

*Ministers' Deputies / Rapporteur Groups*

**GR-EXT**

**Rapporteur Group on External Relations**

**GR-EXT(2016)13** 16 August 2016.<sup>1</sup>

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**Neighbourhood Co-operation Priorities with the Kyrgyz Republic  
(2015-2017) – Interim implementation report**

Document prepared by the Office of the Directorate General for Programmes and the Directorate of External Relations

**Item to be considered by the GR-EXT at its meeting on 6 September 2016**

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**EXECUTIVE SUMMARY**

The Committee of Ministers adopted the “Neighbourhood Co-operation Priorities 2015-2017 for the Kyrgyz Republic” (Neighbourhood Priorities) at its 1218<sup>th</sup> meeting on 4 February 2015.

Developed jointly with the Kyrgyz authorities, the Neighbourhood Priorities aims to facilitate the political transition to democracy by helping the Kyrgyz Republic to tackle challenges related to human rights, the rule of law and democracy. The key priorities include the promotion of a common legal space, constitutional justice, elections, fight against corruption, education and local democracy.

The implementation of the Neighbourhood Priorities has been rather slow due in particular to the lack of funding. To date, only projects of the Venice Commission in the field of constitutional justice have received adequate financial support from donors. The overall Neighbourhood Priorities budget totals €3,400,000. Funding of only €150,000 has been secured (*pro rata* for 2015-2016) and €1,325,000 is under final negotiations with the European Union for projects in the areas of fight against corruption and elections. The implementation of the outstanding actions under the Neighbourhood Priorities is subject to additional funding.

The European Union remains the main donor for CoE's action in the Kyrgyz Republic. Additional support (€125,000) was provided by Finland and Turkey through voluntary contributions. In addition, the OSCE office in Bishkek has backed the participation of a Kyrgyz delegation to the CoE to discuss in particular issues related to the possible accession of this country to GRECO.

Despite these difficulties, the dialogue between the CoE and the Kyrgyz Republic within the framework of the neighbourhood policy has been pursued through regular and constructive contacts. Throughout the projects' implementation, the Kyrgyz authorities engaged in a constructive dialogue with the CoE which has taken place on a regular basis.

The co-operation with the CoE's Venice Commission is positively assessed as it has translated in concrete results. The Venice Commission issued two opinions on draft legislation: draft Law on the Electoral Code and draft Law on Non-governmental Organisations. As regards the latter, the Venice Commission found that the draft law represented a serious limitation to the rights to freedom of association and of expression. On 12 May 2016, the Kyrgyz Parliament rejected this draft, demonstrating its commitment to ensuring compliance with the relevant international standards in this area.

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<sup>1</sup> This document has been classified restricted until examination by the Committee of Ministers.

The Kyrgyz Parliament continues co-operation with PACE as Partner for Democracy. The Kyrgyz parliamentary delegation, led by the Vice-Speaker of the Kyrgyz Parliament, took part in several PACE sessions and in a number of Assembly Committees. Evaluation of the Partnership for democracy in respect of the Parliament of the Kyrgyz Republic will be carried out in autumn 2016.

Among the Central Asian States, only the Kyrgyz Republic shows continued commitment to democratic progress. The CoE intends to strengthen the co-operation with the Kyrgyz Republic in 2016-2017. The actions will focus on the assistance to the Kyrgyz authorities in the electoral field and fight against corruption. Additional funds would allow responding to the demand of the Kyrgyz authorities to ensure further co-operation with the Venice Commission, facilitate the creation of a common legal space, support local democracy, education and civil society.

