

Institutional Corruption in the Council of Europe's Relationship with Azerbaijan

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In this paper, I examine the intricate relationship between Azerbaijan and the Council of Europe (CoE). I focus particularly on the intertwined challenges of human rights observance that define the relationship of the CoE and Azerbaijan's joint institutional corruption *deal*. Central to my exploration is the concept of *institutional corruption* and I argue that the relationship between the CoE and Azerbaijan is plagued by institutional corruption and characterized by systematic and strategic deviations from the CoE's foundational goals due to financial and political pressures, which result in a compromised stance on human rights and democracy.

CoE and its purposes

The CoE is an international organization founded in 1949 to promote democracy, human rights, and the rule of law in Europe. It is headquartered in Strasbourg, France, and consists of 46 member states. The organization's main bodies include the Committee of Ministers (CoM), the Parliamentary Assembly of the Council of Europe (PACE), the Commissioner for Human Rights, and the European Court of Human Rights (ECtHR). The CoE seeks to uphold its values through various means, including:

1. Developing and promoting common legal and regulatory standards among member states.
2. Supervising the adherence of member states to these standards through various monitoring bodies and mechanisms.

3. Offering technical assistance and expertise to help member states implement necessary reforms.
4. Encouraging cooperation among member states on issues of common concern, fostering dialogue and understanding.
5. Ensuring that human rights are protected across Europe through mechanisms like the ECtHR.

The CoM is the CoE's decision-making body, composed of the 46 foreign ministers of all member states or their permanent diplomatic representatives in Strasbourg. The CoM's responsibilities include:

1. Formulating policies and adopting decisions to further the CoE's objectives.
2. Supervising the implementation of judgments from the ECtHR.
3. Approving the CoE's budget and ensuring the financial stability of the organization.
4. Proposing and adopting European conventions and agreements to standardize laws and regulations among member states.
5. Monitoring and ensuring that member states adhere to their obligations and commitments, addressing any violations or concerns that arise.

PACE is one of the CoE's main statutory bodies. It is composed of representatives from the national parliaments of the CoE member states. PACE's functions include:

1. Adopting resolutions and recommendations influencing the CoE's policies and activities through resolutions and recommendations to the CoM.
2. Electing the Secretary General, the Commissioner for Human Rights, and judges to the ECtHR.
3. Monitoring and overseeing the compliance of member states with their commitments and obligations, including

monitoring democratic processes and human rights situations.

4. Promoting and facilitating dialogue and cooperation among member states on key issues related to democracy, human rights, and the rule of law.

The Secretary General of the CoE is a key figure in the organization, responsible for overseeing the strategic direction and functioning of the CoE. Elected by the PACE for a five-year term, the Secretary General ensures that the CoE's decisions and policies are effectively implemented. The office's responsibilities include managing the Secretariat, preparing and overseeing the budget, and representing the CoE externally. The Secretary General also plays a crucial role in crisis management and in fostering cooperation among member states to uphold the organization's principles. In relation to Azerbaijan, the Secretary General's office is involved in:

1. Monitoring Azerbaijan's adherence to CoE standards and conventions, providing guidance and support where necessary.
2. Supporting Azerbaijan in implementing legal and institutional reforms to align with European standards.
3. Engaging with Azerbaijani authorities to foster cooperation and address any issues related to human rights, democracy, and the rule of law.
4. Addressing any crises or significant issues involving Azerbaijan, coordinating with relevant CoE bodies to ensure an appropriate response.

The CoE's role in supporting and supervising Azerbaijan

Azerbaijan has been a member of the CoE since 2001. As a member state, Azerbaijan is expected to adhere to the CoE's principles and standards, particularly concerning democracy, human rights, and the rule of law. The CoE's engagement with Azerbaijan involves various mechanisms aimed at ensuring

compliance and fostering cooperation. This can be broadly categorized into two main areas: *implementation and cooperation, and supervision.*

Firstly, the CoE supports Azerbaijan in implementing legal and institutional reforms to align its national legislation and practices with European standards. This involves providing expertise and technical assistance in areas such as judicial independence, anti-corruption measures, electoral processes, and the protection of minority rights. Through various monitoring bodies like the Venice Commission, the Group of States against Corruption (GRECO), and the Commissioner for Human Rights, the CoE advises Azerbaijan on necessary reforms and improvements. These bodies conduct assessments and provide recommendations to guide the country in fulfilling its obligations. The CoE fosters dialogue and cooperation between Azerbaijani authorities and European institutions. This is achieved through joint projects, exchange programs, and collaborative initiatives aimed at promoting democratic governance and human rights.

