

ETUC call for tenders

Expert study on competition law from a trade union perspective, including support for a training and thematic workshop

This is a call for a subcontractor to provide expertise within the context of the competition law pillar of the ETUC project ETUCLEX. The ETUCLEX project aims to support and develop the capacities of the ETUC network of legal experts. The contract concerns the elaboration of an expert study on competition law from a trade union perspective, as well as providing support for one training session and one thematic workshop for legal experts from ETUC affiliated organisations.

The ETUC will publish the call on its website, on 26 July 2021, and keep it online for 28 calendar days. **The deadline for submission of bids is 23 August 2021.**

1. Background and objectives of the project

The ETUC has committed to take on a more active role in the discussions on competition policy with social partners, civil society organisations, Member States and EU institutions. As a priority for the coming years, the ETUC has identified the need to work for more policy coherence between EU competition law and employment, social and industrial policies.

Given the ongoing review of the EU competition legal framework under the current institutional cycle, there is a growing momentum to promote a more holistic, inclusive and sustainable approach to competition law. Policy and decision-makers increasingly recognise that EU competition policy must go hand in hand with social rights, climate objectives and a competitive industry that innovates, creates jobs and contributes to sustainable development. EU competition policy cannot act in isolation from other policy areas but is bound by the same fundamental principles of the Treaties as all other policy fields.

Against this background, the dedicated ETUCLEX project pillar aims to address the interrelations and possible tensions between EU competition law on the one hand and industrial, employment and social policies on the other. It builds on and further explores some of the key issues identified in the [Resolution for a More Sustainable and Inclusive Competition Policy](#) adopted by the ETUC Executive Committee in March 2021.

The activities and outcomes of the project pillar on competition should enable the ETUC and its affiliates to develop and frame policy messages and proposals on how EU competition law could be revisited and adapted to become more sustainable and inclusive, more effectively taking into account also workers', trade union and social rights.

More specifically, the competition pillar of the ETUCLEX project aims to:

- 1) Analyse and evaluate the role of EU competition law in relation to social and industrial policies, with a particular focus on its impact on and interplay with labour law, workers' and trade union rights.
- 2) Inform and equip trade unions with the necessary knowledge, tools and arguments to actively participate in policy discussions on competition issues, helping them bring trade union and

workers' perspectives into the discussions on EU competition law.

- 3) Assess and identify how EU competition policy and its legal framework could be reviewed and adapted to become more inclusive and sustainable, better promoting the overarching values, principles and objectives of the EU as well as internal policy coherence, including the respect for fundamental social, workers' and trade union rights.

2. Tasks to be performed by the subcontractor

As part of the ETUCLEX project, the subcontracted expert will be required to conduct a study in the field of EU competition law. In connection to this research, the expert will also be expected to support a 1.5-day training session for trade union legal experts on the fundamental concepts of competition policy as well as a 1.5 day thematic workshop on competition law with a view to explore trade union avenues and policy recommendations. **The research will start in September 2021 and will be concluded by November 2022.**

The three deliverables of the expert should meet the following requirements in terms of aim, scope and implementation:

Study on competition law from a trade union perspective

The expert study should explore trade union approaches to the EU legal framework on competition, with a focus on mergers and antitrust. In particular, the study should elaborate on how competition law could better accommodate social concerns and contribute to sustainability, quality employment and just transitions as part of the wider EU industrial policy agenda. In this regard, the issue of how to effectively address social impacts of monopsony power will be of key interest.

Linked to this, the study should also identify possible synergies and conflicts with social issues, so as to explore avenues for more policy coherence, with a view to promote more inclusive and sustainable competition policies. This is particularly relevant in relation to issues such as workers' information, consultation and participation rights, collective bargaining, the fight against unfair competition and social dumping.

The study should be conducted in the form of desk research and amount to approximately 50 - 70 pages. The preliminary findings of the study should help preparing the dedicated training on fundamental concepts of competition law from a trade union perspective. Likewise, the outcomes of the study should feed into a discussion paper drafted in collaboration with the ETUC ahead of the thematic workshop. In follow-up to the workshop, the expert's discussion paper to be integrated into the final report.

The study should run approximately from September 2021 to November 2022. The preliminary findings of the study should be presented at the ETUC Labour and Internal Market Legislation Committee meeting in spring 2022. The main outcomes and policy recommendations should be presented at the ETUC annual NETLEX conference in autumn 2022.

