

1 April 2014

ODGProg/Inf(2014)2rev

Action Plan for Azerbaijan 2014-2016

Table of contents

General overview	3
Implementation and reporting modalities	4
1. Freedom of assembly	5
2. Freedom of expression and association, media freedom	7
2.1 Freedom of expression and media freedom	7
2.2 Strengthening the regulatory framework and operational capacities for the effective enjoyment of the freedom of association	9
2.3 Civil society dialogue.....	10
3. Good governance and the fight against corruption.....	12
4. Free and fair elections, functioning of political parties.....	14
5. Penitentiary System, pre-trial and administrative detention.....	15
5.1 Fight against ill-treatment and impunity in detention, provision of health care.	15
5.2 Human rights based policing, non-infliction of ill-treatment.....	16
5.3 Prison anti-corruption measures	17
6. Independence and efficiency of the judiciary	19
6.1 Independence, efficiency, transparency and fairness of the judicial system	19
6.2 Application of the European Convention on Human Rights and the case-law of the European Court of Human Rights	20
7. Local democracy.....	22
8. Investigation into, prosecution of, and co-operation against cybercrime..	25
9. Intercultural dialogue	26
9.1 World Forum on Intercultural Dialogue.....	26
9.2 Human rights education and democratic youth participation.....	26
Appendix: List of projects.....	28

GENERAL OVERVIEW

This Action Plan for 2014 – 2016 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 member state and to help it address some fundamental human rights and rule of law issues. The initiative renews the commitment of the Council of Europe to assist Azerbaijan in its necessary reform agenda in the areas of expertise of the Council of Europe – human rights, the rule of law and democracy.

The Action Plan reflects also the priorities of the country, in particular the National Programme for Action, as well as the issues identified in the most recent findings of the Council of Europe's reports, resolutions and the recommendations with respect to Azerbaijan, notably those of the Committee of Ministers, the Parliamentary Assembly, the European Committee for the Prevention of Torture (CPT) and the Framework Convention on National Minorities as well as the recommendations of the Venice Commission and Commissioner for Human Rights of the Council of Europe. The report on the latest visit of the Committee of Ministers' Rapporteur Group on Democracy (GR-DEM) Sub-Group to Azerbaijan concludes that "substantial progress remains to be accomplished by Azerbaijan in the honouring of its commitments to the Council of Europe"¹. Several lines of actions in the Action Plan are based on issues identified in the judgments of the European Court of Human Rights.

In order to increase its value and to avoid overlap with efforts of other stakeholders, the Action Plan has been developed to ensure synergy and complementarity of action in the following fields:

- freedom of assembly;
- freedom of expression and media, freedom of association;
- reinforcement of good governance and fight against corruption;
- support to free and fair elections;
- prisoners' rights and fight against impunity and ill-treatment;
- improving the efficiency of the judicial system and administration;
- application of the European Convention on Human Rights (ECHR) and the case-law of the European Court of Human Rights (ECtHR);
- local democracy;
- co-operation against cybercrime;
- inter-cultural dialogue.

State institutions, specialised structures and civil society will be the main beneficiaries of the reform effort. The Action Plan is drafted in preparation for Azerbaijan's Chairmanship of the Committee of Ministers of the Council of Europe from May to November 2014, which constitutes an important milestone for the country.

¹ GR-DEM(2013)4 of 26 April 2013

IMPLEMENTATION AND REPORTING MODALITIES

The implementation of this Action Plan will be jointly assessed by the Council of Europe and the Azerbaijani authorities. For this purpose, a Steering Committee will be established, composed of representatives of the Council of Europe, the Ministry of Foreign Affairs and other national stakeholders involved in implementation of the Action Plan (representatives of specialised ministries, etc.). The Steering Committee will meet regularly with a view to assessing implementation of approved projects and to discussing new project proposals where relevant.

The Council of Europe will provide regular updates on the progress of programmes and projects. To this end, the Office of the Directorate General of Programmes will submit interim and final reports to the Committee of Ministers.

The Council of Europe Office in Azerbaijan and operational services in Strasbourg will be responsible for the management of the Action Plan at the project level. In particular, the Council of Europe Office in Azerbaijan will play an important role in coordinating implementation of activities in the field.

Projects in the Action Plan are to be funded from multiple sources including the Council of Europe's ordinary budget and voluntary contributions from donor countries and international organisations. A number of projects mentioned in the Action Plan will be implemented through EU/CoE Joint Programmes.

1. FREEDOM OF ASSEMBLY

Sector Overview and Priorities

The Council of Europe has developed an important *acquis* on substantive and practical aspects related to the freedom of assembly in Europe, identified by the CoE standard-setting and monitoring bodies. The European Court of Human Rights in particular has interpreted and developed Articles 10 and 11 of the European Convention on Human Rights (ECHR) in its case law. Other bodies which have issued important substantive guidance are the Venice Commission and the Commissioner for Human Rights of the Council of Europe.

Several years have passed since the amendment of the law on freedom of assembly in Azerbaijan in 2008, which took into account most of the recommendations of the Venice Commission of the Council of Europe. The Council of Europe and Azerbaijan will launch a dialogue on freedom of assembly within the framework of the Action Plan to take stock of the way the law is functioning, as well as how it is being implemented at local level. The emphasis of the present Action Plan will be primarily on the implementation of the law.

Sources of justification

National Programme for Action (NPA) of Azerbaijan; ECtHR's judgments finding violations of the ECHR by Azerbaijan; reports by the Council of Europe Commissioner for Human Rights on his visits to Azerbaijan; requests by national authorities and partner institutions for activities and consultations with the Registry of the ECtHR and the Department for the Execution of Judgments of the ECtHR.

Overall objective

To provide assistance/expertise to the authorities to align and to implement assembly-related legislation and practice with European standards, and to improve by-laws and other regulatory instruments in order to ensure the right to assembly.