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**LIST OF ACRONYMS AND ABBREVIATIONS**

CEC	Central Electoral Commission
CM	Committee of Ministers of the Council of Europe
CoE	Council of Europe
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EU	European Union
EUD	European Union Delegation
GIZ	German Corporation for International Co-operation ( <i>Die Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH</i> )
GPO	General Prosecutor's Office
GRECO	Group of States against Corruption
GR-EXT	Rapporteur Group on External Relations
JP	/EU/CoE Joint Programme
NGO	Non-governmental Organisation
Neighbourhood Priorities	Neighbourhood Co-operation Priorities for the Kyrgyz Republic 2015-2017
ODGP	Office of the Directorate General of Programmes
ODIHR	Office for Democratic Institutions and Human Rights (OSCE)
OSCE	Organisation for Security and Co-operation in Europe
PACE	Parliamentary Assembly of the Council of Europe
UN	United Nations
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Emergency Fund
Venice Commission	European Commission for Democracy through Law

## INTRODUCTION

Co-operation between the Kyrgyz Republic and the Council of Europe (CoE), in line with the CoE's policy towards its neighbouring regions<sup>2</sup>, aims to assist the Kyrgyz Republic to facilitate the political transition to democracy by helping the country tackle challenges related to human rights, the rule of law and democracy.

In-depth consultations between the CoE and Kyrgyz authorities resulted in a comprehensive document entitled "Neighbourhood Co-operation Priorities 2015-2017 for the Kyrgyz Republic" (Neighbourhood Priorities). The document was adopted by the Committee of Ministers of the Council of Europe (CM) at its 1218<sup>th</sup> meeting on 4 February 2015.

The Neighbourhood Priorities cover the following priority areas:

- Promotion of a common legal space in order to progressively bring Kyrgyz legislation into line with CoE standards, and with a view to facilitate accession to certain CoE 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 through 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 creation of a School of Political Studies;
- Promotion of democracy through co-operation with the Parliamentary Assembly and development of local and regional networks.

## OVERALL ASSESSMENT

The effective implementation of the Neighbourhood Priorities has been slow due in particular to the lack of funding. To date, only projects implemented by the CoE's Venice Commission have received adequate financial support from donors.

Despite these difficulties, the dialogue between the CoE and the Kyrgyz Republic within the framework of the neighbourhood policy has been pursued through regular and constructive contacts. The interest of the Kyrgyz authorities in developing closer co-operation with the CoE has been reaffirmed by their participation in meetings related to the developing of new projects, in particular in the field of fight against corruption. Thanks to the support of the OSCE, a delegation of the Kyrgyz Republic has taken part in exchanges of views in Strasbourg with CoE officials to facilitate the understanding of a number of key conventions and to discuss issues related to the possible future accession of the Kyrgyz Republic to GRECO.

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<sup>2</sup> <http://www.coe.int/en/web/programmes/neighbourhood-cooperation>.

In addition, relevant Kyrgyz authorities took active part in country-specific and regional CoE joint programmes (JP) with the European Union (EU) implemented by the Venice Commission. This concerns mainly the field of constitutional justice. CoE actions in this area contributed to the long-term goal of further developing the rule of law in Central Asian states in general and in the Kyrgyz Republic in particular by assisting the authorities to develop a stable and democratic legal framework and practices in accordance with European and other international standards. CoE actions enhanced the target group's understanding of the implementation of European and international human rights standards including the European Convention on Human Rights (ECHR) and the case law of the European Court of Human Rights (ECtHR). This was achieved through a combined use of the tools available to the Venice Commission: from providing expert and legal opinions to the organisation of capacity-building and awareness-raising activities such as conferences, training sessions, seminars and study visits.

Throughout the projects' implementation, the Kyrgyz authorities were engaged in a constructive dialogue with the CoE and the impact of concrete actions undertaken by the Venice Commission can be regarded as positive and has been constantly increasing.

Overall, the Kyrgyz Republic has shown full commitment to democratic progress. The CoE pursues its efforts to raise funds in order to implement the Neighbourhood Priorities.

### **MODALITIES FOR IMPLEMENTATION AND CO-ORDINATION**

Responsibility for monitoring the implementation of the Neighbourhood Priorities lies with the Committee of Ministers, particularly its Rapporteur Group on External Relations (GR-EXT). The Secretariat kept the latter up to date with the progress made. The present report presents progress in the implementation of the Neighbourhood Priorities between February 2015 and June 2016.

Steps forward in implementing the co-operation priorities are being discussed between the CoE Secretariat and the Kyrgyz authorities.