Trade union training on fundamental concepts of competition law

The expert should contribute to delivering a training for trade union legal experts on fundamental concepts of competition law. The training should partly build on the preliminary findings of the study with a view to allow trade unions to better situate and evaluate competition issues in relation to

other policy areas, identifying potential synergies and conflicts. Analysing fundamental concepts of EU competition law, such as undertaking, relevant market, consumer welfare, abuse of dominance and monopsony power will be key in understanding the relevance of EU competition policy in relation to social, workers' and trade union rights. In addition to mergers and antitrust, the training could also offer affiliates a basic understanding of trade union issues in relation to State aid and services of general economic interest.

The training should take place over 1.5 days, in the spring of 2022, gathering approximately 30 trade unions legal experts and other relevant stakeholders. The target group includes ETUC national affiliates and the European trade unions federations, as well as invited researchers, policy-makers and practitioners.

The training should combine thematic sessions in a plenary format with break-out sessions where the participants get to discuss and apply fundamental concepts of competition law to situations of relevance for workers and trade unions, such as the place of workers in mergers and in the definition of relevant markets, and approaches for identifying and addressing monopsony powers.

Thematic workshop for more inclusive and sustainable competition policies

The external expert should support a thematic workshop partly building on the outcomes of the study and the previous training on fundamental concepts of competition law from a trade union perspective. It should allow participants to further discuss the perspective of workers and the role of trade unions in competition policy. Through the collaboration of the ETUC, its affiliates and the subcontracted expert, this workshop should serve to identify policy pointers and recommendations for more inclusive and sustainable competition policies.

The workshop should take place over 1.5 days, in the autumn of 2022, gathering approximately 30 trade union legal experts and other relevant stakeholders. The target group includes ETUC national affiliates and the European trade union federations, as well as invited researchers, policy-makers and practitioners. Most sessions of the workshop will take place in a plenary format, complemented by break-out sessions allowing for brainstorming and critical analysis in smaller groups.

The workshop will cover two thematic areas:

- The role of EU competition law in industrial policy, in particular with regard to implications in terms of employment, just transition and sustainability.
- The relationship between EU competition law and social policy, with particular regard to workers' information, consultation and participation rights, abuse of dominance and employer monopsony power, collective bargaining, the fight against unfair competition and social dumping.

Ahead of the workshop, the external expert should in collaboration with the ETUC draft a discussion paper outlining the main findings of the finalised study with a view to frame the discussions for the workshop. In follow-up to the workshop, this paper should lay the basis for the final report of the competition project pillar. To this end, the expert should support the ETUC with summarising the main outcomes of the project and formulating the elaborated policy recommendations.

2.1 Implementation of the project deliverables and activities

In summary, the subcontracted expert will be expected to contribute to the implementation of the above-mentioned deliverables and activities of the competition law pillar of the ETUCLEX project in the following ways:

- Participate periodically in meetings of the steering committee of the project, to discuss the study and its content and to assess the developments and the ongoing work on the project, including the training and the workshop;
- Identify, together with the steering committee of the project, the relevant themes and speakers for the training and the workshop;
- Contribute to the training by preparing training materials and delivering the relevant sessions linked to the study;
- Contribute to the workshop by presenting the outcomes of the study and assisting in the formulation the policy recommendations.
- Produce a study (approximately 50 - 70 pages)
- In collaboration with the ETUC draft a discussion paper for the workshop, also laying the basis for the final report, summarising the main findings and formulating policy-recommendations (approximately 4 - 8 pages)
- Present the project at an ETUC Committee meeting in spring 2022 and the study at the ETUC annual NETLEX conference in autumn 2022.

3. Expertise, experience and skills required

Sound expertise is required on the following issues:

- Expert knowledge in the field of EU competition law and its role in industrial policy, in particular with regard to implications in terms of employment, just transitions and sustainability.
- Expert knowledge of the relationship between EU competition law and social policy, with particular regard to workers' information, consultation and participation rights, collective bargaining, the fight against unfair competition and social dumping.
- Good understanding of the European trade union movement.
- Good understanding of the functioning of EU institutions and EU policy-making.

Sound experience is required in the following areas:

- Experience in working on European level projects;
- Experience in carrying out in-depth research, including legal research and overviews, preferably relating to EU competition law and trade union issues.
- Experience in writing research reports containing analysis of legal frameworks and meaningful policy recommendations.
- Experience in preparing and delivering trainings and workshops that include both plenary and break-out formats.
- Successful track record of delivering research projects, with EU institutions and/or European stakeholders (social partners, NGOs, etc.).