Expected results

- The legislative and administrative frameworks have been assessed and clear guidelines are prepared on possible restrictions of freedom of assembly in line with the case law of the ECtHR;
- The effective application of the constitutional and national legislative frameworks has been assessed, in particular with a view to effective application and effective protection of the right to assembly locally; judges and prosecutors know how to deal effectively with cases involving freedom of assembly, in line with European standards, inter alia through the European Programme for Human Rights Education for Legal Professionals (the HELP Programme);
- The police force effectively fulfils its statutory obligations during demonstrations and mass gatherings, in line with European standards;

- Demonstrations and public gatherings are organised in line with European standards.

Proposed action

The dialogue on freedom of assembly between the Council of Europe and Azerbaijan will consist of two phases. **The first phase of the dialogue will include:**

- Round-table discussions on the freedom of assembly and the ECtHR case law with the participation of parliamentarians, representatives of the government and the judiciary, the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, municipal officials and civil society;
- Assessment and recommendations regarding the functioning of the law on freedom of assembly and further legislative and administrative provisions;
- Review and recommendations on administrative practice at local level (including recommendations for the law enforcement agencies), with regard to freedom of assembly (addressing issues such as rally authorisations practice, reasons for refusal, negotiations, administrative arrests for public order violations, etc.);
- Preparation, if needed, of legislative amendments and administrative guidelines.

The second phase will involve:

- Training of local executive authorities (decision-makers) on the interpretation and implementation of the law on freedom of assembly, in line with European standards and the ECtHR case law;
- Training and guidelines for police and other law-enforcement agencies on the fulfilment of their obligations during rallies and demonstrations, in line with European standards and ECtHR case law;
- Training for judges and prosecutors to effectively deal with cases involving freedom of assembly.

2. FREEDOM OF EXPRESSION AND ASSOCIATION, MEDIA FREEDOM

2.1 Freedom of expression and media freedom

Sector Overview and Priorities

One of the accession commitments of Azerbaijan is to “guarantee freedom of expression and the independence of the media and journalists, and particularly to exclude the use of administrative measures to restrict the freedom of the media”. Freedom of expression, including media independence, professionalism, pluralism and diversity, remains a crucial commitment of the country. The institutional framework for prevention and effective investigation as regards the safety of journalists needs to be reinforced. The imminent introduction of digital TV frequencies could be an occasion for a diversified and balanced offer of TV channels to appear. The surge of internet use has prompted debates on the need for internet governance and regulation of the exercise of freedom of expression on the internet.

In 2012, the Azerbaijani authorities requested the assistance of the Venice Commission to draft legislation on defamation. In April 2013, a delegation of the Venice Commission visited Azerbaijan and on 14 May 2013 Parliament amended the Criminal Code, extending punishment for slander and insult to the internet. The dialogue between the Venice Commission and Azerbaijan authorities continues and the opinion of the Venice Commission was adopted in October 2013.

Sources of justification

National Programme for Action (NPA) of Azerbaijan article 1.2.7, “Elaboration of proposals on improving the legislation in order to decriminalize Defamation», and article 2.22, “Arrangement of courses on the exercise of the freedom of speech and thought, for mass media”; Azerbaijan National Action Plan 2012-2015 “Open Government Initiative”; Council of Europe Commissioner for Human Rights report (document Comm/DH(2010)21); Committee of Ministers’ Decision in respect of the Mahmudov and Agazade Group (CM/Del/Dec(2011)1115) which calls for a comprehensive approach of the overall legislative framework of defamation in Azerbaijan; repeated appeals to decriminalise defamation made by the Parliamentary Assembly and the Commissioner for Human Rights.

Overall objective

To improve the sub-legislation and internal regulatory instruments for full enjoyment of freedom of expression and freedom of association in line with European standards.

Expected results

- The institutional framework for prevention and effective investigation as regards the safety of journalists is reinforced;

- Legislation on defamation is in line with the ECHR and related case-law (in particular with regard to sanctions (criminal sanctions for defamation); civil sanctions for defamation are reasonable and proportional);
- Mechanisms to protect journalists' rights have been reviewed in order to either establish an independent institution of Press Ombudsman or to reinforce the capacity of the existing Ombudsman's office to protect the rights of journalists;
- Universities have introduced curricula that offer quality professional training for journalists;
- Policies for broad internet access have been established;
- The network neutrality principle² is incorporated in the legal framework;
- Mechanisms to apply national legislation, which is in line with international standards, are improved, including through exchange of best practice

Proposed action

- Awareness-raising on protection of journalists and combating impunity, training on positive obligations under the ECHR is provided for journalists and legal professionals;
- Council of Europe's Venice Commission and media to assist with the preparation of the draft law on decriminalising defamation;
- Training for judges and prosecutors to deal effectively with cases involving freedom of expression and assembly, and to prevent arbitrary application of domestic law;
- Continued support for the reform of university journalism education, promotion of media professionalism and ethics;
- Reinforce existing state institutions and establish an independent helpline providing legal aid and counselling to journalists, press and media organisations;
- Internet governance: support multi-stakeholder dialogue to include human rights standards, provide technical assistance through advice and expertise to national stakeholders with regard to improving national policies and practices for internet access;
- Confirm that legislation on access to information and existing mechanisms and practices is in line with international standards and best practices;
- The mechanisms of application of national legislation on access to information are improved;
- Public service media (PSM): provide assessment and assistance to bring PSM in line with European standards;
- Organise a forum to facilitate a multi-stakeholder outreach and dialogue on new forms of media.

² As stipulated in the Declaration of the Committee of Ministers on network neutrality (Adopted by the Committee of Ministers on 29 September 2010):

"Users should have the greatest possible access to internet-based content, applications and services of their choice, whether or not they are offered free of charge, using suitable devices of their choice. Such a general principle, commonly referred to as network neutrality, should apply irrespective of the infrastructure or the network used for internet connectivity. Access to infrastructure is a prerequisite for the realisation of this objective."

