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**GR-DEM**

**Rapporteur Group on Democracy**

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## Council of Europe Action Plan for Azerbaijan 2014 – 2016 Progress Review Report

Document prepared by the Office of the Directorate General of Programmes

**Item to be considered by the GR-DEM at its meeting on 4 October 2016**

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

The Council of Europe Action Plan for Azerbaijan 2014-2016 was adopted by the Committee of Ministers during its 1197<sup>th</sup> meeting on 16 April 2014, and it was launched on 20 May 2014 in Baku. Implementation of the Action Plan has coincided with Azerbaijan's Chairmanship of the Committee of Ministers (May to November 2014).

This Report presents the overview of co-operation and major achievements in each of the priority areas during the period between April 2014 and June 2016.

The Action Plan reflects the priorities of the country and takes into account conclusions of the recent reports, resolutions and recommendations of the Committee of Ministers of the Council of Europe, the Parliamentary Assembly, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the Group of States Against Corruption, the Framework Convention for the Protection of National Minorities and recommendations from the European Commission for Democracy through Law and the Commissioner for Human Rights regarding Azerbaijan and questions identified in the judgments of the European Court of Human Rights. The start of implementation of the Action Plan was delayed due to the lack of sufficient funding. Its actual implementation began following the launch of the first phase of the "European Union/Council of Europe Eastern Partnership Programmatic Co-operation Framework" (2015-2017).

The revised overall budget of the Action Plan totals approximately €11.8 million, of which more than €5.9 million (50.5% of the total budget) has been secured. The donors are the European Union and Norway.

Azerbaijan has benefited from country-specific and regional actions aimed at supporting the development of effective legal frameworks, reinforcing capacity-building of national institutions, improving training systems and promoting best practices. The actions implemented to date have achieved some preliminary results, in particular on human rights implementation, judicial functioning, media governance and fighting corruption.

A positive trend of increasing co-operation was noted in 2015 regarding increasing capacities of the judiciary and of the journalists and in the area of the fight against corruption. Further efforts would be desirable to intensify co-operation in the areas of freedom of assembly and of expression and the reform of the electoral legislation.

Council of Europe actions contribute to the overall objective of the Action Plan, namely to support Azerbaijan in fulfilling its statutory and specific obligations as a Council of Europe member state. The Organisation remains ready to provide further assistance to Azerbaijani authorities to help them address some fundamental human rights and rule of law issues. The Council of Europe will aim to ensure the application of the European Convention on Human Rights, fight corruption and support penitentiary reform, civil society dialogue and youth human rights education. Likewise, the Council of Europe will pursue its efforts to support the electoral reform and freedom of the media and association. In order to achieve more measurable results it is proposed to extend the validity of the current Action Plan until the end of 2017.

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**LIST OF ACRONYMS AND ABBREVIATIONS**

Action Plan	Council of Europe Action Plan for Azerbaijan 2014-2016
CEC	Central Election Commission
CEPEJ	European Commission for the Efficiency of Justice
Charter	European Charter on Local Self-Government
CoE	Council of Europe
CM	Committee of Ministers of the Council of Europe
CPT	Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
Congress	Council of Europe Congress of Local and Regional Authorities
CSOs	Civil Society Organisations
EaP	Eastern Partnership
ECHR	European Convention on Human Rights
ECRI	European Commission against Racism and Intolerance
ECRML	European Charter for Regional or Minority Languages
ECSR	European Committee of Social Rights
ECTHR	European Court of Human Rights
ESC	European Social Charter
EU	European Union
EUD	European Union Delegation
FCMN	Framework Convention for the Protection of National Minorities
GR-DEM	Rapporteur Group on Democracy
GRECO	Group of States against Corruption
GRETA	Group of Experts on Action against Trafficking in Human Beings
HELP	European Programme for Human Rights Education for Legal Professionals (HELP Programme)
INGO	International Non-governmental Organisation
IMC	Inter-municipal Co-operation
JP	Council of Europe/European Union Joint Programme
MAE	Major Administrative Entity
MoJ	Ministry of Justice
MONEYVAL	Committee of Experts on the Evaluation of Anti-Money Laundering
NACAP	National Anti-Corruption Action Plan
NGO	Non-governmental Organisation
OB	Ordinary budget
ODGP	Office of the Directorate General of Programmes
ODIHR	Office for Democratic Institutions and Human Rights
OSCE	Organisation for Security and Co-operation in Europe
PACE	Parliamentary Assembly of the Council of Europe
PC-CP	Council for Penological Co-operation of the Council of Europe
PCF	European Union/Council of Europe Eastern Partnership Programmatic Co-operation Framework
Venice Commission	European Commission for Democracy through Law
VC	Voluntary contributions
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organisation

## INTRODUCTION

The Council of Europe Action Plan for Azerbaijan 2014-2016 (Action Plan) was adopted by the Committee of Ministers (CM) during its 1197<sup>th</sup> meeting on 16 April 2014. It was launched by Secretary General Thorbjørn Jagland and Minister of Justice of Azerbaijan Fikrat Mammadov on 20 May 2014 in Baku. The Action Plan is a joint initiative of the Council of Europe and the Azerbaijani authorities to support Azerbaijan in fulfilling its statutory and specific obligations as a Council of Europe (CoE) member state and to help the country address fundamental issues in the fields of human rights, rule of law and democracy.

Implementation of the Action Plan has coincided with Azerbaijan's first Chairmanship of the CM (May to November 2014), an important milestone in the country's membership of the Council of Europe.

The Action Plan reflects the priorities of the country and builds on issues identified in CoE reports, resolutions and recommendations regarding Azerbaijan, notably those of the CM, the Parliamentary Assembly (PACE), the European Committee for the Prevention of Torture (CPT), the Group of States Against Corruption (GRECO), the Framework Convention for the Protection of National Minorities (FCNM) and recommendations from the European Commission for Democracy through Law (Venice Commission) and the Commissioner for Human Rights<sup>2</sup>. Several lines of action in the Action Plan stem from concerns identified in the judgements of the European Court of Human Rights (ECtHR). The Action Plan reflects the priorities of the country, especially those in the National Programme for Action<sup>3</sup>, in areas of expertise of the CoE.

This Action Plan is a tool designed for assisting Azerbaijan in its efforts to bring its legislation, institutions and practice in line with European standards in key areas, including freedom of expression and media freedom, efficiency of judiciary and the fight against corruption.

This Report presents major achievements during the period between the adoption of the Action Plan in April 2014 and June 2016 in each of the priority areas.

## OVERALL ASSESSMENT AND MAIN ACHIEVEMENTS

Implementation of the Action Plan was delayed due to lack of funding. It started effectively only in early 2015, following the April 2014 signature of the Statement of Intent between the European Union (EU) and the CoE on the "European Union/Council of Europe Eastern Partnership Programmatic Co-operation Framework" (PCF).

