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## TWINNING PROJECT FICHE

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### 1. Basic information

- 1.1 **Programme:** ENPI-Annual Action Programme 2013 for the Republic of Azerbaijan
- 1.2 **Twining number:** AZ/13/ENPI/TR/1/16(AZ/44)
- 1.3 **Title:** Strengthening the Institutional Capacity of the Copyright Agency to Manage and Protect Intellectual Property Rights in Digital Networks (“SICCA”)
- 1.4 **Sector:** Trade
- 1.5 **Beneficiary country:** Republic of Azerbaijan

### 2. Objectives

#### 2.1 Overall objective:

To enhance the legal and institutional framework for the protection and management of works protected by copyright and related rights in digital networks.

#### 2.2 Project purpose:

To assist the Copyright Agency in the development of the Centre for Intellectual Property, including by supporting the establishment of the “national digital aggregator”, a digital repository for objects of national heritage.

#### 2.3 Contribution to National Development Plan/Cooperation agreement/Association agreement/Action plan

##### 2.3.1. EU-Azerbaijan agenda

After its enlargement in May 2004, the EU faced a new geopolitical situation and adopted the **European Neighbourhood Policy (ENP)**<sup>1</sup>, as a new framework for the relations with its neighbours. The ENP aims to go beyond the earlier Partnership and Co-operation Agreements to offer neighbouring countries the prospect of an increasingly closer relationship with the EU with the overall goal of fostering the political and economic reform processes, promoting closer economic integration as well as legal and technical approximation and sustainable development.

The central element of the ENP is a bilateral **Action Plan (AP)**<sup>2</sup> of 14 November 2006 which clearly sets out policy targets and benchmarks through which progress with an individual neighbouring country can be assessed over several years. The AP defines a considerable number of priority areas.

With regard to reforms in the intellectual and industrial property rights sector, several specific activities are described.<sup>3</sup> These include measures to:

- Improve IP legislation and bring it into conformity with EU legislation;
- Implement IP rights and enhance IP management;
- Strengthen enforcement of IP rights and measures on prevention of infringement of rights.

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<sup>1</sup> [http://eeas.europa.eu/enp/index\\_en.htm](http://eeas.europa.eu/enp/index_en.htm)

<sup>2</sup> <http://pao.az/en/newsfeeds/list-all-news-feed-categories/digital-library/other-related-eu-documents/74-euazerbaijan-action-plan/file>

<sup>3</sup> See Chapter 4, par. 4.5.5

This fiche takes into account the specific objectives set out in the Action Plan. The Twinning Project will improve the law on copyright and related rights and bring it into closer conformity with EU directives and the *acquis*; will enhance the means of management of copyright and related rights; and will strengthen the regime for enforcement of such rights. The Project will also contribute to the achievement of a further objective set out in the Action Plan, viz., “Take preventive measures and strengthen the fight against smuggling and import and export of counterfeit and pirated goods”.<sup>4</sup>

The Institutional Reform Plan 1 (Component 3.6) of the EU Comprehensive Institution Building (CIB) mutually agreed framework also emphasises the need to develop the legal and institutional environment that supports creativity and innovations in society by providing efficient protection of IPR. The Twinning Project will make a material contribution to the strengthening of the institutional framework for the protection and management of objects protected by copyright and related rights.

Co-operation tools, like Twinning, TAIEX and SIGMA play an essential role in the achievement of the ENP-AP priorities. In particular, the Twinning instrument, which provides for direct co-operation between EU and Azerbaijani public bodies to support institution building activities, has proved to be particularly efficient in policy areas where the expertise required by the beneficiary country exists mainly in the public sector.

### ***Previous Experiences***

This new twinning builds upon the experience of the previous Twinning project Project AZ10/ENP – PCA/TR/16 “Capacity Development for Enhancing Enforcement of Copyright and Related Rights in the Republic of Azerbaijan” implemented by Greece through the European Public Law Organisation (EPLO), in consortium with two junior partners- Spain and Germany. The project aimed to guarantee effective protection and enforcement of IP rights for both physical and digital goods.

The Project contributed to the upgrade of the Copyrights' Agency capacity. The most paramount achievement of the project was the adoption of "Law on Enforcement and Combating Piracy" on Oct 6th 2012. Of utmost importance was also the creation of IP centre under premises of Copyrights' Agency and development of Digital Rights Management System. The development of this center is the cornerstone of this new Twinning proposal.

### ***2.3.2. Governmental policy and strategy***

#### **2.3.2.1 Legislation and strategic documents related to the project**

##### Legislation:

Current **primary legislation** in the field of copyright and related rights consists of the following:

- May 22nd, 2012 – Law of Azerbaijan Republic “On Enforcement of the Intellectual Property Rights and Fight Against Piracy” № 365-IVQ

This Law contains measures for the enforcement of intellectual property rights and the prevention of infringements, including illegal production and distribution of the copies of protected objects.

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<sup>4</sup> At par. 4.5. under the heading “Trade Relations”

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- September 14th, 2004 – Law of Azerbaijan Republic “ On Legal Protection of Compilations of Data” №775-IIQ

This Law concerns the protection of compilations of data, irrespective of their form.

- May 16th, 2003 - Law of Azerbaijan Republic “On Legal Protection of Azerbaijani Folklore Expressions” № 460-IIQ

This Law provides protection for, and regulates the use of national folklore expressions, as a special type of intellectual property.

- May 31st, 2002 – Law of Azerbaijan Republic “On Legal Protection of Topographies of Integrated Circuits” №337-IIQ

This Law concerns the legal protection of topographies of integrated circuits in the territory of the Republic of Azerbaijan.

- June 5th, 1996 – Law of Azerbaijan Republic “On Copyright and Related Rights of the Republic of Azerbaijan” № 115-IQ

This Law provides the conditions of protection and use of objects of copyright and related rights in the territory of the Republic of Azerbaijan.

A detailed list of relevant laws and regulations is attached in Annexe 2.

### Strategic documents:

The reforms in the field of the proposed project are stated in:

### ***Azerbaijan - 2020: Outlook for the Future***

The Development Concept “Azerbaijan 2020 – Outlook for the Future” (Presidential Decree of 29 December 2012) outlines Government strategy for the period 2013 - 2020. The Twinning Project, although grounded in protection of copyright and related rights, has a strong cultural dimension and concerns also the enhanced use of information and communications technologies (“ICT”). For this reason, several of the main priorities of the policy are relevant. These include:

- the establishment of a knowledge-based economy;
- the expansion of the use of ICT in state and local government bodies;
- the preservation of cultural heritage and its effective management;
- the improvement of legislation on copyright and the taking of effective measures against copyright violations, including piracy and counterfeit products.

It is stated, inter alia:

### **The transition to an information society**

“The ensuring of transition to an information society, the establishment of an economy based on knowledge with the development of ICT, the expansion of the use of ICT in state and local government bodies..... are priority tasks within the framework of the Concept.”

### **Protection of copyright and related rights**

“Necessary work will be carried out to promote the rich traditions and customs of the Azerbaijani people....national legislation in this sphere will be maintained in a complex manner, copyright and related

rights will be protected and participation in the application and development of the international legal base will be ensured.

### **Protection and effective management of cultural heritage**

“In order to adopt a state programme on the restoration and protection of immovable historical and cultural monuments and improvement and development of the activities of cultural reserves in 2013-2020, a single electronic database and register will be created in this sphere.”

#### **2.3.2.2 Legislation and strategic documents under drafting:**

A draft law on collective management of copyright and related rights is under development.

#### **2.3.3. *International Conventions and Agreements***

The Republic of Azerbaijan is a party to the following international agreements on copyright and related rights:

- The Berne Convention on the Protection of Literary and Artistic Works (Paris Act) 1971 ;
- The Convention for the Protection of Producers of Phonograms against Unauthorised Duplication of their Phonograms, 1971 ;
- The International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (“The Rome Convention”), 1961;
- The WIPO Copyright Treaty (1996) and Agreed Statements ;
- The WIPO Performances and Phonograms Treaty (1996) and Agreed Statements.

The list of the principal relevant WIPO-administered multi-national treaties is in Annexe 3.

Azerbaijan also has the status of observer in relation to the Agreement on Trade Related Aspects of Intellectual Property (TRIPs) Agreement, 1994, pending determination of its application for membership of the World Trade Organisation.

## **3. Description of the project**

### **3.1 Background and justification**

#### **3.1.1. *Current situation in the sector***

In Azerbaijan, as elsewhere, the effective protection of intellectual property rights is challenging.

The global environment is described in the USTR “Notorious Markets” Report of 5 March, 2015<sup>5</sup>: “In many markets, unauthorized online distribution of, or access to, copyright-protected content largely has replaced unauthorized distribution via physical media. In other markets, however, physical media (including CDs, DVDs, video game cartridges, and pre-loaded computer hard drives and other storage devices) continue to be prevalent.... The Internet also makes available innumerable sites that facilitate the distribution of counterfeit products to consumers worldwide.”

In EU Member States a variety of approaches has been taken to the enforcement of copyright and related rights in digital networks. In most jurisdictions, blocking injunctions, which oblige internet service providers

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<sup>5</sup> [https://ustr.gov/sites/default/files/2014%20Notorious%20Markets%20List%20-%20Published\\_0.pdf](https://ustr.gov/sites/default/files/2014%20Notorious%20Markets%20List%20-%20Published_0.pdf)

(“ISPs”) to disable access to pirate websites, are now commonplace. In some Member States, the “three strikes” or “graduated response” procedure whereby identified infringers are warned to desist under threat of having their internet service disrupted, has been adopted. When right holders identify illegal content, a “notice and take down” procedure can be availed of, to require the ISP to remove infringing content.

