

EU/CoE Partnership for Good Governance (PGG) 2019-2021

for Eastern Partnership countries

BI-MONTHLY INFORMATION NOTE

(May – June 2019)

The Council of Europe provides a **brief report offering an update on progress** in the implementation of the European Union/Council of Europe Partnership for Good Governance (second phase) (hereinafter: PGG II). The bi-monthly information will form a basis for the brief narrative synopsis report to be submitted every six months to the European Commission, as provided for in the Description of the Action for PGG II.

- **General overview of the reporting period**

This bi-monthly information note provides an overview of the PGG implementation for the period from 1 May to 30 June 2019. In the reporting period, the following main developments occurred:

- ✓ The reporting period was marked by the developments around the judiciary in Armenia. A Council of Europe high-level mission visited Yerevan to discuss the authorities' judicial reform agenda. Following consultations held with the national authorities and the EU, changes were made to the workplan and objectives of the civil justice project component and adjustments to the anti-corruption projects aimed at addressing the new needs emanating from the crisis.
- ✓ All projects under Deliverable 9 (Rule of law) have started; though in Azerbaijan clarifications are awaited regarding the new status of the main beneficiary.
- ✓ A new project falling under Deliverable 10 (the implementation of judicial reforms) was launched on 15 May in the Republic of Moldova. The launch concerns two outcomes related to support to the Equality Council and the Bar Association, while the outcome to support the National Institute of Justice is still on hold. Preparations began for the launching of the regional project on increasing the professionalism of lawyers with first inception missions carried out. To date, only one project – on the improvement of the efficiency and the quality of justice - remains to be launched upon receiving the green light from DG NEAR.
- ✓ As part of the Quick Response Mechanism (QRM), the Venice Commission issued two opinions with respect to Georgia (on the selection of Supreme Court judges) and the Republic of Moldova (on the constitutional crisis in June 2019).

Theme I – Strengthening Rule of Law and anti-corruption mechanisms (Deliverable 9)

All projects under the theme – bilateral and regional – have started. The projects in Armenia and Ukraine are still in a very early stage of their implementation. The activities in Azerbaijan were postponed until the new status of the main beneficiary has been clarified. The project in Belarus and Georgia began implementation focusing on policies to combat money-laundering and strengthening the asset declarations system. The regional dimension began with a meeting of all countries' focal points to discuss future co-operation.

ii) Strengthening institutional capacities of anti-corruption and money-laundering bodies

The implementation of PGG II in **Azerbaijan**, which focuses on combating money-laundering, was affected by domestic institutional changes resulting in the postponement of the PGG II activities. Following the Presidential Order of 30 May 2019, the Financial Monitoring Unit (FIU) – the body playing a key role in fighting money laundering - was transferred to the Ministry of Taxes. This move created uncertainty over its role and degree of its decisional autonomy. Consequently, the planned activities, such as the launch of the National Risk Assessment, have been postponed until there is greater clarity on the FIU's status.

PGG II in **Belarus** increased the institutional capacities of the anti-money laundering bodies in applying the methodology to detect money-laundering and terrorism financing (ML/FT). A total of 23 practitioners from law enforcement agencies and the banking sector learned how to identify different types of money-laundering and terrorism financing, and how to adopt corresponding remedial measures to address gaps in general and sectorial policies. A guide was delivered for this purpose together with practical cases to better illustrate practices. Feedback from the beneficiaries involved confirmed the usefulness of the knowledge and skills obtained for professional activities. Practical cases were particularly appreciated providing concrete examples of how to handle ML threats. The project beneficiaries adopted the workplan and timelines for activities for 2019-2021 at the Steering Committee Meeting held in Minsk on 19 June.