2.2 Strengthening the regulatory framework and operational capacities for the effective enjoyment of the freedom of association

Sector Overview and Priorities

In its opinion on the compatibility with human rights standards of the legislation on non-commercial legal entities (hereinafter non-governmental organisations or NGOs) of Azerbaijan, adopted in October 2011, the Venice Commission assesses that while legislation relating to NGO's legal status has improved in some aspects over the years, the 2009 amended Law No. 401 on NGOs and the Decree No. 43 of 16 March 2011 on approval of rules for state registration and rules related to the preparation for negotiations with foreign non-governmental organisations and representations, undo efforts to meet international standards. The Azerbaijani Government considers that the recently adopted legal acts in this field serve to ensure transparency, to improve NGO governance, as well as to increase professionalism of local and foreign NGO's and do not contradict with international standards. The proposed activities will focus on adoption and clarification of regulatory instruments and by-laws as well as on implementation of the existing legislation in line with international best practice as well as ECtHR case-law (several ECtHR judgments addressed these issues, notably *Tebieti Mühafize Cemiyeti and Israfilov v. Azerbaijan* [37083/03], *Ismayilov* [4439/04], *Aliyev and Others* [28736/05])

The existing procedure with regard to registration of NGOs requires consideration in the light of their compatibility with European standards, including Article 11 of the ECHR.

Sources of justification

European Convention on Human Rights (article 11); European Social Charter (article 5, 6); the Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (General Assembly resolution 53/144 (A/RES/53/144), 8 March 1999; the National Programme for Action of Azerbaijan.

Overall objective

To improve sub-legislation and internal regulatory instruments for full enjoyment of the right to freedom of association, following an assessment of the implementation of the regulatory frameworks.

Expected results

- The national regulatory frameworks on NGOs and related practices are in compliance with European standards and case law of the ECtHR;
- Guidelines for improving the procedures of the registration of non-governmental organisations have been developed;
- Procedures for registration of NGOs by the authorities have been improved.

Proposed action

- Following an assessment, suggest a revision of the legal frameworks and related practices in line with European standards;
- Facilitate dialogue between the relevant state authorities and NGOs to improve the regulatory environment for NGOs in line with European standards as well as to address difficulties the NGOs face while complying with financial reporting requirement;
- Strengthen the independence of the Bar Association of the Republic of Azerbaijan (Collegium of Advocates) and assist the authorities in reinforcing all measures necessary to implement the Committee of Ministers' recommendation R(2000)21 on the freedom of exercise of the profession of lawyer;
- Develop the guidelines on registration of NGOs in line with European standards.

2.3 Civil society dialogue

Sector Overview and Priorities

While the National Programme for Action gives a role to civil society in the implementation of activities and while the Azerbaijani authorities do maintain a dialogue with civil society, opinions of the Venice Commission and the Expert Council on the Decree No. 43 of 16 March 2011 on approval of rules for state registration and rules related to the preparation for negotiations with foreign non-governmental organisations and representation, found some shortcomings in the NGO legislation and its implementation. The Council of Europe still receives reports from national and international NGOs about problems they face in registering and carrying out their advocacy, monitoring and service provision functions. While the Law on Public Participation which is in force since 16 January 2014 provides new opportunities for civil society, its impact on full participation of civil society in the democratic reform process and in political decision making processes needs to be ensured.

Sources of justification

Reports by the Council of Europe Commissioner for Human Rights; information notes and reports by the PACE Monitoring Committee; opinions of the Venice Commission and the Expert Council on NGO Law.

Overall objective

To improve existing NGO legislation and its implementation in line with European standards and practice and strengthen the capacity of NGOs and authorities for consultation, dialogue and co-operation. To contribute to the creation of an enabling environment for NGOs.

Expected results

- NGO legislation conforms with European standards; civil servants can apply their knowledge of the European standards to their work;

- The level of communication, transparency and confidence between NGOs and public authorities (legislative and executive powers, public administration) has increased, interaction between civil society and authorities in the democratic decision-making process has improved;
- NGOs and public authorities act in the public interest in open, responsible, accountable and transparent manner;
- The Ministry of Justice practice in relation to NGOs is in line with European standards.

Proposed action

- Further revision of the legislative framework for NGOs: provide legal assistance/expertise to the authorities to align the NGO legislation and its implementation with European standards and practice;
- Provide capacity-building (training seminars and study visits for civil servants in charge of NGO registration and implementation of NGO legislation);
- Establish guidelines for civil participation and good governance, train representatives of NGOs and authorities in civil participation, establish a pool of trainers who will act as advocates and multipliers.

3. GOOD GOVERNANCE AND THE FIGHT AGAINST CORRUPTION

Sector Overview and Priorities

In its compliance reports of October 2008 and October 2010, the Group of States against Corruption (GRECO) concluded that Azerbaijan had implemented over half of its recommendations in a satisfactory manner, noting progress in areas such as the means and working methods of the anti-corruption bodies. Other measures were considered insufficient, in particular regarding the implementation of recommendations relating to the prevention of corruption in public administration (e.g. concerning conflicts of interest; the provision of an effective system for the verification of financial declarations; the reporting of suspicions of corruption and the protection of whistle-blowers, as well as various measures relating to the accessibility of official information). In its compliance report of October 2012, GRECO concludes that Azerbaijan has implemented satisfactorily seven of the seventeen recommendations contained in the Third Round Evaluation Report. Areas requiring further assistance concern *inter alia* prisons and the guarantee of prisoners' rights and strengthening the fight against corruption in public administration, including the provision of support to the "ASAN Service" established within the State Agency for Public Service and Social Innovations by the Decree of President in 2012. "ASAN" centres provide a number of services rendered by state entities, including civil registration, issue of identification documents, tax services, customs services etc.

Sources of justification

The National Action programme on human rights; the National Strategy against corruption and the action plan for its implementation; the National Programme for Action (NPA) article 3.3. "Preparation of an action plan for subsequent years to ensure transparency in the activities of government agencies and combating corruption"; the National Action Plan on fighting corruption for 2012-2015 and National Action Plan on promotion of Open Government; GRECO evaluation reports (October 2010) which addressed a number of recommendations to the Azerbaijani authorities regarding the criminalisation of corruption offences and the transparency of political financing, as well as GRECO's 4th round of evaluation (the on-site evaluation visit is planned in April 2014).

