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Committee on Political Affairs and Democracy

Request for partner for democracy status with the Parliamentary Assembly submitted by the Parliament of the Kyrgyz Republic

Rapporteur: Mr Mevlüt ÇAVUŞOĞLU, Turkey, European Democrat Group

Revised preliminary draft report

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1. Introduction

1. In June 2009, the Parliamentary Assembly adopted Resolution 1680 (2009) on the establishment of partner for democracy status with the Parliamentary Assembly, whereby it reaffirmed its strong commitment to developing co-operation with neighbouring regions as a means of consolidating democratic transformations and promoting stability, good governance, respect for human rights and the rule of law (paragraph 1), and resolved “to establish a new status for institutional co-operation with parliaments of non-member states in neighbouring regions wishing to benefit from the Assembly’s experience in democracy building and to participate in the political debate on common challenges which transcend European boundaries” (paragraph 11).

2. Resolution 1680 (2009) indicated (in paragraph 15) that the national parliaments of all southern Mediterranean and Middle Eastern countries participating in the Union for the Mediterranean – Barcelona Process, and of central Asian countries participating in the OSCE (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan), would be eligible to request partner for democracy status with the Assembly.

3. Following the adoption of Resolution 1698 (2009) on the amendment of various provisions of the Parliamentary Assembly’s Rules of Procedure, a new Rule, setting forth the conditions and modalities for granting partner for democracy status, was inserted in the Rules of Procedure of the Assembly, and came into force in January 2010.

4. In particular, Rule 61.2 contains formal political commitments that the parliament concerned must undertake when requesting partner for democracy status. Moreover, Rule 61.1 foresees a possibility for the Assembly, if appropriate, to lay down specific conditions to be met by the parliament concerned before or after the status has been granted.

5. During my visit to Kyrgyzstan in my capacity as President of the Assembly, in June 2011, I drew the attention of my interlocutors to the possibility for the Kyrgyz Parliament to request partner for democracy status.

6. On 27 October 2011, the then Speaker of the Parliament of Kyrgyzstan officially requested that the parliament be granted partner for democracy status (see Appendix). The request was referred to the Committee on the Political Affairs and Democracy, which appointed me as Rapporteur in January 2012.

7. The Assembly granted partner for democracy status to the Parliament of Morocco (June 2011) and the Palestinian National Council (October 2011) on the basis of the reports prepared by our colleagues Mr Luca Volontè and Mr Tiny Kox. Thus, there already exists an Assembly practice in this field. In accordance with this practice, and in line with the previous rapporteurs, I see my mission as follows:

- to verify whether the official request by the Parliament of Kyrgyzstan contains the formal commitments foreseen in Rule 61.2;
- to consider whether these commitments correspond to reality and, as a result, whether the status may be granted;

- to assess whether any specific conditions, to be met by the Parliament of Kyrgyzstan before the status is granted, should be laid down;
- to determine the areas where further reforms are most needed, and which should be in the focus of the review and follow-up process in the future.

8. This preliminary draft memorandum aims at providing the Committee with the relevant information needed to assess whether the request submitted by the Parliament of Kyrgyzstan should be accepted. It refers, *inter alia*, to the matters raised during the exchange of views with the delegation of the Kyrgyz Parliament during the April 2013 session of the Assembly. It has been completed and updated following my visit to Kyrgyzstan in June 2013.

2. General information

9. Kyrgyzstan (officially the Kyrgyz Republic) is a landlocked country situated in Central Asia. It has borders with Kazakhstan in the north, Uzbekistan in the west, Tajikistan in the southwest and China in the east. More than 80% of its territory of about 200 000 sq.km is covered by the Tian Shan Mountains.

10. Kyrgyzstan has a population of 5.66 million (70% Kyrgyz, 15% Uzbeks, mainly in the South, 7% Russians, mainly in the North and in the capital Bishkek). Due to the complex shape of the borders, it has several Uzbek and Tajik enclaves within its territory, and one exclave in Uzbekistan.

