



HIGH REPRESENTATIVE
OF THE UNION FOR
FOREIGN AFFAIRS AND
SECURITY POLICY

Brussels, 24.7.2018
JOIN(2018) 24 final

2018/0294 (NLE)

Joint Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union within the Cooperation Council established by the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part, with regard to the adoption of the EU-Azerbaijan Partnership Priorities

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the Union's behalf in the Cooperation Council established by the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part in connection with the envisaged adoption of the Recommendation No XX/2018 to adopt the EU-Azerbaijan Partnership Priorities.

2. CONTEXT OF THE PROPOSAL

2.1. The EU-Azerbaijan Partnership and Cooperation Agreement

The Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part ('the Agreement') aims to provide an appropriate framework for the political dialogue and cooperation between the parties allowing the development of political relations. The Agreement entered into force on 1 July 1999.

2.2. The Cooperation Council

The Cooperation Council examines any major issues arising within the framework of this Agreement and any other bilateral or international issues of mutual interest for the purpose of attaining the objectives of this Agreement. The Cooperation Council may make appropriate recommendations, by agreement between the Parties. The Cooperation Council consists of the members of the Council of the European Union and members of the European Commission, on the one hand, and of members of the Government of the Republic of Azerbaijan, on the other. The Cooperation Council has its rules of procedure¹.

2.3. The envisaged act of the Cooperation Council

The Cooperation Council is to adopt by written procedure a Recommendation on the Partnership Priorities regarding their partnership and cooperation ('the envisaged act').

The purpose of the envisaged act is to translate the goals of the revised European Neighbourhood Policy² (ENP) to concrete areas of cooperation and will shape the agenda for regular political and sectoral dialogue.

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

The position to be adopted by the European Union in the Cooperation Council established by the Agreement on the adoption of the EU-Azerbaijan Partnership Priorities is based on the text of the recommendation annexed to this Decision.

The proposed Partnership Priorities meet the objectives of the revised ENP. They will guide the multiannual programming of EU's financial cooperation with Azerbaijan, to be decided in the Single Support Framework 2018-2020 and replace the ENP Action Plan.

¹ Adopted on 12 October 1999.

² 18.11.2015 JOIN (2015) 50 final.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing *‘the positions to be adopted on the Union’s behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.’*

The concept of *‘acts having legal effects’* includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are *‘capable of decisively influencing the content of the legislation adopted by the EU legislature’*³.

4.1.2. Application to the present case

The Cooperation Council is a body set up by an agreement, namely the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part.

The act which the Cooperation Council is called upon to adopt constitutes an act having legal effects. The envisaged act is capable of decisively influencing the content of EU legislation, namely the multiannual programming of the financial cooperation under the Single Support Framework. This is because Article 7(2) of the Regulation 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument⁴ provides that for countries for which documents referred to in Article 3(2) of the same Regulation exist, a comprehensive multiannual single support framework shall be adopted in accordance with the examination procedure referred to in Article 16(3) of Regulation (EU) No 236/2014⁵. Such documents shall be action plans, or other equivalent jointly agreed documents, like Partnership Priorities.

The envisaged act does not supplement or amend the institutional framework of the Agreement.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

With regard to an envisaged act that simultaneously pursues a number of objectives, or that has several components, which are inseparably linked without one being incidental to the

³ Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

⁴ OJ L 77 15.3.2014

⁵ REGULATION (EU) No 236/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action, OJ L 77 15.3.2014

other, the substantive legal basis of a decision under Article 218(9) TFEU will have to include, exceptionally, the various corresponding legal bases.

4.2.2. Application to the present case

The main objective and content of the envisaged act relate to cooperation with Azerbaijan in the framework of the Partnership and Cooperation Agreement and the revised European Neighbourhood Policy.

4.3. Conclusion

The legal bases of the proposed decision should be Article 37 TEU and Articles 207 and 209 TFEU, in conjunction with Article 218(9) TFEU.

5. PUBLICATION OF THE ENVISAGED ACT

The act of the Cooperation Council will be published in the *Official Journal of the European Union* after its adoption.