Secondly, Azerbaijan is subject to the jurisdiction of the European Convention on Human Rights (ECHR). Individuals in Azerbaijan can bring cases before the ECtHR, and Azerbaijan is obligated to implement the Court's rulings. The CoE employs various monitoring mechanisms to supervise Azerbaijan's compliance with its commitments. This includes periodic reviews by the Committee of Ministers, the Parliamentary Assembly, and other specialized bodies. These reviews assess Azerbaijan's progress in implementing CoE standards and provide recommendations for further action. In cases where Azerbaijan fails to comply with its obligations, the CoE has the authority to take various actions. These can range from diplomatic pressure and public statements to more severe measures such as suspension of voting rights or, in extreme cases, expulsion from the organization.

In 2017, the CoM initiated infringement proceedings against

Azerbaijan for violating the ECHR by unlawfully detaining opposition politician Ilgar Mammadov. Despite repeated calls for his release, Azerbaijan did not comply. Due to Azerbaijan's lack of response to numerous requests for the release of Mammadov, the CoM referred the case back to the ECtHR. This marked the first instance of the CoM utilizing this mechanism against a member state in CoE history.

In addition to the failure to release Mammadov, Azerbaijan also engaged in series of corrupt activities from 2012 to 2016 now known as the *Caviar Diplomacy* scandal. During those years Azerbaijan allegedly influenced PACE parliamentarians with gifts and money to mute criticism of the country's human rights record.[\[1\]](#) In 2018, an independent external investigation led by three former judges from the ECtHR confirmed ethical breaches and misconduct by PACE parliamentarians. In response, PACE imposed sanctions on those implicated, revised its operational rules to enhance transparency, and introduced stricter disclosure requirements. Additionally, a more tangible Code of Conduct was adopted, mandating periodic declarations of conflicts of interest and sponsored gifts or travel.[\[2\]](#) The scandal exposed deep ethical breaches within PACE, significantly tarnishing the CoE's reputation.

The Azerbaijani government also took several legal steps to repair its relationship with the CoE. The Supreme Court cancelled the convictions of Ilgar Mammadov in 2020 based on earlier ECtHR rulings that Mammadov's and Rasul Jafarov's arrests were illegal.[\[3\]](#) After revising these legal decisions, the government of Azerbaijan closed those two cases, which the CoM approved.[\[4\]](#) This process was seen as a success of the CoE's enforcement mechanisms, proving their effectiveness in ensuring compliance with the ECtHR judgments.

In January 2024, however, the CoE's lack of trust in Azerbaijan manifested itself again when the credentials of Azerbaijan's delegation to PACE were challenged and

subsequently not ratified. This decision was made due to Azerbaijan's failure to fulfill its commitments as a member of the Council of Europe, specifically regarding human rights, the rule of law, the existence of political prisoners in Azerbaijan, issues related to the Nagorno-Karabakh conflict, and the inability of PACE rapporteurs to visit the country in 2023. Regarding the latter issue, PACE rapporteurs faced significant obstacles while attempting to visit Azerbaijan. Rapporteurs were not allowed to meet with individuals detained on politically motivated charges. Moreover, PACE officials were not invited to observe the country's presidential election in February 2024. Additionally, there were instances where other PACE rapporteurs were denied entry into the country. [5]

Institutional corruption in the CoE-Azerbaijan relationship

The relationship between the CoE, particularly its main secretariat, and Azerbaijan, can be seen as, in part, a result of CoE institutional corruption. Institutional corruption refers to situations where legal or ethical influences systematically and strategically weaken an institution. [6]

According to Lawrence Lessig, a professor at Harvard Law School, *institutional corruption* "manifests itself when there is a systemic and strategic influence which is legal, or even currently ethical, that undermines the institution's effectiveness by diverting it from its purpose or weakening its ability to achieve its purpose, including, to the extent relevant to its purpose, weakening either the public's trust in that institution or the institution's inherent trustworthiness." [7]

This definition emphasizes five elements such as *systemic and strategic influence, insignificance of compliance with legal and existing ethical frameworks, undermining the effectiveness of the institution, avoidance of the institution's goal or weakening of its ability to achieve its goal, and weakening of public trust or credibility of the institution.* When applying

the concept of institutional corruption, the following five elements can be observed in the relationship between the CoE and the Azerbaijani government.