Overall objective

To better prevent and suppress corruption and money laundering by strengthening institutional capacities and practice as well as improving the legal framework.

Expected results

- The capacities of the newly-established Financial Monitoring Service (FMS) are strengthened;
- Institutional follow-up is provided in areas in which micro-system study reports were produced as part of the AZPAC project;

- The legal framework is in compliance with international anti-corruption standards;
- E-government capacity to prevent corruption is enhanced;
- The capacities of the newly established "ASAN Service" centres are strengthened, their scope of services is extended and their geographic coverage is expanded.

Proposed action

- Expert advice/technical support provided to state bodies on drafting and implementing their own anti-corruption policies or measures; assistance in implementation of GRECO and MONEYVAL recommendations;
- Legal advice/expert opinions on draft laws aimed at enhancing compliance of domestic legislation with international anti-corruption standards;
- Legal advice/technical support to the amendment/completion of the draft law on Conflicts of Interest; Assistance with the drafting and implementation of secondary legislation necessary to implement the law on Approval of Procedures for submission of Financial Information by Public Officials;
- Training to implement new policies on the prevention of corruption within the proposed state bodies;
- Development of mechanisms for facilitating services through electronic means and reduction of direct contact between individuals and officials;
- Assistance in expediting implementation of the e-government systems to different public bodies;
- Development of a coherent training package (including training of trainers and e-training) and curriculum for ethics training, based on the provisions of the Code of Ethics;
- Study visits for officials responsible for in-service training to learn from the experience of similar bodies in other Council of Europe member states;
- Training for information officers from different state bodies;
- Support to the "ASAN Service" centres to facilitate development of new services and to disseminate their practice in new geographic areas.

4. FREE AND FAIR ELECTIONS, FUNCTIONING OF POLITICAL PARTIES

Sector Overview and Priorities

Past election observation reports, as well as ECtHR judgments [e.g. Seyidzade [Nr. 37700/05, Namat Aliyev [Nr. 18705/06], Kerimova [20799/06], Kerimli and Alibeyli No. 18475/06 and 22444/06]), identify a number of deficiencies and shortcomings in the electoral process, in particular with regard to registration of candidates, composition of the election commissions, observers, complaints and appeals procedure, electoral code, etc. During the three-year period of implementation of the Action Plan, both local (2014) and parliamentary (2015) elections are tentatively scheduled.

Sources of justification

National Programme for Action (NPA) of Azerbaijan article 3.10. "Continuation of specialised courses on the electoral law for members of election commissions"; results of previous election monitoring missions carried out by the OSCE and the Parliamentary Assembly of the Council of Europe, as well as recommendations stemming from the Secretariat's previous electoral assistance, PACE Resolution 1619 (2008) on the state of democracy in Europe; case-law of the European Court of Human Rights concerning the November 2005 parliamentary elections in Azerbaijan incl nine judgments concerning violations by Azerbaijan of the right to stand freely and effectively for elections whose execution is supervised by the Committee of Ministers; Venice Commission opinion of June 2008 on amendments made to the Electoral Code of Azerbaijan (document CDL-AD(2008)011); Venice Commission opinion of December 2011 on draft amendments to the law on political parties of Azerbaijan.

Overall objective

To bring Azerbaijan's election legislation and practice in line with European standards

Expected results

- All candidates can participate in a fair the electoral process;
- The Venice Commission's recommendations on elections are implemented;
- A framework for fair access of candidates to the media is enhanced.

Proposed action

- Assistance with legislative amendments;
- Assistance with the implementation of the judgments of the European Court of Human Rights in the electoral field, particularly as concerns general measures;
- Assistance with the implementation of the Venice Commission's recommendations on elections, amendments to the electoral code, dealing with electoral complaints, registration of candidates, training for district-level commissions and for judges on electoral disputes;
- Training on monitoring of the media coverage of election campaigns (fair access and balanced coverage).

5. PENITENTIARY SYSTEM, PRE-TRIAL AND ADMINISTRATIVE DETENTION

5.1 Fight against ill-treatment and impunity in detention, provision of health care

Sector Overview and Priorities

An EU/CoE joint project (JP) on “Combating ill-treatment and impunity” laid the ground for cooperation in this area. It ended on 30 June 2011. In this first JP, the shortcomings regarding effective investigations of allegations of ill-treatment were identified and the authorities encouraged to develop coherent strategies for addressing them through an appropriate institutional and regulatory framework. A number of the ECtHR judgments (e.g. Hummatov No. 9852/03 and 13413/04, Insanov [16133/0, Mammadov No. 34445/04 and Rzakhanov 4242/07) highlight the issues related to ill-treatment and impunity.

An important responsibility of any Prison Service is to uphold all basic human rights, which includes maintaining the proper physical and mental health of those detained. To this end, and in the light of the CM/CoE Recommendations (98)7 concerning the ethical and organisational aspects of health care in prison, a comprehensive policy needs to be developed, including good cooperation with community health services to ensure continuity of care. A special focus will be placed on mental health services provided to prisoners.

Sources of justification

The case-law of the European Court of Human Rights; CPT country visit reports and the standards developed in its annual general reports; Council of Europe Recommendations in the penitentiary field, especially the European Prison Rules; expert recommendations during the implementation of the Council of Europe project on “Support for Prison Reform in Azerbaijan” (2008-2010); CM/CoE Recommendations (98)7 concerning the ethical and organisational aspects of health care in prison; the commitment expressed by the Azerbaijani authorities to implement follow-up projects.

Overall objective

To improve health care in prison in line with European standards and best European practice, through effective implementation of existing legislation related to ill-treatment, reinforcing the national capacity for combating ill-treatment by law enforcement agencies and penitentiary institutions, and strengthening the effectiveness of investigation of allegations of ill-treatment, including in the pre-trial and administrative detention.