Joint Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union within the Cooperation Council established by the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part, with regard to the adoption of the EU-Azerbaijan Partnership Priorities

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 37 thereof,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article(s) 207 and 209, in conjunction with Article 218(9) thereof,

Having regard to the joint proposal from the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) The Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part ('the Agreement') entered into force on 1 July 1999.
- (2) Pursuant to Article 81 of the Agreement, the Cooperation Council may make appropriate recommendations, for the purposes of attaining the objectives of the Agreement.
- (3) The Cooperation Council will adopt the Recommendation on Partnership Priorities by written procedure.
- (4) The Union position to be taken in the Cooperation Council on the adoption of the EU-Azerbaijan Partnership Priorities has to be adopted by the Council,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the Cooperation Council established by the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part shall be based on the draft recommendation of the Cooperation Council attached to this Decision.

Article 2

This Decision is addressed to the Commission and the High Representative.

Done at Brussels,

*For the Council
The President*



HIGH REPRESENTATIVE
OF THE UNION FOR
FOREIGN AFFAIRS AND
SECURITY POLICY

Brussels, 24.7.2018
JOIN(2018) 24 final

ANNEX

ANNEX

to the

Joint Proposal for a

Council Decision

on the position to be taken on behalf of the European Union within the Cooperation Council established by the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part, with regard to the adoption of the EU-Azerbaijan Partnership Priorities

ANNEX

RECOMMENDATION No XX/2018 OF THE EU- AZERBAIJAN COOPERATION COUNCIL ON THE EU-AZERBAIJAN PARTNERSHIP PRIORITIES

THE EU-AZERBAIJAN COOPERATION COUNCIL,

Having regard to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part and Azerbaijan, of the other part, and in particular Article 81 thereof,

Whereas:

- (1) The Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part and Azerbaijan, of the other part (the 'Agreement') was signed on 22 April 1996 and entered into force on 1 July 1999.
- (2) In accordance with Article 81 of the Agreement, the Cooperation Council may make appropriate recommendations, for the purposes of attaining the objectives of the Agreement.
- (3) In accordance with Article 98 of the Agreement, the Parties are to take any general or specific measures required to fulfil their obligations under the Agreement and are to see to it that the objectives set out in the Agreement are attained.
- (4) The review of the European Neighbourhood Policy proposed a new phase of engagement with partners, allowing a greater sense of ownership by both sides.
- (5) The EU and Azerbaijan wish to consolidate their partnership by agreeing on a set of priorities for the period 2018-2020 with the aim of supporting and strengthening resilience and stability of Azerbaijan.
- (6) The Parties to the Agreement have therefore agreed on the text of the EU-Azerbaijan Partnership Priorities, which will support the implementation of the Agreement, focusing cooperation on commonly identified shared interests.

HAS ADOPTED THE FOLLOWING RECOMMENDATION:

Article 1

The Cooperation Council recommends that the Parties implement the EU-Azerbaijan Partnership Priorities, as set out in the Annex.

Article 2

This Recommendation shall take effect on the day of its adoption.

Done at Brussels, [day month 2018].

*For the Cooperation Council
The Chair*

ANNEX



PARTNERSHIP PRIORITIES

BETWEEN

THE EUROPEAN UNION

AND

AZERBAIJAN

I. Context

1. In the context of the Review of the European Neighbourhood Policy¹, the EU and Azerbaijan have agreed on joint Partnership Priorities with a view to further strengthening their relationship, based on mutual interest and common values, respect for human rights, democracy and the rule of law as well as commitments to the respect of and support for the territorial integrity, inviolability of international borders of states, independence and sovereignty of each other, to shape cooperation with due regard to economic sustainability and to guide the Partnership mainly for the next period (2018-2020). The Partnership Priorities have been defined in an inclusive process through involvement of various stakeholders, including civil society.
2. The Partnership Priorities build on past fruitful cooperation, including the implementation of the ENP Action Plan, which they will replace. They reflect the interests of both the EU and Azerbaijan, reflecting the equality and mutual nature of the Partnership. The renewed Partnership aims at sharpening the focus of our relationship, as a part of the broad policy framework envisioned in the new EU-Azerbaijan Agreement with a view to contributing to the shared goals of peace and security, prosperity, resilience and stabilisation, as well as supporting the reforms that Azerbaijan intends to undertake in this context, and to deliver concrete results for the benefit of all citizens. The EU-Azerbaijan Partnership Priorities translate the goals of the revised European Neighbourhood Policy to concrete areas of cooperation and will shape the agenda for regular political and sectoral dialogue to be agreed in the new EU-Azerbaijan Agreement.