11. Most of the population of Kyrgyzstan is nominally Muslim (about 75%), and there has been a growing interest in Islam among those seeking a new ethnic or national identity. According to a recent public opinion survey, while the majority of the population in Kyrgyzstan think that the country should be secular, 33% believe that Islam should be part of the state policy, in one or another form. About 20% of the population are of Russian Orthodox faith.

12. Kyrgyzstan is one of the poorest countries of the region, with GDP per capita in current prices estimated at 1 152 USD in 2012 (IMF data). Over one third of the population are below the official poverty threshold. The country has some oil and gas and a developing gold mining sector, but relies on imports for most of its energy needs and on foreign aid. The aggregated public debt of Kyrgyzstan was 48% of GDP in 2011.

13. Some 800 000 Kyrgyz nationals work abroad, mainly in Russia (96.7%) and Kazakhstan (1.6%), their remittances make up over 29% of the country's GDP. At the same time, according to some data, referring *inter alia* to the International Labour Organisation, Kyrgyzstan has some 670 000 working children aged between 5 and 17 years, i.e. over 45 per cent of all children, or over 20 per cent of all working individuals in the country². Moreover, up to 80 per cent of these children are believed to perform jobs which are inappropriate for their age and development, if not dangerous.

14. Kyrgyzstan became independent after the breakdown of the USSR in 1991. In the following twenty years, its political history was rather turbulent: the two former presidents, Mr Askar Akayev (in office from independence until 2005) and Mr Kurmanbek Bakiev (from 2005 to 2010), who were both initially regarded as more democratically-inspired than their regional counterparts, turned into corrupt, autocratic rulers and were both overthrown in mass protests (sometimes referred to as "revolutions").

15. Moreover, the country's political stability has been undermined by widespread poverty and ethnic tensions between the Kyrgyz population and the Uzbek minority, concentrated in the Ferghana Valley in the south. In 2010, these tensions led to the outbreak of violence in the southern city of Osh which resulted in over 470 deaths, thousands of injured and hundreds of thousands of displaced persons.

16. According to the Corruption Perception Index 2012, compiled by Transparency International, Kyrgyzstan is among the twenty countries in the world with the highest perceived level of corruption.

17. At the same time, Kyrgyzstan is the only country in the region to enjoy genuine political pluralism, to have organised truly competitive elections, and to have a vibrant civil society. This constitutes a unique example in the region. The current electoral code stipulates that a political party shall be obliged to take into

² Working Children in Kyrgyzstan: Results of the 2007 Child Labour Survey. International LabourOffice/ National Statistical Committee of Kyrgyzstan. Bishkek: 2009; available at <http://www.ilo.org/ipeinfo/product/download.do?type=document&id=12014>.

consideration the representation of no more than 70 per cent of the people of the same sex and no less than 15 per cent representing different nationalities in establishing its list of candidates.

18. The current institutional setup of Kyrgyzstan is a result of the constitutional reform which followed former President Bakiev's overthrow. The 2010 constitution introduced a semi-parliamentary system of government. The parliament has the power to decide on the composition of the government and on a number of key policy issues. At the same time, appointments to some key government positions, such as the defence minister and heads of security agencies remain within the power of the President, who also has the right to veto legislation.

19. The President is elected for a six-year term in a direct and secret ballot, and is limited to one term in office. The current President, Mr Almazbek Atambaev, took office on 1 December 2011 following an election which was positively assessed by international observers, including from our Assembly.

20. The unicameral Parliament, Jogorku Kengesh (Supreme Council), has 120 seats; its members are elected by popular vote to serve five-year terms. The current parliament, elected on 10 October 2010, comprises representatives of five political parties (out of 29 parties which ran). The Speaker, Mr Asylbek Jeenbekov, representing the Social Democratic Party of Kyrgyzstan, was elected in December 2011 after his predecessor, Mr Akhmatbek Keldibekov, stepped down.

21. The current government, led by Prime Minister Jantoro Satybaldiev, was formed in September 2012 after the coalition of the previous Prime Minister Omurbek Babanov collapsed in August 2012, following allegations of corruption and a 5% contraction in GDP between January and July 2012. More recently, several ministers were dismissed in a government reshuffle.