Expected results

- The regulatory framework and institutional/operational systems for preventing and effectively investigating complaints of ill-treatments in line with European and international standards; relevant actors have the confidence to apply in their work European and international standards for preventing and combating ill-treatment and are able to fulfil their responsibilities in accordance with these standards;
- International co-operation is reinforced and good practice with other Council of Europe member states with relevant experience is exchanged;
- The professional skills of prison governors and other prison staff have been increased; prisoners receive adequate health care and health care and psychological assistance;

Proposed action

- Provide expertise on bringing the regulatory framework and institutions for preventing and effectively investigating complaints of ill-treatment in line with European and international standards;
- Train relevant state and NGO stakeholders on European and international standards and practices;
- Provide support in application of new methods and modern technology in the field of prison management;
- Assist in the preparation of the national strategy of the probation service in line with European and international standards and practices.

5.2 Human rights based policing, non-infliction of ill-treatment

Sector Overview and Priorities

Focus will be placed on the crucial role of the police in the protection and advocacy of human rights, by promoting a more humane and socially effective policing with the objective to prevent ill-treatment in the police force and to reduce the sense of impunity.

Sources of justification

Case law of the ECtHR; CPT country visit reports and the standards developed in its annual general reports; the country reports of the Council of Europe Commissioner for Human Rights; Recommendation CM/Rec(2000)10 on the European Code of Police Ethics.

Overall objective

Improve the capacity and incorporate European and international standards in the daily work of the Ministry of Interior, including the police and relevant training institutions, in order to protect and improve human rights.

Expected results

- The police oversight system includes the obligation to conduct an effective and independent investigation into all allegations of ill-treatment;
- Effective riot control can be provided avoiding human rights violations;
- Modern investigation techniques are applied to investigate allegations of ill-treatment.

Proposed action

- Expertise on effective investigation of complaints against police in order to process allegations of ill-treatment in accordance with European standards;
- To train police (specifically high ranking police officers) to prepare and deal with public events in line with European standards including cooperation with all stakeholders involved in the public event;
- To develop capacity to investigate effectively allegations of police ill-treatment;
- To develop and introduce in the curriculum of police training institutions a module on preventing ill-treatment in the police force.

5.3 Prison anti-corruption measures

Sector Overview and Priorities

The penitentiary system of Azerbaijan needs to be brought into line with European standards with regard to combating corruption in prisons and to guaranteeing prisoners' rights. The recruitment, selection and training of prison governors and other prison staff require special attention in order to enhance their professionalism and ensure the protection of prisoners' human rights.

Sources of justification

Findings of the CPT country visit reports and standards developed in its annual general reports; CM/CoE Recommendations in the penitentiary field, especially the European Prison Rules (EPR); expert recommendations during the implementation of the CoE project on "Support for Prison Reform in Azerbaijan" (2008-2010); CoE bilateral co-operation activities with Azerbaijan in the penitentiary field.

Overall objective

To strengthen the penitentiary system in Azerbaijan, based on the rule of law and respect for human rights, European democratic values and standards.

Expected results

- The professional skills of the prison governors and other prison staff are increased and new managerial policies developed and implemented;
- Effective domestic remedies to fight corruption in prisons are developed in accordance with the ECtHR requirements.

6. INDEPENDENCE AND EFFICIENCY OF THE JUDICIARY

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

Sector Overview and Priorities

The Judicial-Legal Council of Azerbaijan adopted the Code of Conduct for judges in 2007, outlining special ethical requirements for judges. In order to improve legal services to citizens and to facilitate appeals to the courts, new regional appeal and other courts were established in 2007. The Presidential decrees adopted in 2010 amending the legislation on courts and stipulating measures on improvement of the judicial system were a significant step in the enhancement of efficiency of justice. 12 new regional courts began to function in January 2011. The court staff increased by 60%. The "Femida" system designed for drawing up minutes and audio-video records of the court proceedings in a more accurate and speedy manner has been installed in new courts buildings. Azerbaijan has invested substantially to modernise the judicial system and to increase the resources allocated to the courts. This has been acknowledged and welcomed by the CEPEJ, including in its 2012 evaluation report. It is now necessary to support individual courts in applying the CEPEJ tools for improving efficiency and quality of the public service of justice properly. The implementation of such a "court coaching programme" is offered by the CEPEJ to all member states and should be considered as a way to strengthen court performance.

Sources of justification

National Programme for Action (NPA) of Azerbaijan: 2.20. Supporting the activities of "legal clinics" functioning under higher education institutions, 3.9. Strengthening of the Bar Association of Azerbaijan; improvement of the efficiency and independence of its activities and increasing the number of professional lawyers in regions; Rec. No. R(2010)12 on judges: independence, efficiency and responsibilities; the European Charter on the statute for judges; the Opinions of the CCJE and the CCPE; the case-law of the ECtHR a number of judgments concerning Azerbaijan reveal that the domestic courts give an erroneous interpretation of domestic law in violation of ECHR requirements); the reports of the CEPEJ, GRECO reports, Transparency International reports, PACE monitoring reports. CoE Eastern Partnership – Report on Efficient Judiciary and Judiciary Recommendations for Azerbaijan.

Overall objective

To bring the functioning of the judicial system in line with relevant European standards and improve the daily work and effectiveness of justice in targeted courts.

Expected results

- European standards on an independent and efficient judiciary are implemented in the Azerbaijani legislation and practice;
- The capacity of the Judicial-Legal Council and Judicial Academy to perform their duties is increased;
- Targeted courts have improved their efficiency, with the prospect of disseminating the results and tools in other courts by using the CEPEJ tools on improvement of judicial time frames, time-management and court-user satisfaction surveys.

Proposed action

- Guidance and expertise with regard to the substantive and practical implications of the principle of an independent and efficient judiciary are made available;
- Needs assessment studies are conducted to evaluate training needs of legal professionals;
- Training of judges and prosecutors, academicians, representatives of the Ministry of Justice, Justice Academy, Judicial-Legal Council, the Office of the Public Prosecutor on relevant legislation and practice concerning different aspects of quality and independence of the judicial system;
- Development of the in-service training curricula of the Justice Academy taking into account international standards and practices concerning independence, efficiency, transparency and fairness of the judicial system.

