

***Evaluation of Commission's cooperation with
the Council of Europe***

An assessment focussed on EU funding of Joint Programmes

Final Report

Volume III

September 2012

Evaluation for the European Commission





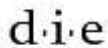
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Framework contract for
**Multi-country thematic and regional/country-
level strategy evaluation studies and syn-
thesis in the area of external co-operation**

**LOT 5:
Evaluation of EC main policies and strategies in the
areas of external cooperation**

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with the Council of Europe**

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Programmes

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Volume III**

This evaluation was carried out by
Particip GmbH

September 2012

Evaluation of Commission's cooperation with the Council of Europe

Final Report

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Volume II: Detailed information matrix

Volume III: Field visit country notes

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Country note Armenia

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List of Abbreviations

ABA	American Bar Association
ADR	Alternative Dispute Resolution
APCCNM	Armenian President's Coordinating Council for National Minorities
CBD	Convention on Biological Diversity
CEC	Central Electoral Commission
CEELI	Central European and Eurasian Law Initiative
CLRAE	Congress of Local and Regional Authorities
CoE	Council of Europe
CPT	European Committee for the Prevention of Torture
CRIS	Common RELEX Information System
CSP	Country Strategy Paper
DCI	Development Cooperation Instrument
DDH	Democracy and Human Rights
EAC	DG Education and Culture
EaP	Eastern Partnership
EC	European Commission
ECHR	European Convention on Human Rights and Fundamental Freedoms
ECRML	European Charter for Regional and Minority Languages
ECtHR	European Court of Human Rights
EIDHR	European Instrument for Democracy and Human Rights
ENP	European Neighbourhood Policy
ENPI	European Neighbourhood Partnership Instrument
EQ	Evaluation Question
EU	European Union
EUAG	EU Advisory Group
EUD	Delegation of the European Union
EUR	Euro (currency)
FCPNM	Framework Convention for the Protection of National Minorities
GDNMRA	Government Department of National Minorities and Religious Affairs
GONGO	Government Organized Non-Governmental Organization
GRECO	Group of States against corruption
GRETA	Group of Experts on Action against Trafficking in Human Beings
HR	Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
JC	Judgment Criterion
JP	Joint Programme
MONEYVAL	Committee of Experts on the Evaluation of Anti-Money Laundering and the Financing of Terrorism
MoU	Memorandum of Understanding
NCTR	National Commission on Television and Radio
NGO	Non-governmental Organisation
NHRS	National Human Rights Structures
NIP	National Indicative Programme
ODIHR	Office for Democratic Institutions and Human Rights
OPCAT	Optional Protocol to the (UN) Convention Against Torture
OSCE	Organisation for Security and Cooperation in Europe
PACE	Parliamentary Assembly of the Council of Europe
PCM	Project Cycle Management
ROM	Results Oriented Monitoring
SPS	School of Political Studies
TACIS	Technical Aid to the Commonwealth of Independent States
UN	United Nations
USAID	United States Agency for International Development

1 Introduction

1.1 Purpose of the evaluation

The purpose of the evaluation is to assess to what extent the Commission interventions with the CoE have been **relevant, efficient, effective** and **visible** in supporting **sustainable impact** for the protection, promotion and dissemination of European values on the European continent and beyond.

The main objectives of the evaluation are:

- to provide the relevant services of the EC and the wider public with an overall independent and **accountable assessment** of the EC's past and current cooperation with the CoE;
- to identify **key lessons** from the EC's past overall co-operation, and thus provide the EC's policy-makers and managers with a valuable aid to evidence-based decision making, and for planning, designing and implementing EU policies.

The evaluation covers the cooperation between the EC and the CoE for the period **from 2000 to 2010**. All regions where the EC cooperation with partner countries is implemented through the CoE were included in the scope of this evaluation.

1.2 Purpose of the field missions

The main objective of the field phase was to complete the data collection and to contribute to answering the EQs. It served to validate or revise the preliminary findings and hypotheses formulated in the desk report of this evaluation. The field phase covered both policy and strategy aspects, and impact and implementation issues. Nevertheless, the field phase was **not intended to conduct an in-depth assessment of the implementation specific EC interventions**. The analysis of specific interventions aimed at exemplifying results and impacts of EC support. Emphasis has been on processes and achievements, which could not be not fully covered by the desk tools of the desk analysis.

The output of the field phase is a country case study note for each of the visited countries.

The main purpose of field missions was to **corroborate findings from the Desk Phase, address information gaps identified, and complement Desk Phase findings in order to support the global assessment in the Synthesis Report**. Field Phase Country Notes are not supposed to be mini-evaluations; field missions are conducted to bring illustrative examples and evidence for specific issues. The analysis of specific interventions aimed at exemplifying results and impacts of EC cooperation with the CoE. Overall, the **Evaluation Questions are answered and Judgment Criteria assessed at the global level** (in the main volume of the Synthesis Report), not at the country level.

1.3 Reasons for selecting Armenia

Armenia represents the states of South Caucasus in the evaluation, a region which have received strong joint EC-CoE support in different aspects of democratisation processes. Focus of EC-CoE cooperation in Armenia was given to regional JPs (as opposed to country specific JPs), which were usually implemented in all three countries of the South Caucasus region. Armenia also represents the ENPI countries and Eastern Partnership countries from EU assistance point of view.

1.4 Focus of the analysis and data collection methods

1.4.1 Research focus

The main focal areas for the mission to Armenia were:

- Rule of Law II – legal systems and access to justice
- Improved protection of human rights
- Democratic institutions – Media and Elections
- Regional EC-CoE JPs

1.4.2 Data collection methods used

The evaluators conducted interviews with representatives of the EU Delegation, the CoE Country Office, beneficiary institutions such as Government of Armenia Ministries, legal professionals associations, national and international NGOs, media, and international organisations.

2 Brief description of the country context

2.1 Brief overview of country political, legal, and development context in human rights, democracy, and rule of law, 2000-2010

2.1.1 Political Context

The Republic of Armenia became member of the CoE in January 2001. Its accession commitments and obligations were set out in the PACE Opinion No 221 (2000) and included accession to a number of CoE conventions; settlement of the conflict in Nagorno-Karabagh; amendment of domestic law; improvement of the human rights situation; and cooperation with the CoE in monitoring of its commitments.

The Armenian Constitution was elaborated and adopted in a nationwide referendum on 5 July 1995. Ten years later it was amended to meet the CoE obligations following Armenia's accession to the CoE in 2001. Armenia elected its first president, Levon Ter-Petrosyan in 1991. He was re-elected for a second term in 1996 but had to step down in 1998 when certain important members of his government disapproved of his plan of settlement of the conflict of Nagorno-Karabagh.

In 1999, the Unity alliance, a union of Armenia's powerful defence minister Vazgen Sargsyan and the former First Secretary of the Armenian Communist Party, Karen Demirtchayn, were able to gain the majority of seats in the parliament. However, they along with a number of other members of their team, were killed in a brutal assault on the parliament in October 1999. This opened door for a unipolar political landscape in the country headed by the second president Robert Kocharyan who held his office for two consecutive terms handing over his power to another member of his political team, Prime Minister Serzh Sargsyan following the 2008 presidential elections which despite the positive assessment of the international community are contested by the large majority of the Armenian population. Dissatisfied with the outcomes of these elections, and led by the first President Levon Ter-Petrosyan, the Armenian public held continuous rallies and demonstrations in the Liberty Square until 1 March 2008 when the Armenian police dispersed the demonstration using force which resulted in 10 casualties.

The third president of Armenia, Serzh Sargsyan, is the leader of the ruling Republican Party, which has held a majority in the Armenian parliament since the break-up of the Unity alliance. To legitimate the outcomes of presidential elections the Armenian president offered the Armenian Revolutionary Federation, the Rule of Law, and the Prosperous Armenia to form a coalition government, which they did. A year ahead of the parliamentary election the Armenian Revolutionary Federation quitted the coalition. Following the 2012 parliamentary election, the Prosperous Armenia party also refused to enter the ruling coalition, and the only two parties remaining in it now are the Republicans and the Rule of Law party. The latter is no longer perceived as a stand-alone political party but an adjunct of the Republican Party.

It thus follows that prior to the presidential elections, the majority of seats in the parliament are held by one party, which is largely perceived to have won the parliamentary elections through electoral fraud and vote buying.

2.1.2 Human rights situation and rule of law

As of 2002, the Armenian authorities had succeeded in honouring a number of commitments in the area of signing and ratifying most of the CoE conventions listed in Opinion 221. They had also adopted some of the laws specified in the above document, including the electoral code, the law on political parties, the law on NGOs and the law on the civil service¹. However, Armenia was not successful in implementing fully its commitments and obligations, and the PACE is continuing the monitoring procedures of Armenia's accession commitments and obligations.

In the course of a decade following its accession to the CoE, the Armenian authorities have either adopted or amended most of the legislation listed in the PACE Opinion No 221 (2000), including the new criminal code, abolition of the death penalty, certain (although insufficient) reform of the judiciary, the code of criminal procedure, the law on police, the administrative code, abolition of the provisions on administrative detention, the law on the ombudsman, the law on mass communication, the law on broadcasting, the law on alternative military service, the law on local self-government, and, more importantly, amendments to the constitution in 2005.

¹ PACE Resolution No. 1304 (2002).

In addition to legislation, the Armenian authorities have also undertaken certain institutional reforms, such as transferring prisons and detention centres from the Ministry of the Interior to the Ministry of Justice, opening training centres for judges and prosecutors.

The number of applications to the ECtHR has constantly increased due to the lack of trust in the national system of HR protection. But the increase is also due to the raised awareness of the accessibility of the Strasbourg Court, and more efficient work of the lawyers. The most frequent cases have concerned: torture and ill treatment, conditions of detention, enforcement of decisions of the national courts, freedom of assembly, freedom of expression, freedom of conscience and others.

Where the conflict of Nagorno-Karabagh is concerned, no progress has been registered in the settlement of the conflict so far despite the efforts of the international community and the three co-chairing states within the OSCE Minsk Group.

During their 2011 fact finding mission, the PACE co-rapporteurs focused on 3 topics of major importance to the country. These are the developments with regard to the outstanding issues relating to the March 2008 events; the state of implementation of the reform in relation to electoral law, police and the judiciary; as well as the media environment in the wake of the outcome of the last tender for broadcasting licences².

Where the March 2008 events are concerned, the main outstanding issues identified were the persons remaining in prison, as well as the lack of effective investigation into the causes and responsibility for the 10 casualties that occurred. Until now, the Armenian authorities are of the view that since there is no hard evidence pointing to the individuals directly responsible for the 10 casualties, the opening of the inquiry is not possible, an argument which is considered invalid by the CoE.

As to the remaining persons in prison as a result of the March 2008 events, in June 2009 the Armenian authorities declared amnesty by virtue of which most persons detained in relation to the March 2008 events were released. At the time of their visit the PACE co-rapporteurs reiterated their strong view that all persons detained in relation to these events had to be released to normalise the political environment. In May 2011, the authorities finally released the rest of the prisoners detained on political grounds in relation to the March 2008 events. This, however, did not normalise the political environment in view of the huge public mistrust in the Armenian government.

As to the reform of the police, the PACE co-rapporteurs stressed the objectives to be achieved by the Armenian authorities, including the establishment of an independent police complaints mechanism, which has not yet been established by the authorities and is considered to be a serious set back and an overall weakening factor of the police reform.

A major highlight of 2011 was the issue of electoral reform. In 2011, the Armenian authorities held an international conference on the topic of electoral reform with the participation of the European Commission for Democracy through Law (Venice Commission) and OSCE/ODIHR, independent experts, and most of the political forces. Following this conference, the authorities prepared draft amendments to the electoral code and sent them to the relevant working group. The activities of this group were, however, boycotted by the opposition, including by those that had participated in the international conference since they felt that the draft did not reflect any of the recommendations made by them during the conference. The opposition, instead, prepared its own version of draft amendments to the electoral code. Ultimately, the PACE Monitoring Committee decided to ask the Venice Commission to provide an opinion on the alternative electoral code prepared by the opposition, and the chairman of the electoral working group decided to table both drafts for the discussion in the parliament. Despite the fact that the PACE called on the Armenian authorities to display political will and to seriously consider the alternatives put forward by the opposition, this was not done, and the Armenian parliament voted for the authorities' version of the draft.

The PACE also expressed concerns in relation to the recent tender for broadcasting licences, in which the bid of the television company A1+ was again rejected. As a result, contrary to the PACE's recommendation, the tendering process failed to lead to a more pluralist broadcast media environment. Of concern to the PACE was also the composition of the National Commission on Television and Radio (NCTR), (50% nominated by the President of the Republic and 50% by the parliament with the ruling coalition having a considerable majority), which is not independent and impartial.

The PACE co-rapporteurs information note also echoed the predominant view of the Armenian public that existing legislation is more or less adequate and that the real problem is that it is not implemented coherently and in good faith. Therefore, the reforms of the Armenian authorities have to focus more on changing existing practice and mentality in addition to changing legislation.

² Information Note by the PACE co-rapporteurs on their fact-finding visit to Yerevan (16-17 March 2011).

2.2 Description of EU and CoE strategic priorities for Armenia

The EU-Armenia partnership formalized in the 1 July 1999 Partnership and Cooperation Strategy was designed to promote Armenia's transition to a market economy and a fully-fledged democratic political system.

In general, EU strategy under TACI focused on economic and trade aspects including the poverty reduction and the social sphere. However, the first Country Strategy approved in 2001 included TACIS support for institutional administrative, and legal reform. EIDHR has been active since 2003, implementing projects that are small but credited with significant impact (EU Armenia Country Strategy paper 2007-2013).

An evaluation of TACIS Armenia in 2004 concluded that human rights concerns had only gradually assumed importance and regretted that the EU had not used its political leverage to have greater influence in democracy, human rights, and the rule of law (EU Armenia Country Strategy Paper 2007-2013). Among the lessons learned, the evaluation called for a specific focus on these areas.

The EU-Armenia European Neighbourhood Policy Action Plan (14 November, 2006) offers closer cooperation in order to prevent the emergence of dividing lines without holding out the promise of European accession. The EU places high priority on peaceful resolution of the Nagano-Karabakh dispute in the interests of promoting security in the South Caucasus region. The development policy of the EU aims at reducing poverty, one aspect of which is the promotion of human rights (text adopted from the EU Armenia Country Strategy Paper, 2007-2013). In response, the 2007-2013 Country Strategy highlighted strengthening of democratic structures, rule of law, and strengthening respect for human rights and fundamental freedoms, to be pursued under the umbrella of political dialogue and reform. The need to strengthen civil society is recognised.

The 2006 ENP Action Plan identified its first priority as strengthening democratic structures, the rule of law including reform of the judiciary, and combatting fraud and corruption; the second priority was strengthening respect for human rights and fundamental freedoms in compliance with Armenia's international commitments including CoE. Cooperation with other European institutions, such as CoE and OSCE, is called for where relevant. The fight against money laundering is placed under the umbrella of cooperation in the field of justice, freedom and security.

In the NIP 2007-2010, strengthening democracy and rule of law area allocated nearly a third of resources, with sub-priorities rule of law and reform of the judiciary, public administration reform, and human rights, fundamental freedoms, civil society, and people-to-people contacts.

Like other donors, the EU was active in public financial management and public administration reform.

2.3 Description of EU-CoE cooperation in Armenia

2.3.1 List of EC-CoE JPs in the key areas of cooperation

The table below summarises the EC-CoE joint programmes in Armenia, descriptions of the programmes are in the Annex of this note.

Country programmes

<i>Title</i>	<i>Period</i>	<i>CRIS Contract</i>	<i>EC commitment</i> €	<i>Total budget</i> €	<i>Domain</i>	<i>Remark</i>
Access to Justice in Armenia	2009 - 2011	215401	3.961.502	4.159.577	TACIS	

Multi-country/regional programmes

<i>Title</i>	<i>Period</i>	<i>CRIS Contract</i>	<i>EC commitment</i> €	<i>Total budget</i> €	<i>Domain</i>	<i>Remark</i>
South Caucasus - Joint Programme EC-CoE to promote and strengthen democratic stability and prevent conflict in the South Caucasus region	2002 - 2004	50595	1.149.000	2.554.000	DDH	
Democracy through free and fair elections	2003 - 2006	75496	200.000	400.000	DDH	
EIDHR - Network of Schools of Political Studies	2004 - 2006	89231	500.000	1.000.000	DDH	No activities financed in Armenian SPS
Ukraine and South Caucasus States- Promoting the democratic process	2005 - 2008	113934	780.000	1.560.000	DDH	
Ukraine and South Caucasus-Fostering a culture of Human Rights	2006 - 2009	126720	995.000	1.990.000	DDH	
Network of Schools of Political Studies - EIDHR	2006 - 2008	125301	639.683	1.300.000	DDH	
Support to free and fair elections- EIDHR	2008 - 2010	140322	500.000	1.000.000	EIDHR	
Setting up and Developing the Civil Society Leadership Network	2008 – 2009	140325	350.000	750.000	EIDHR	
Emerald Network-ENP - Support for the implementation of the Convention on Biological Diversity (CBD)'s Programme of Work on Protected Areas in the EU Neighbourhood Policy East Area and Russia	2008 - 2011	149825	1.484.000	1.484.000	DCI-ENV	
Peer project - Setting up an active network of independent non-judicial Human Rights Structures in	2008 - 2009	140327	450.000	900.000	EIDHR	

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<i>Title</i>	<i>Period</i>	<i>CRIS Contract</i>	<i>EC commitment</i> €	<i>Total budget</i> €	<i>Domain</i>	<i>Remark</i>
the Council of Europe member States which are not members of the European Union						
Freedom of expression and information and freedom of the media	2008 - 2009	140324	500.000	1.010.000	EIDHR	
Combating ill-treatment and impunity in South Caucasus, Moldova and Ukraine	2009 - 2011	165700	950.000	1.900.000	EIDHR	
Network of Schools for Political studies III	2009 - 2010	168721	1.759.500	3.519.000	EIDHR	
Peer-to-Peer II - Promoting national non-judicial mechanisms for the protection of human rights and especially the prevention of torture	2010 - 2012	226588	1.200.000	1.600.000	EIDHR	
Council of Europe Facility	2010 - 2012	256600	4.000.000	4.000.000	ENPI	
Eastern Partnership - corruption bridge project (EaP-CBP)	2010	247132	30.000	30.000	ENPI	
Promoting freedom, professionalism and pluralism of the media in the South Caucasus and Moldova (MEDIA II)	2011 - 2012	256575	750.000	1.100.000	EIDHR	
Access social rights anti-poverty Caucasus		26859	19.689		TACIS	
Kyiv Initiative Regional Programme: 1st Covenant - Pilot Project for the rehabilitation of cultural heritage in historic towns	2009 - 2010		100.000	200.000	EAC	
Kyiv Initiative Regional Programme: 2nd Covenant - Pilot Project for the rehabilitation of cultural heritage in historic towns	2010 - 2011		100.000	200.000	EAC	

3 Findings by EQs and JCs

3.1 EQ1: Guidance criteria

Evaluation Question 1:

To what extent have the **criteria** for decisions to cooperate with the CoE been clear, transparent and strategically sound?

3.1.1 JC11 Level of discussion/analysis of the choice of the CoE as a cooperation partner

Main findings from the field mission:

EU Delegation officials interviewed considered the CoE to have a comparative advantage in training (especially “academic” training) and provision of expertise, especially in drafting new laws (Indicator 1.1.1). No evidence was found of an overarching strategy for Armenia country-level cooperation with the CoE (Indicator 1.1.3).

3.1.2 JC 12 Degree to which EC/EU staff at headquarters and in the field are well-informed regarding the possibility to cooperate with the CoE

Main findings from the field mission:

EU Delegation staff interviewed were essentially negative on the state of communications regarding CoE cooperation possibilities (Indicator 1.2.1.) They, however, pointed that they are strongly encouraged to cooperate with the CoE; for example, they were contacted by the EU Delegation in Strasbourg. When doing programming, the EU Delegation's knowledge of what has been done previously with the CoE is poor, except for in the case of flagship projects such as Access to Justice. Most Joint Programme formulation takes place in Brussels and Strasbourg (with some exceptions such as the Elections Project). Information on regional Joint Programmes, in particular, is lacking (Indicators 1.2.1 and 1.2.2). This reflects to some extent lack of communication from the CoE, but also poor communication with Brussels, which historically did not always provide lists of projects. The functioning of the Yerevan CoE office as a point of information was considered poor (Indicator 1.2.3). There is very little evidence of discussions and meetings between EU Delegation staff and CoE country field office staff or of any pro-active measures undertaken by CoE or EUD to increase EC/EU staff familiarity with CoE.

3.2 EQ2: Specific Expertise

Evaluation Question 2:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, enabled the EC to use the CoE's **specific** sectoral **expertise** and mandate and geographical scope in the key areas of cooperation?

3.2.1 JC 2.1 Degree to which the CoE's sectoral expertise and mandate and geographic scope and political capacity to hold partner countries accountable have been taken advantage of in cooperation activities including JP implementation

Main findings from the field mission:

EU Delegation staff interviewed were dissatisfied with the extent of local CoE office involvement in project design and implementation (Indicator 2.1.1), and even with CoE office awareness of problems when they developed. The CoE Head of Office was also dissatisfied with the level of her involvement in the design and implementation of the CoE-EC JPs in Armenia. Symptomatic of this were difficulties in the programme Support for Access to Justice in Armenia, where decision making from Brussels proved slow and unreliable, with negative consequences for project effectiveness and, quite possibly, sustainability. Of particular concern were the developments regarding the establishment of the School of Advocates. The EU Delegation staff expressed dissatisfaction with how the issue of premises for the School was handled by the CoE. The initial plan was that the Government would provide a building for renovation, which they did. Visiting CoE experts expressed a view that buying a new building instead of renovating the existing one would be a more cost-effective solution. After months of deliberations the CoE informed the parties that under CoE rules they were not allowed to buy a new building. Due to this, the future of the School of Advocates is uncertain. According to EU Delegation staff, the only solution the CoE was able to offer for the situation was that the money would be returned to the EU by the CoE. To some extent, the quality of management from Strasbourg appears to depend on personalities (and perhaps, on the size and complexity of the project). The local

manager of the Media regional JP expressed no dissatisfaction with the quality and timeliness of Strasbourg management, nor did the EU Delegation programme officer responsible for the JP.

The need to have a project leader on the ground (Indicator 2.1.2) was stressed. There was some Government dissatisfaction with the provision of experts who were not fluent in English. Not surprising, assessments of the quality of experts provided varied widely; some were reported to have been outstanding and some unsatisfactory. No information was obtained on the availability of alternative partners (Indicator 2.1.3). However, many NGO and civil society representatives met expressed concern with and even distrust of both the CoE and the EU as forces for change, citing close relations with the Government both at the level of Yerevan and headquarters.

3.2.2 JC 2.2 Degree to which EU has benefited from jointly working with the CoE on legal issues / standards setting and monitoring / country assessments in human rights, rule of law, and democracy

Main findings from the field mission:

There was no strong feeling that the CoE is drawing on a unique pool, rather the feeling is that it is competing for experts in the same market as everyone else (Indicator 2.2.1). No information has (yet) been found on CoE-EU coordination in setting country strategies (Indicator 2.2.2) or in normative activities / monitoring (Indicator 2.2.3). CoE monitoring reports, as in other countries, are heavily used by the EU in preparing its progress reports. Apart from this, the EU relies on CoE materials while conducting trainings in areas, such as human rights, justice, elections, etc. Through its EU Advisory Group project, the EU provided 11 resident experts, many working in fields where the CoE is active (e.g., human rights and justice). In the field of justice, the EUAG and CoE are essentially in different orbits. It appears that there could have been a better coordination between the EUAG and the CoE office regarding the work on the National Human Rights Strategy in the framework of the working group established to assist the Government in drafting the Strategy.

The EU Delegation was seeking for an implementing partner for the election project. Both the CoE and the OSCE applied but the preference was given to the OSCE, which was due to the fact that the latter's project proposal was considered by the EUD as better.

According to the CoE Head of Office, she provides frequent briefings on HRs, Rule of Law and Democracy for the EUD and visiting delegations from Brussels in the context of assessing Armenia's record on these issues. She also provides briefings for the EU's ENP Progress Report. Additionally, according to the HoO, a lot of cooperation takes place on legal issues and standard setting, and the EUD is insofar also invited to the events organised by the CoE.

3.3 EQ3: Human Rights

Evaluation Question 3:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, contributed to increasing respect for **human rights** and fundamental freedoms?

3.3.1 JC 3.1 Improved protection of human rights (civil, political, social, economic and cultural), including non-discrimination

Main findings from the field mission:

Despite the availability of formal legal procedures for application of bail, judges are reluctant to apply bail and tend to rubber-stamp detention motions filed by investigators (Indicator 3.1.1). In the majority of cases, judicial decisions on pre-trial detention are not well reasoned or reasoned at all. In some cases, the detention of an accused may be renewed with no valid ground more than once with no consideration, so long as the investigative body has manifested due diligence when investigating the criminal case. The acquittal rate is still risibly low. According to the Ombudsman and a number of other human rights defenders, despite recent improvements, detention conditions generally remain of poor quality. Ill-treatment of suspects by police officers is still a matter of concern despite human rights trainings held by a number of international organizations, including the EU and the CoE. The case of Levon Goulyan – a young man found dead in the courtyard of Yerevan police - has not been investigated properly. Civil society is not satisfied with the outcome of the investigation of the case of Vahan Khalafyan's death in police custody. There is significant public concern regarding death incidents in the Armenian army, which are frequently qualified as suicides despite well-appearances to the contrary. Civil society satisfaction with the quality of investigations of these cases is low and there is considerable mistrust in the independence of responsible institutions, such as investigators, prosecutors, judges and even forensic experts. A main positive development reported was the strengthening of civil society which through a number of initiatives, such as groups of public observers in the police,

the penitentiaries, and other detention facilities; and the Army (Indicator 3.1.3). There has also been rapid growth of environmental NGOs.

According to the President of the Association of Judges, a national NGO of Armenian judges, ECtHR jurisprudence is well disseminated, in part through their publications (Indicator 3.1.2). To date, eight volumes of ECtHR decisions, translated into Armenian, have been distributed free to judges, with the support of the Access to Justice Joint Programme. ECtHR jurisprudence is integrated into the academic law curriculum and professional training (Indicator 3.1.2) and has been integrated into the curricula developed for the Judicial School and the Chamber of Advocates under the same Joint Programme. At the Judicial School, ECtHR jurisprudence is the exclusive content of the component "Fair Trial" and, in other components, such as ECtHR judgments against Armenia, is integrated as one element. In the Judicial School's continuous professional training, at least two two-day trainings per year are held on case law of the ECtHR. Both the Judicial School and the Chamber of Advocates have been heavily supported by the EU. All persons interviewed, both national and international, reported that the level of training and competence of advocates, judges, and prosecutors has improved over the years, while expressing the caution that those up to full international standard still represent a minority. According to civil society organizations, advocates' level of awareness of the ECtHR jurisprudence has improved. By invoking ECtHR cases in their submissions they are forcing judges to achieve a higher level of adherence to the Convention standards. However, there are still concerns about the judges' level of understanding of this jurisprudence partly due to the fact that their vast majority are not fluent in either French or English and cannot therefore keep pace with the developments in this area. There are also concerns about the low level of enforcement of the ECtHR judgments against Armenia, especially in regard to the re-opened proceedings following some of these judgments.

3.3.2 JC 3.2 Degree to which accession to, and compliance with, the European Convention on Human Rights (ECHR) and the European Social Charter has been promoted and strengthened

Main findings from the field mission:

All practicing lawyers completing the standard curriculum receive ECtHR training, and they receive further training under the compulsory continuing education programme (Indicator 3.2.1). Such training has been supported by EU-CoE Joint Programmes. Knowledge of the ECHR has risen over the years, advocates are increasingly able to invoke it, and judges are increasingly likely to cite it in their decisions (Indicator 3.2.2). The style of drafting has changed, and unreasoned opinions are less common. However, as one international expert warned, the positive trend should not obscure the fact that most judges remain incompetent to properly cite ECtHR jurisprudence. The technocratic, cut-and-paste style to judicial decision making remains predominant. The visit to Armenia coincided with the period when the Chamber of Advocates held a one-day strike against the Cassation Court claiming that the latter uses its power to return cases in an arbitrary manner.

According to Access to Justice staff, there has been a clear increase over the years in Ministry of Justice willingness to bring laws into conformity with European standard.

Advocates interviewed did not complain directly about the implementation and execution of ECtHR judgments, but rather about the excessive time taken to reach decisions. The view was expressed that Armenian applications take significantly longer than applications from other countries.

There have been a number of developments in the operations of the Ombudsman's Office (Indicator 3.2.3). The office underwent structural changes as a result of which the number of staff departments was increased to 8. In 2012 the Ombudsman's hotline for reporting human rights violations has become operational. A number of international organizations, including the CPT, focused on strengthening the capacities of the Ombudsman by training and other capacity building activities. Through EU-OSCE's support 6 regional human rights defenders' offices opened in 6 regions of Armenia. Efforts are being made to increase their number to 10 with a view to operating at least 1 office in each region of Armenia. The EUAG supported the Ombudsman in drafting a 2012-2017 institutional strategy for the office and providing feedback on the draft of the National Human Rights Strategy. According to the Ombudsman, there has been very little comment on his 2012 annual report from the state bodies by virtue of its high quality. The Ombudsman also informed about increased cooperation with human rights NGOs in general and in the framework of the National Preventive Mechanism, in particular. According to the Armenian law about the Ombudsman, the latter is the National Preventive Mechanism in Armenia. However, the Ombudsman has solicited the cooperation of the civil society organizations and this de facto cooperative approach is referred to as "Ombudsman plus."

On the other hand, civil society does not regard the Ombudsman's Office as independent because of the strong role of the Executive in appointing the incumbent through the weak Armenian parliament,

which is effectively an adjunct to the Executive. In general, civil society expressed the view that the Ombudsman's Office is now weaker than previously since its role is not adequately defined and the approach to the protection of human rights in the country is essentially reactive rather than proactive.. The EU-CoE regional joint programme on strengthening human rights protectors supported the Office, in addition to which, there is an EU Advisory Group policy advisor in the Office. In 2009-2010, the EU supported the Ombudsman's office with a twinning project in the framework of which a staff member from the Spanish Ombudsman's office was seconded to Armenia to work with his Armenian counterpart towards strengthening the institution. The previous Ombudsman was not, however, happy with the quality of that programme mainly due to the quality of experts that worked with his office.

Since 2001, Human Rights has been included in the curriculum of public schools as a separate educational subject (9th grade). Pupils also study the following subjects: "Civic Education" and "State and Law" (Indicator 3.2.4) As regards the teaching of human rights, NGOs have been instrumental in elaboration of textbooks as well as delivery of training to teachers and faculty members. Despite these efforts, the level of awareness of human rights both among teachers and pupils is not yet adequate.

3.3.3 JC 3.3 Enhanced protection of the rights of minority groups (including linguistic minorities)

Main findings from the field mission:

Armenia has ratified a number of universal and regional instruments on the subject: Framework Convention for the Protection of National Minorities in 1998 (FCPNM); European Charter for Regional and Minority Languages in 2001(ECRML), International Convention on the Elimination of All Forms of Racial Discrimination in 1993 (ICERD), International Covenant on Civil and Political Rights in 1993 (ICCPR) and other relevant instruments. Specific constitutional provisions such as Article 14.1 and 41 are designed to deal with issues related to national minorities. While Article 14.1 explicitly guarantees everyone equality before the law and prohibits discrimination on any ground including membership of national minorities, Article 41 ensures the right to preserve the national and ethnic identity in terms of developing their traditions, religion, language and culture. However, all the efforts to establish a detailed law entirely related to national minorities have failed so far due to the lack of consensus among the representatives of national minorities on the scope of the proposed law (Indicator 3.3.2). Nonetheless, the distinct aspects of national minorities such as language, media coverage, religion, education and cultural legacy are regulated by a number of other legal acts. The Government Department of National Minorities and Religious Affairs (GDNMRA) is the main body responsible for devising the programme of government measures relating to national minorities and making recommendations for its implementation. The representatives of 11 ethnic communities of Armenia constitute the Armenian President's Coordinating Council for National Minorities (APCCNM) to coordinate and consult the policies or projects related to national minorities. It has been noted that generally there is a climate of tolerance towards the minority languages in Armenia and they are not stigmatized by the majority population on this ground. Armenia has developed legal and institutional framework for protection and promotion of its regional or minority languages. However, the Committee of Experts on the Charter has found that the implementation of the legal framework is incomplete in a number of areas covered by the ECRML. Structured policies are needed in different sectors to ensure the use of regional and minority languages in practice in the field of education, the judiciary, the relations with the administration, and in social and economic life.

3.3.4 JC 3.4 Increased awareness of human rights and fundamental freedoms

Main findings from the field mission:

The landscape of online media is quite diverse in Armenia. There are both media that are recognized as independent from the government as well as those that are known to be supported by the government. There are others that are very difficult to locate as they do not post any information about their founders, members or staff. Broadcast media, still the main source of information for most Armenians, are reported to be directly controlled by the presidential administration. The level of circulation of the print media is low in general.

The interviewed NGOs reported increased media coverage on questions relating to human rights and fundamental freedoms (Indicator 3.4.1). Incidents such as deaths in the Army have been widely reported. By virtue of such increased attention, including on Facebook, civil society started an initiative known as the Army as It Is, which has been instrumental in keeping the pressure on the authorities to conduct an effective investigation of deaths in the army. A similar approach has been taken in regard to the protection of environmental rights and preservation of the green areas around the country, including the capital Yerevan. In a recent incident where a prominent MP's bodyguard was implicated in a brutal assault in a Yerevan restaurant, both official and independent media have adopted a strong

investigative stance. Another example of media attention concerns the efforts of environmental advocates to prevent construction activity in Mashtots Park in Yerevan.

3.3.5 JC 3.5 Improved treatment and conditions of detention

Main findings from the field mission:

According to the Ombudsman and civil society organizations, conditions of detention continue to remain poor and there are many incidents of ill-treatment in police custody with practically no effective investigations and conviction of those responsible (Indicator 3.5.1). In very rare cases when courts do admit that evidence has been obtained under torture and refer cases back to lower instance courts, they do not report the crime to the law enforcement and no investigation is conducted. The definition of torture in the Criminal Code does not reflect that in the UN Torture Convention. NGOs report cases when individuals are invited to the police station to give information and held there for lengthy interrogation without the right to call a family member or consult lawyer.

According to an international legal expert, the new Criminal Procedure Code includes some positive developments related to pre-trial detention (Indicator 3.5.2). The police must now testify at pre-trial hearings in order to justify the detention. A pre-trial hearing must be held within 72 hours. Still too often, the judge will essentially make a finding of guilt at the pre-trial stage. While it was under consideration by the European Court of Human Rights, the Court of Cassation eliminated administrative detention. On pre-trial detention and bail, see the discussion above under JC 3.1.

3.4 EQ4: Rule of Law I

Evaluation Question 4:

To what extent has cooperation with the CoE, in particular via the channelling of funds, contributed to strengthening the rule of law as it relates to the fight **against corruption, money laundering, organised crime and trafficking**?

3.4.1 JC 4.1 Increased accession to, and compliance with, the conventions relating to the fight against corruption, money laundering, organised crime and trafficking

Main findings from the field mission:

Following the first Expert Group visit in 2005, Armenia has fully participated in the GRECO process and has implemented all relevant recommendations (Indicator 4.1.1). It has harmonised legislation dealing with corruption, including the Criminal Code, in line with European standards and GRECO recommendations, however, Transparency International warned that implementation is very poor due to a lack of political will and expressed a low opinion of GRECO work in Armenia. The Electoral Code was amended in line with Venice Commission and GRECO recommendations regarding part financing, as has the Code on Political Organisations. Party finances are audited by the Electoral Commission.

The institutions responsible for fighting corruption are the police, the national Security Council, tax and customs authorities, and the Special Investigation Service. Several hundred cases per year are prosecuted, and a handful have been high profile.

While the CoE HoO has been very active in advocating for steps to tackle corruption in the country, this has not been an area of EC-CoE cooperation in Armenia. The World Bank and USAID were the most active donors in the area. No evidence was found of EU-supported CoE capacity building at these institutions (Indicator 4.1.2). The reform of the Code of Judicial Conduct will merge the ethics committee and discipline committee, strengthening the ability to fight judicial corruption. Under the Access to Justice JP, training was provided at the Judicial Academy on corruption.

In specific areas of corruption, such as environment and drivers' protection, there are NGOs involved. No evidence of CoE or EU support were found.

3.4.2 JC 4.2 Improved prevention and deterrence of organised crime, corruption, and money laundering

Main findings from the field mission:

All persons interviewed agreed that the perception is that corruption remains high at all levels, but that hard proof is lacking. Both the Transparency International Corruption Perception Index and the USAID Barometer show the situation to be bad. One advocate complained that too often, the advocate is merely a go-between paying off judges.

Despite revision of the Electoral Code, civil society organisations complain that the financing of political campaigns remains crooked. A wide range of campaign expenditures do not fall under the list of those which must be financed from the audited public campaign fund.

One international expert was of the view that petty police corruption had been reduced over the years. It is possible that recent significant pay increases for judges and prosecutors have helped to reduce judicial corruption, but civil society representatives strongly disagreed with this point, perceiving the judiciary to be the most corrupt branch of power in Armenia.

No information was gathered during the field mission on money laundering, support, trafficking, and organised crime, which were not areas in which EU-CoE joint programmes were active. The EUAG advisor to the Ministry of Justice reported a significant change in the attitude towards organised crime. One related area in which there was an EU-CoE Joint Programme was cyber-crime. The report of the EU Delegation programme officer was negative, citing the absence of a briefing meeting with the CoE experts, poor quality of training, lack of media or press coverage, and absence of participation on the part of the CoE office in Yerevan.

3.5 EQ5: Rule of Law II

Evaluation Question 5:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, contributed to strengthening the rule of law as it relates to **legal systems and access to justice**?

3.5.1 JC 5.1 Increased transparency, efficiency, and effectiveness of the legal system

Main findings from the field mission:

There has been significant legal reform, much of it informed by CoE expert opinion, some of which was financed by the EU under the Access to Justice joint programme (Indicator 5.1.1). A tangible example is revision of both the Criminal Procedure Code and the Civil Procedure Code, which involved expert visits to stakeholder, round tables to ensure transparency, and preparation of a concept paper identifying gaps and suggesting responses. Cooperation with the Ministry of Justice in this process was reported to have been excellent, and the Ministry is interested in continuing the work by producing a Commentary. In general, the EU Delegation and the Ministry of Justice were impressed with the quality of the expertise provided.

There is a huge backlog of cases in the Administrative Court (Indicator 5.1.2), but most of these are "parking ticket cases" that should never have been dealt with by the court in the first place. A means of dealing with minor complaints in writing is needed to free up the Court for more important work. In civil and criminal cases, the problem is not so much backlog as long delays. Certain advocates are accused of taking on too many criminal law cases, while the volume of civil law cases has exploded as citizens feel more confidence in taking their action to court.

The institution of a web-based system by which case participants can track hearing schedules, the adopted judicial acts and the like has resulted in major improvements in case management, however, this was financed by the World Bank. Under Access to Justice, the CoE provided advice to the Ministry of Justice on an e-Notary system to streamline notary procedures. Legislation was drafted and Strasbourg has issued a bid for tenders for hardware and software.

According to the Ombudsman, there has been some improvement in the police, Army, and penitentiaries. due to the work of his office. The NGO community, however, believes that there is a general atmosphere of fear, leading to the under-reporting of serious human rights violations (Indicator 5.1.3).

Execution of judgments (Indicator 5.1.4) is reported by international legal experts to be poorly handled, with many anecdotes reporting incompetence and illegality.

3.5.2 JC 5.2 Improved access to justice

Main findings from the field mission:

The EU-CoE JP Access to Justice gave particular emphasis to supporting the Chamber of Advocates in its work to strengthen public defenders (Indicator 5.2.1). At present, there are only 17 public defenders for both the civil and criminal systems. The American Bar Association provides free legal assistance, as does Yerevan State University. However, the main burden of such cases is on human rights defender NGOs, several of which are active in providing free legal assistance with the financial support of international organizations. The ABA CEELI Rule of Law initiative is operating 3 legal clinics that provide free legal assistance in Gavar, Hyumri and Yerevan.

There are formal institutions for ADR in specific areas, such as media and banking (Indicator 5.2.2). No information was gathered on the application of ADR. In the area of pre-trial settlement of criminal

cases, representatives of the Advocates Chamber complain that prosecutors are eager to prosecute every case they receive to the full.

3.6 EQ6: Democracy

Evaluation Question 6:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, contributed to establishing stronger **democratic institutions and practices** at central and local level?

3.6.1 JC 6.1 Strengthened democratic institutions and processes in the area of democracy

Main findings from the field mission:

For more than a decade, parliament has not been able to exercise effective scrutiny over the Executive (Indicator 6.1.1) due to the fact that following the break-up of the faction Unity, the majority of seats in the parliament have been held by the ruling Republican party

The legal and practical situation of Armenia varies according to the type of the media (Indicator 6.1.2). Armenia has not so far been able to offer pluralist and independent broadcast media services to its public, and the widely held conviction is that the TV channels essentially transmit the views of the presidential administration. This is especially troublesome since the majority of population, especially in Armenia's regions, regard the broadcast media as their main source of information. For the last three years Armenia has been amending its law on broadcasting with the involvement of the CoE experts. The advice initially received was not well regarded by local media experts, but subsequent revisions were welcomed. The CoE HoO however stressed that in her view the expert advice provided was of excellent quality. At present there is another draft in the Armenia parliament that will likely be adopted during the autumn session of the parliament. The reduced use of defamation lawsuits against journalism has been a positive development, and was to some extent supported by the increased media professionalism training provided by a number of local and international media law and human rights experts, including the regional media Joint Programme (Indicator 6.2.2). Armenia does not have an internet law, and there is no barrier to starting a website. No information was gained relative to Indicator 6.1.3. There has been no trend towards increasing involvement of independent civil society in the political process; if any trend is significant, it is the increase presence and weight of pro-government GONGOs. (Indicator 6.1.4). Registration of NGOs is not onerous, but takes considerably more time than registering a for-profit entity (Indicator 6.1.5). No information was gathered on non-registered civil society organisations.

3.6.2 JC 6.2 Improved electoral legislation and practice

Main findings from the field mission:

The Venice Commission has been active in advising Armenia on a range of issues related to electoral legislation (Indicator 6.2.1), which has generally been revised to be in line with recommendations. Unfortunately, civil society representatives are strongly of the view that much Venice Commission advice has been misguided given circumstances in Armenia. A particular example is the law that prevents release of the signed election register (designed to protect the privacy of those who exercise their constitutional right not to vote) but given the massive Armenian diaspora creates opportunities for electoral fraud. They also express dissatisfaction with Venice Commission advice regarding pre-election campaign finance.

No information found in the field mission would suggest that the EU supported the CoE in strengthening electoral management bodies (Indicator 6.2.2) or helped to strengthen election complaints procedures (Indicator 6.2.3), which are held to be ineffective by both the OSCE and the PACE in their election observation reports. It is broadly acknowledged that the Central Electoral Commission, which in turn appoints lower-level Commissions, is under the dominance of the President. It is the President who appoints the members of the central electoral commission upon the recommendation of the President of the Chamber of Advocates, the President of the Cassation Court and the Ombudsman for a 6-year office term. The CEC then appoints the members of the territorial electoral commission and the latter have a right to appoint two members in precinct commissions. The rest of the members of precinct commissions are appointed by parliamentary factions, one member by each. The NGO community is critical of the election complaints mechanisms and believes that both electoral commissions and the administrative court have taken a purely formal approach in regard to many election-related complaints. The low knowledge of election law and practice among electoral commissions all levels is an issue of concern.

According to the website of the Central Electoral Commission (www.elections.am), 54 local NGOs monitored the 2012 parliamentary elections in Armenia (Indicator 6.2.4). Independent civil society

organisations do not regard many of these as independent from government. The positive impact of the EU-CoE Media Joint Programme on the capacity of the media to cover the democratic electoral process has been noted above. The EU also sponsored through the OSCE a media training activity or freedom of expression and election law and practice.

International electoral observation mission reports on elections in Armenia have been fully discussed in the country case study report.

3.6.3 JC 6.3 Improved local and regional governance and practice

Main findings from the field mission:

No information was gained during the field mission.

3.7 EQ7: Implementation

Evaluation Question 7:

To what extent have the **implementation modalities** of Joint Programmes employed by the CoE been appropriate to help achieving EC objectives related to human rights, rule of law, and democracy?

3.7.1 JC 7.1 Degree to which CoE implementation has reflected best practice of programme cycle management

Main findings from the field mission:

The CoE Country Office was very small and minimally staffed over the evaluation period. JP project managers from, e.g. Access to Justice and the regional Media JP had reasonable familiarity with PCM (Indicator 7.1.1). ROM reports over the evaluation period frequently criticised projects as consisting as bundles of activities with no clearly articulated overall strategy and an absence of objectively verifiable indicators. Project managers and beneficiaries interviewed, however, did not complain of a lack of focus. ROM reporting was effectively used and in some cases, such as Access to Justice, workplans were adopted as delays developed and circumstances changed (Indicator 7.1.3): No evidence was obtained on monitoring of regional projects. Only in the Access to Justice project was information gathered about the Steering Committee, whose role and function was unclear until late in the project (Indicator 7.1.4).