Most recent EU policy to combat illegal content on the internet is focused on the role of the ISP. The principle that the ISP is not liable for content transmitted by it when acting in a strictly passive manner was enshrined in Directive 2000/31/EC<sup>6</sup>. However the EU Commission Digital Single Market Strategy for Europe published on 6 May, 2015<sup>7</sup> promises that in 2015 “the Commission will analyse the need for new measures to tackle illegal content on the Internet... and whether to require intermediaries to exercise greater responsibility and due diligence in the way they manage their networks and systems..”

Azerbaijan suffers high levels of piracy, both involving physical product and illegal online dissemination. According to a Report prepared by the Copyright Agency, the estimated level of piracy in 2014 was 85% for software, 66% for audio visual products and 30% for books. It appears that Russian-based services contribute significantly to this situation. As noted in the USTR Special 301 Report of 2015<sup>8</sup>: “Russia remains home to many sites facilitating online piracy, which damage both the legitimate content market in Russia as well as third-country markets.”

The Government of Azerbaijan accords a high degree of priority to addressing this problem. It recognises that in order to build the economy of Azerbaijan as a technologically advanced, knowledge-based economy, a strong and effective intellectual property regime is essential to underpin the protection of right holders and the growth of creative and cultural industries. In addition to the economic value placed on intellectual property, the Government recognises modernisation of the culture system as a key priority, and places special value on the protection and preservation of the tangible and intangible cultural heritage of Azerbaijan.

Azerbaijan has been acting incrementally to bring its IP laws into alignment with international and European standards. In 2008 substantial alterations were made to the Law on Copyright and Related Rights. By the Law on Enforcement of Intellectual Property Rights and the Fight against Piracy of 22 May, 2012 (“the Law on Piracy”) the enforcement framework for copyright and related rights was strengthened by a number of provisions. Administrative measures mandated by the legislation include the allocation of standard international identification (“ISO”) marks to protected works and the application of “control marks” (holograms) to products containing protected works. Measures to tackle piracy in Azerbaijan do not however as yet include legislation defining the liability of the ISP and providing for the availability of blocking injunctions.

Institutional responsibility for copyright and related rights in Azerbaijan rests with the Copyright Agency. Responsibility for the protection of industrial property is the preserve of the State Committee for Standardization, Metrology and Patent. As in other countries, IPR enforcement is carried out by the Ministry of Internal Affairs (Police), the State Customs Committee (at border posts) and the Judiciary.

The Copyright Agency has a wide remit in relation to proposal of policy and drafting of appropriate legislation in the field of copyright and related rights. It has a special role in relation to the protection of folklore, or traditional expression, being empowered to defend the interests of the State in cases of violation of the Law on Legal Protection of Azerbaijani Folk Expressions. Under the Law on Piracy it is authorised to

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<sup>6</sup> The E-Commerce Directive

<sup>7</sup> COM(2015) 192 final

<sup>8</sup> <https://ustr.gov/sites/default/files/2015-Special-301-Report-FINAL.pdf>

exercise the digital rights of authors, performers and phonogram producers, to arrange the management of such rights on a collective basis and to act to protect such rights in certain circumstances.

In 2012, Regulations were adopted for the creation of the Intellectual Property Centre, (“the IP Centre”), a State body subordinated to the Copyright Agency. Its functions include the administration of a system of application of control marks to protected products, which is already partly developed. It is mandated to establish a national digital aggregator, a digital repository of works of cultural importance.

A Training Centre has been established within the IP Centre. The facilities for ICT-aided training have been installed. Hard copy training materials are being generated and printed in the Centre. The Centre has become a member of the Global Network of Intellectual Property Academies (GNIPA) established by WIPO.

The IP Centre is preparing to embark on the creation of the national digital aggregator. Its rationale is, using best international standards, to utilise ICT to protect, preserve and promote access to the cultural heritage of Azerbaijan. It is intended to link the repository to other national and international cultural repositories, using the pan-European repository, Europeana, as a reference point. In the course of the Twinning Project described below at paragraph 3.5.1 (“the CORAZ Project”) the IP Centre developed an understanding of the hardware and software requirements for the project. It has installed much of the relevant hardware at the Centre and is ready now to proceed to full development of the facility.

### **3.1.2. *Problems (direct and indirect) to be addressed***

#### *Development of the IP Centre*

The Copyright Agency is the pivotal agent for developing the framework for protection of copyright and related rights. It is currently developing the IP Centre based on three disparate objectives: to utilise the system of control marks to help combat piracy; to create the national cultural aggregator; and to develop the Training Centre as a regional centre of excellence in IPR training and education. An overall strategy to guide the development of the IP Centre is needed - to underpin its current activities, to provide a more coherent sense of its purpose and to enable it to plan for the future.

The concept of the national digital aggregator was explored during the CORAZ Project. Such projects are highly complex to design and deliver, involving the interaction of legal issues, sophisticated technology and cultural values. Extensive project design and management support is needed to assist the Copyright Agency in bringing this concept to fruition. The project will require close cooperation between the Copyright Agency and relevant Ministries, especially the Ministry of Culture and Tourism. It will also require the participation of museums, libraries, archives and other cultural institutions, at minimum to facilitate the inclusion of works in their possession in the repository. The relevant stakeholders and participants have yet to be identified and their cooperation defined and secured.

The system of application of control marks has been developed to the point that the Copyright Agency is in a position to start issuing marks to applicants. However it is not fully automated. The system does not incorporate a proper system for the online clearance of rights before issue of control marks to applicants, nor does it allow the online ordering of the marks.

A particular challenge concerning both the development of the national cultural aggregator and the completion of the system for the application of control marks to protected product is the requirement for computer software, in the case of the national cultural aggregator complex, bespoke software. To date, the development

of software for the IP Centre has been outsourced. There is not sufficient specialist IT expertise within the Centre to design or develop the software which will be required.

### *Legislation*

During the CORAZ Project, an exhaustive gaps analysis was conducted to establish the extent of approximation of the law of Azerbaijan to the EU *acquis*. It exposed a number of respects in which approximation was incomplete, including in relation to matters underpinning the operation of the copyright and related rights regime in digital networks. A report on the various legislative acts needed for approximation was provided.

Special attention was given during the CORAZ Project to legislative changes needed to provide the legal basis for the system of application of control marks to protected product and to the creation of a digital rights management system to facilitate the online licensing of works by the Copyright Agency (an essential component of the national digital aggregator). A list of legislative acts and amendments and supporting drafts were provided, which influenced the final form of the Law on Piracy and amendments of the Civil, Criminal and Administrative Codes. It was emphasised by the experts engaged in these tasks that both the control mark and DRM systems involve complex legal considerations and that it would be important to ensure that their development took place in accordance with relevant international and European norms.

While the legislative base has therefore been provided for both the system of application of control marks and the development of the national cultural aggregator, there is a concern to ensure that the legal base to support each of them is adequate and complete, and that both, in practice, will comply with international and European norms.

In addition, there remain several possible areas of misalignment with the *acquis*, some of which are of central importance to enforcement in digital networks. These include, but are not limited to, full or better harmonisation with:

- Directive 2000/31/EC on electronic commerce.
- Directive 2001/29/EC on copyright and related rights in the information society.
- Directive 2004/48/EC on enforcement of intellectual property rights.
- Directive 2012/28/EU on certain permitted uses of orphan works
- Directive 2014/26/EU on collective management of copyright and related rights.
- EU laws on data protection<sup>9</sup>. Although tangential to copyright and related rights, data protection law will be relevant to the conduct of the activities envisaged by this *fiche*.

### *Collective management.*

Collective management by right holders, largely through non-profit associations, is an integral part of the copyright regime in most countries and has the capacity to make a material contribution to the enforcement framework. Through membership of a collective management organisation (“CMO”), authors receive education about their rights and are empowered to assert them. By actions taken by the CMOs themselves, attention is drawn to the need to obtain licences to use protected material, thereby heightening public awareness and helping to deter unauthorised uses. In EU Member States, it is frequently CMOs which initiate the most effective legal actions to contain piracy, for example by applications for blocking injunctions to compel internet service providers to block access to pirate websites.

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<sup>9</sup> Currently based on Directive 95/46/EC but expected to be superseded by Regulation.

The system of collective management is incomplete in Azerbaijan. Its development is being fostered by the Copyright Agency. Meanwhile the existing CMOs do not have the capacity to protect or licence their members’ digital rights. The Law on Piracy authorised the Copyright Agency to exercise certain of those rights and to act to protect them when necessary, including when rights management information and/or technological protection measures applied to the works have been removed. When authors register their works with the voluntary registry of the Copyright Agency they are invited to specifically grant this authority to the Agency. The Agency is also developing a draft law on collective management, taking into account the provisions of EU Directive 2104/26/EU on the management of copyright and related rights. Support for the development of collective management of digital rights is needed to complement the work of the Copyright Agency.

### *Enforcement*

Enforcement of IPR is carried out by the Police, the State Customs Committee (at border posts) and the Judiciary. The ability of these institutions to implement IPR legislation is weak. While Government policy on enforcement of IPR is expressed in strong terms, it is not matched by effective action on the ground. IPR enforcement is of concern to a number of different Ministries and Agencies in addition to the law enforcement bodies, but cooperation between them is not coordinated and occurs only on an ad hoc basis.

