

Analysis of European Neighbourhood Policy (ENP Action Plans for South Caucasus: Armenia, Azerbaijan and Georgia)

What are the Action Plans?

As part of the extension of the European Neighbourhood Policy (ENP) to the South Caucasus the EU has agreed Action Plans jointly with the governments of Armenia, Azerbaijan and Georgia. These Action Plans serve as a primary agenda-setting and benchmarking instrument for progressing EU relations with these countries and encouraging the governments to implement reforms. The Action Plans were agreed on 14th November.

Overall Assessment of the 3 Action Plans

The language in all of the Action Plans is vague and neutral. But the vagueness does offer possibilities to propose actions as part of the process of concretizing the measures (e.g. suggestions for how exactly the EU and the national government should “facilitate civil society”).

Georgia Action Plan: As we expected this is not a very strong document on human rights front although the document does identify judicial reform as the priority of EU Georgia cooperation and this is what our coalition has been asking for. Unfortunately EU was not ready for active involvement in conflict resolution work in Georgia but the Action Plan states that the sides will discuss an EU involvement mechanism. The Georgia Action Plan is strong on ‘new partnership perspectives’ compared to other APs. This is the most far reaching AP in terms of specific actions envisaged on the Georgian side with specific mention of EU education programmes and possible EU-Georgia Free Trade Agreement among the Priority Actions.

Armenia Action Plan: The ENP action plan for Armenia underlines issues such as the rule of law, judicial reform, anti-corruption measures and respect for human rights. While very neutral in nature the document does outline plans for democratization of Armenia’s flawed political system. This is very important because in the past EU used to close its eyes to election rigging in Armenia, press freedom, etc. ***However there is little in the way of encouraging civil society/government dialogues and this is something that can be pursued further.*** And no specific mention of forthcoming elections. Armenian government will however be forced to deliver on its promises, particularly as there is a reference to benchmarks in the section on Monitoring (absent from the AZ and Georgia APs).

Azerbaijan Action Plan: The government and EU officials could not agree on strong wording for Human Rights and Democracy and the Azerbaijan Action Plan is therefore rather weak/neutral in nature. On key issue of media freedom/freedom of expression there is a mention of need for development of independent public broadcasting service but little else. However, under Communication Technologies, Information Society and Media there is ***a commitment to develop audiovisual laws and e-technology which could***

be useful for further advocacy. On the positive side democracy is a main priority and Priority 4 and Priority 6 contain some specific measures on fighting corruption.

The remainder of this document goes into further details of the three Action Plans following the structure of the Action Plans section-by-section in a way that enables them to be compared and contrasted. The analysis of the Introduction, New Membership Perspectives and Monitoring sections are based on particularly close reading. The sections on Priorities and General objectives are meant to give an overview and therefore highlight only those differences considered relevant to the work of OSI and the National Foundations.

Action Plans Structure: Documents of around 40 pages broken down into the following sections: 1. Introduction, 2. New Partnership Perspectives, 3. Priorities for Action, 4. General objectives and actions, 5. Monitoring

1. Introduction

Common Provisions

The Action Plans (APs) are set to cover 5 years (unlike Ukraine and Moldova APs which cover 3 years, although 5 years is a more realistic timeframe). The accent in all three plans is on the need for closer economic integration and political cooperation “beyond cooperation” to enhance security, stability and welfare.

Conditionality on Commitments to Values There is a reference in each introduction to “ambitious objectives based on commitments to shared values” or “common values” but no direct reference to HRs, rule of law etc. All the APs have soft conditionality (identical language) which refers to the ambition of the relationship and pace and progress being based on government “efforts and concrete achievements in meeting those commitments”. There are references in the introduction to all three APs to commitments to “political, economic and institutional reforms” as well as approximation of laws, norms and standards of each partner country to those of the EU. *EU ‘standards’ is open to interpretation: and can mean anything from the legal framework to human rights, rule of law, democratic accountability etc.*

(N.B. As part of plans to strengthen the European Neighbourhood Policy Commission has recently announced a new incentive in the form of a governance facility worth 300 million Euros (43mln per year) for the best countries.)

Conflict Prevention All APs have a standard paragraph inviting increased dialogue and “shared responsibility” in conflict prevention and resolution.

In each AP the European Commission “take note” of the country’s EU aspirations but do not elaborate.

Differences in the individual plans

Azerbaijan AP has a strongly worded paragraph on respect and support for sovereignty, territorial integrity and inviolability of international borders of each other's state "and compliance to international and European norms and principles" in a possible reference to the Nagorno-Karabakh conflict. It also has a suspension clause: "Any breach of these norms and principles by either party to the Action Plan will result in the immediate suspension of its implementation."