Achievements to-date include:

- Enhancing national capacities to implement human rights standards by improving the capability of the Justice Academy to train legal professionals on human rights;
- Improving the functioning of the judicial system through implementation of the tools developed by the European Commission for the Efficiency of Justice (CEPEJ);
- Reinforcing national capacities to prevent and combat corruption in line with relevant GRECO recommendations;
- Raising journalists' awareness of media governance, including standards and relevant domestic legislative provisions on media coverage of elections, safety of journalists and access to information; and
- Changing national standard for the Bachelor Level of Journalism studies in line with European standards, thus influencing the future development of the media industry in the country.

A positive trend of increasing co-operation was noted in 2015. Further progress is possible, especially in the areas of the judiciary, of media and of fight against corruption. It would also be desirable to intensify co-operation in the areas of freedom of assembly and of expression, and of the reform of the electoral legislation.

<sup>2</sup>GR-DEM(2013)4, PACE, AS/Mon(2014), GRECO Eval IV Rep (2014) 2E, CommDH(2013)14, CommDH(2014)10, PACE Resolution 1917 (2013), CM/ResDH(2013)199, CM/ResDH(2014)183

<sup>3</sup> National Program for Action to Raise Effectiveness of the Protection of Human Rights and Freedoms in the Republic of Azerbaijan was adopted by Order of President Aliyev on 27 December 2011. It took effect immediately and has no time limit.

## MODALITIES FOR IMPLEMENTATION AND CO-ORDINATION

The CoE and the Azerbaijani authorities jointly assess the implementation of the Action Plan through a Steering Committee composed of representatives of the CoE, the Ministry of Foreign Affairs and other national stakeholders involved in the implementation of this Action Plan. Responsibility for monitoring implementation of the Action Plan lies with the CM and in particular the Rapporteur Group on Democracy (GR-DEM).

Of the 21 projects initially included in the Action Plan, one project “Supporting the development of journalism teaching in Azerbaijan” was already completed in 2014. Currently, four country-specific projects<sup>4</sup> are implemented by the Directorate General of Human Rights and Rule of Law, and one country-specific project<sup>5</sup> by the Directorate General of Democracy.

Azerbaijan benefits from the regional components of the PCF, which cover the following areas:

- Protecting and promoting human rights;
- Ensuring justice with exception of the PCF Regional Project “Promoting penitentiary reforms (from a punitive to a rehabilitative approach)”;
- Combating threats to the rule of law;
- Addressing challenges of the information society; and
- Promoting democratic governance.

The Action Plan ensures synergy and complementarity of action with other stakeholders. Projects are implemented in close co-ordination with the Azerbaijani Government and international partners active in the country, notably development agencies of CoE member states, the EU, the United Nations (UN) and the Organisation for Security and Co-operation in Europe (OSCE).

The CoE Office in Azerbaijan plays an important role in co-ordination and implementation of the Action Plan. It currently employs 15 staff members and assists Major Administrative Entities (MAEs) with implementation of five country-specific projects as well as regional and thematic programmes. The Office also contributes to the increased visibility of the Organisation’s actions in Azerbaijan and provides regular support to different CoE bodies for organising events, project activities and monitoring visits.

The 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 civil society organisations (CSO) participation in CoE’s co-operation activities are also taken into account.

## FUNDING AND PARTNERS

In line with the CoE resource mobilisation strategy, the Office of the Directorate General of Programmes (ODGP) co-ordinates fundraising, and has focused its efforts on Action Plan level contributions. The overall budget of the Action Plan totals approximately €11.8 million. Funding of over €5.9 million (50.5% of the total budget) has been secured<sup>6</sup> (see Figures 1 and 2). The CoE is currently finalising negotiations with the EU Delegation (EUD) in Baku on a further Joint Project in the area of penitentiary reform with a budget of €556,000<sup>7</sup>.

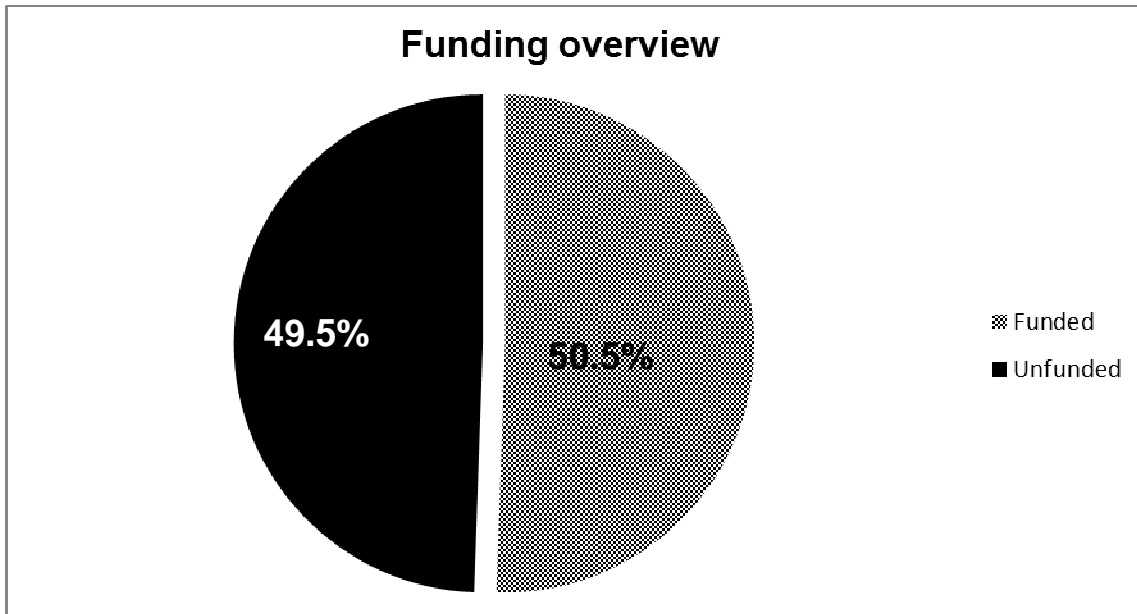
Additionally, Azerbaijan participates in PCF regional projects for six Eastern Partnership countries with the total funding amounting to €11 million.

<sup>4</sup> EU/CoE JP “Application of the ECHR and the case-law of the European Court of Human Rights in Azerbaijan”; EU/CoE PCF Project “Support to increased efficiency of courts, improved training of judges and judicial self-governance in Azerbaijan”; EU/CoE JP “Fight against corruption and fostering good governance; fight against money-laundering”; and EU/CoE JP “To improve freedom, independence, pluralism and diversity of the media”.

