer.

See Annex I (which may be used as a check-list) for the supporting documents accepted by the European Commission to be submitted by the candidate, tenderer or bidder to which the contract is to be awarded.

3) The contracting authority may waive the obligation of a candidate or tenderer to submit the documentary evidence referred to in Article 134 of the Implementing Rules, if such evidence has already been submitted to it for the purposes of another procurement procedure launched by DG EMPL and provided that the documents are no more than one year old and are still valid.

In such a case, the candidate or tenderer shall declare on its honour that the documentary evidence has already been provided in a previous procurement procedure and confirm that no changes to its situation have occurred.

15- Selection criteria

The candidates will be selected on the basis of their financial and economic capacity, their professional skills and their technical capacity.

(1) Economic and financial capacity:

Economic and financial capacity to perform the tasks set out in the tender specification must be demonstrated as follows:

(a) the tenderer (or all partners of the group of service providers/suppliers together) must provide proof of turnover in the last financial year for which accounts have been closed at least equivalent to 75% of the proposed price of the contract;

(b) the balance sheets and profit and loss accounts for at least the last two years for which accounts have been closed, where publication of the balance sheets is required under the company law of the country in which the service provider is established. In the case of tenders from consortia, this proof must be provided by each member of the consortium;

(c) a statement of an undertaking's overall turnover and its turnover in respect of the services to which the contract refers for the previous two financial years. In the case of tenders from consortia, this proof must be provided by each member of the consortium;

(d) a bank certificate providing evidence of the tenderer's financial capacity. In the case of tenders from consortia, this certificate must be provided by each member of the consortium.

(2) Technical capacity:

The tenderer's professional skills and technical capacity in the field covered by the contract will be further assessed on the basis of the following:

i) The team responsible for coordination

- The co-ordinator

The contractor must appoint a coordinator who will be the only contact with the Commission:

This person must provide proof of:

- at least five years' experience in social research;

- an established capacity to perform administrative and coordination tasks relating to the organisation and management of contracts and projects at European level. The Commission will assess this criterion in particular on the basis of a list of previous activities in this field submitted by the tenderer;
 - an established capacity to set up the appropriate organisational structure for completing all the tasks required and in particular the capacity to provide and coordinate the necessary skills, including the language skills needed to cover the countries in question. The Commission will assess this criterion in particular on the basis of a list of potential or existing partner organisations or of people appointed in the countries involved in the project as well as on the basis of an organisational chart explaining the structure to be put in place;
 - a very good knowledge of Community working languages, particularly English or French, in order to facilitate communication with the Commission;
 - excellent oral presentation skills in English or French (on the basis of references to previous work).
- Study draftsmen

At least two additional researchers must provide proof of:

- a minimum of five years' experience with discrimination-related matters. At least one of the two draftsmen must be able to prove experience in dealing with discrimination in the Balkans;
- excellent drafting skills in English or French (on the basis of publications mentioned in their CVs).

- Conference manager

At least one additional person must have a minimum of two years' experience in coordinating and organising workshops and conferences at international level.

ii) Country researchers

For the members of the research team, the requirements are as follows:

In addition to the coordination team, the contractor will create a research team which must meet the following criteria:

- cover all the languages of the countries concerned in order to be able to do the work both in the office and on location (interviews with officials, NGOs, etc.);
- have excellent drafting ability in English or French;
- all the members of the research team must prove experience in discrimination-related matters (on the basis of published work);
- at least one third of the team must have proven experience with the Balkans and Turkey;
- at least two team members must have a minimum of three years' proven experience in the field of Community project/programme management;
- at least two team members must have a minimum of three years' proven experience managing subsidised international projects/programmes;
- at least one team member must have proven experience dealing with gender equality in order to guarantee that account will be taken of both gender equality and the gender dimension in the study results.

(b) Means of proof required

The technical and professional capacity of the tenderer to undertake the research work described above shall be evaluated and verified on the basis of the following:

- a declaration by the applicant certifying its technical capacity and the ability of the team to provide the services;
- a separate document clearly describing the tasks allocated to each team member during this project, and an explanation of how each person meets the mentioned selection criteria;

- a separate list containing the CVs of the team members and a list of the main work and/or articles published by all the experts involved in the project over at least the last five years and which relate to the subject of the tender;
- firm declarations of commitment, signed and dated by persons external to the company who wish to participate in the project.

In the case of tenders from groups of service providers/suppliers, the following are required:

- precise identification of the contractor who will be responsible for signing the contract, and
- written confirmation from each member of the group of service providers/suppliers that they would be willing to participate in the execution of the contract, including a brief description of their role(s).