#### **3.1.3. Related gaps and needs**

##### **3.1.3.1 Legal needs (Primary and Secondary legislation)**

- Current legislation needs to be evaluated to identify the legislative changes necessary to achieve approximation to the EU acquis. An additional legal evaluation is needed to establish whether the legal base for both the national digital aggregator (as currently conceived) and the control mark system (as partly developed) is adequate and complete, and to advise the legal parameters within which development of both systems should proceed in accordance with relevant international and European norms.

##### **3.1.3.2 Institutional needs**

- The IP Centre is currently organised around three separate activities. It lacks an overall strategy to guide its future direction and to ensure that the existing and proposed activities, including those described in this Twinning Project, are appropriately configured for development within that strategy.
- Collective management is under-developed in Azerbaijan. The Copyright Agency has taken positive steps to improve the position but additional support is needed, in particular relating to the management and licensing of rights in digital networks.
- While there is strong support at Government level for enforcement of IP, it would be beneficial to supplement this with enhanced cooperation between the different Ministries and Agencies concerned with enforcement. These include not only the Copyright Agency and the State Committee for Standardization, Metrology and Patent, which operate separately within their specific spheres of responsibility, but a variety of different Ministries – the Ministry of Economy and Industry; the Ministry of Culture; the Ministry of Justice and the Ministry for of Communications and High Technologies. An inter-ministerial committee has been under consideration for some time but has not yet been established. Such a committee would be in a position to exchange valuable information and identify and direct a number of activities which would benefit enforcement.

### **3.1.3.3 Capacity building needs**

- The centrepiece of the Twinning Project is the national digital aggregator. This is still at a conceptual stage of development. It requires careful definition of purpose and scale, and the adoption of an appropriate methodology. It will require close project management. Specialist expertise will be needed, in systems-design and computer software development.
- The IP Centre has established a system of application of control marks to protected product, but it is incomplete. The system needs to be re-evaluated and the facilities for online ordering of control marks and online rights clearance need to be introduced.
- The IP Centre will need increased human resource capacity to support the activities of the Twinning Project and to maintain the new systems, when developed.

### **3.1.3.4 Other needs: Training and public awareness**

- A coordinated range of interventions is needed to address the high levels of piracy in Azerbaijan. Important components in raising the level of enforcement include training for all personnel involved in the enforcement process and the raising of public awareness.

## **3.2 Linked activities**

### **3.2.1. Other related EU activities**

**“Capacity Development for Enhancing Enforcement of Copyright and Related Rights in the Republic of Azerbaijan” (CORAZ) Twinning Project** (implemented with the Copyright Agency as the beneficiary from August 2011 to May 2013)

The overall objective of this project was to strengthen the copyright and related rights regime in the Republic of Azerbaijan, with the aim of reducing the levels of piracy of goods protected by intellectual property laws.

The project focused on the following mandated results:

- Strengthened institutional capacity of the Copyright Agency and other law enforcement institutions to allow the development of new enforcement activities envisaged by the project
- System of application of control marks to products protected by copyright and related rights developed; upgraded technological capacity of the Copyright Agency
- Legal and normative framework reviewed, concrete recommendations made
- Professional capacity of the staff of the Copyright Agency, of a group of trainers and of representatives of key selected stakeholder institutions is enhanced to implement upgraded law enforcement measures
- Awareness is raised on the new enforcement mechanisms for both professionals in the public and private sector as well as for the public at large through focused and tailor-made information campaigns.

### **3.2.2. Related international initiatives**

A Memorandum of Understanding on Cooperation between the Government of Azerbaijan and the World Intellectual Property Organisation was signed on 17 September 2014. It was agreed that, having regard to the intention of the Government of Azerbaijan to further develop its existing legislation and technical infrastructure in the field of IP, the parties would undertake joint projects to achieve goals which include: the exploration of new models concerning the management of digital copyright, developing technological innovation infrastructures; strengthening measures for sustainable development of the creative economy, based on IP, and increasing its share in GDP

### **3.2.3. Related national initiatives**

Underpinning this Project is the key national initiative consisting of the establishment of the Intellectual Property Centre as a State body subordinated to the Copyright Agency. Its legal basis, composition and activities to date are described in detail elsewhere herein. Recommendations are made to elaborate its rationale and to strengthen its institutional framework.

## **3.3 Results**

The priority areas listed in this project fiche have been identified through meetings held at the Copyright Agency (the Beneficiary Institution). The expected results listed here below are closely interrelated and will need coordinated implementation.

The priority areas and expected results identified can be summarized as comprising the following interventions:

- I. Development of the institutional framework supporting enforcement of copyright and related rights in digital networks.
- II. Enhancement of the institutional capacity of the IP Centre by supporting the completion of development of a system of application of control marks to products containing protected works, and the creation of a national cultural aggregator as a repository of creative material of national importance.
- III. Legal and regulatory review and development of new legislation.
- IV. Training and public awareness initiatives.

The Twinning Project should yield four overall results:

### **3.3.1. Result 1: Institutional framework supporting enforcement of copyright and related rights developed**

#### **Description**

*The IP Centre:* The IP Centre is only recently established under the control of the Copyright Agency. It has embarked on three separate projects, all of which are innovative and demanding. It is appropriate to review the objectives, capacity and operational structure of the IP Centre and to provide a strategic development plan to give its development greater coherence and to support the expansion of its activities, including the activities of the Twinning Project.

*Collective management structure:* Enhancement of the system of collective management in Azerbaijan would make a significant contribution to the IPR enforcement framework. The Twinning Project will evaluate the current position, and produce a strategy for the Copyright Agency to support the development of collective management in digital networks, taking into account activities already undertaken by the Copyright Agency and legislation under drafting.

*Institutions concerned with IPR enforcement:* The mechanisms for co-operation between the institutions involved in IPR law enforcement should also be reviewed as part of this assessment. Fresh consideration should be given to an existing plan to create an inter-Ministerial Committee on IPR enforcement.

#### **Key output indicator(s)**

- A medium term strategy for the development of the IP Centre, building on its existing activities and immediate plans.
- A Road Map and Action Plan for years 1-3 of the strategy

- Report with recommendations on organisational structure of IP Centre
- Report with recommendations on organisational capacity and responsibility for activities of IP Centre
- A strategy for development of Training Centre of IP Centre as a regional centre of excellence for IP training
- Report on current system of collective management in digital networks taking into account existing and proposed legislation; comparison to best practice in EU Member States; recommendations for development of the system and legislation necessary for the purpose.
- Recommendations for structured co-operation between the Copyright Agency and other IPR enforcement bodies and agencies

### **3.3.2. Result 2: Institutional capacity of IP Centre enhanced.**

#### **Description**

##### ***Sub-Result 2.1: Set up of the National digital aggregator supported***

The challenges of the tasks undertaken by the IP Centre are daunting from a technological perspective. It is intended to develop the national digital aggregator as a repository of works of cultural importance. This will involve a large-scale programme of digitisation of works; importation (and probably reformatting) of works from the existing register of the Copyright Agency; storage of the works in a high-capacity database; application of a system of digital rights management to the works; development of rules for access and for licensing of the works; website development; integration of a monitoring tool to detect infringement of the works in the database. Decisions will need to be made concerning appropriate technological standards at every phase of the development, to make the database conformable with best international standards and practices. The repository will need to maximise the potential for interoperability with existing databases in national cultural institutions and with other comparable international and European repositories.

The Twinning Project will assist and support the planning phase of the development; it will assist the Copyright Agency to determine high-level design and methodology after comparing the proposed repository with other comparable projects in the EU; it will evaluate existing hardware and provide advice on additional hardware requirements; primarily it will provide advice on the technological specifications for computer software required to fulfil the system-design adopted, and, working with the staff of the Copyright Agency and the IP Centre throughout the period of the Project, will oversee the development by the Copyright Agency and/or its contractors of a prototype version of the system.

##### ***Sub-Result 2.2: Framework for finalisation of setting up of the control mark system completed***

The IP Centre has developed a system of application of control marks to physical product incorporating works protected by copyright and related rights. The system is not completely automated. Completion of the system is impeded by the need for an online ordering facility for ordering of the marks, and a system to clear the rights of the applicant before issuing the mark. The Twinning Project will provide system-design and the specifications for bespoke software to solve both issues in a manner which integrates the developments with the existing system. It will provide advice (approach, principles, way to design) and specifications where required for appropriate application programming and user interfaces. It is understood that the input will only be provided by transfer of expertise from EU MS civil servants and not the private sector actors.