¹ 18.11.2015 JOIN(2015) 50 final

3. The Partnership Priorities reflect a focus on the rule of law, fundamental rights and universal values. They support also the objectives of the 2030 Agenda for Sustainable Development, including the 17 UN Sustainable Development Goals, the implementation of the 2015 Paris Agreement on Climate Change and their commitment to address issues of climate change, environmental degradation, poverty and inequality.
4. These Partnership Priorities for Azerbaijan are grouped under the same four thematic areas as in the “20 Deliverables for 2020” agreed at the Eastern Partnership Brussels Summit of November 24, 2017, while respecting the principle of differentiation. The Partnership Priorities and the 20 Deliverables for 2020 should, where possible, reinforce each other.
5. Azerbaijan seeks to diversify its economy and is developing an ambitious economic reform agenda. The EU is one of the key investors in the country accounting for over half of foreign direct investment in both the oil and non-oil sectors. In this context the EU and Azerbaijan are willing to continue their economic dialogue and cooperation on economic diversification and sustainable growth focusing on support to Azerbaijan to improve the business climate and conditions across all sectors as further developed in paragraph 19. Building further on a shared strategic objective of Azerbaijan and the EU to establish direct energy and transport links, Azerbaijan's role as a strategic energy partner and its geographical location as a natural transport hub offers the possibility to enhance the Parties' agenda on connections, boosting trade and logistics and enabling important East-West and North-South transportation projects in the region.
6. Building inter alia on the resumed dialogue on human rights, cooperation on the rule of law, justice reform and public administration reform will be enhanced. The implementation of the Mobility Partnership and of the Visa Facilitation and Readmission Agreements will be speeded up. To foster an open flow of knowledge and expertise, education, research and innovation and culture cooperation will be enhanced.
7. The future EU-Azerbaijan financial cooperation and programming, notably the next Single Support Framework for Azerbaijan for 2018-2020, will be based on these Partnership Priorities. The Parties will review the implementation of the Partnership Priorities together with the stakeholders on a regular basis to realize agreed objectives.

II. Priorities

8. The cooperation will range from good governance, the rule of law and human rights, dialogue with civil society and people to people contacts to sustainable development and modernisation, research and innovation, transport, energy and climate action, as well as the promotion of high environmental standards.

9. Economic cooperation towards sustained and more sustainable economic growth is an area where mutual interest is strong and where all possible opportunities will be explored to improve the business environment. Accelerating sustainable and more inclusive growth in the long-term will require solid public institutions and improved governance, enhanced respect for labour standards, better infrastructure connections, sustainable management of natural resources and appropriate skills and human capital. Tackling these issues will create favourable conditions for stronger cooperation in key sectors and for increased mobility, to the benefit of citizens both in Azerbaijan and in the EU. Each priority theme includes several elements in a multi-disciplinary and cross-cutting approach that is necessary to reach the objectives.
10. The areas for political, economic and technical cooperation outlined below are not exhaustive; cooperation between the EU and Azerbaijan can – and is encouraged to – span a wider number of areas. They can be pursued bilaterally and in the multilateral context where Azerbaijan's participation could be further enhanced.
11. A vibrant civil society is very important for private sector development, sustainable economic growth, ambitious environmental policies and social innovation. High-quality sector reform dialogue requires technical expertise. Cooperation aims at reinforcing the capacities of all stakeholders.
12. Civil society will be enabled to enhance its participation in public life. Other relevant cross-cutting-issues, such as gender, climate, environmental and social issues will be mainstreamed in all relevant policy areas. Particular focus will be provided to enhancing employment opportunities for women and youth.