Skills required:

- Proven research and presentation skills (in English).
- Proven skills in designing and delivering training sessions to a professional crowd.

- Ability to work within specified deadlines and to respect budgetary limits.
- Ability to work in a multicultural context and understanding of different industrial relations culture & traditions.
- Good administration and project management skills.

4. Time schedule and reporting

The subcontractor will be asked to perform all tasks including those in Section 2 by December 2022.

Given the circumstances due to the evolving Covid-19 crisis and the length of the project, dates such as those for the workshops and conferences may vary, possibly affecting the timeline of the project and thus the deadlines for deliverables.

5. Payment

The total maximum budget available for the fees of the subcontractor is as follows:

Contract with ETUC	
Main activities and Meetings	
<ul style="list-style-type: none"> • Draft a study (50 – 70 pages). • Prepare training session material. • Support a training session. • Support a thematic workshop and the formulation of policy recommendations • Contribute to the drafting of a discussion paper, to be integrated into the final report with outcomes and recommendations (4 – 8 pages) • Present the project and the results of the study at two ETUC events 	
Total budget for the Expertise	28 000 € (VAT and all taxes included)

The subcontractor will be remunerated in various instalments (advance and final payment). This amount covers the fees but does not include the travel and subsistence costs incurred for attending project meetings (such as Steering Committee meetings and Conferences). These will be covered by ETUC on the basis of EU rules & thresholds (see the EC table of maximum amounts per EU member state).

6. Selection criteria

The selection criteria are:

- Verifiable expertise, experience and skills, as required and described in part 3 of this call;
- Quality of the methodology proposed in the technical proposal;
- Proven track record of ensuring the quality of written materials produced, both in terms of content and format (i.e. previous research/publications), in the relevant subjects specified in this call for tenders;
- Price/quality ratio;

7. Form, structure and content of the tender

Tenders must be written in English. They must be signed by the tenderer or his/her duly authorised representative and be perfectly legible so that there can be no doubt as to words and figures. Tenders must be clear and concise and assembled in a coherent fashion.

Since tenderers will be judged on the content of their written bids, they must make it clear that they are able to meet the requirements of the specifications.

All tenders must include at least two sections:

ii) Technical proposal

The technical proposal must provide all the information needed for the purpose of awarding the contract, including:

- Specific information covering the technical and professional capacity, as required, in particular:
 - Description of relevant professional experience with emphasis on the specific fields covered by the invitation to tender;
 - Detailed curriculum vitae of the main expert and of any other team member;
 - A selection of the main works and/or articles published by all the experts involved, in relation to the relevant subjects specified in this tender.
- Specific information concerning the proposed methodology for delivering the tasks listed in part 2 of this call.

ii) Financial proposal

Prices of the financial proposal must be quoted in euros, including if the subcontractor is based in a country which is not in the euro-area. As far as the tenderers of those countries are concerned, they cannot change the amount of the bid because of the evolution of the exchange rate. The tenderers choose the exchange rate and assume all risks or opportunities relating to the rate fluctuation.

Prices must be fixed amounts and shall not include travel expenses and daily allowances for the attendance to the Steering Committee meetings and other project events which will be covered by ETUC on the basis of EU rules & thresholds.

The maximum amount available for this contract is EUR 28,000 (VAT and all taxes included).

Prices shall be fixed and not subject to revision during the performance of the contract.

8. Award Criteria

The contract will be awarded to the tender offering the best value for money, taking into account the specific objectives, requirements and selection criteria of the tender. The principles of transparency and equal treatment will be respected with a view to avoiding any conflicts of interest.

9. Content and selection of the bids

This call for tenders will be published on the ETUC website on 26 July 2021 and will be kept online for 28 calendar days. Offers must be sent at the latest on 23 August 2021. Offers must be sent to ETUC, in electronic format (by e-mail to amartin@etuc.org) and refer to our “Call for Tenders – ETUCLEX Project”.

A selection committee will be formed comprising 3 representatives of the ETUC. The committee members will evaluate the tenders that have been deemed admissible. An evaluation report and classification of participation requests will be drawn up, dated and signed by all the members of the evaluation committee and kept for future reference.

This report will include:

1. The name and address of the contracting authority, the purpose and value of the contract;
2. The names of any excluded candidates and the reasons for their rejection;
3. The names of candidates selected for consideration and the justification for their selection;
4. The names of candidates put forward and justification of their choice in terms of the selection or award criteria.