1. *Systemic and strategic influence*

The Secretariat of the CoE and its constituent bodies—the Secretary General, Directorate General of Human Rights and Rule of Law, Directorate of Programme Co-ordination, and Directorate General Democracy including the Baku Office—are entrusted with the critical role of upholding the institutional goals of the CoE: promoting human rights, democracy, and the rule of law. This mission is primarily achieved through continuous dialogue and rigorous oversight. However, in recent years, there has been a significant gap in the effective implementation of these goals, particularly concerning Azerbaijan. Over the past decades, the human rights situation in Azerbaijan has deteriorated markedly. The democratic decline is severe, and the reforms in the rule of law have been largely formalistic and superficial. The number of political prisoners continues to increase, and recent legislative changes, such as *the Law on Media* and *the Law on Political Parties*, have further restricted freedoms. Elections have consistently been fraudulent and unfair, following a troubling trend of democratic backsliding.[\[8\]](#)

Despite these alarming developments, the CoE Secretariat and the Baku Office have not taken practical and systematic steps to address the deteriorating situation. Instead, they have maintained cooperation with the Azerbaijani government according to CoE Action Plans, which ostensibly aim to strengthen human rights and the rule of law across member states. CoE Action Plans include judicial reforms, anti-corruption measures, promotion of social rights, and efforts to combat human rights violations such as trafficking and domestic violence. But despite the significant financial commitment from the CoE to Azerbaijan, which amounts to 30,1 million EUR across three action plans in the past 10 years,

there are serious concerns about the effective implementation of these plans, their actual impact, as well as the CoE's *bear-hug* policy towards the Azerbaijani government. For example, it is enough to review the action plans 2014-2017 and 2022-2025 to see how the priority topics have softened over the years. The CoE changed its priorities in these action plans from *political* goals to *non-political* and *apolitical* topics (ethical standards for media professionals, including gender mainstreaming in the media, preparation of handbook on Conflict Sensitive Journalism, etc.).[\[9\]](#) With this *policy*, the CoE attempted to obscure the issues in its cooperation with Azerbaijan by focusing on progressive values and rights to create only a facade of commitment. However, the actual effectiveness of these plans remains invisible.[\[10\]](#)

It should also be noted that the CoE has faced significant financial difficulties since the mid-2010s. The Russian annexation of Crimea and the ensuing conflict in Donbas led to Russia's suspension of payments to the CoE, followed by Türkiye's reduced contributions due to criticism over human rights issues in Türkiye. These financial pressures have influenced the CoE's approach towards member states like Azerbaijan. Azerbaijan's annual membership fee to the CoE is 1,528,052 EUR which is part of the contributions that all member states pay to support the Council's budget.[\[11\]](#) Every state pays a membership fee based on its size and economic capacity to ensure the operational and programmatic activities of the CoE, aimed at promoting human rights, democracy, and the rule of law across Europe. To mitigate financial strain, the CoE Secretariat appears to have adopted an appeasement stance, avoiding strict measures against Azerbaijan to maintain its own financial stability and relations with key member states.[\[12\]](#)

The bureaucratic structure of the CoE has also contributed to this appeasement approach. The Secretariat has focused on maintaining its organizational stability and internal processes, often at the expense of addressing pressing issues

effectively. This bureaucratic inertia results in a reluctance to take bold action or implement significant changes, even when necessary. Moreover, the CoE's reliance on financial support from the European Union (EU), which also maintains an appeasement foreign policy towards Azerbaijan, has further complicated the situation.[\[13\]](#) The EU's financial backing is crucial for funding various reforms and maintaining the CoE's bureaucratic apparatus. To obscure its appeasement stance and pre-empt criticism, the CoE Secretariat has integrated progressive topics such as discrimination and gender-based violence into its Action Plans, projecting an image of proactive human rights advocacy while deflecting attention from its leniency towards Azerbaijan.[\[14\]](#)