#### **Key output indicator(s)**

*Sub-Result 2.1:*

- Presentation of at least 2 comparable EU MS repositories of cultural material
- Concept of new national digital aggregator model
- Develop the specifications for high-level software architecture, incorporating data storage, data management and user interface layers; with specific requirements identified for each of the elements.
- A detailed evaluation, prior to software design, of key features pertinent to the system such as: data confidentiality, rights-clearance and licensing; design and implementation of metadata, incorporation of appropriate rights management information; application of appropriate technological protection measures; data encoding standards, software and data conversion
- Monitoring tool/service for detection of infringement
- Development of technical specifications to design the software to support data management, data protection and preservation across the repository infrastructure (procurement is not a part of the project)
- Development of technical specifications to create user interfaces with interface profiles to the repository content using appropriate accessibility standards
- Development of technical specifications for storage model
- Development of technical specifications of appropriate web security applications and procedures
- Development of technical specifications for hardware to be acquired by the beneficiary
- Development of technical specifications for the Website
- Training sessions on the cultural aggregator.
- Study tour(s) of five working days each for three senior staff members of the Copyright Agency and the IP Centre to a relevant EU Member state EU Member State, to study the planning and execution of a digital repository of cultural material
- Internship(s) in an EU member state totalling twelve weeks for selected technical staff of the IP Centre, to be divided into periods devoted to working alongside the computer support team for a digital repository comparable to the National Aggregator and periods working with computer systems incorporating the type of software utilised in the prototype National Aggregator

*Sub-Result 2.2:*

- Development of technical specifications for system-design and software specification for online ordering of control marks
- Development of technical specifications for system-design and software specification for online rights-clearance prior to the issue of control marks
- Development of technical specifications for integration of existing software and better application programming (API) and graphic user (GUI) interfaces.

**3.3.3. Result 3: Legal and regulatory review undertaken and new legislation developed.**

**Description**

As described in section 3.1.2 reviewing the legislation part., a number of measures have already been carried out in order to bring the legislation of Azerbaijan into alignment with EU and international standards. However EU law has continued to develop, and strategy in EU Member States for enforcement of copyright and related rights continues to evolve. It is appropriate to conduct a legal and regulatory review with particular reference to legislation (both primary and secondary) needed to improve enforcement of copyright and related rights law in digital networks, and to identify legislative acts necessary or advisable. The review should take

into account not only the issue of approximation to the EU acquis, but the adequacy of the legal base for the development of the national cultural aggregator and the completion of the system of application of control marks. It should identify any legal impediments or constraints that may need to be addressed, to ensure that both systems conform to international and European norms.

Drafts of proposed legislation and secondary acts will be prepared.

**Key output indicator(s)**

- A legal review with recommendations, to analyse the approximation of existing Azerbaijani legislation to the EU acquis (including EU Directives listed above in part 3.1.2), to evaluate the legal base for the national cultural aggregator and/or the system of application of control marks and to identify any legal constraints concerning the manner of their development.
- A list of recommended legislative acts and amendments
- Drafts of new laws and amendments (if necessary)

**3.3.4. Result 4: Training and public awareness initiatives implemented**

***Sub-Result 4.1: Training implemented***

Training is a crucial element in enhancing enforcement of copyright and related rights. A lot has already been done during the previous CORAZ project, manuals have been developed and edited. The current project is going to use the existing experience and focus on the establishment of the National Aggregator.

This component aims to reinforce the human resources in both the IP Centre and the Copyright Agency, taking into account the recent establishment of the IP Centre, the changes implied by the development of its activities and the conduct of the activities of the Twinning Project. A training needs assessment will identify the specific areas of training required by each entity, which may include IT-related training. It will provide for appropriate study tours to be undertaken to give relevant staff of the Copyright Agency and/or the IP Centre first-hand experience of best practice in EU Member States.

To augment the activities of the Training Centre in the IP Centre, this component also aims at enhancing the permanent capacity of the Centre through a train-the-trainers programme, to form a team of specialised Azerbaijani trainers who will receive special attention in the training strategy.

Finally, training on enforcement of copyright and related rights in the digital environment will be provided for law enforcement personnel (including police, customs officials and judges); key staff in relevant Ministries and other stakeholders in the enforcement framework.

**Key output indicators:**

- Training needs assessment, development and implementation of training programme/strategy
- 10 training sessions to CA and relevant stakeholders staff
- Manuals and handbooks on the systems implemented in the course of the Twinning Project
- At least 10 trainers trained.
- At least 150 law enforcement personnel and other stakeholders, relating to enforcement of IP law in digital networks trained in the IP Centre.
- Study tour(s) / internship(s)

***Sub-Result 4.2: Public awareness strategy prepared***

Public awareness of the law on copyright and related rights and the penalties for infringement are also key to enforcement. It is exceptionally difficult to move consumers from accessing free, illegal content online, to subscription or other paid legal services. The previous CORAZ project assisted in preparing a Public Awareness and Communication Strategy focusing on enforcement of IP law. This will be a base for the proposed project. A concerted campaign of activity will be designed to promote active compliance. The campaign will focus on the use of the internet for illegal activity and will target various sectors including the educational sector; business and professional sectors; entertainment and leisure industries. It will target young people in particular. The campaign will include publicity in the media (TV, radio, press, Internet), seminars and conferences and preparation of written materials. It will also involve developing a system for monitoring the effects of awareness activities.

**Key output indicators:**

- Communication strategy to promote active compliance on use of internet for illegal activity.

**3.4 Activities**

*In order to meet the specific mandatory results of this project, the partners may agree on alternative or complementary activities and outputs to those identified in this section.*

***Project kick-off event***

A meeting aiming at presenting the Twinning project to the main involved stakeholders shall take place at the beginning of the project implementation.

***Project closing event***

A conference shall present the main results achieved during the project implementation and shall be organised before the conclusion of the project.

**Activities related to Result 1:**

- ✓ Conduct a review of the IP Centre and prepare a medium term strategy for its development, with an action plan for years 1-3 of the strategy.
- ✓ Evaluate and provide a report with recommendations on the means to develop the system of collective management in digital networks.
- ✓ Conduct an evaluation and provide a report with recommendations on the options for structured cooperation between relevant Ministries and public agencies responsible for IPR enforcement, and for regular consultation with private sector stakeholders, such as CMOs and ISPs, and relevant representative organisations.

**Activities related to Result 2:**

**Sub-Result 2.1**

- ✓ Establish a high-level Policy and Planning Group chaired by the Chairman of the Copyright Agency, for approving the design and overseeing the management of the national digital aggregator project. The Working Group will determine the policies and principles underpinning the design of the national digital aggregator, and will direct the management of the project. Its members will include senior representatives of the Ministries of Culture and Communications & High Technology.
- ✓ Conduct a workshop at which senior personnel of at least two comparable repositories of cultural material in EU MS make presentations on the planning and execution of their respective projects.

## **Strengthening the Institutional Capacity of the Copyright Agency to Manage and Protect Intellectual Property Rights in Digital Networks (“SICCA”)**

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- ✓ Conduct an evaluation of key issues determining design of the national digital aggregator.
- ✓ Develop high level software design.
- ✓ Provide specifications for data management, data protection and preservation systems in the repository infrastructure.
- ✓ Design and provide software specifications for user interfaces and interface profiles to the repository content.
- ✓ Design and provide specifications for software for the storage model.
- ✓ Provide specifications for monitoring tool to detect online infringement.
- ✓ Provide website development specifications.
- ✓ Provide specifications for hardware.
- ✓ Provide training on cultural aggregator.

### **Sub-Result 2.2**

- ✓ Provide system-design and software specification for online ordering of control marks
- ✓ Provide system-design and software specification for online rights-clearance prior to the issue of control marks.
- ✓ Provide software specifications for improved integration of existing software and better application programming and graphic user interfaces.

### **Activities related to Result 3:**

- ✓ Conduct gaps analysis to establish the state of approximation of Azerbaijan copyright and related rights law to the EU acquis.
- ✓ Conduct a legal review of the system for the national digital aggregator (as proposed) and the system for application of control marks (as partly developed), to assess their compatibility with EU and international legal norms.
- ✓ Provide a report with table of concordance and list of recommended primary and secondary legislative acts and amendments, including amendment to civil, criminal and administrative codes.
- ✓ Provide the assistance of legal experts to the Copyright Agency on the drafting of new laws, amendments and secondary instruments.

### **Activities related to Result 4:**

#### **Sub-Result 4.1**

- ✓ Prepare a training need assessment and a training strategy for staff of the IP Centre and the Copyright Agency, a group of trainers and representatives of key selected stakeholder institutions.
- ✓ Implement the training programme in Azerbaijan.
- ✓ Organize a program of study tours and/or internships in relevant EU Copyright-related institutions.

#### **Sub-Result 4.2**

- ✓ Prepare a communications strategy

### **3.5 Means/ Input from the MS Partner Administration**

The implementation of a Twinning projects requires the Commitment of two project Leaders, appointed in the MS and the BC administrations respectively The MS partner administration is expected to provide the Project Leader (MS PL) and Resident Twinning Advisor (RTA) as well as a team of short term experts to support them in implementation of the project activities.

The MS Project Leader should be a high-ranking civil servant or equivalent staff commensurate with the requirement for an operational dialogue and backing at political level,

The MS PL is the key link between the partners, acting at an overall operational and strategic level. The MS PL is complemented by the RTA. The RTA is seconded and resides in the BC. He/she co-operates day-to-day with the BC partners and the MS short-term experts (STEs). STEs will work in Azerbaijan on the basis of specific Terms of Reference (ToR) which will be designed by the RTA for each mission together with the Beneficiary.

It has proved to be an advantage for the project implementation in previous Twinning projects when the MS has designated a senior STE to be responsible for each mandatory result/component of the project (i.e. a component leader) and to liaise with the respective component leader to be nominated by the BC. The BC PL will nominate counterparts to these key roles (see section 6.3).

The required MS experts must either be civil/public servants of the relevant MS administration or be permanent staff of authorised mandated bodies. All experts must comply with the requirements set in the Twinning Manual.

The nature of work for technical assistance abroad requests strong initiative, good analytical, interpersonal and language skills. All experts shall possess these qualities.