Following the current practice and in accordance with standard commitments under JPs with the EU, the Steering Committee set up under the EU/CoE "Support to the Kyrgyz authorities in improving the quality and efficiency of the Kyrgyz Constitutional justice system" brought together the relevant Kyrgyz authorities, the CoE and the EU regularly to support and evaluate the implementation of the programme. Similar Steering Committees will be set up for all projects backed by the EU.

Gender equality is mainstreamed throughout the CoE's projects. In addition, the CoE promotes the active participation of civil society in project activities. For this purpose, the Guidelines on gender mainstreaming and Guidelines on CSOs participation in CoE's co-operation activities are also taken into account.

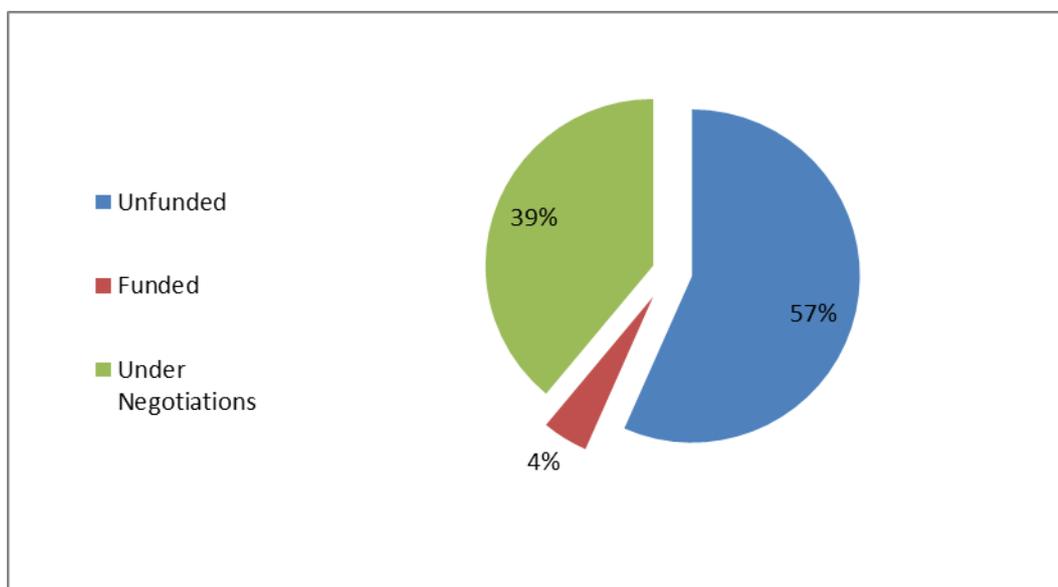
The CoE co-ordinates very closely on the ground with all main international actors in the field: the EU Delegation (EUD) in Bishkek, the Organisation for Security and Co-operation in Europe (OSCE) and its Office for Democratic Institutions and Human Rights (ODIHR), German Corporation for International Co-operation (GIZ) and with the United Nations entities, including the United Nations Development Programme (UNDP) and United Nations Children's Emergency Fund (UNICEF).

Coordination with the OSCE has been particularly constructive. The OSCE office in Bishkek has financed the participation of a Kyrgyz delegation from the Generals' Prosecutor Office to the CoE to discuss in particular issues related to key CoE conventions and to possible accession to GRECO (see Chapter 1 below).

### **FUNDING AND PARTNERS**

Both the identification of needs and the implementation of the activities have been conducted in close co-ordination with the CoE partners, primarily the EU, including its Delegation in Bishkek.

The overall Neighbourhood Priorities budget totals €3,400,000. Funding of only €150,000 has been secured and €1,325,000 is under negotiations<sup>3</sup> (see Figure 1). By far the biggest donor remains the EU. The EU/CoE JP “Support to the Kyrgyz authorities in improving the quality and efficiency of the Kyrgyz Constitutional justice system” was entirely funded by the EU (€500,000) and implemented by the CoE. The funding for the regional EU/CoE JP “Supporting Constitutional Justice, access to justice and electoral reform in the countries of Central Asia” was provided by the European Union (€400,000) and voluntary contributions from Finland (€125,000) and Turkey (€40,000).



**Figure - Funding at the Neighbourhood Priorities level as of June 2016**

The CoE is currently finalising negotiations with the EU, namely with the EUD in Bishkek, on two further projects in the areas of electoral support and fight against corruption with the total amount of €1,325,000.