The influence of the strategic choices made by the CoE Secretariat is both systematic and predictable. Driven by the necessity to secure financial stability, the CoE has developed a pattern of appeasement behavior, especially towards member states like Azerbaijan, where significant human rights violations and democratic backsliding are evident but insufficiently addressed. This approach has allowed the CoE to maintain financial contributions and avoid further economic strain, but at the cost of compromising its core principles.

2. Insignificance of compliance with legal and existing ethical framework

The cooperation between the CoE Secretariat and the Azerbaijani government remains within the bounds of legality and current ethical standards as defined by the CoE. However, this legal and ethical compliance appears superficial and misaligned with the CoE's core mission of promoting human rights, democracy, and the rule of law. This discrepancy suggests the need for a revision of the CoE's legal and ethical frameworks to address conflicts between institutional values and current practices.

The shift in CoE's focus on Azerbaijan from addressing

significant political and human rights issues to softer, less controversial topics indicates a strategic avoidance that undermines the spirit of the CoE's legal and ethical commitments.

3. Undermining the effectiveness of the institution

The CoE's formalistic approach to cooperation with Azerbaijan has led to a normalization of inadequate reforms, resulting in a bureaucratic exercise rather than substantive change. This behavior can be seen as a precedent that could extend to other member states, potentially creating a widespread issue of ineffective governance within the CoE. Despite significant financial investments in Azerbaijan, including €30,1 million over three action plans in the past decade, the CoE has struggled to achieve tangible improvements in Azerbaijan's adherence to democratic norms and human rights standards. This inefficacy stems from a focus on maintaining organizational stability and internal processes at the expense of addressing critical issues, further exacerbating the problem of institutional corruption.

4. Avoidance of the institution's goal or weakening of its ability to achieve its goal

The CoE's approach to Azerbaijan has deviated significantly from its primary goals of promoting democracy, human rights, and the rule of law. By adopting a policy of cautious engagement and avoiding strict measures against Azerbaijan, the CoE has allowed itself to be diverted from its fundamental mission.

This diversion is evident in the CoE's handling of the human rights situation in Azerbaijan. The reluctance to take strong, decisive action against Azerbaijan's democratic backsliding and human rights violations has compromised the CoE's ability to function as an effective international public organization. This concessionary policy weakens the CoE's overall influence and effectiveness, diminishing its capacity to uphold its core

values.

5. *Weakening of public trust or credibility of the institution*

The CoE's leniency towards Azerbaijan, despite the latter's continued political repression and failure to hold free and fair elections, has significantly damaged the CoE's reputation. This damage is compounded by the perception that the CoE is prioritizing financial stability and political relationships over its foundational principles. The subsequent reforms and sanctions aimed to restore credibility, but the incident highlighted deep ethical breaches within the organization. The CoE's softened stance towards Azerbaijan, particularly following the Caviar Diplomacy scandal, has eroded public trust in the institution's commitment to human rights and democratic values.

Conclusion

As mentioned above, the CoE's approach towards Azerbaijan can be characterized as a bear hug – a strategy of cautious restraint combined with subtle influence. This method is carefully designed to maintain engagement without pushing Azerbaijan too hard on issues that might jeopardize the relationship.

From the perspective of the Azerbaijani government, maintaining a relationship with the CoE is also strategic. This membership in prestigious international organizations like the CoE provides a veneer of legitimacy, enhancing its international image while continuing undemocratic practices domestically. This *facade democracy* is effectively supported by the CoE's softened stance, which enables Azerbaijan to retain its international standing without undertaking meaningful reforms.

The narrative from Baku seems to be one of moderate engagement—the state *urges the CoE not to be too critical but also not to distance itself*. This stance suggests that while

Azerbaijan is under pressure to improve its human rights record, it also leverages its geopolitical and energy significance to temper the CoE's criticisms. For the Azerbaijani government, membership in prestigious international organizations like the CoE provides a veneer of legitimacy, enhancing its international image while continuing undemocratic practices domestically. This *facade democracy* is effectively supported by the CoE's softened stance, which enables Azerbaijan to retain its international standing without undertaking meaningful reforms.