3.7.2 JC 7.2 Quality of reporting, monitoring, financial management by JPs and quality of evaluation of JPs

Main findings from the field mission:

ROM monitoring worked well, however, projects were not systematically subject to independent evaluation. In some cases, "evaluation" was considered to consist of the filling in of questionnaires by training beneficiaries or assessment by CoE experts (Indicator 7.2.1). No information was gained on Indicator 7.2.2, but the paucity of independent evaluations makes this unlikely. The EU Delegation expressed strong dissatisfaction with management aspects of the Access to Justice project which, as described above, had to do with difficulties encountered in dealing with problems acquiring premises for the school (Indicator 7.2.3). Specific concerns were delayed and conflicting advice from Strasbourg, resulting in serious compromise to project performance. Management of regional projects does not appear to have raised similar issues, as these essentially provided training, study visits, etc. Reporting issues were not discussed with EU Delegation staff, but project managers found reporting requirements reasonable (Indicator 7.2.4).

3.7.3 JC 7.3 Appropriateness of relationship between JP management needs, CoE headquarters human resources, and field presence

Main findings from the field mission:

Over the evaluation period, the overwhelming bulk of project management responsibilities apart from implementation of specific activities was performed from Strasbourg (Indicator 7.3.1). Programme managers typically visited Yerevan once a year, often in conjunction with Steering Committee meetings. The EU Delegation, and to some extent the CoE Country Office, as well, were of the view that there was inadequate local capacity to manage and implement projects. Strasbourg-based management was viewed as out of touch and unable to respond to situations as they developed in Yerevan. Coordination between CoE Headquarters and the Country Office was perceived to be a problem (Indicator 7.3.4). These weaknesses were consistently pointed out in ROM reports.

3.7.4 JC 7.4 Mechanisms and processes for incorporating lessons learned and ensuring sustainability in place

Main findings from the field mission:

No relevant information was gained during the field mission. However, in several fields such as media and support to the Ombudsman's Office under Peer to Peer, the fact that support continued over a significant span of time allowed the fine-tuning of approaches.

3.7.5 JC 7.5 Degree to which EC political visibility has been ensured

Main findings from the field mission:

The EU Delegation did not express concerns about visibility. Templates and procedures have been put in place by the Communications Officer and disseminated to partners such as the CoE (Indicator 7.5.1). Based on interviews, the difference between EU and CoE is quite closely appreciated in government and among NGOs (Indicator 7.5.2).

3.8 EQ8: Complementarity and synergies

Evaluation Question 8:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, helped to enhance **complementarity and synergies** between the EC and the CoE?

3.8.1 Degree to which CoE country strategies were aligned and coordinated with the EC country strategies

Main findings from the field mission:

The ENP Action Plan has been described in the country case study. Late in the evaluation period, the CoE prepared an Armenia Action Plan. This is, however, less a strategic document than a list of priority projects to be used as a basis for fundraising. While the Action Plan represents a step forward, *the EUD and the CoE Office have differing perspectives on the AP preparation process, the former regarding the communication insufficient, while the latter as adequate.* (Indicator 8.1.2) However, there are no clear divergences in EU and CoE goals and priorities in Armenia (Indicator 8.1.1). CoE monitoring reports are heavily relied upon by the EU in preparing its ENP reports (Indicator 8.1.3).

3.8.2 JC 8.2 Degree to which cooperation between EC and CoE has facilitated complementarity of JPs with EC other external assistance programmes

Main findings from the field mission:

In general, the major JP Access to Justice appears to have operated independently. There was no coordination with the activities of the EU Advisors Group working in institutions dealing with justice issues (Indicator 8.2.2). There was no sign of cooperation between two of the major justice sector projects, Access to Justice and the American Bar Association's long going project.

3.8.3 JC 8.3 Degree to which joint EC-CoE cooperation activities are aligned with government, EU and CoE priorities

Main findings from the field mission:

In the new Action Plan, The list of projects included in the new CoE Action Plan addresses reforms of the judiciary and penitentiary, integration of the case law of the ECtHR into domestic law, media freedom and education of journalists, combating corruption, reforms in the education sector, in strengthening of local self-government, as well as support for free and fair elections. It is indicated in the Action Plan that a number of projects are being or will be implemented as EU/CoE Joint Programmes under the CoE Eastern Partnership Facility with a view to helping Armenia to meet the targets set out under the EU Eastern Partnership Initiative, particularly in the fields of good governance, democracy and justice. It also mentions that the projects are to be funded from multiple sources, and that the CoE, through its respective Offices will try to raise funds in co-operation with the EU Delegations in Armenia, Brussels and Strasbourg. All of this bodes well for relevance to shared CoE, government, and EU priorities (Indicator 8.3.1). As mentioned above, the EUD and the CoE Office have differing perspectives on quality of communication in the AP preparation process..

3.8.4 JC 8.4 Degree to which EU-CoE cooperation has enhanced synergies between the organisations

Main findings from the field mission:

No information obtained.

3.8.5 JC 8.5 CoE value added

Main findings from the field mission:

EU Delegation staff prize the ability of the CoE to provide expertise and most of all in training (Indicator 8.5.1). They complain of poor implementation due to insufficient local capacity. This is fully in line with evidence gathered elsewhere regarding the comparative advantage of the CoE. In regional projects with relatively limited local components, it is likely that the CoE provided unique impacts (Indicator 8.5.2). For larger, more focused, country-level projects, the EU Delegation frankly said that, unless greater local capacity can be put in place, it would consider working in future through other implementing agencies.

4 Annexes

4.1 Annex 1: List of people interviewed

<i>Last name</i>	<i>First Name</i>	<i>Organisation</i>	<i>Position</i>	<i>Date of interview</i>
Alaverdyan	David	Mediamax News Agency	Editor-in-Chief	13 June 2012
Andreasyan	Karen	Human Rights Defender's Office	Human Rights Defender	18 June 2012
Arshakyan	Mher	Europe in Law Association	Lawyer	13 June 2012
Avagyan	David	Delegation of the European Union to Armenia	Project Manager	11 June 2012
Baghdasaryan	Edik	Investigative Journalists (NGO)	President	19 June 2012
Durieux	Catherine	EU Advisory Group to the Republic of Armenia	Advisor to the Minister of Justice	13 June 2012
Gayrand	Jean-Christoff	EU Delegation to Armenia	Head of Operations	19 June 2012
Grigoryan	Vahe	Advocates Without Borders (NGO)	President/Advocate	
Hofstra	Carel	OSCE Office in Yerevan	Deputy Head of Office	14 June 2012
Hoktanyan	Varuzhan	Transparency International Armenia	Executive Director	12 June 2012
Hovhannisyán	Gayane	CoE-EU Access to Justice Programme	Project Manager	12 June 2012
Hovhannisyán	Arthur	Ministry of Justice	Chief of Department for the System's Legal Provision	15 June 2012
Mangum	Ronald	Armenian Representative Office of American Bar Association CEELI Inc.	Country Director	11 June 2012
Martirosyan	Misak	Judicial Department	Head	15 June 2012
Marukyan	Susan	CoE-EU Programme Promoting Freedom, Professionalism and Pluralism of the Media in the South Caucasus and Moldova	Programme Officer	12 June 2012
Minasyan	Larisa	Open Society Institute Assistance Foundation	Executive Director	14 June 2012
Navasardyan	Boris	Yerevan Press Club (NGO)	President	12 June 2012
Orbelyan	Aram	Ministry of Justice	Deputy Minister	15 June 2012
Osikyan	Arthur	RA Police	Deputy Head	15 June 2012
Sahakyan	Ruben	Armenian Bar Chamber	President	15 June 2012
Sakunts	Arthur	Helsinki Citizens' Assembly Vanadzor Office (NGO)	Co-ordinator	18 June 2012
Sargsyan	Hrach	Armenian Judges' Association	President	15 June 2012
Sargsyan	Nune	Internews Armenia (NGO)	Executive Director	18 June 2012
Vardanyan	Arman	Judicial School	Principal	11 June 2012

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Yankulova	Inna	Delegation of the European Union to Armenia	International Aids Coordination Officer	13 June 2012
Zehe	Silvia	CoE Office in Armenia	Head of Office	19 June 2012

4.2 Annex 2: List of documents and sources consulted

A non-exhaustive list includes:

- Highly-regarded international civil society sources, such as Transparency International and Human Rights Watch reports and websites.
- www.partnership.am, the website of an Open Society sponsored consortium of Armenian NGOs
- The American Bar Association's situation analyses of the Armenian judicial system.
- Relevant reports from GRECO, MONEYVAL, and GRETA
- Reports on visits of the Human Rights Commissioner
- Reports of the CPT
- Reports and opinions of the Venice Commission
- OSCE/OIDHR reports
- The EU's ENP Strategy and Action Plan and Progress Report
- EU CSPs, NIPs, and annual Action Plans
- Joint Programme project documents and final evaluations
- Joint Programme Results Oriented Monitoring (ROM) reports

4.3 Annex 3: Description of EC-CoE Joint Programmes in Armenia

Country programmes

Access to Justice in Armenia

Start year: 2009

Budget: 4.159.577 EUR

Objectives and expected results:

Overall objective: To promote the rule of law and human rights in Armenia through improvement of the training of judicial professions and advocates, supporting reform of the justice sector by improving the efficiency of the judiciary; to improve access to justice for the population in general and free/affordable access for vulnerable groups of the population.

Project purpose: The project has three project purposes

1. The Chamber of Advocates and its School of Advocates are strengthened,
2. The post-graduate training centre for judges is strengthened,
3. Confidence by the public in the justice system increases by promoting access to justice through the adoption and implementation of a strategy for effective legal aid and the review of relevant legislation.

Expected results: Under project purpose 1) the expected results are:

- School of Advocates established,
- regulations on the examination and testing procedures of the School of Advocates developed,
- operational capacities for the implementation of these procedures established; Mandatory training introduced for candidate advocates and licensed advocates.

For project purpose 2) the expected results are:

- Legislation adopted on the examination procedures for the selection of candidate judges at the Judicial School and their initial training which meets European standards,
- Initial and in-service training for judges and training for court personnel strengthened.

For project purpose 3) the expected results are:

- appropriate legislative framework and procedures on free legal aid in place;
- legislation on appeals, the notification of judgments and payment of court fees are in conformity with the requirements of the ECHR

Activities:

- Seminars and roundtables
- Training courses for trainers
- Needs assessment to prepare the curriculum, training materials and training courses
- Study visits
- Publication of manuals

Multi-country/regional programmes

South Caucasus - Joint Programme EC-CoE to promote and strengthen democratic stability and prevent conflict in the South Caucasus region

Start year: 2002

Budget: 2.554.000 EUR

Objectives and expected results:

Overall objective: Assist Armenia, Azerbaijan & Georgia to:

- reform legislation and practice
- strengthen the protection of human rights
- improve the functioning of democratic institutions

Project purpose:

- Align the normative framework and its implementation, in conformity with European standards, in 5 areas: judiciary, criminal norms, penitentiary, local government and human rights, including social and economic rights, the rights of minorities and freedom of expression.
- Develop capacity building measures in 7 key areas: maintaining law and order, managing prisons, fighting corruption and organised crime, strengthening local government, educating for democratic citizenship, creating ombudsman institutions and protecting human rights, including social and economic rights, the rights of minorities and freedom of expression.
- Devise and implement short and long term training strategies

Expected results:

Strengthening the judicial system

- Proposals for institutional reforms and policy guidelines in at least 7 key areas of the legal framework

Strengthening policies in the criminal field

- Proposals for draft Acts on at least 5 areas of the legal framework
- At least 600 law professionals and police officers trained on criminal norms & ethics
- At least 400 prison officers trained on prison reform

Strengthening local democracy

- At least 480 officials trained in local self-government & training strategies

Activities:

- Regional training session for lawyer's trainers, on professional conduct and ethics
- Seminars e.g. on the enforcement procedures in civil and commercial matters, on the development of the institutions for judicial training, on the relationship between prisons and society (Art 20, code enforcement of sentences).
- National Workshop on combating Money Laundering and Suppressing Financing of Terrorism
- Several Workshops e.g. on the management and treatment of long term and life sentence prisoners
- Study visits
- Training the trainer seminars
- Assistance and follow-up

Democracy through free and fair elections**Start year:** 2003**Budget:** 400.000 EUR**Objectives and expected results:**

Overall objective: The project aims to analyse key aspects of European electoral law and to assist national authorities in improving the quality of electoral legislation and practice.

Project purpose: To improve the quality of electoral legislation and practice, in particular through assistance to national authorities and information to the public.

Expected results:

- To identify the weak points of electoral legislation and the need to revise it, in particular on the basis of the observation reports of the Parliamentary Assembly and the Congress of Local and Regional Authorities (CLRAE)
- To ensure that the fundamental principles of European electoral law are reflected in draft and adopted electoral legislation
- Dissemination of principles of electoral law and practice

Activities:

- Assistance to observation mission and opinion on electoral legislation
- Workshop and seminars on the holding and supervision of elections

EIDHR - Network of Schools of Political Studies**Start year:** 2004

Budget: 1.000.000 EUR

Objectives and expected results:

Overall objective: Support the activity of the network of Schools of Political Studies, established under the responsibility of the Council of Europe by various civil society partners in South-East Europe and South Caucasus in order to consolidate pluralistic democracy, human rights and the rule of law through the emergence of a new generation of leaders in political life and civil society.

Project purpose:

1. Young leaders coming from political, economic, social and cultural sectors in Albania, Bosnia and Herzegovina, Georgia, Kosovo, "the former Yugoslav Republic of Macedonia", Moldova and Serbia and Montenegro are able to use in their everyday life European standards with respect to pluralistic democracy, human rights and rule of law.
2. Establish a Network of Schools to ensure an exchange of information, experiences and resources.
3. Efficient management of JP implementation.

Expected results: For purpose 1)

- Young leaders are able to use in their everyday life European standards in Pluralist Democracy, Political Parties and the conduction of elections, Local democracy and transfrontier co-operation.
- Young leaders are provided with an update information on the state of European integration - perspectives and challenges.

For purpose 2)

- Schools able to benefit and integrate experiences from each other, as a result of belonging to the Network.

For purpose 3)

- Meeting of Directors
- Audit
- Evaluation
- Administration

Activities:

- Establishment of relationships among participants to support integration into professional networks.
- Joint seminars bringing together several schools
- Exchange of students for regional seminars
- Meetings of school directors
- Alumni network activities

Ukraine and South Caucasus States- Promoting the democratic process

Start year: 2005

Budget: 1.560.000 EUR

Objectives and expected results:

Overall objective: The overall objective of the programme is to promote pluralist discourse on democratisation and better access to fundamental rights in the South Caucasus and Ukraine.

Project purpose:

1. To promote the democratic process in target countries by bringing legislation into line with European norms and standards, enhancing institutional capacity, and raising awareness on European values;
2. To promote freedom of expression and information and assist in the development of independent and pluralistic media, in accordance with Council of Europe standards; To provide training for media professionals and media technical staff to develop their ethical and professional standards.
3. To promote a harmonious and mutually beneficially relationship between NGOs and public authorities at the local and national level with a view to creating joint co-operation bodies and developing joint projects in fields of mutual interest

4. European standards and values are promoted and applied amongst young politicians, civil society activists and journalists in the target countries by supporting the consolidation (creation/strengthening) of a network of Schools of Political Studies.
5. To increase awareness of the obstacles in access to social rights for the most vulnerable groups and improve the co-ordination between service providers; To improve information on social rights, in particular on the benefits and services available to vulnerable groups. To improve the efficiency of communication between service providers and service recipients.

Expected results:

- The media legislation in Armenia is developed in line with European norms and standards and the capacity of Public Service Broadcaster is enhanced and journalists and editorial staff are able to use the existing European experience.
- Adopted/improved policies promoting access to social protection, social services, housing and employment, in line with European standards
- Public officials are able to efficiently use in their everyday life European standards and norms (including the best practices on working methods in CoE member states and international organisations).

Activities:

- National laws and regulations notably concerning the media and social rights are defined, adopted and implemented in accordance with the relevant CoE standards, as set out in the case law of the ECtHR and in the CoE CM instruments.
- Training of beneficiaries

Ukraine and South Caucasus-Fostering a culture of Human Rights**Start year:** 2006**Budget:** 1.990.000 EUR**Objectives and expected results:**

Overall objective: The overall objective is to improve and strengthen the culture of Human Rights in Ukraine, Georgia, Armenia and Azerbaijan.

Project purpose for Armenia: To improve the protection and observance of Human Rights by enhancing the capacity of specific target groups and institutions in the target countries to use European human rights standards and norms in their everyday work;

Expected results:

- Police officers in the capital and regions of the beneficiary state are able to apply European human rights standards & norms in their work.
- The capacity of the Office of Ombudsman institution in Armenia to handle complaints and contribute to the human rights debate is enhanced.
- The capacity of the Government Agent of Armenia to represent the contracting party before the ECtHR is enhanced.
- Judges and prosecutors in the capital and regions are able to apply European human rights standards in their daily work.
- The first national report on the Revised European Social Charter is prepared and submitted to the relevant CoE Committee

Activities:

- Implementation of "Train-the-trainers" course
- Placement of 2 Armenian Ombudsman lawyers in another Ombudsman Institution in Europe
- Study visit of Armenian Ombudsman lawyers to the Council of Europe
- Seminar for the staff of the Ombudsman Office on the standards of the European Convention on Human Rights
- Study visit of a lawyer working at the Government Agent's Office of Armenia to the European Court of Human Rights
- Seminar for the staff of the Government Agent's Office on the European Convention Human Rights

- Study visit of a lawyer working at the Government Agents Office of Armenia to a member State
- Selection of future national trainers of judges and prosecutors on the European human rights standards from Armenia
- Development of training materials and documentation on human rights
- Train-The-Trainers session for trainers of judges and prosecutors on the European Convention on Human Rights from Armenia
- Drafting of human rights materials by the national trainers of judges and prosecutors
- Training workshop for judges and prosecutors from Armenia on the ECHR

Network of Schools of Political Studies - EIDHR

Start year: 2006

Budget: 1.300.000 EUR

Objectives and expected results:

Overall objective: To contribute to improving the democratic stability through increasing the level of knowledge in matters such as modern management of public services, better functioning of political and administrative institutions, facilitating the dialogue in society, and spreading European values.

Project purpose: Young leaders coming from political, economic, social and cultural sectors in Albania, Armenia, Georgia, Kosovo/UNMIK, "the former Yugoslav Republic of Macedonia", Moldova and the Russian Federation are able to use in their everyday life/work European standards with respect to pluralistic democracy, human rights and the rule of law.

Expected results:

- Young leaders coming from political, economic, social and cultural sectors in Albania, Armenia, Georgia, Kosovo/UNMIK, "the former Yugoslav Republic of Macedonia", Moldova and the Russian Federation are able to use in their everyday life/work European standards with respect to pluralistic democracy, human rights and the rule of law.
- Network of schools is established and strengthened to ensure an exchange of information, experiences and resources.

Activities:

- Seminars, training and courses
- Evaluation and presentation of essays

Support to free and fair elections- EIDHR

Start year: 2008

Budget: 1.000.000 EUR

Objectives and expected results:

Overall objective: To assist the countries of the South Caucasus and Moldova in conducting 2008-2009 elections in line with the international standards on the matter.

Project purpose:

1. To promote and prepare the reform of the electoral legislation and practice in all countries concerned, in order to bring it into conformity with the principles of the European electoral heritage.
2. To improve technical and management capacities of the electoral administration (capacity-building programmes) in all countries concerned.
3. To assist with measures to achieve fair, balanced and impartial media coverage of elections in all countries concerned.
4. To deepen knowledge/ raise awareness of the principles of the European electoral heritage by the various actors of the electoral process (politicians, academics, legislative drafters, judges, lawyers, electoral officials, the media and civil society representatives, including election observers).
5. To increase citizens' participation and engagement in the electoral process and to enable potential voters to make an informed choice during elections. Women's and youth's participation is addressed as a particular issue.

Expected results:

- Reform of election legislation and practice is further promoted
- Technical and management capacities of electoral administration are strengthened
- Media aspects of electoral campaigns are addressed
- Citizens' participation and involvement into the supervision of elections is promoted and increased.

Activities:

- Preparatory meetings/expert meetings/ adoption of Venice Commission Opinions on (draft) electoral legislation
- Capacity-building programmes for electoral commissions including support to the training centers for electoral commissions at all levels and direct assistance to the CEC
- Seminar(s) for judges on electoral disputes
- Seminar(s) on holding and supervision of elections
- Monitoring of media coverage of election campaigns
- TV debates on the results of the monitoring
- Training seminars on quality journalism and self-regulation
- Trainings for the broadcasting regulatory authorities
- Production of educational and motivational materials for voters

Setting up and Developing the Civil Society Leadership Network**Start year:** 2008**Budget:** 750.000 EUR**Objectives and expected results:**

Overall objective: Strengthening civil society in Ukraine, Moldova and the Southern Caucasus and its involvement in the solution of political, social, cultural and other problems in their countries, and in their region.

Project purpose: To foster a generation of civil society leaders who can advocate for democratic policy changes, promote European standards in democracy, human rights and the rule of law in Ukraine, Moldova and the Southern Caucasus. To help them acquire the skills necessary to implement their vision for the region.

Expected results:

- Increased knowledge of civil society leaders and activists from the region about European democratic values, standards and processes;
- Creation of the Civil Society Leadership Network, which will unite 160 civil society leaders from Ukraine, Moldova, Armenia, Azerbaijan and Georgia to enable them effectively face political, social, cultural and other challenges in their countries and contribute to initiatives aimed at improving social, economic and democratic conditions in the region. Networking and development of lasting relationships among civil society leaders of the region is facilitated;
- Establishment of a framework for regular contacts between NGOs from zones of regional conflicts;
- Creation and strengthening contacts of civil society from the region with European NGOs, through active participation in the Conference of International NGOs of the Council of Europe.

Activities: The Civil Society Leadership Network to be created during the two years of the programme will unite 160 civil society leaders from Ukraine, Moldova, Armenia, Azerbaijan and Georgia.

The project will include three main directions:

- Educational and capacity-building programmes
- Networking activities
- Regional publications.

Emerald Network-ENP - Support for the implementation of the Convention on Biological Diversity (CBD)'s Programme of Work on Protected Areas in the EU Neighbourhood Policy East Area and Russia

Start year: 2008

Budget: 1.484.000 EUR

Objectives and expected results:

Overall objective: To promote the implementation of the CBD's Programme of Work on Protected Areas and of the EU principles concerning the protection of habitats and species, so as to help target countries meet internationally agreed commitments in this field and promote the exchange of information on best practice, lessons learnt and key challenges in implementing the CBD's Programme of Work on Protected Areas.

Project purpose: Setting up of the Emerald Network and support for the implementation of the Convention on Biological Diversity Programme of Work on protected areas in the EU Neighbourhood Policy East area and Russia.

Expected results:

- Identification of potential sites of Areas of Special Conservation Interest of the Emerald network of the Bern Convention:
 - 1) Armenia, Azerbaijan, Georgia, Moldova: all potential sites;
 - 2) Ukraine: 80% of potential sites;
 - 3) Russia: 50% of potential sites;
 - 4) Belarus: 10% of potential sites in pilot project; 50% at later stage.
- Collection of scientific data according to the requirements of the Bern Convention.
- Ensure proper project management.

Activities:

- Workshops and seminars
- Implementation of the programme of identification of the potential Areas of Special Conservation Interest
- Dissemination and reproduction of project materials
- Steering Committee meetings

Peer project - Setting up an active network of independent non-judicial Human Rights Structures in the Council of Europe member States which are not members of the European Union

Start year: 2008

Budget: 900.000 EUR

Objectives and expected results:

Overall objective: To assist National Human Rights Structures (NHRS) in developing competencies concerning European human rights standards and practice and promote their joint initiatives aimed at networking, mutual exchange of information and sharing of best practices.

Project purpose: National Human Rights Structures (NHRSs) are more aware of European standards and practices in the field of Human Rights and are able to act independently and efficiently in line with the Paris Principles, for the protection and promotion of the Human Rights.

Expected results:

- National human rights structures with independent and efficient functioning in conformity with the Paris Principles are established and/or strengthened at national, regional or local level.
- The staff of the National Human Rights Structures have enhanced their knowledge of European standards of human rights protection, and have extended their awareness of possibilities of action.
- An active network of the national human rights structures and the Commissioner's Office is created and developed, to interact effectively at the national and international levels.

Activities:

- Joint mission with other international actors
- Roundtables and workshops

- Webpage of the NHRS network
- Annual Meeting of NHRS Contact Persons

Freedom of expression and information and freedom of the media

Start year: 2008

Budget: 1.010.000 EUR

Objectives and expected results:

Overall objective: To strengthen democracy, the rule of law and human rights in line with Council of Europe standards. Promoting in particular freedom of expression and information in Armenia, Azerbaijan, Georgia and Moldova.

Project purpose: Assisting Armenia, Azerbaijan, Georgia and Moldova in the development of a legal framework and practice ensuring the promotion and protection of freedom of expression and information in the long term.

1. Bringing the legislative framework in all four target countries in line with Council of Europe standards, in particular as regards defamation, broadcasting regulation and media diversity.
2. Enabling public authorities (policy makers, the judiciary and staff of the broadcasting regulator) to apply the European Convention on Human Rights and other Council of Europe norms related to freedom of expression and information and the rights of media in their daily work.
3. To ensure the quality and independence of the media.

Expected results:

- The legislative framework in all four target countries is brought in line with fundamental rights and freedoms as well as with other Council of Europe standards of relevance to the media sector, in particular as regards defamation, broadcasting regulation and media diversity
- Public authorities (judges, prosecutors, staff of the broadcasting regulatory authority) are trained to apply the European Convention on Human Rights and other Council of Europe norms of relevance to freedom of expression and information in their daily work.
- The independence and quality of the media is improved by appropriate measures and training.

Activities:

- Assessment visit and planning and evaluation meetings (stakeholders' meetings) in the beneficiary countries in order to target the nature and timing of activities proposed to priority needs in cooperation with all the relevant actors and stakeholders involved.
- Legal assessment of the relevant legislative and regulatory framework in the target countries in the light of the European convention on Human Rights and other Council of Europe standards. Expert meetings on the possible revision of the media legislation.

Combating ill-treatment and impunity in South Caucasus, Moldova and Ukraine

Start year: 2009

Budget: 1.900.000 EUR

Objectives and expected results:

Overall objective: To develop national capacities for combating torture and ill-treatment by law enforcement agencies and investigative institutions, including strengthening the effectiveness of investigations of allegations of torture and ill-treatment.

Project purpose: To improve the regulatory framework and institutional/operational systems for prevention of torture and ill-treatment and effective investigation of complaints, leading to imposition of sanctions, based on European and international human rights norms and standards, and to enable key groups of legal professionals to apply these standards in their daily work.

Expected results:

- Regulatory framework for preventing and combating torture and ill-treatment is in better conformity with European and international standards, including the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the case law of the European Court of Human Rights (ECtHR) and the Istanbul Protocol.
- Institutional/operational systems for prevention of torture and ill-treatment and effective investigation of complaints are reinforced to better process allegations of ill-treatment in accordance

with European and international standards, leading to imposition of sanctions when appropriate.

- Relevant actors, including parliamentarians, policy makers, prosecutors, judiciary, law enforcement officials, staff of supervisory, investigative and complaints handling structures, lawyers, high level representatives and legal staff of executive and legislative institutions, legal staff of Ombudsman institutions, OPCAT bodies and NGOs, have access to European and international standards for preventing and combating torture and ill-treatment and are able to fulfil their responsibilities in accordance with these standards.
- Experience and good practices are exchanged and made use of among the beneficiary countries in the context of regional co-operation, with an input from other Council of Europe (CoE) member states with relevant experience.

Activities:

- In-depth analysis of the existing regulatory framework and institutional/operational systems for effective investigation of complaints of torture and ill-treatment;
- Preparation and distribution in local languages of expert reports containing recommendations for the changes needed in line with applicable European and international human rights standards;
- Preparation and distribution in local languages of guidelines on how to conduct effective investigation of allegations of torture and ill-treatment;
- Preparation and distribution in local languages of a brochure highlighting the rights of detainees and obligations of law enforcement officials;
- Organisation of training seminars for relevant actors on European and international human rights standards;
- Publications;
- Regional conferences and other contacts.

Network of Schools for Political studies III

Start year: 2009

Budget: 3.519.000 EUR

Objectives and expected results:

Overall objective: Overall objective(s): To promote a democratic society, pluralist, respect for human rights and the rule of law through training of new leaders of public and private sectors of following countries and regions: Albania, Armenia, Azerbaidjan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Georgia, Moldova, Montenegro, Romania, Russian Federation, Serbia, Kosovo UNSCR 1244/99, "The former Yugoslav Republic of Macedonia", Ukraine.

Project purpose: Young leaders are trained on democratic values and practices. Network of schools and alumni are created to develop the exchange of information and experiences, and contributes to dialogue.

Expected results:

- Young leaders coming from political, economic, social and cultural sectors from South-East Europe, the Caucasus, Russia, Ukraine and Belarus are trained on democratic values and practices
- The network of Schools of Political Studies is developing to ensure an exchange of information, experiences and resources between schools and alumni
- The programme's visibility is increased

Activities: Selection of 40 participants every year. Designation of an annual programme of activities, including the choice of experts. Organisation of national and regional seminars. Participation in the Summer University for Democracy. Participation of the Directors in co-ordination meetings.

Peer-to-Peer II - Promoting national non-judicial mechanisms for the protection of human rights and especially the prevention of torture

Start year: 2010

Budget: 1.600.000 EUR

Objectives and expected results:

Overall objective: To help avoid, put an end to or compensate for human rights violations in Council of Europe member States which are not EU members, as well as, to the extent possible, Belarus.

Project purpose: Supporting and strengthening the functioning of National Human Rights Structures (NHRSS)/National Preventive Mechanisms (NPMs) in line with international and European standards (including the Paris Principles and OPCAT), to enhance their awareness of the European standards and practices in the field of human rights and to assist them in building or strengthening the capacities to protect and promote, with increasing efficiency, abidance by such standards by respective national, regional and local authorities.

Expected results:

- NHRSS and NPMs are set up at national, regional or local level. Their independent and efficient functioning in conformity with the Paris Principles and the OPCAT is strengthened and defended.
- Specialists within these structures are trained on the non-judicial protection in specific areas of human rights which the Council of Europe and the NHRSS themselves have identified as objects of major concern throughout Europe. They deepen their knowledge of European system of Human Rights protection, in particular, of the case-law of the European Court of Human Rights (ECtHR) and admissibility criteria for cases brought before it. As a result, domestic human rights monitoring by NHRSS and NPMs is enhanced. More cases settled out of the national courts or of the ECtHR by intervention of the NHRSS.
- Transfer of international know-how on torture prevention held by CPT and SPT transferred to the national level of NPMs.
- An active network of the NHRSS and the various Council of Europe human rights mechanisms as well as of the NPMs, the CPT (European Committee for the Prevention of Torture) and the SPT (Un-Subcommittee against Torture) is created so as to combine effectively the defence of the human rights in question at the national and the international level, under the auspices of the Council of Europe. Information comes from NHRSS/NPMs to help the Council of Europe and UN bodies to react more speedily vis-à-vis potential or real human rights violations.

Activities:

- Targeted missions to countries where there might be a political momentum for the setting up of a NHRSS or an NPM.
- Thematic workshops for the sharing of experiences and brainstorming by officials of the various NHRSS / NPMs and publication of debriefing papers reflecting the results of these workshops.
- Annual meetings of the Contact Persons of NHRSS to ensure the overall co-ordination and take stock of the activities and adapt working methods and projects.
- Information and communication tools, such as an interactive website, a newsletter for the attention of the NPMs, a collaborative space and issues of the "Regular Selective Information Flow" for the attention of all NHRSS, including NPMs.

Council of Europe Facility

Start year: 2010

Budget: 4.000.000 EUR

Objectives and expected results:

Overall objective: To enhance the reform processes in the six partner countries through a multilateral approach and to bring them closer to Council of Europe and EU standards in core areas covered by the Eastern Partnership Platform 1 (such as improved functioning of the judiciary, public administration reform and fight against corruption, and human rights protection), and, to a lesser extent, by Platform 4.

Project purpose: To mobilise Council of Europe expertise, peer to peer advice and the exchange of best practices among participating countries and to serve as a framework for multilateral activities such as capacity-building and training in order to improve the functioning of the judiciary, public administration reform and the fight against corruption.

Expected results: The overall expected result is a better compliance with European standards concerning democracy, human rights and rule of law, both in legislation and practices in the different proposed areas. Eastern Partnership countries willing to overcome deficiencies identified by Council of

Europe monitoring bodies in the implementation of its key conventions relevant for Platform 1 and, to a lesser extent, Platform 4, will have access to targeted special advice and co-operation.

Activities: Main activities to be financed will include training and seminars led by Council of Europe experts, expert meetings, networking activities or other kinds of capacity-building activities – such as activities requested by one or more of the countries concerned and considered as valuable or identified during the implementation of the Facility. In general, the activities will take place on a multilateral level, i.e. including participants from as many partner countries as possible, various publications and distribution of training material. In principle, “one-off” events will be avoided. Most of the events will gather participants from the 6 Eastern Partnership countries to foster as much as possible networking and capacity-building at regional level but stand-alone events responding to specific needs of a country cannot be excluded. The refusal to participate by one or more of the six countries should not prevent the others from working together.

Eastern Partnership - corruption bridge project (EaP-CBP)

Start year: 2010

Budget: 30.000 EUR

Objectives and expected results:

Overall objective: To assess and improve national and regional capacities to prevent and combat corruption in EaP countries (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine)

Project purpose: To assess and improve national and regional capacities to prevent and combat corruption in EaP countries (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine).

Expected results:

- Eastern Partnership Assessment on “Current Status of National Policies and Strategies” which are aimed at improving good governance and prevention of corruption is submitted to the Expert’s Panel under the EaP Platform 1 for review
- Eastern Partnership regional and specific country Recommendations for improvement and intervention to enhance good governance and prevention of corruption.

Promoting freedom, professionalism and pluralism of the media in the South Caucasus and Moldova (MEDIA II)

Start year: 2011

Budget: 1.100.000 EUR

Objectives and expected results:

Overall objective: Support the development of legal and institutional guarantees for freedom of expression, higher quality journalism and a pluralistic media landscape in Armenia, Azerbaijan, Georgia and Moldova, in line with Council of Europe standards and as regards both “traditional” and “new” media.

Project purpose:

1. Promoting professionalism, responsibility and respect of ethical rules among journalists as well as better awareness and understanding of their rights;
2. Improving the quality of journalism education and training especially as concerns the rights and responsibilities of journalists;
3. Providing legal assistance to the authorities to align the media-related regulation (e.g., as concerns broadcast and on-line media, defamation, protection of journalists, access to public information and transparency of media ownership) with Council of Europe standards;
4. Promoting proper implementation of the media-related legal framework through the incorporation in public authorities' daily practice of European standards in the field of freedom of expression;
5. Promoting the independence and strengthening the professionalism of the broadcasting regulatory bodies and the public service broadcasters;
6. Promoting confidence-building and cooperation among stakeholders.

Expected results:

- The quality of journalism education is improved, notably through introducing new courses, or enhancing existing ones, on the rights and responsibilities of journalists (graduates have bet-

ter knowledge and understanding of European standards concerning freedom of expression and the media and are trained to apply these standards in their future work);

- Journalists have better understanding of their rights, respect ethical rules and are trained to exercise their work in a professional and responsible manner as recommended under the applicable Council of Europe standards (at least 100 journalists are trained on specific topics);
- The regulatory framework for freedom of expression and for the media is brought closer in line with European standards (relevant laws are introduced or amended);
- The implementation of the media-related regulatory framework and self-regulation is improved in line with Council of Europe standards (the current practice in implementing relevant laws is brought closer to Council of Europe standards; media professionals start working towards effective self-regulatory mechanisms);
- The broadcasting regulatory bodies in the target countries are better equipped to function in an independent and effective manner (decision-making becomes more transparent and consistent; delegated regulation is passed or amended to reflect Council of Europe standards);
- The public service broadcasters in the target countries gain in professionalism and are better trusted by the political leaders, the civil society, media professionals and the public at large.

Activities:

Activities will target individually each of the countries to address efficiently their specific needs. Activities at the regional level will also be carried out with participants from two or more countries where synergies are possible.

Component 1 (Armenia and Georgia)

This component comprises three modules:

- The activities within the first module include the development of curricula, preparation of textbooks and other teaching materials and training of trainers (university professors and trainers of practising journalists). Among the subjects are journalistic ethics as well as the rights and responsibilities of journalists according to Council of Europe standards.
- The second module includes awareness-raising, training and other events aimed at familiarising media professionals with the above Subjects. Part of the activities aim at creating or perfecting self-regulatory mechanisms supported by the journalists, media managers and owners.
- The activities under the third module include notably legal advice to the authorities (through written expertises and expert meetings on the spot) on drafting and amending relevant legislation as well as training and awareness-raising for public officials as regards the implementation of this legislation. Promoting transparency in law and practice as well as dialogue between the authorities, media and civil society is an important objective of these activities. Training of media lawyers (notably working in watchdog NGOs) to be able to defend the rights of media professionals is also part of these activities.

Access social rights anti-poverty Caucasus

Start year:

Budget:

Objectives and expected results:

Overall objective:

Project purpose:

Expected results:

Activities:

Kyiv Initiative Regional Programme: 1st Covenant - Pilot Project for the rehabilitation of cultural heritage in historic towns

Start year: 2009

Budget: 200.000 EUR

Objectives and expected results:

Overall objective: Implement a "Strategic Intervention Plan" for the revitalisation and the social and economic sustainable development of small and medium-sized historic towns and their immediate surroundings.

Project purpose: Carry out the Preliminary Phase of the Pilot Project to assist national, regional and local authorities in implementing a "Strategic Intervention Plan" for the revitalisation and the social and economic sustainable development of small and medium-sized historic towns and their immediate surroundings

Expected results: Capacity building initiated through the identification of needs and networking activities, rehabilitation actions prepared and education and public awareness initiated

Activities:

- Adoption of Reference documents adopted; National,
- Setting up of regional and local partnerships set up;
- Identification of pilot towns and agreement on their participation;
- training of professionals and workshops;

Kyiv Initiative Regional Programme: 2nd Covenant - Pilot Project for the rehabilitation of cultural heritage in historic towns

Start year: 2010

Budget: 200.000 EUR

Objectives and expected results:

Overall objective and project purpose: Assist national, regional and local authorities in implementing a "Strategic Intervention Plan" for the revitalisation and the social and economic sustainable development of small and medium-sized historic towns and their immediate surroundings.

Expected results: For the project several results are expected:

- The state of urban policy in each Pilot Intervention Town is assessed and work to adapt the concept of "management plan" within the specific context of PP2 is carried out (fix a methodology).
- Thematic study visits to European countries are organised in order to investigate similar experiences in the field of heritage management.
- Workshops on management of heritage projects (for national project managers) in each participating country are organised.
- Collaborative platform shared by the five beneficiary countries for managing the working procedures and results is available.
- The international partnership network is created.

Activities:

- Meetings and workshops on documentation
- Collection of case studies on the preservation and the management of the historic towns

Country note Moldova

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List of Abbreviations

ADR	Alternative Dispute Resolution Methods
AIE	Alliance for European Integration
API	Association of Independent Press
CAPC	Center for Analysis and Prevention of Corruption
CBP	Customs and Border Protection
CCA	Common Country Assessment
CCCEC	Centre for Combating Corruption and Economic Crime
CEC	Central Electoral Commission
CIS	Commonwealth of Independent States
CLRAE	Congress of Local and Regional Authorities
CMCE	Committee of Ministers of the Council of Europe
CoE	Council of Europe
CPT	European Committee for the Prevention of Torture
CRIS	Common RELEX Information System
DDH	Democracy and Human Rights
DSP	Democracy Support Programme
EaP	Eastern European Partnership
EC	European Commission
ECHR	European Convention on Human Rights and Fundamental Freedoms
ECtHR	European Court of Human Rights
EIDHR	European Instrument for Democracy & Human Rights
ENP	European Neighbourhood Policy
ENPI	European Neighbourhood Policy Instrument
EQ	Evaluation Question
EU	European Union
EUR	Euro (currency)
FIU	Financial Intelligence Unit
GRECO	Group of States against Corruption
HQ	Headquarters
HR	Human rights
IDOM	Institute for Human Rights
IFS	Instrument for Stability
IP	Internet protocol
JC	Judgment Criteria
JP	Joint Programme
MEDIA	Promoting freedom, professionalism and pluralism of the media in the South Caucasus and Moldova
MIA	Ministry of Internal Affairs
MOLDOVA-JU	Increased independence, transparency and efficiency of the justice system in the Republic of Moldova
MOLICO	Money laundering and terrorist financing in Moldova
MP	Member of Parliament
NGO	Non-governmental organisation
NHRS	National Human Rights Structures
NPM	National Preventive Mechanism
OPCAT	Optional Protocol to the (UN) Convention Against Torture
PACE	Parliamentary Assembly of the Council of Europe
PACO	Project against Economic Crime and Money-Laundering in Serbia
PCM	Peace Consolidation Mission
RRM	Rapid Response Mechanism
SBS	Sector Budget Support
SIDA	Swedish International Development Cooperation Agency
SPT	UN-Subcommittee against Torture

TACIS	(EU support programme) Technical Assistance to the Commonwealth of Independent States
TRM	Teleradio Moldova
TV	Television
UN	United Nations
UNMIK	United Nations Interim Administration Mission in Kosovo
UNSCR	United Nations Security Council resolution
USSR	Union of Soviet Socialist Republic

1 Introduction

1.1 Purpose of the evaluation

The purpose of the evaluation is to assess to what extent the Commission interventions with the CoE have been **relevant, efficient, effective** and **visible** in supporting **sustainable impact** for the protection, promotion and dissemination of European values on the European continent and beyond.

The main objectives of the evaluation are:

- to provide the relevant services of the EC and the wider public with an overall independent and **accountable assessment** of the EC's past and current cooperation with the CoE;
- to identify **key lessons** from the EC's past overall co-operation, and thus provide the EC's policy-makers and managers with a valuable aid to evidence-based decision making, and for planning, designing and implementing EU policies.

The evaluation covers the cooperation between the EC and the CoE for the period **from 2000 to 2010**. All regions where the EC cooperation with partner countries is implemented through the CoE were included in the scope of this evaluation.

1.2 Purpose of the field missions

The main objective of the field phase was to complete the data collection and to contribute to answering the EQs. It served to validate or revise the preliminary findings and hypotheses formulated in the desk report of this evaluation. The field phase covered both policy and strategy aspects, and impact and implementation issues. Nevertheless, the field phase was **not intended to conduct an in-depth assessment of the implementation specific EC interventions**. The analysis of specific interventions aimed at exemplifying results and impacts of EC support. Emphasis has been on processes and achievements, which could not be not fully covered by the desk tools of the desk analysis.

The output of the field phase is a country case study note for each of the visited countries.

The main purpose of field missions was to **corroborate findings from the Desk Phase, address information gaps identified, and complement Desk Phase findings in order to support the global assessment in the Synthesis Report**. Field Phase Country Notes are not supposed to be mini-evaluations; field missions are conducted to bring illustrative examples and evidence for specific issues. The analysis of specific interventions aimed at exemplifying results and impacts of EC cooperation with the CoE. Overall, the **Evaluation Questions are answered and Judgment Criteria assessed at the global level** (in the main volume of the Synthesis Report), not at the country level.

1.3 Reasons for selecting Moldova

There were several reasons for selecting Moldova. It was a major focus for EU assistance under the ENPI. Justice sector reform had been a major focus, and other field visit countries did not cover this area. The CoE had massively responded following the violent confrontations of April 2009. Finally, and not to be under-estimated, Moldova is a relatively easy country to cover: close, small, accommodating from a visa point of view, etc.

1.4 Focus of the analysis and data collection methods

1.4.1 Research focus

The main points to be probed and either confirmed or were:

- Selection of the CoE as a partner in Moldova was ad hoc but, ex post, the comparative advantages and institutional depth of CoE validated the choice.
- The strengthening of the CoE field presence led to a significant improvement in (previously weak) project cycle management.

1.4.2 Data collection methods used

The evaluators conducted interviews with representatives of the EU Delegation, the CoE Country Office, beneficiary Government of Moldova agencies, quasi-governmental organisations (for example, the Supreme Council of Magistrates), and national NGOs.

2 Brief description of the country context

2.1 Brief overview of country political, legal, and development context in human rights, democracy, and rule of law, 2000-2010

2.1.1 Political context

The Republic of Moldova became member of the CoE in 1995, being the first country from CIS region and the 4th of the former USSR after the 3 Baltic States (Estonia, Latvia and Lithuania). Its accession commitments and obligations³ had to be implemented within 2 years. This was not achieved and the Parliamentary Assembly of the CoE (PACE) is continuing the monitoring procedures⁴ of the accession commitments and obligations.

The Moldovan Constitution was elaborated with CoE support, before the accession, and was adopted in 1994. Immediately after the regional economic crisis in 1997-1999, the amendment of the constitution 2000 and incapacity to elect the president provoked accelerated parliamentary elections in which the Communist Party won more than 2/3 of the seats. It maintained over half the seats mandates in the parliamentary elections of 2005 and of April 2009. Despite full political control and stability, the CoE accession commitments were not still unfulfilled. Having failed to elect the president, new parliamentary elections were organised in July 2009, bringing to power a new alliance of former opposition parties (Alliance for European Integration, AIE). For the same reason of failure to elect the head of state in the parliament, and after failure of the constitutional referendum on changing the method of electing of the president, new elections were organised in November 2010. With the similar electoral output, the AIE continues to govern presently and the head of state was only elected in April 2012.