The financial table covering the needs and secured funding is presented in Appendix.

## PROGRAMMING OUTLOOK

Once negotiations with the EU are finalised, CoE interventions in the Kyrgyz Republic will be further strengthened in 2016 and 2017. The actions will focus on the assistance to the Kyrgyz authorities in the electoral field and fight against corruption.

In the absence of additional funding, no other actions included in the Neighbourhood Priorities will be implemented.

## SECTOR REVIEW

### 1. PROMOTION OF COMMON LEGAL SPACE

Following the adoption of the Neighbourhood Priorities, a Kyrgyz delegation composed of two representatives of the General Prosecutor’s Office of the Kyrgyz Republic (GPO), accompanied by OSCE representative<sup>4</sup>, visited the Council of Europe (CoE) in March 2015 and in March 2016.

The first visit allowed the delegation to familiarize with key CoE conventions as well as with the modalities of joining these conventions. CoE conventions in criminal matters – European Convention on Extradition (CETS No.024) and European Convention on Mutual Assistance in Criminal Matters and its additional protocol (CETS No.030 and CETS No.099) – are of particular interests to the Kyrgyz authorities, as well as the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CETS No.126). The interest was reconfirmed during the second visit of the Kyrgyz delegation to Strasbourg in March 2016.

<sup>3</sup> These figures are *pro rata* for the 2015-2016.

<sup>4</sup> OSCE Office in Bishkek provided financial support to the two visits.

Possible accession to Group of States against Corruption (GRECO) was also discussed during the first visit. As a follow-up, in March 2016, the same GPO representatives took part in the exchange of views in the framework of the 71<sup>st</sup> Plenary GRECO Session and met with the President and the Executive Secretary of GRECO. The exchange of views during the plenary session provided an excellent opportunity for the Kyrgyz Republic to inform GRECO about the real steps the country undertakes to tackle corruption and to demonstrate a genuine interest in joining GRECO and discuss the procedure further.

The CoE remains ready to assist the Kyrgyz authorities to bring national legislation in 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.

## **2. JUSTICE REFORM**

Due to the lack of funding, there were no actions undertaken in this field during the reporting period.

## **3. CO-OPERATION WITH THE VENICE COMMISSION**

The Kyrgyz Republic has been a full member of the European Commission for Democracy through Law (Venice Commission) since 2004 (Observer since 1993). During the reporting period, the Venice Commission co-operated with the Kyrgyz Republic in the framework of two JPs with the EU (see points 3.1 and 3.2 below). In particular, the Venice Commission supported the authorities in enhancing the quality and efficiency of the constitutional justice system. It also worked with the authorities to ameliorate electoral administration and improve access to justice in line with applicable European and international human rights standards.

### **3.1. Quality and efficiency of the Kyrgyz Constitutional justice system**

In the framework of the country-specific JP "Support to the Kyrgyz authorities in improving the quality and efficiency of the Kyrgyz Constitutional justice system", and in close co-operation with the UNDP, the Venice Commission:

- Increased effectiveness and independence of the Constitutional Chamber of the Kyrgyz Republic (Chamber) through providing practical instruments and sharing experience;
- Built capacities of the Chamber to protect human rights and to ensure rule of law and division of powers;
- Contributed to the improvement of the Chambers' daily operations;
- Raised capacities of judges to apply European and international standards in their work;
- Strengthened mechanisms and procedures for co-operation and exchange of information between national institutions involved in protection of human rights and ensuring access to justice and rule of law.

The activities carried out in order to achieve the above-mentioned results included but were not limited to:

- Preparation of four legal opinions in the field of constitutional justice<sup>5</sup>;
- Participation of judges of the Chamber and members of the Kyrgyz parliament in four plenary sessions of the Venice Commission;
- Organisation of 14 seminars and judges and staff of the Chamber on topics directly related to their work;
- Organisation of three study visits for judges and staff of the Chamber to Strasbourg and to CoE member states;
- Organisation a series of multilateral trainings and seminars both the Kyrgyz Republic and outside;
- Organisation of four round tables with participation of civil society representatives and Venice Commission experts to raise awareness on the constitutional justice and share experience of other countries;
- Organisation of a visit of civil society representatives to the CoE in order to raise the awareness of the work of the Venice Commission and to discuss the concept and content of "*amicus curiae*" briefs;

<sup>5</sup> [http://www.venice.coe.int/WebForms/documents/by\\_opinion.aspx?lang=EN](http://www.venice.coe.int/WebForms/documents/by_opinion.aspx?lang=EN).

