



Council of the
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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	25 August 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 492 final
Subject:	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 extension of the EU-Azerbaijan Partnership Priorities

Delegations will find attached document COM(2021) 492 final.

Encl.: COM(2021) 492 final



EUROPEAN
COMMISSION

Brussels, 25.8.2021
COM(2021) 492 final

2021/0279 (NLE)

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 extension of the EU-Azerbaijan Partnership Priorities

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER

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 ('the Agreement') to adopt Recommendation No XX/2020 on the extension of the EU-Azerbaijan Partnership Priorities for 2021-2027.

2. CONTEXT

2.1. The Agreement

The Agreement aims to provide a framework for political dialogue and cooperation between the European Communities and their Member States and the Republic of Azerbaijan ('the Parties') to develop political relations. The Agreement entered into force on 1 July 1999.

2.2. The Cooperation Council

The Cooperation Council examines any major issues arising under the Agreement and any other bilateral or international issues of mutual interest to attain the objectives of the 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 procedure.

2.3. The Act of the Cooperation Council

The Cooperation Council should adopt by written procedure a Recommendation on the extension of the Partnership Priorities (2018-2020) for 2021-2027 ('the Act').

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

The position to be adopted by the Union in the Cooperation Council is based on the Recommendation annexed to this Decision.

The Partnership Priorities continue to meet the objectives of the revised European Neighbourhood Policy as well as the objectives of the Eastern Partnership. They will guide the multiannual programming of the EU's financial cooperation with Azerbaijan.

The Parties have confirmed that the Partnership Priorities remain a valid basis for developing their relations as well as their full commitment to implementing these priorities.

The 2018-2020 Partnership Priorities continue to constitute the basis of EU-Azerbaijan cooperation for 2021-2027.

The extension of the Partnership priorities is in the interest of the Union.

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 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*’.¹

4.1.2. Application to the present case

The Cooperation Council is a body set up by the Agreement.

The Act which the Cooperation Council is called upon to adopt constitutes an act having legal effects. The 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 Instrument² provides that for countries where documents referred to in Article 3(2) of that Regulation exist, a comprehensive multiannual single support framework must be adopted in line with the examination procedure referred to in Article 16(3) of Regulation (EU) No 236/2014³. Such documents must be action plans, or other equivalent jointly agreed documents, like Partnership Priorities.

The Act does not supplement or amend the institutional framework of the Agreement. Therefore, the procedural legal basis for this Decision is Article 218(9) of the TFEU.

4.2. Substantive legal basis

4.2.1. Principles

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

¹ Judgment of the Court of Justice of 7 October 2014 in Case C-399/12, Germany v Council (OIV), ECLI:EU:C:2014:2258, paragraphs 61 to 64.

² OJ L 77 15.3.2014.

³ 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.

4.2.2. Application to the present case

The main objective of the Act relates to cooperation with Azerbaijan under the Agreement and the revised European Neighbourhood Policy.

4.3. Conclusion

The legal basis for this Decision is Article 207 and 209 in conjunction with Article 218(9) TFEU.

5. PUBLICATION

Given that the Act of the Cooperation Council will amend the Partnership Priorities' implementing period, it should be published in the *Official Journal of the European Union* once it has been adopted.

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 extension of the EU-Azerbaijan Partnership Priorities

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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') was signed on 22 April 1996 and entered into force on 1 July 1999.
- (2) Under Article 81 of the Agreement, the Cooperation Council, established by the Agreement, may make recommendations to attain the objectives of the Agreement.
- (3) The EU-Azerbaijan Cooperation Council meeting of 28 September 2018 adopted the EU-Azerbaijan Partnership Priorities for 2018-2020.
- (4) The Cooperation Council should adopt the Recommendation on the extension of the implementation period for the EU-Azerbaijan Partnership Priorities until 2027 by written procedure.
- (5) It is appropriate to establish the position to be taken on the Union's behalf in the Cooperation Council on the extension of the EU-Azerbaijan Partnership Priorities,

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 with regard to the adoption of a recommendation to extend the period of implementation of the EU-Azerbaijan Partnership Priorities until 2027 shall be based on the draft recommendation of the Cooperation Council attached to this Decision.

Article 2

This Decision is addressed to the European Commission and the Vice-President of the European Commission and High Representative of the Union for Foreign Affairs and Security Policy.

Done at Brussels,

For the Council
The President