Armenia AP contains concrete commitment to helping government raise the public awareness of the EU through establishing a European Info Centre as well as assistance in drafting a Government Communication Strategy on European Integration.

2. New Partnership Perspectives

Common Provisions:

For all three countries a stake in the internal market, increased scope and intensity of political dialogue, deepening trade and economic investment including economic legislative convergence, lowering of tariff barriers and assistance for regional integration are offered as carrots. European Commission (hereafter 'Commission') proposes increased financial assistance under European Neighbourhood Partnership Instrument (ENPI) and an extension of the European Investment Bank (EIB) mandate to all 3 countries in 2007.

In all three Action Plans the Commission offers the perspective of enhanced dialogue on issues relating to the movement of people (Armenia AP refers specifically to possibility of discussions on visa and readmission). All APs offer also a gradual opening and reinforced participation in Community Programs (promoting cultural/educational/scientific links etc). The provision on conflict prevention in all APs contains similar language with the EU promising to "consider ways to strengthen further engagement".

Differences in the individual plans

Azerbaijan AP has an inclusion on political dialogue on "security issues that affect the interests of both sides", which possibly refers to energy. Also contains reference to opening of Commission Delegation as soon as possible.

Armenia AP refers here to the possibility of dialogue on readmission and visa.

Georgia AP has more detailed provisions in the new partnership perspectives with an addition on 'gradual extension of four freedoms to Georgia' (freedom of goods, services, capital and people) which is significant in terms of movement of people. It also contains provisions on:

- Closer cooperation in Justice and Home Affairs and Border Management. Also possibilities for closer cooperation in foreign and security policy as well as

European Defense and Security Policy, particularly on issues of regional stability and crisis management.

- Enhancing cooperation in energy, transport and the environment contributing to energy security and supply diversification needs for the EU. Enhance bilateral and multilateral cooperation in the Black Sea area in parallel with the South Caucasus partnership – including strengthened regional cooperation for Baltic, Black and Caspian Sea regions. Identifying particular issues on maritime related matters in Black Sea and more coordinated approach to management of sea space.
- Reference to ‘financial’ as well as technical assistance to meet EU norms and standards.

3. Priorities for Action Section:

The Azerbaijan AP has 10 priority action areas; Georgia and Armenia have 8 priority action areas. In places it is indicated the year in which actions should begin. This table is not exhaustive as it is intended as a point of comparison. However actions are elaborated where considered relevant.

<u>Azerbaijan</u>	<u>Armenia</u>	<u>Georgia</u>
<p>Priority 1 Contribute to the peaceful settlement of the Nagorno-Karabakh conflict</p> <p><i>SIMILAR LANGUAGE TO ARMENIA PRIORITY 7</i></p> <p><i>Except refers to:</i></p> <ul style="list-style-type: none"> - <i>conflict settlement based on relevant UN Security Council resolutions and OSCE documents and decisions</i> - <i>intensified EU dialogue with ‘states concerned’</i> 	<p>Priority 1 Strengthening of democratic structures, rule of law, including reform of the judiciary and combat of fraud and corruption.</p> <ul style="list-style-type: none"> - <i>emphasis on Constitutional Reform, separation of powers esp. judicial reform (ensure judicial independence, develop laws on status of judges and procuracy),</i> - <i>human rights Ombudsman</i> - <i>electoral framework in line with OSCE</i> - <i>implement Anti-Corruption Action Plan with ‘active participation of civil society’</i> - <i>improve legal & free legal aid system through training for young advocates’</i> - <i>establish admin courts</i> - <i>evaluate civil service system, ensure improvements in line with</i> 	<p>Priority 1 Strengthen rule of law through reform of the judicial system, including the penitentiary system, and through rebuilding state institutions. Strengthen democratic institutions and respect for human rights and fundamental freedoms in compliance with the international commitments of Georgia (PCA, CoE, OSCE, UN)</p> <ul style="list-style-type: none"> - <i>reform whole justice system incl. training for judges, prosecutors, police, prisons with particular regard to human rights</i> - <i>establish legal aid system to improve access to justice</i> - <i>adopt new Criminal Procedural Code by 2007</i> - <i>improve detention conditions by implement recommendations of European Committee for</i>