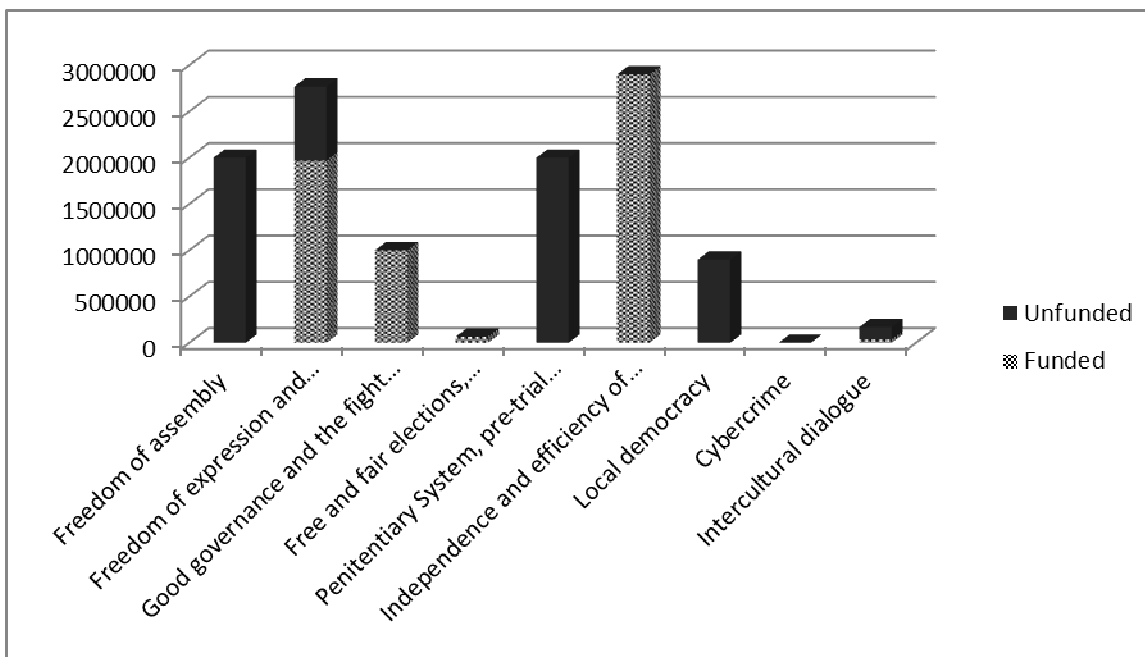
<sup>5</sup> EU/CoE JP “Civil Society Dialogue”.

<sup>6</sup> Excluding regional projects.

<sup>7</sup> EU/CoE JP “Further support to the penitentiary reform in Azerbaijan”.



**Figure 1: Action Plan for Azerbaijan 2014-2016 funding overview as of June 2016**

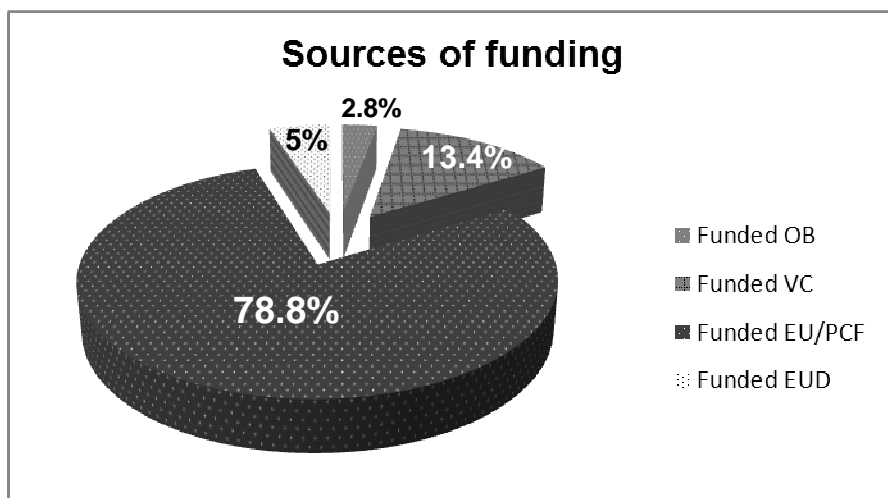


**Figure 2: Funding of the Action Plan for Azerbaijan 2014-2016 per sector as of June 2016**

Since 2015, Azerbaijan has benefitted from funding secured through the PCF for projects on anti-corruption, freedom of expression and media freedom, independence of the judiciary and application of the European Convention on Human Rights (ECHR) and ECtHR case law. Secured funding totals approximately €4.7 million under the PCF for country-specific projects within the current programming cycle, ending in December 2017.

Voluntary contributions from Norway totalling €800,000 go towards projects on elections, journalism teaching, civil society and youth human rights education.

The actions in the area of civil society are implemented as a joint initiative involving CoE, Norway and the EU. The EU Delegation in Baku (EUD) has allocated €300,000 to Azerbaijan through a Joint Programme (JP) “Civil Society Dialogue”. For an overview of funding sources, see Figure 3.



**Figure 3: Funding sources for the Action Plan for Azerbaijan 2014-2016 as of June 2016**

## LESSONS LEARNED

The following summarises the main lessons learned during the Action Plan implementation:

- Local capacity development remains an important element of the technical assistance programmes;
- CoE human rights approach to technical co-operation is a necessary complement to other international assistance programmes in Azerbaijan;
- A strong buy-in by the Azerbaijani project partners facilitates implementation and commitment;
- The CoE can play an important bridging role between various state and non-state actors; and
- Un-earmarked voluntary contributions are welcomed, as they allow the CoE to adjust to the needs and dynamics of the reform processes.

## PROGRAMMING OUTLOOK

New activities will aim at further contributing to the overall objective of the Action Plan to support Azerbaijan in fulfilling its statutory and specific obligations as a CoE member state and to help it address some fundamental human rights and rule of law issues.

Azerbaijan will benefit from country-specific and regional actions aimed at supporting the development of effective legal frameworks, reinforcing capacity-building of national institutions, improving training systems and promoting best practices.

Work on freedom of expression and media freedom (including the legislation on defamation), safety of journalists and journalists' self-regulation will continue. The CoE stands ready to continue working on sub-legislation and internal regulatory instruments towards full freedom of expression and freedom of association in Azerbaijan in line with European standards.

More activities will be implemented aiming at the application of the ECHR and at increasing the efficiency of courts and the quality of judicial services, as well as assistance to local self-governance, civil society dialogue, including freedom of association, fighting corruption and cybercrime and youth human rights education. The CoE is currently negotiating with the EUD in Baku on a potential JP “Further support to the penitentiary reform in Azerbaijan”.



## SECTOR REVIEW

### FREEDOM OF ASSEMBLY

In the framework of the Action Plan, the CoE and Azerbaijan intended to launch a dialogue on freedom of assembly based on the 2008 law on freedom of assembly in Azerbaijan, which took into account most of the recommendations of the Venice Commission. Due to lack of financial resources, this was not yet possible. The CoE stands ready to implement the proposed actions as soon as resources are available.

### FREEDOM OF EXPRESSION AND ASSOCIATION, MEDIA FREEDOM

The Action Plan aims at supporting Azerbaijan in fulfilling one of its accession commitments, namely to guarantee freedom of expression and the independence of the media and journalists, and particularly to exclude the use of administrative measures to restrict media freedom. Freedom of expression (including media independence, professionalism, pluralism and diversity) remains an important country commitment. A surge in Internet use has prompted debates on the need for Internet governance and regulation of freedom of expression on the Internet. The activities have been developed to address these challenges.