The RTA should be assisted by a full time project assistant for providing translation and interpretation services on a daily basis and for performing general project duties. The RTA is supported in his or her MS administration for logistics, accounting and administrative tasks. The cost of the RTA assistant will be funded by the project. The recruitment procedure may be launched before the signature of the Twinning Contract but the RTA assistant may not start to work and corresponding costs will not be eligible before the start of the Twinning contract

A full-time interpreter/translator may also be recruited in Azerbaijan and funded by the project. (S)he will perform most of the required interpretation/translation services. Whenever required and needed on a clear justified request, e.g. for simultaneous interpretation during seminars and workshops, additional interpretation may be procured and funded by the project. (S)he will provide day-to-day interpretation/translation to the RTA and project experts during meetings.

#### ***3.5.1. Profile and tasks of the Project Leader (PL)***

The Project Leader (PL) from the MS should be a high-ranking civil servant or an equivalent senior manager in a MS national copyright and related rights legislation and enforcement body with sufficient work experience in the field relevant to the project.

The PL will supervise and coordinate the overall thrust of the project. (S)he will direct the project and will ensure that all the required strategic support and operational input from management and staff of the MS side are available. Together with the Beneficiary PL, he will organise the Project Steering Committee (PSC) meetings. **The MS PL would continue to work in her/his MS administration but should devote a minimum of three working days per month to the project in Azerbaijan with an on-site visit to Azerbaijan at least every three months to participate in the project SC meetings.**

#### **Profile:**

##### *Qualification and skills*

- A university degree in law or public administration or another relevant discipline
- Good command of written and spoken English
- Working knowledge of Azerbaijani, Turkish or Russian would be an asset

General professional experience

- Preferably at least 5 years of professional experience at a senior management level in her/his MS public service in a sector concerned with intellectual property law and policy, including specific experience in copyright and related rights.
- Experience in project management

Specific professional experience

- Experience in implementing current EU-policies, existing structures and methods in copyright sector.
- Experience in implementation of e-government policy would be an asset
- Specific experience in the management of the implementation of international programs (including EU-funded projects) would be an asset

**Tasks:**

- Liaising with the BC Administration at the political level
- Overall co-ordination, guidance and monitoring
- Ensuring the direction of the project work
- Ensuring the achievement on time of the mandatory project results
- Ensuring the availability on time of MS-Short Term Experts and other MS resources
- Executing other administrative tasks

**3.5.2. Profile and tasks of the Resident Twinning Advisor (RTA)**

The Resident Twinning Advisor (RTA) seconded from the EU MS should have at **least five years’ work experience as a staff member in a MS** institution in which (s)he has gained an understanding of copyright and related rights law and policy. A network of functional contacts with related EU and Member State institutions will also be an asset. The RTA will be in charge of the day-to-day implementation of the Twinning project in Azerbaijan. (S)he should co-ordinate the implementation of activities according to a predetermined work plan and liaise with the RTA counterpart in Azerbaijan. **(S)he will reside for the entire implementation period of 24 consecutive months in Azerbaijan and work full-time for the project.** The RTA is expected to be actively involved in the implementation of all activities. (S)he should co-ordinate the project and have a certain level of understanding of all components.

**Profile:**

Qualification and skills

- A University degree in law or another relevant discipline
- Good command of written and spoken English
- Working knowledge of Azerbaijani, Turkish or Russian would be an asset

General Experience

- At least 5 years’ experience in a sector dealing with copyright and related rights.
- Experience in managing teams of experts
- Experience in developing, co-coordinating and conducting training programmes

Specific Professional experience:

- Experience in implementing current EU-policies, existing structures and methods in copyright sector.
- Experience in institutional environment related to the implementation and enforcement of relevant EU legislation
- Experience in creation and management digital repositories would be an asset.

- Experience in conducting legal reviews would be an asset
- Experience in working in a different cultural environment would be an asset

**Tasks:**

- Day-to-day coordination and implementation of the project activities in Azerbaijan
- Preparation of Terms of Reference (ToR) for STEs’ missions
- Managing secondment and input of short-term experts
- Arranging study tours to MS countries for the staff of the Copyright Agency the IP Centre and other involved administrations
- Provision of substantial expertise
- Ensuring the coherence and the continuity of the inputs and the on-going progress
- Assessing continuously the Twinning-project at all stages and comparing actual progress with the specified benchmarks and time-frame
- Guaranteeing smooth implementation of the different activities;
- Liaising with the BC Project Leader and RTA Counterpart on regular basis
- Liaising with the EU Delegation and the PAO of Azerbaijan
- Support the Project Leader in the preparation of interim, quarterly and final reports
- Reporting to the MS-Project Leader

**3.5.3. *Profile and tasks of the short term experts (STEs)***

All required EU institutional and technical expertise will be covered by the short-term experts. The short-term experts should have good experience in the relevant subject matter. The STEs should be civil servants or staff members of the selected MS institution(s). They should have worked in the required fields for not less than 3 years and have appropriate qualifications and necessary skills to implement the above mentioned activities. The Terms of Reference for the short-term experts will be elaborated by the RTA. The exact number of STEs per activity should be agreed upon during the contract negotiations. There should be a pool of short-term experts to ensure smooth implementation of the project. The STEs should be identified by the Project Leader/RTA and will be agreed with the Beneficiary Administration during the negotiation phase of the Twinning contract.

**Indicative fields of experience for the short-term experts:**

- Copyright and related rights law, policies and strategies in EU Member States, with a high level of specialization and a specific understanding of the IP-IT relationship. These fields of experience should be filled, at least in part, by career academic(s).
- Parliamentary **draftsmanship**
- Management systems analysis and implementation in the public sector
- IT-systems analysis and design
- Computer software design and engineering
- Website development
- Project management involving the creation of a large-scale database of cultural material
- Implementation of a system of control marks to products containing protected material
- Professional training in copyright and related rights enforcement
- Professional communication expertise including a track record in drafting and implementing communications strategies, with particular experience in web-based and electronic communication
- Others (to be defined in the proposal and/or during the contracting phase)

**Indicative profile of the short-term experts:**

Qualification and skills

- Relevant university degree
- Good command of written and spoken English
- Working knowledge of Azerbaijani, Turkish or Russian would be an asset

General Professional Experience

- At least 5 years’ proven experience in the relevant field
- Working experience in foreign countries would be an asset

Specific professional experience

- Project and training experience would be an asset
- Practical experience in the respective field of project activity

In addition to their missions in Azerbaijan, the STEs are expected to contribute actively in developing programmes for the study visits proposed in the project.

**STEs’ main tasks:**

- Provision of their specific expertise
- Know-how transfer according to the ToR prepared by the RTA and BA
- Reporting on their missions

**3.6 Reporting and monitoring**

The MS Project Leader must draw up Interim Quarterly Reports and a Final Report. (S)he will be responsible for submitting them to the relevant authority.

For templates and requirements to reporting and monitoring, see the Twinning Manual.

***Project Steering Committee (PSC)***

The PSC will be convened at least every three months. The PSC will be chaired jointly by the MS PL and the BC PL. The PSC composition will be defined in the Working Plan according to requirements set in the Common Twinning Manual. Representatives from the PAO of the Republic of Azerbaijan and the EU Delegation, the RTA counterpart and BC PL as well as the RTA, MS PL and BC component leaders will participate in the PSC meetings. Observers from other institutions may be involved from time to time in cross-cutting issues. Representatives from other administrations or short term experts, may also be invited if necessary. The PSC will follow the achievement of the project results and the timely implementation of the project activities in order to identify and rectify any problems that may arise in the course of the implementation of the project.

The secretarial support of the PSC will be provided by the RTA and RTA Assistant, who will prepare the agenda of the meetings, the documents to be discussed as well as the minutes of the meetings.

The working language of the Project implementation will be English. Translation and interpretation will be provided where necessary and where permitted in the provisions of the Twinning Manual.

**4. Institutional framework**

The State Copyright Agency of the Republic of Azerbaijan is the central counterpart and beneficiary of the Twinning Project. However the project will extend assistance to other institutions, as specified in this fiche.

**4.1 Responsible authorities for copyright and related rights**

The Copyright Agency is the responsible authority for copyright and related rights in Azerbaijan.

## **4.2 Other Azerbaijani stakeholders**

Institutional stakeholders include the Ministry of Culture and Tourism; the Ministry of Justice; the Ministry of Communications and High Technology; the State Committee for Standardization, Metrology and Patents, and law enforcement agencies concerned with the implementation of copyright and related rights law (including the Ministry of Internal Affairs (police), the State Customs Committee (customs) and the Judiciary).

## **4.3 Organisation of the Beneficiary Administration (BA)**

### **4.3.1. Functions, Departments and Staff**

As an independent state body, The State Copyright Agency (“the Copyright Agency”) has been functioning since 1993. It was given a statutory remit in 2005<sup>10</sup>. Its general responsibilities include:

- The proposal of State policy in the field of copyright and related rights and other intellectual property (other than industrial property);
- The drafting of legislation in the field;
- Overseeing the implementation of legislation and Government policy in the field;
- Co-ordination of activity of State and Local Government bodies in the field;
- Maintenance of an optional register of protected scientific, literary and artistic works;
- Maintenance of a register of collective management organisations (“CMOs”) and supervision of their activities;
- Special protection of works of folklore.