	<p><i>EU standards</i></p> <p><i>(many actions beginning already in 2006)</i></p>	<p><i>prevention of torture and implement optional protocol to UN Convention</i></p> <ul style="list-style-type: none"> <i>-implement strategy for public service reform</i> <i>-implement strategy for local government reform “Law on Self Governance”</i> <i>-develop working Civil Register by 2009</i> <i>- ensure 2006,8 &9 elections in line with OSCE</i>
<p>Priority 2 Strengthen democracy in the country, including through fair and transparent electoral process, in line with international requirements</p> <ul style="list-style-type: none"> <i>- electoral and institutional reform</i> <i>- elections in full compliance with OSCE commitments</i> <i>- institutional reforms to ensure legislative and executive checks and balances in conformity with CoE commitments.</i> <i>- Legislative & administrative reforms to strengthen local self government</i> 	<p>Priority 2 Strengthening of respect for human rights and fundamental freedoms, in compliance with the international commitments of Armenia (PCA, CoE, OSCE, UN)</p> <ul style="list-style-type: none"> <i>-ensure independence of media through independent regulatory body for public & private broadcasters</i> <i>- install freedom of assembly in line with CoE OSCE standards (incl law on rallies and demonstrations)</i> <i>- protect right to individual property</i> <i>- reform of penitentiary and police with view to meeting CPT guidelines and eliminating torture</i> <i>- cooperate with OSCE, CoE to build confidence between police and society</i> 	<p>Priority 2 Improve the business and investment climate, including a transparent privatization process, and continue the fight against corruption</p> <ul style="list-style-type: none"> <i>- mechanism to ensure regular consultation and info on import, export regulations</i> <i>- ensure implementation of recently approved National Anti-Corruption Strategy by 2009, ensure active participation of civil society in monitoring implementation</i> <i>- transparent licences system</i>
<p>Priority 3 Strengthen protection of human rights and fundamental freedoms, in compliance with the international commitments of Azerbaijan (PCA, CoE, OSCE, UN)</p>	<p>Priority 3 Encourage further economic development, enhance poverty reduction efforts and social cohesion, thereby contributing to the long-term objective of</p>	<p>Priority 3 Encourage economic development and enhance poverty reduction efforts and social cohesion, promote sustainable development including the protection of the</p>

<ul style="list-style-type: none"> - improve judiciary - ratify protocol to UN convention on torture by 2006, - develop independent public broadcasting - simplified NGO registration - implement Law on Public Information - promote cultural diversity through community-based programmes. 	<p>sustainable development, including the protection of the environment</p> <p><i>-further implement projects in the field of protection of children's rights</i></p>	<p>environment, further conversion of economic and administrative practices</p> <p><i>- large number of provisions, emphasis on education, inter alia:</i></p> <ul style="list-style-type: none"> - participation of Georgian scientists/students/academics in international & exchange programmes e.g TEMPUS, Erasmus Mundus, Marie Curie, Jean Monnet, and EC Framework Programmes FP7 - explore bilateral trade relations with possible EU-Georgia Free Trade Agreement (FTA) with feasibility study from Commission
<p>Priority 4 Improve the business and investment climate, particularly by strengthening the fight against corruption</p> <ul style="list-style-type: none"> - specific measures to enforce & assess domestic anti-corruption laws - improve legislative framework in anti-corruption in line with international standards 	<p>Priority 4 Further improvement of investment climate and strengthening of private sector-led growth.</p> <ul style="list-style-type: none"> - simplify and improve coherence and reliability of tax system to reduce corruption risks - mechanism to ensure regular consultation and info on import, export regulations 	<p>Priority 4 Enhance cooperation in the field of justice freedom and security including in the field of border management</p> <ul style="list-style-type: none"> - strong EU-Georgia cooperation: comprehensive strategy in cooperation with the EU Special Rep by 2006 - ratify UN conventions on trafficking in people and arms - establish a dialogue on readmission and visas - refugee and IDP protection system
<p>Priority 5 Improve the functioning of customs</p> <ul style="list-style-type: none"> - provide full and regular info on tariffs to public 	<p>Priority 5 Further conversion of economic legislation and administrative practices</p>	<p>Priority 5 Strengthen regional cooperation</p> <ul style="list-style-type: none"> - Less detail but similar to provisions in Armenia Priority 8
<p>Priority 6 Support the balanced and sustained economic development, with particular focus on diversification of economic</p>	<p>Priority 6 Development of an energy strategy, including decommissioning of the Medzamor Nuclear Power Plant.</p>	<p>Priority 6 Promote peaceful resolution of internal conflicts</p> <ul style="list-style-type: none"> - EU contribution to

