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Information Documents

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**Policy of the Council of Europe towards neighbouring regions – Post-2017
co-operation framework**

¹ This document has been classified restricted until examination by the Committee of Ministers.

Executive summary

- At present, in the framework of the Neighbourhood Policy, there are six bilateral co-operation documents running until the end of **2017**.
- - **Three Neighbourhood Partnerships** for the three **most advanced** Partners (the Hashemite Kingdom of **Jordan, Morocco and Tunisia**) combining an enhanced political dialogue and co-operation activities;
 - **Three Neighbourhood Co-operation Priorities** (“first generation” action plans) with **Kazakhstan², the Kyrgyz Republic and Palestine***.

The format of the post-2017 relations with these six countries, and ultimately the future parameters of the Neighbourhood Policy, must be decided by the end of this year.

Targeted ad hoc co-operation and regional activities take place with other countries of the regions. Other forms of co-operation have also been developed to cover other countries/situations, notably Israel.

Tangible results have been achieved towards the development of a common legal space based on Council of Europe values. However, the **limitations** of the implementation of the Policy have also become visible.

- For the **future**, it is proposed to **consolidate** achievements in the framework of the 2011 Istanbul parameters and in the light of experience gained between 2011 and 2017:
 - Co-operation should remain **demand-driven**; it should focus on areas where it can have a concrete **impact**; **and it should be based on Council of Europe added value while taking into account respective capacities**.
 - It should remain **geographically** focused on the current beneficiaries. At the same time, some flexibility should be retained in order to take into account relevant developments if need be.
 - **Thematically**, it should further focus on responses to increasing national and trans-border threats, and where possible, on more substantive human rights issues.
 - The **sustainability** of the Policy should be developed and the Neighbourhood Policy should be further **mainstreamed** through Council of Europe instruments/tools/bodies.

² Neighbourhood Co-operation Priorities are limited, at the request of the Kazakh authorities, to co-operation activities on Council of Europe conventions in criminal matters.

*This designation shall not be construed as recognition of a State of Palestine and is without prejudice to the individual positions of Council of Europe member states on this issue.

In practical terms:

- The existing three **Neighbourhood Co-operation Priorities** could be further **prolonged**.
 - The existing three **Neighbourhood Partnerships** could be **renewed** beyond 2017.
 - In case **another country** (other than the above-mentioned six) requests assistance, Council of Europe **ad hoc** bilateral involvement and/or involvement within a **regional** dimension should be considered first. A country should first demonstrate its will to adhere to the Council of Europe values and capacity to co-operate before benefiting from a Council of Europe institutionalised co-operation-framework.
- Finally, close co-operation and co-ordination with the **European Union** remains an imperative.

A possible interest of the most advanced Partners in **longer-term institutional relations** will have to be addressed if and when appropriate.

1. Introduction

The mandate of the Council of Europe is, and will remain, **geographically focused on Europe**. At the same time, many of the core issues under the Council of Europe mandate are increasingly being influenced by developments outside Europe, and notably in its Mediterranean neighbourhood. In order to **consolidate its contribution to the stability and democratic security** of both Europe and its neighbouring regions, the Council of Europe has developed, as from 2011, a “Policy towards neighbouring regions” building on its expertise and instruments. The Policy aims at extending co-operation beyond the continent and developing a **common legal space** based on Council of Europe values and instruments.

All current neighbourhood documents adopted with beneficiary countries since 2011 are time-limited and will end at the end of 2017. In addition, five years on, there is also a need to adjust to new circumstances. As a consequence, the **parameters of the post-2017 co-operation** need to be examined.

A **review** of the Council of Europe Policy towards neighbouring regions was submitted to the Ministerial Session held in Nicosia on 19 May 2017³. On that occasion, the Committee of Ministers⁴:

1. welcomed the progress made in implementing the Council of Europe policy towards neighbouring regions – North Africa, Middle East and Central Asia – and expressed its appreciation for the financial contributions made by member States and the European Union in this context;

³ CM(2017)27-final 127th Session of the Committee of Ministers (Nicosia, 19 May 2017) - Report on the implementation of the Council of Europe Policy towards neighbouring regions, 12 May 2017 https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680712371

⁴ CM/Del/Dec(2017)127/4, 19 May 2017.

2. *invited the Ministers' Deputies and the Secretary General to assess the results obtained from: the neighbourhood partnerships with Jordan, Morocco and Tunisia; the neighbourhood co-operation priorities with Kazakhstan, the Kyrgyz Republic and Palestine**; and the co-operation with other countries of the neighbouring regions, notably Israel, in order to decide on the follow-up action to be taken.