The Copyright Agency has a staff of 38, with a Chairman, Deputy Chairman, Chief of Staff and 35 other members divided into four departments: Registration of Works & Legal; International Relations and Information Provision; Economy and Finance as well as General Sector. The Chairman of the Copyright Agency is an acknowledged international expert in copyright and related rights law and seeks to bring the agency to a high standard of technological development, using digital technology to enhance the protection of creative works and to effect a significant reduction in levels of piracy.

In September 2012, by Presidential Decree, Regulations were adopted for the creation of the Intellectual Property Centre (“the IP Centre”), a State body subordinated to the Copyright Agency. The Regulations elaborate certain of the provisions of the Law on Piracy. They allocate functions to the Centre including the following:

- Application of standard ISO codes to products containing works protected by copyright and related rights
- Provision of a system of application of “control marks” to all legal products containing works protected by copyright and related rights
- Organisation of online licensing of objects of copyright and related rights in digital networks, based on a “one-stop shop” principle, and the conduct of such licensing when it is not otherwise conducted in Azerbaijan
- Creation of a database for the management of copyright in digital networks and the licensing thereof
- Monitoring digital networks for acts of infringement of copyright and related rights
- Promoting greater public awareness of copyright and related rights

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<sup>10</sup> See the Statute of the Copyright Agency of the Republic of Azerbaijan, established by Decree of the President of the Republic of Azerbaijan on 30<sup>th</sup> August 2005

The IP Centre has a staff of 12, with a Director and 11 other members divided into four departments: Monitoring, licencing and control marks; Legal and work with collective management organisations; Economy-finance and General as well as IP library, exposition and training service.

## **5. Budget**

The budget allocated to this Twinning project is € 1 081 422

The Azerbaijani beneficiary administration will provide the RTA and other MS experts with office space in its main building in Baku, equipment and other provisions as stated in the Common Twinning Manual.

## **6. Implementing arrangements**

### **6.1 Implementing Agency responsible for tendering, contracting and accounting**

The Implementing Agency responsible for tendering, contracting and accounting is the European Commission represented by the **Delegation of the European Union to the Republic of Azerbaijan**.

The persons in charge of this project at the Delegation of the European Union to the Republic of Azerbaijan are:

#### **Mr Jeroen WILLEMS**

Head of Cooperation

Delegation of the European Union to the Republic of Azerbaijan

Landmark III, 11th Floor, 90A, Nizami str.,

AZ 1010 Baku, Republic of Azerbaijan

Tel. +994 12 497 20 63 (ext. 853)

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E-mail: [Jeroen.Willems@eeas.europa.eu](mailto:Jeroen.Willems@eeas.europa.eu)

Website: <http://eeas.europa.eu/delegations/azerbaijan>

#### **Mr Miguel MAGRO**

Programme Manager

Delegation of the European Union to the Republic of Azerbaijan

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Website: <http://eeas.europa.eu/delegations/azerbaijan>

### **6.2 Main counterparts in the Beneficiary country**

#### ***Programme Administration Office in Azerbaijan (PAO)***

The person in charge of this project at the PAO is:

**Mr. Ruslan RUSTAMLI**, Director of PAO

Head of the Department on Cooperation with International organizations

Ministry of Economy and Industry of the Republic of Azerbaijan

6th floor, Government House,  
84 Uzeyir Hajibayli str.  
Baku, AZ 1000  
Republic of Azerbaijan  
Tel.: (+994 12) 493 88 67 (ext. 2115)  
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E-mail: [ruslan.rustamli@economy.gov.az](mailto:ruslan.rustamli@economy.gov.az)  
Website: <http://pao.az>

**Ms Narmin ALASGAROVA**, PAO Manager  
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Ministry of Economy and Industry of the Republic of Azerbaijan  
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84 Uzeyir Hajibayli str.  
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Tel.: (+994 12) 493 88 67 (ext. 2304)  
Fax: (+994 12) 598 85 19  
E-mail: [narmin.alasgarova@economy.gov.az](mailto:narmin.alasgarova@economy.gov.az)  
Website: <http://pao.az>

***Beneficiary Administration – Copyright Agency of the Republic of Azerbaijan***

The Beneficiary Administration has nominated its main counterparts to the MS PL and RTA:

**Project Leader – Mr Rovshan Nasirov, Director**  
Intellectual Property Rights Centre  
Copyright Agency of the Republic of Azerbaijan  
1st floor, Government House,  
84 Uzeyir Hajibayli str.  
Baku, AZ 1000  
Republic of Azerbaijan  
Tel.: (+994 12) 4933944 (ext. 123); (+994 12) 4931669  
E-mail: [rovshanas@mail.ru](mailto:rovshanas@mail.ru)

**RTA counterpart – Mr Vusal Aliyev, Leading Advisor**  
Information Technologies Division  
International Relations and Information Provision Department  
Copyright Agency of the Republic of Azerbaijan  
1st floor, Government House,  
84 Uzeyir Hajibayli str.  
Baku, AZ 1000  
Republic of Azerbaijan

Tel.: (+994 12) 4933944 (ext. 106)  
E-mail: [yusalaliyev2010@gmail.com](mailto:yusalaliyev2010@gmail.com)

During the contracting phase of the project, the beneficiary administration will nominate leaders for each of the components.

### **6.3 Contracts**

Only one Twinning contract is foreseen for this project.

## **7. Implementation schedule (indicative)**

<b>7.1 Launching of the call for proposals:</b>	[June 2016]
<b>7.2 Start of project activities:</b>	[February 2017]
<b>7.3 Project completion:</b>	[February 2019]
<b>7.4 Duration of the execution period:</b>	[24] months

## **8. Sustainability**

The Twinning project will have to seek sustainable solutions and approaches based on the adoption of best practices and thus prepare the grounds for Azerbaijani enhanced compliance with the selected EU Acquis and specifically best European practices in the field of copyright and related rights.

Sustainability issues will be further elaborated in the course of the preparation of the project contract as a joint responsibility of the MS partner and the Beneficiary Administration. Besides, in the final report, twinning partners will include specific recommendations and strategies for consolidating and safeguarding the achievement of mandatory results in the beneficiary administration.

To ensure sustainability, Beneficiary Administrations should be provided with the training materials (all handovers) in both languages, English and Azerbaijani. The maximum budget allocated to the translation of Guidelines, Handbooks, Glossaries, Methodology Manuals, etc. developed within the project is € 5 000.

The project is designed so that it addresses diverse but interrelated issues in a coordinated manner. It provides the opportunity to strengthen the policy dialogue and legislative framework for copyright and related rights in Azerbaijan. It will enhance the administrative, professional and technological capacities of the Beneficiary Administration. It envisages the participation of various relevant stakeholders in a process designed to improve the system for enforcement of copyright and related rights. An enduring legacy of the project will be the assistance provided to build the national cultural aggregator.

## **9. Cross-cutting issues**

### **9.1 Equal opportunity**

The proposed project will comply with EU equal opportunity policies. Equal treatment of women and men in project implementation at all levels will be one of the most important principles in the project management and implementation. The beneficiaries are already equal opportunity employers. In particular, great attention will be given to the equality principle in the training of personnel and the recruitment of the STEs. Of course, appropriate professional qualifications and experience will be the main decisive factors in personnel recruitment and evaluation but, subject to that, both women and men will have identical prospects.

### **9.2 Environment**

The principle of implementation of this Twinning project is based on a paperless work environment. This means, in particular, minimising paper use during project implementation by the maximum feasible use of e-

mails and, if available, project web-site and/or project electronic data base for co-operation between partners. Documents are automatically saved in electronic format.

### **9.3 Other**

The project will have a number of specific crosscutting benefits in terms of the priorities identified in the both the ENP Action Plan and in Azerbaijan 2020 – Outlook for the Future.

In relation to the former, enhancement of copyright and related rights legislation and improvement of the enforcement environment will assist the development of business and the attraction of investment in enterprises that are IP-related. This will contribute to the improvement of the business climate, as targeted by Priority are 4 of the Action Plan.

In relation to the latter, the contribution of the project to creation of the national digital aggregator serves a variety of objectives outlined in the Concept, including: the expansion of use of ICT in state bodies; the protection and preservation of objects of cultural heritage, and the management of cultural reserves in a single electronic database.