<p>activities, development of rural areas, poverty reduction and social/territorial cohesion, promote sustainable development including the protection of the environment.</p> <ul style="list-style-type: none"> - <i>continue public finance reform to improve transparency</i> - <i>continue participation in Extractive Industries Transparency Initiative</i> 	<ul style="list-style-type: none"> - <i>develop comprehensive energy strategy (2007) converging with EU energy policy objectives</i> - <i>detailed provisions on Medzamor closure</i> 	<p><i>efforts/constructive cooperation and possible enhanced financial support if progress made (no EU leadership)</i></p> <ul style="list-style-type: none"> - <i>“territorial integrity” of Georgia to be raised in EU-Russia dialogue</i>
<p>Priority 7 Further convergence of economic legislation and administrative practices</p>	<p>Priority 7 Contribute to the peaceful settlement of the Nagorno-Karabakh conflict.</p> <p><i>SIMILAR LANGUAGE TO AZERBAIJAN Priority 1 Except refers to:</i></p> <ul style="list-style-type: none"> - <i>conflict settlement based on international norms and principles, including the principle of self determination of peoples</i> - <i>intensified EU dialogue with ‘parties’ concerned</i> 	<p>Priority 7 Cooperation on Foreign and Security Policy</p> <ul style="list-style-type: none"> - <i>including enhanced cooperation on European Security and Defence Policy</i> - <i>Georgia may be invited to align with EU positions on regional and international issues (case-by-case basis)</i>
<p>Priority 8 Strengthening EU-Azerbaijan energy bilateral cooperation and energy and transport regional cooperation, in order to achieve the objectives of the 2004 Baku ministerial conferences</p> <ul style="list-style-type: none"> - <i>implement and regularly monitor the Memorandum of Understanding between</i> 	<p>Priority 8 Enhanced efforts in the field of regional cooperation</p> <p><i>General. Mentions regional cross cutting initiatives: and as specific measures: Drugs enforcement SCAD.</i></p> <ul style="list-style-type: none"> - <i>Caucasus Regional Environmental Centre</i> - <i>Black Sea Economic Cooperation BSEC</i> 	<p>Priority 8 Transport and Energy</p> <ul style="list-style-type: none"> - <i>Georgia inclusion in EU Trans European Networks (TENS) agreement</i> - <i>Recognition of Georgia’s potential as transit country</i> - <i>Cooperation on Caspian and Black</i>

<p><i>EU and Az on strategic energy partnership</i> - ensure increasing convergence with EU energy objectives in updating State Programme</p>	<p>- EU Black Sea/Caspian littoral states and neighbouring countries initiative (transport & energy)</p>	<p><i>Sea Energy issues</i> - With view to progressive integration with EU energy market encourage diversified infrastructure</p>
<p>Priority 9 Enhancement of cooperation in the field of justice freedom and security; including in the field of border managements</p> <p><i>Includes programme for dialogue on visa and readmission issues</i></p> <p><i>Review domestic measures on people trafficking</i></p>		
<p>Priority 10 Strengthen regional cooperation</p> <p>- Less detail but similar to provisions in Armenia Priority 8</p>		

4. General Priorities

Concentrating on Political Dialogue and Reform Chapter: Democracy, Rule of Law, Human Rights and Fundamental Freedoms (4.1.1)

Armenia AP

Emphasis is on institutional capacity building and reform (especially of the judiciary and the relationship to the fight against corruption). Little focus on civil society involvement, one reference only to “facilitate development of civil society”, reference to need to implement National Plan enhancing the role of women in civil society. The active involvement of civil society is encouraged in the settlement of the Nagorno-Karabakh conflict. On strengthening democratic institutions: There are references to strengthening local self government, strengthening political pluralism through cooperation with EU/Armenian political actors; clear and transparent rules on party financing. On judicial and civil service reform: There is significant attention paid to recruitment, education and training structures and programmes for judges and civil servants as well as reforms to

judicial systems and civil service institutions in accordance with European standards. There is a reference to a network being established between Armenian and EU civil service structures to ensure legislative harmonization and exchange of best practice. On fighting corruption: There is a detailed section on fighting corruption by ensuring appeals to courts against administrative acts; ensuring the criminal code is in line with international conventions; anti corruption efforts in law enforcement institutions (Code of Ethics – with monitoring of Code of Ethics for Judges); ensure effective monitoring of declaration of assets by officials through amendment to Law on Declaration of Assets and Income by High Level Officials; ensure implementation of Council of Europe Group of States Against Corruption (GRECO).

NB. *Trade chapter* mentions a possible EU-Armenia FTA. *Justice Freedom and Security Chapter* mentions establishing dialogue on readmission possibly leading to EC-Armenia readmission agreement. Under Cooperation in CFSP: The EU may invite Armenia to align itself on a case-by-case basis with EU's positions on international and regional issues.