6.2 Application of the European Convention on Human Rights and the case-law of the European Court of Human Rights

Sector Overview and Priorities

The overall aim is to improve the effectiveness of Azerbaijan in implementing judgments of the ECtHR. The Court dealt with 731 applications concerning Azerbaijan in 2012, of which 694 were declared inadmissible or struck out. It delivered 17 judgments (concerning 37 applications), 17 of which found at least one violation of the European Convention on Human Rights. A number of ECHR judgments address various aspects of the right to a fair trial – Huseyn and others (Nos. 35485/05, 45553/05, 35680/05 and 36085/05), Fatullayev (No. 40984/07), Asadbeyli and Others. (No. 3653/05, 14729/05, 20908/05, 16519/06), Insanov (no. 16133/0), Zeynalov (No. 31848/07), Pashayev (36084/06). The proposed action aims to reinforce the role and contribution of the national training institution in the judicial system (needs assessment, recommendations for the system of judicial training, co-operation with national institutions and international organisations) and to develop the capacity of the training institutions for judges and prosecutors (development of curriculum and integration of the ECHR as its mandatory component, enabling the trainers to deliver effective training and re-training of legal professionals). In addition, the action will enhance the capacity of lawyers to effectively apply the ECHR at national level. Since 2007, a European Court of Human Rights Bulletin has been published. It contains the latest judgements of the Court, including an Azerbaijani version of the decisions related to Azerbaijan. The Bulletin is widely distributed among judges, prosecutors, lawyers and civil society.

Sources of justification

National Programme for Action (NPA) of Azerbaijan: 2.20. Supporting the activities of “legal clinics” functioning under higher education institutions, 3.9. Strengthening the Bar Association of Azerbaijan, improvement of the efficiency and independence of its activities and increasing the number of professional lawyers in regions. Rec. No 4 (2004), the 2012 Brighton Declaration, the case-law of the ECtHR, Committee of Ministers’ Resolutions.

Overall objective

To strengthen the capacity of the national judicial institutions to apply the ECHR effectively and develop a legal aid system in line with European standards.

Expected results

- The role of the Justice Academy in the education of legal professionals is strengthened;
- A new curriculum of the Justice Academy has been developed, taking into account the academic demands of legal professionals;
- The national capacity, especially the capacity of the Justice Academy, to train and retrain legal professionals to ensure appropriate implementation of the ECHR and ECtHR case law is strengthened, including through the application of the HELP curriculum, materials, methodology and tools and cooperation with law faculties and academics of national universities, as well as other concerned institutions;
- A national system of legal aid has been reinforced;
- The ability of lawyers to promote, domestically, European human rights standards and use them in litigation/legal proceedings before national courts, as well as before the ECtHR in the case of well-substantiated claims, and avoid submission to the ECtHR of manifestly unfounded or inadmissible claims is developed;
- The Constitutional Court’s knowledge of the ECHR is improved and case law of the ECtHR is taken on board in the latter’s rulings.

Proposed action

- Recommendations for the system of judicial training on the basis of a thorough needs assessment; advancing co-operation of national institutions with international partners and organisations;
- Development of the Justice Academy curriculum with the ECHR as a mandatory component, enabling the Academy’s trainers to deliver effective training and re-training of legal professionals;
- Introduction of a legal aid which enables advocates to litigate cases at the national level, based on the ECHR;
- Training and relevant capacity-building materials on the ECHR and case law of the ECtHR are provided to the Constitutional Court.

7. LOCAL DEMOCRACY

Sector Overview and Priorities

By acceding to the European Charter on Local Self-Government on 15 April 2002, the Republic of Azerbaijan undertook a number of commitments. The Congress of Local and Regional Authorities carried out its latest monitoring of Azerbaijan in 2012. This resulted in the adoption of a Recommendation aimed at gradually bringing current legal and institutional arrangements in line with the European Charter of Local Self-Government.

Outstanding issues include parallelism in the local self-governance system (which is carried out by both State bodies and municipalities)³, weak financial sustainability of local authorities as well as lack of capacity at municipal level. Accordingly, action should focus on the following objectives: strengthening financial sustainability of local authorities; enhancing economic potential and improving transparency in functioning of municipalities; enhancing skills and experience of local authorities in good governance; improving the dialogue between local authorities as well as between them and central government.

Sources of justification

Congress of Local and Regional Authorities' Recommendation 326 (2012) adopted on 17 October 2012.

Overall objective

To clarify the status, role, competencies and financial resources of local authorities and to foster local governance capacities

Expected results

- Institutional dialogue with the participation of all stakeholders is improved based on Congress' recommendations. Authorities at all levels are more aware of European standards in the field of local self-government, in particular the European Charter of Local Self-Government;
- The authorities have prepared a policy paper on enhancing local democracy;
- The legal and institutional framework, including on financial capacity of local authorities, is improved and brought in line with the European Charter on Local Self-Government, including pilot revised legal framework for a large city if requested by the authorities;
- Institutional and leadership capacities of local elected representatives are enhanced and awareness on the role and responsibilities of local elected representatives as part of the overall governing system has been developed; service delivery to citizens has been improved and dialogue with citizens is promoted. A spirit of confidence and trust in local authorities is created;

³ Recommendation 326(2012) of the Congress of Local and Regional Authorities.

- The administrative capacity of local authorities is strengthened, pilot municipalities have improved the quality of their governance, in particular in respect of increasing transparency and efficiency of local governance and their financial situation and management;
- Local administrations have been trained in modern leadership and management techniques.