- Preparation of a video on the complaints procedure to the Chamber;
- Translation into Russian of the standard setting documents of the Venice Commission on constitutional justice and dissemination of these materials among participants in different activities.

This country-specific action was complemented by regional activities (see point 3.2 below).

### **3.2. Supporting constitutional justice (regional action)**

In the framework of the regional EU/CoE JP “Supporting constitutional justice, access to justice and electoral reform in the countries of Central Asia”, which was complementary to the country-specific project (see point 3.1 above), the Venice Commission was actively involved in all the processes happening in the Kyrgyz Republic as regards the constitutional justice. Special attention was paid to an attempt by the authorities to review the Constitution, which was strongly criticised by experts of the Venice Commission.

Bilateral co-operation within the regional action was limited to the preparation of two opinions<sup>6</sup> on draft legislation: draft Law on the Electoral Code and draft Law on Non-governmental Organisations<sup>7</sup> (NGOs). As regards the Law on NGOs, the Venice Commission found that the draft law under consideration represented a serious limitation of a number of fundamental rights such as the right to freedom of association and of expression. The opinion expressed strong reservations about a number of elements, such as the removal of the obligation for NGOs engaging in “political activities” and receiving financial support from foreign sources to register as “foreign agents”. The draft law was rejected by the Kyrgyz Parliament on third reading in May 2016. The rejection of the draft demonstrated the Parliament’s commitment to ensuring the law is in line with the relevant international obligations and standards.

The draft Law on the Electoral Code has not been adopted to date and the impact of the recommendations made by the Venice Commission is difficult to assess.

Additionally, in the framework of the project, representatives from the Kyrgyz Republic took part in all multilateral activities organised by the Venice Commission involving several countries of Central Asia.

### **3.3. Electoral assistance**

The Venice Commission remains ready to provide support to the Central Electoral Commission (CEC), i.e. in improving the voter’s lists and training CEC officials. The Venice Commission is also ready to provide assistance to the 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 and to advise on specific questions, i.e. participation of political parties (including party financing), electoral campaigns and handling of electoral complaints and appeals.

In September 2015, Venice Commission experts had a meeting with the Deputy Chair of the CEC of the Kyrgyz Republic, just a month before the Parliamentary Elections on 4 October 2015 with a view to discussing a new project supporting the CEC and the civil society in order to strengthen the electoral process, and thereby, trust in the electoral system.

The CoE is currently discussing with the EUD in Bishkek a new JP that would cover a wide range of elections-related issues. The JP is expected to be launched before the end of 2016.

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<sup>6</sup> Kyrgyz Republic sought the opinion of the Venice Commission 25 times in the history of the Venice Commission, an absolute leader in Central Asia.

<sup>7</sup> [http://www.venice.coe.int/WebForms/documents/by\\_opinion.aspx?lang=EN](http://www.venice.coe.int/WebForms/documents/by_opinion.aspx?lang=EN).

#### **4. PREVENTING AND COMBATING CORRUPTION AND ECONOMIC CRIME**

Negotiations on JP “Strengthen Prevention and Combating of Corruption in the Kyrgyz Republic” are currently being finalised with the EUD in Bishkek. As a part of programming and negotiation with the EUD, the CoE organised a scoping mission to Bishkek in November 2015 and discussed the content and implementation of the project with the EUD and the key relevant Kyrgyz institutions, including the office of the Prime Minister, Supreme Court, General Prosecutor’s Office, Ministry of Justice, Ministry of Economy, Ministry of Internal Affairs, State Security Service and State Personnel Service. A meeting was also held with the OSCE in order to discuss their possible involvement with the project. It is expected that the agreement with the EUD will be signed shortly and the project implementation will commence immediately. Co-operation in this area should facilitate the possible future accession of the Kyrgyz Republic to GRECO.