Azerbaijan AP

Actions under this section are general/weak in nature and read like a basic check-list. On strengthening democracy: improving the transparency of electoral process and making sure it is in line with OSCE/ODIHR and CoE Venice Commission recommendations; and strengthening local democracy (through the creation of national union of municipalities and ensuring its efficient activity). On ensuring respect for human rights and fundamental freedoms: improving penitentiary conditions and reform of the police in cooperation with OSCE and CoE (with view to eliminating torture); improving capacities of institutions dealing with HRs (e.g. the Ombudsman); ensuring trade union rights and compliance with Core Labour Standards; ensuring respect for the right of freedom of assembly; ensuring respect for rights of national minorities, gender equality, education about human rights. Nothing on freedom of expression. On reform of the judicial system: improving training of judges; amending the criminal code to abolish or alleviate provisions on libel and defamation; improving access to justice; strengthening the Bar Association and Judges Selection Committee). On Civil service reform to improve transparency and accountability, specific measures for specific awareness-raising measures and training on EU standards and practices; On corruption there is only the provision to work with the CoE to ensure implementation of GRECO recommendations

Under trade chapter: possible EU-Azerbaijan FTA once Azerbaijan has joined WTO. Cooperation in CFSP: The EU may invite Azerbaijan to align itself on a case-by-case basis with EU's positions on international and regional issues. *Justice Freedom and Security Chapter* mentions establishing dialogue on readmission possibly leading to EC-Azerbaijan readmission agreement. *Under chapter on cooperation in specific sectors*: provisions on Communication Technologies, Information Society and Media which encourage establishment of regulatory body by 2008; encourages new technologies and electronic communication; encourages the government to promote awareness raising for

participation of Azerbaijani entities in Information Society Technologies section of the EU Research Framework Programme; work toward adopting audiovisual legislation in line with European standards; promote an exchange of views of audiovisual policy, including cooperation in the fight against racism and xenophobia. ***These could be the basis for advocacy around developing a more pluralistic media where developing laws.***

Georgia AP

Measures on judicial and civil service reform are not detailed or substantive. They include: improve plea bargaining; improve forensic measures; development of statistics in the criminal justice sector; reform of civil service for greater transparency. On corruption: the measures are more substantive: accession to and ratification of various international covenants on corruption; continuing specific anti-corruption measures in law enforcement including code of ethics for prosecutors and judges and for police; ensure implementation of GRECO. On strengthening democratic institutions: there is strengthening of parliament re. scrutiny, and clearer rules on lobbying; increased legal expertise on harmonization with EU standards; increasing political pluralism through strengthening role and functioning of political parties. On human rights and fundamental freedoms: Ensure *freedom of media*: through proper implementation of Georgian laws on freedom of expression and broadcasting; improving practice in detention with view to elimination of torture and implement National Action Plan against Torture; ensure respect for minorities through signing and ratifying European Charter for regional and minority languages. There is a civic dimension: enhancing the role of the Ombudsman, provisions focusing on respect for individual property rights and security for citizens, (particularly for those Georgians of various ethnic minorities), development of civic integration strategy, ensure trade union rights and Core Labour Standards, rights of minorities, gender equality, and protection of rights of conscripts through civic monitoring.

Other chapters and subheadings: On settlement of Georgia's internal conflicts: Nothing new that has been highlighted in the priorities for action section. EU supporting OSCE and UN in their mandates; and encouraging active involvement of civil society Cooperation in Justice, Freedom and Security Chapter mentions possible EC-Georgia readmission agreement.

5. Monitoring:

This gives details on the process and primacy of APs. This is a useful section for framing civil society response and possible advocacy.

Common Provisions

- Commission reporting on progress at regular intervals (cooperating also with High-Representative's office) and will 'invite' Armenia/Azerbaijan/Georgia to provide information for reports. Commission will work with CoE, OSCE, UN bodies and IFIs. First review of Action Plan within 2 years. Joint bodies

established under the Partnership and Cooperation Agreements will advance and monitor the implementation of the AP.

- *Therefore there is scope for civil society contributions during this process: feeding into the Commission regular reports (non-papers) directly or indirectly through the CoE, OSCE etc.*

Armenia AP has additional statement on benchmarks: “progress in the implementation of the AP is to be evaluated on basis of jointly agreed benchmarks”. *Therefore it is worth asking the Commission and the Armenian government what these jointly agreed benchmarks are and whether they have already been agreed?*