The actions on freedom of association, which have started in 2016, aim at developing NGO legislation and practice in line with CoE standards and strengthen the capacity of national authorities and NGOs for consultation, dialogue and co-operation.

#### 1.1. *Freedom of expression and media freedom*

##### BACKGROUND

The CoE actions in this area cover freedom of expression and media freedom, the safety of journalists, bloggers and other media actors; journalists' self-regulation; data protection; and bringing Azerbaijani legislation on defamation in line with the ECHR.

Despite some progress, challenges remain, in particular as regards the legislation on defamation. Dialogue is currently on-going with national authorities concerning revision of legislation on defamation and series of actions are planned under the CoE/EU PCF Project "Freedom of Expression and Media Freedom". The latest event, a conference "The European Practice in the Field of Defamation and Freedom of Expression", took place on 31 May 2016.

In the framework of a regional action, the CoE familiarises stakeholders from EaP countries and the general public with its standards on Internet governance, including remedies for human rights violations. The main principles are reflected in the *Guide to Human Rights for Internet Users*<sup>8</sup>.

Thanks to the regional exchanges, participants' knowledge about the latest developments in the self-regulatory sector and related CoE standards and best practices is increased. Participants strengthened their co-operation on handling complaints and began preparations for a cross-border complaints system, including the mandate for a new regional ethics board that will deal with complaints from EaP countries.

##### ACTIVITIES AND RESULTS

With regard to the freedom of expression and media, the large-scale international events organised in the PCF framework helped build momentum for a continued and intensified dialogue in this area thanks to the Project "Freedom of Expression and Media Freedom". The project:

- trained 80 journalists in Azerbaijan on CoE standards and relevant domestic legislative provisions on media coverage of elections and access to information. Special emphasis was put on increasing awareness among journalists about their rights and obligations and on gender equality in the Azerbaijani media, including through an event targeting the latter;

<sup>8</sup> Recommendation CM/Rec(2014)6 of the CoE Committee of Ministers to member states on a Guide to human rights for Internet users adopted on 16 April 2014 is based on the ECHR and other CoE conventions and instruments pertaining to human rights protection. The Guide provides information about what rights and freedoms mean in practice in the context of the Internet.

- raised awareness of 70 representatives of national authorities, media, academia and civil society about CoE standards on Human Rights protection on the Internet, the Internet infrastructure and online media during the conference on Internet and Human Rights held on 1 March 2016 in Baku;
- trained 30 journalists and media professionals, including five journalists from the regions, on freedom of expression and privacy on 30 March 2016 in Baku;
- promoted the CoE “Platform to promote the protection of journalists and safety of journalists”
- translated into the Azerbaijani language and published the Guide on Internet and Human Rights and other media-related documentation;
- raised awareness of journalists of media governance (i.e. standards and relevant domestic legislative provisions on media coverage of elections, safety of journalists and on access to information);
- enhanced knowledge among state and non-state actors on its standards concerning freedom of expression and protection of journalists through targeted activities, regional exchanges and promotional material; and
- reinforced capacities of members of the regional self-regulation network to deal with complaints from the public about alleged journalists’ unethical behaviour.

Regional exchanges enabled the members to increase their knowledge about the latest developments in the European self-regulatory sector and related CoE standards and best practices. Members strengthened their co-operation in complaint handling and began preparations for a framework for a cross-border complaints system, including the mandate for a new regional ethics board, entrusted to deal with complaints from EaP countries.

## **PROGRAMMING OUTLOOK**

Efforts now need to be concentrated on improving legislation on defamation after the November 2015 parliamentary elections and on working with the Azerbaijani authorities in order to ensure that necessary legislative changes are introduced.

Work will continue on freedom of expression and media freedom, safety of journalists and journalists’ self-regulation. Should there be a need the CoE is ready with its assistance activities to continue improving the sub-legislation and internal regulatory instruments for full enjoyment of freedom of expression and freedom of association in Azerbaijan in line with European standards.

## **2.2. Supporting the development of journalism teaching in Azerbaijan**

### **BACKGROUND**

In the framework of the finalised project, the implemented actions helped raise journalism teaching to a new level, preparing journalists to better meet the challenges of the new media environment, moved journalism university education towards European standards and influenced the future development of the Azerbaijani media industry. This sectorial work had national impact because the two largest universities in the country benefitted from the action. The change to the national standard for the Bachelor Level of Journalism studies will have a lasting effect and contribute to the promotion of the CoE’s statutory principles of respecting human rights, the rule of law and democracy.

### **MAIN ACHIEVEMENTS**

During the project, Baku Slavic and Baku State University staff and the BBC Media Action were brought together to improve journalism education in line with modern European practices. The CoE used an innovative combination of lecturers and best practices from many European countries (the UK, Norway, Ireland and Turkey). The CoE introduced the BBC Media Action’s learning-by-doing (experiential) methodology, where trainers spend regular periods with the teaching staff in organisations in the context of support to the wider organisation. This approach helped to secure institutional buy-in for new approaches and philosophies and created a supportive environment for the new skills to be applied within the workplace.

In particular, the project:

- promoted practice-based journalism teaching in line with the Bologna requirements;
- changed the national standard for Bachelor Level of Journalism studies in line with European standards, influencing the future development of the Azerbaijani media industry;
- created lasting capacity within Baku Slavic and Baku State Universities to continue implementing new Bologna-style journalism teaching;
- improved the pedagogical and journalistic skills of university lecturers; and
- drafted a modular curriculum that responded to the real needs of the media industry.

Two main challenges prevented full achievement of all objectives. First, the limited availability of local experts and additional linguistic complexities that required the team to draft proposed textbooks in three languages (Azerbaijani, Russian and English) and to edit in Azerbaijani meant that all textbooks were not finalised and disseminated on time. Second, the national partners could not install the necessary TV and radio studio equipment at the partner universities, despite the CoE's concerted efforts, which led to the cancellation of the related trainings. These two challenges also meant that the budget was not fully spent. However, within the framework of the CoE/EU PCF Project "Freedom of Expression and Media Freedom" follow up support in journalism teaching is envisaged throughout 2016 and 2017.

### **2.3. Civil society dialogue**

Negotiations on the "Civil society dialogue" project began in November 2014. After extensive consultations with the Azerbaijani authorities, the project proposal was agreed in April 2015, which was followed by negotiations with donors. By December 2015, joint EU and CoE funding was confirmed and contract with the EUD in Baku was signed on 22 December 2015. The CoE also decided to allocate an additional €100,000 from Norway's un-earmarked contribution.

The project began on 1 March 2016 and the steering committee meeting was held in Baku on 1 June during which the work-plan of the project was presented to facilitate the implementation phases of the project. On the following day, the project was officially launched together with representatives of the Government of Azerbaijan and selected NGOs. The Baku-based project staff was selected and the project activities are under implementation. The project will also cover actions on strengthening the legal framework on the freedom of association.