The massive protests of the opposition in 2002 brought new issues of concern on the stability of democratic institutions. The kidnapping of an opposition MP Vlad Cubreacov was extremely worrying. The investigation of this incident was one of the top issues in Republic of Moldova-CoE talks and is still not finished. In 2002 attempts were made by the Communist Party to withhold the parliamentary immunity of opposition MPs and even to forbid some opposition political parties. Dialogue with CoE and EU helped to prevent such decisions. A round-table of the political parties was initiated with the support of CoE and a Special Representative of the Secretary General of CoE was appointed to Moldova. Showing a positive dynamic in the dialogue with the CoE, and paying all the outstanding contributions to the organisation's budget⁵ (about 2 mln Euro at that moment), the Republic of Moldova held the Chairmanship of the CMCE in 2003 (May-November). Notwithstanding, the practice of persecution of the opposition was observed by international community during the communist governance in 2001-2009, with particular intensity before the election campaigns.

The Communist party came into power in 2001 on a pro-Eastern orientation and it built on this foreign policy until late 2003, with some pro-European rhetoric. After the fail of the negotiations on Transnistria based on the Russian offer called "Memorandum Kozak" and the worsening of relations with Russia, in mid 2004 the Communist Party declared the European Integration as a priority. The shift occurred in the context of the 2005 parliamentary elections. The elections were as recognised partially free and were won again by the Communist Party with more than 50% of the seats. It needed only 3 votes to re-elect the President and have got the support of other 3 then opposition parties. Despite the proclaimed "national consensus", the unanimous adoption in Parliament of the „European integration declaration," and the Law on Transnistrian Settlement, the harassment of the opposition remained a fact and an issue on the agenda of talks with EU and CoE. The same problems persisted before and after April 2009 elections. Moreover, the torture and ill treatment of protesters and others were tolerated if not encouraged.

The political dialogue failed between the ruling Communist Party and the opposition parties after the elections of 5 April 2009, resulting of a major polarisation of society. Reconciliation is still far from achieved. The attempts to elect the head of state (the President) by the Parliament failed since between April 2009 and April 2012.

The PACE⁶ reminds that the respect of commitments and obligations towards the CoE is a precondition for any deeper European integration.

³ PACE opinion nr.188 (1995)

⁴ PACE Resolution No.1155 (1998)

⁵ The contribution of the Republic of Moldova to the CoE budget was established at 0,12%, which was about 290.00 Euro per year.

⁶ PACE Resolution No.1724 (2005)

European Integration was formulated by the ruling Government as a national objective in its Program of 2009-2013⁷. In April 2012 the Government submitted to the Parliament a decision with a list of legislation to be adopted for this purpose in "2011-2013" (!)⁸.

2.1.2 Human rights

The Republic of Moldova ratified the ECHR in 1997 with a territorial reservation, declining its responsibility for the actions of the separatist administration in the Transnistrian region. In the ruling of the ECtHR in its decision on "Ilascu and others v. Republic of Moldova and Russian Federation", that reservation was removed. Republic Moldova of Moldova was found responsible for breach of its positive obligations by discouraging applicants from complaining to the ECtHR, due to the public statements by the then head of state V.Voronin; and the Russian Federation for exercising its jurisdiction in the separatist region and decisive role and influence in creating and maintaining the separatist administration (through political, economic, financial and military support) without which it wouldn't survive. Thus, Moldovan authorities are required to try constantly to enforce human rights standards in the separatist region, using all available political and legal instruments.

The number of applications to the ECtHR has constantly increased due to the lack of trust in the national system of HR protection. But the increase is also due to the raised awareness of the accessibility of the Strasbourg Court, and more efficient work of the lawyers. The most frequent cases have concerned: torture and ill treatment, conditions of detention, enforcement of decisions of the national courts, freedom of assembly and others. The ECtHR decision in the case of "Ilascu" opened the door for complaints from the left bank of Nistru (Transnistria) region, particularly concerning the property rights and freedom of movement. The freedom of assembly has found appropriate systemic solutions by the adoption of new legislation in 2009. The quality and speed of execution of decisions was addressed by new legislation passed in 2010 creating a new system of "private" bailouts.

The post-electoral events of April 2009, brought serious concerns about the democracy, the election process, torture and ill treatment. The investigation and adequate punishment of those responsible for breaches of human rights, torture and ill treatment in connection with April 2009 events became "key priorities until June 2011" of EU-Republic of Moldova cooperation. To date, there has been little progress. The ECtHR has condemned in 2011 the new Moldovan authorities for the lack of substance and superficiality in investigating abuses and torture in post-electoral events of April 2009.

An extended and quite comprehensive National Action Plan for Human Rights (NAPHR) was elaborate with foreign donor support (UNDP) and adopted by the Parliament. It became the reference national policy document in HR. The Parliament steering committee on HR organised during its 2005-2009 legislature public hearings of ministries concerning the implementation of the NAPHR exercising its control over the executive. The new and up-dated NAPHR was approved in 2010. The HR component was also followed by EU in the ENP Action Plan. The informal Human Rights Dialogue between the Republic of Moldova and EU was initiated after 2009. In 2010 the Republic of Moldova was elected Membership of the Council for Human Rights.

2.1.3 Rule of law

The first reform of the Justice System was initiated with CoE support before Moldova became member of the organisation. Under Communist Party rule 2001-2005, there was initiated new controversial reform processes regarding the independence of the justice. These raised concerns and criticism from the CoE and EU. Hence, the CoE had a significant role in the dialogue with national authorities in introduce compatible reforms, although with shortages at the level of implementation: creation and support of the Supreme Council of Magistrates, National Institute of Justice, and codification of legislation (criminal, civil, etc.). The new coalition government of September 2009 - November .2010 initiated a reform of the justice system. However, the first comprehensive approach based on relevant studies with sufficient degree of public participation was not launched until 2011, preparing for the EU direct budget support program for 2012 (to be disbursed in 2013). Thus, a comprehensive Strategy of the Justice Sector Reform and an Action Plan for its implementation were drafted with EU and CoE support, and approved in late 2011. The EU has since 2010 financed an EU High Level Policy Advice Mission, that deployed 15 international and 9 national advisers in Moldovan institutions, including the Ministry of Justice, MIA, the Prosecutor General Office, and the Center for Combating Economic Crimes and Corruption.

⁷ It is also reintroduced in the next Government Program for 2011-2014, following after November 2010 anticipated legislative elections.

⁸ The quality of this decision is questionable, but shall not be discussed here.

2.2 Description of EU and CoE strategic priorities for Moldova

We were unfortunately unable to speak with the Political Officer at the EU Delegation, but it is clear that the EU's strategy consists of two prongs. One is to genuinely encourage reforms that strengthen democracy, human rights, and the rule of law. The EU has selected justice system reform, in particular, as a focal area, but it has other sector support programmes in place, as well. It is noteworthy that, as a result of a comprehensive assessment of Tacis assistance, the EU shifted the focus of its cooperation strategy from economic development (largely trade related) to governance.

The second, arguably more difficult, goal is to hold the door of eventual EU accession open while transmitting the signal that accession will be a long, slow process and that enormous progress is still needed.

Country strategies cannot be considered in isolation. Ukraine has proven to be a major disappointment to the ENP and to donors in general. As the situation in Ukraine has worsened in recent years, Moldova has become widely recognised as a "donor darling."

The CoE's strategic priorities are simple: it wishes to improve Moldova's performance on its CoE commitments. At the same time, it has expressed interest in starting to implement confidence building measures in relation to the Transnistria conflict.

2.3 Description of EU-CoE cooperation in Moldova

2.3.1 List of EC-CoE JPs in the key areas of cooperation

The table below summarises the EC-CoE joint programmes in Moldova, descriptions of the programmes are in the Annex of this note.

Country programmes

<i>Title</i>	<i>Period</i>	<i>CRIS Contract</i>	<i>EC commitment €</i>	<i>Total budget €</i>	<i>Domain</i>	<i>Remark</i>
Moldova 2001-2003 - Joint Programme of Co-operation to Strengthen Democratic Stability in Moldova	2001 - 2003	50666	261.235	600.000	DDH	
Moldova 2004-2006 - Joint Programme between the European Commission and the Council of Europe for Moldova: Support to continued democratic reforms (2004-2006)	2004 - 2006	78232	756.609	1.300.266	TACIS	
Support to the National Anti-Corruption Strategy (PACO - Moldova)	2005 - 2006	98366	225.000	350.000	TACIS	
Programme against corruption, money laundering and terrorist financing in Moldova (MOLICO Moldova)	2006 - 2009	122590	3.000.000	3.500.000	TACIS	Co-financed also by SIDA
Increased independence, transparency and efficiency of the justice system in the Republic of Moldova (Moldova JU)	2006 - 2010	123766	3.000.000	3.300.000	TACIS	
Democracy Support Programme	2010 - 2011	226597	4.000.000	4.000.000	IFS-RRM	

Multi-country/regional programmes

<i>Title</i>	<i>Period</i>	<i>CRIS Contract</i>	<i>EC commitment €</i>	<i>Total budget €</i>	<i>Domain</i>	<i>Remark</i>
Democracy through free and fair elections	2003 - 2006	75496	200.000	400.000	DDH	
EIDHR - Network of Schools of Political Studies	2004 - 2006	89231	500.000	1.000.000	DDH	
Network of Schools of Political Studies - EIDHR	2006 - 2008	125301	639.683	1.300.000	DDH	
Support to free and fair elections- EIDHR	2008 - 2010	140322	500.000	1.000.000	EIDHR	

Evaluation of Commission's cooperation with the Council of Europe – PARTICIP GmbH

<i>Title</i>	<i>Period</i>	<i>CRIS Contract</i>	<i>EC commitment €</i>	<i>Total budget €</i>	<i>Domain</i>	<i>Remark</i>
Setting up and Developing the Civil Society Leadership Network	2008 – 2009	140325	350.000	750.000	EIDHR	
Peer project - Setting up an active network of independent non-judicial Human Rights Structures in the Council of Europe member States which are not members of the European Union	2008 - 2009	140327	450.000	900.000	EIDHR	
Freedom of expression and information and freedom of the media	2008 - 2009	140324	500.000	1.010.000	EIDHR	
Enhancing the domestic capacity to devise, implement, monitor and communicate on the national Roma related policies, and fighting negative stereotyping faced by Roma people - EIDHR	2008 - 2009	140326	200.000	400.000	EIDHR	
Network of Schools for Political studies II	2009 - 2010	168721	1.759.500	3.519.000	EIDHR	
Combating ill-treatment and impunity in South Caucasus, Moldova and Ukraine	2009 - 2011	165700	950.000	1.900.000	EIDHR	
Peer-to-Peer II - Promoting national non-judicial mechanisms for the protection of human rights and especially the prevention of torture	2010 - 2012	226588	1.200.000	1.600.000	EIDHR	
Eastern Partnership - corruption bridge project (EaP-CBP)	2010	247132	30.000	30.000	ENPI	
Council of Europe Facility	2010 - 2012	256600	4.000.000	4.000.000	ENPI	
Promoting freedom, professionalism and pluralism of the media in the South Caucasus and Moldova (MEDIA II)	2011 - 2012	256575	750.000	1.100.000	EIDHR	

3 Findings by EQs and JCs

3.1 EQ1: Guidance criteria

Evaluation Question 1:

To what extent have the **criteria** for decisions to cooperate with the CoE been clear, transparent and strategically sound?

3.1.1 JC11 Level of discussion/analysis of the choice of the CoE as a cooperation partner

Main findings from the field mission:

From interviews with EU Del, the CoE country office, and selected Government officials, it was clear that selection of the CoE can respond to a range of factors. Thus, in relation to Indicator 1.1.1, there was evidence that the choice of CoE is explicitly motivated. Sometimes the Government expresses a clear preference (and is concerned that the move from direct award to tender increases uncertainty and leads to time delays). The comparative advantage of the CoE is perceived by the Delegation to lie in the cycle of standard-setting, monitoring, and cooperation (Indicator 1.1.2). Monitoring gives the CoE a strong advantage in anti-torture, money laundering, corruption, and justice system reform, Improving the situation is the fact that, with decentralisation, the CoE Country Office is increasingly involved with project identification and project preparation.

3.1.2 JC 12 Degree to which EC/EU staff at headquarters and in the field are well-informed regarding the possibility to cooperate with the CoE

Main findings from the field mission:

The EU Delegation in Chisinau was and still is understaffed. In fact the problem has been worsening as Moldova has attracted an increasing volume of funds under the “more for more” approach. However, with the opening of the CoE Country Office, that CoE has been involved in all EU initiatives involving CoE areas of expertise. The CoE is involved in all EU initiatives involving CoE areas of expertise, as well as in the EU-CoE Human Rights Dialogue. There is good communication between the CoE Office and the EU Delegation (Indicator 1.2.1) and frequent meetings (Indicator 1.2.2). While the CoE has been active in outreach, there was no evidence of formal measures to increase EU Delegation staff familiarity with the CoE (Indicator 1.2.3). To some extent, outreach was encouraged by the fact that, when the current head of the CoE Country Office and Head of Operations for the EU Delegation arrived, there was urgent need to address problems that had arisen in the MOLICO project.

3.2 EQ2: Specific Expertise

Evaluation Question 2:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, enabled the EC to use the CoE's **specific** sectoral **expertise** and mandate and geographical scope in the key areas of cooperation?

3.2.1 JC 2.1 Degree to which the CoE's sectoral expertise and mandate and geographic scope and political capacity to hold partner countries accountable have been taken advantage of in cooperation activities including JP implementation

Main findings from the field mission:

There is no shortage of potential implementing partners in Moldova. In general, government officials interviewed were satisfied with the expertise provided, in one case where there was dissatisfaction, the expert was changed (Indicator 2.1.2). Some delays in recruitment were experienced. Training was generally regarded as having been of high quality. The EU Delegation, as well as some stakeholders (NGOs who had worked in the context of Joint Programmes) were strongly of the view that management from Strasbourg was inadequate and that the quality of the CoE's engagement had benefitted from the strengthening of the country office. This has greatly increased field office involvement in JP design and implementation at all phases (Indicator 2.1.1) and has been warmly welcomed by the EU Delegation.

The CoE's special relationship with current pro-EU Government allowed it to have impacts that would have been difficult to obtain by working with a consulting company. A concrete example is in justice sector reform, where prosecutors and judges are resistant and only the institutional clout of the CoE

can provide effective backup to the Ministry of Justice. A number of persons interviewed in the field were of the view that, particularly in justice sector reform, it was unlikely that a consulting company, even if it succeeded in recruiting experts of high quality, would be able to wield the influence of the CoE (Indicator 2.1.3).

However, the influence of the CoE is not only as a result of the new government. During the 2001-2003 period of weakening democratic institutions under Communist rule, the CoE became the most influential international organisation in Moldova in the field of democracy, justice, and rule of law. Proof of this is to be found in contacts at the highest level and visits to Chisinau of CoE Secretary General Schwimmer to Moldova and the Moldovan leadership to Strasbourg.

3.2.2 JC 2.2 Degree to which EU has benefited from jointly working with the CoE on legal issues / standards setting and monitoring / country assessments in human rights, rule of law, and democracy

Main findings from the field mission:

Decentralisation has greatly increased the EU Delegation's scope for setting cooperation strategy and priorities. According to CoE officers interviewed, the CoE has not been involved in the development of EU country strategies in Moldova. However, the EUD makes itself aware of the CoE vision during identification of needs. . We found no evidence of formal coordination of normative activities and monitoring between the EU and Moldova, but the EU depends heavily on CoE monitoring reports (Indicators 2.2.2 and 2.2.3). It is undeniable that all implementing agencies are drawing on the same pool of expertise (Indicator 2.2.1), but see the comment above on the strong influence of the CoE.

3.3 EQ3: Human Rights

Evaluation Question 3:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, contributed to increasing respect for **human rights** and fundamental freedoms?

3.3.1 JC 3.1 Improved protection of human rights (civil, political, social, economic and cultural), including non discrimination

Main findings from the field mission:

As is well known, many members of the present government were involved in NGOs, and civil society has been considerably strengthened in the last three years. At least one NGO, Lawyers for Human Rights, specialises in ECtHR jurisprudence, presenting cases to the Court, maintaining a website on ECtHR jurisprudence, translating and disseminating ECtHR decisions, and providing training). Some support received under EU-financed CoE JPs, particularly in the area of training activities. Another NGO, IDOM, reported good cooperation with the CoE in its broad human rights monitoring work. As part of the National Preventive Mechanism, IDOM met the Commissioner when he visited Moldova and participated in visits to places of detention. They also met with the Committee on the Prevention of Torture when it visited Moldova. In general, there is strong evidence of increase NGO involvement in human rights (Indicator 3.1.3). Whereas for former government actively discouraged potential applicants from taking cases to Strasbourg, there are no longer any formal barriers (Indicator 3.1.1).

However, despite the activities of NGOs, the Bar Association painted a discouraging picture of the state of human rights litigation. While there are half a dozen law firms specialised in ECtHR jurisprudence, monthly training organised by the Bar Association (the Prosecutor's Office estimates that virtually all lawyers dealing with criminal matters have received ECHR training), and dissemination of court decisions, application remains low. The main reason is corruption. As we discuss below in the context of rule of law and conditions of detention, there has been massive investment in training of judges, prosecutors, police officials, and prison officials (Indicator 3.1.2), but with relatively low impact.

A key institution for promoting ECtHR jurisprudence is the Institute of Justice, which estimates that it has provided ECHR training to 380 judges and 480 prosecutors. ECtHR jurisprudence is a mandatory subject in law school. However, lawyers interviewed were of the view that the general quality of university instruction is low and in many cases superficial (Indicator 3.1.2).

We did not formally collect information related to access to social and economic rights (Indicator 3.1.4). However, it is clear that there are still problems. Despite mandatory health insurance (designed with EC technical assistance under Tacis), informal payments for medical care remain the norm and the availability of adequate treatment is very limited. Those who can afford it go abroad for treatment, and many buy medicines abroad. Another example of limited access to social rights is the failure to provide adequate special education for disabled children. The Ombudsman's Office with the support of

the Support to Democracy Project, produced a guide to the rights of persons with disabilities. Project-supported contacts with the Ombudsmen in Greece and Poland afforded an opportunity to compare experiences related to disability. In September 2011 (admittedly well after the end of the evaluation period strictly speaking), and a conference was organised on the first anniversary of Moldova's approval of the Convention on Persons with Disabilities.

3.3.2 JC 3.2 Degree to which accession to, and compliance with, the European Convention on Human Rights (ECHR) and the European Social Charter has been promoted and strengthened

Main findings from the field mission:

All lawyers completing the standard curriculum receive ECtHR training, and they received further training under the compulsory continuing education programme (Indicator 3.2.1). However, as stated above, impact has been low (Indicator 3.2.2). A number of CoE-EC JPs supported training, including the Democracy Support Programme, justice sector reform, and the Network of Political Schools. The Constitutional Court has started to cite ECtHR decisions, and the new head of the Supreme Court is a former ECtHR judge. The weak point is the staff of the courts which are very limited and not necessarily the most qualified to assist the judges. This is particular difficult in regions, outside the capital Chisinau. We discuss the activities of the Office of the Ombudsman, which received strengthening through the Democracy Support Programme, in greater detail below. The office has been strengthened by recruiting additional staff and the volume of complaints dealt with has increased. However, in general, as evidence by the failure to resolve human rights cases arising from the events of April 2009, the Ombudsman's Office is not regarded by human rights advocates as being particularly strong (Indicator 3.2.2). No information was gathered regarding the introduction of human rights curricula in schools (Indicator 3.2.4)

See also the discussion under JC 3.1 above.

3.3.3 JC 3.3 Enhanced protection of the rights of minority groups (including linguistic minorities)

Main findings from the field mission:

No one interviewed considered ethnic minority rights to be a major problem, and this has not been a focus of EU-CoE cooperation. There are annual festivals promoting ethnic diversity, which are attended by high officials (Indicator 3.3.1). A new anti-discrimination law was adopted in May 2012 (well after the end of the evaluation period) as one of the conditionalities for EU visa liberalization (Indicator 3.3.2). The CoE and EU have expressed concern, however, over the emergence of bias against lesbian, gay, bisexual and transgender persons, e.g., self-proclaimed "gay-free" zones in some areas. Events such as gay pride marches organized by NGOs have been broken up (Indicator 3.3.3).

In the area of inter-group confidence building, even though it does not involve minority rights, it is worth examining the Transnistria issue. The CoE Country Office is deeply interested in pursuing confidence building measures in Transnistria, but little was done over the evaluation period and this is not an area of CoE competence.. There have been some civil society bridge-building efforts, but they did not involve the CoE.

3.3.4 JC 3.4 Increased awareness of human rights and fundamental freedoms

Main findings from the field mission:

The number of complaints dealt with by the Ombudsman's Office grew from roughly 30 in 2008 to 200 in 2011 (Indicator 3.4.3). In 2008, Ombudsman Office staff made 48 preventive visits to prisons and police stations; in 2011, 278. As part of the on-going justice sector reform, a new law on the Ombudsman is anticipated. The Ombudsman's Office has benefitted from the Support to Democracy project and its two precursors, as well as Peer to Peer and Peer to Peer 2. As discussed below, CoE-EU joint programmes have provided a huge amount of training for journalists, with the result that there has been increased media coverage of human rights (Indicator 3.4.1).

3.3.5 JC 3.5 Improved treatment and conditions of detention

Main findings from the field mission:

According to the Ombudsman, the great majority of complaints received relate to conditions of detention, where European standards are far from respected (Indicator 3.5.1) despite large investments in training by the CoE with EC support in the context of justice sector reform. There have been a number of ECtHR decisions against Moldova, of which 33 have related to Article 3, 9 have related to

torture and the rest to procedural matters. The Government formed a Working Group on how better to comply with Article 3 but, again according to the Ombudsman, improved compliance would require sweeping change of the penitentiary system and a change in orientation from punishment to re-insertion. Both are unaffordable in Moldova under current circumstances and given current budgetary priorities.

Perhaps surprising, one human rights NGO gave a more positive view, institutions dealing with places of detention have changed dramatically since the turn of the century. There are essentially two sets of institutions: those run by the Ministry of the Interior (such as holding facilities in police stations) and penitentiaries. The number of persons in detention has decreased, allowing Moldova to respect the international standard of 4 square metres per person. But there is great variation. The Penitentiary for Women in Ruska has been renovated and conditions are excellent. In Chisinau, by contrast, conditions are very bad. There are still instances of holding persons up to three days in police stations with insufficient food, water, and sanitation. Medical care, while not a problem in penitentiaries, is extremely poor in police stations.

There have been hundreds of CoE trainings of persons in the justice system over the years. Yet, the aftermath of the April 2009 disturbances gives evidence of the failure to effect change. Over 100 torture complaints were brought in the wake of April 2009. 56 of the complaints were rejected (20 of which have been re-opened) and 52 accepted by the Prosecutors Office, none of which have been decided, leading to widespread belief that the system continues to operate with impunity. The re-opening of 20 of the 56 rejected cases followed the adverse decision of the ECtHR in the case of Taraburko (2011), the one April 2009 case that reached Strasbourg.

The persistence of ill-treatment in police detention is structural. The police are under pressure to produce results, which has given rise to an ingrained mentality of selecting the person first and assigning the crime second. Confessions are commonly obtained under torture. Working conditions and salaries are atrocious. Sometimes police officers are responding to illegal orders from superiors. The Law on Protection of Witnesses is ineffective as the body responsible for implementing it is the Ministry of the Interior, which effectively places the wolf in charge of guarding the sheep.

There has been some progress on use of probation (Indicator 3.5.2), but it is fragile. Pre-trial detention is still the norm.

3.4 EQ4: Rule of Law I

Evaluation Question 4:

To what extent has cooperation with the CoE, in particular via the channelling of funds, contributed to strengthening the rule of law as it relates to the fight **against corruption, money laundering, organised crime and trafficking**?

3.4.1 JC 4.1 Increased accession to, and compliance with, the conventions relating to the fight against corruption, money laundering, organised crime and trafficking

Main findings from the field mission:

The MOLICO project (2006-2008) had one branch concerning money laundering and one branch concerning corruption, both aiming to strengthen effective capacity of domestic institutions to implement the provisions of the relevant legal instruments (Indicator 4.1.2). Beneficiaries who were interviewed considered the project of good quality in both aspects. One concrete innovation is that now, all draft legislation is assessed for "corruptibility" and changes are suggested. The project enhanced harmonisation with international standards. Cooperation with GRECO was judged to be especially effective because it promoted knowledge of what recommendations had been made to other countries. In the area of money laundering, MOLICO supported the drafting of anti-money laundering legislation.

The Republic of Moldova has acceded to all relevant international instruments fighting corruption, organised crime, money laundering and trafficking (Indicator 4.1.1). Nonetheless, corruption and trafficking were and are the areas of least progress and of increased concern by NGOs and EU in its ENP country reports, as well as US anti-trafficking reports. Despite the sufficient general legal framework, there is low level of enforcement and limited impact of the prevention activities.

3.4.2 JC 4.2 Improved prevention and deterrence of organised crime, corruption, and money laundering

Main findings from the field mission:

One observation that was consistently made by all stakeholders interviewed – CoE, EU Delegation, civil society, and Government – is that the change in Government has not had the slightest impact on the important role of corruption (Indicator 4.2.1). This is endemic throughout the justice system due to low salaries. One national stakeholder associated with a Government institution protested that there were virtually no legal prosecutions of justice sector employees for corruption, but all others agreed that this is a legalistic interpretation of the situation. Corruption is also commonplace in local administration, education and health.

The structural problem at the Government agency tasked with fighting corruption is that corruption prevention branch is effective, while the investigation and prosecution branch is ineffective and, in fact, itself corrupt.

No information was gathered on the level of money laundering, organised crime, and trafficking (Indicators 4.2.2-4.2.4).

3.5 EQ5: Rule of Law II

Evaluation Question 5:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, contributed to strengthening the rule of law as it relates to **legal systems and access to justice**?

3.5.1 JC 5.1 Increased transparency, efficiency, and effectiveness of the legal system

Main findings from the field mission:

The case backload in both criminal and civil cases is disastrous (Indicator 5.1.2), and reflects the lack of qualified and motivated staff. There has been no improvement to date in the execution of judgments (Indicator 5.1.4), but a new law has just been passed. We have discussed above the high number of complaints regarding conditions of detention (Indicator 5.1.3). All of these continuing problems must be considered in light of the fact that justice sector reform has been a focal area of EU-CoE cooperation with Moldova.

3.5.2 JC 5.2 Improved access to justice

Main findings from the field mission:

ADR is almost completely un-developed (Indicator 5.2.3). There also a serious problem of freezing assets prior to civil trial, placing defendants under great pressure to settle. For claimants outside Chisinau in important actions, such as treatment in detention after April, 2009, travel costs (they may be summoned to Chisinau two or three times a week) can be a formidable barrier.

Free legal assistance (Indicator 5.2.2) is provided by the Bar Association. The state is supposed to pay it back at a certain cost. The Bar complains of the low level of remuneration (far below market rates) and a significant payment backlog.

3.6 EQ6: Democracy

Evaluation Question 6:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, contributed to establishing stronger **democratic institutions and practices** at central and local level?

3.6.1 JC 6.1 Strengthened democratic institutions and processes in the area of democracy

Main findings from the field mission:

Parliament is exercising very little effective control over the Executive (Indicator 6.1.1).

The barriers to free and independent media was one of the key subjects EU-Moldova and CoE-Moldova dialogues in 2001-2009. In general, media freedom has improved (Indicator 6.1.2). The widespread use of defamation lawsuits to intimidate journalists has been reined in. However, there is still a fair amount of self-censorship, and, according to NGO representatives interviewed, the intimidation experienced by investigatory journalists is no less now than pre-2009. Nonetheless, according to the Centre for Investigative Journalism, the volume of investigative journalism has increased despite the high number of legal actions brought against journalists. Under MOLICO, the

CoE provided training for investigative journalists, including a study trip to Riga. The Democracy Support Project and its precursors also included media training.

The recent revocation of a TV license has become the focus of considerable dispute. On one side, Communist Party supporters state that this was the only opposition television station. On the other side, among all TV stations, this was the only one whose content consisted entirely of political propaganda. In fact, the allocation of broadcasting licenses has always been and continues to be non-transparent. Complaints still abound related to respect for the presumption of innocence, protection of children, and IP violations.

The ownership of print media is also non-transparent and there are numerous indirect subsidies (e.g., in distribution, where there is a de facto Government monopoly).

Several attempts to control the NGOs were made during 2001-2009, and particularly in April 2009. The registration of NGOs today is not a major problem (Indicator 6.1.5). The process takes much longer than registering a company, but the discrepancy is due to the level of modernisation of services. In general, the period after April 2009 has seen a major expansion in the influence of NGOs, in part simply because many members of the new government have a civil society background (Indicator 6.1.4).

No information was collected during the field mission related to Indicator 6.1.4 on barriers to political parties.

3.6.2 JC 6.2 Improved electoral legislation and practice

Main findings from the field mission:

Electoral legislation and practice was a matter of major concern in the PACE Resolutions on Moldova. The April 2009 post-electoral protests reflected the lack of trust in national institutions managing the electoral process.

NGOs were active in monitoring parliamentary elections in 2005, 2009, 2010 and local elections 2007 and 2011 (Indicator 6.2.4). They monitored elections for the constitutional referendum in September 2010 and parliamentary elections in November 2010.

Under MOLICO the NGO CAPC produced guidelines on how to assess the "corruptibility" of legislation (Indicator 6.2.1). Over half of the proposed changes in legislative practice were adopted and presented to GRECO. Eventually, CARC expertise in the area was transmitted to Kazakhstan and Ukraine.

In 2010-11, through the Democracy Support project, the CoE implemented a well-regarded training of journalists on how to cover elections (Indicator 6.2.5).

3.6.3 JC 6.3 Improved local and regional governance and practice

Main findings from the field mission:

The field mission did not address issues of local and regional governance.

3.7 EQ7: Implementation

Evaluation Question 7:

To what extent have the **implementation modalities** of Joint Programmes employed by the CoE been appropriate to help achieving EC objectives related to human rights, rule of law, and democracy?

3.7.1 JC 7.1 Degree to which CoE implementation has reflected best practice of programme cycle management

Main findings from the field mission:

In general, the atmosphere is increasingly competitive, and the CoE field staff interviewed were acutely aware of the need to improve project cycle management across the board – better capacity in the field and at HQ (Indicator 7.1.1), tighter logical frameworks with more objectively verifiable indicators (Indicator 7.1.2), better monitoring and evaluation (Indicator 7.1.3), and more effective use of steering committees (Indicator 7.1.4). The putting in place of a country office was regarded by the EU Del as having been a crucial improvement in the quality of project management. Much time was lost in dealing with the negative audit of MOLICO, a project which, despite having been successful in terms of results (as attested to by Ministry of Justice officials interviewed as well as others) encountered significant management problems. Through intense intervention of the new CoE office head, the EU Del Head of Operations, and Swedish SIDA, these problems were put to rest.

3.7.2 JC 7.2 Quality of reporting, monitoring, financial management by JPs and quality of evaluation of JPs

Main findings from the field mission:

CoE officers interviewed themselves admitted that, prior to the strengthening of the country office, reporting was weak (Indicator 7.2.4). Steering Committees were not well defined as to goals, levels, etc., and progress reports were often not available until Steering Committees met. Projects were not designed based on Results Based Management, hence, monitoring was weak and impact assessment almost impossible (Indicator 7.2.1). As a result, there was no structure for incorporating lessons learnt (Indicator 7.2.3).

At a number of points in the field mission, the subject of the critical Swedish SIDA audit of the MOLICO project was mentioned. Both the CoE country office and EU Delegation reported that the issue is now behind them. The general view among stakeholders and beneficiaries was that the project delivered good results, but that financial management was chaotic (Indicator 7.2.3).

3.7.3 JC 7.3 Appropriateness of relationship between JP management needs, CoE headquarters human resources, and field presence

Main findings from the field mission:

It emerged in meetings on all sides that, prior to the opening of the CoE field office, project management from Strasbourg was not satisfactory. One beneficiary pointed out that, as generalists, Strasbourg programme managers did not always have the technical competence required in a field. According to the CoE Office head, the EU Delegation complained of poor PCM and reporting. The breakthrough came with the Democracy project, which was entirely managed in Chisinau. Going forward, only in exceptional cases will projects be managed from Strasbourg.

Similar problems were encountered with regional JPs before the CoE Country Office was strengthened. With management from Strasbourg, sometimes activities were undertaken without fully informing the CoE office, let alone the EU Delegation. This problem has been addressed, with the CoE Deputy Head of Office in weekly contact with regional JP managers. At the same time, proposal writing and project formulation remain in Strasbourg.

3.7.4 JC 7.4 Mechanisms and processes for incorporating lessons learned and ensuring sustainability in place

Main findings from the field mission:

The field mission did not address this issue.

3.7.5 JC 7.5 Degree to which EC political visibility has been ensured

Main findings from the field mission:

The basics of visibility – logos, etc. – were scrupulously observed, but that is generally the case. In general, though, beneficiaries were often unaware of the EU financing of the CoE trainings from which they benefitted (Indicator 7.5.3). To some extent this is because the EU Delegation itself is a fairly recent arrival in Chisinau and is still extremely small.

3.8 EQ8: Complementarity and synergies

Evaluation Question 8:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, helped to enhance **complementarity and synergies** between the EC and the CoE?

3.8.1 JC 8.1 Degree to which CoE country strategies were aligned and coordinated with the EC country strategies

Main findings from the field mission:

The field mission did not address this issue.

3.8.2 JC 8.2 Degree to which cooperation between EC and CoE has facilitated complementarity of JPs with EC other external assistance programmes

Main findings from the field mission:

There have been excellent relations between the EU Del and the CoE. An example given (admittedly, having ended in December 2011, extending beyond the evaluation period strictly speaking) was the Democracy project financed by the Stability Instrument. The breadth of the project, involving 10-12

national beneficiaries / partners, reflected the entire range of problems that emerged post-April 2009. The was an EU flagship project, and the EU was extremely happy with the results.

One good example of synergies between programmes has been the Democracy Support Programme, which allowed the CoE to provide support for justice sector strategy support at a time when EU SBS was not able to finance this.

While the CoE JP has provided support for a strategy, upcoming EC SBS to Justice will facilitate implementation by raising judicial salaries in an effort to discourage corruption.

3.8.3 JC 8.3 Degree to which joint EC-CoE cooperation activities are aligned with government, EU and CoE priorities

Main findings from the field mission:

An EU priority was Justice sector reform. In the context of the Democracy Support Programme, as stated above, the CoE supported strategy formulation, the operation of working groups to discuss drafts, public debate, and dissemination. The DSP marked, according to an international expert attached to the Ministry, a great improvement over the predecessor Justice Reform project, in which there was little sense of government ownership. In some senses, though, this project was an exception, in that the beneficiary was pro-active and knew precisely what form of support he wished to have. The project also benefitted from the fact that it took directly into account the results of monitoring activities in anti-torture and anti-corruption.

3.8.4 JC 8.4 Degree to which EU-CoE cooperation has enhanced synergies between the organisations

Main findings from the field mission:

The field mission did not address this issue.

3.8.5 JC 8.5 CoE value added

Main findings from the field mission:

Taken as a whole, we judge that the special role and status of the CoE did allow for impacts that would have been difficult to obtain otherwise. A concrete example given above was support provided to the ministry of Justice. Training and provision of expertise were favourably assessed.

4 Main conclusions related to the working hypotheses

There do not appear to have been explicit criteria for cooperating with the CoE, but the choice generally appears to have been appropriate. This confirms a Desk Report finding. In general, mutual understanding between the CoE Country Office and the EU Delegation is good in Moldova, but this is in part a random event. The current head of the CoE office was formerly an expert on a CoE-EU Joint Programme and the deputy head of office was formerly employed by the EU Delegation. The EU Delegation is understaffed and programme officers would benefit from more guidance from Brussels on when to select the CoE. The move away from direct awards is viewed as holding both promise and peril. Government is concerned about the fact that this slows down the project cycle and introduces more uncertainty.

No issues were raised regarding CoE expertise. On all sides, stakeholders reported that expertise provided was of good quality. The fact that the CoE is increasingly relying on a pool of consultants that they share with other agencies, a point that figured in the Desk report, was never raised.

There was agreement that the CoE's sectoral expertise and comparative advantage were well deployed. In a number of areas, EU-CoE Joint Programmes led to legislative changes that harmonised practice with Europe. The swift and decisive response of the CoE to the events of April 2009 was appreciated. The failure to resolve related complaints was, however, noted, as was the fact that the EU does not appear to have exercised the pressure that might have been expected.

Not surprising in view of Desk Phase conclusions, the field mission in Moldova confirmed that actual impacts of interventions – largely training, legislative reform, and capacity building – have been limited. Many stakeholders interviewed looked for signs of progress, such as the cessation of politically motivated investigations, wider room for NGO involvement, increased supply of diverse information, etc. The core problem remains corruption at all points in the judicial system, from the police station to the court. Despite enormous efforts to address the problem of corruption, inadequate salaries and poor working conditions block meaningful progress. There are, of course, honest judges and prosecutors, but they are in the minority.

All Desk Report impressions concerning implementation of CoE-EU Joint Programmes have been confirmed. Prior to the strengthening of the CoE Country Office, project cycle management was weak from beginning to end, resulting in fiascos such as MOLICO (a project substantively sound but managerially chaotic). Building up the country office has led to a drastic improvement in the quality of PCM, and of the quality of the relationship between the CoE and the EU Delegation.

Overall, CoE-EU Joint Programmes have contributed to some progress in Moldova, but it is limited. One thing that surprised the international evaluator was the depth of dissatisfaction with progress being made under the present government. High expectations have not been met and, in private, the question is being asked why donors are still so eager to cooperate when results appear slim.

5 Annexes

5.1 Annex 1: List of people interviewed

<i>Last name</i>	<i>First Name</i>	<i>Organisation</i>	<i>Position</i>
Akhundlu	Ulvi	CoE Office in Moldova	Head of Office
Amihalachioaie	Gheorghe	Bar Association (Lawyers Union) of Moldova	President
Barba	Ghenadie	CoE Office in Moldova	Deputy Head of Office
Bostan	Galina	Center for Analysis and Prevention of Corruption (CAPC)	Executive director
Buzu	Ecaterina	Supreme Council of Magistrates	Head of Administration
Caracuian	Ion	General Prosecutor's Office	Head of the Division for Combatting Torture
Cepoi	Corina	Advanced School of Journalism, Independent Center of Journalism	Director
Cerbu	Sabina	Ministry of Justice	Adviser to the Minister of Justice
Cozonac	Cornelia	Center of Investigative Journalism	Executive director
Draguta	Oxana	Foreign Aid Division, State Chancellery	Desk officer (EU, CoE)
Jereghi	Vanu	Institute for Human Rights (IDOM)	Executive director
Macovei	Petru	Association of Independent Press (API)	Executive director
Mandziuc-Dedcova	Daria	Resource center for NGO "Contact"	Project coordinator
Munteanu	Anatol	Center for Human Rights (Ombudsman)	Director
Pascari	Anastasia	National Institute of Justice	Director (former judge of the Supreme Court of Justice)
Procochii	Nichifor	Supreme Court of Justice	Judge Member of the Supreme Council of Magistrates
Rauluckite	Ausra	Ministry of Justice	EU High Level Policy Advisor to the Minister of Justice
Sirel	Kaido	EU Delegation in Moldova	Head of operations
Soltan	Veaceslav	General Prosecutor's Office	Head of IT and Cybercrime Investigation Division
Verebceanu	Vitalie	Center for Combating Economic Crimes and Corruption (CCECC, former Deputy Director General of the CCECC)	Head of Prevention Division
Visternicean	Nicolae	Member of the Supreme Council of Magistrates	Judge
Vitu	Liliana	Independent Center of Journalism	(former Head of the News Department of the Public Broadcasting Company "Moldova-1" TV)
Zama	Vitalie	Lawyers for Human Rights	

5.2 Annex 2: Description of EC-CoE Joint Programmes in Moldova

Country programmes

Moldova 2001-2003 - Joint Programme of Co-operation to Strengthen Democratic Stability in Moldova

Start year: 2001

Budget: 600.000EUR

Objectives and expected results:

Overall objective: Programme to consolidate democratic stability

Project purpose:

1. To ensure that human rights are protected at the national level and in the domestic courts through human rights training to legal professionals.
2. Strengthened civil society, by increasing the management capacity of local NGOs. To work with the Youth Parliament and the school for democracy. To support schools by providing materials and documentation on respecting human rights, democracy and the rule of law.
3. The independent media further developed and capable of fair and balanced reporting.
4. Reform of the judicial system and a judiciary trained on European legal standards.
5. A more developed system of local government.

Expected results:

Activities: Training sessions, roundtables, seminars, workshops, provisions of documentation and material, study visits, education sessions on several topics

Moldova 2004-2006 - Joint Programme between the European Commission and the Council of Europe for Moldova: Support to continued democratic reforms (2004-2006)

Start year: 2004

Budget: 1.300.266EUR

Objectives and expected results:

Overall objective: Second programme to consolidate democratic stability:

- 1) Rule of Law more developed
- 2) Local democracy strengthened
- 3) Better access to social rights for vulnerable groups
- 4) Stronger HR protection, based on European standards

Project purpose:

1. MoJ and Parl enabled to reform the judicial system and to ensure its functioning
2. Improved institutional framework and management capacity for local government
3. Legislative and capacity-building measures for improved social protection
4. Making the ECHR more effective in domestic legal practice
5. Adequate political and practical guidance of the programme

Expected results:

For project purpose 1) Amended judicial legislation, Justice access, Judges training structures established, Fight against corruption, Project management

For project purpose 2) Implementation of the legal Action Plan, The National Training Strategy, Promoting institutional dialogue (State-local auth.), Project management

For project purpose 3) Improve access to social benefits and services, Strengthen mental health services, Upgrade the organ transplantation system, Project management

For project purpose 4) Police officer assistance with ECHR, Judge/prosecutor training, Lawyers' training on ECHR, Improved capacity for HR NGOs, Strengthened Government Agent

Activities: expert meetings, seminars, working groups, study visits, expert missions, trainings, expert assistance, follow-up meetings, roundtables, steering-group meetings, training seminars, cascade training

Support to the National Anti-Corruption Strategy (PACO - Moldova)

Start year: 2005

Budget: 350.000EUR

Objectives and expected results:

Overall objective: Prevention and control of corruption so that it no longer undermines the confidence of the public in the political and judicial system, democracy, the rule of law and economic and social development in Moldova.

Project purpose: To support the implementation of the priority actions foreseen for 2005 under the Moldovan Anti-Corruption Strategy and Action Plan.

Expected results:

- Institutional mechanism to coordinate, manage and monitor the Strategy and Action Plan in place and functioning
- Review of competencies of the main enforcement institutions in the investigation and prosecution of corruption offences and recommendations for improvements available.

Activities: train the trainer sessions, workshops, equipment, conferences, publication of material

Programme against corruption, money laundering and terrorist financing in Moldova (MOLICO Moldova II)

Start year: 2006

Budget: 3.500.000EUR

Objectives and expected results:

Overall objective: To develop effective measures to combat crime, in particular economic crime and ensure their proper implementation; to ensure the protection of human dignity in situations of detention, to develop restorative justice and to address the issue of prevention of crime.

Project purpose: To contribute to the prevention and control of corruption, money laundering and the financing of terrorism

Expected results:

- Efficient monitoring, coordination and management of the anti-corruption strategy ensured and annual action plans available
- Legislation improved to effectively prevent and control corruption as foreseen in the anti-corruption strategy and action plans and in accordance with GRECO recommendations and European and United Nations standards
- Capacity of anti-corruption prosecutors strengthened to prosecute, supervise and manage corruption-related offences
- Prevention plans implemented and internal controls reinforced within the judiciary, prosecution, police, CCCEC and other bodies at risk
- Corruption and conflicts of interest in the political process reduced
- Competencies, status and organisational set-up of the FIU in line with Moneyval recommendations and international best practices
- System of collection, processing, analysis, protection and exchange of information on transactions designed and procured for the FIU

Activities: conferences, study visits, recruitment of personnel, seminars, roundtables, trainings, assessment trainings, language courses, equipment and software procurement, risk assessments

Increased independence, transparency and efficiency of the justice system in the Republic of Moldova (Moldova JU)

Start year: 2006

Budget: 3.300.000EUR

Objectives and expected results:

Overall objective: To increase independence, transparency and efficiency of the justice system in the Republic of Moldova.

Project purpose: The independence, transparency and efficiency of the justice system in the Republic of Moldova are improved and a fair access to justice for all citizens is guaranteed.

Expected results:

- Legal framework on the judiciary brought in line with European standards
- Legislation on the selection, training, recruitment, appointment and promotion of judges and prosecutors adopted and implemented. The National Institute of Justice is fully operational.
- Administration of justice improved. Capacity of the Superior Council of Magistrates and Ministry of Justice with regard to the administration of justice strengthened.
- Transparency of the judicial system reinforced. Citizens confidence is improved.
- Access of citizens to justice is improved. Free legal aid system is adopted and implemented
- Capacity of auxiliary court personnel (court clerks, judges' councillors, registrars, etc.) strengthened
- Lawyers' profession is reinforced.
- Reform of the Prosecutor General Office completed. The new Criminal Procedure Code amended and brought closer to CoE standards
- Enforcement of judicial decisions improved

Activities: roundtables, study visits, workshops, assessment visits, train the trainers, training seminars, purchase of furniture and equipment, expert visits, working groups, steering committee meeting

Democracy Support Programme

Start year: 2010

Budget: 4.000.000EUR

Objectives and expected results:

Overall objective: Strengthen the judiciary; the prosecution service; the police; the ombudsman institution; the media and the Parliament of Moldova through the application of European standards in their work. This will involve assessment of the relevant institutional frameworks and the provision of capacity-building support. Technical advice will also be provided to the investigating commission of the Parliament.

