

Neighbourhood Co-operation Priorities for the Kyrgyz Republic 2015-2017

Co-operation activities
on Council of Europe's conventions
in criminal matters

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE



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I. Introduction

At its 121st Session (11 May 2011), the Committee of Ministers took note of the Secretary General's proposals concerning Council of Europe (CoE) policy towards neighbouring regions, and invited him to draw up action plans for the implementation of this policy, for approval by the Committee of Ministers.

At its 124th Session (6 May 2014), the Committee of Ministers welcomed the progress made in the implementation of the CoE policy towards neighbouring regions and expressed its determination to continue developing the policy on the basis of the CoE's values.

The CoE policy follows three main objectives: to facilitate the political transition to democracy; to help promote good governance on the basis of the relevant CoE standards and mechanisms; and to reinforce and broaden the regional work of the CoE in combating transfrontier and global threats.

To that end, a general framework for co-operation has been put in place, providing in particular for: dialogues for co-operation with neighbouring countries and implementation of demand driven priorities for co-operation.

The CoE policy towards neighbouring regions is open to the countries of Central Asia.

The beginning of CoE relations with Kyrgyzstan dates back to 1993 when the country obtained observer status with the Venice Commission (full membership in 2004).

Following the introduction of the CoE neighbourhood policy the Kyrgyz Republic expressed interest in co-operation within that framework and in particular in the conclusion and implementation of an agreement concerns Neighbourhood Co-operation Priorities (NCP).

In addition, in April 2014 the Parliamentary Assembly of the Council of Europe granted the Partner for

Democracy Status to the Parliament of the Kyrgyz Republic for which it had applied in October 2011.

An intensive dialogue between the CoE and Kyrgyz authorities resulted in the draft of a comprehensive document entitled "Neighbourhood Co-operation Priorities for the Kyrgyz Republic 2015-2017".

This document covers the following priority areas:

- ▶ Promotion of a common legal space in order to bring Kyrgyz legislation into line with CoE standards, with a view to the possible ratification of a certain number of the Organisation's conventions open to non-member States, in particular in criminal matters;
- ▶ Improvement of the quality and efficiency of the justice system through a needs assessment with a view to drawing up a co-operation programme including training of judges, prosecutors and legal professionals and the fight against corruption in the judiciary;
- ▶ Improvement of the quality and efficiency of the constitutional justice system, electoral administration and access to justice, in particular in co-operation with the Venice Commission;
- ▶ Preventing and combating corruption in order to bring Kyrgyz legislation into line with CoE standards, with a view to the possible ratification of a certain number of the Organisation's conventions in this field, and possible accession to GRECO;
- ▶ Improvement of the education system with emphasis on human rights education and education to democratic citizenship and the launch of a School of Political Studies;
- ▶ Promotion of democracy through co-operation with the Parliamentary Assembly of the CoE and development of local and regional networks.



Priority areas

Promotion of a common legal space

Overall objective: Kyrgyzstan's legal framework, the functioning of the justice system and institutional practice regarding international co-operation in criminal matters are brought in line with international and European standards and best practice. This is done in order to promote and facilitate possible access by the Kyrgyz Republic to CoE conventions in criminal matters.

Participation in most CoE treaties is open to accession by non-member States, provided that they have been formally invited to accede by the Committee of Ministers of the CoE. The modalities are specified in the relevant provisions of each treaty. The Kyrgyz Republic has expressed its interest in accession to two CoE conventions designed to facilitate international co-operation in criminal matters: the European Convention on Mutual Assistance in Criminal Matters (ETS 30) and its additional protocol (ETS 99) and the European Convention on Extradition (ETS 24).

This activity shall be introduced by a Seminar to present accession procedures to CoE conventions: a detailed presentation of these conventions, as well as a number of CoE conventions, which can be of the interest of the Kyrgyz Republic, and follow-up activities as relevant (i.e. detailed presentations, legislative expertise).

Proposed activities are detailed below, according to a methodology involving two consecutive phases:

- A needs assessment which includes a detailed analysis of the legal framework for international co-operation in criminal matters and the level of the current practice of the Kyrgyz Republic with regard to international co-operation in criminal matters; review of relevant legislation (i.e. criminal procedural code, criminal code) and practice of the Kyrgyz Republic and drafting of recommendations on how to bring them in line with European standards, specifically those concerning international co-operation in criminal matters.