Bids considered by the European Commission not to meet the above-mentioned requirements on financial and operational capacity will be eliminated without further assessment.

16- Award criteria

The contract will be awarded to the tenderer offering the best quality/price ratio, taking account of the following criteria:

(1) Quality of the tender

1. How well the assignment's nature, its context and the results to be achieved have been understood (20%);
2. the qualitative assessment of the tender (40%), in particular the presentation of the overall working method and the ability to consult and cooperate with all those involved;
3. work organisation (40%), in particular the administrative and logistical tasks involved (including the symposium and the conference), and the feasibility of the proposed time schedule. This criterion also covers the clarity and consistency of the work programme and the structure of the entire team in relation to the identification and distribution of tasks.

(2) Price

It should be noted that the contract will not be awarded to any tender receiving less than 70% for the award criteria.

The points total will then be divided by the price, with the highest-scoring bid being chosen.

17 – Content of tenders

The tenderer must provide all the information and documents necessary to enable the Commission to conduct an appraisal of the tender on the basis of the exclusion, selection and award criteria.

The tender must be presented in three separate parts:

- 1) a first part containing all the administrative information, namely:
 - a) date of the bid for the provision of services;
 - b) name of tenderer, full address, telephone and fax numbers and e-mail address;
 - c) the legal identity form, duly completed³;
 - d) legal status;
 - e) identification of the tenderer's headquarters or domicile (presented with the supporting documents acceptable under the appropriate national law);
 - f) date of establishment or registration;
 - g) the name and function of the contractor's legal representative (i.e. the person authorised to act on behalf of the contractor vis-à-vis third parties);
 - h) VAT number or proof of exemption;
 - i) social security number;

³ This form is available at the following address: http://europa.eu.int/comm/budget/execution/tiers_en.htm

- j) the declaration required under "Exclusion criteria and supporting documents";
- k) details of the tendering organisation's structure;

2) a second part presenting the technical content of the tender, including specific information on the technical and professional requirements, as listed in point 15, namely:

- a) a declaration by the applicant certifying its technical capacity and the ability of the team to provide the services;
- b) a separate document clearly describing the tasks allocated to each team member during this project, and an explanation of how each person meets the mentioned selection criteria;
- c) a separate list of the CVs of the team members and a list of the main work and/or articles published by all the experts involved in the project over at least the last five years and which relate to the subject of the tender;
- d) firm declarations of commitment, signed and dated by persons external to the company who wish to participate in the project.

In the case of tenders from groups of service providers/suppliers, the following are required:

- e) precise identification of the contractor who will be responsible for signing the contract, and
- f) written confirmation from each member of the group of service providers/suppliers that they would be willing to participate in the execution of the contract, including a brief description of their role(s).

3) a third part containing the financial part of the tender, including:

- a) the details of the proposed price, presented in the format set out in Annex III to the attached draft contract;
- b) a financial identification form (bank identification form), duly completed, signed and stamped by the bank;
- c) proof of turnover in the last financial year for which accounts have been closed at least equivalent to 75% of the proposed price of the contract;
- d) the balance sheets and profit and loss accounts for the last two years for which accounts have been closed, where publication of the balance sheets is required under the company law of the country in which the service provider is established. In the case of tenders from consortia, this certificate must be provided by each member of the consortium;
- e) a statement of the undertaking's overall turnover and its turnover in respect of the services to which the contract relates for the previous two financial years. In the case of tenders from consortia, this certificate must be provided by each member of the consortium;
- f) a bank declaration providing evidence of the tenderer's financial capacity. In the case of tenders from consortia, this certificate must be provided by each member of the consortium.

18 - Submission of tenders

Tenders must:

- 1) be signed by the tenderer's legal representative;
- 2) be submitted in triplicate (i.e. one original and two copies);
- 3) contain all the information required above (points 14, 15, 16 and 17);
- 4) be clear and concise;
- 5) be submitted in one of the official languages of the European Union;
- 6) be delivered according to the requirements set out in the letter of invitation to tender and within the time limit indicated therein (all addresses, dates and deadlines are indicated in this letter).

19- Additional provisions

Completing the adjudication or the invitation to tender procedure in no way obliges the Commission to award the contract.

The Commission shall not be liable for any compensation with respect to tenderers whose tenders have not been accepted. Nor shall it be liable in the event of its deciding not to award the contract.

Expenses incurred in respect of the preparation and presentation of tenders will not be refunded.

No information of any kind will be given on the state of progress with regard to the evaluation of tenders.

All documents submitted by tenderers will become property of the European Commission.