3. Visits to Kyrgyzstan (January and June 2013)

22. From 15 to 17 January 2013, I carried out a fact-finding visit to Kyrgyzstan and had an opportunity to discuss with various partners the current state of political developments in the country and the prospects for the future.

23. During my visit, I had an opportunity to meet with the highest officials of the country, including President Atambaev and Prime Minister Satybaldiev. I also met with the ministers and high officials of the ministries of the Interior, Justice and Foreign Affairs, as well as with the Prosecutor General and the Chairperson of the Supreme Court. To my pleasure, all my interlocutors were well aware of the Council of Europe activities, its main bodies and mechanisms such as the Venice Commission, GRECO, the Pompidou Group, etc.

24. I also had an extensive programme of meetings in the parliament, and I had an opportunity to hold in-depth discussions with the Speaker and his Deputy, with Chairpersons of several committees, including the Foreign Affairs Committee, the Committee on Human Rights, Constitutional Legislation and State Structure, the Committee on Courts, Legal Affairs and Justice, the Committee on Law, Order and Fight against Crime, as well as with representatives of the key political groups.

25. When meeting with our parliamentary colleagues, I felt a genuine interest in engaging in co-operation with the Assembly and in learning from European experiences of democratic transitions and parliamentary work. In fact, as Kyrgyzstan is the first and only country in the region to turn from a presidential to a semi-parliamentary system, the parliament seeks political support and practical advice for its work.

26. I strongly encouraged them to come to Strasbourg during the April 2013 part-session of the Assembly, to meet with the relevant Committees and Rapporteurs, as well as with the Political groups and their leaders, and to inform Assembly members of their needs and aspirations. I am glad that the President of the Assembly agreed to extend an invitation to a delegation of the Kyrgyz Parliament to attend the April session, and that our Committee, and other members of the Assembly, had an opportunity to hold exchanges of views with members of the Kyrgyz Parliament.

27. As is the usual practice for the Rapporteurs of the Assembly, I also held briefings with representatives of the international community, including the Delegation of the European Union, the OSCE Centre in Bishkek, and the Ambassadors of the Council of Europe member states accredited in Bishkek. My interlocutors broadly welcomed the decision of the parliament to request partner for democracy status with the Assembly and thought that obtaining such status would be beneficial to the country on its way towards democracy.

28. Last but not least, I had a very lively meeting with representatives of civil society organisations acting in the field of the promotion of democracy, respect for human rights and the rule of law. My interlocutors raised a number of both systemic and specific issues related to impunity, ill treatment of prisoners and detainees, inter-ethnic tensions, freedom of the media, justice system, corruption, etc. While often critical of the Kyrgyz authorities, and less than satisfied with the functioning of institutions and of the country's human rights record, civil society activists saw the request by the parliament for, and the prospects of obtaining, partner for democracy status as an opportunity in their efforts aimed at promoting democratic values in Kyrgyzstan.

29. My overall assessment of the visit was globally positive. All my interlocutors spoke in support of the request for status made by the Kyrgyz Parliament and showed the will to work further in order to comply with its requirements, including implementing reforms which the Assembly might find necessary to make progress towards democracy, and addressing human rights issues.

30. On 11-12 June 2013, I made a second visit to Kyrgyzstan, in order to discuss, on the one hand, some issues of concern raised by the members of the Committee during the meetings in April and in June, and on the other hand, prospects for a closer co-operation between the Council of Europe and Kyrgyzstan.

31. During the second visit, I mainly focused my programme on discussions with members of parliament. I also met Prime Minister Satybaldiev and Foreign Minister Abdylidaev, and had an opportunity to exchange views, both formally and informally, with representatives of OSCE and EU as well as foreign diplomats posted in Bishkek.

32. With regard to issues of concern raised by the Committee, most of my interlocutors showed readiness to engage in a dialogue, although with different degrees of openness. I will provide comments on these discussions in Chapter 7.