The present document recalls briefly the existing framework and achievements (part 2), presents lessons learned (part 3) and **examines possible features of the post-2017 policy** (part 4).

2. The Council of Europe Policy towards neighbouring regions 2011-2017

The Council of Europe Policy towards neighbouring regions has been in place since 2011. It pursues the following three **objectives**: to facilitate democratic political reforms; to help promote good governance and human rights; and to reinforce and enlarge the Council of Europe's action in combating trans-border and global threats. It was designed to cover three regions (North Africa, the Middle East and Central Asia), if and when conditions are met (see below). The policy has been first and foremost demand-driven and focused – both in terms of geographical scope and content.

According to the 2011 “**Istanbul parameters**”, the Policy should be implemented without prejudice to the Council of Europe's activities in member states and predominantly financed through extra-budgetary resources. Co-operation with the countries concerned shall be demand-driven, tailored and flexible, whilst entirely governed by Council of Europe values and standards. The Council of Europe shall focus on areas in which it has a clear added value, namely its instruments and proven expertise in the fields of human rights, the rule of law and democracy. Institutional coherence with the Parliamentary Assembly and the Congress of Local and Regional Authorities, which developed their respective statuses of “Partnership for Democracy”, should also be ensured.

In **practice**, the Policy has been implemented through **two pillars: co-operation activities and political dialogue**. **Bilateral** co-operation is in some instances complemented by a **regional** dimension, enabling other countries to be involved and to engage in a “south-south” co-operation. The Policy has developed in close co-ordination with the **European Union**, which is an indispensable partner, both politically and financially.

The following **formats** of co-operation have so far been established:

Neighbourhood Co-operation Priorities (“first generation” action plans), setting out specific priority co-operation activities, have been developed with Jordan, Morocco and Tunisia for the period 2012-2014 and later with Kazakhstan (2014-2017)⁵, the Kyrgyz Republic (2015-2017) and Palestine*(2016-2017).

⁵ Neighbourhood Co-operation Priorities are limited, at the request of the Kazakh authorities, to co-operation activities on Council of Europe conventions in criminal matters.

Neighbourhood Partnership (“second generation”: action plans AND Enhanced Political Dialogue) have been developed with **Jordan, Morocco and Tunisia**, the most advanced Partners, for the period 2015-2017. To recall, the Enhanced Political Dialogue offers widespread opportunities for dialogue between the Council of Europe and the authorities, ranging from high-level exchanges on topics on the bilateral agenda and political issues of common interest, to participation in expert bodies.

At present, there are **six bilateral** co-operation (framework) **documents** running until the **end of 2017**:

- Three **Neighbourhood Co-operation Priorities** (“first generation” action plans, “NCPs”) with **Kazakhstan** (2014-2017), **the Kyrgyz Republic** (2015-2017) and **Palestine*** (2016-2017).
- Three **Neighbourhood Partnerships** for the three **most advanced** Partners (**Jordan, Morocco and Tunisia**) combining an Enhanced political dialogue and co-operation activities.
- In addition, **targeted and limited ad hoc co-operation and/or regional** activities have taken place with other countries of the regions covered by the Policy, for instance with Libya, Egypt, Algeria and Lebanon, notably through the Venice Commission, the Co-operation Group to Combat Drug Abuse and Illicit trafficking in Drugs (Pompidou Group) and the Cybercrime Convention.
- Other forms of co-operation have been developed to cover specific situations, in particular a multifaceted co-operation has developed with **Israel**.

3. Overall review and lessons learned

In all terms, **Morocco and Tunisia** were the **most eminent Partners**, while Jordan was also willing to co-operate. The Council of Europe Offices in Rabat and Tunis played a catalysing role in the co-operation.

Political dialogue with the authorities also contributed to continued co-operation, especially in the context of political instability or changes of line ministries. It confirms the **relevance** of the two pillars of the Policy (Political dialogue and co-operation activities) and their **complementarity**. With Morocco and Jordan, high-level political dialogue has not developed as extensively as the co-operation. Technical dialogue, however, has developed significantly with all three Neighbourhood Partners (Jordan, Morocco, Tunisia) through expert bodies. This participation is a less visible but very important dimension since it contributes to the institutional involvement of the Partners in the Organisation. The Policy has largely been shaped by the **demand-driven** principle (in geographical and thematic terms). It should be stressed that the Organisation did not receive extensive requests for institutionalised co-operation from other countries in the Neighbourhood regions. In this context also, it should be noted that the three Neighbourhood Partners, in particular Tunisia, have already expressed their interest in longer-term institutional relations with the Council of Europe and their will to further co-operate beyond 2017.