In **Georgia**, PGG II progressed towards better monitoring of declarations and verification of declarations on assets and conflict of interest of public officials in line with recommendations from GRECO and OECD (4th evaluation rounds). Georgia introduced an electronic system of asset declarations in 2012 and amended the Law on Conflict of Interest in 2017 strengthening the monitoring of asset declarations. The Civil Service Bureau monitors the accuracy of the data entered in the asset declaration system. To increase the monitoring capacities, the authorities (10 persons) learned more about means and stages of verifications of unexplained wealth and methods of plausibility check and the process of full audit. Evaluation showed the high usefulness and applicability of the knowledge acquired by the participants.

ii) Strengthening regional co-operation

The reporting period was marked by the launch of the **regional** dimension to strengthen regional co-operation in anti-corruption measures and fighting money-laundering. Focal points from all six Eastern Partnership countries gathered in Strasbourg to discuss priorities for co-operation.

Theme II – Implementing key judicial reforms (Deliverable 10)

The majority of the bilateral projects under this theme have started. The exception is the project on efficiency and quality of justice and the third outcome of the project on strengthening the capacity of legal actors in the Republic of Moldova which are still on hold. The two other outcomes of the latter began in May. Although the regional dimension will start in July, preparations for inception missions were under way.

The developments in the judiciary in Armenia affected the PGG II implementation, and in particular the component on civil justice reforms. In May, the Prime Minister called for the population to block access to courts and, in particular, his publicly stated intention to carry out a full “vetting” of all judges as a “surgical intervention” to root out long-entrenched networks of corruption and executive influence. This followed a court decision to release former President Robert Kocharian from pre-trial detention. The Council of Europe reacted promptly to these developments. A high-level delegation from the Council of Europe visited Yerevan at the end of May to discuss the authorities’ judicial reform agenda. The delegation agreed on priority measures for judicial reforms. The agreement was followed by subsequent discussions in Strasbourg and in Yerevan on concrete steps to respond to the authorities’ needs. It became clear that the new priorities will require changes in the project component on civil justice.

i) Legislative framework compliant with European standards

The reform of the criminal justice system in **Armenia** was at the centre of PGG II activities in the reporting period. Focus was on the new Criminal Code and the Criminal Procedure Code, fundamental for the execution of judgments of the European Court of Human Rights. The authorities confirmed their commitment to align the new codes with European standards. Following a letter received from the Minister of Justice, a series of meetings was launched focusing on harmonisation of problematic provisions (e.g. individual complaints mechanisms, friendly settlement and criminal liability of legal entities). The first meeting (June 2019) was followed by an assessment of how the concept of criminal liability of legal entities is applied in Council of Europe member states. The assessment, which revealed very diverse practices in Europe, helps formulate the position of the Armenian authorities over the matter. The work on the code continues with new meetings being organised.

ii) Support to implementation of targeted judicial reforms

In **Armenia**, the project component on criminal justice is in full implementation while the component on civil justice is being redesigned following the judicial crisis in May. Based on the consultations with the authorities, the new project proposal is still being developed to respond to the new judicial reform agenda. Noteworthy is that the consultations did not prevent the project from continuing with a number of planned activities which will fall within the new justice reform. These included the review of the tools for improving the efficiency of the judiciary, harmonisation of judicial codes and raising awareness of the population about the benefits of alternative dispute resolution. The latter was followed by a seven annual mock arbitration competition enabling students to improve their knowledge on this topic. Once the new proposal is prepared, it will be submitted to the authorities and the donor for approval.