Project purpose:

- Assist Moldova in the process of continuing pro-European democratic reforms through improving the legal framework, in particular as regards the judiciary, the prosecution service and the police. Particular attention will be paid to combating ill-treatment and impunity; use of force by police in crowd management and riot control; use of alternatives to pre-trial detention and imprisonment; implementation of probation.
- Assisting with the structural reforms of the police and the prosecutorial system; developing the capacity of the police and the prosecutorial system to combat ill-treatment and impunity in line with European standards; reinforcing the police capacity to effectively apply the control measures in line with European standards. Facilitate the reinforcement of the institutional and operational systems for the prevention of ill-treatment, training on the ECHR and other European and international standards on preventing and combating ill-treatment and impunity.
- Enhance safeguards of the pre-trial guarantees in the course of criminal procedure, pending the transfer of the temporary detention isolators from the Mol to the MoJ, and will facilitate this transfer. Encourage using the alternatives to pre-trial detention and imprisonment, such as bail provisions, will be promoted. Assistance will also be provided in the implementation of the probation law. Particular attention will be paid to the training of judges and prosecutors to avoid excessive use of pre-trial detention.
- Strengthening the capacity of the Institute of Parliamentary Advocates (Ombudsman) of Moldova and assisting with the review of the legal framework of the institution, in line with European standards, by assessing their institutional framework and providing capacity-building support.
- Promote the freedom and pluralism of the media in Moldova, in particular through promoting the independence of the CCA, assisting the TRM to fulfil its remit of a genuine public-service broadcaster, and addressing issues of professionalism in journalistic practice, including ethics.

- Strengthen the administrative and institutional capacity of the Parliament of Moldova: provide European expertise in improving the organisation and functioning of the parliament, the strengthening of its management and development of its structure and working programme; provide European expertise to enable parliamentarians to improve their performance, to offer experiences of constructive political culture and to raise awareness of parliamentarians as regards their rights and obligations; develop specific institutional capacities of the Parliament;
- Establish a constructive national dialogue and reconciliation among different political forces in the country, and between political forces, civil society and the media community. Support the inquiry to be carried out by the Investigation Commission of the Parliament of Moldova for the elucidation of the causes and consequences of the events following 5 April 2009, as well as the publication of recommendations on how to deal with any similar situations that may arise in the future, in the interest of strengthening the protection of human rights and freedoms.

Expected results: <http://www.jp.coe.int/CEAD/JP/Default.asp?TransID=201>

Activities: Assessment visits, expert assessment, conferences, publication of material, cascade seminars, workshops, training of trainers seminars, study visits,

Multi-country/regional programmes

Democracy through free and fair elections

Start year: 2003

Budget: 400.000 EUR

Objectives and expected results:

Overall objective: The project aims to analyse key aspects of European electoral law and to assist national authorities in improving the quality of electoral legislation and practice.

Project purpose: To improve the quality of electoral legislation and practice, in particular through assistance to national authorities and information to the public.

Expected results:

- To identify the weak points of electoral legislation and the need to revise it, in particular on the basis of the observation reports of the Parliamentary Assembly and the Congress of Local and Regional Authorities (CLRAE)
- To ensure that the fundamental principles of European electoral law are reflected in draft and adopted electoral legislation
- Dissemination of principles of electoral law and practice

Activities:

- Assistance to observation mission and opinion on electoral legislation
- Workshop and seminars on the holding and supervision of elections

EIDHR - Network of Schools of Political Studies

Start year: 2004

Budget: 1.000.000 EUR

Objectives and expected results:

Overall objective: Support the activity of the network of Schools of Political Studies, established under the responsibility of the Council of Europe by various civil society partners in South-East Europe and South Caucasus in order to consolidate pluralistic democracy, human rights and the rule of law through the emergence of a new generation of leaders in political life and civil society.

Project purpose:

4. Young leaders coming from political, economic, social and cultural sectors in Albania, Bosnia and Herzegovina, Georgia, Kosovo, "the former Yugoslav Republic of Macedonia", Moldova and Serbia and Montenegro are able to use in their everyday life European standards with respect to pluralistic democracy, human rights and rule of law.
5. Establish a Network of Schools to ensure an exchange of information, experiences and resources.
6. Efficient management of JP implementation.

Expected results: For purpose 1)

- Young leaders are able to use in their everyday life European standards in Pluralist Democracy, Political Parties and the conduction of elections, Local democracy and transfrontier co-operation.
- Young leaders are provided with an update information on the state of European integration - perspectives and challenges.

For purpose 2)

- Schools able to benefit and integrate experiences from each other, as a result of belonging to the Network.

For purpose 3)

- Meeting of Directors
- Audit
- Evaluation
- Administration

Activities:

- Establishment of relationships among participants to support integration into professional networks.
- Joint seminars bringing together several schools
- Exchange of students for regional seminars
- Meetings of school directors
- Alumni network activities

Network of Schools of Political Studies - EIDHR**Start year:** 2006**Budget:** 1.300.000 EUR**Objectives and expected results:**

Overall objective: To contribute to improving the democratic stability through increasing the level of knowledge in matters such as modern management of public services, better functioning of political and administrative institutions, facilitating the dialogue in society, and spreading European values.

Project purpose: Young leaders coming from political, economic, social and cultural sectors in Albania, Armenia, Georgia, Kosovo/UNMIK, "the former Yugoslav Republic of Macedonia", Moldova and the Russian Federation are able to use in their everyday life/work European standards with respect to pluralistic democracy, human rights and the rule of law.

Expected results:

- Young leaders coming from political, economic, social and cultural sectors in Albania, Armenia, Georgia, Kosovo/UNMIK, "the former Yugoslav Republic of Macedonia", Moldova and the Russian Federation are able to use in their everyday life/work European standards with respect to pluralistic democracy, human rights and the rule of law.
- Network of schools is established and strengthened to ensure an exchange of information, experiences and resources.

Activities:

- Seminars, training and courses
- Evaluation and presentation of essays

Support to free and fair elections- EIDHR**Start year:** 2008**Budget:** 1.000.000 EUR**Objectives and expected results:**

Overall objective: To assist the countries of the South Caucasus and Moldova in conducting 2008-2009 elections in line with the international standards on the matter.

Project purpose:

6. To promote and prepare the reform of the electoral legislation and practice in all countries concerned, in order to bring it into conformity with the principles of the European electoral heritage.
7. To improve technical and management capacities of the electoral administration (capacity-building programmes) in all countries concerned.
8. To assist with measures to achieve fair, balanced and impartial media coverage of elections in all countries concerned.
9. To deepen knowledge/ raise awareness of the principles of the European electoral heritage by the various actors of the electoral process (politicians, academics, legislative drafters, judges, lawyers, electoral officials, the media and civil society representatives, including election observers.
10. To increase citizens' participation and engagement in the electoral process and to enable potential voters to make an informed choice during elections. Women's and youth's participation is addressed as a particular issue.

Expected results:

- Reform of election legislation and practice is further promoted
- Technical and management capacities of electoral administration are strengthened
- Media aspects of electoral campaigns are addressed
- Citizens' participation and involvement into the supervision of elections is promoted and increased.

Activities:

- Preparatory meetings/expert meetings/ adoption of Venice Commission Opinions on (draft) electoral legislation
- Capacity-building programmes for electoral commissions including support to the training centers for electoral commissions at all levels and direct assistance to the CEC
- Seminar(s) for judges on electoral disputes
- Seminar(s) on holding and supervision of elections
- Monitoring of media coverage of election campaigns
- TV debates on the results of the monitoring
- Training seminars on quality journalism and self regulation
- Trainings for the broadcasting regulatory authorities
- Production of educational and motivational materials for voters

Setting up and Developing the Civil Society Leadership Network**Start year:** 2008**Budget:** 750.000 EUR**Objectives and expected results:**

Overall objective: Strengthening civil society in Ukraine, Moldova and the Southern Caucasus and its involvement in the solution of political, social, cultural and other problems in their countries, and in their region.

Project purpose: To foster a generation of civil society leaders who can advocate for democratic policy changes, promote European standards in democracy, human rights and the rule of law in Ukraine, Moldova and the Southern Caucasus. To help them acquire the skills necessary to implement their vision for the region.

Expected results:

- Increased knowledge of civil society leaders and activists from the region about European democratic values, standards and processes;
- Creation of the Civil Society Leadership Network, which will unite 160 civil society leaders from Ukraine, Moldova, Armenia, Azerbaijan and Georgia to enable them effectively face political, social, cultural and other challenges in their countries and contribute to initiatives aimed at improving social, economic and democratic conditions in the region. Networking and development of lasting relationships among civil society leaders of the region is facilitated;

- Establishment of a framework for regular contacts between NGOs from zones of regional conflicts;
- Creation and strengthening contacts of civil society from the region with European NGOs, through active participation in the Conference of International NGOs of the Council of Europe.

Activities: The Civil Society Leadership Network to be created during the two years of the programme will unite 160 civil society leaders from Ukraine, Moldova, Armenia, Azerbaijan and Georgia.

The project will include three main directions:

- Educational and capacity-building programmes
- Networking activities
- Regional publications.

Peer project - Setting up an active network of independent non-judicial Human Rights Structures in the Council of Europe member States which are not members of the European Union

Start year: 2008

Budget: 900.000 EUR

Objectives and expected results:

Overall objective: To assist National Human Rights Structures (NHRS) in developing competencies concerning European human rights standards and practice and promote their joint initiatives aimed at networking, mutual exchange of information and sharing of best practices.

Project purpose: National Human Rights Structures (NHRSs) are more aware of European standards and practices in the field of Human Rights and are able to act independently and efficiently in line with the Paris Principles, for the protection and promotion of the Human Rights.

Expected results:

- National human rights structures with independent and efficient functioning in conformity with the Paris Principles are established and/or strengthened at national, regional or local level.
- The staff of the National Human Rights Structures have enhanced their knowledge of European standards of human rights protection, and have extended their awareness of possibilities of action.
- An active network of the national human rights structures and the Commissioner's Office is created and developed, to interact effectively at the national and international levels.

Activities:

- Joint mission with other international actors
- Roundtables and workshops
- Webpage of the NHRS network
- Annual Meeting of NHRS Contact Persons

Freedom of expression and information and freedom of the media

Start year: 2008

Budget: 1.010.000 EUR

Objectives and expected results:

Overall objective: To strengthen democracy, the rule of law and human rights in line with Council of Europe standards. Promoting in particular freedom of expression and information in Armenia, Azerbaijan, Georgia and Moldova.

Project purpose: Assisting Armenia, Azerbaijan, Georgia and Moldova in the development of a legal framework and practice ensuring the promotion and protection of freedom of expression and information in the long term.

4. Bringing the legislative framework in all four target countries in line with Council of Europe standards, in particular as regards defamation, broadcasting regulation and media diversity.
5. Enabling public authorities (policy makers, the judiciary and staff of the broadcasting regulator) to apply the European Convention on Human Rights and other Council of Europe norms related to freedom of expression and information and the rights of media in their daily work.
6. To ensure the quality and independence of the media.

Expected results:

- The legislative framework in all four target countries is brought in line with fundamental rights and freedoms as well as with other Council of Europe standards of relevance to the media sector, in particular as regards defamation, broadcasting regulation and media diversity
- Public authorities (judges, prosecutors, staff of the broadcasting regulatory authority) are trained to apply the European Convention on Human Rights and other Council of Europe norms of relevance to freedom of expression and information in their daily work.
- The independence and quality of the media is improved by appropriate measures and training.

Activities:

- Assessment visit and planning and evaluation meetings (stakeholders' meetings) in the beneficiary countries in order to target the nature and timing of activities proposed to priority needs in cooperation with all the relevant actors and stakeholders involved.
- Legal assessment of the relevant legislative and regulatory framework in the target countries in the light of the European convention on Human Rights and other Council of Europe standards. Expert meetings on the possible revision of the media legislation.

Enhancing the domestic capacity to devise, implement, monitor and communicate on the national Roma related policies, and fighting negative stereotyping faced by Roma people - EIDHR

Start year: 2008

Budget: 400.000EUR

Objectives and expected results:

Overall objective: The overall objective is to strengthen the domestic capacity to devise, implement and monitor national policies with respect to Roma while combating stereotypes and prejudices against Roma people. Concretely this will imply providing the national and local authorities and relevant NGO partners in both countries with training, policy advice and tools for planning, efficient implementation, communication on and monitoring of the respective national action plans for Roma, with special focus on education and health.

Project purpose:

1. to ensure, through provision of training and policy advice, that by the end of the one-and-half year project, the planning, implementing, communication and monitoring mechanisms on the Action Plans for Roma at national and local levels are improved and become more inclusive for the Roma representatives in Moldova. The opportunity of similar training sessions will be discussed with various actors in Ukraine and such a need will be further assessed in the context of a feasibility study;
2. to empower Roma communities, women and youth in particular, by promoting their active participation in the implementation of national Action Plans through concrete actions such as developing the institution of Roma school assistants, socio-sanitary and anti-trafficking mediators, and local advisers in Moldova. The opportunity of similar initiatives will be presented to various actors in Ukraine and will be studied in the context of a feasibility study
3. to promote a better image of Roma through an awareness-raising campaign and activities aimed at improving intercultural dialogue and inter-ethnic understanding and combating prejudices and negative stereotypes.

Expected results:

- strengthen the planning, budgeting, implementation, communication and monitoring capacity of the institutional stakeholders and the Roma representatives involved in governmental policy action;
- involve and empower a Roma project coordinator, Roma school assistants, socio-sanitary and anti-trafficking mediators, and Roma involved in the monitoring of national action plans;
- set up a network of local trained officials, as well as Roma representatives, to ensure sustainability of the project;
- enhance a regional and trans-border (EU/EU neighbours) approach on Roma issues and linkage with the Decade for Roma Inclusion;
- promote equality and the rights of the Roma minority, including the rights of Roma women and youth, by enhancing inter-cultural dialogue and mutual understanding ;

- increase visibility of official documents related to Roma policy, improve the reporting on Roma issues in the media, as well as the communication by public officials about the need to have temporary targeted positive measures for Roma.

Activities: needs assessment/feasibility study/preparatory activities; training sessions; regional and national seminars; an awareness-raising campaign; translation and publication of materials in local languages and in Romani.

Network of Schools for Political studies II

Start year: 2009

Budget: 3.519.000 EUR

Objectives and expected results:

Overall objective: Overall objective(s): To promote a democratic society, pluralist, respect for human rights and the rule of law through training of new leaders of public and private sectors of following countries and regions: Albania, Armenia, Azerbaidjan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Georgia, Moldova, Montenegro, Romania, Russian Federation, Serbia, Kosovo UNSCR 1244/99, "The former Yugoslav Republic of Macedonia", Ukraine.

Project purpose: Young leaders are trained on democratic values and practices. Network of schools and alumni are created to develop the exchange of information and experiences, and contributes to dialogue.

Expected results:

- Young leaders coming from political, economic, social and cultural sectors from South-East Europe, the Caucasus, Russia, Ukraine and Belarus are trained on democratic values and practices
- The network of Schools of Political Studies is developing to ensure an exchange of information, experiences and resources between schools and alumni
- The programme's visibility is increased

Activities: Selection of 40 participants every year. Designation of an annual programme of activities, including the choice of experts. Organisation of national and regional seminars. Participation in the Summer University for Democracy. Participation of the Directors in co-ordination meetings.

Combating ill-treatment and impunity in South Caucasus, Moldova and Ukraine

Start year: 2009

Budget: 1.900.000 EUR

Objectives and expected results:

Overall objective: To develop national capacities for combating torture and ill-treatment by law enforcement agencies and investigative institutions, including strengthening the effectiveness of investigations of allegations of torture and ill-treatment.

Project purpose: To improve the regulatory framework and institutional/operational systems for prevention of torture and ill-treatment and effective investigation of complaints, leading to imposition of sanctions, based on European and international human rights norms and standards, and to enable key groups of legal professionals to apply these standards in their daily work.

Expected results:

- Regulatory framework for preventing and combating torture and ill-treatment is in better conformity with European and international standards, including the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the case law of the European Court of Human Rights (ECtHR) and the Istanbul Protocol.
- Institutional/operational systems for prevention of torture and ill-treatment and effective investigation of complaints are reinforced to better process allegations of ill-treatment in accordance with European and international standards, leading to imposition of sanctions when appropriate.
- Relevant actors, including parliamentarians, policy makers, prosecutors, judiciary, law enforcement officials, staff of supervisory, investigative and complaints handling structures, lawyers, high level representatives and legal staff of executive and legislative institutions, legal staff of Ombudsman institutions, OPCAT bodies and NGOs, have access to European and in-

international standards for preventing and combating torture and ill-treatment and are able to fulfil their responsibilities in accordance with these standards.

- Experience and good practices are exchanged and made use of among the beneficiary countries in the context of regional co-operation, with an input from other Council of Europe (CoE) member states with relevant experience.

Activities:

- In-depth analysis of the existing regulatory framework and institutional/operational systems for effective investigation of complaints of torture and ill-treatment;
- Preparation and distribution in local languages of expert reports containing recommendations for the changes needed in line with applicable European and international human rights standards;
- Preparation and distribution in local languages of guidelines on how to conduct effective investigation of allegations of torture and ill-treatment;
- Preparation and distribution in local languages of a brochure highlighting the rights of detainees and obligations of law enforcement officials;
- Organisation of training seminars for relevant actors on European and international human rights standards;
- Publications;
- Regional conferences and other contacts.

Peer-to-Peer II - Promoting national non-judicial mechanisms for the protection of human rights and especially the prevention of torture

Start year: 2010

Budget: 1.600.000 EUR

Objectives and expected results:

Overall objective: To help avoid, put an end to or compensate for human rights violations in Council of Europe member States which are not EU members, as well as, to the extent possible, Belarus.

Project purpose: Supporting and strengthening the functioning of National Human Rights Structures (NHRSS)/National Preventive Mechanisms (NPMs) in line with international and European standards (including the Paris Principles and OPCAT), to enhance their awareness of the European standards and practices in the field of human rights and to assist them in building or strengthening the capacities to protect and promote, with increasing efficiency, abidance by such standards by respective national, regional and local authorities.

Expected results:

- NHRSS and NPMs are set up at national, regional or local level. Their independent and efficient functioning in conformity with the Paris Principles and the OPCAT is strengthened and defended.
- Specialists within these structures are trained on the non-judicial protection in specific areas of human rights which the Council of Europe and the NHRSS themselves have identified as objects of major concern throughout Europe. They deepen their knowledge of European system of Human Rights protection, in particular, of the case-law of the European Court of Human Rights (ECtHR) and admissibility criteria for cases brought before it. As a result, domestic human rights monitoring by NHRSS and NPMs is enhanced. More cases settled out of the national courts or of the ECtHR by intervention of the NHRSS.
- Transfer of international know-how on torture prevention held by CPT and SPT transferred to the national level of NPMs.
- An active network of the NHRSS and the various Council of Europe human rights mechanisms as well as of the NPMs, the CPT (European Committee for the Prevention of Torture) and the SPT (Un-Subcommittee against Torture) is created so as to combine effectively the defence of the human rights in question at the national and the international level, under the auspices of the Council of Europe. Information comes from NHRSS/NPMs to help the Council of Europe and UN bodies to react more speedily vis-à-vis potential or real human rights violations.

Activities:

- Targeted missions to countries where there might be a political momentum for the setting up of a NHRs or an NPM.
- Thematic workshops for the sharing of experiences and brainstorming by officials of the various NHRs / NPMs and publication of debriefing papers reflecting the results of these workshops.
- Annual meetings of the Contact Persons of NHRs to ensure the overall co-ordination and take stock of the activities and adapt working methods and projects.
- Information and communication tools, such as an interactive website, a newsletter for the attention of the NPMs, a collaborative space and issues of the "Regular Selective Information Flow" for the attention of all NHRs, including NPMs.

Eastern Partnership - corruption bridge project (EaP-CBP)

Start year: 2010

Budget: 30.000 EUR

Objectives and expected results:

Overall objective: To assess and improve national and regional capacities to prevent and combat corruption in EaP countries (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine)

Project purpose: To assess and improve national and regional capacities to prevent and combat corruption in EaP countries (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine).

Expected results:

- Eastern Partnership Assessment on "Current Status of National Policies and Strategies" which are aimed at improving good governance and prevention of corruption is submitted to the Expert's Panel under the EaP Platform 1 for review
- Eastern Partnership regional and specific country Recommendations for improvement and intervention to enhance good governance and prevention of corruption.

Council of Europe Facility

Start year: 2010

Budget: 4.000.000 EUR

Objectives and expected results:

Overall objective: To enhance the reform processes in the six partner countries through a multilateral approach and to bring them closer to Council of Europe and EU standards in core areas covered by the Eastern Partnership Platform 1 (such as improved functioning of the judiciary, public administration reform and fight against corruption, and human rights protection), and, to a lesser extent, by Platform 4.

Project purpose: To mobilise Council of Europe expertise, peer to peer advice and the exchange of best practices among participating countries and to serve as a framework for multilateral activities such as capacity-building and training in order to improve the functioning of the judiciary, public administration reform and the fight against corruption.

Expected results: The overall expected result is a better compliance with European standards concerning democracy, human rights and rule of law, both in legislation and practices in the different proposed areas. Eastern Partnership countries willing to overcome deficiencies identified by Council of Europe monitoring bodies in the implementation of its key conventions relevant for Platform 1 and, to a lesser extent, Platform 4, will have access to targeted special advice and co-operation.

Activities: Main activities to be financed will include training and seminars led by Council of Europe experts, expert meetings, networking activities or other kinds of capacity-building activities – such as activities requested by one or more of the countries concerned and considered as valuable or identified during the implementation of the Facility. In general, the activities will take place on a multilateral level, i.e. including participants from as many partner countries as possible, various publications and distribution of training material. In principle, "one-off" events will be avoided. Most of the events will gather participants from the 6 Eastern Partnership countries to foster as much as possible networking and capacity-building at regional level but stand-alone events responding to specific needs of a country cannot be excluded. The refusal to participate by one or more of the six countries should not prevent the others from working together.

Promoting freedom, professionalism and pluralism of the media in the South Caucasus and Moldova (MEDIA II)

Start year: 2011

Budget: 1.100.000 EUR

Objectives and expected results:

Overall objective: Support the development of legal and institutional guarantees for freedom of expression, higher quality journalism and a pluralistic media landscape in Armenia, Azerbaijan, Georgia and Moldova, in line with Council of Europe standards and as regards both "traditional" and "new" media.

Project purpose:

7. Promoting professionalism, responsibility and respect of ethical rules among journalists as well as better awareness and understanding of their rights;
8. Improving the quality of journalism education and training especially as concerns the rights and responsibilities of journalists;
9. Providing legal assistance to the authorities to align the media-related regulation (e.g., as concerns broadcast and on-line media, defamation, protection of journalists, access to public information and transparency of media ownership) with Council of Europe standards;
10. Promoting proper implementation of the media-related legal framework through the incorporation in public authorities' daily practice of European standards in the field of freedom of expression;
11. Promoting the independence and strengthening the professionalism of the broadcasting regulatory bodies and the public service broadcasters;
12. Promoting confidence-building and cooperation among stakeholders.

Expected results:

- The quality of journalism education is improved, notably through introducing new courses, or enhancing existing ones, on the rights and responsibilities of journalists (graduates have better knowledge and understanding of European standards concerning freedom of expression and the media and are trained to apply these standards in their future work);
- Journalists have better understanding of their rights, respect ethical rules and are trained to exercise their work in a professional and responsible manner as recommended under the applicable Council of Europe standards (at least 100 journalists are trained on specific topics);
- The regulatory framework for freedom of expression and for the media is brought closer in line with European standards (relevant laws are introduced or amended);
- The implementation of the media-related regulatory framework and self-regulation is improved in line with Council of Europe standards (the current practice in implementing relevant laws is brought closer to Council of Europe standards; media professionals start working towards effective self-regulatory mechanisms);
- The broadcasting regulatory bodies in the target countries are better equipped to function in an independent and effective manner (decision-making becomes more transparent and consistent; delegated regulation is passed or amended to reflect Council of Europe standards);
- The public service broadcasters in the target countries gain in professionalism and are better trusted by the political leaders, the civil society, media professionals and the public at large.

Activities:

Activities will target individually each of the countries to address efficiently their specific needs. Activities at the regional level will also be carried out with participants from two or more countries where synergies are possible.

Component 1 (Armenia and Georgia)

This component comprises three modules:

- The activities within the first module include the development of curricula, preparation of textbooks and other teaching materials and training of trainers (university professors and trainers of practising journalists). Among the subjects are journalistic ethics as well as the rights and responsibilities of journalists according to Council of Europe standards.
- The second module includes awareness-raising, training and other events aimed at familiarising media professionals with the above Subjects. Part of the activities aim at creating or perfecting self-regulatory mechanisms supported by the journalists, media managers and owners.

- The activities under the third module include notably legal advice to the authorities (through written expertises and expert meetings on the spot) on drafting and amending relevant legislation as well as training and awareness-raising for public officials as regards the implementation of this legislation. Promoting transparency in law and practice as well as dialogue between the authorities, media and civil society is an important objective of these activities. Training of media lawyers (notably working in watchdog NGOs) to be able to defend the rights of media professionals is also part of these activities.

Country note Serbia

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List of Abbreviations

AML/CTF	Law on the Prevention of Money Laundering and Terrorism Financing
APML	Administration for the Prevention of Money Laundering
BFPE	Support to the Belgrade Fund for Political Excellence
BMZ	Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung (German Federal Ministry for Economic Cooperation and Development)
CAQA	Commission for Accreditation and Quality Assessment
CAR	Project on Criminal Assets Recovery Serbia
CARDS	Community Assistance for Reconstruction, Development, and Stabilisation
CARPO	CARDS Regional Police Project
CLRAE	Congress of Local and Regional Authorities
CO	Country Office
CoE	Council of Europe
CPT	European Committee for the Prevention of Torture
CRIS	Common RELEX Information System
CSO	Civil Society Organisation
DDH	Democracy and Human Rights
DGI	Direction Général des Impôts
EAR	European Agency for Reconstruction
EC	European Commission
ECHR	European Convention on Human Rights and Fundamental Freedoms
ECPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (shortly CPT)
ECtHR	European Court of Human Rights
ECTS	European Credit Transfer System
EHEA	European Higher Education Area
EIDHR	European Instrument for Democracy & Human Rights
ENIC	European Network of Information Centres
ENQA	European Association for Quality Assurance
EPD	Enhanced Permanent Dialogue
EQ	Evaluation Question
ESC	European Social Charter
ETS	EU Emission Trading System
EU	European Union
EUD	Delegation of the European Union
EUR	Euro (currency)
FIU	Financial Intelligence Unit
FRY	Federal Republic of Yugoslavia
HEI	Higher Education Institution
HEQF	Higher Education Qualifications Framework
HQ	Headquarters
ICTY	International Criminal Tribunal for the Former Yugoslavia
INGO	International Non-governmental Organisation
IPA	Instrument for Pre-accession Assistance
IT	Information Technology
JC	Judgment Criterion
JP	Joint Programme
LA	Local Authority
LGBT	Lesbian, Gay, Bisexual and Transgender
LRC	Lisbon Recognition Convention
M&E	Monitoring & Evaluation
MOF	Ministry of Finance
MOLI	Project against Money Laundering and Terrorist Financing and Economic Crime in Serbia

MONEYVAL	Committee of Experts on the Evaluation of Anti-Money Laundering and the Financing of Terrorism
MoU	Memorandum of Understanding
NAP	National Allocation Plan
NARIC	National Academic Recognition Information Centre
NATO	North Atlantic Treaty Organisation
NCHE	National Council for Higher Education
NGO	Non-governmental Organisation
NHRS	National Human Rights Structures
NPI	National Programme for Integration (Serbia)
NPM	National Preventive Mechanism
ODIHR	Office for Democratic Institutions and Human Rights
OPCAT	Optional Protocol to the (UN) Convention Against Torture
OSCE	Organisation for Security and Cooperation in Europe
OVI	Objectively Verifiable Indicators
PACE	Parliamentary Assembly of the Council of Europe
PACO	Project against Economic Crime and Money-Laundering in Serbia
PROSECO	Project on Support to the Prosecutors' Network in South-East Europe
S&M	Serbia & Montenegro
SAA	Stabilisation and Association Agreement
SCTM	Standing Conference of Towns and Municipalities
SEE	South-East Europe
SFR	Social Federal Republic
SPT	UN-Subcommittee against Torture
UN	United Nations
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UNMIK	United Nations Interim Administration Mission in Kosovo
UNSCR	United Nations Security Council resolution
UPR	Universal Periodic Review

1 Introduction

1.1 Purpose of the evaluation

The purpose of the evaluation is to assess to what extent the Commission interventions with the CoE have been **relevant, efficient, effective** and **visible** in supporting **sustainable impact** for the protection, promotion and dissemination of European values on the European continent and beyond.

The main objectives of the evaluation are:

- to provide the relevant services of the EC and the wider public with an overall independent and **accountable assessment** of the EC's past and current cooperation with the CoE;
- to identify **key lessons** from the EC's past overall co-operation, and thus provide the EC's policy-makers and managers with a valuable aid to evidence-based decision making, and for planning, designing and implementing EU policies.

The evaluation covers the cooperation between the EC and the CoE for the period **from 2000 to 2010**. All regions where the EC cooperation with partner countries is implemented through the CoE were included in the scope of this evaluation.

1.2 Purpose of the field missions

The main objective of the field phase was to complete the data collection and to contribute to answering the EQs. It served to validate or revise the preliminary findings and hypotheses formulated in the desk report of this evaluation. The field phase covered both policy and strategy aspects, and impact and implementation issues. Nevertheless, the field phase was **not intended to conduct an in-depth assessment of the implementation specific EC interventions**. The analysis of specific interventions aimed at exemplifying results and impacts of EC support. Emphasis has been on processes and achievements, which could not be not fully covered by the desk tools of the desk analysis.

The output of the field phase is a country case study note for each of the visited countries.

The main purpose of field missions was to **corroborate findings from the Desk Phase, address information gaps identified, and complement Desk Phase findings in order to support the global assessment in the Synthesis Report**. Field Phase Country Notes are not supposed to be mini-evaluations; field missions are conducted to bring illustrative examples and evidence for specific issues. The analysis of specific interventions aimed at exemplifying results and impacts of EC cooperation with the CoE. Overall, the **Evaluation Questions are answered and Judgment Criteria assessed at the global level** (in the main volume of the Synthesis Report), not at the country level.

It is clear that workdays allocated to the country case study were limited, and hence the focus on specific issues. This has also meant that possibly interesting interviews with stakeholders at HQs in the CoE secretariat in Strasbourg and at the EC in Brussels could not be carried out.

1.3 Reasons for selecting Serbia

Serbia was selected as a country case study for a number of reasons. First, Serbia is a relatively new member of the Council of Europe (it joined the organisation in 2003), and one where technical assistance programmes, including through JPs, accompanied and assisted the accession process.

Second, Serbia seemed a pertinent choice of a Western Balkans' country with an articulated ambition and political agenda for EU integration and perspective. This suggested an opportunity to assess the impact of EC-CoE cooperation in some of the areas where there are EU accession requirements linked to CoE standards, such as in the areas of corruption and organised crime.

On the latter, and a third consideration for selection, Serbia has had a relatively high volume of JPs in these areas over much of the time frame covered by the evaluation. Serbia has also participated in a substantial number of regional programmes; this further justified its selection as one of the countries for the field studies. Fourth, JPs in Serbia covered a number of indicators that were not covered in other countries.

1.4 Focus of the analysis and data collection methods

1.4.1 Research focus

Thematically, the field visit which informed the country case study, focused on:

- Fight against corruption and money laundering;

- Strengthening the protection of human rights, including the rights of minorities;
- Strengthening democratic institutions and processes, including independent media environment and local self-governance.

1.4.2 Data collection methods used

The information presented in this report is based on:

- The analysis of the Serbia desk report which has been part of the overall desk report of the evaluation, which included the screening of third party, thematic background documentation per EQs and JCs; analysis of the available JP reports and reports by CoE monitoring structures; an electronic survey completed by the EUD in Serbia; EU Progress Reports etc.
- Individual and group interviews with direct and indirect stakeholders of CoE activities, including past and present JPs, in Serbia. Stakeholders were identified by the evaluators; by the EUD and the CoE in Serbia. Interviews were conducted from 29 May to 1 June 2012, with the evaluators attending a number of meetings jointly, and others attended in parallel to ensure greater coverage. Stakeholders received a letter of introduction of the mission, objectives, and the questions to be covered (see Annex).
- Interviews in-country were followed up with a limited number of e-mails correspondence to solicit input not readily available from participants during the meetings.
- Some key actors (e.g. the National Ombudsman) were unavailable to meet during the four day visit. The section of the Ministry for Local Self-Government and Human and Minority Rights that deals with Human and Minority Rights declined a meeting request.

2 Brief description of the country context

2.1 Brief overview of country political, legal, and development context in human rights, democracy, and rule of law, 2000-2010

The 2011 "Commission's Opinion on Serbia's Application for Membership" credits Serbia with having made significant progress on human rights, democracy, and the rule of law, so much so that the country was given official candidate status in March 2012.

The Opinion states: "*Serbia is a parliamentary **democracy**. Its constitutional and legislative framework is largely in line with European principles and standards and its institutions are well developed. [...] The government has upgraded some of its procedures and parliament has become far more effective in its legislative activity [...] Since 2001, elections have been consistently conducted in Serbia in accordance with international standards. The electoral legislation was recently brought into line with European standards. [...] The legal and institutional framework for the rule of law in Serbia, including the fight against corruption and organised crime, has been enhanced, particularly following substantial reforms in the judiciary, the setting-up of the Anti-Corruption Agency and the stepping-up of international cooperation in criminal matters. This has led to initial results. The main challenges remain in the areas of the judiciary, the fight against corruption and the fight against organised crime. [...] Substantial reforms of the judiciary were pursued in Serbia following the adoption of the national strategy in 2006 and intensified in 2009 and 2010. Independence and self-administration were strengthened with the establishment of the new High Judicial and State Prosecutorial Councils, which have been functioning in their permanent compositions since April 2011.*"⁹ However, according to the EC, more needs to be done to improve professional and integrity standards in the judiciary, as well as to increase the efficiency of the courts and public trust in the system overall. "*Human rights are generally respected in Serbia. The Ombudsman and the Commissioner for access to information and data protection are playing an increasingly effective role in the oversight of the administration. The legal framework to combat discrimination has been substantially improved and mechanisms have been set up to oversee its implementation, which is at an early stage. The authorities have also been paying growing attention to safeguarding the respect of the freedom of assembly and freedom of association and the role of civil society. The newly adopted media strategy aims at substantially clarifying the legal and market environment in which media outlets are operating.*" Threats to democracy and the respect for human rights come from ultra-nationalist and right-wing extremist groups, The independent think-tank Freedom House states, in its 2012 report on Serbia, that "*[f]or the last 10 years, Serbian authorities have battled many right-wing organizations emerging from criminal gangs and commandos that*

⁹ See Commission's Opinion on Serbia's Application for Membership at http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/sr_rapport_2011_en.pdf, pp. 4.

served under President Slobodan Milošević in the 1980s and '90s. On the far right there are several extremist organizations allied with underground neo-Nazi groups and soccer hooligans. These groups generally promote clerico-fascism and ultra-nationalism and openly support war criminals, calling for the unification of all Serb-inhabited lands (via military incursion in Kosovo), closer ties with Russian ultranationalists, and persecution of sexual and national minorities.¹⁰ According to the EC, prison conditions remain an issue of serious concern. The legal and institutional framework for the respect of minority rights, including those of Roma, are respected. Further efforts, in particular to allocate financial resources to implement legal and institutional provisions are necessary.

The 2008 UPR process saw Serbia commended for the progress achieved in recent years in the promotion and protection of human rights, while noting the ongoing gap between treaties ratified, domestic laws and institutions in place and actual implementation of obligations. Among other credible actors contributing, the International Commission of Jurists noted concern that laws and procedures on the judiciary and judicial appointments offer insufficient guarantees of judicial independence. Submissions also highlighted threats and attacks against judges, prosecutors and lawyers involved in cases concerning organized crime or war crimes. Concerns regarding social and economic rights are also highlighted, especially in the context of the Roma minority.

In his September 2011 visit report, the CoE Commissioner for Human Rights Thomas Hammarberg, noted that the Serbian legal and institutional framework against discrimination and racism has been strengthened including the adoption in 2009 of the Law on the Prohibition of Discrimination and the establishment of the Office of the Commissioner for the Protection of Equality, albeit with the report noting concerns regarding the adequacy of operating conditions. A range of other concerns are highlighted in the report from housing, education and employment rights of Roma, the situation of persons with disabilities, to lack of a reparation mechanism for all victims of war-related crimes were highlighted.

More recently, Human Rights Watch in 2012 described the overall human rights record as "largely static", highlighting violence and discrimination against Roma as well as threats and violence against independent journalists intolerance and violence towards LGBT people, much domestic violence is suggested to remain unreported despite it being criminal offence, and the adoption of a national strategy to combat domestic violence (2008-2012).

2.2 Description of EU and CoE strategic priorities for Serbia

The nature of EU-Serbia relations has evolved substantially since 1991. While the first decade was marked by the wars and their aftermath in the former Yugoslavia, the relations have since focussed on European integration. Serbia formally applied for EU membership in 2009, and has had EU accession candidate status since March 2012.

From 1991 until 2000, i.e. during and after the wars in the former SFR Yugoslavia, the EU's CARDS programme to Serbia (and Montenegro¹¹) focussed initially on conflict management, and later on post-conflict reconstruction and stabilisation. With the fall of the Milošević regime in 2000, Serbia received assistance, which amounted to € 2 billion in the period between 2000 and 2002 alone (compared with € 0.9 billion from 1991 to 2000).¹²

European integration gained significantly in importance, with the rationale that integration and EU membership can help prevent future conflict in the region. Policy advice through the EU-FRY Consultative Task Force started in 2001. A European Partnership agreement was adopted by the EU Council in 2004 (it was reviewed in 2006), and an Enhanced Permanent Dialogue (EPD) was tasked to encourage and monitor reforms resulting from this agreement; assistance through CARDS supported the implementation of the European Partnership, as well as the country's meeting the requirements preceding the SAA.

A Feasibility Report by the EC in April 2005 concluded that Serbia was ready for negotiations of a Stabilisation and Association Agreement (SAA) with the EU. This, effectively, gave a clear prospect for

¹⁰ See Freedom House, 2012 Nations in Transit Report Serbia, at <http://www.freedomhouse.org/report/nations-transit/2012/serbia>

¹¹ The Federal Republic of Yugoslavia, existing since 1992 and comprising of Serbia and Montenegro, was, in 2003, reconstituted into the State Union of Serbia and Montenegro. This State Union was marking the beginning of the path to independence for Montenegro, which the country eventually declared in 2006. Until 2003, EU relations were covering as one what are now two independent states; with an expressed vision of independence as a medium-term goal, political dialogue and assistance programmes increasingly addressed the specific needs of the two countries-to-be through the 'twin track' approach. In the following text, 'Serbia' is used as shorthand for 'Serbia and Montenegro' for the period up to 2003. Kosovo.

¹² Source: http://ec.europa.eu/enlargement/serbia/eu_serbia_and_montenegro_relations_en.htm.

EU accession – provided that key conditions were fulfilled by Serbia, in particular with regards to cooperation with the International War Crimes Tribunal (ICTY) in The Hague.

The tagging of EU membership to a determined severing of the country's links to war criminals from the Bosnian and Croatian wars has been the single most contentious issue for public support to EU accession inside Serbia. The divide between pro-European political forces on the one hand, and ultra-nationalist forces, often linked to organised crime gangs, on the other hand marked the developments of relations with the EU, which has suffered various setbacks over the years.

The assassination, in 2003, of pro-Western Prime Minister Zoran Đinđić by the Serbian mafia, gave reason for serious doubts over the state of the rule of law in Serbia, and raised questions about the nexus between anti-Western politicians and organised crime and mafia structures.

Negotiations for an SAA did stall in spring 2006 over the failure of the Serbian authorities to arrest and extradite, to ICTY, suspected war criminals Ratko Mladić and Goran Hadžić but were reopened in 2007 after the new Serbian government took decisive steps to prove its resolve on ICTY cooperation matters. In 2008, the Stabilisation and Association Agreement was signed by Serbia and the EU, and the process of ratification is started by the EC in 2010 (all EU Member States have to ratify the SAA individually). Mladić and Hadžić were, eventually arrested and handed over to ICTY in spring and summer 2011, and this is widely seen as the major stumbling block to EU accession out of the way. However, public support to EU accession has plummeted in the past couple of years, as the global economic crisis is felt in Serbia, and possibly conflated with impacts of the reforms in the wake of the EU accession. The aftermath of the parliamentary and presidential elections, held at the same time in May 2012, might well provide other twists on the path to Serbian EU-membership. Serbia was officially granted EU candidate status in the beginning of March 2012.

Serbia participates in the Instrument for Pre-accession Assistance (IPA), which applies to all Western Balkans countries for the period from 2007 to 2013. The IPA has two main components: **institution building and transition**; and **cross-border cooperation**. At present, EU-Serbia cooperation is based on the IPA Multi-Annual Indicative Planning Document 2009 – 2011, which follows the priorities as laid out in the Serbian government's National Programme for Integration (NPI), adopted in 2008 and which sets out the steps to be achieved to align legislation and administration to EU standards.¹³

CoE-Serbia relations: Serbia became member of the Council of Europe in April 2003. It has been under special monitoring by the Secretary-General of the organisation since, and so far a number of reports by various CoE institutions during the period covered by the evaluation were issued. The report on the "Compliance with obligations and commitments and implementation of the post-accession cooperation programme" of 2006¹⁴ outlines recommendations, which focus on: cooperation with ICTY; reconciliation; ratification of the European Charter of Local Self-Governance; and progress in the ratification of the revised European Social Charter. Apart from this, the evaluators are not aware of a specific strategy vis-a-vis Serbia.

2.3 Description of EU-CoE cooperation in Serbia

2.3.1 List of EC-CoE JPs in the key areas of cooperation

The table below summarises the EC-CoE joint programmes in Serbia, descriptions of the programmes are in the Annex of this note.

¹³ Accessible at http://www.europa.rs/en/srbija/Eu/kljucni_dokumenti/2009.html.

¹⁴ <https://wcd.coe.int/ViewDoc.jsp?id=1068027&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>

Country programmes

<i>Title</i>	<i>Period</i>	<i>CRIS Contract</i>	<i>EC commitment €</i>	<i>Total budget €</i>	<i>Domain</i>	<i>Remark</i>
Media in Serbia	2001 – 2002	00SER03/05/002	134.047	176.822	CARDS	EAR Contract
Project against economic crime	2005 – 2008	05SER01/02/003	1.499.290	1.578.200	CARDS	EAR Contract
Support to Belgrade Fund for Political Excellence	2005 – 2008	04SER01/02/004	500.000	882.120	CARDS	EAR Contract
Support to promote freedom of expression and information and freedom of media in accordance with CoE/EU standards	2006 – 2009	05SER01/11/002	250.701	286.701	CARDS	EAR Contract
Strengthening local self-government	2006 – 2008	05SER01/16/004	1.474.719	1.819.081	CARDS	EAR Contract
Project on the implementation of the National Judicial Reform Strategy- results achieved and challenges	2007	04SER01/04/023	120.009	220.015	CARDS	EAR Contract
Strengthening Higher Education Reforms in Serbia	2007 – 2009	04SER01/13/028	513.000	570.000	CARDS	EAR Contract
Strengthening local self-government in Serbia (Phase II)	2009 – 2012	201621	2.000.000	2.200.000	IPA	
Strengthening the capacities of the Directorate for Confiscated Property Management and improvement of the system for search, seizure and confiscation of proceeds from crime in Serbia	2010 – 2013	232748	2.000.000	2.140.000	IPA	
Project against Money Laundering and Terrorist Financing and Economic Crime in Serbia (MOLI)	2010 – 2013	252978	2.000.000	2.200.000	IPA	

Multi-country/regional programmes

<i>Title</i>	<i>Period</i>	<i>CRIS Contract</i>	<i>EC commitment €</i>	<i>Total budget €</i>	<i>Domain</i>	<i>Remark</i>
Roma - Council of Europe-OSCE/ODIHR Project on Roma under the Stability Pact.	2001 – 2002	50382	223.352	310.211	DDH	
Serbia & Montenegro - EIDHR - 2003-2005 - Joint Programme of Co-operation between the European Commission and the Council of Europe to support the process of accession by Serbia and Montenegro to the Council of Europe	2003 – 2005	57114	750.000	1.500.000	DDH	
Democracy through free and fair elections	2003 – 2006	75496	200.000	400.000	DDH	
Roma II - Joint -Programme between the EC and the Council of Europe regarding democratisation and the rule of law Strand 4) To provide public administrations with the tools for the effective implementation of national strategies for Roma at local level	2003 – 2005	57114	300.000	600.000	DDH	
EIDHR - Network of Schools of Political Studies	2004 – 2006	89231	500.000	1.000.000	DDH	
CARDS - South East Europe - Police and Economic Crime	2004 – 2007	79524	3.600.000	4.444.000	CARDS	
Social Institutions Support	2004 – 2008	85023	1.407.363	2196.122	CARDS	
Support to parliamentary institutions in the Republic of Serbia and in the Republic of Montenegro - Joint Initiative by PACE and EAR	2005 – 2009	04SER01/02/002	1.445.889	1.588.889	CARDS	EAR Contract
Advancing equality, tolerance and peace: Equal rights and treatment for Roma – EIDHR	2005 – 2008	113784	263.305	550.000	DDH	
Network of Schools of Political Studies – EIDHR	2006 – 2008	125301	639.683	1.300.000	DDH	
CARDS - Development of a reliable and functioning Prison system respecting fundamental rights and standards and enhancing of regional co-operation in the Western Balkans	2007 – 2008	132165	800.000	902.559	CARDS	

Evaluation of Commission's cooperation with the Council of Europe – PARTICIP GmbH

<i>Title</i>	<i>Period</i>	<i>CRIS Contract</i>	<i>EC commitment €</i>	<i>Total budget €</i>	<i>Domain</i>	<i>Remark</i>
Support to the prosecutors' network in South-East Europe	2008 – 2010	153650	1.500.000	1.666.669	CARDS	
Peer project - Setting up an active network of independent non-judicial Human Rights Structures in the Council of Europe member States which are not members of the European Union	2008 – 2009	140327	450.000	900.000	EIDHR	
Regional Programme for Social Security Co-ordination and Social Security Reforms in South-East Europe	2008 – 2010	153292	1.976.509	2.196.122	IPA	
Network of Schools for Political studies II	2009 – 2010	168721	1.759.500	3.519.000	EIDHR	
Peer-to-Peer II - Promoting national non-judicial mechanisms for the protection of human rights and especially the prevention of torture	2010 – 2012	226588	1.200.000	1.600.000	EIDHR	
Project against cybercrime in South-East Europe (cyber@SEE)	2010 – 2012	248578	2.500.000	2.777.778	IPA	

3 Findings by EQs and JCs

3.1 EQ1: Guidance criteria

Evaluation Question 1:

To what extent have the **criteria** for decisions to cooperate with the CoE been clear, transparent and strategically sound?