1. Strengthening institutions and good governance

13. Azerbaijan and the EU will promote good governance and continuously improve the Azerbaijani public administration, including public service, and judiciary. This will include cooperation on security matters.
14. Particular attention will be given to the rule of law, including the independence, impartiality, quality and efficiency of the judiciary. The Parties will continue their efforts for the reform of public administration at all levels of government, including local authorities and law enforcement as well as public finance management. The cooperation aims to reinforce the accountability and effectiveness of aforementioned institutions as well as the transparency and efficiency of public service delivery based on best practices and by means that include widespread use of e-government. The Parties will also endeavour to base policy development and evaluation on clear evidence provided by, amongst others, a high quality statistical service and involve civil society in the policy making process.

15. The fight against corruption will be an essential element of the administrative reform and of the cooperation to reinforce the rule of law. The cooperation will aim at reinforcing the capacities of anti-corruption bodies and enhancing their activities, and improving regulatory environment in light of international best practices and standards, in particular the areas of public procurement system and the management of public functions where economic and other stakes are highest (such as procurement and permits) with a view to ensuring high ethical standards. Transparency will be an important element of avoiding conflict of interest and reinforcing accountability in case of misconduct. Cooperation in fighting fraud affecting the financial interests of the EU and Azerbaijan will be also strengthened. The Parties will also cooperate on recovery of criminal assets and on fighting money-laundering through the appropriate institutional and legal framework including considering the setup of a national asset recovery office.
16. Cooperation in the security sector will seek to reinforce the capacities as well as the responsibilities of relevant authorities and address common concerns in the fight against organised crime, drugs and terrorism, including financing of terrorism, by means which are respectful of provisions on justice, freedom and security laid down in the various agreements governing EU-Azerbaijan relations and taking into account international standards. The Parties will also step up efforts to increase resilience to cyber threats.

2. Economic development and market opportunities

17. The EU will support Azerbaijan's efforts to diversify the structure of its economy and to enhance its export potential and sources of income with the aim of sustainable and inclusive growth, derived from an increasingly smart, green, circular and social economy. The Parties will enhance bilateral trade in all sectors, including via addressing mutual market access and investment challenges.
18. The World Trade Organisation (WTO) membership of Azerbaijan is an important goal in this regard and the EU is ready to actively support such a process.
19. The Parties will cooperate to develop an enabling and conducive business environment in Azerbaijan, based on macroeconomic stability, fair competition and a public sector applying the rule of law in an efficient and impartial manner. The public policy, guided by the Strategic Roadmap on perspectives of the national economy and inspired by the relevant recommendations of the EU Small Business Act (SBA) Assessment, will aim at facilitating the operation of small and medium-sized enterprises (SMEs), which are the main generators of employment. Such facilitation could take the form of providing better access to finance, reinforced protection and enforcement of property rights or upgrading the Information and Communication Technology (ICT) regulatory and infrastructure environment. Fostering business support organisations and access of SMEs to improved business services and training will also help the integration of Azerbaijani enterprises in global value chains and will contribute to the knowledge sharing and the development of industries. Active participation of Azerbaijan in the EU programmes

for SMEs (COSME) and for research and innovation (Horizon 2020) are useful for boosting business development. Better links between education and business will be promoted, including through business incubators.

20. In order to ensure balanced, sustainable and inclusive development and diversification of the economy, the EU and Azerbaijan will cooperate in regional and rural development, in order to reinforce local administration and civil society and in particular the productivity and competitiveness of agriculture and rural SMEs, including small family businesses.
21. The Parties will cooperate in fostering digital economy, including through the harmonisation of Azerbaijan's digital environment with the EU's Digital Single Market, strengthening cybersecurity as well as in developing mechanisms for a green and circular economy, on the basis of EU legislation and best practise as appropriate.
22. In the context of diversification of economy, employment and social measures will ensure that the population and especially vulnerable groups can adapt to the changes in the labour market. The EU will share its experience in improving social assistance provisions in order to protect the unemployed and the socially vulnerable groups and their inclusion into society. The EU and Azerbaijan will promote effective social dialogue in respect of the standards of the International Labour Organisation.