PGG continue to play an important role in reforming the criminal justice in **Armenia**. Apart from the above legislative work, the Council of Europe focused on harmonisation of national practices with the European Convention's requirements. For this, a baseline study was launched to assess the way in which national courts apply the case-law of the European Court of Human Rights regarding the matters of detention and ill-treatment. This study will not only assess the situation and raise awareness of legal professionals on this issue but it will also help evaluate the end effect of the project on the beneficiaries. This is accompanied by the development of the curricula for criminal law judges based on the needs assessment completed in the reporting period. The report contains practical proposals which will increase the capacity of the judiciary to better harmonise its jurisprudence. These include the need for increasing the number of legal experts in the Court of Cassation, providing an opportunity to ensure exchanges between judges from different jurisdictions, introducing preliminary ruling procedure for certain issues and ensuring a more structured access to the case-law of the ECtHR. In parallel to the needs assessments, PGG focused on increasing the capacities of legal professionals to apply correctly the criminal legislation: 20 judicial officers acquired new knowledge and skills on how to apply the presumption of innocence in the context of the criminal justice. The development of a new course is under way to address the problem of poor legal reasoning in decision on criminal matters. In order to better integrate the gender in this project component, gender mainstreaming analysis has been launched looking at different aspects of judicial criminal proceedings.

In **Azerbaijan** the Council of Europe focused on preparations for launching the project to strengthen the efficiency and quality of justice. PGG II will follow up on the work accomplished with pilot courts under PGG Phase I and will disseminate the tools and methodology of the European Commission for the Efficiency of Justice (CEPEJ) successfully applied in pilot courts to all courts. Time-frame and deliverables were agreed to enhance the access to judicial statistics and the enforcement of domestic decisions. As to the latter, the Council of Europe replied positively to a request from the Ministry of Justice to elaborate a comparative study on the international best practices on alternatives to the enforcement and private bailiffs. This followed the presidential decree on enhancing judicial reforms issued in April which sets the objective to improve the enforcement of judgments/decisions. The project was officially launched at the beginning of July 2019 following the agreement on the workplan.

The introduction of e-justice and mediation were at the centre of the PGG implementation in **Belarus**. The Council of Europe facilitated dialogue among the judiciary on how to reinforce the use of IT tools and artificial intelligence in court management. The dialogue involved the Supreme Court and all regional courts which became acquainted with other countries' experiences in their transition to e-justice, while taking into account Council of Europe standards. Furthermore, an important development occurred in the field of mediation. The Parliament is about to adopt the new draft law on mediation, the development of which was supported by the Council of Europe. Further support will target the way in which the law is implemented. And yet, it is expected that the new mediation law will contribute to reducing the length of judicial proceedings which, according to reliable sources, is a problem in Belarus. However, the Supreme Court does not share this view. If this position persists, this may slow down the implementation of one of the project outcomes.

Human Rights were also a focus of PGG II in **Belarus**. Human Rights education at Universities was strengthened through the PGG involvement in the Spring Human Rights School. This led to increased awareness of the European Convention's requirements on prevention of discrimination. The participation of a judge from the European Court of Human Rights gave a high visibility to this topic pointing to its importance for building Belarus society on the equality principle. Emphasis was put on grounds for discrimination based on sex and disabilities. The abolition of death penalty was a second topic of co-operation with Belarus. Following the round-table held in January, it was agreed to focus on public opinion. The media played an important role in shaping public opinion. Preparations therefore began for a workshop for journalists and press-services of courts and prosecutors' offices. It will focus on how to report on serious crimes and subsequent trials that might lead to a death sentence: remaining unbiased, respecting the presumption of innocence, respecting the relatives of victims and of the accused.

The PGG II implementation in the **Republic of Moldova** began in May 2019 after receiving the green light from DG NEAR. For the time being, the focus is on the Equality Council and the Moldova Bar Association, while the support to the National Institute of Justice is still on hold. The overall objective of the actions is to ensure closer and better relations between the institutions and citizens in the field of non-discrimination which, if successfully achieved, will impact positively on the climate in Moldovan society. The inception mission (June 2019) confirmed the commitment to the strategic objective of all stakeholders. The mission also enabled identifying gaps and needs. The Equality Council is clearly understaffed and lacks resources to fully carry out its mission. An internal monitoring mechanism, which was set up under PGG I, still requires improvement together with the enforcement of Equality Council's decisions. The need for IT equipment and a new Equality Council's Training Centre was also raised in the context of the mission. A needs assessment will therefore be carried out for the Moldova Bar Association which is a new actor in PGG II. In this respect, the focus will be on pleading non-discrimination cases before domestic courts. The actions are closely intertwined with the regional dimension. While this national project improves the capacity of the Equality Council to fight discrimination, the regional dimension encompasses a wider range of aspects and stakeholders (see Theme III). A new EU-funded project will also touch upon the issue of non-discrimination; therefore, close co-operation will be required.