3.1.1 JC11 Level of discussion/analysis of the choice of the CoE as a cooperation partner

Main findings from the field mission:

(I-1.1.1) The insights from the field mission support the conclusion from the desk phase, i.e. that the choice of the CoE as cooperation partner has been rationalised ex-post, rather than from the beginning of EC-CoE cooperation in Serbia. In the early stages of EC-CoE cooperation, the CoE was, according to respondents from the EUD, the organisation that was understood to have expertise and experience in areas that others (e.g. private sector consultancy companies) could not provide. There was an acknowledgment that the specific themes that would be contracted to the CoE through a JP were difficult, and too complex to handle for the EUD through a routine procurement process. Stakeholders also suggested that the second generation of JPs (i.e. those implemented in the second half of the decade) was, to some extent, the result of some degree of institutional inertia, where contracting the CoE was a default option not specifically weighed against other options. Questioning the choice of the CoE as contractor seems to have become more acute with the onset of IPA, a more prominent presence of the EU in Serbia, and the prospect of handing over of the administration of IPA-funds to the Serbian authorities. (I-1.1.2) The field mission, which consulted the EUD in Belgrade (not HQs in Brussels), found that at that level, staff had an expectation of the CoE's comparative advantage, but that mixed experience with implementation of JPs meant that these expectations were considerable lower at the time of the visit compared to previously. This was not the case across the board; at least one of the ongoing programmes (CAR) seemed to be more convincing than others. (I-1.1.3) The evaluators found no evidence of an overarching strategic vision for cooperation with the CoE as such.

3.1.2 JC 12 Degree to which EC/EU staff at headquarters and in the field are well-informed regarding the possibility to cooperate with the CoE

Main findings from the field mission:

(I-1.2.2) Discussions and meetings between EUD staff and CoE CO field office staff do take place, accompanied also by routine contacts between the project officers at the respective offices. There have been statements to the extent that where projects face difficulties, the EUD has been drawn in too closely (to the point of micromanaging a JP alongside the contractor). (I-1.2.3)

3.2 EQ2: Specific Expertise

Evaluation Question 2:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, enabled the EC to use the CoE's **specific** sectoral **expertise** and mandate and geographical scope in the key areas of cooperation?

3.2.1 JC 2.1 Degree to which the CoE's sectoral expertise and mandate and geographic scope and political capacity to hold partner countries accountable have been taken advantage of in cooperation activities including JP implementation

Main findings from the field mission:

One of the main limitations of the field mission was that it has been difficult to identify stakeholders with *direct* experience and recall of the detail of JPs during the evaluation period in question – in particular regional JPs where activities Serbia were sometime limited to specific event or events. It is therefore difficult to come to substantial conclusions on the indicators in question. (I-2.1.1) Where stakeholders had been involved, either as direct or indirect beneficiaries of JPs (in particular on the two consecutive JPs on local self-government reform), they were mainly very positive about the experience, citing the JP design as relevant for their context and specific needs, and implementation having been done in close contact with beneficiaries and responsive to their needs. (I-2.1.2) The level of expertise provided through JPs was, with one exception, cited as being very high and relevant for the Serbian context. (I-2.1.3) Local stakeholders were mostly able to clearly identify the advantages of

projects implemented through the CoE as opposed to a private sector consulting firm: a CoE-implemented project was likely to open doors to senior government officials in a way that a private-sector company-led one was not; the CoE was identified by stakeholders to be the main depository of expertise in the subject areas concerned; and there was an acknowledgement that (mainly ongoing) JPs contributed to relevant CoE monitoring instruments. CoE was also credited, by national stakeholders, as being able to provide a legitimate facilitating framework for regional projects that would otherwise not be able to take place; in this context, a regional JP on judicial cooperation in the fight against organised crime, PROSECO, facilitating contacts between prosecutors from the Western Balkans, was cited as an example of such facilitated networking.

3.2.2 JC 2.2 Degree to which EU has benefited from jointly working with the CoE on legal issues / standards setting and monitoring / country assessments in human rights, rule of law, and democracy

Main findings from the field mission:

(I-2.2.1) No findings.

(I-2.2.2) The evaluators corroborated the fact that there is, at HQs level, consultation with regard to the elaboration of country assessments, specifically, EU Progress Reports.

(I-2.2.3) No findings from country mission.

3.3 EQ3: Human Rights

Evaluation Question 3:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, contributed to increasing respect for **human rights** and fundamental freedoms?

Main findings from the field mission:

With respect to EQ3 indicators, the field mission discussions sought to address the relevance, effectiveness, efficiency, impact and sustainability of CoE contribution (during 2000-2010) to:

- any enhanced use of ECtHR jurisprudence in the curricula of academic and professional training & enhanced knowledge of the ECHR among key institutions and main stakeholders improved, (I-312 and I-321)
- any enhanced implementation and execution of ECtHR decisions, and incorporation of ECtHR jurisprudence into domestic law and practice, (I-322)
- any strengthened and more effective state institutions in defence of human rights (such as Offices of Human Rights Commissioners and Ombudsmen) at central and local levels, (I-323)
- any enhanced access to social and economic rights through enhanced implementation of the European Social Charter and Committee Decisions and Conclusions, (I-314)
- any enhanced NGO involvement in human rights. (I-313)

Progress on human rights issues in Serbia over the time frame covered by this evaluation must be viewed against the situation in 2000; the aftermath of regional conflict, NATO air strikes, the fall of Slobodan Milošević, and a new state tasked with reconfiguring and establishing new democratic rule of law institutions over the following decade. Serbia only joined the Council of Europe in 3 April 2003.

This context against which JPs should be assessed must be factored into appropriate expectation, particularly for JPs in earlier years of the timeframe covered. As a new CoE Member State, promotion of the ECHR in particular (and to a lesser extent the ESC and other CoE Conventions) has been a central focus. Some positive impacts of JPs have been identified in field mission discussions, but verifying links between training/capacity building/awareness raising, and ultimate impact in terms of more effective implementation of improved laws/policies, prevention of violations, more effective redress etc is problematic – both with the passage of time, the multiplicity of actors in the sector and the general absence in JPs of baselines and effective M&E.

3.3.1 JC 3.1 Improved protection of human rights (civil, political, social, economic and cultural), including non discrimination

Main findings from the field mission:

Human rights issues covered in Serbia JPs included Roma rights, freedom of expression/media. Human rights addressed in Regional JPs in which Serbia participated include free and fair elections, non-judicial Human Rights Structures (including specific focus on their role with regard to torture), Roma rights, detention, and social security reform. JPs related to the Justice sector were not selected

for focus in Serbia country visit though justice system reform, which JPs such as the implementation of the National Judicial Reform Strategy are reported in passing as having contributed, have an overarching significance for areas covered by other JPs.¹⁵ Non-discrimination featured in JPs in that Roma rights was addressed in three regional JPs. Gender Discrimination is noticeable absent as an explicit focus in all JP documents. A CoE Office view expressed that this is due to lack of baselines does not obviate the need for this cross-cutting legal obligation to be addressed in JPs.

(I-3.1.1) Increased availability of formal and practical legal procedures (application for bail, leave to appeal, scope of judicial review, etc.) in the protection of human rights was not addressed in field mission discussions, which to some degree was addressed by JP *implementation of the National Judicial Reform Strategy*. Evidence was quoted from NGO stakeholders citing the translation of ECtHR rulings into Serbian on the issue of media freedom and defamation as a key contribution.

(I-3.1.2) The evaluators have not, during the field phase, been able to link progress reported with regard to these indicators specifically with JPs. JPs may have had an impact, but it has been impossible to distinguish JP input from CoE monitoring mechanisms, ECtHR decisions etc (particularly in the lead-up to Serbia's membership). Some interlocutors observe that generally there is an increased emphasis on human rights in training of state personnel though this emphasis is on civil and political (as opposed to socio-economic and cultural rights) without real possibilities to link this to JPs.

(I-3.1.3) NGOs face particular pressures in Serbia where they focus on specific human rights issues (LGBT rights, corruption, transitional justice, gender etc) as has been noted by various actors, Amnesty International, CoE Commissioner for Human Rights Thomas Hammarberg. Reports also suggest government favour for certain NGOs perceived as being "government or state friendly". In 2009 the Ministry for Human and Minority Rights signed a Memorandum of Cooperation with more than 150 human rights NGOs by which both sides obligated themselves to ensure regular exchange of information on activities connected with the preparation, adoption and implementation of laws and strategies in the area of human rights, preparation of reports on the implementation of accepted international obligations.

A specific example of key NGO involvement in human rights relates to the regional JP *Peer-to-Peer II* which focused on torture prevention and NPM with Serbian participation. This took place prior to the designation in 2011 of Serbia's NPM (the Protector of Citizens, ombudsmen of autonomous provinces and human rights CSOs). Under the Public Call for cooperation nine CSOs applications were submitted and were approved for participation in the NPM. Some *Peer to Peer* participants note in general terms that they benefitted from the project workshops but also note that the NPM has benefitted from support from an array of actors, OHCHR, the OSCE Mission to Serbia, INGOs such as APT as well as EIDHR projects. CSOs vary in their assessment of their routine engagement with CoE Office, but all met highlight the normative clarity of CoE legal standards as a key factor in their monitoring, advocacy etc.

(I-3.1.4) With regards to access to social and economic rights, Serbia signed the European Social Charter in March 2005, and ratified the Revised Charter in September 2009. Its first report was submitted on 31 October 2011. Of country-specific JPs socio-economic rights were a relatively minor component. JP *Serbia & Montenegro: Support to the process of accession to the CoE* (2003-2005) established an expert working group to review national legislation for compatibility with the ESC before signature in 2005. This was complemented by training of officials and tasked with implementing the Charter after ratification. Serbia also participated in the multi-country JP "*Regional Programme for Social Security Coordination and Social Security Reforms in SEE*" (2008-2010) as well as "*Social Institutions Support*" JP (2004-2008). The project report highlights some specific results from these JPs, including signing of a bilateral social protection agreement between Serbia and Turkey, but time constraints in the field visit meant that participants in these JPs were not met, and further details were not gathered during the country visit.

¹⁵ Subsequent engagement by the Serbian Ministry of Justice in seeking opinions of the Venice Commission on draft laws relating to the High Judicial Council and the State Prosecutorial Council are cited as engagement to which this JP contributed.

3.3.2 JC 3.2 Degree to which accession to, and compliance with, the European Convention on Human Rights (ECHR) and the European Social Charter has been promoted and strengthened

Main findings from the field mission:

Serbia acceded to the ECHR in 2004 and has ratified all ECHR Protocols bar Protocols 9 and 10. Serbia is also a party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the European Charter for Regional or Minority Languages, the Framework Convention for the Protection of National Minorities and the European Charter of Local Self-Government.¹⁶ See above regarding The CoE Social Charter.

(I-3.2.1) Under Article 194 of the Serbian Constitution, universally accepted rules of international law and ratified international treaties are integrated into the domestic legal system and directly apply therein. This includes the ECHR and the ECtHR jurisprudence. However, Serbia failed or substantially delayed in addressing by ECtHR judgments.

With the justice sector not chosen a Serbia mission focus, I-3.2.2 was not considered in detail except where the issue arose in vis-a-vis particular groups or thematic areas. One element of the JP *Co-operation between the European Commission and the Council of Europe to support the process of accession by Serbia and Montenegro to the Council of Europe 2003 – 2005* related to legislative amendment in line with ECHR. With regard to Serbia the overall external situation was recorded in an external post JP evaluation as not being advantageous for the success of project purposes. The first expected result *“MoJ is supported in amending legislation in the judicial system according to European standards and the ECHR”* was evaluated as *having been achieved to a low extent during the project’s life time; therefore with an overall rating of ‘poor’; Problems identified include timing problem in the reviewing process of drafted laws indicate a limited ownership of the MoJ to the process, resulting in the fact that only few laws reviewed have been amended according to the CoE recommendations. In addition, the delay of the start of the programme and the political changes during implementation have to be taken into account*. No additional information was gathered in the course of field visit to change this assessment. In any event no baseline was established as to level of support needed and no measurement was undertaken of JP results.

(I-3.2.3) A number of interlocutors expressed confidence in some relatively new human rights institutions, including the ombudsman, the Commissioner for Access to Information and Data Protection and most recently the Commissioner for Equality and the Patients Defender. Several provincial Ombudsmen offices are also in place. The EC’s “Serbia 2010 Progress Report” acknowledges that the various Ombudsman’s Offices at both state and provincial level were very active. They reported an increase in the numbers of complaints and this is interpreted as showing increased trust in the institution. Other than regional Projects *Peer to Peer I & II* JPs reviewed did not specifically address these institutions.

3.3.3 JC 3.3 Enhanced protection of the rights of minority groups (including linguistic minorities)

Main findings from the field mission:

With regards to indicators 3.3.1 – 3.3.4, there have been, from 2001 to 2008, three regional JPs dealing with Roma rights issues. According to the project documents, the projects’ main achievements were not in Serbia, where only a relatively small share of JP activities were implemented. Many of these earlier JPs might be classified as ‘foundational’ insofar as they represented the first regional networking on the issue and many of the participating states had limited experience and institutions addressing Roma rights. Events such as a Conference on “The Status and Perspectives of the Roma in Serbia” in Belgrade in February 2001 was at the time reported as being useful to establish contacts with Roma activists and authorities. and CoE Belgrade identifies as an impact of the JP the Establishment of the Roma Secretariat in the Federal Ministry of Human and Minority Rights. No detailed recollection of the event is reported to the field visit team. The 2009 Law on the Prohibition of Discrimination acknowledged as generally being in keeping with CoE ECRI’s General Policy Recommendation No. 7 on National Legislation to Combat Racism and Racial Discrimination but it is not clear that this was a specific JP focus. The overall progress on the implementation of anti-discriminatory legislation and integration of Roma remains mixed at best.

Generally, the evaluators found that Roma rights are not a topic that key stakeholders in Serbia associate with the Council of Europe in terms of programme activities. More association was made via

¹⁶ Among CoE human rights treaties signed but not ratified by Serbia are European Convention on the Compensation of Victims of Violent Crimes and European Convention on the Exercise of Children’s Rights.

normative frameworks and monitoring reports. Discussions with some key Roma actors state and non-state while acknowledging that key developments such as the Roma gaining national minority status in 2002 are fundamentally linked to recommendations and advocacy by the Council of Europe (amongst others) and instruments such as the framework Convention on National minorities and the Charter on national minority languages are a key reference point for policy-making and advocacy. However, there was no significant familiarity with the specifics of Council of Europe programmes, in particular at the JPs between 2000 and 2010. While it remains difficult to say whether it is due to lack of outreach by the CoE office or lack of pro-activity by local stakeholders, there seems to be a deficit of routine engagement between state and non-state institutions focusing on Roma issues and the Council of Europe office.

As regards Indicator 3.2.4 concerning Human rights education introduced in school curricula, no Specific JP reviewed addressed this as a central objective. In the context of a regional Roma rights JP the Dosta! Awareness raising campaign involved a Schools and Civil Society Awards, in which Serbia schools were amongst first winners in 2007.

3.3.4 JC 3.4 Increased awareness of human rights and fundamental freedoms

Main findings from the field mission:

Awareness raising campaigns (indicator 3.4.2) featured in regional JP *Advancing equality, tolerance and peace: Equal rights and treatment for Roma – EIDHR*. While the only reported Serbia-specific activity of this JP was a press conference, the “Dosta! Go beyond prejudice, discover the Roma!” awareness raising campaign generally has shown significant momentum, and in the context of Roma children in Serbia involved a link up with UNICEF and innovative features likely to address societal prejudices.

Raised awareness as a result of activities and publications is reported by interlocutors among specific JP target groups, CSO participants in *Peer-to-Peer*, journalists in media related JPs etc. But with absent baselines it remains difficult to quantify the scale of this.

JPs are reported to have contributed to some degree to enhanced visibility of human rights in Serbia through events and in some cases at least JP launches are covered in the media (Indicator 3.4.1 *Increased media coverage on questions relating to human rights and fundamental freedoms*).

Given media self-interest this is reported to be the case for media/freedom of expression related JP activity in particular. However, the accuracy and disposition towards human rights in media coverage is something that is also questioned by some interlocutors. One aspect of this is that is the suggestion that some politicians are highlighting the fulfilment of human rights obligations as being made necessary by EU/CoE conditionality, as opposed to identifying human rights as part of a Serbian constitutional/national agenda. One example cited on a number of occasions in this regard is the ongoing opposition to the Belgrade Gay Pride parade which civil society organisations view as being only guaranteed to happen if “Brussels insists”.

Serbia's National Ombudsman (the Protector of Citizens) institution was established in 2007 and has ‘A’ status with the UN sub-committee, the International Coordinating Committee of National Human Rights Institutions. It received over 2,600 formal complaints filed in 2010 with complaints reported as growing by some 30-40% per annum. (3.4.3 *Number of complaints dealt with by the Ombudsmen, both at Central and Local level*) In May 2012 The Ombudsman reported that Parliament and Government has approved 37 out of 140 normative and legislative initiative submitted and that 8,300 out of 10,600 complaints forwarded to the relevant authorities resolved in the past 5 years.

Regional JP *Peer-to-Peer I & II* involved some activities in Serbia and are likely to have been some contribution to the Ombudsman's Office but represent only a very small scale of activities relative to ongoing support from a range of actors, such as OSCE and bi-lateral donors.

3.3.5 JC 3.5 Improved treatment and conditions of detention

Main findings from the field mission:

Serbia remains some way from attaining European standards as defined by the Committee for the Prevention of Torture recommendations and the ECtHR judgments (Indicator 3.5.1). In October 2011 the EC noted that “*Poor conditions in detention facilities are a matter of concern. The prison system in Serbia faces serious problems due to overcrowding. Serbia has only begun to tackle this problem, including through the construction of new prison facilities. Further efforts are needed in order to improve living conditions, healthcare and adequate treatment programmes for prisoners*”.¹⁷

¹⁷ http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/sr_analytical_rapport_2011_en.pdf

In February 2011, The CoE Committee for the Prevention of Torture carried out a 10 day visit to Serbia, the Committee's third periodic visit to Serbia. The CPT delegation assessed progress made since the previous visit in 2007 and the extent to which the Committee's recommendations have been implemented, in particular in the areas of police custody, imprisonment and legal safeguards for patients in psychiatric institutions. CPT expressed concern that "*little progress has taken place since the 2007 visit as regards the role played by prison health-care services in the prevention of ill-treatment*" concern "*that little progress has been made since the 2007 visit as regards the setting up of the National Preventive Mechanism*" and that the "*delegation's findings during the 2011 visit were similar to what had been found in 2007*".¹⁸

Following this visit, and some years after regional JP activity on detention¹⁹ (albeit with small scale of activity) saw the designation of the NPM in Serbia in mid-2011. Stakeholders (including NPM participants) met in the field visit report that CoE overall was key part of the momentum for establishing the NPM and JPs were a contribution to this. This slow progress highlights the extended timeline involved in some reform efforts, as well as the challenges to impact attribution where ultimate objectives can take years to realise.

3.4 EQ4: Rule of Law I

Evaluation Question 4:

To what extent has cooperation with the CoE, in particular via the channelling of funds, contributed to strengthening the rule of law as it relates to the fight **against corruption, money laundering, organised crime and trafficking**?

3.4.1 JC 4.1 Increased accession to, and compliance with, the conventions relating to the fight against corruption, money laundering, organised crime and trafficking

Main findings from the field mission:

Economic and organised crime remains a serious problem for Serbia. However, the legal framework is in place to fight organised crime and corruption – it is mainly in line with international standards. There are policies in place to address organised crime and corruption in a targeted way. Serbia ratified the Criminal Law Convention on Corruption (ETS 173) in 2002. The Additional Protocol to the Criminal Law Convention (ETS 191) was ratified in 2008. The Criminal Code of the Republic of Serbia has been amended several times to, inter alia, better comply with international requirements. The last amendments took place in September 2009 and December 2009, respectively. The Law on the Confiscation of the Proceeds from Crime was adopted in October 2008 and entered into force March 2009. (I-4.1.1)

(I-4.1.2) Capacity building efforts have been undertaken for stakeholders, including through JPs; specifically, a JP on *Economic Crime* (2005 – 2008) is relevant for the evaluation period in question. There is a couple of ongoing JPs, namely "*Strengthening the capacities of the Directorate for Confiscated Property Management and improvement of the system for search, seizure and confiscation of proceeds from crime in Serbia*" and the "*Project against Money Laundering and Terrorist Financing and Economic Crime in Serbia (MOLI)*", both of which commenced in 2010 and will last until 2013, and which are not directly relevant to the exercise in question. The Ministry of Interior's Financial Investigation Unit report favourably on their experience with regard to JP "*Strengthening the capacities of the Directorate for Confiscated Property Management and improvement of the system for search, seizure and confiscation of proceeds from crime 2010-2013*". The project is reported by the Unit as having built upon the results of the previous JPs such as the "*CARDS Regional Police Project*" (CARPO – 2004-2007), and the "*Project against Economic Crime and Money-Laundering in Serbia* (PACO-Serbia – 2005-2007)", and interlocutors produced handbooks from earlier projects as evidence of ongoing use of outputs from earlier JPs. The FIU attribute the 300 Million Euro temporarily confiscated over the past 3 years to the 2 Million Euro project; this sum has obvious limitations as an OVI and needs to be read in light of other capacity support, for example OSCE training. The favourable comments are, however, also echoed by the Ministry of Justice. Generally, discussions during the field visit saw favourable comment by the FIU Heads of Department on timely building of capacity, the relevance of external experts' inputs, local institutions' sense of ownership and of efforts to avoid duplication of effort (including a 2010 seminar that brought together all relevant actors). Stakeholders

¹⁸ http://www.cpt.coe.int/documents/srb/2012-17-inf-eng.htm#_Toc326825792

¹⁹ CARDS - *Development of a reliable and functioning Prison system respecting fundamental rights and standards and enhancing of regional co-operation in the Western Balkans and Peer-to-Peer II* which addressed OPCAT and NPM

from the State Prosecutors Office against Corruption and Organised Crime referred to the regional JP "Support to the Prosecutors' Network in South-East Europe" as having been a key contribution in the facilitation and the establishment of working relationships at the institutional level between prosecutors of the region. In the case of the MOLI project, stakeholders were clearly able to point out the link between the project activities and the monitoring through MONEYVAL, and the usefulness of the project was confirmed both by the police and the Ministry of Finance.

Since its establishment in 2003, the State Prosecutors Office for Organised Crime initiated criminal proceedings against 2053 persons for 3848 criminal offences in 167 case. Number of prosecuted persons by submitting request for investigation is 1966, of which 1541 were indicted. More detailed data are in the following tables.

Table 1: Statistics on the prosecution of organised crime in Serbia

Year	No. of cases	No. of persons charged	No. of requests for investigation	No. of indicted persons
2003	11	181	180	161
2004	9	55	39	32
2005	11	98	96	92
2006	22	425	403	241
2007	24	346	305	212
2008	16	188	186	205
2009	21	219	262	196
2010	26	267	228	181
2011	27	274	267	221
TOTAL	167	2053	1966	1541

Source: State Prosecutors Office for Organised Crime

Table 2: Rendered first instance (1^o) judgment

Year	Number of 1 ^o judgments	No. of convictions	Prison sentence	Suspended sentence	Fines	Denying the charges	Acquittals
2003	0	0	0	0	0	0	0
2004	16	15	15	0	0	0	1
2005	85	85	83	2	0	0	0
2006	84	76	76	0	0	2	6
2007	86	77	76	1	0	5	4
2008	100	89	84	2	3	8	3
2009	94	81	77	4	0	2	11
2010	166	149	146	3	0	5	12
2011	104	101	100	0	1	1	2
TOTAL	735	673	657	12	4	23	39

Source: State Prosecutors Office for Organised Crime

Table 3: Seizure and confiscation of proceeds from crime (from March 1st, 2009 to December 31st, 2011) Prosecutor's Office for Organized Crime

	2009	2010	2011	TOTAL
Total number of orders by public prosecutor for initiation of financial investigation, Art. 17	197	147	189	533
Total number of orders banning the use of assets issued by public prosecutor, Art. 22	2	16	4	22
Total number of filed motions for temporary seizure of assets, Art. 21	23	86	87	196
Motion completely sustained	6	51	51	108
Motion partially sustained	1	16	6	23
Motion refused	1	28	30	59

Total number of motions for permanent seizure of proceeds from crime	5	0	4	9
Motion completely sustained	4	0	1	5
Motion partially sustained	0	0	0	0
Motion refused	1	0	0	1
Total number of appeals made by the prosecutor	0	18	23	41
Appeal sustained	0	2	1	3
Appeal refused	0	6	18	24

Source: State Prosecutors Office for Organised Crime

While the upward trend in numbers indicate an increased capacity (and political will) to deal with organised crime and corruption, it is impossible to attribute, beyond doubt, these increases to any of the JPs.

3.4.2 JC 4.2 Improved prevention and deterrence of organised crime, corruption, and money laundering

Main findings from the field mission:

(I-4.2.2 – 4.2.4) On all of the indicators, no data are available on actual crime levels, or an increase or decrease thereof. Available data is mainly perception-based, and therefore, problematic. However, if one were for example to take the Transparency International Corruption Perceptions' Index as a starting point, then this would suggest no significant change in corruption levels. Even if there were changes, it would be difficult (and problematic) to attribute these to any of the JPs.

3.5 EQ5: Rule of Law II

Evaluation Question 5:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, contributed to strengthening the rule of law as it relates to **legal systems and access to justice**?

Main findings from the field mission:

EQ 5 was not selected as an area of focus for Serbia field mission.

3.6 EQ6: Democracy

Evaluation Question 6:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, contributed to establishing stronger **democratic institutions and practices** at central and local level?

3.6.1 JC 6.1 Strengthened democratic institutions and processes in the area of democracy

Main findings from the field mission:

(I-6.1.1) A regional JP, "Support to parliamentary institutions in the Republic of Serbia and in the Republic of Montenegro - Joint Initiative by PACE and EAR" was cited by the CoE CO in Belgrade to be a successful effort. CoE reports being in contact with stakeholders who participated in the project, who recall the usefulness of it, although no further information has been available to the evaluators.

Media interlocutors met in the field mission confirm (without always being able to recall the precise detail of the JPs) that the JPs *Media in Serbia 2001-2002* and *Support to promote freedom of expression and information and freedom of media in accordance with CoE/EU standards 2006-09* were important contributions at a time when media awareness of the precise content of the right to free expression was not widely known (Indicator 6.1.2 *Legal and practical barriers to free and independent media (including internet) reduced*) In particular they attribute to these JPs²⁰ the fact that in their experience Judges are familiar with ECtHR jurisprudence concerning Serbia, and they are

²⁰ The difficulty of attribution arises even here given that CoE Office produces and circulates "European Court of Human Rights – Selected judgements" outside of JPs.

confident that certain past misinterpretation of the permissible limitation of free expression (e.g. in the context of defamation of politicians) is no longer an issue. If they express any negative comments on JPs it is that they were insufficient and that 'CoE seems to have moved on from Media as a priority', and that there is new generation of journalists and new media problems (media concentration state aid etc) that require CoE support. The long-awaited draft law on media strategy has seen Journalists and NGOs in Serbia criticize the draft for allowing continued state ownership of media and for what they say are inadequate safeguards against political interference regarding media content. The Protector of Citizens has highlighted as a specific concern abuse of freedom of expression, particularly of Internet sites expressing racism, xenophobia, incitement to national, racial and religious hatred and intolerance, particularly towards Roma. JP *Media in Serbia* was designed and implemented by the CoE HQ so no detailed information on its impact is available from CoE Belgrade Office, though some media participant comment favourably on its contribution to their capacity.

CoE identifies as JP related impacts the contribution (including through JP publications) to debate on transparency and media ownership, the European Convention on Trans-frontier television being ratified by Serbia, though the draft Law on transparency and ownership in media was not adopted.

For I-6.1.2-6.1.5, there were no relevant JPs.

3.6.2 JC 6.2 Improved electoral legislation and practice

Main findings from the field mission:

Recent parliamentary and early presidential elections (May 2012) were widely judged to having been free and fair.²¹ There have been no JPs dealing with election issues specifically, so no statements can be made on indicators 6.2.1-6.2.6.

3.6.3 JC 6.3 Improved local and regional governance and practice

Main findings from the field mission:

There have been two consecutive JPs on local self-governance, "Strengthening Local Self-Governance" I, from 2006 to 2009, and a second phase of the project which started in 2009 and is ongoing. The JP specifically aimed at assisting the Serbian authorities in the approximation of their legal and institutional framework in line with the standards of the European Charter of Local Self-Government (I-6.3.1), and stakeholders met during the field phase pointed out the usefulness of both projects (I-6.3.1), specifically in preparing and facilitating the passing of relevant laws and bylaws for local self-government. Law on Communal police adopted in 2009 and Law on Legal Status of Local Self-Government Staff adopted by the Government in March 2012, as well as a Draft Law on Local Elections examined by the Venice Commission, and recommendations submitted to the Ministry are identified by CoE Belgrade as a specific impact of these JPs. Media interlocutors also comment favourably on involvement of media in local self-government JPs as contributing to enhanced networking of local government actors and media.

There are a number of other international efforts in the area of local self-government reform (generally as well as on specific aspects such as community policing),²² but stakeholders confirmed that the involvement of the CoE had been key in advancing reforms. JP activities included work on the Law on State Property, which is widely seen to return a degree of financial autonomy to the local level (I-6.3.3). The JP also helped to shape the vision of the Serbian authorities of their distribution of competences between the central and the local level governments (I-6.3.4), although no governmental strategy on decentralisation has been adopted. No activities linked to I-6.3.2 were carried out in the framework of the JPs.

3.7 EQ7: Implementation

Evaluation Question 7:

To what extent have the **implementation modalities** of Joint Programmes employed by the CoE been appropriate to help achieving EC objectives related to human rights, rule of law, and democracy?

3.7.1 JC 7.1 Degree to which CoE implementation has reflected best practice of programme cycle management

Main findings from the field mission:

²¹ See, for example, OSCE/ODIHR statement of 7 May at <http://www.osce.org/odihr/90335>.

²² See an overview over ongoing and past projects on <http://www.drzavnauprava.gov.rs/article.php?id=994>.

Following desk review of JP documents (log-frames and, where available, evaluation reports) field level discussions with implementing partners on Project Cycle Management issues were limited due to pressures of time. However, in general desk findings were confirmed.

(I-7.1.1) A number of stakeholders, including the CoE CO themselves, acknowledged that the procurement rules had changed since the early JPs and with the transition to IPA, and that there was work necessary to understand and apply these new rules. The CoE CO, possibly as a result of the ongoing reforms in the organisation, was also not entirely confident about the division of tasks between the field and HQ level on programming and project design. (I-7.1.3) As has been pointed out in the desk report, mid-term reviews are not routinely done. (I-7.1.4) Several JP stakeholders have confirmed that the JP Steering Committee meetings convene regularly and are the forum which discusses changes to the log-frame. SC meetings are also reported to gather the right level of stakeholders from the appropriate institutions.

3.7.2 JC 7.2 Quality of reporting, monitoring, financial management by JPs and quality of evaluation of JPs

Main findings from the field mission:

JPs in Serbia during 2000-2010 were not systematically subjected to independent evaluation mid-term or ex post (7.2.1). Exceptions were JP "Co-operation between the European Commission and the Council of Europe to Support the Process of Accession by Serbia and Montenegro to the Council of Europe 2003 – 2005" and the Roma regional programme. In the absence of management response reports to the evaluation, it is not clear if and what evaluation findings were accepted, and what changes were made to subsequent JPs. (7.2.2) Time constraints during the field visit meant that I-7.2.3 – 7.2.4 were not covered with the EUD.

3.7.3 JC 7.3 Appropriateness of relationship between JP management needs, CoE headquarters human resources, and field presence

Main findings from the field mission:

This JC was not covered in the field phase.

3.7.4 JC 7.4 Mechanisms and processes for incorporating lessons learned and ensuring sustainability in place

Main findings from the field mission:

Apart from some continuity provided by some CoE staff, there appears to be lack of systematic lessons learning from one JP to another, and details of JPs managed by HQ are not in the knowledge of the Serbia office established since 2001. Field discussions saw some concerns expressed regarding sustainability of JPs and there is some sense that active engagement by CoE with stakeholders during JP delivery is not sustained after JPs end. Regional JPs administered from Strasbourg did not seem to benefit from Serbia Office presence at fora that relate to such JPs; for example, there is an absence of CoE from bi-annual Roma Action Plan Working Group meetings, where the Ministry of Human Rights suggests that CoE invites are not taken up due to capacity issues. This may be due to capacity pressures and the need to focus on current JPs. However, a general CoE office presence at such meetings would both enhance impact of past and future JPs, and could also serve as a means of contributing to CoE and EUD strategy formulation, programming etc.

While links between JP activities and outputs and permanent CoE frameworks (monitoring mechanisms and treaty reporting etc) provide a certain degree of continuity, JPs are not accompanied by sustainability plans (linked to weak emphasis on M&E). The challenge to identify lessons from JPs several years past (except insofar as some individuals involved remain in their various positions) is indicative of this. (7.4.1)

Handover of project results (7.4.3) appears to work best where JPs are linked to an identified institution and strong local ownership, e.g. in the context of financial crime. However, for regional JPs and JPs that are more a series of ad hoc events with an array of participants this is less evident – though outputs such as translated materials are reported as being utilised post-project (e.g. with respect to media/freedom of expression).

It is expected that CoE Headquarters restructuring will mean that, with appropriate resources, going forward, more sharing of lessons learned can take place, allowing for lessons from regional JPs to be transferred to country context, for example.

3.7.5 JC 7.5 Degree to which EC political visibility has been ensured

Main findings from the field mission:

No specific issues are reported regarding visibility. A selection of documents viewed all carry the appropriate logo and attribution of the funding source. (I-7.5.1). In general, field discussions suggested that knowledge and understanding of the JP's among some major local stakeholders is limited to those actively involved in JP delivery (7.5.3). This may, in part, be due to passage of time and challenges recalling JPs, but it seems to be more fundamental than this. The pool of stakeholders met in the field visit all evidenced strong awareness of the distinct nature of CoE and the EU, but it is not possible to state to what degree this is attributable to JPs as opposed to media coverage etc (7.5.2). Whether due lack of strategic plan for each JP or staff being contracted specifically to manage JPs, impact is likely to be diminished by lack of JP follow-up. An example cited by OSCE to the field mission concerning a JP on Roma rights training of health mediators where previous EC-funded OSCE work on the issue was not drawn upon with OSCE and only becoming aware of the regional JP after it had commenced, despite having a core group of mediators previously trained and presumably insights to offer on JP design and planning.

3.8 EQ8: Complementarity and synergies

Evaluation Question 8:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, helped to enhance **complementarity and synergies** between the EC and the CoE?

3.8.1 JC 8.1 Degree to which CoE country strategies were aligned and coordinated with the EC country strategies

JPs are acknowledged as addressing relevant needs in Serbia and were accurately framed in line with legal norms applicable (largely linked to CoE Treaties to which Serbia had or was to ratify). Log frames tend to inadequately distinguish between activities and results/impacts and linked to this indicators tend to be limited to inputs and outputs.

3.8.2 JC 8.2 Degree to which cooperation between EC and CoE has facilitated complementarity of JPs with EC other external assistance programmes

Main findings from the field mission:

JP project documents do not generally make reference to other external assistance programmes and example are identified in the course of the field visit of some apparent weakness in ensuring information-sharing with OSCE in particular as a key actor working in similar sectors – with some acknowledgment that this communication is an area that can be enhanced across all actors. (8.2.1)

No additional data was gathered in the field visit on 8.2.1 (JP project documents refer to other external assistance programmes)

3.8.3 JC 8.3 Degree to which joint EC-CoE cooperation activities are aligned with government, EU and CoE priorities

Main findings from the field mission:

With JPs framed in terms of CoE standards (including treaties ratified by Serbia) they are relevant to Serbia's legal obligations (subject to observations regarding gender see above) Field discussions did not cover specific JP needs assessment processes but relevance to specific needs (awareness raising to technical capacity support) of institutions and sectors involved was generally confirmed. (8.3.1 *Appropriate consideration of in-country situation and beneficiary requirements in of joint EC-CoE cooperation activities in the country*

- 8.3.2 *Appropriate consideration of EU and CoE priorities in cooperation activities in the country*

3.8.4 JC 8.4 Degree to which EU-CoE cooperation has enhanced synergies between the organisations

Indicators:

- 8.4.1 *Coordination in standard setting*
- 8.4.2 *Coordination in normative activities*

- [8.4.3](#) *EC-CoE joint cooperation activities strengthened acquis in enlargement countries*

Main findings from the field mission:

3.8.5 JC 8.5 CoE value added

Main findings from the field mission:

Comparative advantage of CoE engagement in Serbia has included its early engagement with Serbia in the aftermath of its international isolation, the value of its normative frameworks and mechanisms is also highlighted by interlocutors, JPs on issues involving regional approaches as well as engagement with status-sensitive institutions are also. ([8.5.1](#) Cooperation with the CoE in the key areas of cooperation benefits from CoE comparative advantage.)

There is some suggestion that in recent years visibility of CoE office has been reduced with other actors (UN agencies, OSCE) having a higher day to day profile. The extent to which this affects JP impact, if at all, is not clear.

More detailed post-JP documentation of impact and lessons learned as well as in-country time and analysis would be needed to assess whether impacts achieved through EC-CoE cooperation are greater than those that would have been possible in cooperating with other agents/institutions ([8.5.2](#)).

4 Annexes

4.1 Annex 1: List of people interviewed

<i>Last name</i>	<i>First Name</i>	<i>Organization</i>	<i>Position</i>	<i>Date of interview</i>
Aleksov	Rozeta	Standing Conference of Towns and Municipalities	Gender Equality Coordinator	31 May 2012
Arambašić	Stevan	Provincial Ombudsman	Deputy Ombudsman (prisons)	31 May 2012
Blagojević	Marko	Center for Free Elections and Democracy	Director	30 May 2012
Bošković	Slobodan	The Ministry of Justice	Assistant Minister	30 May 2012
Božović	Vladimir	The Ministry of Interior, Service for Combating Organised Crime, Financial Investigation Unit	Head of Department	1 June 2012
Ceha	Milenko	The Ministry of Interior, Service for Combating Organised Crime, Financial Investigation Unit	Head Of Department	1 June 2012
Čeklić	Vladimir	The Ministry of Justice, Directorate for Seized and Confiscated Assets	Head of Department	30 May 2012
Cerović	Irena	Belgrade Fund for Political Excellence	Executive Director	31 May 2012
Cuk	Nadja	Council of Europe	Deputy Head of Office	29 May 2012
Deli Vidacs	Orsolya	Provincial Ombudsman	Advisor for Human Rights	31 May 2012
Dragin	Ankica	Provincial Ombudsman	PR	31 May 2012
Dragojlović	Nataša	Office of the Council for Decentralisation	Assistant Director	31 May 2012
Ergić	Djurdjica	Roma Women Center Bibija	Director	30 May 2012
Gavrilović	Bojan	Belgrade Center for Human Rights	Legal Officer	31 May 2012
Jelinčić	Jadranka	Fund for an Open Society	Director	1 June 2012
Joksimović	Vladan	Council of Europe	Human Right Advisor	29 May 2012
Jovanović	Duško	Provincial Office for Roma Inclusion	Director	31 May 2012
Kern	Martin	EU Delegation to Serbia		29 May 2012
Kisić	Izabela	Helsinki Committee in Serbia	Executive Director	1 June 2012
Licht	Sonja	Belgrade Fund for Political Excellence	President	31 May 2012
Luković	Teodora	Council of Europe	Project Officer	29 May 2012
Meyer	Mato	OSCE Mission to Serbia	Economic Transparency Advisor	29 May 2012
Milanović	Jasna	Association of Independent Electronic Media (ANEM)	Coordinator	30 May 2012

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<i>Last name</i>	<i>First Name</i>	<i>Organization</i>	<i>Position</i>	<i>Date of interview</i>
Milatović	Siniša	OSCE Mission to Serbia	Legal Advisor on Judicial Reform	29 May 2012
Milojević	Aleksandar	The Ministry of Interior, Financial Investigation Unit	Head of Unit	30 May 2012
Milosavljević	Miodrag	Fund for an Open Society	Programme Coordinator	1 June 2012
Mirković	Saša	Association of Independent Electronic Media (ANEM)	Director	30 May 2012
Muškinja Hajnrih	Aniko	Provincial Ombudsman	Ombudsman	31 May 2012
Newton	Matthew	OSCE Mission to Serbia	Programme & Policy Coordinator, Roma Inclusion Programme	30 May 2012
Panović Djurić	Silvija	Council of Europe	Project Officer	29 May 2012
Radosavljević	Ksenija	Council of Europe	Project Officer	29 May 2012
Radosavljević	Miljko	Prosecutor's Office for Organized Crime	Prosecutor for Organized Crime	30 May 2012
Rothemund	Antje	Council of Europe	Head of Office	29 May 2012
Šanjević	Aleksandra	Fund for an Open Society	Programme Coordinator	1 June 2012
Schweiger	Romana	OSCE Mission to Serbia	Head of Rule of Law Department	29 May 2012
Simić	Marijana	Prosecutor's Office for Organized Crime	Chief of Staff	30 May 2012
Soupilas	Konstantinos	EU Delegation to Serbia	Attache/Programme & Cooperation Manager–Operations	29 May 2012
Spasojevic	Emilia	Commission for the Protection of Equality	Chief of Division	1 June 2012
Stanojlovic	Seška	Helsinki Committee	Editor-in-Chief	1 June 2012
Stojimirović	Ana	The Ministry of Interior, Financial Investigation Unit	Advisor	30 May 2012
Tarbuk	Nikola	Standing Conference of Towns and Municipalities	Managing Assistant Secretary for Advocacy	31 May 2012
Vasić	Slavica	Roma Women Center Bibija	Project Officer	30 May 2012
Vasic-Nikolic	Maja	Independent Journalists' Association of Serbia	Project Manager	1 June 2012
Vuckovic-Krcmar	Maja	EU Delegation to Serbia	Programming and Coordination Manager - Operations	29 May 2012
Vukašiković	Eva	Provincial Ombudsman	Deputy Ombudsman	31 May 2012
Vukonjanski	Igor	Ministry for Human & Minority Rights, Public Administration & Local Self-government	Assistant Minister	30 May 2012
Vuković	Djordje	Center for Free Elections and Democracy	Advisor	30 May 2012
Zecevic	Danijela	EU Delegation to Serbia		29 May 2012

4.2 Annex 2: List of documents and sources consulted

FREEDOM OF THE MEDIA IN SERBIA IN 2010 Survey conducted by the Media Studies Department, College of Philosophy of the University of Novi Sad, and the OSCE Mission to Serbia (2011)

ECRI REPORT ON SERBIA (fourth monitoring cycle) Adopted on 23 March 2011 Published on 31 May 2011

Helsinki Committee for Human Rights in Serbia
www.helsinki.org.rs/

Universal Periodic Review - Serbia
<http://www.ohchr.org/en/HRBodies/UPR/Pages/RSSession3.aspx>

"HUMAN RIGHTS SITUATION IN SERBIA" Social Inclusion and Poverty Reduction
<http://www.inkluzija.gov.rs/?p=10924&lang=en>

Serbia - Human Rights Watch
www.hrw.org/europecentral-asia/serb

Belgrade Centre for Human Rights *Human Rights in Serbia* 2011

Helsinki Committee for Human Rights in Serbia *Human Rights Reflect Institutional Impotence* (annual Report 2010)

Report of the Provincial Ombudsman (Vojvodina) 2010

4.3 Annex 3: Description of EC-CoE Joint Programmes in Serbia

Country programmes

Media in Serbia

Start year: 2001

Budget: 176.822 EUR

Objectives and expected results:

Overall objective:

Project purpose:

Expected results:

Activities: Workshops, roundtables, training seminars, expert missions and written analysis/expertise

Project against economic crime

Start year: 2005

Budget: 1.578.200 EUR

Objectives and expected results:

Overall objective: To contribute to the improvement of the capacities of the Republic of Serbia to prevent and combat economic crime in accordance with European and international standards and best practices.