## **3. GOOD GOVERNANCE AND FIGHT AGAINST CORRUPTION**

### **BACKGROUND**

The Action Plan focuses on improving the capacity of Azerbaijan to fight corruption and money-laundering. Regional and country-specific CoE actions are based on recommendations of the CoE's monitoring bodies – GRECO<sup>9</sup> and MONEYVAL<sup>10</sup>.

Country-specific interventions focused on providing key policy advice by CoE experts reviewing the draft National Action Plan on Anti-Corruption and providing a platform for all relevant state agencies and civil society to hold open and transparent discussions on this national action plan. The project also focused on providing specialised training to criminal justice authorities on complex economic crime issues and training public officials on ethics through the creation of a roster of trainers on this subject. The Commission for Combating Corruption, as the main beneficiary of the project, received targeted support with an emphasis on strategic policy advice.

Azerbaijani partners actively participated in the projects. The main beneficiary institutions (the Commission for Combating Corruption, Civil Service Commission, and the Anti-Corruption Directorate with the Prosecutor General) showed willingness to continue to engage in 2016 activities. Other partners, such as the Ministry of Education, were open for discussion on plans for future involvement.

<sup>9</sup> The Group of States against Corruption (GRECO) monitors states' compliance with CoE anti-corruption standards.

<sup>10</sup> The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) is the CoE permanent monitoring body set up to assess states' compliance with international standards to counter money laundering and the financing of terrorism.

## ACTIVITIES AND RESULTS

Professionals in Azerbaijan have increased their skills and capacities to successfully tackle corruption. Azerbaijan's prosecutors and investigators know to apply anti-corruption investigation and prosecution techniques. This prepared them for the planned entry into force of Criminal Code provisions on the criminal liability of legal entities and plea bargaining. They have also increased capacities to investigate and prosecute money laundering cases. The newly adopted provision is therefore more likely to be implemented, which benefits society at large.

Awareness of the civil society and the general public on anti-corruption issues has increased due to a number of public discussions and media reports on the activities to fight corruption. Furthermore, the project:

- developed the anti-corruption and ethics curricula outline for the Commission for Combating Corruption and draft chapters of the trainer's handbook of the anti-corruption manual. The curriculum outline includes anti-corruption and ethics concepts and tools in order to develop a training handbook and other resources for subsequent train-the-trainers courses;
- reinforced the teaching capacities of anti-corruption agencies through tailor-made train-the-trainers courses on ethics. As a result, the capacity of the Civil Service Commission. to deliver quality training has improved: the substantive knowledge and teaching methodology of local instructors has been raised, their number augmented and their ability to deliver specialised ethics training increased;
- supported the drafting of the new National Anti-Corruption Action Plan (NACAP) by organising a public discussion, thereby ensuring a transparent consultation process for all relevant stakeholders;
- ensured that the draft NACAP is in line with international anti-corruption standards by providing a comprehensive review, which also reflects outstanding GRECO recommendations. The redrafted version of the NACAP was adopted by Presidential Decree in April 2016;
- raised capacity of specialised prosecution and investigation bodies, judges, financial analysts and auditors to tackle corporate corruption cases, asset recovery, money laundering and plea bargaining, including the development of accompanying training materials.

## PROGRAMMING OUTLOOK

The CoE will continue working together with relevant national authorities. In 2016, activities have been expanded to include the Ministry of Education. The introduction of ethics and anti-corruption courses as a compulsory subject in certain university courses and specialised professional training institutions will contribute to combating corruption in all areas of public administration.

The Civil Service Commission, as one of the main project beneficiaries, has been dissolved in accordance with the Presidential Decree of 11 April 2016. In view of this, the project will agree on future implementation modalities in co-operation with relevant state authorities.

## 4. FREE AND FAIR ELECTIONS, FUNCTIONING OF POLITICAL PARTIES

### BACKGROUND

The Venice Commission and the OSCE/ODIHR issued two joint opinions on the draft amendments to the Election Code of Azerbaijan in 2008. The Election Code was further amended in June 2010, April 2012 and April 2013. The Venice Commission also issued opinions on the legislation on political parties (2011) and, together with OSCE/ODIHR, on the composition of electoral commissions, registration of candidates, financing provisions and sanctions. Further efforts are needed to take the identified concerns into account. This will also contribute to overcoming shortcomings identified in past election observation reports and relevant ECtHR judgments, in particular with regard to the Election Code, registration of candidates, election commission composition, observers, and complaints and appeals procedures.

The PACE election observation missions insisted on the need to implement the Venice Commission's recommendations, in order to ensure that legislation is in conformity with international standards<sup>11</sup>. Other election-related concerns such as the misuse of administrative resources, candidate registration, transparency of election campaign funding and media impartiality remain a challenge, as stated in the above mentioned PACE reports.

## ACTIVITIES AND RESULTS

No activities were carried out to amend the national legislation on elections and/or political parties. Likewise, no trainings were carried out for electoral administration staff and judges in charge of electoral disputes on international standards for electoral dispute resolution and on ECtHR case law.

In the framework of the formal agreement of 2004 between PACE and the Venice Commission, a Venice Commission delegation assisted the *ad hoc* PACE Committee on legal aspects of the parliamentary elections held in Azerbaijan on 1 November 2015<sup>12</sup>.

Members of the Central Election Commission (CEC) participate in CoE regional activities under the PCF that aim at enhancing capacities of CECs to organise genuine and credible elections. These regional exchanges enable CEC members to learn about fundamental aspects of the electoral processes. Members of the CEC attended the annual European Conferences of Electoral Management Bodies organised by the Venice Commission<sup>13</sup>. The Venice Commission also organised a multilateral conference on gender equality<sup>14</sup> with the participation of CECs from five partner countries including Azerbaijan. Special emphasis was put on gender equality, allowing the CECs to detect challenges and possible solutions for women's effective participation in elections.

Recent technical and legal developments on e-enabled elections are currently codified in an updated Recommendation by the CoE's Committee of experts on legal, operational and technical standards for e-voting. Upon request, the CoE involved the CECs in the Committee's work. This facilitated exchanges of good practices on e-voting and allowed CECs from four EaP countries, including Azerbaijan, to directly participate in elaborating the new European e-voting standards.

Through regional initiatives, the EaP countries' parliaments, CECs and NGOs shared experience on how to remedy such challenges as misuse of administrative resources, opacity of election campaign funding and media impartiality and how to bring the electoral legislation and practice into compliance with CoE standards.

## PROGRAMMING OUTLOOK

The Venice Commission remains ready to continue working on ensuring the conformity of the legislation and its implementation with the European electoral heritage.

In parallel, it is anticipated that Azerbaijan will continue its participation in CoE regional activities.