- Capacity building activities and awareness raising on the Conventions and their mechanisms among practitioners involved in international co-operation in criminal matters (judges, prosecutors, civil servants and lawyers) with the aim of ensuring implementation of obligations undertaken by the Kyrgyz Republic in case of accession to the CoE conventions. Concrete activities will be conducted: drafting sessions to help the authorities draw up and implement laws and policies relevant for co-operation in criminal matters in compliance with

international and European standards; training courses allowing participants to acquire new knowledge in this field and training-of-trainers courses providing groups of national trainers with the substantive knowledge and methodological skills on topics related to international co-operation in criminal matters; expert working groups (national, regional) to allow for the exchange of best practice and peer reviews in this area; conferences, particularly to discuss with larger audiences' expert recommendations, early implementation of recommendations and achievement of common positions on co-operation in criminal matters; study visits to provide first-hand practical experience to complement the theoretical knowledge and help participants examine possible changes to their approaches and attitude, as well as facilitating networking.

This approach will be governed by fundamental principles of international co-operation in criminal matters: knowledge of the applicable legal instruments and the adequate use of the available tools to facilitate co-operation. In order to facilitate the potential accession of the Kyrgyz Republic to these relevant conventions these activities aim to foster mutual trust between the Kyrgyz Republic and the European Parties to these conventions in each other's legal framework and judiciary system with regard to common standards in the field of human rights and rule of law.

Justice reform

Overall objective: The functioning of the justice system is thoroughly assessed in order to devise concrete co-operation support to Kyrgyz authorities in improving the quality and efficiency of the justice system. Training is provided to judges, prosecutors and legal professionals in order to increase their capacity to apply international and European human rights standards in their daily work. Assistance is provided to Kyrgyz authorities in order to strengthen capacities to prevent and fight corruption within the justice sector.

- A Fact-finding mission of CoE's experts in the justice field will take place in order to meet Kyrgyz authorities and international partners active in the field of the reform of the judiciary (in particular the EU and USAID) and also to raise awareness on the methodology used by the European Commission for the Efficiency of Justice (CEPEJ).

- Future co-operation could address the following issues:

► **Improvement of the quality and efficiency of the justice system**

As a first step, the CoE will make available methodology and expertise of CEPEJ and a targeted evaluation will be carried out of the current judicial system with a view to drawing up a co-operation programme. This will be complementary to the work undertaken by the EU and other donors on the ground to reinforce and stabilise the strategic framework for justice reform in the Kyrgyz Republic. The evaluation will initially focus on pilot Courts to be identified jointly with Kyrgyz authorities, and could be then expanded to a larger assessment of the functioning of the judiciary. The assessment will include recommendations and suggestions for their implementation. The following aspects could be addressed: length of proceedings ; organisational structure, administration of justice and regulatory framework of the judiciary (support for the further improvement thereof through the development and expert evaluation of a new regulatory framework for the administration of justice); staff and their productivity; services provided by the courts, their needs, their judicial and financial resources, etc.

► **Increase capacity of judges, prosecutors, legal professionals, etc. to apply international and European human rights standards**

Training of judges, prosecutors and legal professionals will be provided in order to increase their capacity to apply international and European human rights standards in their daily work. Training of trainers will be ensured in order to achieve a multiplying effect. To ensure sustainability of the trainings, the CoE will make sure that these aspects are included into the curricula of Law Schools/Academies in the Kyrgyz Republic.

Since 2004 the Kyrgyz Republic is a member of the CoE's enlarged partial agreement European Commission for Democracy through Law – Venice Commission.

■ Building on the regional joint programme ("Supporting constitutional Justice, Access to Justice and Electoral Reform in Countries of Central Asia"; March 2013 – February 2015) and on the country-specific joint programme ("Support to the Kyrgyz authorities in improving the quality and efficiency of the Kyrgyz Constitutional justice system"; November 2013 – April 2015) further co-operation activities will be identified.

■ The Venice Commission will provide assistance to the Central Electoral Commission i.e. in improving the voter's lists, training CEC officials. The Venice Commission is also ready to provide assistance to authorities, including the Kyrgyz Parliament, in reviewing the electoral legislation (preparation of legal opinions, deployment of experts helping the CEC to draft regulations) upon request; to advise on specific issues- participation of political parties (including financing issues) and NGOs in electoral campaigns and handling of electoral complaints and appeals.



Co-operation with the Venice Commission

Overall objective: Within two joint programmes with the EU, the functioning of the constitutional justice system is assessed in order to devise concrete co-operation support to Kyrgyz authorities including the Kyrgyz Parliament in improving the quality and efficiency of the constitutional justice system, electoral administration and access to justice in line with applicable European and international human rights standards. In the field of elections a specific project could be developed in order to respond to the needs expressed by Kyrgyz authorities in preparation of legislative elections in 2015.