Proposed action

1. Institutional dialogue with the participation of all stakeholders:
 - Round-tables on the European Charter of Local Self-Government and the Congress monitoring recommendation, with the participation of all stakeholders;
 - Thematic seminars on issues of relevance to develop further local democracy (local finances, consultation of local authorities, citizen participation, ethics, etc.);
 - Bilateral meetings with the participation of Congress members and experts according to needs;
2. The legal and institutional framework:
 - Strategic, policy and legislative assistance is provided according to needs and upon request from the central government, through political dialogue, peer review, expert groups, legal analysis, support to legislative drafting etc;
3. Institutional and leadership capacities of local elected representatives:
 - 20 heads of municipalities participate in the leadership programme;
 - At least 3 heads of municipalities are supported to develop a vision for their constituency;
 - Support is provided to develop dialogue with citizens in at least 3 pilot projects, with the involvement of local NGOs;
 - A working group is set up to discuss issues of common concern and develop co-operation at local level;
 - Practice is shared on several issues of concern through the peer-to-peer methodology;
 - A larger number of local authorities is involved through regional seminars/workshops;
 - A final conference to share practice is organised;
 - Upon request by the authorities, technical assistance regarding the elections in the pilot large city/municipality is provided before the end of the present Action Plan implementation period.
4. The administrative capacity of local authorities:
 - the Local Finance Benchmarking programme is adapted to local circumstances and is implemented by 4 pilot municipalities;
 - 3 pilot municipalities are helped to improve the registration of local taxpayers and their experience leads to formal recommendations for improving legislation and local arrangements;
 - A Good Governance Programme with a specific focus on transparency is piloted in 4 municipalities, taking inspiration from locally adapted instruments included in the European Label on Governance Excellence and the European Benchmark on Public Ethics at Local level;
 - A Best Practice Programme (BPP) will identify, and disseminate the best Azerbaijani practice in the selected fields.

- Support is provided for the creation of a single internet portal covering information on municipalities with the view to promote better interaction between the population and their local authorities;
- Contacts are created with experienced European countries and local authorities and 3 study visits are organised in view of setting up twinning projects and learning from the best of European experience.

8. INVESTIGATION INTO, PROSECUTION OF, AND CO-OPERATION AGAINST CYBERCRIME

Sector Overview and Priorities

Azerbaijan is a Party to the Convention on Cybercrime (Budapest Convention) and participated in the CyberCrime@EAP project on cybercrime under the Eastern Partnership Facility. Since September 2012, the State Agency on Special Communication and Information Security and E-Security Centre of Azerbaijan was set up with the aim of evaluating and managing risks in the field of cybercrime, as well as ensuring nationwide readiness and awareness-raising.

Sources of justification

Convention on Cybercrime (ETS No. 185). Assessment by Cybercrime Convention Committee (T-CY). Assessment and recommendations from CyberCrime@EAP (Eastern Partnership).

Overall objective

To strengthen the capacities of criminal justice authorities, relevant institutions, and stakeholders of Azerbaijan to co-operate effectively against cybercrime, in line with European and international standards and practice.

Expected results

- Azerbaijan has taken measures against cybercrime in line with the strategic priorities identified;
- Legislation is in line with the Budapest Convention;
- Enhanced capacity of criminal justice institutions to investigate, prosecute and adjudicate cybercrime and other offences involving electronic evidence, in line with Article 15 Budapest Convention (conditions and safeguards); The procedural powers of different agencies, including conditions and safeguards, are clarified;
- Assistance provided to improve the scientific-methodological basis for the forensic technical-computer expertise to investigate cybercrimes.

Proposed action

- Raise awareness among decision-makers about international policies and practices related to cybercrime and electronic evidence;
- Recommendations and legal advice are provided to ensure co-operation and information sharing and analysis among stakeholders;
- Develop training curricula for judges and law enforcement, with special regard to the handling and use of electronic evidence through elaboration and testing of training modules and policies;

- Training is organised for law enforcement and internet service providers on existing practices of co-operation in the investigation of cybercrime.

9. INTERCULTURAL DIALOGUE

9.1 World Forum on Intercultural Dialogue

Sector Overview and Priorities

The 27 May 2011 decree of the President of Azerbaijan stipulates the organisation of the Baku World Forum on Intercultural Dialogue every two years. The first Baku World Forum took place in April 2011, under the patronage of the President of Azerbaijan and the second Baku World Forum took place on 29 May-1 June, 2013. The aim of the “Baku process” is to establish a platform in which today’s challenges can be discussed in the spirit of intercultural dialogue and universal values. The Baku Process is understood as a process that comprises an open and respectful exchange of views between individuals and groups with different ethnic, cultural, religious and linguistic backgrounds and heritage, living on different continents, on the basis of mutual understanding and respect. The next Forum will be held in 2015.

Overall objective

To use appropriate means to place cultural diversity and intercultural dialogue higher on the international agenda.

Expected results

- The Intercultural Co-operation Platform is launched;
- The Baku Global Think-Tank Group for Intercultural Dialogue as a research group of World Forum has been established;
- Establishing the International Centre of the World Forum on Intercultural Dialogue.

9.2 Human rights education and democratic youth participation

Sector Overview and Priorities

The activity focuses on training and provision of educational resources in the Azerbaijani language for human-rights education and democratic youth participation within and through youth work and youth organisations.

Sources of justification

CM Resolution (2008) 23 on the youth policy of the Council of Europe, work priorities of the youth sector as fixed by the Joint Council on Youth

Overall objective

To develop and improve the practices of human rights education and youth participation within youth organisations of Azerbaijan and to contribute to the implementation of the Council of Europe's "Charter on Education for Democratic Citizenship and Human Rights Education" (CM/Rec (2010) 7) in the country.

Expected results

- An informal network of trainers and multipliers for human rights education and youth participation has been created;
- Standards and methodologies for human rights education are developed and promoted in youth work and in non-formal education activities;
- The objectives and principles of the Council of Europe "Charter on Education for Democratic Citizenship and Human Rights Education" are promoted among educators and youth in Azerbaijan;
- Practitioners and activists for human rights education and youth participation in Azerbaijan are supported through educational resources in Azerbaijani and by closer relations with the Council of Europe and its partners in the youth field;
- Pilot projects and initiatives at local and regional levels are supported and evaluated through a long-term training course on democratic youth participation.