<sup>11</sup> PACE Doc. 13358 "Observation of the presidential election in Azerbaijan (9 October 2013)" and PACE Doc. 13923 "Observation of the parliamentary elections in Azerbaijan (1 November 2015)"

<sup>12</sup> Various opinions of the Venice Commission and OSCE/ODIHR and several judgments of the ECtHR have highlighted the need to reform the legal framework. The ECtHR has repeatedly condemned Azerbaijan for violation of Article 3 of Protocol 1<sup>12</sup> following the previous parliamentary elections in Azerbaijan, in particular for the electoral legislation and arbitrary decisions. The functioning of the CEC was also questioned, including issues related to the registration of candidates (or refusal of registration).

<sup>13</sup> March 2015, Brussels, Belgium. These conferences addressed: the following topics: "Combating the misuse of administrative resources during electoral processes" (June 2014, Helsinki, Finland); "Neutrality, impartiality and transparency in elections" (March 2015, Brussels, Belgium); "New Technologies in Elections: Public Trust and Challenges for Electoral Management Bodies" (April 2016, Bucharest, Romania). March 2015, Brussels, Belgium.

<sup>14</sup> November 2015, Tbilisi, Georgia.

## 5. PENITENTIARY SYSTEM, PRE-TRIAL AND ADMINISTRATIVE DETENTION

### BACKGROUND

A number of the ECtHR judgments<sup>15</sup> highlight ill-treatment and impunity. Previous CoE actions in this field, which laid the ground for co-operation in this area, identified shortcomings regarding investigations of allegations of ill-treatment and encouraged authorities to develop coherent strategies for addressing them through an appropriate institutional and regulatory framework. These recommendations remain pertinent.

In the light of CM Recommendation (98)7 concerning ethical and organisational aspects of prison health care, Azerbaijan needs to develop a comprehensive policy that includes good co-operation with community health services to ensure continuity of care. A special focus should be placed on prisoner mental health services.

### ACTIVITIES AND RESULTS

Since the finalisation of the project "Support for prison reform in Azerbaijan" in 2010 and the JP "Combating ill-treatment and impunity" in 2011, Azerbaijan has not participated in any CoE activity related to the penitentiary sector, neither regional, such as the PCF Regional Project "Promoting penitentiary reforms (from a punitive to a rehabilitative approach)" nor country-specific. Azerbaijan also does not participate in developing the White Paper on prison overcrowding, which is currently being prepared by the Council for Penological Co-operation of the CoE (PC-CP).

Nevertheless, the CoE organised two seminars in Baku in November 2014 in the framework of the ordinary budget bilateral co-operation activities with Azerbaijan, one on health care and medical ethics in prison and one on prison management.

In 2014 and 2015, Azerbaijan took part in three multilateral meetings organised under the ordinary budget:

- Multilateral meeting on management by prison administrations of life-sentenced and other long-term prisoners, 10-11 April 2014, Strasbourg;
- Multilateral meeting on electronic monitoring, 27-28 November 2014, Strasbourg; and
- Multilateral meeting on combating ill-treatment in prison, 23-24 April 2015, Strasbourg.

### PROGRAMMING OUTLOOK

A JP "Further support to the penitentiary reform in Azerbaijan" is currently in its final negotiation phase with the EUD in Baku, and is planned to start by 1 September 2016. As part of the programming and negotiation with the EUD and the Ministry of Justice (MoJ) of Azerbaijan, the CoE organised a fact-finding mission in October 2015 and discussed the content and implementation of the project with the EUD, MoJ and other relevant stakeholders, including Ombudsman, civil society and other international organisations.

The JP "Further support to the penitentiary reform in Azerbaijan" will focus on health care and prison management. The health care component will aim to align more closely the primary healthcare services in prisons to international standards and best practices and to introduce a wider range of non-pharmacologic mental health care services. The prison management component will aim to improve the operating standards of security, rehabilitation and human rights in prisons towards international standards.

<sup>15</sup> Hummatov [App. Nos. 9852/03 and 13413/04]:

[http://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22Hummatov%22\],%22languageisocode%22:\[%22ENG%22\],%22documentcollectionid2%22:\[%22JUDGMENTS%22\],%22itemid%22:\[%22001-83588%22\]}](http://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22Hummatov%22],%22languageisocode%22:[%22ENG%22],%22documentcollectionid2%22:[%22JUDGMENTS%22],%22itemid%22:[%22001-83588%22]})

Insanov [App. No. 16133/0]:

[http://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22Insanov%22\],%22languageisocode%22:\[%22ENG%22\],%22documentcollectionid2%22:\[%22JUDGMENTS%22\],%22itemid%22:\[%22001-117132%22\]}](http://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22Insanov%22],%22languageisocode%22:[%22ENG%22],%22documentcollectionid2%22:[%22JUDGMENTS%22],%22itemid%22:[%22001-117132%22]})

Mammadov [App. No. 34445/04]:

[http://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22mammadov%22\],%22languageisocode%22:\[%22ENG%22\],%22documentcollectionid2%22:\[%22JUDGMENTS%22\],%22itemid%22:\[%22001-78978%22\]}](http://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22mammadov%22],%22languageisocode%22:[%22ENG%22],%22documentcollectionid2%22:[%22JUDGMENTS%22],%22itemid%22:[%22001-78978%22]})

Rzakhanov [App. No. 4242/07]:

[http://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22Rzakhanov%22\],%22languageisocode%22:\[%22ENG%22\],%22documentcollectionid2%22:\[%22JUDGMENTS%22\],%22itemid%22:\[%22001-122262%22\]}](http://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22Rzakhanov%22],%22languageisocode%22:[%22ENG%22],%22documentcollectionid2%22:[%22JUDGMENTS%22],%22itemid%22:[%22001-122262%22]})

## 6. INDEPENDENCE AND EFFICIENCY OF THE JUDICIARY

Efficiency of the judiciary and the application of the ECHR and ECtHR case law are an important aspect of the Action Plan. Azerbaijan currently benefits from country-specific and regional initiatives that contribute to the overall objectives of the Action Plan in this field, i.e. to bring judicial system functioning in line with relevant European standards and strengthen national judicial institutions in applying the ECHR.

### 6.1. Independence, efficiency, transparency and fairness of the judicial system

#### BACKGROUND

The CoE helped Azerbaijan improve the functioning of its judicial system. The CEPEJ evaluated judicial time management, and the efficiency and quality of services in a number of selected pilot courts<sup>16</sup>, applying its methodology and tools. The fruitful co-operation established with the judicial stakeholders and the pilot courts, as well as the connection of the activities to the CEPEJ's intergovernmental work and the use of its tools within co-operation programmes ensured that the support provided was relevant and of good quality.

The activities of the project were adjusted to match ongoing judicial reforms and measures were taken to avoid overlapping with the actions that other actors, such as the EU, had planned. The CoE supplied timely support to judicial reforms and sought to optimise the effect of recent significant investments in court infrastructure through measures aiming at increased efficiency and improved user satisfaction.