3. Connectivity, energy efficiency, environment and climate action

23. Azerbaijan's diversification strategy draws strongly on its favourable position at the cross-roads of transport connections and the Parties will cooperate to increase Azerbaijan's ability to operate as a trade, logistics and transport hub, ensuring that its physical and regulatory environments support that objective. Particular attention will be paid to effective border management and transit system as well as to a swift conclusion of an EU-Azerbaijan Aviation Agreement. Governance of the transport sector, including legal and institutional reforms, is also of key importance.
24. Enhancing energy interconnections among partner countries, as well as with the EU, is an important priority for both Azerbaijan and the EU. Azerbaijan – due to its capabilities and geographic location – can play a key role in contributing to Europe's energy security. Likewise, the EU can play an important role in contributing to the enhancement of efficiency, competitiveness, sustainability and security of the energy sector of Azerbaijan. With that purpose, both Parties should provide each other with open and undistorted trade and investment opportunities in their respective energy sectors. In that regard, the Parties will also step up their efforts to improve the general investment climate in their energy sectors and markets. On the issue of energy trade, the Parties will aim to upgrade the functioning of relevant energy systems and the stability of the energy markets to and through which there are and will be energy flows. In this respect and in line with the provisions of the Joint Declaration on the Southern Gas Corridor signed on 13 January 2011, the swift completion of the Southern Gas Corridor and the timely beginning of the gas deliveries to the European market are key priorities. This will reinforce the role of

Azerbaijan not only as a significant energy supplier to Europe but also as a potential transit country who could offer a full range of transmission and logistics services within the context of the Southern Gas Corridor to the energy producers in the Caspian region and beyond in view of the possible expansion of the Southern Gas Corridor to other countries and regions. Finally, the EU will share its experience on the issues of regulatory policy and the transition towards green and sustainable economy, particularly by promoting increased energy efficiency measures and renewable energy solutions, as stipulated in the Memorandum of Understanding on a Strategic Partnership between the EU and Azerbaijan in the Field of Energy signed on 7 November 2006. In this respect, reforms in the energy sector will be essential.

25. Better environmental governance, the sustainable management of natural resources and a transition towards a green and circular economy, as well as cooperation on the development of an environmentally friendly transport policy via the implementation of relevant projects is essential to achieve sustainable development. The Parties will cooperate to ensure that the best practices in this area are applied. Energy efficiency, urban and rural environmental management, particularly better pollution prevention and effective use of materials, and waste management, will play a key role in reaching Azerbaijan's objectives related to the environment. Sustainable forest management and water basin management will also be among the main priorities in this field to be tackled. Increased cooperation on climate action will help Azerbaijan to develop an economy that is more efficient, competitive, resilient and stable in accordance with its Nationally Determined Contributions (NDC). The full implementation of the Paris Agreement on Climate Change as well as respective NDCs will be among the main priorities. The EU will particularly focus its cooperation with Azerbaijan on the development of long-term low greenhouse gas emission development strategies, the mainstreaming of climate action and environment into national policies with a focus on quick-win options, the introduction of emissions measuring, reporting and verification frameworks and the adaptation to climate change.

4. Mobility and people to people contacts

26. The Parties will aim to enhance the mobility of citizens, as appropriate, and cooperation in the areas of education, youth, culture as well as research and innovation.
27. The partners are committed to the effective implementation of the Mobility Partnership, as well as to the full implementation and smooth functioning of the Visa Facilitation and Readmission Agreements, with a view to considering in due course, if conditions allow, the opening of a Visa Liberalisation Dialogue with Azerbaijan respectively, provided that conditions for a well-managed and secure mobility are in place, including the effective implementation of Visa Facilitation and Readmission Agreements. In this respect the Parties will cooperate with a view to consolidating the legal and institutional framework for document security, border management, migration and asylum policy in line with best international standards.

28. Building on the on-going cooperation in the framework of Erasmus+ and of the Bologna Process and development of technical and vocational training, the future cooperation will focus on modernising Azerbaijan's education system from pre-school to tertiary education. It will help improve the match between demand for education by the people and the demand for skills by employers. In particular, efforts will focus on developing skills and training of teachers and enhancing the public image and the quality of vocational training. Cooperation on research and innovation will be promoted. Cooperation in the area of intercultural dialogue will foster cultural diversity and better mutual understanding and increase tolerance in our societies.