Preventing and combating corruption and economic crime

Overall objective: Kyrgyzstan's legal framework regarding fight against corruption and economic crime is assessed and brought in line with international and European standards and best practice with the aim of facilitating accession to the CoE conventions in this field and to the Group of States against corruption (GRECO).

This activity shall be introduced by a Seminar to present accession procedures to CoE conventions: Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol to the Criminal Law Convention on Corruption (191), Civil Law Convention on Corruption (ETS 174) and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198). Accession procedures to GRECO will be presented as well.

Proposed activities are detailed below:

- Study visit by Kyrgyz representatives to Strasbourg in order to raise awareness to CoE standards in the field of fight against corruption, present accession procedures to these CoE conventions and GRECO and have an informal exchange of views during one of GRECO's plenary meetings in order to provide an insight into country's endeavours to fight corruption, to explore possibilities for further cooperation and the obligations that would arise for the Kyrgyz Republic in the event of accession to these mechanisms.

- Review of the institutional, legal and policy framework and practice for fighting corruption and money laundering, following the monitoring methodologies of GRECO and MONEYVAL; submission to the authorities of recommendations on how to bring them in line with European standards; enhance capacities in particular to carry out corruption risk assessments for public service sectors within the public administration and other vulnerable sectors; and awareness raising on the Conventions and their mechanisms.

Education

Overall objective: Raise awareness on CoE's standards and work in the field of education and culture in order to identify the best way how to support Kyrgyz authorities in its reform efforts in particular in the field of education. The CoE could in particular assist the Kyrgyz Republic in the field of human rights education and education to democratic citizenship and help the Kyrgyz Republic in developing curricula in this respect.

Education is one of the main reform areas identified by Kyrgyz authorities.

- A study visit of a Kyrgyz delegation to the CoE to get acquainted with CoE's intergovernmental work on education and on culture is highly recommended; the following topics will be covered:

- ▶ possible participation of the Kyrgyz Republic in existing CoE networks; observer status in the steering committees, programmes on human rights education and education to democratic citizenship, on the reform of higher education, the Pestalozzi programme etc.

- ▶ presentation of conventions in the field of culture and education open for accession by non-member states;
- ▶ workshop on the mechanisms of recognition of qualifications and in particular on the Convention on the Recognition of Qualifications concerning Higher Education in the European Region (CETS 1965) of which the Kyrgyz Republic is already a participating country.

The visit will devise next co-operation steps to support the on-going reforms in the field of education.

- Future co-operation could address the following issues:

- ▶ educational policy reform in the Kyrgyz Republic, including on higher education and on some specific areas such as qualifications and the development of curricula on human rights education;
- ▶ educational policies and teaching practice relating to education for democratic citizenship and human rights, including training of trainers and providing of teaching/learning materials;
- ▶ promotion of an inclusive education system;
- ▶ promotion of a quality education system;
- ▶ fight against corruption in education.

Training of new generations of leaders: School of Political Studies

Overall objective: Launch a School of Political Studies in the Kyrgyz Republic and train around 40 participants per year among the new generation of public leaders in the field of human rights, rule of law and democracy.

The CoE Schools of Political Studies train future generations of political, economic, social, cultural and environmental leaders in countries in transition. They run seminars and conferences on democracy, human rights and the rule of law. The first School was created by civil society activists in Moscow in 1992 and since then 18 other Schools have been created. The Schools' Network now covers the whole of Eastern and South-Eastern Europe, the Caucasus and, since 2012, the Southern Mediterranean region and countries of the Visegrád Group.

— Launch a School of Political Studies which will become an integral part of the existing network of schools. The School will train 30 to 40 participants per year among the new generation of public leaders and particularly focus on legal education in order to improve public awareness of and trust in the law. Some members of the School will participate in relevant events organised by the CoE (i.e. World Forum for Democracy).

— Improve awareness of and respect for the law among citizens of the Kyrgyz Republic.

Co-operation related to the Partner for Democracy status with the PACE granted to the Parliament of the Kyrgyz Republic

Overall objective: To support the work of the Parliament and other authorities of the Kyrgyz Republic on specific issues defined by the PACE as being of key importance for strengthening democracy, the rule of law and the respect of human rights and fundamental freedoms in the country.

— Concrete co-operation to support the work of the Parliament of the Kyrgyz Republic could be included in the co-operation priorities with this country, following the granting of Partner for Democracy status to the

Parliament of the Kyrgyz Republic by the Parliamentary Assembly of the CoE. Such co-operation will aim above all at familiarising the Kyrgyz Parliament with European parliamentary and political practices, and at contributing to strengthening democratic processes. Specific issues defined in the Resolution 1984 (2014) granting Partner for Democracy status will be incorporated in the bilateral programmes of co-operation between the CoE and the Kyrgyz Republic.