#### ACTIVITIES AND RESULTS

In this context, the CoE, in co-operation with national partners:

- launched the “court coaching programme” to improve time and quality management of pilot courts in co-operation with the MoJ and the Judicial Legal Council. Experts visited the pilot courts and collected information necessary to assess the efficiency and the quality of justice as a public service. Individual coaching reports for each court form the basis for action plans to further improve pilot courts' services;
- trained specialised staff from the pilot courts and main stakeholders to apply CEPEJ tools to assess the court performances and to use this information in view of a better court management. They became acquainted with the methodology to evaluate and implement time management in courts, developed by the SATURN Centre<sup>17</sup> on judicial time management. This empowered the courts to successfully prevent excessive length of judicial proceedings through their own actions. The experts presented the methodology and the results of calculating the selected court efficiency indicators, such as clearance rate, disposition time, age of pending cases etc. The court management learned how to use these tools in practice, in view of collecting, analysing and publishing statistical data and reports on courts' performance;
- issued recommendations on how to integrate CEPEJ tools in the training curricula for judges and court staff, laying the basis for the subsequent training on court management; and
- assessed the general needs of the Justice Academy as a first step to improve initial and continuous training of judges in Azerbaijan. Based on recommendations issued as a result of the assessment, a comprehensive work programme - structured around organisational matters, institutional co-operation and training strategy - was agreed and will strengthen the Justice Academy's capacity to train judges.

<sup>16</sup> The pilot courts are the Sheki Appellate Court, Sumgayit Appellate Court, Baku City Yasamal District Court, Oghuz District Court and Sumgait City Administrative-Economic Court.

<sup>17</sup> The centre was set up by CEPEJ in 2007.

## **PROGRAMMING OUTLOOK**

The individual court coaching reports form the basis of action plans, developed jointly by the pilot courts and the CEPEJ team, to overcome the identified challenges and further improve time and quality management. The priorities identified for each pilot court will be implemented in the course of the next months with the support of the CoE. Under the coordination of the MoJ and the Judicial Legal Council, the six pilot courts will continue to be actively engaged in the implementation of court efficiency indicators, pro-active time management based on statistical data and the setting up of progressive targets, communication with court users and taking into account their expectations. Lessons learned in this process will be analysed and subsequent recommendation forwarded to national policy makers with a view to the dissemination of best practices in all courts of Azerbaijan.

A training programme for judges, court managers and staff will be developed according to their needs and the outcomes of the above-mentioned “court coaching programme”, in co-operation with the French National School of Magistrates. This programme will ensure the sustainable, long-term improvement of time and quality management in the national courts. Moreover, and also with the support of the French National School of Magistrates, a detailed work programme for improving the training of judges has been agreed with the Justice Academy following the recommendations of the needs assessments, and is currently being implemented. Specific training activities to introduce a court management course for judges and managing court staff will start in autumn of 2016, after more feedback is accumulated from the “court coaching programme”. This will enable the CEPEJ team to better identify the training needs and deliver a practice-oriented training.

Intensive co-operation with the Justice Academy will continue to further improve the methodology and curriculum of training for judges. The trainers of the Academy will be trained on issues such as training management, active training methodologies and judge craft, to be considered in a new cycle of initial and in-service training of judges.

The CoE and the MoJ agreed to co-operate on strengthening the capacities of the Regional Justice Departments of the MoJ with a view to replacing the envisaged capacity building of the Judicial Legal Council. The re-focusing of the project work will allow avoiding any duplication with possible future EU supported actions on the development of judicial self-governance in the country.

## **6.2. Application of the European Convention on Human Rights and the case law of the European Court of Human Rights**

### **BACKGROUND**

The capacities of the Justice Academy to train judges, prosecutors, lawyers, police and public officials on human rights standards have been reinforced. Legal and law enforcement professionals and public officials were trained on European human rights standards and a pool of more than 35 instructors, who are able to deliver training on the ECHR, was established. These instructors have already been engaged by the Justice Academy to train legal professionals.

### **ACTIVITIES AND RESULTS**

Together with national partners, the CoE:

- reinforced capacities of the Justice Academy to sustainably train professionals on human rights standards. Field assessments identified training needs and related new courses to improve lifelong learning of judges and advocates. The recommendations of the needs assessment report, provided the Justice Academy with a road map for human rights education;
- trained 43 judges and 255 lawyers on European human rights standards so far. A train-the-trainer modules and specialised training on specific human rights issues contributed to the strategic objective of capacity building of national legal professionals. Through the training programmes, professionals acquired pertinent knowledge of ECHR provisions, and learned how to use it in practice to advance human rights in their national context;



- established a pool of more than 35 competent instructors, who can deliver practical training on the ECHR. As an immediate result, selected national instructors have been engaged by the Justice Academy to provide trainings to legal professionals already in its 2015 and 2016 programmes. Moreover, instructors took ownership of the European human rights standards while sharing their knowledge on domestic practice and human rights litigation;
- trained future trainers of the Justice Academy during four-day Training of Trainers session of the HELP programme and actively involved the Justice Academy into the framework of the HELP programme;
- established a HELP Working group comprised of international and national consultants to develop a HELP course on Article 5 of the ECHR. The Articulate version of the course was finalised and will be launched in summer 2016; and
- CoE handbooks on Articles 6, 8 and 9 of the ECHR were printed in 3000 copies and are being distributed among legal professionals. The Guide on Article 5 of the ECHR was translated into the Azerbaijani language and published in 2500 copies. The publication started to be disseminated among the legal professionals.

## **PROGRAMMING OUTLOOK**

In 2016, the CoE will continue working together with the Justice Academy in organising and running the online courses through the HELP platform, including courses in Azerbaijani language. Twelve cascade training sessions for advocates and eight cascade training sessions for judges will be organised during the year, as well as a conference on the ECtHR case-law to foster the discussion on the improving to the application of the ECHR at national level.

## **7. LOCAL DEMOCRACY**

### **BACKGROUND**

Following accession to the European Charter on Local Self-Government (the Charter) on 15 April 2002, Azerbaijan undertook several commitments aimed at bringing current legal and institutional arrangements gradually in line with the Charter. A number of outstanding issues were highlighted in a Recommendation of the Congress of Local and Regional Authorities<sup>18</sup>.

Based on these findings, the Action Plan aims at improving local authorities' financial sustainability; enhancing financial sustainability and improving transparency of municipal functioning; enhancing local authorities' skills and experience in good governance; improving the dialogue among local authorities, and between them and the central government.

Since 2015, Azerbaijan has participated in CoE regional actions supporting the country's aspirations to establish a transparent, reliable and efficient local self-government system, in line with the Charter provisions. In this framework, the CoE assisted with inter-municipal co-operation, increased leadership capacity and established a professional network of locally elected representatives, experts and trainers. This network will build capacities of locally elected representatives, enhance political governance, help manage change and engage citizens in local decision making.

### **ACTIVITIES AND RESULTS**

In the framework of the regional project in which Azerbaijan participates, the CoE:

- provided assistance on inter-municipal co-operation (hereafter IMC) and support to the leadership capacity-building;
- developed national reports and a study on roles and responsibilities of mayors and local councillors. The reports were presented to local stakeholders (mayors, local and regional associations, experts, academia and media); and
- established a professional network of locally elected representatives and experts, and as a result of the consultative process that focused on building capacities of locally elected representatives, enhancing political governance, successful change management and engaging citizens in local decision-making processes.