#### **5. EDUCATION**

Due to the lack of funding, there were no actions undertaken in this field during the reporting period.

#### **6. TRAINING OF NEW GENERATIONS OF LEADERS: SCHOOL OF POLITICAL STUDIES**

No discussions of the possible opening of a School of Political Studies in the Kyrgyz Republic were pursued due to the lack of funding.

#### **7. CO-OPERATION RELATED TO THE PARTNER FOR DEMOCRACY STATUS WITH THE PACE GRANTED TO THE PARLIAMENT OF THE KYRGYZ REPUBLIC**

In April 2014, the PACE granted the Partner for Democracy Status to the Parliament of the Kyrgyz Republic for which it had applied in October 2011.

Since April 2014, the Kyrgyz Parliamentary Delegation, led by the Vice-Speaker of the Kyrgyz Parliament, took part in several PACE sessions and also participated in a number of Assembly Committees. On 24 June 2014, the Speaker of the Parliament addressed, and had an exchange of views with, the Sub-Committee on External Relations. Members of the Kyrgyz Partner for democracy delegation also met with the Deputy Secretary General, the President of the PACE and other CoE senior officials. The latest visits took place on 26-30 January 2015, 25-29 January 2016 and 18-22 April 2016.

On 2-3 June 2015, the Committee on Migration, Refugees and Displaced Persons held a meeting in Bishkek and co-organised, with the Kyrgyz Parliament an International Conference on “Migration Challenges in Central Asia”.

On 2-5 October 2015, upon invitation of the Kyrgyz authorities, a 16-member PACE delegation, led by Meritxell Mateu Pi (Andorra, ALDE), observed the conduct of the parliamentary elections, alongside other international observers. A member of the Venice Commission also provided legal support during the visit. The international election observation mission concluded that the parliamentary elections were transparent, competitive and provided voters with a wide choice. Nevertheless, the Kyrgyz Republic was recommended to improve its electoral legal framework and its implementation. The transparency of election campaign and political party financing should be reinforced.

The PACE Committee on Political Affairs and Democracy is currently drafting report “Evaluation of the Partnership for democracy in respect of the Parliament of the Kyrgyz Republic”. In the framework of the preparation of this report PACE rapporteur Alain Destexte (Belgium, ALDE) will carry out a fact-finding visit to the Kyrgyz Republic in September 2016. The debate on the report is foreseen during the PACE fourth part-session on 10-14 October 2016.

#### **8. LOCAL AND REGIONAL DEMOCRACY**

Due to the lack of funding, there were no actions undertaken in this field during the reporting period.

**Appendix: Financial table**

Sectors		Estimated needs (€)	Funded	Additional funds required (€)
1.	Promotion of a common legal space	500,000		500,000
2.	Justice reform	800,000		800,000
3.	Co-operation with the Venice Commission	650,000	150,000 <sup>8</sup>	500,000 <sup>9</sup>
4.	Preventing and combating corruption and economic crime	600,000		600,000 <sup>10</sup>
5.	Education	500,000		500,000
6.	Training of new generations of leaders: School of Political Studies	150,000		150,000
7.	Co-operation related to the Partner for Democracy status with the PACE granted to the Parliament of the Kyrgyz Republic	150,000		150,000
8.	Local and Regional Democracy	50,000 <sup>11</sup>		50,000
<b>TOTAL</b>		<b>3,400,000</b>	<b>150,000</b>	<b>3,250,000*</b>

\* EU/CoE joint programmes for 1 325 000 EUR are in a final stage of negotiations.

<sup>8</sup> From EU/CoE Joint Programme "Support to the Kyrgyz authorities in improving the quality and efficiency of the Kyrgyz Constitutional justice system, until 30/04/2015; €500 000 Total + part of EU/CoE Joint Programme "Supporting constitutional Justice, Access to Justice and Electoral Reform in Countries of Central Asia"; until 28/02/2015, €525 000 total

<sup>9</sup> Under negotiations.

<sup>10</sup> Under negotiations.

<sup>11</sup> Pending needs assessment