Project purpose:

- Strengthen the capacity of the Serbian authorities against economic crime in accordance with European standards
- To strengthen the institutional and legislative framework for preventing and combating economic crime (including money laundering, terrorist financing and cyber crime)
- To increase the human and infrastructural capacities of institutions involved in the detection and prevention of money laundering and terrorist financing.
- To increase the capacities of institutions involved in detection and prevention of cyber crime

Expected results: For project purpose 1)

- Legal framework against economic crime and other forms of organised crime strengthened
- The Administration for the Prevention of Money Laundering supported in the implementation of the new law on money laundering
- Ratification and implementation of the Convention on Cybercrime and its Protocol on Xenophobia and Racism supported
- Recruit project staff.
- Equip project offices.
- Prepare a detailed work-plan and an inception report.
- Organise a start-up event.

For project purpose 2)

- Institutional system and structure of criminal justice and law enforcement: Legislative proposals available to improve the institutional system and structure of criminal justice and law enforcement bodies with regard to economic crime.
- Specialised law enforcement and criminal justice services on organised crime: Proposals available to improve the legal framework governing the organisation and jurisdiction of specialised law enforcement and criminal justice services on organised crime.
- Amendments to the draft Criminal Code and Criminal Procedure Code: Legislative proposals available for amendments to the draft Criminal Code and Criminal Procedure Code with regard to the effective prosecution of economic crime in line with European human rights standards.
- Ratification and implementation of the COE AML/CTF and Cyber crime Conventions Legislative proposals available permitting ratification and implementation of the new Convention on

money laundering and terrorist financing (ETS 198) and the Convention on Cybercrime (ETS 185).

For project purpose 3)

- AML/CTF training for FIU, law enforcement, prosecutors and judges: FIU, law enforcement staff, prosecutors and judges trained in issues related to money laundering and terrorist financing.
- FIU IT department reinforced

For project purpose 4)

1. Networking for the implementation of the COE Cybercrime Convention: Co-operation between policy-makers, state bodies, business community, industry (including the international service providers) and civil society strengthened in view of the implementation of the Convention on Cybercrime (ETS 185).
2. Cybercrime training for LA, prosecutors and judges: Law enforcement, prosecutors and judges trained.

Activities: equip project office, cover running costs, steering group meetings, seminars, workings groups meetings, workshops, study visits, needs assessment, seminars, assessment mission, round tables and conferences

Support to Belgrade Fund for Political Excellence

Start year: 2005

Budget: 882.120 EUR

Objectives and expected results:

Overall objective: To facilitate the building and continued development of new, democratically minded leadership in political sphere and other parts of public life that would run the state and society toward European integrations in responsible manner

Project purpose: the purpose of the project is to consolidate the BFPE as the relevant resource centre that provides transfer of knowledge and skills necessary for the democratic transformation of Serbian and Montenegrin society, including its preparation for the accession to European and Euro-Atlantic structures. Thus, the main focus is placed on the process of European integration

Expected results:

- Stable position of the BFPE as the relevant resource centre providing education in European integrations and cross-party training
- Educational programme consisting of targeted seminars and specialised courses in the field of democracy and the rule of law, political, economic and social transition, security, regional co-operation and accession to the EU developed and implemented
- Political and civic leadership training for representatives of political elite and other sectors of public life (judiciary, media, NGOs, trade unions, business) developed and implemented
- Ongoing promotion of European integration via regular press coverage and communication of highlights and other public events

Activities:

Support to promote freedom of expression and information and freedom of media in accordance with CoE/EU standards

Start year: 2006

Budget: 286.701 EUR

Objectives and expected results:

Overall objective: To promote freedom of expression and information and freedom of the media in Serbia, in accordance with Council of Europe/EU standards.

Project purpose: To support the establishment of a regulatory framework for freedom of expression and for the media in line with Council of Europe/EU standards

Expected results:

- The compliance of new and/or amended existing laws and regulations on freedom of expression and freedom of the media with Council of Europe/EU standards.

- Public authorities are informed and trained on European standards on freedom of expression and information.
- Media professionals are informed of and trained in their rights and responsibilities

Activities: Seminars, roundtables, workshops, study visits, conferences and seminars

Strengthening local self-government

Start year: 2006

Budget: 1.474.719 EUR

Objectives and expected results:

Overall objective: To facilitate the implementation of the Work Programme for Better Local Government in Serbia in the field of legal framework for decentralisation and capacity building for local government

Project purpose:

- Support the development of a sound institutional framework for local self-government by providing assistance with and advice in the review of specific laws and regulations, in accordance with European standards
- Develop effective leadership, strategic management in the provision of public services and community participation in Local Authorities (LAs) through the implementation of three innovative capacity building programmes for local government
- Overall programme management

Expected results: For project purpose 1)

1. Recommendations and drafting proposals on enhancing the distribution of powers and responsibilities between local executive and deliberative bodies are prepared
2. Recommendations and drafting proposals on improving the assignment of tasks to different levels of government, in accordance with the principle of subsidiarity, are prepared
3. Recommendations and drafting proposals on establishing a balanced, transparent, and stable assignment of revenues to local authorities, in accordance with European standards for local government finance are prepared
4. Recommendations and drafting proposals on effective and objective state grant and equalisation systems are prepared
5. Recommendations and drafting proposals on local government ownership rights are prepared
6. Recommendations and drafting proposals on strengthening the legal status of local government staff are prepared

For project purpose 2)

- Best Practice local authorities (in selected areas in leadership, service provision and community participation) officially recognised and their success celebrated. Practical, tailor-made training programmes (including tools and materials) focused on achieving better quality local government developed on the basis of identified Best Practice. Experience exchanged and co-operation enhanced between local authorities across Serbia.
- Leadership Improvement Plans adopted and Leadership Development programmes implemented in 10 pilot local authorities, in response to external assessment by trained peers. The Benchmark widely accepted as a reference for good leadership, service provision and community engagement to be used by local government.
- Performance improvement in 2 local government services in pilot LAs as a result of a systematic use of performance indicators. A systematic approach to performance management is adopted in pilot LAs within the SCTM framework.

For project purpose 3)

- Programme Management Unit in Belgrade (CoE Office)
- Support and Supervision Team in Strasbourg (DGI-Local and Regional Democracy)
- Programme Co-ordination
- Administrative costs in Belgrade
- Administrative costs in Strasbourg (overheads 7%)

Activities: Development of recommendations, coordination meetings, Best Practice Programme, Leadership Programme, Performance Management Programme, Launching Meeting

Project on the implementation of the National Judicial Reform Strategy

Start year: 2007

Budget: 220.015 EUR

Objectives and expected results:

Overall objective: To improve the independence, impartiality, competence and effectiveness of justice by contributing to the setting up of fair and accessible justice systems, while taking into account the specific needs of each jurisdiction, in order to strengthen the Rule of Law on which European democracies rest.

Project purpose: Implementation of the National Judicial Reform Strategy

Expected results: Implementation of the National Judicial Reform Strategy – assessment of results achieved and future challenges.

Activities: Expert missions, expertise, participation in CoE roundtable

Strengthening Higher Education Reforms in Serbia

Start year: 2007

Budget: 570.000 EUR

Objectives and expected results:

Overall objective: To support and accelerate higher education reforms based upon the Bologna Process, in order for Serbian universities to compete at a European and international level.

Project purpose:

- Support functioning of the existing ENIC, implementation of the Lisbon Recognition Convention and subsidiary documents and assist in drafting of the Serbian NAP
- Support Implementation of quality assurance standards and guidelines as proposed by the European Association for Quality Assurance (ENQA).
- Support elaboration of a Higher Education Qualifications Framework for Serbia in line with the overarching framework for qualifications in the EHEA.
- Review higher education legislation and propose amendments.

Expected results:

Recognition of Qualifications and Study periods

- Fully operational ENIC integrated in the ENIC/ NARIC Network
- Analysis of the current recognition practice in Serbia HEIs undertaken
- Relevant administrative staff at Serbian HEIs able to apply procedures associated with the LRC at their respective institution
- LRC manual produced and available
- Drafting of the Serbia NAP undertaken

Quality Assurance and Accreditation

- Support provided to NCHE and CAQA in their respective tasks based on the Standards and Guidelines for Quality Assurance in the EHEA
- NCHE and CAQA have established working relations with relevant partner institutions abroad.
- A generic (non subject related) HEQF is developed.
- The HEQF is piloted with 1-2 individual subjects/professions
- Roadmap for the further elaboration and implementation of the HEQF is agreed upon by the relevant stakeholders.
- Network of Serbian HEQF experts established
- Guide for the application of the ECTS and learning outcomes is produced and available

Qualifications framework

- A generic (non subject related) HEQF is developed.
- The HEQF is piloted with 1-2 individual subjects/professions

- Roadmap for the further elaboration and implementation of the HEQF is agreed upon by the relevant stakeholders.
- Network of Serbian HEQF experts established
- Guide for the application of the ECTS and learning outcomes is produced and available

Review of legislation

- A comprehensive review of the existing higher education legislation undertaken.
- Proposed amendments and/or new legislation explained and discussed with the authorities and stakeholders.
- Finalized expert opinion prepared

Complementary measures

- Nationwide dissemination of the project activities and results.
- Functional project management structures in place allowing for timely, efficient, and effective implementation.
- Students are actively involved in the implementation of the reform areas addressed by this Project
- Gender equality awareness raised

Activities: training events, meeting of working groups, publication of material, self-evaluation, study visits, surveys, seminars and conferences

Strengthening local self-government in Serbia (Phase II)

Start year: 2009

Budget: 2.200.000 EUR

Objectives and expected results:

Overall objective: To contribute to the sustainability of initiatives in the area of local self-government and to the full ownership by national key stakeholders of the local self-government reform agenda.

Project purpose: The establishment of a efficient local government system in order to promote good governance and more effective provision of services to citizens

Expected results:

- Consolidated institutional and legal framework for local self-government (in the areas of i. Basic legislation, ii. Town and municipal statutes, iii. Legal Status of Staff , iv. Law on Communal Police, v. Election laws, vi. Administrative supervision)
- Improved financial arrangements for local self-government and support to fiscal decentralisation (in the areas of i. Local budgets, ii. Expenditure standards iii. Municipal property, iv. Equalisation system, v. Municipal Debt, vi. Auditing system)
- Strengthened co-ordination mechanisms and decentralisation strategy developed
- Enhanced citizen participation at local level and awareness raised on local government issues, through the support to the drafting and implementation of a Law on Local Referendum and Popular Initiative.

Activities: Assessment studies, support to the Ministry, Comparative Study, Formulation of proposals, Programme's Launching Conference

Strengthening the capacities of the Directorate for Confiscated Property Management and improvement of the system for search, seizure and confiscation of proceeds from crime in Serbia

Start year: 2010

Budget: 2.140.000 EUR

Objectives and expected results:

Overall objective: Improving the institutional capacity and efficiency in the seizure of assets process.

Project purpose: Improving the institutional capacity and efficiency of the Directorate for Confiscated Property Management and other relevant institutions involved in the seizure of assets process in Republic of Serbia

Expected results:

1. Inception phase
2. Legal framework developed in cooperation with relevant partner institutions.
3. Directorate for Confiscated Property Management and institutions in charge of financial investigations apply international best practices in investigation, estimation of the value of the seized assets and in other areas related to the seizure of assets;
4. Specific measures to seize proceeds from crime and operational protocols on information exchange between the Directorate for Confiscated Property Management, the Unit for financial investigation of Ministry of interior and other relevant institutions developed and implemented
5. Citizens are aware of the importance of efficient mechanism for the search, seizure and confiscation of the proceeds from Crime in the process of fight against organized crime and corruption and supportive to it.

Activities: Project planning missions, CAR Project

Project against Money Laundering and Terrorist Financing and Economic Crime in Serbia (MOLI)

Start year: 2010

Budget: 2.200.000EUR

Objectives and expected results:

Overall objective: To enhance the capacities of key institutions of the anti-money laundering system of Serbia.

Project purpose: To enhance the capacities of the anti-money laundering and counter-terrorist financing system in Serbia in terms of legislation, skills and operational capacities

Expected results:

- Legislative proposal available to make Serbian legislation compliant with the applicable European and international standards
- Increased public support to efforts to prevent and control economic crime
- Capacities of the APML to carry out its duties in line with the implementation of the AML/CTF legislation and Moneyval recommendations is increased
- Capacity of law enforcement agencies, relevant service of the MOF and judiciary to detect, investigate, prosecute and adjudicate in the money-laundering, terrorist financing and economic crime cases (including tracing criminal money on the internet) is increased
- The capacity of regulators, supervisors and obliged institutions to fulfil their obligations under AML/CTF legislation, to implement the Moneyval recommendations and take measures based on risk analysis is increased
- Mechanisms and procedures reinforced for interagency cooperation and information exchange within the relevant bodies of the AML/CTF system in Serbia, including between public and private sector
- Technical infrastructure improved to collect, analyse and exchange information necessary to prevent and control money laundering, terrorist financing and predicate financial crimes

Activities: Project management, capacity of regulators, supervisors and obliged institutions, capacities of the law enforcement agencies, Technical Infrastructure

Multi-country/regional programmes

Roma - Council of Europe-OSCE/ODIHR Project on Roma under the Stability Pact.

Start year: 2001

Budget: 310.211EUR

Objectives and expected results:

Overall objective:

Project purpose:

Expected results:

Activities: Assessing Roma access to health care, housing, social welfare, citizenship and residence, roundtables, establishment of National Roma Council, Feasibility Study

Serbia & Montenegro - EIDHR - 2003-2005 - Joint Programme of Co-operation between the European Commission and the Council of Europe to support the process of accession by Serbia and Montenegro to the Council of Europe

Start year: 2003

Budget: 1.500.000 EUR

Objectives and expected results:

Overall objective: Support the process of post accession of Serbia & Montenegro to the CoE & the sound development of democratic institutions

Project purpose:

- To enable the governments of S&M to align legislative normative framework and its implementation in conformity with ECHR, ECPT, ESC and other European standards
- To enable the Ministries of Justice of Serbia and Montenegro to reform the judicial system and ensure its effective functioning on the basis of European standards and the ECHR
- Enabling the Ministries of Justice of Serbia and Montenegro to fulfil the European requirements while managing the prison systems
- To support the full and effective integration of civic and human rights education into the secondary school curriculum in Serbia & Montenegro
- Programme management

Expected results: For project purpose 1)

- Amend key legislation in conformity with ECHR and other European standards
- Increased public debate on legislative reforms
- Improve knowledge of local experts in CoE working methods

For project purpose 2)

- Legislation on the judicial system amended in conformity with European standards and ECHR
- Operation of the bodies in charge of guaranteeing the independence of the judiciary improved
- Training structures for judges and prosecutors rationalised

For project purpose 3)

- Prison administration and prison staff aware of European standards as regards the management of prison and the treatment of prisoners including: the treatment of long term prisoners, the management of overcrowding establishments, the management of juveniles in prisons, health care in prison,
- Draft amendments or reforms to the legislation (including juveniles) prepared and submitted to the Parliaments
- Community sanctions and measures introduced

For project purpose 4)

- Education policy is conducive to the objectives of human rights and civic education
- Initial teacher training programmes in conformity with the objectives of human rights and civic education
- Teachers and teacher-trainers trained on human rights and civic education
- New teaching materials adopted and published

For all five project purposes: Management

Activities: Expert opinion, working groups, round tables, information seminars, translation and dissemination of material, study visits, conferences, provision of material, expert assistance, training seminars, steering committee, policy seminars, HR education,

Democracy through free and fair elections

Start year: 2003

Budget: 400.000 EUR

Objectives and expected results:

Overall objective: The project aims to analyse key aspects of European electoral law and to assist national authorities in improving the quality of electoral legislation and practice.

Project purpose: To improve the quality of electoral legislation and practice, in particular through assistance to national authorities and information to the public.

Expected results:

- To identify the weak points of electoral legislation and the need to revise it, in particular on the basis of the observation reports of the Parliamentary Assembly and the Congress of Local and Regional Authorities (CLRAE)
- To ensure that the fundamental principles of European electoral law are reflected in draft and adopted electoral legislation
- Dissemination of principles of electoral law and practice

Activities:

1. Assistance to observation mission and opinion on electoral legislation
2. Workshop and seminars on the holding and supervision of elections

Roma II - Joint -Programme between the EC and the Council of Europe regarding democratisation and the rule of law

Strand 4) To provide public administrations with the tools for the effective implementation of national strategies for Roma at local level

Start year: 2003

Budget: 600.000EUR

Objectives and expected results:

Overall objective: To assist and empower Roma groups in South Eastern Europe in claiming their Human Rights entitlements.

Project purpose:

1. To promote a more active co-operation among Roma organisations in SEE for common goals, including the realisation of National Roma Strategies and Action plans.
2. To strengthen the capacity of local and national public administrations to protect and ensure the entitlements of Roma peoples to international Human Rights standards.

Expected results:

For project purpose 1) Networks of Roma established in all the target countries as focal points for authorities, Roma communities and international organisations.

For project purpose 2) local authorities responsible for the implementation of the National strategies, elaborate comprehensive policies, in partnership with the Romani representatives and organisation.

Activities: Workshops, trainings, roundtables, consultant visits

EIDHR - Network of Schools of Political Studies

Start year: 2004

Budget: 1.000.000 EUR

Objectives and expected results:

Overall objective: Support the activity of the network of Schools of Political Studies, established under the responsibility of the Council of Europe by various civil society partners in South-East Europe and South Caucasus in order to consolidate pluralistic democracy, human rights and the rule of law through the emergence of a new generation of leaders in political life and civil society.

Project purpose:

- Young leaders coming from political, economic, social and cultural sectors in Albania, Bosnia and Herzegovina, Georgia, Kosovo, "the former Yugoslav Republic of Macedonia", Moldova and Serbia and Montenegro are able to use in their everyday life European standards with respect to pluralistic democracy, human rights and rule of law.
- Establish a Network of Schools to ensure an exchange of information, experiences and resources.
- Efficient management of JP implementation.

Expected results: For purpose 1)

- Young leaders are able to use in their everyday life European standards in Pluralist Democracy, Political Parties and the conduction of elections, Local democracy and transfrontier co-operation.
- Young leaders are provided with an update information on the state of European integration - perspectives and challenges.

For purpose 2)

- Schools able to benefit and integrate experiences from each other, as a result of belonging to the Network.

For purpose 3)

- Meeting of Directors
- Audit
- Evaluation
- Administration

Activities:

- Establishment of relationships among participants to support integration into professional networks.
- Joint seminars bringing together several schools
- Exchange of students for regional seminars
- Meetings of school directors
- Alumni network activities

CARDS - South East Europe - Police and Economic Crime**Start year:** 2004**Budget:** 4.444.000EUR**Objectives and expected results:**

Overall objective: The project is to strengthen the capacities of the CARDS countries to develop and implement regional strategies against serious forms of crime based on the acquis of the European Union and other European standards and practices.

Project purpose:

1. To develop a regional strategy against economic and organised crime in South-eastern Europe based on the acquis of the European Union and European standards and practices, and to provide law enforcement institutions with the tools necessary to implement the strategy.
2. To strengthen the capacities of training institutions in the countries of the region to deliver training in all matters related to trafficking in human beings, smuggling and illegal migration based on standards and benchmarks in line with EU policies and practices.
3. Evaluation, audit and administration

Expected results:

For project purpose 1)

1. A regional strategy developed on economic and organised crime in accordance with the acquis of the EU and European standards and practices and based on
2. Capacities for financial investigations aimed at the confiscation of proceeds from crime strengthened
3. More effective use of special investigative means and intelligence in accordance with human rights standards supported
4. The creation of effective mechanisms to protect witnesses of serious crime supported
5. Capacities for cooperation in criminal matters among the countries of South-eastern Europe made more efficient

For project purpose 2)

- Training strategy developed and adopted based on a thorough analysis of needs and capacities

- Curricula and training materials to trafficking in human beings, smuggling and illegal migration developed, tested and available for further training

Activities: roadshows, expert meetings, regional meetings, seminars, expert reviews, study visits, roundtables, workings groups, workshops and trainings, publication of training material, assessment of training needs, implementation of programme

Social Institutions Support

Start year: 2004

Budget: 2.196.122EUR

Objectives and expected results:

Overall objective: To support co-operation on the reform of the social sector and to offer models of reform to the partner countries with regard to institutions building in the social sector.

Project purpose:

- Support cooperation on the reform and viability of the social sector by coordinating and monitoring social policy;
- Improve cross-border cooperation in the field of social protection for migrating and moving persons;
- Improve institutional capacity for quality development and proficiency in the social sector.

Expected results:

For project purpose 1)

- Streamline and strengthen processes of co-ordination of national plans for strategic reform in order to gradually align to the European standards (European Union and Council of Europe), in particular with respect to the modernisation, adequacy and viability of the social protection systems.#
- Outline models of financing and administrative procedures; develop criteria for balanced reform of social protection.
- Support the development of the legislative framework for implementing the revised social security policies

For project purpose 2)

- Modernise co-ordination techniques in line with the co-ordination principles developed by the Council of Europe and the EU
- Guarantee equal access to social security rights in general and more specifically in relation to the cost compensation schemes (health care, child benefits and social assistance). Improving the access to social protection for all vulnerable groups, especially for the displaced persons who have no recognised refugee status
- Set out the basis for removal of existing impediments to cross border payments of social benefits; support procedures for cross border payment of health care
- Support developing specific co-ordination techniques between regional social security systems in federal states

For project purpose 3)

1. Create platforms to discuss social policies that are open to all governmental and non governmental actors, promote social dialogue and participation of social partners in the policy making process.
2. Establish inter-country networks of key-professionals to promote the reform agenda and consolidate a regional network of experts
3. Improve the capacity by targeted training for specialised professions in the field of social security and cross-border social security

Activities: are to produce and commission a set of studies on the viability of social insurance and reform of the social sector in the CARDS countries in cooperation with the national (regional) focal points; to stimulate exchange of best practice between administrations from partner countries in the area of viability and access to services under consideration of the European social security standards of the Council of Europe, European Union and International Labour Organisation; to organise and manage a set of events (trainings, seminars) in relation to the above issues. to screen national

legislation on possible conflicts with the major principles of social security coordination and screen impact of applying the major coordination principles to national security systems; to support the development of relevant coordination treaties in the region and/or with member states of the European Union.

Support to parliamentary institutions in the Republic of Serbia and in the Republic of Montenegro - Joint Initiative by PACE and EAR

Start year: 2005

Budget: 1.588.889 EUR

Objectives and expected results:

Overall objective: Joint initiative to support parliamentary institutions in Serbia and Montenegro. An EU-funded project managed by the European Agency for Reconstruction (EAR) and implemented by the Parliamentary Assembly of the Council of Europe (PACE). To strengthen administrative capacity of 3 assemblies in line with European standards

Project purpose:

- To offer comparative analysis of Rules of Procedure and on various laws on political parties in an effort of harmonisation
 - To offer European expertise to committees, enabling MPs to better understand the proposals before them, in particular on the requirements of the Stabilisation and Association Process
 - To offer experience of European political culture and to raise awareness by seminars for MPs about their rights and obligations
 - To offer insight into European political practice by study visits in parliaments having accomplished transition to democracy
 - To organise English language and computer courses enabling MPs and staff to develop international contacts and get

- management

Expected results:

For project purpose 1)

7. Organisational structures of parliaments will be streamlined and knowledge of efficient working parliaments will be transferred
8. Parliaments will achieve more independence and knowledge in their legislative work of adaptation to European norms and the requirements of the S.A. Process
9. Improved knowledge of MPs of European political practice through study visits
10. Improved capacity of the parliaments to establish international contacts and independent access to information through training
11. Evolution of political stability and European minded leadership will be supported by transferring experience of the role of parliament in democracy

For project purpose 2)

3. Steering Committees
4. Administration of activities

Activities: Seminars, study visits, meetings, round tables, English language training courses, steering committee meeting, administrative support

Advancing equality, tolerance and peace: Equal rights and treatment for Roma - EIDHR

Start year: 2005

Budget: 550.000EUR

Objectives and expected results:

Overall objective: Development of participative monitoring and evaluation mechanisms of national programmes/action plans for Roma in South East Europe.

Project purpose: Interministerial commissions and other relevant actors in charge of the implementation of national programmes/action plans for Roma have improved their monitoring mechanism and communication strategy. Auditing and financial

Expected results:

- Monitoring reports produced by interministerial commissions are improved
- Strategies/action plans are transparent and visible through improved communication channels and the awareness-raising campaign has contributed to improve the image of Roma
- The two previous joint EC/CoE/OSCE-ODIHR programmes on Roma are evaluated by an independent body and the third joint programme is monitored

Activities: seminars, needs assessment on monitoring and evaluation, training and mentoring, trainers' training, campaign material, festival, evaluators' visits

Network of Schools of Political Studies - EIDHR

Start year: 2006

Budget: 1.300.000 EUR

Objectives and expected results:

Overall objective: To contribute to improving the democratic stability through increasing the level of knowledge in matters such as modern management of public services, better functioning of political and administrative institutions, facilitating the dialogue in society, and spreading European values.

Project purpose: Young leaders coming from political, economic, social and cultural sectors in Albania, Armenia, Georgia, Kosovo/UNMIK, "the former Yugoslav Republic of Macedonia", Moldova and the Russian Federation are able to use in their everyday life/work European standards with respect to pluralistic democracy, human rights and the rule of law.

Expected results:

7. Young leaders coming from political, economic, social and cultural sectors in Albania, Armenia, Georgia, Kosovo/UNMIK, "the former Yugoslav Republic of Macedonia", Moldova and the Russian Federation are able to use in their everyday life/work European standards with respect to pluralistic democracy, human rights and the rule of law.
8. Network of schools is established and strengthened to ensure an exchange of information, experiences and resources.

Activities:

- Seminars, training and courses
- Evaluation and presentation of essays

CARDS - Development of a reliable and functioning Prison system respecting fundamental rights and standards and enhancing of regional co-operation in the Western Balkans

Start year: 2007

Budget: 902.559EUR

Objectives and expected results:

Overall objective: Enhance regional co-operation and develop a reliable and functioning prison system in the Western Balkans countries, based on the rule of law and respect for fundamental rights and European democratic values and standards.

Countries : Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Serbia.

Project purpose:

- Develop and encourage regional cooperation in the penitentiary field in the Western Balkans with a view to establishing harmonised national prison strategies in line with European standards
- Enhance the legal systems by bringing laws and regulations into conformity with European standards as contained in the revised European Prison Rules and other relevant Recommendations of the Council of Europe Development of legislation
- Develop training programmes and enhance local training capacities so as to increase staff knowledge of European standards and best practices, in particular in the field of human rights
- Contribute to the development and consolidation of systems of governmental and independent inspection mechanisms
- Facilitate the exchange of information and communication through the development of a strategy for compatible information systems

- Improve the conditions of imprisonment of vulnerable groups and special high risk prisoners through the development of dedicated programmes
- Optimise conditions for reducing prison overcrowding by reviewing legal provisions promoting alternatives to imprisonment and identifying good practices in the optimisation of space

Expected results:

- For project purpose 1) Development of regional guidelines for harmonised prison strategies
- For project purpose 2) Reviewing of national laws and regulations.
- For project purpose 3) Prison management and operational staff's professionalism is strengthened by improving their knowledge on European human rights standards, in particular the ECtHR and its case law and the standards of the CPT, as well as their skills in using these in their daily work.
- For project purpose 4) Guidelines on governmental and independent inspection mechanisms are developed. Stakeholders, including relevant government officials, Ombudsmen institutions and NGOs, are trained on how to carry out inspections.
- For project purpose 5) Establishment of a network, creation of a dedicated web site with a shared data base and development of IT systems.
- For project purpose 6) The specific situation of the mentally ill and victims of chemical addictions is taken into consideration in their treatment by the prison administration and staff. Good practices are developed towards vulnerable groups and high risk prisoners, including war criminals.
- For project purpose 7) Harmful effects of imprisonment are reduced firstly by the development of alternatives to imprisonment and also by improving the use of prison capacity.

Activities: Assessment visits, expert missions, seminars, training of trainers, pilot cascade training seminars on European human rights standards, preparation of guidelines, round tables, working meetings and study visits

Support to the prosecutors' network in South-East Europe

Start year: 2008

Budget: 1.666.669

Objectives and expected results:

Overall objective: To strengthen the capacities of the CARDS countries to develop and implement judiciary co-operation against serious crime based on the EU acquis and other European and international standards and practices by supporting the Prosecutor's Network in South-eastern Europe.

Project purpose: To strengthen the legislation and institutional capacities of Prosecutors' Offices of South-eastern Europe in view of more effective co-operation against organised and other forms of serious crime.

Expected results:

- The laws related to effective investigations and prosecutions of serious crime cases and cross-border co-operation are available in each project area
- Contact points and selected prosecutors from General Prosecutor's Office in each project area are trained and have the necessary knowledge, working tools and procedures to better co-operate in-country and cross-border
- Co-operation between contact points and selected prosecutors from each project area and their counterparts in selected EU countries (and EUROJUST) is strengthened
- Contact points and selected prosecutors have benefited from an internship programme with EU countries
- PACO Manual on judicial co-operation against organised crime and corruption updated and published, and other tools (including translations of relevant documents and web resources) are available and translated in local languages
- The networking among contact points is strengthened

Activities:

- Legal and technical advice to improve the existing legislation

- In-country and regional trainings on specific issues allowing more effective co-operation, investigation and prosecution of serious crime
- Two-week internships for prosecutors from each project area
- Regional meetings of contact points of the SEE Prosecutors' Network and other relevant officials (from the Ministries of Justice, Ministries of Interior/Security)
- Amendment of the Memorandum of Understanding (MoU) for regional co-operation against organised crime

Peer project - Setting up an active network of independent non-judicial Human Rights Structures in the Council of Europe member States which are not members of the European Union

Start year: 2008

Budget: 900.000 EUR

Objectives and expected results:

Overall objective: To assist National Human Rights Structures (NHRS) in developing competencies concerning European human rights standards and practice and promote their joint initiatives aimed at networking, mutual exchange of information and sharing of best practices.

Project purpose: National Human Rights Structures (NHRSs) are more aware of European standards and practices in the field of Human Rights and are able to act independently and efficiently in line with the Paris Principles, for the protection and promotion of the Human Rights.

Expected results:

- National human rights structures with independent and efficient functioning in conformity with the Paris Principles are established and/or strengthened at national, regional or local level.
- The staff of the National Human Rights Structures have enhanced their knowledge of European standards of human rights protection, and have extended their awareness of possibilities of action.
- An active network of the national human rights structures and the Commissioner's Office is created and developed, to interact effectively at the national and international levels.

Activities:

- Joint mission with other international actors
- Roundtables and workshops
- Webpage of the NHRS network
- Annual Meeting of NHRS Contact Persons

Regional Programme for Social Security Co-ordination and Social Security Reforms in South-East Europe

Start year: 2008

Budget: 2.196.122EUR

Objectives and expected results:

Overall objective: To further enhance the coordination of the social security systems and to facilitate the institutional, legislative and administrative reforms in the field of social protection according to EU standards.

Project purpose:

- To improve institutional capacity for quality development and proficiency in the social sector,
- provide institutional, legislative and administrative guidance to reform the social security coordination field in line with EU standards.

Expected results:

- Implementation of the Programme following Action Plan.
- Improve the know-how of middle and upper level civil servants for the delivery of cross-boarder social welfare.
- Improve the know-how of middle and upper level civil servants for the delivery of cross-boarder social welfare.
- Support the development of the legislative framework for implementing social security policies.

- Streamline and strengthen processes of co-ordination of national plans for strategic reform in order to gradually align to the European standards in particular with respect to the modernisation, adequacy and viability of the social security and social protection systems.

Activities:

- For project purpose 1) Three Social Security Summer Schools (two week intensive training in the different social security areas with an official exam at the end of the training); three progressive Health care workshops (new area), two progressive Pensions workshop (area partially examined under the First Joint Programme); One IT social security database exchange workshop; One study tour.
- For project purpose 2) Twelve Rounds of Speaking day, eight sets of studies (one per Beneficiary Party) concerning Health care and another eight sets of studies in the Pension field; eight sets of legal analysis (national memoranda); three meetings on compatibility of legislation (bases on studies mentioned before); five Steering Committee meetings; one State Secretary meeting; one Ministerial Conference and one meeting on examination of changes introduced and recommendations to be adopted.

Network of Schools for Political studies II**Start year:** 2009**Budget:** 3.519.000 EUR**Objectives and expected results:**

Overall objective: Overall objective(s): To promote a democratic society, pluralist, respect for human rights and the rule of law through training of new leaders of public and private sectors of following countries and regions: Albania, Armenia, Azerbaidjan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Georgia, Moldova, Montenegro, Romania, Russian Federation, Serbia, Kosovo UNSCR 1244/99, "The former Yugoslav Republic of Macedonia", Ukraine.

Project purpose: Young leaders are trained on democratic values and practices. Network of schools and alumni are created to develop the exchange of information and experiences, and contributes to dialogue.

Expected results:

- Young leaders coming from political, economic, social and cultural sectors from South-East Europe, the Caucasus, Russia, Ukraine and Belarus are trained on democratic values and practices
- The network of Schools of Political Studies is developing to ensure an exchange of information, experiences and resources between schools and alumni
- The programme's visibility is increased

Activities: Selection of 40 participants every year. Designation of an annual programme of activities, including the choice of experts. Organisation of national and regional seminars. Participation in the Summer University for Democracy. Participation of the Directors in co-ordination meetings.

Peer-to-Peer II - Promoting national non-judicial mechanisms for the protection of human rights and especially the prevention of torture**Start year:** 2010**Budget:** 1.600.000 EUR**Objectives and expected results:**

Overall objective: To help avoid, put an end to or compensate for human rights violations in Council of Europe member States which are not EU members, as well as, to the extent possible, Belarus.

Project purpose: Supporting and strengthening the functioning of National Human Rights Structures (NHRSS)/National Preventive Mechanisms (NPMs) in line with international and European standards (including the Paris Principles and OPCAT), to enhance their awareness of the European standards and practices in the field of human rights and to assist them in building or strengthening the capacities to protect and promote, with increasing efficiency, abidance by such standards by respective national, regional and local authorities.

Expected results:

5. NHRs and NPMs are set up at national, regional or local level. Their independent and efficient functioning in conformity with the Paris Principles and the OPCAT is strengthened and defended.
6. Specialists within these structures are trained on the non-judicial protection in specific areas of human rights which the Council of Europe and the NHRs themselves have identified as objects of major concern throughout Europe. They deepen their knowledge of European system of Human Rights protection, in particular, of the case-law of the European Court of Human Rights (ECtHR) and admissibility criteria for cases brought before it. As a result, domestic human rights monitoring by NHRs and NPMs is enhanced. More cases settled out of the national courts or of the ECtHR by intervention of the NHRs.
7. Transfer of international know-how on torture prevention held by CPT and SPT transferred to the national level of NPMs.
8. An active network of the NHRs and the various Council of Europe human rights mechanisms as well as of the NPMs, the CPT (European Committee for the Prevention of Torture) and the SPT (Un-Subcommittee against Torture) is created so as to combine effectively the defence of the human rights in question at the national and the international level, under the auspices of the Council of Europe. Information comes from NHRs/NPMs to help the Council of Europe and UN bodies to react more speedily vis-à-vis potential or real human rights violations.

Activities:

- Targeted missions to countries where there might be a political momentum for the setting up of a NHRs or an NPM.
- Thematic workshops for the sharing of experiences and brainstorming by officials of the various NHRs / NPMs and publication of debriefing papers reflecting the results of these workshops.
- Annual meetings of the Contact Persons of NHRs to ensure the overall co-ordination and take stock of the activities and adapt working methods and projects.
- Information and communication tools, such as an interactive website, a newsletter for the attention of the NPMs, a collaborative space and issues of the "Regular Selective Information Flow" for the attention of all NHRs, including NPMs.

Project against cybercrime in South-East Europe (cyber@SEE)**Start year:** 2010**Budget:** 2.777.778EUR**Objectives and expected results:****Overall objective:** To enhance the ability of countries of the region to prevent and control cybercrime**Project purpose:** To strengthen the capacities of criminal justice authorities of Western Balkans and Turkey to cooperate effectively against cybercrime**Expected results:**

1. Policy- and decision-makers have reached agreement on strategic priorities regarding cybercrime for Western Balkans and Turkey
2. Legislation is harmonised with the EU acquis and other relevant European standards, in particular the Budapest Convention on Cybercrime
3. Enhanced regional and international cooperation based on chapter III of the Budapest Convention.
4. Law enforcement training strategy agreed and implementation initiated
5. Judicial training on cybercrime and electronic evidence integrated into the curricula of training institutions for judges and prosecutors
6. Capacities enhanced to follow crime proceeds on the internet
7. Cooperation between law enforcement and Internet service providers (ISPs) in investigations related to cybercrime strengthened
8. Regional assessments carried out to determine progress made

Activities: Advice, studies, assessments, conferences and workshops, workshops (in-country, regional, international), preparation of training materials

4.4 Annex 4: Introductory Letter to Stakeholders in Serbia

To Whom It May Concern

25 April 2012

Subject: Evaluation of the EC Cooperation with the Council of Europe – Country Case Study Serbia

Particip, a Germany-based consultancy company, has been contracted by the European Commission to conduct an evaluation of the cooperation of the European Commission with the Council of Europe, with particular emphasis on the effectiveness and impact of the Joint Programmes of the EC and CoE during 2000-2010.

This evaluation, led by Landis MacKellar, commenced in late 2010 and a desk review has been approved by the Evaluation Reference Group. This desk review looked – in addition to broader, institutional, parameters of the EC-CoE cooperation – at the portfolio of Joint Programmes in 8 countries, namely Armenia, Azerbaijan, Bosnia and Herzegovina, Macedonia, Moldova, Russia, Serbia, and Turkey.

In accordance with the Evaluation Terms of Reference, the desk review is to be followed by 4 country visits, including Serbia. The aim of field visits is to test, corroborate, or refute, tentative findings from the desk phase, and to collect additional data. Field visit countries were chosen on a number of parameters: to allow the team to cover the spectrum of EU-CoE cooperation, to take account of country-specific and regional Joint Programmes, and other criteria including EU accession status, potential relevance of lessons identified for other countries etc.

The field trip to Serbia will be conducted during May 28-June 1st 2012 by Core Evaluation Team member Vera Devine and Patrick Twomey. They will be supported by local expert Nikola Duvnjak.

Vera Devine has worked on technical advice on anti-corruption, good governance, and rule of law issues since 2001, for a wide range of international and bi-lateral organisations, including the OECD, UNDP, the Council of Europe, Norad, Sida, and BMZ. In recent years, she has increasingly focussed on evaluating programmes and projects on these topics. She is also an experienced trainer and facilitator.

Patrick Twomey is a barrister and Director of the *International Human Rights Network*, an NGO based in Ireland. He is Programme Director for IHRN's annual training programme *Justice Sector Reform: Applying Human Rights Based Approaches* and has conducted evaluations (on justice sector, human rights and institutions) for a range of actors, including the EC, UN and bi-lateral donors.

Nikola Duvnjak is a professional working on public governance and social inclusion issues in Serbia. He is the author of several assessments in the fields of good governance, human/minority rights and social inclusion.

Discussions are planned with stakeholders responsible for, and engaged on, the issues chosen for specific focus in the Serbia field visit. These are:

- Fight against corruption and money laundering;
- Strengthening the protection of human rights, including the rights of minorities;
- Strengthening democratic institutions & processes, including independent media environment & local self-governance.

The field visit will also explore EU/CoE cooperation, implementation modalities of EU/CoE Joint Programmes as well as complementarity and synergies between the EU and the CoE.

All inputs to this evaluation will be received on the basis of non attribution, unless otherwise agreed, and are greatly appreciated.

The Serbia field visit team can be contacted on the following email addresses/mobile number:

[contact details provided]

Country note Turkey

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List of Abbreviations

ADR	Alternative dispute resolution
CAT	UN Committee Against Torture
CCJE	Council of Europe's Consultative Council of European Judges
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEPEJ	European Commission for the Efficiency of Justice
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CPT	European Committee for the Prevention of Torture
CRC	Convention on the Rights of the Child
ECHR	European Convention on Human Rights and Fundamental Freedoms
ECtHR	European Court of Human Rights
EIDHR	European Instrument for Democracy and Human Rights
ENP	European Neighbourhood Policy
ESC	European Social Charter
EU	European Union
FCO	UK Foreign & Commonwealth Office
GDPDH	General Directorate of Prisons and Detention Houses MoJ
HRB	Human Rights Board
HRE	Human Rights Education
HRP	Human Rights Presidency
HSYK	High Council of Judges and Prosecutors
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IGO	Intergovernmental organisation
JP	EC-CoE Joint Programme
MoJ	Ministry of Justice
NGO	Non Governmental Organisation
NHRI	National Human Rights Institution
NPM	National Preventative Mechanism
OHCHR	Office of the High Commissioner for Human Rights
OPCAT	Optional Protocol to the (UN) Convention Against Torture
OSCE	Organization for Security and Co-operation in Europe
PACE	CoE Parliamentary Assembly
TBB	Union of Turkish Bar Associations
TGS	Turkish General Staff
ToR	Terms of Reference
ToT	Training of trainers
UN	United Nations
UYAP	National Judicial Network Project
WB	World Bank

1 Introduction

1.1 Purpose of the evaluation

The purpose of the evaluation is to assess to what extent the Commission interventions with the CoE have been **relevant, efficient, effective** and **visible** in supporting **sustainable impact** for the protection, promotion and dissemination of European values on the European continent and beyond.

The main objectives of the evaluation are:

- to provide the relevant services of the EC and the wider public with an overall independent and **accountable assessment** of the EC's past and current cooperation with the CoE;
- to identify **key lessons** from the EC's past overall co-operation, and thus provide the EC's policy-makers and managers with a valuable aid to evidence-based decision making, and for planning, designing and implementing EU policies.

The evaluation covers the cooperation between the EC and the CoE for the period **from 2000 to 2010**. All regions where the EC cooperation with partner countries is implemented through the CoE were included in the scope of this evaluation.

1.2 Purpose of the field missions

The main objective of the field phase was to complete the data collection and to contribute to answering the EQs. It served to validate or revise the preliminary findings and hypotheses formulated in the desk report of this evaluation. The field phase covered both policy and strategy aspects, and impact and implementation issues. Nevertheless, the field phase was **not intended to conduct an in-depth assessment of the implementation specific EC interventions**. The analysis of specific interventions aimed at exemplifying results and impacts of EC support. Emphasis has been on processes and achievements, which could not be not fully covered by the desk tools of the desk analysis.

The output of the field phase is a country case study note for each of the visited countries.

The main purpose of field missions was to **corroborate findings from the Desk Phase, address information gaps identified, and complement Desk Phase findings in order to support the global assessment in the Synthesis Report**. Field Phase Country Notes are not supposed to be mini-evaluations; field missions are conducted to bring illustrative examples and evidence for specific issues. The analysis of specific interventions aimed at exemplifying results and impacts of EC cooperation with the CoE. Overall, the **Evaluation Questions are answered and Judgment Criteria assessed at the global level** (in the main volume of the Synthesis Report), not at the country level.

1.3 Reasons for selecting Turkey

The rationale for selecting Turkey from the eight desk study countries to be visited included geopolitical features of the country, the EU accession debate internally and externally, as well as the fact that it featured in a range of JPs (particularly in the related contexts of human rights/justice sector/detention) during 2000-2010. Turkey was the largest recipient of country JPs in financial volumes over the evaluation period.

1.4 Focus of the analysis and data collection methods

The Turkey field visit was structured around three related areas of JP activity:

- Protection of human rights (civil, political, social, economic and cultural), including non-discrimination, in particular accession to, and strengthened compliance with, the European Convention on Human Rights and the European Social Charter,
- Detention Treatment & Conditions, and
- Transparency, efficiency, and effectiveness of the legal system.

Data collection included review of documentation and updating desk study (undertaken in 2011) was a central element of the field visit. In addition to JP specific documents a range of other documents relevant to the sectors/themes were reviewed (see Annex 4.2), as well as individual telephone interviews and meetings with a cross-section of stakeholders (other than participants and consultants). Discussions were conducted on the basis of non-attribution of views.

In advance of 8 day field visit to Ankara key interlocutors were identified in consultation with EUD, CoE and other contacts of the Field Mission team. All interlocutors were sent a briefing document in advance of meetings outlining the objectives of the mission and the evaluation and key questions. As

the evaluation is *ex post facto* no JP activities were viewed directly. A number of telephone interviews were also conducted with people no longer in Ankara.

Meetings were conducted with individuals and small groups including key state institutions and cross-section of key NGOs/lawyers and donors engaged in support on the mission themes. Some meetings were conducted in Turkish aided by an interpreter.

Discussions focused predominantly on country specific JPs of which there were twelve. Multi country/regional JPs were managed from Strasbourg and in most cases did not involve Turkey country visit themes. The Regional JP for Social Security Co-ordination and Social Security Reforms in South-East Europe relating to socio-economic rights was not addressed in the field visit due to time constraints. JPs delivered at the earliest years of the time period under consideration in this evaluation were not readily recalled even by partner institutions, due to turnover of personnel and some difficult distinguishing similar projects implemented/funded by different actors, though continuity of some CoE staff (in Ankara and Strasbourg) offered a good degree of CoE institutional memory. In the case of a limited number of JPs were trainers and trainees identified. Some observations of participants in current JP training (in some cases commencing post-2010) were gathered to get a sense of more recent approaches.

In all JPs delivered during 2000-2010 the absence or deficiencies of base-lines, qualitative/quantitative indicators,²³ ongoing impact monitoring and post-project impact evaluation meant that the field visit discussions were largely limited to gathering impressions and examples of impact proposed by CoE & implementing partners. Examples were variously corroborated or challenged by other sources as being attributable to JPs. In any event the field visit was not intended and could not hope to serve as an evaluation of the twelve JPs. By its nature reform in the sectors addressed in the Turkey field visit takes place along a slowly evolving continuum, making attribution difficult. Discussions therefore addressed JPs in terms of their cumulative contribution.