<sup>18</sup> Recommendation 326(2012) of the Congress of Local and Regional Authorities adopted on 17 October 2012, issued as a result of its latest monitoring visit to Azerbaijan.

## **PROGRAMMING OUTLOOK**

The established professional network of locally elected representatives, experts and trainers will start meeting regularly in 2016 with participation of representatives of Azerbaijan. The work will continue to ensure that representatives of the central and local authorities from the beneficiary countries, including Azerbaijan, obtain an in-depth understanding of various steps relevant to improved IMC mechanisms. The leadership programme will be launched for mayors of towns in beneficiary countries to equip them with knowledge and skills to improve their decision-making and daily activities.

The CoE is ready to continue working with the national authorities in order to ensure that other expected results under the Action Plan are achieved provided there is additional funding for a country-specific action and if the national authorities wish to advance with the reform of the local self-governance.

## **8. CYBERCRIME**

### **BACKGROUND**

CoE regional interventions in the field of cybercrime contribute to the overall objective as set out in the Action Plan, i.e. to strengthen the co-operation between criminal justice authorities, institutions and stakeholders against cybercrime, in line with European and international standards and practice.

### **ACTIVITIES AND RESULTS**

The international threat of cybercrime can only be countered by improved international co-operation on the basis of the Convention on Cybercrime (Budapest Convention). To improve the core elements of such co-operation – mutual legal assistance and the access to electronic evidence – the CoE supported formation of working groups from all six EaP countries including Azerbaijan, and sent out a questionnaire to assess the capacities, roles and responsibilities of authorities for mutual legal assistance and 24/7 contact points. Responses to the questionnaire helped to identify where international judicial and police co-operation in the EaP countries could be reinforced, namely, through improvement of legal regulations, communications and management, and overall quality of requests for international co-operation in cybercrime and electronic evidence. In compliance with the set of recommendations issued by the Cybercrime Convention Committee in December 2014 concerning mutual legal assistance, the working groups pointed out to the lack of multilingual templates for international requests of data that are necessary to fight cybercrime. Therefore, the CoE began developing standardised templates for access to stored computer data and for data preservation. The templates, to be completed in 2016, should not only reduce costs and delays related to the translation of requests, but also ensure that these requests are complete and recognised by the other stakeholders.

Regional initiatives strengthened co-operation capacities and skills of the above-mentioned mutual legal assistance authorities and 24/7 contact points from EaP countries. Together and with other countries, they exchanged experiences about working methods and current threats and trends in cybercrime and cyber-security, such as the criminal exploitation of virtual currencies. The authorities involved in international co-operation learned about existing training and capacity building opportunities to fight cybercrime. Regional activities strengthened the co-operation and skills of mutual legal assistance authorities in fighting cybercrime, notably through strengthening treaty-based co-operation and increased involvement of the prosecution authorities and ministries of justice.

### **PROGRAMMING OUTLOOK**

To ensure the strengthening of the role of 24/7 points of contact in the six EaP countries, is a priority focus. An analysis of current initiatives, challenges and opportunities regarding public/private co-operation in the EaP region will be carried out. Actions are planned to strengthen the Criminal procedures law, to assist in drafting amendments to rules and procedures on mutual legal assistance and to enhance capacities of relevant authorities.

## **9. INTERCULTURAL DIALOGUE**

### **BACKGROUND**

The Action Plan provides for activities that aim at developing and improving human rights education and youth participation and at supporting implementation of the Council of Europe's "Charter on Education for Democratic Citizenship and Human Rights Education"<sup>19</sup> in the country.

The proposed actions will provide training and educational resources in the Azerbaijani language for human rights education and democratic youth participation within and through youth work and youth organisations.

### **ACTIVITIES AND RESULTS**

In May 2015, the 3rd World Forum on Intercultural Dialogue was held in Baku. The CoE chaired the workshop "Youth capacity building on intercultural dialogue, diversity and development –the network of Universities on Youth and Global Citizenship". The CoE presented its activities, in particular those of the North-South Centre, of which Azerbaijan has been a member since 2010. The Organisation also presented Global Education Guidelines: tools to use intercultural dialogue to promote global citizenship. The participants considered a case study on methods and mechanisms on how to improve youth practice in dialogue and global citizenship.

The CoE and Azerbaijani counterparts negotiated on the implementation of the activities proposed in human rights education and youth participation in 2015. In November 2015, the CoE delegation met in Baku on the implementation of the youth dimension of the Action Plan, with a main goal of agreeing on the list of activities for 2016-2017 and identifying partners' roles and funds available for their implementation. During the meeting, the Deputy Minister for Youth and Sport expressed a strong intention to establish a national pool of trainers and multiplayers in human rights education, and to raise professional competences of youth specialists and youth workers as provided for in the Action Plan. Azerbaijan's commitment to implement the planned activities was further reconfirmed through a letter of the Deputy Minister for Youth and Sport to the CoE dated 31 May 2016.

### **PROGRAMMING OUTLOOK**

The detailed work plan for 2016-2017 has been drawn up and the activities include, but are not limited, to the following:

- translation into Azerbaijani and subsequent publication of the Manual for Human Rights Education with Young People (Compass 2012) and "Have your say!" manual;
- three training seminars in human rights education based on the Compass; and
- 50/50 training course on youth participation for representatives of state, regional and local authorities, and youth NGOs involved in work with young people, based on the "Have your say!" manual.

It should be noted, however, that the full implementation of the project is subject to the availability of funds.

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<sup>19</sup> CM/Rec (2010)7.

**Appendix I: Financial table**<sup>20</sup>

Sectors		Total Action Plan budget (€)	Funded OB (€)	Funded VC (€)	Funded EU-CoE PCF (€)	Funded EUD (€)	Total funds secured (€)	Additional funds required (€)
1.	Freedom of assembly	2 000 000					0	2 000 000
2.	Freedom of expression and association, media freedom, civil society dialogue	2 768 243	168 243	700 000	800 000	300 000	1 968 243	800 000
3.	Good governance and the fight against corruption	1 000 000			1 000 000		1 000 000	0
4.	Free and fair elections, functioning of political parties	65 398		65 398			65 398	0
5.	Penitentiary system, pre-trial and administrative detention	2 000 000					0	2 000 000
6.	Independence and efficiency of the judiciary	2 900 000			2 900 000		2 900 000	0
7.	Local democracy	900 000					0	900 000
8.	Cybercrime	0					0	0
9.	Intercultural dialogue	170 000		34 602			34 602	135 398
<b>TOTAL</b>		<b>€11 803 641</b>	<b>€168 243 €</b>	<b>€800 000</b>	<b>€4 700 000</b>	<b>€300 000</b>	<b>€5 968 243</b>	<b>€5 835 398</b>

<sup>20</sup> Excluding regional projects.