Local and Regional Democracy

Overall objective: Establish links with Kyrgyz representatives of local and regional authorities and representatives of local and regional authorities of European countries and raise awareness to standards included in the Charter of Local Self-Government.

A delegation of Kyrgyz representatives is invited to attend an event of the Congress of Local and Regional Authorities in Strasbourg in 2015 in order to establish links with representatives of European countries and exchange on best practices. These exchanges will also allow to better understand the situation of local and regional governance in the Kyrgyz Republic. In the margin of the visit a seminar is organised in order to raise awareness to principles and standards included in the European Charter of Local Self-Government.



Co-operation Framework

Funding

Besides the CoE's contribution in terms of expertise, advice and coordination, the CoE's co operation with the Kyrgyz Republic will continue to be predominantly funded by extra budgetary resources.

The implementation of several activities in the scope of this document has already started, particularly in the framework of the Joint Programmes of the EU and the CoE "Support to the Kyrgyz authorities in improving the quality and efficiency of the Kyrgyz Constitutional justice system" and "Supporting Constitutional Justice, Access to Justice and Electoral Reform in the Countries Of Central Asia". Other joint programmes could also contribute to the implementation of the co-operation priorities identified for the period 2015-2017.

Following the current practice and in accordance with standard commitments under JPs, Steering Committees gathering the Kyrgyz authorities, the CoE and the EU will support, monitor and evaluate the implementation of the projects backed by the EU.

Some other priorities may be backed by voluntary contributions from member States of the CoE. In all cases, and as stated above, particular attention will be paid to coordination between the partners by ensuring regular consultations at different levels.

Methodology

A large variety of CoE tools will be employed to ensure successful co-operation, in particular:

- ▶ CoE Conventions open to non-member States and more generally CoE standards in priority areas;
- ▶ the long-standing expertise of several CoE instances (such as intergovernmental bodies, Venice Commission, PACE);
- ▶ the methodologies developed within the CoE to regularly assess and respond to "shared" challenges (such as GRECO, CEPEJ);
- ▶ the Partner for Democracy Status granted by PACE to the Parliament of the Kyrgyz Republic.

The working methods to put the CoE's expertise at the disposal of the Kyrgyz Republic include in particular:

- ▶ Support in assessing the existing legal and institutional framework in selected areas and in identifying needs and follow-up action;
- ▶ assistance with the drawing-up of new legislative texts, the revision of existing legislation, based on European and other international standards, networks of CoE's experts in key priority areas, CoE standards and reference documents;

- ▶ transferring knowledge and skills on specific subjects with a view to enhancing national capacities;
- ▶ facilitating the exchange of experience and good practices between Europe and partner countries of Central Asia benefiting from CoE co-operation projects as well as between the countries of the region, and creating relevant formal and informal networks.

Whenever appropriate, Kyrgyz experts will be closely involved in particular in the preparation of assessments and expertise, including through peer-reviews. This will also ensure that the projects proposed are adapted to the needs of the partner country. National partners are expected to closely co-operate with the CoE in the implementation of the projects. Their engagement entails in particular the active participation in meetings and activities and sharing of relevant information and data.

All the actions which will be implemented as part of this document will strive to ensure sustainability. In this regard, particular attention will be paid to pilot projects which can subsequently be rolled out, to the training of trainers, to the creation of professional networks of CoE experts and Kyrgyz beneficiaries and to the development of professional and institutional capacities.

Particular attention will also be paid to cross-cutting issues, in particular gender mainstreaming. For this purpose, specific Guidelines will ensure that gender mainstreaming is appropriately taken into consideration both in the planning and in the implementation of activities.

The implementation of the activities corresponding to the co-operation priorities should also facilitate the involvement of civil society where appropriate.

Reporting of implementation

The follow-up to the implementation of co-operation with the Kyrgyz Republic will be the responsibility of the Committee of Ministers of the CoE and notably its Rapporteur Group on External Relations (GR EXT). The GR-EXT will be regularly updated by the Secretariat on the progress of the programmes and projects. For this purpose the Office of the Directorate General of Programmes will prepare a mid-term stocktaking report and a final assessment report.

Follow-up and evaluation of the co-operation programmes' implementation will be jointly carried out by the CoE and the Kyrgyz authorities while meeting the requirements and conditions set by the various donors.

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.