Theme III – Combating discrimination and protecting the rights of vulnerable groups and women (cross-cutting issues)

In order to strengthen the access to non-judicial redress mechanisms by victims of discrimination, partners from the **Republic of Moldova** and **Ukraine** committed themselves to starting several activities on the collection of disaggregated data on discrimination, hate crime and hate speech. This commitment was made during a national meeting at which national partners from public authorities and representatives of civil society, equality bodies/Ombuds offices participated. The meetings also developed the knowledge of national partners of the need for disaggregated data as evidence for victim protection and combating discrimination. Similar activities and commitments are under way in **Armenia**.

The project team established communication with the Ministry of Justice to offer expertise in the **Republic of Moldova** on two draft laws related to ensuring equality and to the mandate of the Equality Council, in the upcoming period.

With regard to **Azerbaijan** and **Belarus**, preparations are underway to hold national capacity-building activities on discrimination and how to address them, according to European standards.

A project newsletter has been prepared aimed at improving exchange of information in the region which includes contributions from all six Eastern Partnership countries.

Quick Response Mechanism (QRM)

In addition to technical co-operation, PGG II includes a Quick Response Mechanism (QRM) by which the Council of Europe provides expertise upon requests from all PGG beneficiaries. In the reporting period, the Venice Commission dealt with two requests for legal opinions with respect to Georgia and the Republic of Moldova.

- ❖ At its plenary session in June, the Venice Commission endorsed an [opinion](#) on the selection and appointment of Supreme Court judges of Georgia. It considered that the lifetime appointment of Supreme Court judges by the current Parliament, in between elections, might be detrimental to the high level of public trust that an institution, such as the Supreme Court, must enjoy in a country. All the more so as, available information points to a fairly low trust by a large segment of society in the High Council of Justice responsible for selection of judges. It was recommended that the Parliament only appoints the number of Supreme Court judges that is absolutely necessary to make the work of the Supreme Court manageable. Further appointments may then be made by the Parliament elected at the next general elections scheduled for 2020.
- ❖ Upon a request from the Secretary General of the Council of Europe, the Venice Commission adopted an urgent [opinion](#) on the recent situation in the Republic of Moldova. The opinion followed a series of judgments issued by the Constitutional Court in June resulting in the dissolution of Parliament and calling for early parliamentary elections. The Venice Commission considered that the dissolution of parliament is a last resort measure to be taken "only when overcoming a constitutional crisis so requires", which was not the case in the Republic of Moldova. The crisis could have been solved as a Speaker had been elected and a government appointed. The crisis ended before the opinion was adopted following the resignation of the outgoing Prime Minister. The Constitutional Court repealed its judgments on this matter.

Co-ordination and Communication

Regular co-ordination was maintained throughout the reporting period between ODGP and DG NEAR and the following main actions were undertaken:

- An information meeting for Ambassadors of the Eastern Partnership countries to the European Union and the Council of Europe, as well as for the National Co-ordinators, was held in Brussels on 7 May 2019, during which PGG II was presented. Open discussions were held

about the role of National Co-ordinators. DG-NEAR representatives highlighted that the CoE/EU PGG is an efficient co-operation framework to promote the common values of rule of law, fundamental freedoms, and pluralist democracy in the EaP region; they stressed that the programming and co-ordination of the PGG activities were considerably improved and the EUDs are now closely involved in the PGG implementation.