Apart from the **political will** to engage or not in co-operation, practice also showed the importance of the implementation **capacities** of the **beneficiary** countries to carry out reforms.

Within the **Council of Europe**, the Policy has been **mainstreamed** through the instruments and bodies, in particular after the adoption of the three Neighbourhood Partnerships with Jordan, Morocco and Tunisia: the Council of Europe confirmed its capacity to respond to the needs and interest of specialised ministries through its intergovernmental expert bodies. The Council of Europe was also able to adjust to the need to **respond to the increasing trans-border threats** (migration, trafficking in human beings, terrorism and radicalisation).

Regarding **Council of Europe capacities** and the predominantly **extra-budgetary financing** of the Policy decided in 2011, resources have been **optimised**. As stressed by the Committee of Ministers in May 2017, the political and financial support of the **EU** towards bilateral and regional co-operation activities remains vital. **Voluntary contributions** also remain indispensable. **Unearmarked** voluntary contributions allow flexibility to respond to unexpected needs and dynamics of reform processes.

As regards the **impact** of the Policy in the beneficiary countries, beyond the long-term objectives of the Policy described above, **tangible results** have already been achieved in the development of a common legal space through accession to Council of Europe instruments, preparation and adoption of relevant legislation, as well as the setting-up of relevant institutions, with the assistance of the Council of Europe, notably in Morocco and Tunisia. The impact of co-operation with the Council of Europe is facilitated by the financial and political **partnership with the EU**.

Conversely, in the last five years, the measurable impact of an institutionalised co-operation could not have been guaranteed in larger and/or more complex countries.

Among lessons learned also, practice shows that **co-ordination with other international actors**, first and foremost the European Union, is crucial on a daily basis and appears to be fundamental to achieving tangible results. The Council of Europe **human rights-based approach** to technical assistance is an important complement to existing international programmes of assistance. The Organisations' global "**multi-layer**" approach involving state level, local authorities and civil society is also an added value.

Finally, the sustainability of the Policy will ultimately rely on the increased **involvement** and ownership of the process by the beneficiary countries.

4. Proposed features of the post-2017 Policy

4.1. What could be the main policy parameters on the basis of lessons learnt?

The practice and developments in the Neighbourhood regions confirmed the **validity of the 2011 objectives and Istanbul parameters**. It is therefore proposed to keep them in order to guide the further development of the Policy.

At the same time, **flexibility** remains essential in order to also take into account relevant developments and be able to examine ad hoc requests for **targeted activities in a regional context**.

Given the limited resources available, preference should be given to the **consolidation of current achievements**, namely the three Neighbourhood Partnerships and the other three Neighbourhood Co-operation Priorities documents. The Policy has to remain focused **geographically** where it can have a **reasonable impact**. **Thematically**, it is also proposed to focus on issues where the Council of Europe brings a **clear added value**, increasing national and transborder threats, and where possible, more substantive human rights issues.

All in all, it is proposed to **optimise** Council of Europe **involvement** by primarily focusing on countries where co-operation is **demand-driven**; where it can have a reasonable **impact**; and where it is **based on Council of Europe added value and respective capacities**.

In practical terms:

- **Future of the present six bilateral documents:** If the three conditions above are fulfilled (i.e. demand-driven; impact-focused; and based on Council of Europe added value and respective capacities), the present six Neighbourhood documents should be **extended or renewed, as appropriate, beyond 2017 (see 4.2. and 4.3. below)**. **Time-limited and capacities-based** frameworks have the advantage of being adjustable and of guaranteeing the sustainability of the proposed co-operation.
- **Geographical scope** of the Policy: In the present circumstances, it is proposed to be **cautious** when **extending** Council of Europe assistance in an **'institutional format'** to countries other than the six current beneficiary countries. In case another country (other than the above six) requests Council of Europe assistance, **regional and ad hoc involvement** may be considered.
- **Thematic scope and impact:** The Council of Europe shall also continue to **mainstream** the Neighbourhood Policy through its instruments/bodies/tools and intergovernmental steering and convention committees to increase the impact of the Policy, in close co-operation with the EU. The potential of the North South Centre should be further exploited in this context. The Council of Europe has also developed several new legal instruments open to non-member states since 2011. To enhance its relevance, subject to the agreements of the countries concerned, it is also recommended to strengthen the contribution of the Policy to the **fight against transborder threats**.
- **Financing:** It is also recalled that financial resources for the long-term implementation of the Policy must be secured, predominantly through EU funding and voluntary contributions. In this perspective, **diversification of financing** would be welcome.
- Finally, close co-operation and co-ordination with other international partners, in particular with the **EU**, remains an imperative.