## **10. Conditionality and sequencing**

### **ANNEXES**

1. Logical framework matrix in standard format
2. A detailed list of relevant laws and regulations of the Republic of Azerbaijan
3. A list of the principal relevant WIPO-administered multi-national treaties
4. BA Organigramme (Central Administration)

**ANNEXE 1: Logical Framework Matrix\***

<b>Strengthening the Institutional Capacity of the Copyright Agency to Manage and Protect Intellectual Property Rights in Digital Networks</b>		Programme name and number: <b>ENPI AAP 2013</b>	<b>AZ/15/ENP/TR/41</b>
<b>State Copyright Agency of the Republic of Azerbaijan</b>		Contracting period expires:	Disbursement period expires:
<b>Total budget: 1.081 million EUR</b>			
	<b>Objectively Verifiable Indicators</b>	<b>Sources of Verification</b>	<b>Assumptions</b>
<b>Overall objective:</b>			
To enhance the legal and institutional framework for the protection and management of works protected by copyright and related rights in digital networks	<ul style="list-style-type: none"> <li>• Positive assessment of the copyright and related rights protection in digital networks by local and international organisations</li> <li>• Positive changes to practices relating to online use of protected material</li> <li>• Increased number of applications for protection of works protected by copyright and related rights in Azerbaijan</li> <li>• Increased number of members of collective management organisations</li> </ul>	<ul style="list-style-type: none"> <li>• National &amp; international Statistics on piracy rate</li> <li>• Report of the Copyright Agency</li> <li>• Membership figures for collective management organisations</li> <li>• ENP AP Progress report Azerbaijan</li> </ul>	
<b>Project purpose:</b>			
To assist the Copyright Agency in the development of the Centre for Intellectual Property, including by supporting the establishment of the “national digital aggregator”, a digital repository for objects of national heritage	<ul style="list-style-type: none"> <li>• The CA is able to set up a new National Digital Aggregator</li> <li>• The Training Centre of IP Centre is ready to function as a regional centre of excellence for IP training</li> </ul>	<ul style="list-style-type: none"> <li>• Decisions by the Government of the Republic of Azerbaijan</li> <li>• Regular reports of international organisations</li> <li>• Report of the Copyright Agency</li> <li>• Project Interim Reports</li> <li>• Project Final report</li> </ul>	<ul style="list-style-type: none"> <li>• Appropriate and timely co-operation of key stakeholders and contributors of data to the National Digital Aggregator</li> <li>• Allocation by the Government of financial support from the budget, enabling the set-up of the National Digital Aggregator</li> <li>• Continuing reforms aiming at the improving the efficiency of the system</li> </ul>

**Strengthening the Institutional Capacity of the Copyright Agency to Manage and Protect Intellectual Property Rights in Digital Networks (“SICCA”)**

			of the copyright and related rights protection in digital networks in Azerbaijan
<b>Mandatory Results:</b>			
1. Institutional framework supporting enforcement of copyright and related rights developed	<ul style="list-style-type: none"> <li>• A medium term strategy for the development of the IP Centre prepared and accepted by beneficiary</li> <li>• A Road Map and Action Plan for years 1-3 of the strategy developed and accepted by beneficiary</li> <li>• Report with recommendations on organisational structure of IP Centre prepared</li> <li>• Report with recommendations on organisational capacity and responsibility for activities of IP Centre prepared</li> <li>• A strategy for development of Training Centre of IP Centre developed and accepted by beneficiary</li> <li>• Report on current system of collective management in digital networks prepared</li> <li>• Recommendations on effective collaboration between collective management organisations and the state authorities</li> <li>• Report with recommendations for structured co-operation between the Copyright Agency and other IPR enforcement bodies and agencies prepared</li> </ul>	<ul style="list-style-type: none"> <li>• A medium term strategy</li> <li>• A Road Map and Action Plan</li> <li>• A strategy for development of Training Centre</li> <li>• Experts' mission reports</li> <li>• Project Interim Reports</li> <li>• Project Final report</li> </ul>	<ul style="list-style-type: none"> <li>• Continuation of the Azerbaijan Government commitment to addressing this specific issue and allocation of the necessary resources</li> <li>• Good collaboration and synergy between all involved institutions</li> <li>• Open access and information of all stakeholders to the relevant information</li> <li>• Sufficient staff at CA in terms of qualification, quantity and availability</li> <li>• Capacity of beneficiary is sufficient to absorb the projects results</li> </ul>
2. IP Centre technologically enhanced 2.1 Set up of the National digital aggregator supported	<p><i>Sub-Result 2.1:</i></p> <ul style="list-style-type: none"> <li>• At least 2 comparable EU MS repositories of cultural material presented</li> </ul>	<ul style="list-style-type: none"> <li>• Decisions by the Government of the</li> </ul>	<ul style="list-style-type: none"> <li>• The CA has a good knowledge of best practises of EU countries and different</li> </ul>

<p>2.2 Framework for finalisation of setting up of the control mark system completed</p>	<ul style="list-style-type: none"> <li>• Concept of new national digital aggregator model developed and accepted by beneficiary</li> <li>• High-level software architecture, incorporating data storage, data management and user interface layers; with specific requirements identified for each prepared</li> <li>• Monitoring tool/service for detection of infringement developed and accepted by beneficiary</li> <li>• Design of software to support data management, data protection and preservation across the repository infrastructure prepared</li> <li>• A suite of rich user interfaces with interface profiles to the repository content using appropriate accessibility standards prepared</li> <li>• Design and standards of software for storage model prepared</li> <li>• Configuration of appropriate web security applications and procedures prepared</li> <li>• Specifications for hardware prepared</li> <li>• Website specifications prepared</li> <li>• 5 CA staff with good IT knowledge and skills trained for sustainable operation of the National Digital Aggregator</li> <li>• Study tour(s)/ Internship(s) organised</li> </ul> <p><i>Sub-Result 2.2:</i></p> <ul style="list-style-type: none"> <li>• System-design and software specification for online ordering of control marks</li> </ul>	<p>Republic of Azerbaijan</p> <ul style="list-style-type: none"> <li>• Decisions of the CA Chairman</li> <li>• Concept of new national digital aggregator model</li> <li>• Technical specification documents for relevant software</li> <li>• New database</li> <li>• Monitoring tool/service</li> <li>• Web site</li> <li>• Reports on delivered trainings and workshops with involvement of relevant CA staff</li> <li>• Reports on the study visit(s)/internship(s) with involvement of relevant CA staff</li> <li>• Project Interim Reports</li> <li>• Project Final report</li> </ul>	<p>type of digital repositories for objects of national heritage</p> <ul style="list-style-type: none"> <li>• CA has to ensure the necessary office space for the National Digital Aggregator</li> <li>• Effective involvement and active participation of the key decision makers in the relevant institutions in the project implementation</li> <li>• Trained personnel remains at the disposal of the beneficiary institution</li> <li>• Full technical development and operational efficiency of computer software designed and/or acquired</li> <li>• Full technical efficiency of the existing and/or supplied equipment</li> <li>• Access to indispensable information and documents is ensured</li> <li>• Required data are available</li> <li>• Sufficient staff at CA in terms of qualification, quantity and availability</li> <li>• Capacity of beneficiary is sufficient to absorb the projects results</li> </ul>
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	<p>prepared</p> <ul style="list-style-type: none"> <li>• System-design and software specification for online rights-clearance prior to the issue of control marks prepared</li> <li>• Software specifications for improved integration of existing software and better application programming (API) and graphic user (GUI) interfaces prepared</li> </ul>		
3. Legal and regulatory review undertaken and new legislation developed	<ul style="list-style-type: none"> <li>• A legal review prepared, including recommendations, to analyse the approximation of existing Azerbaijani legislation to the EU acquis (including EU Directives listed above in part 3.1.2), to evaluate the legal base for the national cultural aggregator and/or the system of application of control marks and to identify any legal constraints concerning the manner of their development</li> <li>• Relevant amendments to existing or new primary and/or secondary legislation covering all identified gaps are ready for submission for further approval by beneficiary</li> <li>• Following training, the enforcement authorities have a working knowledge of the developed IP legislation and regulations.</li> </ul>	<ul style="list-style-type: none"> <li>• Assessment report</li> <li>• List of needed revisions of the legal and normative framework</li> <li>• Recommended texts of revised laws, decrees and bylaws</li> <li>• Sample survey on the impact of training</li> </ul>	<ul style="list-style-type: none"> <li>• Timely adoption and implementation of the new legal provisions in the field</li> <li>• External partners will be able to attend the meetings</li> <li>• Collaboration and cooperation among the stakeholders</li> </ul>
4. Training and public awareness initiatives implemented 4.1 Training implemented 4.2 Public awareness strategy prepared	<p><i>Sub-Result 4.1:</i></p> <ul style="list-style-type: none"> <li>• Training needs assessment and training programme/strategy developed</li> <li>• 10 training sessions to CA and relevant stakeholders staff organised</li> </ul>	<ul style="list-style-type: none"> <li>• Training needs assessment report</li> <li>• Training programme/strategy</li> <li>• Reports on delivered</li> </ul>	<ul style="list-style-type: none"> <li>• Availability and commitment of local staff – particularly to attend training</li> <li>• Capacity of beneficiary is sufficient to absorb the projects results</li> <li>• Availability of suitable premises</li> </ul>

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	<ul style="list-style-type: none"> <li>• Manuals and handbooks on the systems implemented in the course of the Twinning Project developed</li> <li>• At least 10 trainers trained</li> <li>• At least 150 law enforcement personnel and other stakeholders, relating to enforcement of IP law in digital networks trained in the IP Centre</li> <li>• Study tour(s) / internship(s) organised</li> </ul> <p><i>Sub-Result 4.2:</i></p> <ul style="list-style-type: none"> <li>• Communication strategy developed and accepted by beneficiary</li> <li>• Number of specific communication and public awareness tools designed</li> </ul>	<p>trainings and workshops with involvement of relevant CA staff and other institutions</p> <ul style="list-style-type: none"> <li>• Manuals and handbooks</li> <li>• Reports on the study visit(s)/internship(s) with involvement of relevant CA staff and other institutions</li> <li>• Communication strategy</li> <li>• List of specific communication and public awareness tools</li> </ul>	needed for training
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	Means	Costs	
<b>Mandatory Result 0: Visibility actions</b>			
0.1. Kick-off meeting			
0.2. Quarterly meetings of the Steering Committee			
0.3. Final conference			
<b>Activities to achieve result 1:</b>			
1.1 Conduct a review of the IP Centre and prepare a medium term strategy for its development, with an action plan for years 1-3 of the strategy.			
1.2 Evaluate and provide a report with recommendations on the means to develop the system of collective management in digital networks.			
1.3 Conduct an evaluation and provide a report with recommendations on the options for			