Proposed action

- To train 30 trainers and key multipliers on the basic principles and methodologies for human rights education and youth participation;
- To support the translation and dissemination of the Azerbaijani versions of the manuals "Have Your Say!" and "Compass – a manual for human rights education with young people";
- To develop human rights education with and for young people in Azerbaijan through closer co-operation between partners in formal and non-formal education sectors and between public and non-governmental organisations;
- To prepare the ground for sustainable development of human rights education and democratic youth participation in Azerbaijan.

Appendix: List of projects

Project title	Duration	Implementation status	Total cost	Funding status and source	Partners
1. Freedom of assembly					
Supporting implementation of the assembly-related legislation and practice in line with the Council of Europe's standards	36 months	Proposed	2 000 000 €	Funding required	Ministry of Internal Affairs, Ministry of Justice, Office of the Prosecutor General, Presidential Administration, Parliament, Supreme Court, Office of Government Agent
Strengthening the professionalism of authorities, law-enforcement agencies, judges and prosecutors to effectively deal with cases involving freedom of assembly					
2. Freedom of expression and association, media freedom					
Supporting freedom of expression and media freedom	24 months	Proposed	1 750 000 €	Funding required	Ministry of Justice, Ministry of Information and Communication Technology, Ministry of Education, Ombudsman, journalists' organisations and NGOs.
Supporting the development of journalism teaching in Azerbaijan	18 months (December 2012 to May 2014)	Ongoing	600 000 €	Funding secured	Baku Slavic and Baku State universities

Project title	Duration	Implementation status	Total cost	Funding status and source	Partners
Strengthening the regulatory framework and operational capacities for the effective enjoyment of the freedom of association	24 months	Proposed	800 000 €	Funding required	Ministry of Internal Affairs, Ministry of Justice, Office of the Prosecutor General, Ombudsman, Presidential Administration, Parliament, Supreme Court, Office of Government Agent, Ombudsman, NGOs.
Civil society dialogue	24 months	Proposed	500 000 €	Funding required	NGOs and public authorities (legislative and executive branches, public administration).
3. Good governance and the fight against corruption					
Supporting authorities in drafting and implementing anti-corruption policies in line with GRECO and MONEYVAL recommendations	36 months	Proposed	To be defined	Funding required	Presidential Administration's Commission on Combating Corruption, Ministry of Justice, Financial Monitoring Service, Parliament, Prosecutor's Office, Ministry of Communications and Information Technologies, ASAN Service.
Supporting newly established ASAN Service and e-government	24 months	Proposed	To be defined	Funding required	Ministry of Communications and Information Technologies, ASAN Service.
4. Free and fair elections, functioning of political parties					
Electoral Assistance	24 months	Proposed	500 000 €	Funding required	Central Election Commission (CEC), Precinct Election Commissions, Supreme Court, Constitutional Court, Constituency Election Commissions, local NGOs.
Strengthening monitoring of the media coverage of election campaigns	12 months	Proposed	160 000 €	Funding required	Central Election Commission (CEC), Precinct Election Commissions, Supreme Court, Constitutional Court, Constituency Election Commissions, local NGOs.

Project title	Duration	Implementation status	Total cost	Funding status and source	Partners
5. Penitentiary System, pre-trial and administrative detention					
Fight against ill-treatment and impunity in detention, provision of health care	30 months	Proposed	1 000 000 €	Funding required	Office of the Prosecutor General, Training Centre for Prosecutors, Ministry of Justice, Ministry of Interior, Judicial Legal Council, Ombudsman, Ministry of Health.
Human rights based policing, non-infliction of ill-treatment	36 months	Proposed	To be defined	Funding required	Ministry of Interior.
Prison anti-corruption measures	24 months	Proposed	To be defined	Funding required	Ministry of Justice and its Penitentiary Service.
6. Independence and efficiency of the judiciary					
Independence, efficiency, transparency and fairness of the judicial system	24 months	Proposed	1 500 000 €	Funding required	Judicial-Legal Council, the Supreme Court, the Ministry of Justice, the Office of the Public Prosecutor, the Justice Academy.
Application of the European Convention on Human Rights and the case-law of the European Court of Human Rights	30 months	Proposed	1 500 000 €	Funding required	Ministry of Justice, Justice Academy, Judicial Legal Council, Collegium of Advocates, Lawyer Associations, Government Agent with the Presidential Administration, the Constitutional Court.
7. Local democracy					
Strengthening the framework governing local self-government including the financial capacity of municipalities	36 months	Proposed	900 000 €	Funding required	Ministry of Justice, national association of municipalities, local authorities, civil society.
Increasing transparency and shaping good practice of governance	36 months	Proposed	To be defined	Funding required	Ministry of Justice, national association of municipalities, civil society.

Project title	Duration	Implementation status	Total cost	Funding status and source	Partners
8. Cybercrime					
Assisting authorities in revision of the legislation in line with the Budapest Convention	24 months	Proposed	To be defined	Funding required	Ministry of Justice, Ministry of Interior, Ministry of National Security, Ministry of Communication, Presidential Administration, General Prosecutor Office, Internet service providers, Ministry of Communications and Information Technologies.
Enhancing capacity of criminal justice institutions to investigate, prosecute and adjudicate cybercrime	24 months	Proposed	To be defined	Funding required	Ministry of Justice, Ministry of Interior, Ministry of National Security, Ministry of Communication, Presidential Administration, General Prosecutor Office, Internet service providers, Ministry of Communications and Information Technologies.
9. Intercultural dialogue					
Supporting World Forum on Intercultural Dialogue	12 months	Proposed	To be defined	Funding secured	Ministry of Culture, UNESCO, UN Alliance of Civilisations, ISESCO and UN World, Tourism Organisation.
Human rights education and democratic youth participation for Azerbaijan youth leaders and youth workers	12 months	Proposed	110 000 €	Funding required	Ministry of Youth and Sport, Ministry of Education, youth organisations, including the National Youth Council of Azerbaijan (NAYORA)