2 Brief description of the country context

2.1 Brief overview of country political, legal, and development context in human rights, democracy, and rule of law, 2000-2010

Turkey's association with the EU dates from its application for membership of the former EEC in 1959 and the signing of the Ankara Agreement in 1963 and its candidacy for EU accession since December 1999. Accession negotiations began in 2005 but the Council has since adapted the Accession Agreement with a new partnership for Turkey in 2008. Accession negotiations between the EU and Turkey have continued as has enhanced political dialogue. The accession process has been distinctive for debate and opposition of some EU Member States to Turkey's membership.

During this timeline Turkey has made some progress in areas addressed by JPs (justice system, detention and human rights generally), set against human rights violations associated with the conflict in the South East that included extra-judicial executions disappearances and systemic torture. Turkey has ratified core UN and CoE treaties from ECHR in 1954 to OPCAT in September 2011.²⁴ During the investigation period of the council there were 381 judgments in the European Court of Human Rights against Turkey. Pecuniary compensation was generally paid on time. However, implementation of judgments requiring legislative measures is often delayed, sometimes for several years.

The EU *Enlargement Strategy and Main Challenges 2010-2011*²⁵ notes with regard to Turkey that "Turkey has continued its political reform process. Turkey amended its constitution introducing key reforms to its political and legal system which address a number of priorities in the areas of judiciary and fundamental rights. The reforms limit the competence of military courts; restructure the constitutional court; widen the composition of the high council of judges and public prosecutors, making it more representative of the judiciary as a whole; broaden trade union rights in the public sector; provide the basis for the adoption of special measures protecting the rights of women and children; guarantee protection of personal data; and grant the right to apply to an ombudsman, thus providing the legal basis for the establishment of the ombudsman institution."

Also relevant to an assessment of the JPs, the Report notes that "*broad public consultation involving all political parties and civil society, with their full engagement, is needed to strengthen support for*

²³ In some cases quantitative indicators are not likely to measure actual JP impact, eg the time period from application to ECtHR to Court decision is such as to make cases in a particular context or concerning a particular institution unworkable as an indicator, unless applied in impact evaluation several years post-project.

²⁴ Though ratification of key ECHR Protocols 4, 7 and 12 remains outstanding

²⁵ http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/strategy_paper_2010_en.pdf

constitutional reform. It is now essential to ensure proper implementation of these reforms through relevant legislation. A new civilian constitution would provide a solid base for a further strengthening of democracy in Turkey, in line with European standards and the EU accession criteria."

Among human rights weaknesses identified are "freedom of expression and of the media, both in law and in practice as well as a number of shortcomings in the exercise of the freedom of religion, regarding, women's rights and gender equality and trade union rights." The report notes that the "democratic opening' aimed notably at addressing the Kurdish issue has produced only limited results".

A range of international actors (bilateral donors, UN agencies etc) are active on human rights/justice system reform/detention themes, with a common focus being capacity building (including awareness-raising, training, study visits, production/translation of materials technical assistance on drafting of laws and regulations etc). These activities overlap in time with the EC-CoE JPs and (in addition to external activities, monitoring by UN and CoE treaty bodies etc) represent an important part of the overall context as well as a challenge in attributing specific progress to JPs.

While coming after the period being evaluated, the constitutional reform package approved by referendum in September 2010 saw the government prioritise reform of justice system, with laws on the High Council of Judges and Prosecutors and on the Constitutional Court address a number of priorities of the Accession Partnership and criticisms of the previous system.

2.2 Description of EU and CoE strategic priorities for Turkey

Progress towards European Union accession represents the key context within which the Joint Projects were carried out. The 2005 EU-Turkey Negotiating Framework outlines the key areas to be pursued in relation to the Political Criteria, including further improvement in the principles of liberty, democracy, the rule of law and respect for human rights and fundamental freedoms; consolidation and broadening of legislation on the zero tolerance policy regarding torture and ill treatment, and the implementation of provisions regarding freedom of expression; freedom of religion; women's' rights; ILO standards including trade union rights, and minority rights. The revised Accession partnership²⁶ of 2008 provides the basis for a number of policy/financial instruments priority setting.

EU priorities in Turkey are also evident from the focus of project funding (implemented by various modalities including Member State Twinning arrangements). These have included support to Turkish Probation Service project on Juveniles & victims, European standards Supreme Judicial Authorities; Forensic Experts' skills, Court management, Criminal Justice System efficiency, civil enforcement offices etc. Projects have also concerned institutional capacity of the Justice Academy, court expert system, legal aid, media and judiciary relations, and mediation. A range of other EC sponsored justice sector projects are also relevant in terms of materials and capacity being developed, including for example, the Italian-based ADR Center led consortium delivering 'Technical Assistance for Better Access to Justice – Turkey', with ADR awareness training to 1000 lawyers.

Support to Turkey from the EIDHR since 2002 has included some 100 projects averaging €2 million per year allocated to macro-grants and micro-grants. These cover a range of subject matter relating to justice sector and human rights , including projects on Social Actors Protection of Human Rights; Treatment and Rehabilitation Centers for Torture Survivors, Strategic Mapping of Torture in Turkey; Review of Legislation on Torture and Implementation, Training on Legal Aid/use of Minority Languages, Strengthening Legal Capacity on Trafficking in Women, Access to Justice, Supporting Women's Legal Rights as well as various projects on freedom of expression e.g. Countrywide Network for Monitoring Media Freedom and Independent Journalism.

While objectives of CoE engagement in Turkey are coherent with Turkey's various CoE commitments (including treaty obligations, monitoring recommendations etc.) there is no Turkey-specific strategy document *per se*.

2.3 Description of EU-CoE cooperation in Turkey

Linked perhaps to the status of the CoE Office as a project/Programme office, EU-CoE cooperation in Turkey is primarily confined to JPs though regular engagement by way of meetings between the Head of Office & EUD bi-laterally and at various fora are reported by CoE and EUD personnel.

2.3.1 List of EC-CoE JPs in the key areas of cooperation

The table below summarises the EC-CoE joint programmes in Turkey, descriptions of the programmes are in the Annex of this note.

²⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:051:0004:01:EN:HTML>

Country programmes

<i>Title</i>	<i>Period</i>	<i>CRIS Contract</i>	<i>EC commitment €</i>	<i>Total budget €</i>	<i>Domain</i>	<i>Remark</i>
Turkey - Police, Professionalism and the Public	2002 – 2003	95136	500.000	700.000	PHARE	
Joint EC/CoE Initiative with Turkey to enhance the ability of the Turkish authorities to implement the National Programme for the adoption of the Community acquis (NPAA)	2002 - 2004	DELTUR/MEDTQ/01-02	1.180.000	1.465.000	PHARE	
Judicial Modernisation and Penal Reform	2004 – 2007	91669	7.000.000	7.000.000	PHARE	
Project on Ethics for the Prevention of Corruption in Turkey	2007 – 2009	TR601-08		1.500.000	IPA	
Cascade training for Turkish lawyers on the European Convention on Human Rights (ECHR)	2006 – 2008	TR0501.04/001	1.300.000	1.300.000		
Support to the implementation of human rights reforms	2006 – 2007	TR0401.01/001	4.000.749	4.000.749		
Human Rights training to the staff of the Delegation of the European Commission	2007	AA/DELTUR/SECC/2006/D/6270	10.000	0		
Support to Court Management System in Turkey	2007 – 2009	TR0601.04/001	3.005.328	3.005.328		
Dissemination of Model Prison Practices and Promotion of Prison reform in Turkey	2009 – 2012	TR702 18-01/001	4.175.589	4.175.589		
Enhancing the role of the supreme judicial authorities in Turkey	2010 – 2013	TR801-01-01/001	3.700.000	4.014.000		
Training of military judges and prosecutors on human rights issues in Turkey	2010 – 2012	TR0701.03-01/001	2.000.000	2.000.000		

Multi-country/regional programmes

<i>Title</i>	<i>Period</i>	<i>CRIS Contract</i>	<i>EC commitment €</i>	<i>Total budget €</i>	<i>Domain</i>	<i>Remark</i>
Democracy through free and fair elections	2003 - 2006	75496	200.000	400.000	DDH	
Peer project - Setting up an active network of independent non-judicial Human Rights Structures in the Council of Europe member States which are not members of the European Union	2008 - 2009	140327	450.000	900.000	EIDHR	
Regional Programme for Social Security Co-ordination and Social Security Reforms in South-East Europe	2008 - 2010	153292	1.976.509	2.196.122	IPA	
Peer-to-Peer II - Promoting national non-judicial mechanisms for the protection of human rights and especially the prevention of torture	2010 - 2012	226588	1.200.000	1.600.000	EIDHR	
Project against cybercrime in South-East Europe (cyber@SEE)	2010 - 2012	248578	2.500.000	2.777.778	IPA	

3 Findings by EQs and JCs

3.1 EQ1: Guidance criteria

Evaluation Question 1:

To what extent have the **criteria** for decisions to cooperate with the CoE been clear, transparent and strategically sound?

3.1.1 JC11 Level of discussion/analysis of the choice of the CoE as a cooperation partner

Main findings from the field mission:

The decision to cooperate with the CoE through Joint Programmes in Turkey has been largely driven by the express preference of Turkish State institutions to cooperate with CoE (1.1.1). Bilateral arrangements and partnering with other IGOs such as the UN agencies represents a smaller percentage of EC supported activity in the sectors considered in the field visit. The preference by Turkey for partnership with CoE is not based on any evident formal criteria governing options for delivering assistance. There is an acknowledgement within EUD and elsewhere that CoE-led reform initiatives were possible at the start of the period under review (2000-2010) when other technical assistance partners would not have been politically viable. As the array of actors in the sectors concerned has expanded and more emphasis is placed on moving from what might be categorised as 'foundation' reforms (human rights awareness raising, adopting laws and policies etc) to changes in practice (and monitoring of same), there has been some suggestion of EUD revisiting its approach to the CoE as the 'default' partner for project implementation. While, the overarching strategic logic of EU partnership with CoE in project implementation remains EUD personnel highlight that there is considerable scope for it to be enhanced.

3.1.2 JC 12 Degree to which EC/EU staff at headquarters and in the field are well-informed regarding the possibility to cooperate with the CoE

Main findings from the field mission:

No problems are raised with regard to awareness of the possibilities of cooperating with CoE (1.2.1) and regular communication is reported between EUD Task managers and CoE programme managers (1.2.2). One small scale JP concerned human rights training for EUD by personnel from CoE is recalled but taking place over a number of days it is more significant for being something not implemented in other country contexts than any evident sustained impact. Project reports that it was favourably received were generally endorsed by EUD staff who could recall the event, but certain problems were identified in the Project reports as well (difficulties related to mix of disciplines and levels of knowledge of CoE, presentations being deemed too theoretical and participant's workload preventing their full involvement). (1.2.3)

3.2 EQ2: Specific Expertise

Evaluation Question 2:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, enabled the EC to use the CoE's **specific** sectoral **expertise** and mandate and geographical scope in the key areas of cooperation?

3.2.1 JC 2.1 Degree to which the CoE's sectoral expertise and mandate and geographic scope and political capacity to hold partner countries accountable have been taken advantage of in cooperation activities including JP implementation

Main findings from the field mission:

The CoE's expertise, geographical coverage, and political influence is a key factor as part of multi-faceted impetus for reform in Turkey. In the absence of independent impact evaluation of JPs during 2000-2010 the extent and scale of the contribution of JPs (as opposed to CoE monitoring, ECtHR decisions etc) is largely a matter of conjecture. In particular, with CoE Office staff being employed specifically to work on designated projects (as opposed to being core staff) the demands of day-to-day project implementation appear to result in wider opportunities to use the organisations comparative advantage to influence reform, routinely networking, contribute to debates etc not feasible. These limitations of capacity appear to limit somewhat the resource that a local CoE Office engaging in outreach in key sectors might be to the EUD and to EU monitoring, strategy setting etc.

A fundamental issue from field mission discussions with CoE staff is some lack of clarity regarding the appropriate permissible level of CoE involvement in initial JP design by beneficiary institutions. CoE Office personnel suggest that as tendering to implement project fiches is in principle open to others, it is inappropriate for CoE to be involved in fiche drafting and this is in turn offered as explaining some weakness in fiches proposed. It is also suggested this creates some difficulties at inception phase making changes that the office feels necessary. (Indicator 2.1.1 *Extent and quality of CoE HQ and field office involvement in cooperation activities, including JP design and implementation at all stages*)

For the most part, JP beneficiary implementing partners report high levels of ownership in the selection of, and satisfaction with, JP consultants engaged by the CoE. A non-exhaustive list of experts involved highlight that JPs have been able to draw upon some leading international experts, in some cases in specialised areas of detention management, forensic medicine etc as well as combining knowledge of Turkish cases before ECtHR and involvement in comparable reform efforts in other CoE Member States. However, it is not clear whether extensive *substantive* knowledge and experience is always matched by expertise as *trainers per se*. Generally the term trainer and 'training of trainers' is used rather loosely.

Some observations offered in interviews were that in some cases local experts could have been used instead of external experts are simply noted here, due to difficulty in delving further. That said CoE and implementing partners express confidence that lines of communication are open for any concerns about experts to be raised. Similarly issues of appropriate scale and timing of experts' involvement is largely a matter of conjecture (Indicator 2.1.2) One area identified as offering scope for improvement is that of linkage between JP experts and experts engaged in related bilateral activities, including Twinning and more attention to advance identification of training objectives (in terms of expected impact) and how achievement of this might be confirmed.

Cooperating with the CoE enabled the EU to engage in reform efforts in Turkey at a time when alternative partners are not likely to have secured engagement by the State (*Indicator 2.1.3*). This critical factor at a decisive time means that much subsequent technical assistance was to some degree made possible by CoE JP activity in the early 2000s. That said, other implementing partners may have brought more experience and expertise in project cycle management – and could equally apply CoE norms and employ independent experts familiar with CoE standards and mechanisms (as some bilateral donor projects have done).

3.2.2 JC 2.2 Degree to which EU has benefited from jointly working with the CoE on legal issues / standards setting and monitoring / country assessments in human rights, rule of law, and democracy

Main findings from the field mission:

A relatively weak degree of donor coordination during the period 2000-2010 in the sectors considered in the Turkey field mission is reflected in lack of information sharing on expertise and limited efforts to build upon relevant prior activities by other actors. (Indicator 2.2.1) Donor coordination meetings which took place in previous years are reported as being due to resume and newly established forum is reported to be discussing a sectoral approach to justice issues. This has the potential to lead to greater synergies between EU/CoE and with other actors. Some degree of consultation and input from JPs is reported with regard to producing country assessments and monitoring reports but overall sense of a project by project approach suggest that this can be enhanced. (*Indicator 2.2.2*)

3.3 EQ3: Human Rights

Evaluation Question 3:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, contributed to increasing respect for **human rights** and fundamental freedoms?

With respect to EQ3 indicators, the field mission discussions sought to address the relevance, effectiveness, efficiency, impact and sustainability of CoE contribution (during 2000-2010) to:

- any enhanced use of ECtHR jurisprudence in the curricula of academic and professional training (lawyers, prison staff, journalists, medical staff, etc.) & enhanced knowledge of the ECHR among key institutions and main stakeholders improved, (I-312 and I-321)
- any enhanced implementation and execution of ECtHR decisions, and incorporation of ECtHR jurisprudence into domestic law and practice, (I-322)
- any strengthened and more effective state institutions in defence of human rights (such as Offices of Human Rights Commissioners and Ombudsmen) at central and local levels, (I-323)

- any enhanced access to social and economic rights through enhanced implementation of the European Social Charter and Committee Decisions and Conclusions, (I-314)
- any enhanced NGO involvement in human rights. (I-313)

3.3.1 JC 3.1 Improved protection of human rights (civil, political, social, economic and cultural), including non discrimination

Main findings from the field mission:

Field visit discussions generally tended to confirm desk phase working hypotheses that despite accession to ECHR and Revised ESC and significant volume of capacity building activity, compliance with relevant treaty obligations and decisions of treaty bodies remains poor. Possible explanations for this situation saw a breakdown of interlocutors along clear lines - with state institutions highlighting challenges of historical legacy, ongoing capacity needs, new institutions and new legal frameworks, while civil society representatives stress lack of political will, impunity and weak accountability.

Both ECHR and European Social Charter have been ratified by Turkey. Turkey has recognized the competence of the ECtHR to receive individual petitions since 1987. However, Turkey's record remains a concern with violations found in 86% of cases. In 2010 Turkey had the highest number of cases brought against it before the ECtHR, overtaking Russia, though a decline is recorded in 2012.²⁷ From October 2008 to September 2009, the ECtHR delivered a total of 381 judgments finding a violation of the ECHR by Turkey, mostly on cases dating back to the 1990s, before 2005 Penal Code reforms. The majority of the new applications to the ECtHR concern fair trial and property rights, 11% relate to freedom of expression and 5% to torture. The 2011 EU progress report notes that financial compensation awarded in ECtHR judgments was paid on time by Turkey, but that implementation of judgments requiring legislative measures is sometimes delayed by several years. In January 2011, the CoE Parliamentary Assembly (PACE) expressed concerns regarding delayed implementation by Turkey of ECtHR decisions and noted "*major systemic deficiencies*" as resulting in repeated violations of the ECHR.²⁸

In the context of these figures and trends, JPs are mentioned variously as having positively contributed to increased awareness (and therefore greater use of Strasbourg mechanisms by lawyers) or as having contributed to other reforms despite regardless of the negative statistics (especially taking account of the fact that many cases relate to events pre-dating 2005 and more recent reforms).

The purpose of JP *Support to the implementation of human rights reforms* in 2006-2007, for example was to encourage compliance with ECHR by enabling legal professionals to use the ECHR and ECtHR case law in their daily work; strengthening the capacity of the MoJ Inspection Board to carry out inspections of the functioning of courts, and increasing the knowledge and skills in European human rights standards among law enforcement bodies, strengthening the profile and capacity of the Human Rights Presidency etc. Activities included translation and publication of material, training seminars, symposiums. Some interlocutors confirm project reports of increase in ECHR knowledge of judges and prosecutors, MoJ inspectors Governors, deputy Governors, sub-Governors, police and Jandarma); civil society interlocutors are generally skeptical about the HRP and HRBs as domestic mechanisms for addressing human rights violations and cooperation between them and civil society is described as poor. In the absence of post-JP evaluation it remains difficult to assess to what extent this reflects on the JP or other factors (including lack of HRP independence and as a result confidence in it).

As regards sustainability, the HRP notes positively the ongoing use of materials developed in this JP. However, while the ToT component is reported to have produced a number of trainers, the final project report acknowledges that without a second phase it could not be guaranteed that trainers apply their knowledge and skills by training others. Some interlocutors mention the ongoing involvement in training of many of those trained in JPs and some JPs evidence repeated use of local trainers. The increase in complaints received by the HRP & HRBs is seen by the HRP as being linked in part to publicity under this JP (materials, broadcasts in cinemas, posters throughout the country etc) but there

²⁷ Turkish Weekly, *ECHR Welcomes Decrease in Complaints About Turkey*, 26 April 2012, "The president of the European Court of Human Rights (ECHR) welcomed on Thursday the decrease in complaints to the court about Turkey. Nicolas Bratza said he was pleased about Turkey's efforts to decrease complaints to ECHR and the court's rulings about violation of rights in the country". 159 Decisions concerning Turkey in 2011 was a drop from 278 in 2010 and a high of 356 in 2009.

²⁸ PACE Resolution 1787(2011) on the implementation of ECtHR judgments; available at <http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta11/ERES1787.htm>.

is general lack of analysis of complaints trends (and most likely capacity to do this) for possible positive or negative significance.

Two JPs are cited by the Association of Turkish Bar Associations (*Cascade training for Turkish lawyers on the ECHR* and (towards the end of its duration) *Support to Court Management System* in Turkey) as having involved lawyers in 'cascade' training. The former involved a project office based in the Union of Bar Associations whose representatives estimate that it helped reach 9600 lawyers in 77 of the 78 provincial Bar Associations with those trained as trainers reaching other lawyers in the provinces. According to the Union many of them continue in to be available as a resource for local Bar Associations subsequent to the JPs. (Indicator 3.1.2)

Some positive gender related developments in Turkey include institutions and plans (a General Directorate of Status of Women, a Committee on the Equal Rights and Opportunities within the Turkish Grand Assembly, a Social Gender Equality National Action Plan (2008-2013), a national action plan on "Combating Domestic Violence against Women during 2007-2010" etc. The referendum on the Turkish Constitution in September 2010 changed Article 10, which allows affirmative action to promote equality of women and men and Women's NGOs are highlighted as one of the strongest features of civil society in Turkey. However, JPs and CoE generally is not seen by stakeholders met as a significant contributor to gender reform in Turkey. JPs considered are notable for their lack of attention to gender as a cross-cutting human rights issue, with Log Frames generally not mentioning the issue. This failure to address gender (a legal and policy commitment of both the CoE & EU) represents a significant omission given the overall situation in Turkey on issues including violence against women and the fact that women in Turkey account for an estimated four-fifths of Turkey's 5.7m illiterate people.

Bail was not a specific focus of JPs. A key potential advance that has been a focus of JPs due to take place in Autumn 2012 - the provision for the Constitutional Court to receive applications from individuals. (*Indicator 3.1.1 - Increased availability of formal and practical legal procedures (application for bail, leave to appeal, scope of judicial review, etc.) in the protection of human rights*) While this development is outside the 2000-2010 timeframe it is offered by CoE & Turkish partners as an example of a development that has benefited from cumulative pre-2010 JP awareness-raising and more recent capacity building. The latter has included 6 month Strasbourg placements for key personnel, which saw preparation on case processing and filtering. The issue of case filtering and prioritisation is identified as a component that was added to the JP at the Constitutional Court's request for more effective case management and is cited as an example of positive engagement by JP partner institutions.

The JP *Support to the implementation of human rights reforms* JP (2006-2007) is identified by the HRP as contributing to a debate on an NHRI in Turkey and proposals to establish one. However, the draft Law submitted to parliament in February 2010 does not comply with the Paris Principles, with regard to independence and other requirements and the legislative drafting has been criticised by domestic and international actors for lack of participatory process.

With regard to (*Indicator 3.1.2 – Increased use of ECtHR jurisprudence in the curricula of academic and professional training*), various JPs have contributed to wider availability of human rights materials in Turkish for various State professionals (lawyers, police, judges/prosecutors and corrections personnel). In some meetings interviewees produced specific CoE materials as concrete evidence of ongoing use of JP outputs, but the extent to which they are embedded in routine use in training institutions is more difficult to assess – human rights continues to be approached as distinct modules rather than integrated across all aspects of curricula. The International Law and Foreign Affairs General Directorate of the Ministry of Justice maintains a website with Turkish translations of all rulings made by the ECtHR concerning Turkey²⁹ (*Indicator 3.1.2*). One current JP was explored (given challenges to identifying participants or detailed recollection of earlier JPs). The 2m euro JP *Training of military Judges and Prosecutors on human rights issues* aims to strengthen human rights by training of military judges, prosecutors, legal counsellors and trainers, leading to the establishment of a trainer pool that will train others in cascade training, and the development of training curriculum to for the Ministry of National Defence and Turkish General Staff. While relevant and targeted to acknowledged needs this JP has not built upon a recent bilateral project addressing similar issues (funded by the UK Foreign Office) and on its face at least seems to involve some duplication or at least a failure to identify and incorporate lessons from the earlier project.

A view strongly expressed by CSOs is that while JPs (and other projects) have contributed to improved training of justice system personnel and increased human rights components in general training, subsequent supervision by older service justice staff and pervading institutional culture that

²⁹ www.inhak.adalet.gov.tr

opposes human rights diminishes the impact of training of new staff. The lack of impact evaluation of JP training (as opposed to immediate post training feedback forms) means that these are counter views are simply noted but cannot be confirmed in the context of a brief field visit.

Whether due to the strong local ownership (by Turkish State institutions) or other factors, the majority of JPs do not generally include NGOs/civil society as active participants. Exceptions include JPs *Support to the implementation of human rights reforms and Initiative with Turkey to enhance the ability of the Turkish authorities to implement the National Programme for the adoption of the Community acquis (NPAA) 2002–2004* as well as some limited NGO participation on JP Advisory Committees. Generally, however field mission discussions saw representatives of key NGOs evidence lack of awareness of CoE JPs and in some cases of the CoE Office presence. The extent to which this is a failure of CoE outreach or lack of pro-activity by CSOs or lack of awareness/communication regarding the status of the CoE Office is debatable – though there is strong evidence that NGOs/CSOs are not adequately included in JPs as important legitimate stakeholders. Even if state institutions were in most JPs the logical implementing partners, more CSO involvement is likely to increase the sustainability of JP outputs linked to ongoing CSO-led monitoring and 'demand' for political commitment to sustain reforms. JPs are likely to have benefitted from CSOs more systematically targeting the CoE Office with their research findings, analysis and advocacy as many do with regard to EUD.

There is widely acknowledged increase in NGO involvement in human rights in Turkey (albeit constrained by stringent laws on expression), in particular NGOs adopting human rights based ethos and approaches in their work (*Indicator 3.1.3*). CSOs tend to confirm the Human Rights Watch critique from 2009 that "*Critical and open debate increased, even as restrictions on free speech continue*". This seems to be attributable to factors other than JP activities, but is suggested as being linked to general enhanced awareness of human rights linked to CoE monitoring, media coverage of ECtHR decisions, visibility of EUD financial and moral support to CSOs, including EIDHR support EU-Turkey Civil Society Dialogue and organized events.

With regard to access to social and economic rights (*Indicator 3.1.4*) JPs in Turkey during 2000-2010 are notable for their lack of emphasis on socio-economic rights.³⁰ A point noted also in the 2011 external mid-term evaluation report of JP *Enhancing the Role of the Supreme Judicial Authorities in respect of European Standards*. This lacuna does not appear to be strategic as key rationale for CoE implemented JPs (on justice reform/detention etc) apply no less to socio-economic rights with Turkey a party to the CoE Revised Social Charter (though yet to accept the collective complaint system). Regardless of JP focus progress include legislation on childcare, domestic violence, compulsory education extended, a new Labour Code, enhanced work permit conditions for foreigners, constitutional amendments in 2010 granting civil servants the right to collective bargaining, introduction of unemployment benefits, legislation against discrimination in employment. At the same time Turkey's 3rd National Report on the implementation of the Charter in February 2011³¹ saw the Committee conclude that Turkey is not in conformity with the Charter on various issues: including compulsory education, working hours of apprentices, workers under 18 and family benefits, childcare described as "*manifestly inadequate*", corporal punishment in the home not being prohibited etc.

3.3.2 JC 3.2 Degree to which accession to, and compliance with, the European Convention on Human Rights (ECHR) and the European Social Charter has been promoted and strengthened

Main findings from the field mission:

While a quantified assessment of JPs resulting in knowledge of and technical familiarity with ECHR cannot be attempted in the absence of baselines or pilot measurement, interlocutors from a cross section of justice institutions expressed confidence that increased familiarity is a result of participation in JP training, study visits and placements. Some examples of this knowledge being applied were also highlighted from the application of ECHR standards in training to revised detention conditions, court

³⁰ Field mission time constraints meant that one regional JP (*Regional Programme for Social Security Co-ordination and Social Security Reforms in South-East Europe 2008-2010*) which addressed social and economic rights was not discussed. Review Desk phase review of project documents offer as an example of impact that JP training, policy advice and sharing of experiences saw some concrete results, in particular, progress on bilateral social security agreements involving Turkey. Specific Turkish impacts concerned Turkish migrants working in Albania. A package of 200 complaints identified are reported as being solved by the Albanian and Turkish Partners with the JP facilitating Albania and Turkey in addressing gaps on pension care of the already existing Bilateral Agreement on Social Protection. Also in the context of this project a bilateral social protection agreement between Serbia and Turkey was also ratified.

³¹ http://www.coe.int/t/dghl/monitoring/socialcharter/reporting/statereports/Turkey3_en.pdf

procedures etc. In March 2012 the High Council of Judges and Prosecutors (HSYK) announced the entry into force of a new regulation whereby promotion decisions concerning Judges and Prosecutors include examination of their application of the ECHR and ECtHR rulings (*Indicator 3.2.1*). However, some scepticism is expressed about the significance of this change in the case of 'political' trials where the problem is identified as being not lack of awareness or knowledge but lack of judicial independence.

A trend towards designated human rights lecturers in law schools suggests increased use of ECHR jurisprudence in legal education, but the statistic of only 5 universities offering Masters in human rights for a population of 75 million is indicative of considerable progress needed. The coverage of socio-economic rights and the European Social Charter is highlighted in interviews as being even weaker in terms of local knowledge and domestic capacity to train relevant personnel.

A key indicator relevant to all JPs (*Indicator 3.2.2 Implementation and execution of the ECtHR decisions, ECtHR jurisprudence incorporated into domestic law and practice*) presents the most difficult attribution issues. Implementation of ECtHR decisions themselves is easier to assess than incorporation into domestic law and practice and interlocutors vary in their assessment as to the key contributing factors – EC Progress reports, the publicity of ECtHR decisions or programme activities including JPs. A useful comprehensive external mid-term evaluation report in 2011 of the JP *Enhancing the Role of the Supreme Judicial Authorities in respect of European Standards* refers to "limited evidence of the impact realised thus far as a result of this project in the form of increased capacity on the part of the beneficiaries to include the acquis, ECHR and the ESC within higher court decisions". Though it is reported in the field visit that after this evaluation the Court of Cassation reviewed decisions and found various examples of judgments that cited ECHR and ECtHR jurisprudence that were not previously documented.

Turkey has a complex array of institutional mechanisms with human rights oversight responsibility within parliament, and individual ministries. Some of these have participated in a number of JPs and report having benefitted from enhanced knowledge, e.g. *Support to the implementation of human rights reforms* in 2006-2007, in awareness-raising, training etc. (*Indicator 3.2.3 Strengthened and more effective state institutions in defence of human rights (such as Offices of Human Rights Commissioners and Ombudsmen) at both central and local levels in beneficiary countries*). See also JC 3.1 above. Other interlocutors are more cautious in their assessment of this translating into concrete human rights change.

In 2003 Turkey established provincial and sub-provincial human rights boards authorised to visit relevant institutions to monitor on-site human rights practices including custody and detention make recommendations, advise, receive applications concerning allegations of human rights violations conduct investigations, and submit conclusions to public prosecutors or other authorities. Whether based on objective monitoring assessment or not, CSOs describe provincial level monitoring of detention as "dysfunctional", and are dismissive of the consultation process for the establishment of Turkey's NPM. Some at least are critical of JP training as having generated no change in capacity or will to do effective monitoring – highlighting the imperative that CSOs be involved in detention-related training and credible M&E of capacity building provided.

A recent change in institutional human rights responsibility whereby the International Affairs Office of the Ministry of Justice will take responsibility for follow up on Strasbourg court decisions is seen within the justice institutions as leading to greater implementation of ECtHR. It is also mentioned as an example of a change that will be more effective in light of engagement by the Ministry with JPs. Similar observations are made regarding JP contribution with regard to the establishment of a new MoJ Human Rights Department.

In some cases JPs have seen impacts or potential impacts not necessarily planned, where, for example, individuals get to apply knowledge gained on a JP significantly later in time within a different institution. The current deputy director-general of the Prison Training Centre was coordinator of a JP in 2004-2007 and is now elected to the Court of Cassation and Constitutional Court Rapporteurs active in JPs had earlier participated in JPs while with the MoJ. Numerous examples are offered to the field visit, but more systemic (though not necessarily exhaustive) tracking of past participants could help identify later positive impacts. Equally, account must be taken of challenges of institutional reconfiguration or personnel changes which means that time and resources invested are countered by factors outside of JP managers' control. A risks management/mitigation column in Log Frames will not necessarily eliminate this but may help flag concerns with implementing partners and increase preparedness for such eventualities.

Indicator 3.2.4 concerns Human rights education introduced in school curricula. This is central to a current JP with the Ministry of Education. This JP was not reviewed in the field mission as it falls outside the time scope of this evaluation but it addresses a core need in Turkey.

3.3.3 JC 3.3 Enhanced protection of the rights of minority groups (including linguistic minorities)

Main findings from the field mission:

While a widely acknowledged priority concern, JPs did not address minority rights issues, highlighting one of the difficulties of strong local 'ownership' where state institutions select project themes and target groups and how participatory inclusive needs assessment might result in different priorities being identified.

3.3.4 JC 3.4 Increased awareness of human rights and fundamental freedoms

Main findings from the field mission:

Publicity components of some JPs would appear to have contributed to increased media coverage on questions relating to human rights (*Indicator 3.4.1*). Early JPs involved general awareness-raising campaigns among the public at large and others targeted justice personnel (*Indicator 3.4.2*). Opinions of implementing partners that these have impacted positively human rights awareness appear logical, but would require baselines and impact evaluation to be verified.

While all JPs have an awareness-raising element to them specific and extensive awareness-raising featured in *Joint EC/CoE Initiative with Turkey to enhance the ability of the Turkish authorities to implement the National Programme for the adoption of the Community acquis*. The 18 month human rights awareness campaign designed by a Technical Working Group with a High Level Advisory Group and array of outputs from Turkish pocket version European Convention on Human Rights, to "Let's know our rights" posters, Human Rights leaflets (for use in particular with Human Rights Councils), TV programmes on human rights issues for 10 December, TV spots on issue such as freedom of expression, torture, equality between women and men, freedom of assembly, round-tables for NGOs as well as members of Human Rights Councils/public officials

Turkey has yet to establish an NHRI (see below regarding Human Rights Presidency) in line with the UN Paris principles. (*Indicator 3.4.3 Number of complaints dealt with by the Ombudsmen, both at Central and Local level*). See further above.

3.3.5 JC 3.5 Improved treatment and conditions of detention

Main findings from the field mission:

Taking account of relevance, effectiveness, efficiency, impact and sustainability, to what extent has CoE contributed (during 2000-2010) to:

- any increased adherence to European detention standards, and
- any reduction in recourse to detention (in particular pre-trial), increased use of bail and
- reduced duration of deprivation of liberty.

The working hypotheses related to detention from the desk phase was largely confirmed in field visit discussions; namely that detention monitoring mechanisms and changes to the Criminal Procedure Code concerning detention periods represent progress in an area of longstanding concern. However, reports of CoE and other international monitoring bodies continue to identify "*numerous, ongoing and consistent allegations of torture*"³² and an ongoing need for progress if detention treatment and conditions are to comply with international human rights law standards.

From the 2010 CoE CPT visit report it appears that conditions in new detention facilities are improving (*Indicator 3.5.1*). There is still a long way to go to ensure that minimum required standards of detention across the board comply with human rights obligations. In November 2010, the UN Committee against Torture expressed grave concerns during its review of Turkey and likely JP contribution to progress in prisons need to be read against field visit interlocutors and Amnesty International³³ expressing concerns of a parallel phenomenon of increasing practice of mistreatment outside of detention.

The 2010 UN CAT observations on Turkey noted information provided by Turkey of half of its 120,000 prisoners being prisoners on remand and expressed concern at excessively long pretrial detention. In the specific case of juveniles nearly 90% of those in detention are awaiting trial. The 2012 Commissioner Hammarberg Report reported that, as of April 2011, 43% of Turkey's prison population had not

³² UN Committee against Torture, November 2010.

³³ Its 2009 report notes "*Reports of torture and other ill-treatment rose during 2008, especially outside official places of detention but also in police stations and prisons*" and in 2012 "*Excessive use of force by law enforcement officials at demonstrations remains routine and on occasions apparently sanctioned by public statements from the highest level of government. In the vast majority of cases, investigations into allegations of human rights abuses are not effective and the chances of bringing law enforcement officials to justice remain remote.*"

been finally sentenced. The Turkish government response to the report stated that this incorrectly included those appealing their sentences, and that the actual figure was 28%. Apart from noting a small reduction in pre-trial detainees as a percentage of all prisoners statistics are open to varied interpretation - March 2012 MoJ figures of 132,369 prisoners (of whom 77,587 are convicted and 54,782 pre-trial) compared with 2000 figures 49,512 prisoners (24,855 convicted, 24,657 pre-trial).

In 2011, Turkey ratified the Optional Protocol to the UN Convention against Torture, which obliges States Party to maintain an independent national preventative mechanism for monitoring places of detention. This has yet to be established. It has not been ascertained what degree of Turkey focus was in the Regional JP *Peer-to-Peer II* which addressed this issue though some interlocutors mention CoE raising awareness through roundtables (as well as others) on OPCAT and NPM.

The JP *Judicial Modernisation and Penal Reform* provided technical assistance in the architectural design of new prisons, the rehabilitation of old ones and guidelines on prison architecture. In field visit discussions MoJ stated that training capacity of prison staff training centres was strengthened and tools for systemisation and standardisation, such as a manual for prison governors and "Prison Doctor's Handbook" for medical staff were developed. Staff were trained to provide a range of services for rehabilitation and training, complying with international standards. Vocational training workshops and social facilities were established and instruments were procured in these two prisons. MoJ identifies impacts which it links to this JP as including improved standards leading to a decrease in disciplinary offences and reduced need for security measures. Project documents report that 98% of participants in the JP *Model Prison Practices* expressed the view that project objectives were fully met. JP focus on support to newly opened Prison Staff Training Centres and the participatory production of key training materials are seen as important elements for potential sustainability of JP capacity building.

In some respects the ongoing need for detention reform in Turkey means the impact of JPs during 2000-2010 needs to be viewed in terms of what change may be generated by, for example, the planned *Criminal Justice* JP.

While CSO detention monitoring access is not widespread observations made to the field visit were that physical conditions have improved significantly, as well as other aspects of prison life (e.g. training opportunities) in pilot prisons that were involved in JP *Dissemination of Model Prison Practices* and *Promotion of Prison reform 2009–2011* (extended to 2012). JP training of prison psycho-social managers is mentioned by MoJ personnel as a factor in the number of suicides in detention remaining static (approximately 30 annually) despite an increase in prisoners from 60,000 in 2000 to 220,000 in 2012. At the same time interviews with civil society interlocutors active on detention issues saw them highlight examples of lack of political will undermining advances (e.g. recent detention improvements in Ismir & Aydin are reported to have led to the officials who championed improvements being investigated and forced to resign from their positions). And highlighting the difficulty of over simplistic reliance on Strasbourg statistics as indicators, the number of ECtHR findings of violations by Turkey of ECHR Article 3 on the prohibition of torture saw an increase during 2004-2010: 16 cases in 2004; 28 each in 2005 and 2006; 47 in 2007; 57 cases in 2008; 56 in 2009 and 59 in 2010.

JPs did not generally focus on non-custodial sanctions (*Indicator 3.5.2 Reduced recourse to detention (in particular pre-trial); and reduced duration of deprivation of liberty*), except insofar as JP training addressed Article 5 ECHR on the right to liberty and JPs generally sought to raise awareness of rehabilitative function of the criminal justice system. In this context judgments including probation sentences are reported to have increased by 33% from 63,449 in April 2010 to 84,526 in April 2011. February 2011 legal changes are expected contribute to changes in detention periods in the worst cases with a new maximum pre-trial duration. Awareness-raising and capacity-building of detention-related JPs are seen as part of a wider momentum for such reform (as well as political/monitoring pressure) but again precise attribution is difficult.

One example of the consequences of reform in one aspect of the justice system having negative repercussions elsewhere (and the need for a sectoral approach to justice issues, currently lacking in Turkey) is that while certain JPs (e.g. *Judicial Modernisation and Penal Reform*) are identified by interlocutors as having contributed to reform of the Penal Code in 2005, this in turn contributed to a 50% increase in detainees (with all the issues associated with this, overcrowding etc).³⁴

3.4 EQ4: Rule of Law I

Evaluation Question 4:

³⁴ One example of a consequence of the 2005 changes is that conspirators are convicted and imprisoned in cases of so-called honour killings, whereas previously only principal perpetrators, (if anyone) were sentenced.

To what extent has cooperation with the CoE, in particular via the channelling of funds, contributed to strengthening the rule of law as it relates to the fight **against corruption, money laundering, organised crime and trafficking**?

Main findings from the field mission:

Not selected as an area of focus for the Turkey Field Visit

3.5 EQ5: Rule of Law II

Evaluation Question 5:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, contributed to strengthening the rule of law as it relates to **legal systems and access to justice**?

Main findings from the field mission:

The core field visit research questions for this EQ was:

Taking account of relevance, effectiveness, efficiency, impact and sustainability, to what extent has CoE contributed (during 2000-2010) to:

- any reduction in case backlog and delay through improved case management (I-512)
- any increase in availability of formal and practical legal procedures (leave to appeal, scope of judicial review, etc.) for the protection of human rights (I-522)
- any decrease in number of complaints against the judiciary and law enforcement agencies (I-513)

The desk phase working hypotheses was largely confirmed; namely that JPs were delivered in a context that of large scale challenges identified by key actors monitoring the functioning of the justice system. Some key measures aimed at addressing justice system efficiency/effectiveness are linked to legislative and other changes that came after the period covered by the evaluation (including the judicial reform bill adopted on 9 February 2011). On-going challenges include converting knowledge into changed practices and procedures through enhanced accountability and political will.

3.5.1 JC 5.1 Increased transparency, efficiency, and effectiveness of the legal system

Main findings from the field mission:

There is a widespread acknowledgment of justice system improvements since 2000, with JPs seen as a contributing factor. The scale of this contribution is not readily verified in the absence of base-lines, use of SMART qualitative/quantitative indicators in monitoring and post-project impact evaluation. Nevertheless, field mission discussions bear out observations in various monitoring reports by CoE & EU of some progress, but as the January 2012 visit report by CoE Commissioner for Human Rights noted "*some long-standing, systematic dysfunctions in the domestic justice system adversely affecting the enjoyment of human rights and fundamental freedoms in Turkey, as well as the public's perception of the system's effectiveness, independence, and impartiality.*"³⁵ (Indicator 5.1.1)

With respect to I- 5.1.2 – *Backlogs and delays reduced through improved case management*, the 2008 CEPEJ Report highlights a clearance rate of civil cases in first instance of 97%, and disposition time of these cases is 209 days. However grave case backlog was noted in the Court of Cassation and CEPEJ indicates that at least in 2008 the backlog was growing. On January 1 2006 there were 69.421 civil cases pending before the Court of Cassation rising to 76.707 by on December 31, 2006. The criminal case backlog went from 136,135 to 141,005 in the same year. The EC "Effectiveness of the Judicial system in Turkey" Peer Assessment reports an "average duration of Juvenile court cases is 517 days and for the cases before the Juvenile Aggravated Felony court even 619 days". The report recommended among other measures more court support personnel. In February 2011, in the context of the need for revising the judicial structures, the Minister of Justice reported that some 200,000 cases were at risk of falling foul of the statute of limitations.

The MoJ Criminal Records and Statistics Directorate highlight as concrete result of the JP *Support to court management system of Turkey* the construction of a database that means that data entry which previously took 10 months to do is (since 2009) completed in one month. However, in the context the challenge of attribution, reference was also made to a EC access to justice project that also involved hardware and software support and a range of other court automation and capacity building projects that took place during 2000-2010. Plans to use the time saved by the new software for deeper

³⁵ "Administration of justice and protection of human rights in Turkey", Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, 10 January 2012, CommDH(2012)2

analysis of data is an example of a potential impact that planned post-project evaluation might capture (though the DG acknowledges its capacity deficit to undertake such analysis).

A number of innovations implemented in pilot courts through JP *Support to Court Management System* are identified as impacting positively on court procedures (and potentially judicial independence). These include introducing new positions (Court Managers, Judicial Assistants) and court 'Front Offices' and 'restricted zones'. Extending these is a matter of resources and continued judicial support, but legislative changes now provide for such Front Offices and it is not insignificant to have piloted changes in a system culture that "things are assumed to be prohibited unless expressly allowed". These reforms appear to benefit from targeted use of study visits with interviews of managers and participating institutions suggesting detailed consideration given to participants and study visit content, objectives etc something that has evolved over time.

A specific benefit of JP study visits identified by the CoE office is that they helped a group of core people within Justice institutions to be aware that problems in the system in Turkey are to varying degrees shared by other jurisdictions and that other jurisdictions have managed to address them and therefore the Turkey can do likewise.

While earlier study visits are mentioned as removing some of the suspicion among key Turkish actors of Strasbourg mechanism, more recent ones are reported as having more specific targeted objectives. Study visits part of *Enhancing the role of the supreme judicial authorities in Turkey (2010-2012)* (20 people undertake six-month placements with eleven others to do shorter one month placements) were deemed by participants to have been timely linked to the need to develop admissibility criteria for the Constitutional Court's new mandate to receive individual applications. Interviewees highlighted that internal Court legislation has been revised and selection of individuals for study visits was reflected in their responsibilities. The first participants were tasked with inputting into the new internal legislation of the constitutional court, later ones developed forms for individual applications to the court and shared with experts in Strasbourg and current members in placements in Strasbourg focus on case filtering and single judge mechanisms.

A range of specific examples of reduction in inappropriate prosecutions were identified by CoE managers as arising from JPs though, e.g. the fact that in the past 18 months no criminal cases have been filed in Diyarbakir against persons for using the honorific 'Mr' with regard to Abdullah Ocalan.³⁶ This is identified by CoE as an example of a result of awareness raising around freedom of expression. However, a marked increase in opening of cases using Anti-terror legislation and Penal Code terrorist related provisions quadrupled to 63,000+. This is commented by numerous interlocutors as being used as a pressure tactic (not captured in conviction/imprisonment statistics), which highlights that JP progress of more efficient case management, better trained judges new courts etc can be thwarted politically motivated use of prosecution. (*Indicator 5.1.2 – Backlogs and delays reduced through improved case management*).