4.2. Co-operation documents with Kazakhstan, the Kyrgyz Republic, and Palestine*

The existing three **Neighbourhood Co-operation Priorities** could be further **prolonged**:

- Kazakhstan until mid-2018;
- The Kyrgyz Republic until end 2019 (pending confirmation from the Kyrgyz Republic);
- Palestine* until end 2018.

4.3. Co-operation documents with Jordan, Morocco and Tunisia

Subject to the forthcoming Final Reports on the Implementation of the current Partnerships (to be published by the end of the year), it is proposed to:

- **renew and adjust the existing Partnership documents** combining action plans and an enhanced political dialogue;
- maintain a time-limited framework (for 2018-2021);
- possibly **deepen** thematic co-operation;
- within this framework, on a country-specific basis, consolidate the enhanced political dialogue, in particular the **high-level** political dialogue.

APPENDIX

NON-PAPER on Options to guide institutional relations with the most advanced Partners if and when relevant

Jordan, Morocco and Tunisia have expressed interest in **longer-term institutional relations** with the Council of Europe. In this respect, Tunisia informally expressed its interest in the Observer status. So far, no request has been received.

To address, if and when relevant, a possible demand for longer-term institutional relations, the following options can be summarised as follows:

➤ **Option 1: Observer status if and when there is such a request**

- Observer status establishes a link with the Committee of Ministers only. It is granted on the basis of relatively “loose” conditions, in particular “accept Council of Europe principles” and “share Council of Europe values” (including the abolition of the death penalty), “wish to co-operate” and “be willing and able to make a positive contribution to Council of Europe work”⁶. There is no requirement to accede to any Council of Europe instrument.

It also gives some automatic rights: to participate in Committee of Ministers’ meetings and expert committees, including those drafting conventions⁷.

- Observer status is granted by the **Committee of Ministers “after consulting the Parliamentary Assembly”**.

⁶. *Criteria defined for observer states in 1993 [Statutory Resolution (93)26 on observer status] and in 1999 [Criteria for the granting of Observer status with the CoE adopted on 1-2 and 7 July 1999]:*
 -be willing to accept the principles of democracy, the rule of law and human rights;
 -wish to co-operate with the CoE;
 -share the CoE’s values, as reaffirmed in the Final Declaration of the 1997 Strasbourg Summit (which includes an appeal to the “universal abolition of the death penalty”);
 -have a European connection;
 -be willing and able to make a positive contribution to CoE work;
 -have sustained contacts with CoE (i.e. have a permanent diplomatic presence in Strasbourg).

⁷. *“Statutory Resolution (93)26 on observer status” & “Invitation to observer states to participate in the regular meetings of the Ministers’ Deputies” (971st meeting, 12 July 2006):*
 Participate (including, where applicable, the right to speak):
 -in CM meetings (Ministerial and Deputies);
 -in CM subsidiary meetings (Rapporteur Groups);
 -in Committees of Experts (set up under Article 17 of the Statute) in which all member states have the right to participate.
 -have the right to participate in the drafting of a convention and, if this convention so provides, to sign and ratify it;
 -have the right to send observers to Conferences of Specialised Ministers following an invitation of the host country;
 -have the right to participate in activities of Partial or Enlarged Agreements according to the rules of such Agreements.

- “The Committee of Ministers may suspend and, after consulting the Parliamentary Assembly, withdraw observer status”. “As far as the commitments to Council of Europe standards are concerned, an assessment might be made, on the basis of a Secretariat report, of the applicant’s performance with regard to United Nations instruments”.

Remarks/Questions:

- If one of the three Partners asks for observer status, others are likely to do the same: Morocco?, Jordan?, Israel? Palestine*?
- If granted “observer” status, neighbourhood countries would have the same status as the present observers (Canada, the Holy See, Japan, Mexico, the US).

➤ **Option 2: Observer status *bis***

Use existing observer status and substantiate (in the Committee of Ministers’ decision granting the observer status) the existing conditions through stricter verification. (The current Rules provide for the following: “As far as the commitments to Council of Europe standards are concerned, an assessment might be made, on the basis of a Secretariat report, of the applicant’s performance with regard to United Nations instruments”.)

Advantage: possible without changing existing Rules.

Disadvantage: would create two categories of observers.

➤ **Option 3: create a new status** (as already proposed in 2012-2014)

This would require the adoption of a Statutory Resolution fixing the general conditions of the status. A draft text, time-limited framework, listing Conditions and Rights was discussed in 2012-2014 and abandoned. (For some delegations, it would have “given” too much; and for the potential partners, it was not enough, given the long list of conditions required. The agreed elements of the proposals were included in the current Partnership documents.)

Advantage: a different status to observer status.

Disadvantage: legally more complicated.