- A detailed presentation of PGG II was given to the representatives of EU Members states to Belarus on 27-28 May in Minsk. The PGG Co-ordination team also met with the Head of Co-operation of the EUD as well as representatives from the MFA on the state of play of PGG II at the end of the inception period.
- A meeting between DG NEAR and ODGP took place on 1 July in Brussels on lessons learned from PGG I as regards communication issues as well as on the visibility and communication strategy for PGG II. The PGG co-ordination, reporting modalities and governance bodies were also discussed. Agreement was reached to continue efforts to re-focus communication on concrete results for final beneficiaries/citizens, to provide more factual information on specific aspects of projects and progress made against baseline, and to show human-rights centered success stories easily adaptable to different audiences.

On co-ordination, agreement was reached regarding the following points:

- Need to further enhance an inclusive co-ordination of the PGG activities with EUDs and further strengthen co-ordination between the EUDs and the CoE External Offices in the EaP countries, including joint information meetings with national authorities whenever appropriate;
 - Concerning activities in the Republic of Moldova, it was suggested to organise joint EUD/CoE External Office consultations with national authorities to re-validate proposed actions and to ensure that they are in line with the priorities of the new Government;
 - The possibility to organise the PGG Steering Committee meeting (PGG-SC) back-to-back with the Scoreboard meeting scheduled for 15 October in Strasbourg was discussed.
 - As regards reporting, it was agreed to put the emphasis on the PGG interventions' contribution to the achievement of the PGG objective, the EU 2020 deliverables (milestones) as well as on the impact of the PGG interventions and on the communication of results for the annual reporting, as well as on the challenges faced during the PGG implementation for the transversal component. Information on Local and PGG Steering Committees' decisions must be thoroughly provided in the reports.
- Dates were identified for the six Local Steering Committee Meetings (LSCs) in each of the EaP countries, which will take place between mid-September and mid-October and the preparation was launched. External Offices were invited to liaise with EUDs to confirm the dates of the LSCs, agree on a list of participants and on common communication/visibility activities and define a topic for a thematic discussion.

- The date of 14 October was identified for the PGG-SC in Strasbourg and submitted to DG NEAR for approval. Representatives of EUDs in the EaP countries will be invited to attend the PGG-SC in Strasbourg which will allow organising meetings with relevant CoE colleagues in charge of work in the areas covered by PGG.
- The Inception report covering the period 1 January – 30 April 2019 was submitted to DG NEAR at the end of May.
- 13 logframes and workplans of the projects were reviewed.
- Following the inception period, the PGG budget has been slightly revised. A proposal for Addendum has been submitted to DG NEAR.
- During the inception period no proposals to use the Reserve Fund were discussed.

Communication and visibility

As regards to communication and visibility, the meeting between DG NEAR and ODGP (1 July in Brussels), the following points were raised:

- The visual identity already deployed, including a transversal color and circles for social media approved beginning of 2019 was questioned. Discussions on this issue will be added to the agenda of the ScoreBoard meeting in October. In the meantime, communication activities featuring the visual identity were paused.
- Local steering Committees will include a point on Communication
- Close co-operation with EU networks ([EU Neighbours](#), [Young European Ambassadors](#)) was agreed to disseminate PGG related information with a focus on human-centered and result-oriented stories

Communicating with intermediate beneficiaries:

A brochure explaining the Quick Response Mechanism was developed.

Communicating project objectives

Information on the PGG II objectives and implementation modalities were disseminated to the press (through a press release) and social media accounts at the occasion of the meeting held in Brussels on 7 May 2019 for the National Co-ordinators, the Ambassadors of the EaP countries to the Council of Europe and to the European Union.

Local PGG projects launches, such as Armenia, were also promoted and received media coverage.

The PGG I results and the PGG II programme were presented at the Information meeting on European Union/Council of Europe joint programmes organised on the occasion of the 2019 Europe Day by the EUD to the Council of Europe in co-operation with the ODGP on 10 May 2019 in Strasbourg. The event targeted the Permanent Representatives of member States and other Representations to the Council of Europe.