CoE JP managers express the view that beneficiary institutions do not share donors awareness of the need to highlight impacts of specific projects so, for example, the CoE perspective is that Ministry of Justice initiated nine key legal changes in line with the priorities of JP Court management Projects I and II but these were not mentioned by the Ministry to the ROM mission.

Generally justice system reform projects (including but not confined to JPs) are described by some interlocutors as "considerably fragmented" and enhanced capacity of personnel is reported to be countered by significant infrastructural gaps (Regional Courts of Appeal planned for 2009 are now expected in 2013) and legal procedures (e.g. the obligation on government lawyers to appeal in all cases that concern government bodies).

With regard to numbers of complaints against the judiciary and law enforcement (*Indicator 5.1.3*) the Prime Ministry's Human Rights Presidency reports an eightfold increase in the number of human rights petitions received as an example of the impact of the *Support to the implementation of human rights reforms JP (2006-2007)* as evidence of increased awareness, while at the same time the fact that the health sector has replaced (for a number of years) the justice sector (currently in 8th place) as the leading source of HRP complaints is read as evidence of positive change in the sector. Within MoJ a view expressed is that complaints by detainees and their families reflect greater human rights awareness and a tendency to complain about issues that are not (or are only minor) human rights issues.³⁷ Capacity to analyse justice sector complaints does not appear to have featured in any JPs

³⁶ Prosecutors argue that the honorific amounted to "praise for a criminal", with a penalty of up to two years in prison.

³⁷ This needs to read against the 1500 petitions Parliament's Human Rights Investigation Committee received since October 2010, most of which concerned justice system/detention as well as some interlocutors suggesting

(either as a focus or a means of measuring impact). In the absence of a mix of scientifically formulated qualitative and quantitative indicators and their planned application in M&E it is not possible to assert that any positive impacts of JPs (which were clearly relevant in their focus) were a contributing factor to any positive changes or that any negative aspects of JP design/delivery can be linked to stasis or regression.

Statistics regarding complaints and disciplining of judges and prosecutors (as of 15/06/2012) outline that the total number of disciplinary complaints by the HSYK in 2000 was 230, reached a low of 165 in 2009 and a peak of 531 in 2011 but showing no consistent trend. Larger numbers of judges and prosecutors are subject to other punishments (transfer, fines, demotion etc), but dismissals of judges and prosecutors ranges from 2 (in 2010) to 11 (in 2003). Figures do not lend themselves on their face to easy analysis (e.g. in 100 cases out of 189 complaints led to pardons in 2006 compared to 2 out of 188 in 2004), and more specifically nothing can be deduced from them in terms of JP impact.

3.5.2 JC 5.2 Improved access to justice

This JC was not addressed in the Turkey field visit as no JPs specifically addressed this issue. While in principle increased human rights awareness may lead to more people seeking and (linked to support of NGOs and lawyers) accessing justice this is not something tracked by JP M&E.

3.6 EQ6: Democracy

Evaluation Question 6:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, contributed to establishing stronger **democratic institutions and practices** at central and local level?

Main findings from the field mission:

Not selected as an area of focus for the Turkey Field Visit

3.7 EQ7: Implementation

Evaluation Question 7:

To what extent have the **implementation modalities** of Joint Programmes employed by the CoE been appropriate to help achieving EC objectives related to human rights, rule of law, and democracy?

3.7.1 JC 7.1 Degree to which CoE implementation has reflected best practice of programme cycle management

Main findings from the field mission:

JPs objectives are framed accurately in terms of the applicable law (bar gender, see below), and are linked to relevant national policy documents (e.g. the Judicial Reform Strategy) which identify the problems to be addressed.

CoE expertise in JP implementation appears stronger on substantive content than on M&E aspects project cycle management. A particular weakness relates to framing qualitative/quantitative SMART indicators and capacity and plans for their application in on-going project monitoring for the input-output-impact sequence (as opposed to activity reporting). Strategic linking of JP activities with other activities and actors in the sectors concerned also appears to have been a challenge possibly linked to capacity issues or overly restrictive interpretation of Office's project/programme mandate as precluding wider engagement on the issues concerned.

Generally no difficulties are reported in adapting to changed circumstances, though passage of time between fiche formulation and inception phase means that some significant reconfiguring of JPs is required, which impacts on effective commencement. For example, CoE staff report that in the case of the Education JP 25% of planned project objectives had been attained by the time the project commenced (e.g. civic education had been introduced as a compulsory subject in the curriculum). In some cases changes include personnel in partner institutions as well as actual institutions themselves e.g. on the *Ethics* JP the Prime Ministers Inspection Board was the planned the beneficiary but the establishment of the Ethics Council meant a change was required.

Desk review of JP log frames highlighted generally underdeveloped indicators (for the most part limited to outputs/activities) with limited or no focus on standard PCM issues such as means of

an upward trend in complainants being prosecuted in appropriately for 'resisting the police' and 'insulting the police'.

verification, risk mitigation etc (*Indicators 7.1.1 and 7.1.2*) Field visit highlighted an awareness of this pointing to log frames being designed by partner institutions with limited CoE input. It is not clear why deficiencies cannot be remedied or some capacity building regarding M&E provided to address this. Delays, for whatever reason, between JP design and commencement is specified as a source of pressure to commence activities preventing remedying of M&E deficiencies in JP log frame. The fact that inception phase reports were not a standard feature of JPs during 2000-2010 is acknowledged by CoE personnel as being a weakness of projects. It should be noted here that external mid-term evaluation of JP *Enhancing the role of the supreme judicial authorities in Turkey* rated project efficiency as "highly satisfactory." The use of project inception phases (reported by CoE as not having been consistently utilised during 200-2010) can help alleviate this but in itself is not a substitute for addressing weakness earlier at project design stage both as matter of project efficiency and also to address a identified capacity gaps in project design. (*Indicator 7.1.3 Timely mid-term reviews and adjustment of logical framework and implementation*) While JP managers report receiving PCM training some years ago new managers are assumed to have PCM experience on appointment. Some EUD staff expressing frustration at being "pushed to micromanage" so as to address weaknesses in CoE project management capacity. (*Indicator 7.1.1 CoE HQ JP project managers and country office staff well-versed in PCM*)

Only limited in-country discussions were held on functioning of JP Steering Committees. Observations made include that they foster JP ownership, are useful for bringing institutions together, which in some cases generally tend to compete. There was also some suggestion that CSOs are not invited to join later Steering Committees if they are too 'challenging' in their participation and that EUD inputs are generally more robust than those of CoE. (*Indicator 7.1.4 Mandate appropriately used by JP Steering Committee (regular meetings, appropriate composition, recommendations implemented, etc.)*)

3.7.2 JC 7.2 Quality of reporting, monitoring, financial management by JPs and quality of evaluation of JPs

Main findings from the field mission:

Apart from two recent (not falling within the 2000-2010 timeframe) exceptions JPs were notable for the absence of external evaluation (*Indicators 7.2.1 and 7.2.2*). Two on-going JPs³⁸ were considered in field mission discussions so as to take account of recent and ongoing changes, have been subject to external mid-term evaluation. Apart from best practice and accountability principles, these evaluation reports (shared with the field mission expert) highlight the utility of external evaluation as a contribution to lessons identification (lessons learning depends on follow-up, management and partner responsiveness, allocation of resources etc) and fostering a culture of accountability and scrutiny in a sector (justice), where it is not instinctively welcomed or understood. For example, Court of Cassation is reported by CoE managers as having only screened their decisions and found 25 cases that reflected ECHR jurisprudence *after* the mid-term evaluation had reported lack of impact in this respect. To some degree the fact that JPs designed and delivered during 2000-2010 did not incorporate or budget for external impact evaluation has made it more difficult but not impossible to get buy-in from partners on the principle now.

Grave EUD concerns are expressed with regard to some CoE JP budget preparation (in particular inconsistencies in core costs in parallel JP proposals). This problem appears to have resulted in delay in commencement of several JPs in 2011. CoE managers' position is that these issues have now been addressed by a change to unit costing. Three different financial audits of CoE Office activities were reported as having taken place in 2010 but the field mission did not allow time to explore financial management or comparative value for money of JPs. (*Indicator 7.2.3*)

Some delays in filing of JP progress reports was reported by EUD as well as issues of their weakness in going beyond noting activities (this is presumed to be linked to lack of capacity/emphasis on situating JP activities in their wider context). (*Indicator 7.2.4*) There are suggestions from some donors of a lack of CoE Office responsiveness when funding was flagged as being available (again this is presumed by donors to be due to capacity issues).

There is acknowledgement among CoE & EUD that the process of CoE reconfiguration has been a factor impacting negatively on the effectiveness of JPs. A view expressed is that lessons learned are not adequately being transferred from HQ to country office with a hope and expectation that this would change with the new CoE Programming Directorate. As it represents a departure from past practices, the external mid-term evaluation of the JP *Enhancing the Role of the Supreme Judicial Authorities in respect of European Standards* was reviewed (despite falling outside the 2000-2010 timeframe). The

³⁸ Enhancing the role of the supreme judicial authorities in Turkey 2010-2012 and Training of military judges and prosecutors on human rights issues in Turkey 2010-2012

report offers a number of useful suggestions (including suggestions for indicators to measure impact), which if acted upon systematically (e.g. through a documented response and plan of action from the JP Steering Committee), can help address some identified PCM weaknesses. It can also help foster in CoE and implementing partner institutions a greater understanding of the need, rationale and utility of external evaluations. (*Indicator 7.2.2*)

3.7.3 JC 7.3 Appropriateness of relationship between JP management needs, CoE headquarters human resources, and field presence

Main findings from the field mission:

Delivery of substantive JP inputs is largely outsourced to independent experts, many of whom have long familiarity with CoE norms and mechanisms and experience working in transitional contexts relevant to Turkey. The CoE Office in Ankara benefits from staff having with working knowledge in key local institutions (e.g. MoJ). In some cases these experts were available for long term presence but for the most part their inputs were in short term. The balance of long and short term expertise seems appropriate but more systemic evaluation of their inputs would help confirm this and possibly may identify ways of enhancing contributions. Management of JPs seems to fall to small number of staff given their scale with the result that day-to-day management, administration and reporting is likely to impede more strategic networking, advocacy etc. In-house substantive capacity seems low given the complexity and scale of JPs and the increase to 30 staff does not necessarily address this given volume of Project activity. In particular, formal designation of responsibility for cross-fertilisation between JPs, lessons learning, sectors/thematic strategy etc appears to be something that would have added value to JPs (*Indicator 7.3.5 – Appropriate mix of temporary and permanent CoE staff; in-house and outsourced expertise*)

The high percentage of CoE Office staff whose positions are project-dependent means that JPs are delivered in relative isolation from relevant activities of other actors (especially those involving donors, CSOs) (*Indicator 7.3.5*) This may be alleviated by the appointment of a deputy director depending on their designated role.

3.7.4 JC 7.4 Mechanisms and processes for incorporating lessons learned and ensuring sustainability in place

Main findings from the field mission:

Field mission discussions suggest a distinct lack of sustainability plans and formal mechanisms for gathering and documenting lessons learned and incorporating them into future programming (*Indicator 7.4.1*). A difficulty identified is that at project conclusion end of activities (sometimes after necessary extensions) coincides with managers' contract ending. This has in some cases at least curtailed dissemination of results documenting of lessons learned for the benefit of follow-up projects.

To some degree this is alleviated by CoE Office memory of some personnel, including staff rolling forward from one JP to another, and (during 2006-2010) the relative small scale of the CoE Office. The increase to 30 staff in 2012 highlights the need for this to be formalised and allocated as a designated staff responsibility. The strong local ownership of JPs, use of Steering Committees etc means that handover of project results is not problematic, though resources to take results forward are in some cases problematic. (*Indicator 7.4.3*).

3.7.5 JC 7.5 Degree to which EC political visibility has been ensured

Main findings from the field mission:

Various documents viewed all carry acknowledgment of EU funding support. EUD reports a lack of consistent promotion of EU visibility in CoE oral presentations, while acknowledging that written JP materials are clear as to the source of funding. (*Indicator 7.5.1*)

There is some degree of confusion (among state and non-state actors) regarding the precise nature and role of the Council of Europe, European Commission and the EUD. (*Indicator 7.5.2*) Overall, the level of knowledge and understanding of the JPs among key local stakeholders (beyond implementing partners) is weak (*Indicator 7.5.3*). In particular civil society actors who (given their areas of focus) should be expected to be aware of JPs. To some degree the passage of time may explain this knowledge gap but in the case of recent and current JPs there is a need for greater communication so that rights-holders (via representative NGOs etc) are more aware of capacity building and other reform commitments of duty-bearers. In principle this should enhance impact (& project M&E) by ensuring that intended JP outcomes are factored into such civil society monitoring as takes place.

3.8 EQ8: Complementarity and synergies

Evaluation Question 8:

To what extent has the cooperation with the CoE, in particular via the channelling of funds, helped to enhance **complementarity and synergies** between the EC and the CoE?

Main findings from the field mission:

3.8.1 JC 8.1 Degree to which CoE country strategies were aligned and coordinated with the EC country strategies

There is no formal CoE country strategy document for Turkey though field visit meetings suggest an overarching alignment of priorities in that applicable CoE standards and EU accession criteria are in line. More specific alignment and coordination is less evident, though some stakeholders met assume CoE & EU have a strategic mutually reinforcing plan of 'softer' CoE engagement and 'harder' EU pronouncements on problematic issues. A poll of interlocutors suggest that degree of influence for CoE & EU has varied over the time period considered and as having levelled off or started to decrease since 2005. (*Indicator 8.1.1*)

3.8.2 JC 8.2 Degree to which cooperation between EC and CoE has facilitated complementarity of JPs with EC other external assistance programmes

Main findings from the field mission:

A non-exhaustive review of JP project documents found only limited reference to other external assistance programmes (*Indicator 8.2.1*) and JPs reviewed did not involve joint activities with other EC projects / programmes (*Indicator 8.2.2*). While interviews suggest that early JPs laid a foundation for and willingness among State institutions to engage in later programmes with other actors, including Twinning. Other examples of JPs (including with MoJ) lack what one assumes should be useful synergies with other projects. Some recent EUD-led steps are suggested as offering possibility for more sectoral approach (in justice at least) may offer progress in this regard.

3.8.3 JC 8.3 Degree to which joint EC-CoE cooperation activities are aligned with government, EU and CoE priorities

Main findings from the field mission:

By definition JPs with objectives are based on CoE legal norms are in line with priorities of the EU and Turkey. All JPs during 2000-2010 addressed priority reform areas in Turkey (as might be expected given the extent to which local institutions have ownership of project design). At the same time local ownership may also explain certain gaps in coverage of themes and groups (gender, socio-economic rights, minorities) no less of a priority in terms of the situation in Turkey and its legal obligations (*Indicator 8.3.1 – Appropriate consideration of in-country situation and beneficiary requirements in joint EC-CoE cooperation activities in the country*). While difficult to ascertain that they are specifically or systematically considered in planning phase, JPs do reflect key EU & CoE priorities (*Indicator 8.3.2 – Appropriate consideration of EU and CoE priorities in cooperation activities in the country*).

3.8.4 JC 8.4 Degree to which EU-CoE cooperation has enhanced synergies between the organisations

Main findings from the field mission:

3.8.5 JC 8.5 CoE value added

Main findings from the field mission:

Discussions confirm that beneficiary institutions view the JP relationship with CoE as one of peer-to-peer and do not feel patronised in this relationship. Views expressed include that they (Turkish State institutions) feel they can "drive the project". Others speak of "messages delivered via the Council of Europe are more powerful than those delivered via a single partner state". This is particularly important in sectors (e.g. Justice) where the culture is described as having "a tradition of change from the top down" with individuals within a hierarchical system wait for a signal that it is okay to apply new methods and new reasoning (*Indicator 8.5.1 – Cooperation with the CoE in the key areas of cooperation benefits from CoE comparative advantage*). This dynamic is helped by some discussions highlighting strong interpersonal relations between JP managers and personnel in implementing partner institutions. Applying *Indicator 8.5.2 (Impacts achieved through EC-CoE cooperation are greater than those that would have been possible in cooperating with other agents/institutions)*

remains problematic in the absence of systematic impact measurement, but there is a consensus that at least in early years this is so in the absence of political space for other implementers.

Some comparative advantages of the CoE as a programme implementer are assumed rather than proven. This may be addressed if external impact evaluation of its programmes becomes the norm. At the same time comparative advantage can be diminished or lost by various factors, including failure to emphasise that the States obligations are to ensure reform in line with applicable law standards and not just to organise activities or an increased volume of project activity without adequately resourced emphasis on advocacy, networking with other actors and projects etc.³⁹ The status constraints of the CoE Office in Turkey may not have been adequately tested and there is at least a perception that more can be done to accentuate its impact, even without a change in status.

While Strasbourg CoE placements are perhaps uniquely possible though CoE-led JPs and CoE led JPs offer exposure to a range of jurisdictions for Turkish institutions (an advantage over Twinning models), projects furthering knowledge and capacity with regard to CoE norms and mechanisms do not *necessarily* require CoE-led management. Sustainable impact requires accuracy of substantive content, but also methodological best practice in terms of project design, delivery and M&E. Moreover, the weakness with regard to equality/non-discrimination highlight that CoE-implemented programmes do not necessarily guarantee that core CoE norms are addressed. The 'snapshot' gained from desk review of projects and brief field visit in Turkey suggests that progress on this issue should be an urgent priority.

³⁹ A recently launched German embassy supported initiative by the Human Rights Joint Platform for monitoring implementation of ECtHR decisions and the Child Rights Observatory by the International Children's Center are more recent examples of activities that can (if CoE engages) be used to enhance the impact of JPs.

4 Annexes

4.1 Annex 1: List of people consulted

<i>Last name</i>	<i>First Name</i>	<i>Organization</i>	<i>Position</i>	<i>Date of interview</i>
Altuntaş	Mehmet	Prime Ministry, Human Rights Presidency	President	10.05.2012
KILINÇ	Bahadır	Constitutional Court	Deputy Secretary of Court	11.05.2012
Ali	Mehmet	Ministry of Defense/TGS	Major	15.05.2012
Adzovic	Emir	CoE	Project Coordinator/Team Leader	14.05.2012
Akerman	Nese	British Embassy	Project team	14.05.2012
Alaca	Berin	Association for Solidarity with the Freedom – Deprived Juvenile NGO, OZGEDER	President	12.05.2012
Alemdar	Serhan	CoE	Project Officer	14.05.2012
Altıparmak	Kerem	Ankara University, Faculty of Political Science Human Rights Centre	Assistant Professor	10.05.2012
Arkadas	Adem	International Children's Center	Journalist, ex-president of the Association of Human Rights Agenda, lawyer	14.05.2012
Ataman	Hakan	Helsinki Assembly, Amnesty International	Member	12.05.2012
Aydın	Fatih	Prime Ministry, Human Rights Presidency	Expert	10.05.2012
Aydın Samur	Türkan	Ministry of Defence	Officer	15.05.2012
Bakkalcı	Metin	Human Rights Foundation of Turkey	President	16.05.2012
Baysal	Mustafa	Constitutional Court	Judge	11.05.2012
Bilgen	Ayhan	Civil Society Development Center, Mazlumder, Human Rights Association, New Constitutional Enterprise	Ombudsman, ex-president, Charter member, Charter member	10.05.2012
Bloemen	Peter van der	Holland Embassy	First Secretary Political Affairs	10.05.2012
Bryans	Shane	CoE Consultant	Long Term Resident JP Expert	
Butler	Adrian	CoE	Head of Office	14.05.2012
Büyükçeken	Gökçe	CEID (Association for monitoring gender equality)	Member	12.05.2012
Cengiz	Orhan Kemal	Human Rights Agenda	Ex-president, Lawyer, Journalist	15.05.2012
Cengiz	Serhan	Lawyer	Lawyer CoE JP Consultant	9.05.2012
Cetin	Serra	British Embassy	Head of Projects Team	14.05.2012
Cupina	David	CoE	Project Manager	14.05.2012
Çalışır	Mehmet	Justice Academy	Deputy Manager of the Training Center	15.05.2012
Çınar	İbrahim	Constitutional Court	Judge	11.05.2012
Çine	Özcan	Union of Turkish Bars	Legal Advisory	11.05.2012
Durnagöl	Engin	High Council of Judges and Prosecutors	Deputy Secretary General – Judge	15.05.2012
Efe	Salih	Human Rights Agenda	Secretary General	12.05.2012
Erkut	Çiğdem	Ministry of Justice, Prisons & Detention Houses, Deputy DG for Prisons & Detention Houses	Unit Manager	15.05.2012
Hun	Sinem	Pink Life LGBTT Association	Lawyer	12.05.2012

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<i>Last name</i>	<i>First Name</i>	<i>Organization</i>	<i>Position</i>	<i>Date of interview</i>
Jacomy-Vité	Séverine	UNICEF	Chief of Child Protection Section	16.05.2012
Kılıçkaya	Buse	Pink Life LGBTT Association	President	12.05.2012
Kıraç	Zafer	Civil Society in the Penal System	President	10.05.2012
Kocaman	Yüksel	MoJ, Criminal Records And Statistic	General Director	10.05.2012
Koçyıldırım	Göktan	UNICEF	Expert	16.05.2012
Kurdoğlu	Ayça	CEID (Association for monitoring gender equality)	Member	12.05.2012
Pola	Annika	Embassy of Sweden	Counselor	9.05.2012
Rakusic-Hadzic	Tanja	CoE		14.05.2012
Songür	Muharrem	MoJ, Criminal Records And Statistic	Head of Department	10.05.2012
Şenol	Talay	Union of Turkish Bars	Vice Chairman	11.05.2012
Şimşek	Ayşe	Turkish Gendarmerie General Command	Assistant of the General Secretary	16.05.2012
Spoor	Peter	British Embassy	Political Section	
Tekinbaş	Ege	CoE	Project Officer	14.05.2012
Termacic	Tatiana	CoE	Head of Justice Reform & Police Division Directorate General of Human Rights & Legal Affairs	14.05.2012
Topçubaşı	Asena	Prime Ministry, Human Rights Presidency	Advisor(Political Scientist)	10.05.2012
Türkdoğan	Öztürk	Human Rights Association, Human Rights Joint Platform, The Coalition for the International Criminal Court	General President, Charter member, Member	12.05.2012
Türmen	Rıza	Republican Peoples Party Member of The Constitutional Committee	MP (İzmir), Former Judge of the ECtHR, former Ambassador, Journalist	14.05.2012
Umut	Hakan	Ministry of Justice, Prisons & Detention Houses, Deputy DG for Prisons & Detention Houses	Investigating Judge	15.05.2012
Woods	Richard	Mol/Consultant	Resident Advisor	9.05.2012
Yalkın	Murat	Union of Turkish Bars	Expert	11.05.2012
Yardımcı	Mehmet Murat	Justice Academy	Vice President-Judge	15.05.2012
Yıldırım	Abdullah	Justice Academy	Judge	15.05.2012
Zararsız	İsmail	Ministry of Justice, Prisons & Detention Houses, Deputy DG for Prisons & Detention Houses	Head of Department	15.05.2012

4.2 Annex 2: List of documents and sources consulted

In addition to JP Project documents, a range of documents were consulted as part of background for the Field Mission.

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4.3 Annex 3: Description of EC-CoE Joint Programmes in Turkey

Country programmes

Turkey - Police, Professionalism and the Public

Start year: 2002

Budget: 700.000 EUR

Objectives and expected results:

Overall objective:

Project purpose:

1. Training programmes in compliance with Council of Europe standards
2. Develop internal capacity to train all police officers in Human Rights standards

Expected results: For project purpose 1)

- Expertise on curriculum development
- Translation of awareness-raising and training materials.

For project purpose 2)

- Pilot course: Elaboration of training strategies and methods for modern teaching including a pedagogical module through sharing of international expertise and training abroad.
- 3 courses for trainers of Police and Gendarmerie officers: Three similar courses with 18 participants each will be held to complete training of the target group of 72 trainers. They will have the same content, except for Stage 3, Practice training, which may be shorter, depending on the feedback from the pilot course.
- Evaluation of the training programme: A Working Group (1 meeting in Ankara, 2 days, 15 participants, 1 consultant, 2 CoE staff, interpreters) will review and evaluate the results of the training programme, with a view to making recommendations for in-service training of police and gendarmerie officers.

Activities: Translation of documents, training courses, working groups meetings, evaluation

Joint EC/CoE Initiative with Turkey to enhance the ability of the Turkish authorities to implement the National Programme for the adoption of the Community acquis (NPAA)

Start year: 2002

Budget: 1.465.000 EUR

Objectives and expected results:

Overall objective: Enhance capacity to implement the National Programme for the adoption of the Community acquis in the area of justice and home affairs

Project purpose:

1. Devise and implement short and long term training strategies on rule of law and ECHR case-law for judges, prosecutors and public officials
2. Create and launch a comprehensive campaign to increase awareness and understanding of human rights among the public at large
3. Align normative framework and its implementation in conformity with European standards in the following areas: judiciary, criminal norms, civil norms, data protection, protection of human rights, freedom of media and expression, democratic institutions
4. Also evaluation of the programme

Expected results: For project purpose 1)

- Recommendations on long term training strategies: At least 200 trainers of judges and prosecutors trained on ECHR standards. At least 300 public officials trained on ECHR.

For project purpose 2)

- Strengthening of role of HR Councils to promote HR awareness across Turkey, Greater awareness among public officials, Awareness materials produced, Change in public attitudes on HR complaints

For project purpose 3)

- Proposals for draft legislation on judiciary, criminal norms, civil norms, data protection, protection of human rights, freedom of media and expression, democratic institutions submitted to the parliament

For project purpose 4)

- Project Management

Activities: High Level Joint Expert Advisory Group, production and distribution of material, train the trainers, visits, round tables, expert meetings, recruitment of personnel

Judicial Modernisation and Penal Reform

Start year: 2004

Budget: 7.000.000 EUR

Objectives and expected results:

Overall objective: To support the improvement of the functioning and efficiency of the judiciary and the prison system according to European standards, as foreseen in the Accession Partnership and the National Programme for the Adoption of the Acquis.

Project purpose:

1. Training of judicial staff strengthened according to European standards and practices
2. Functioning of the prison system improved according to European standards, in order to ameliorate detention conditions
3. Project Management

Expected results: For project purpose 1)

- Appropriate training structures and system established: Justice Academy established with an efficient structure and organisation, training strategy of the Justice Academy developed and implemented, networking of the School organised
- Capacity of the Ministry of Justice to review draft laws and ensure compatibility with European norms increased
- Quality and timely delivery of forensic examination improved, including in the decentralised branches

For project purpose 2)

- European standards for the construction of new Turkish prisons and rehabilitation of old ones accepted and implemented
- Training capacities of the Prison Staff Training School strengthened
- Rules and practices adopted in the prison system regarding prison management and treatment of inmates according to European standards
- Effectiveness of the system of "enforcement judges" enhanced

For project purpose 3)

- Support Team
- Administrative Costs
- Contingencies

Activities: Study visits, training programmes, working group meetings, English language courses, training sessions, seminars, training of trainers, purchasing of training centres, symposium

Project on Ethics for the Prevention of Corruption in Turkey

Start year: 2007

Budget: 1.500.000 EUR

Objectives and expected results:

Overall objective: To ensure the effective implementation of the Code of ethics for public officials and the adoption of such codes by other categories of officials.

Project purpose: To support the effective implementation of the code of ethics for public officials and its extension to other categories of officials.

Expected results:

- Inception Phase

- The staff of the Ethics Council are trained and have the necessary working tools and procedures to better exercise their mandate.
- A training package is available to support the application of the code of ethics for public officials.
- At least 10 trainers have been trained and are able to deliver ethics training.
- The governors, assistant governors and members of ethics commissions of the 81 provinces have been trained in the application of the code of ethics for public officials.
- Officials of central institutions and organisations responsible for ethics (members of the ethics commissions and senior managers) have been trained in the application of the code of ethics for public officials.
- At least 10 research studies are available on the risks of corruption in relation to unethical behaviour and have been discussed in public.
- The development of codes of conduct for elected office holders and the judiciary will have been supported.
- The effectiveness of codes of conduct and other anti-corruption measures in Turkey will have been evaluated and recommendations for future prevention strategies are available
- Coordination of measures to promote ethics with other anti-corruption measures in Turkey ensured

Activities: Support and assistance to the ethics council, preparation of training package, training the trainers, training events, workshops, evaluation

Cascade training for Turkish lawyers on the European Convention on Human Rights (ECHR)

Start year: 2006

Budget: 1.300.000 EUR

Objectives and expected results:

Overall objective: The culture of human rights in Turkey is developed and strengthened.

Project purpose: Knowledge and skills as regards European human rights standards among lawyers increase, enabling them to apply these standards at the national level and before the ECtHR.

Expected results:

- The national capacity to train and retrain lawyers on the ECHR is strengthened.
- Lawyers in the regions are better able to apply European human rights standards in their daily work.
- Access of legal professionals, in particular lawyers, to human rights materials in Turkish is improved.
- Steering Committee meetings
- Staff costs

Activities: Training of trainers sessions, regional training sessions, reproduction and publication of documents, steering committee, establishment and running of a local office, recruitment of personnel

Support to the implementation of human rights reforms

Start year: 2006

Budget: 4.000.749 EUR

Objectives and expected results:

Overall objective: Full compliance of human rights actually enjoyed by Turkish citizens and the civil society as a whole with principles, standards and practices in accordance with the ECHR.

Project purpose:

1. To enable legal professionals, in particular judges and prosecutors, to use the ECHR and the case law of the ECtHR in their daily work.
2. To strengthen the capacity of the Inspection Board of the Ministry of Justice to carry out inspections of the functioning of courts effectively, taking into consideration European human rights standards.

3. To increase the knowledge and skills in European human rights standards and ethical standards among law enforcement bodies through training and other capacity building activities, facilitating effective implementation of these standards at national level.
4. To strengthen the profile and develop the capacity of the Human Rights Presidency in dealing with human rights complaints and increase its co-operation with the Human Rights Boards and civil society.
5. Management of project

Expected results: For project purpose 1)

- The knowledge of judges and prosecutors as regards the ECHR and the case law of the ECtHR, as well as their skills in using these in their daily work is improved.

For project purpose 2)

- The level of professionalism of the Inspection Board of the Ministry of Justice is strengthened and the inclusion of human rights considerations in the formulation of their recommendations to the judges and prosecutors is ensured.

For project purpose 3)

- The knowledge of Governors, Deputy Governors, police and Jandarna officers on the ECHR and the case law of the ECtHR, as well as their skills in using these in their daily work are improved.

For project purpose 4)

- The Human Rights Presidency and Human Rights Boards are strengthened by improving the knowledge of their members as regards European human rights standards, in particular the ECHR and the case law of the ECtHR, as well as their skills in using these in their daily work.
- The dialogue and co-operation between the HRP/HRB and civil society in order to consolidate domestic mechanisms for preventing and remedying human rights violations are strengthened.

For project purpose 5)

- Programme support team
- Steering Committee meetings
- Overheads
- Audit & Evaluation

Activities: Translation and publication of material, training seminars, symposium, recruitment of personnel, steering committees

Human Rights training to the staff of the Delegation of the European Commission**Start year:** 2007**Budget:** EUR**Objectives and expected results:****Overall objective:****Project purpose:** Human Rights training to the staff of the Delegation of the European Commission**Expected results:****Activities:****Support to Court Management System in Turkey****Start year:** 2007**Budget:** 3.005.328 EUR**Objectives and expected results:**

Overall objective: To improve the functioning and efficiency of the judiciary according to European standards as foreseen in the Accession Partnership and the National Program for the Adoption of the Acquis.

Project purpose: To reconstruct the court management system in order to strengthen the effectiveness of the judiciary and to facilitate the judiciary system to function faster.

Expected results:

- New court management system including, fiscal, case flow and human resources management of the courts, developed and implemented
- Backlog of the cases from previous years reduced.
- The average trial duration shortened
- Effective technological solutions and technology management system serving to the more satisfactory and rapid judiciary obtained.

Activities: Renting of flat, needs assessment, steering committees, evaluation, purchase of equipment, consultant assistance, study visits, trainings,

Dissemination of Model Prison Practices and Promotion of Prison reform in Turkey

Start year: 2009

Budget: 2.975.590 EUR

Objectives and expected results:

Overall objective: To assist the authorities in developing the prison system, based on the rule of law and respect for fundamental rights and European democratic values and standards

Project purpose: To assist the authorities in developing the prison system, based on the rule of law and respect for fundamental rights and European democratic values and standards

Expected results:

- Rules and practices adopted and implemented regarding prison management and treatment of inmates according to European standards.
- Rehabilitation and training of prisoners complying with international human rights and prison standards ensured, detention conditions improved
- Two new Prison Staff Training Centres are operational with same level of professionalism of the other three training centres.
- The role of the Monitoring Boards and the enforcement judges enhanced
- Prison Reform promoted to public and civil society
- The capacity of the General Directorate of Prisons and Detention Houses of the Ministry increased for further design and implementation of prison reforms

Activities: Development of training materials, publication of training materials, expert meeting, project management, needs assessment, study visits, training seminars, workshops, Cascade intermediate training, training of trainers, expert meetings

Enhancing the role of the supreme judicial authorities in Turkey

Start year: 2010

Budget: 4.014.000 EUR

Objectives and expected results:

Overall objective: To improve the functioning and efficiency of the judiciary according to European standards as foreseen in the Accession Partnership and the National Program for the Adoption of the Acquis.

Project purpose: To contribute to the enhancing of the role of the superior judiciary in Turkey in initiating new changes in the normative framework and its implementation in line with the acquis, the rights and freedoms guaranteed by the ECHR, the provisions of the ESC and other European standards shared by the EC and the CoE through its interpretative decisions

Expected results:

- Greater awareness of the members of the beneficiary institutions on the EU institutions, their decision making processes and the acquis, as well as on the implications of Article 90 of the Turkish Constitution, the ECHR, the case law of the ECtHR and the execution of the ECtHR's judgments, and the ESC
- To promote the co-operation of the High Council of Judges and Prosecutors and of the Higher Courts as superior judicial authorities with equivalent European institutions.

Activities: Launching conference, round table, study visits, recruitment of project staff, conference, steering committee meetings

Training of military judges and prosecutors on human rights issues in Turkey

Start year: 2010

Budget: 2.000.000 EUR

Objectives and expected results:

Overall objective: The culture of human rights in Turkey is developed and strengthened

Project purpose: To support the interpretation and application of legal provisions related to human rights and fundamental freedoms in line with the ECHR and its related case law

Expected results:

- Development of future training capacities
- Easy access of all military judges and prosecutors; legal counsellors and advocates at MoND and TGS to the translations of ECHR, related agreements and judgments of ECtHR provided
- Military judges and prosecutors and legal counsellors increased their awareness on the identified problematic areas in military judiciary

Activities: Working Group meetings, Training-of-Trainers, cascade seminars, conferences, study visits and dissemination of knowledge

Multi-country/regional programmes

Democracy through free and fair elections

Start year: 2003

Budget: 400.000 EUR

Objectives and expected results:

Overall objective: The project aims to analyse key aspects of European electoral law and to assist national authorities in improving the quality of electoral legislation and practice.

Project purpose: To improve the quality of electoral legislation and practice, in particular through assistance to national authorities and information to the public.

Expected results:

- To identify the weak points of electoral legislation and the need to revise it, in particular on the basis of the observation reports of the Parliamentary Assembly and the Congress of Local and Regional Authorities (CLRAE)
- To ensure that the fundamental principles of European electoral law are reflected in draft and adopted electoral legislation
- Dissemination of principles of electoral law and practice

Activities:

- Assistance to observation mission and opinion on electoral legislation
- Workshop and seminars on the holding and supervision of elections

Peer project - Setting up an active network of independent non-judicial Human Rights Structures in the Council of Europe member States which are not members of the European Union

Start year: 2008

Budget: 900.000 EUR

Objectives and expected results:

Overall objective: To assist National Human Rights Structures (NHRS) in developing competencies concerning European human rights standards and practice and promote their joint initiatives aimed at networking, mutual exchange of information and sharing of best practices.

Project purpose: National Human Rights Structures (NHRSs) are more aware of European standards and practices in the field of Human Rights and are able to act independently and efficiently in line with the Paris Principles, for the protection and promotion of the Human Rights.

Expected results:

- National human rights structures with independent and efficient functioning in conformity with the Paris Principles are established and/or strengthened at national, regional or local level.
- The staff of the National Human Rights Structures have enhanced their knowledge of European standards of human rights protection, and have extended their awareness of possibilities of action.
- An active network of the national human rights structures and the Commissioner's Office is created and developed, to interact effectively at the national and international levels.

Activities:

- Joint mission with other international actors
- Roundtables and workshops
- Webpage of the NHRS network
- Annual Meeting of NHRS Contact Persons

Regional Programme for Social Security Co-ordination and Social Security Reforms in South-East Europe**Start year:** 2008**Budget:** 2.196.122EUR**Objectives and expected results:**

Overall objective: To further enhance the coordination of the social security systems and to facilitate the institutional, legislative and administrative reforms in the field of social protection according to EU standards.

Project purpose:

6. To improve institutional capacity for quality development and proficiency in the social sector,
7. provide institutional, legislative and administrative guidance to reform the social security coordination field in line with EU standards.

Expected results:

- Implementation of the Programme following Action Plan.
- Improve the know-how of middle and upper level civil servants for the delivery of cross-boarder social welfare.
- Improve the know-how of middle and upper level civil servants for the delivery of cross-boarder social welfare.
- Support the development of the legislative framework for implementing social security policies.
- Streamline and strengthen processes of co-ordination of national plans for strategic reform in order to gradually align to the European standards in particular with respect to the modernisation, adequacy and viability of the social security and social protection systems.

Activities:

- For project purpose 1) Three Social Security Summer Schools (two week intensive training in the different social security areas with an official exam at the end of the training); three progressive Health care workshops (new area), two progressive Pensions workshop (area partially examined under the First Joint Programme); One IT social security database exchange workshop; One study tour.
- For project purpose 2) Twelve Rounds of Speaking day, eight sets of studies (one per Beneficiary Party) concerning Health care and another eight sets of studies in the Pension field; eight sets of legal analysis (national memoranda); three meetings on compatibility of legislation (bases on studies mentioned before); five Steering Committee meetings; one State Secretary meeting; one Ministerial Conference and one meeting on examination of changes introduced and recommendations to be adopted.

Peer-to-Peer II - Promoting national non-judicial mechanisms for the protection of human rights and especially the prevention of torture**Start year:** 2010**Budget:** 1.600.000 EUR**Objectives and expected results:**

Overall objective: To help avoid, put an end to or compensate for human rights violations in Council of Europe member States which are not EU members, as well as, to the extent possible, Belarus.

Project purpose: Supporting and strengthening the functioning of National Human Rights Structures (NHRSS)/National Preventive Mechanisms (NPMs) in line with international and European standards (including the Paris Principles and OPCAT), to enhance their awareness of the European standards and practices in the field of human rights and to assist them in building or strengthening the capacities to protect and promote, with increasing efficiency, abidance by such standards by respective national, regional and local authorities.

Expected results:

- NHRSS and NPMs are set up at national, regional or local level. Their independent and efficient functioning in conformity with the Paris Principles and the OPCAT is strengthened and defended.
- Specialists within these structures are trained on the non-judicial protection in specific areas of human rights which the Council of Europe and the NHRSS themselves have identified as objects of major concern throughout Europe. They deepen their knowledge of European system of Human Rights protection, in particular, of the case-law of the European Court of Human Rights (ECtHR) and admissibility criteria for cases brought before it. As a result, domestic human rights monitoring by NHRSS and NPMs is enhanced. More cases settled out of the national courts or of the ECtHR by intervention of the NHRSS.
- Transfer of international know-how on torture prevention held by CPT and SPT transferred to the national level of NPMs.
- An active network of the NHRSS and the various Council of Europe human rights mechanisms as well as of the NPMs, the CPT (European Committee for the Prevention of Torture) and the SPT (Un-Subcommittee against Torture) is created so as to combine effectively the defence of the human rights in question at the national and the international level, under the auspices of the Council of Europe. Information comes from NHRSS/NPMs to help the Council of Europe and UN bodies to react more speedily vis-à-vis potential or real human rights violations.

Activities:

- Targeted missions to countries where there might be a political momentum for the setting up of a NHRSS or an NPM.
- Thematic workshops for the sharing of experiences and brainstorming by officials of the various NHRSS / NPMs and publication of debriefing papers reflecting the results of these workshops.
- Annual meetings of the Contact Persons of NHRSS to ensure the overall co-ordination and take stock of the activities and adapt working methods and projects.
- Information and communication tools, such as an interactive website, a newsletter for the attention of the NPMs, a collaborative space and issues of the "Regular Selective Information Flow" for the attention of all NHRSS, including NPMs.

Project against cybercrime in South-East Europe (cyber@SEE)

Start year: 2010

Budget: 2.777.778EUR

Objectives and expected results:

Overall objective: To enhance the ability of countries of the region to prevent and control cybercrime

Project purpose: To strengthen the capacities of criminal justice authorities of Western Balkans and Turkey to cooperate effectively against cybercrime

Expected results:

- Policy- and decision-makers have reached agreement on strategic priorities regarding cybercrime for Western Balkans and Turkey
- Legislation is harmonised with the EU acquis and other relevant European standards, in particular the Budapest Convention on Cybercrime
- Enhanced regional and international cooperation based on chapter III of the Budapest Convention.
- Law enforcement training strategy agreed and implementation initiated

- Judicial training on cybercrime and electronic evidence integrated into the curricula of training institutions for judges and prosecutors
- Capacities enhanced to follow crime proceeds on the internet
- Cooperation between law enforcement and Internet service providers (ISPs) in investigations related to cybercrime strengthened
- Regional assessments carried out to determine progress made

Activities: Advice, studies, assessments, conferences and workshops, workshops (in-country, regional, international), preparation of training materials

4.4 Annex 4: Field Mission introduction letter

To Whom It May Concern

18 April 2012

Evaluation of European Commission Cooperation with the Council of Europe – Country Case Study Turkey

Particip, a Germany-based consultancy company, has been contracted by the European Commission to conduct an evaluation of the cooperation of the EC with the Council of Europe during 2000-2010, with particular emphasis on the effectiveness and impact of the Joint Programmes of the EC and CoE.

This evaluation commenced in late 2010, led by Landis MacKellar and a desk review has been approved by the Evaluation Reference Group. This desk review looked – in addition to broader, institutional, parameters of the EC-CoE cooperation – at the portfolio of Joint Programmes in 8 countries, namely Armenia, Azerbaijan, Bosnia and Herzegovina, Macedonia, Moldova, Russia, Serbia, and Turkey.

In accordance with the Evaluation Terms of Reference, the desk review is to be followed by 4 country visits, including Turkey. The aim of field visits is to test, corroborate, or refute, tentative findings from the desk phase, and to collect additional data. Field visit countries were chosen on a number of parameters: to allow the team to cover the spectrum of CoE-EU cooperation, to take account of country-specific and regional Joint Programmes, and other criteria including EU accession status, potential relevance of lessons identified for other countries etc.

The field trip to Turkey will be conducted during May 9-16 2012 by Core Evaluation Team member Patrick TWOMEY. He is a barrister and Director of the *International Human Rights Network*, an NGO based in Ireland and has conducted evaluations (on justice sector, human rights and institutions) for a range of actors, including the EC, UN and bi-lateral donors. He will be supported by local expert Ayca BESTEPE GUNCAKIN. She is currently project officer for a Civil Society Organisations Project (TACSO) on Capacity Building of Civil Society Organization in the Western Balkans and Turkey and has previously coordinated a number of EU funded civil society projects in Turkey.

Discussions are planned with stakeholders responsible for, and engaged on, the issues chosen for specific focus in the Turkey field visit. The selected focus areas and key questions are:

Protection of human rights (civil, political, social, economic and cultural), including non discrimination, in particular accession to, and strengthened compliance with, the European Convention on Human Rights and the European Social Charter

Taking account of relevance, effectiveness, efficiency, impact and sustainability, to what extent has CoE contributed (during 2000-2010) to:

- *Any enhanced use of ECtHR jurisprudence in the curricula of academic and professional training (lawyers, prison staff, journalists, medical staff, etc.) & enhanced knowledge of the ECHR among key institutions and main stakeholders improved*
- *Any enhanced implementation and execution of ECtHR decisions, and incorporation of ECtHR jurisprudence into domestic law and practice*
- *any strengthened and more effective state institutions in defence of human rights (such as Offices of Human Rights Commissioners and Ombudsmen) at central and local levels*
- *Any enhanced access to social and economic rights through enhanced implementation of the RESC and of RESC Committee Decisions and Conclusions*
- *Any enhanced NGO involvement in human rights*

Detention Treatment & Conditions

Taking account of relevance, effectiveness, efficiency, impact and sustainability, to what extent has CoE contributed (during 2000-2010) to:

- *Any increased adherence to European detention standards, and*
- *Any reduction in recourse to detention (in particular pre-trial), increased use of bail and reduced duration of deprivation of liberty*

Transparency, efficiency, and effectiveness of the legal system

Taking account of relevance, effectiveness, efficiency, impact and sustainability, to what extent has CoE contributed (during 2000-2010) to:

- *Any reduction in case backlog and delay through improved case management*
- *Any increased level of execution of judgments and sentences*

Evaluation of Commission's cooperation with the Council of Europe – PARTICIP GmbH

- *Any increase in availability of formal and practical legal procedures (leave to appeal, scope of judicial review, etc.) for the protection of human rights*
- *Any decrease in number of complaints against the judiciary and law enforcement agencies*

The field visit will also explore issues such as EU/CoE cooperation, implementation modalities of EU/CoE Joint Programmes as well as complementarity and synergies between the CoE and the EU.

All inputs to this evaluation will be received on the basis of non attribution, unless otherwise agreed, and are greatly appreciated.

The Turkey field visit team can be contacted at [contact details given]