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structured cooperation between relevant Ministries and public agencies responsible for IPR enforcement, and for regular consultation with private sector stakeholders, such as CMOs and ISPs, and relevant representative organisations			
<b>Activities to achieve result 2.1:</b>			
2.1.1 Establish a high-level Policy and Planning Group chaired by the Chairman of the Copyright Agency, for approving the design and overseeing the management of the national digital aggregator project. The Working Group will determine the policies and principles underpinning the design of the national digital aggregator, and will direct the management of the project. Its members will include senior representatives of the Ministries of Culture and Communications & High Technology			
2.1.2 Conduct a workshop at which senior personnel of at least two comparable repositories of cultural material in EU MS make presentations on the planning and execution of their respective projects			
2.1.3 Conduct an evaluation of key issues determining design of the national digital aggregator			
2.1.4 Develop high level software design			
2.1.5 Provide specifications for data management, data protection and preservation systems in the repository infrastructure			
2.1.6 Design and provide software specifications for user interfaces and interface profiles to the repository content			
2.1.7 Design and provide specifications for software for the storage model			

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2.1.8 Provide specifications for monitoring tool to detect online infringement			
2.1.9 Provide website development specifications			
2.1.10 Provide specifications for hardware			
2.1.11 Provide training on cultural aggregator			
<b>Activities to achieve result 2.2:</b>			
2.2.1 Provide system-design and software specification for online ordering of control mark			
2.2.2 Provide system-design and software specification for online rights-clearance prior to the issue of control marks			
2.2.3 Provide software specifications for improved integration of existing software and better application programming and graphic user interfaces			
<b>Activities to achieve result 3:</b>			
3.1 Conduct gaps analysis to establish the state of approximation of Azerbaijan copyright and related rights law to the EU acquis			
3.2 Conduct a legal review of the system for the national digital aggregator (as proposed) and the system for application of control marks (as partly developed), to assess their compatibility with EU and international legal norms			
3.3 Provide a report with table of concordance and list of recommended primary and secondary legislative acts and amendments, including amendment to civil, criminal and administrative codes			
3.4 Provide the assistance of legal experts to the Copyright Agency on the drafting of new laws, amendments and secondary instruments			
<b>Activities to achieve result 4.1:</b>			
4.1.1 Prepare a training need assessment and a			

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training strategy for staff of the IP Centre and the Copyright Agency, a group of trainers and representatives of key selected stakeholder institutions			
4.1.2 Implement the training programme in Azerbaijan			
4.1.3 Organize a program of study tours and/or internships in relevant EU Copyright-related institutions			
<b>Activities to achieve result 4.2:</b>			
4.2.1 Prepare a communications strategy			

*\* - This Logical Framework Matrix is tentative. The Twinning partners shall revise the content of the Logical Framework Matrix, mainly measurable indicators / benchmarks basis of commonly agreed activities and outputs during the drafting of the work plan for this project*

## **ANNEXE 2: A detailed list of relevant laws and regulations of the Republic of Azerbaijan**

The following is a list of laws, implementing rules and regulations judged to be directly or indirectly relevant to the Twinning Project. The list is extracted from the website of the World Intellectual Property Organisation (<http://www.wipo.int/wipolex/en/profile.jsp?code=AZ>).

### **Constitution**

- Constitution of the Republic of Azerbaijan (as last amended on March 18, 2009) (2009)

### **Principal Laws: enacted by the Legislature**

- Law of the Republic of Azerbaijan on Copyright and Related Rights (1996)
- Law of the Republic of Azerbaijan on Legal Protection of Topographies of Integrated Circuits (2002)
- Law of the Republic of Azerbaijan on Legal Protection of Azerbaijani Folklore Expressions (2003)
- Law of the Republic of Azerbaijan on Legal Protection of Compilations of Data (2004)
- Law of the Republic of Azerbaijan on Enforcement of the Intellectual Property Rights and Fight Against Piracy (2012)

### **Relevant related Laws: enacted by the Legislature**

- Law of the Republic of Azerbaijan on Approval of the Decision on the Rules on Customs Control of Transfer of Goods Protected by Intellectual Property Rights (2011)
- Administrative Offences Code of the Republic of Azerbaijan (2011)
- Criminal Code of the Republic of Azerbaijan (amended version 2010) (2010)
- Criminal Code of the Republic of Azerbaijan
- Civil Procedure Code of the Republic of Azerbaijan
- Civil Procedure Code of the Republic of Azerbaijan (as amended up to Law No. 972-IIIQD of March 5, 2010) (2010)
- Law of the Republic of Azerbaijan on Preservation of Historical and Cultural Monuments (2010)
- Law of the Republic of Azerbaijan on Information, Informatization and Protection of Information (as amended up to December 30, 2010) (2010)
- Law of the Republic of Azerbaijan on Publishing (2008)
- Law of the Republic of Azerbaijan on Culture (2006)
- Law of the Republic of Azerbaijan on Electronic Commerce (2005)
- Law of the Republic of Azerbaijan on Unfair Competition (as amended up to December 30, 2003) (2003)
- Law of the Republic of Azerbaijan on Architectural Activities

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- Law of the Republic of Azerbaijan on Theatre and Theatre Activities
- Law of the Republic of Azerbaijan on Cinematography
- Law of the Republic of Azerbaijan on Mass Media
- Law of the Republic of Azerbaijan on Advertising
- Law of the Republic of Azerbaijan on TV-Radio Broadcasting
- Law of the Republic of Azerbaijan on Commercial Secret

### **Implementing Rules and Regulations**

- Decision No. 38 of May 2, 1997 of the Cabinet of Ministers of the Republic of Azerbaijan on amendments to the Decision of the Cabinet of Ministers of the Republic of Azerbaijan on Issues related to the Implementation of the Law of the Republic of Azerbaijan on Copyright and Related Rights (2011)
- Decision of the Cabinet of Ministers of the Republic of Azerbaijan on implementation of the Law of the Republic of Azerbaijan on Copyright and Related Rights (2011)
- Application for Registration of Databases Protected by Copyright Law (2010)
- Decree of the President of the Republic of Azerbaijan on the application of Law No. 580-IIIQD dated 1 April 2008 on amendments to the Law of the Republic of Azerbaijan on Copyright and Related Rights (2008)
- Decree of the President of the Republic of Azerbaijan on the implementation of the Law of the Republic of Azerbaijan on culture (2008)
- Decision of the Cabinet of Ministers of the Republic of Azerbaijan on Rules on determining, sharing and payment of the minimum amount of the author's financial reward for the personal purposes of copying phonogramed and audiovisual works (2007)
- Decree of the President of the Republic of Azerbaijan on the approval of the Statute of the Copyright Agency of the Republic of Azerbaijan (2005)
- Resolution of the President of the Republic of Azerbaijan on the application of the Law of the Republic of Azerbaijan on amending some legislative acts of the Republic of Azerbaijan in connection with the application of the Law of the Republic of Azerbaijan on Legal Protection of Databases (2005)
- Decree of the President of the Republic of Azerbaijan on the application of the Law of the Republic of Azerbaijan on Legal Protection of Databases (2004)
- Instruction on the form of materials and documents included into the application document for State registration of topographies of integrated circuits (2004)
- Resolution of the President of the Republic of Azerbaijan on ensuring the application of the Law of the Republic of Azerbaijan on amendments to the Administrative Offences Code and Criminal Code of the Republic of Azerbaijan in connection with the application of the Law of the Republic of Azerbaijan on Legal Protection of Expressions of the Azerbaijan Folklore (2004)

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- Decree of the President of the Republic of Azerbaijan on ensuring the application of the Law of the Republic of Azerbaijan on Legal Protection of Expressions of the Azerbaijan Folklore (2004)
- Resolution of the President of the Republic of Azerbaijan on the application of the Law of the Republic of Azerbaijan on Legal Protection of Expressions of the Azerbaijan Folklore (2003)
- Rules of the Republic of Azerbaijan on the customs control of goods protected by intellectual property rights (2003)
- Rules on registration of copyright works (2000)
- Decision of the Cabinet of Ministers of the Republic of Azerbaijan on the approval of the Rule on the Registration of the Cultural heritage of the Republic of Azerbaijan in the State Catalogue of national cultural property and the Catalogue of protection of cultural heritage (1999)
- Resolution of the President of the Republic of Azerbaijan on the application of the Law of the Republic of Azerbaijan on Copyright and Related Rights (1996)

**ANNEXE 3: A list of the principal relevant WIPO-administered multi-national treaties**

The following is a list of the principal relevant WIPO-administered multi-national treaties to which the Republic of Azerbaijan is party. The list is extracted from the WIPO website

(<http://www.wipo.int/wipolex/en/profile.jsp?code=AZ>):

- WIPO Copyright Treaty (April 11, 2006)
- WIPO Performances and Phonograms Treaty (April 11, 2006)
- Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (October 5, 2005)
- Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of Their Phonograms (September 1, 2001)
- Berne Convention for the Protection of Literary and Artistic Works (June 4, 1999)
- Convention Establishing the World Intellectual Property Organization (December 25, 1995)
- Convention for the Safeguarding of the Intangible Cultural Heritage (April 18, 2007)

ANNEXE 4: Organigramme of the Beneficiary Central Administration