To sum up, the interactions between the CoE and Azerbaijan show how complex and challenging international relationships can be, especially when trying to enforce human rights. The idea of *institutional corruption* helps explain why these efforts sometimes fail. The CoE's appeasement approach towards Azerbaijan exemplifies how financial and geopolitical issues can lead to institutional corruption, characterized by a systematic and strategic deviation from the organization's foundational goals. To address these challenges, the CoE must adopt a more transparent, accountable, and resilient approach to ensure that its actions consistently align with its mission to promote human rights, democracy, and the rule of law across all member states.

[1] European Stability Initiative, Caviar Diplomacy, <https://www.esiweb.org/proposals/caviar-diplomacy>

[2] Council of Europe, REPORT of the Independent Investigation Body on the allegations of corruption within the Parliamentary Assembly, 15 April 2018, <https://assembly.coe.int/Communication/IBAC/IBAC-GIAC-Report-EN.pdf>

[3] ECtHR judgment, Case of Mammadli v. Azerbaijan, 19 July 2018, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-182178%22%7D>

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[4] CoE Newsroom, Implementing ECtHR judgments: CoE closes infringement procedure against Azerbaijan, 4 September 2020, <https://www.coe.int/en/web/portal/-/implementing-echr-judgments-council-of-europe-closes-infringement-procedure-against-azerbaijan>

[5] PACE, Azerbaijan's delegation challenged at opening of PACE session, 22 January 2024, <https://pace.coe.int/en/news/9341/azerbaijan-s-delegation-challenged-at-opening-of-pace-session>

[6] Lawrence Lessig, Institutional corruption, *Journal of Law, Medicine and Ethics*, 41(3), 553-555, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2295067

[7] Ibid., page 2

[8] Amnesty International, country report 2023 – Azerbaijan, <https://www.amnesty.org/en/location/europe-and-central-asia/eastern-europe-and-central-asia/azerbaijan/report-azerbaijan/>

[9] CoE Action Plan for Azerbaijan 2022-2025, 1 February 2022, <https://rm.coe.int/action-plan-azerbaijan-2022-2025-eng/1680a59aa3>

[10] Guide to a crime scene Azerbaijan and the Council of Europe 2022-2024, European Stability Initiative, <https://www.esiweb.org/sites/default/files/reports/pdf/ESI%20-%20Guide%20to%20a%20crime%20scene%20-%20A%20Black%20is%20white%20Secretary%20General%20-%203%20April%202024.pdf> Promoting ethical standards is important, but in the context of Azerbaijan it takes away focus from crucial political problems like freedom of the press and government accountability that still need fixing. Gender mainstreaming in media is a progressive idea, but it doesn't deal with serious human rights abuses or political repression in Azerbaijan. Making educational materials for

journalists is helpful, but it doesn't solve restrictions that were brought with new Media law or tackle the widespread corruption and lack of judicial independence that paralyzed the rule of law in Azerbaijan.

[11] Council of Europe, <https://www.coe.int/en/web/portal/azerbaijan>

[12] Suspension and expulsion of members of the council of Europe: Difficult decisions in troubled times, Kanstantin Dzehtsiarou and Donal K Coffey, Cambridge University Press, 17 April 2019, <https://www.cambridge.org/core/journals/international-and-comparative-law-quarterly/article/suspension-and-expulsion-of-members-of-the-council-of-europe-difficult-decisions-in-troubled-times/0CA9AC93A5722D91BECC4391D93B654E>

[13] Human rights groups criticize EU's Azerbaijan gas deal, Guardian, <https://www.theguardian.com/world/2022/jul/19/human-rights-groups-criticise-eus-azerbaijan-gas-deal>

[14] Guide to a crime scene Azerbaijan and the Council of Europe 2022-2024, European Stability Initiative, <https://www.esiweb.org/sites/default/files/reports/pdf/ESI%20-%20Guide%20to%20a%20crime%20scene%20-%20A%20Black%20is%20white%20Secretary%20General%20-%203%20April%202024.pdf>