33. Concerning an outlook for future co-operation, I stressed that granting partner for democracy status was not an honorary reward but rather a tool for practical collaboration, and referred to the example of Morocco, where obtaining the status with the Assembly paved the way towards fully-fledged inter-government co-operation.

34. I encouraged my interlocutors to point to the areas in which they would expect the Council of Europe to contribute to reforms. For my part, I mentioned the fight against corruption, the prevention of torture and the protection of human rights by law-enforcement agencies, the reform of justice system and the protection of the rights of minorities as the priority areas for co-operation at inter-governmental level. I further encouraged our Kyrgyz colleagues to consider requesting the right to join to a number of key Council of Europe conventions and partial agreements.

35. From the Kyrgyz side, interest was expressed in possible Council of Europe assistance and expertise in reforming the legal framework of justice and law-enforcement systems and in providing training for the staff working in these fields. Parliamentarians also expressed interest in learning from the experience of the functioning of parliamentary democracy.

4. Kyrgyzstan and the Council of Europe

36. In 2005, the Kyrgyz authorities contacted the Secretariat of the Council of Europe in order to explore the possibilities of obtaining Observer status with the Organisation, and received the relevant information. However, this step was not followed up.

37. Kyrgyzstan is party to the Convention on Recognition of Qualifications concerning Higher Education in the European Region (CETS N° 165) since 2004. Furthermore, as a country which participated in the elaboration of the European Convention on Nationality (CETS N° 166), Kyrgyzstan is entitled to sign it.

38. In 2008, Kyrgyzstan requested the right to accede to the European Convention on Mutual Assistance in Criminal Matters (CETS N° 030), but the request was declined by the Committee of Ministers. In 2011, the Kyrgyz authorities made a new request to accede to this Convention.

39. Kyrgyzstan has been a member of the Venice Commission since 2004. The Commission provided several opinions relating to the country, inter alia on the draft Constitution (June 2010), on the draft law on peaceful assemblies (December 2010, jointly with OSCE/ODIHR), on the draft constitutional law on the Constitutional Chamber of the Supreme Court (June 2011), on the draft law on the Council for the selection

of judges (June 2011), on the introduction of changes to the constitutional law” on status of judges” (June 2011) and on the draft electoral legislation (June 2011, jointly with OSCE/ODIHR).

40. Kyrgyzstan has been a beneficiary country of the Council of Europe project “Image of the Other and History Teaching in the framework of globalisation”.

41. Since June 2011, Kyrgyzstan has shown interest in establishing co-operation with the Council of Europe in the fields of human rights protection, the rule of law, gender issues, education, culture, the fight against corruption, as well as in the framework of the Pomicidou Group.

5. Statutory requirements for partner for democracy status: state of play

42. As mentioned in the introduction, my prime task as rapporteur is to assess whether the Parliament of Kyrgyzstan fulfils the criteria for the status of partner for democracy.

43. I recall that, in accordance with Rule 61.2, any formal request for partner for democracy status shall contain the following political commitments:

- an explicit reference to the aspiration of the parliament to embrace the values of the Council of Europe, which are pluralist and gender parity-based democracy, the rule of law and respect for human rights and fundamental freedoms;
- a commitment to act to abolish the death penalty and to encourage the competent authorities to introduce a moratorium on executions;
- a statement on the intention of the parliament to make use of the Assembly’s experience, as well as the expertise of the Venice Commission, in its institutional and legislative work;
- a commitment to organise free and fair elections in compliance with relevant international standards;
- a commitment to encourage balanced participation of women and men in public and political life;
- a commitment to encourage the competent authorities to become party to the relevant Council of Europe conventions and partial agreements which are open for signature and ratification by non-member states, in particular those dealing with human rights, the rule of law and democracy issues;
- an obligation to inform the Assembly regularly on the state of progress in implementing Council of Europe principles.

44. As mentioned above, in October 2011, the then Speaker of the Parliament of Kyrgyzstan officially requested that the parliament be granted partner for democracy status (see letter of request in Appendix), and provided the following arguments in support of this.

45. In particular, with regard to fundamental values, the letter states as follows:

“The current situation in our country and the achievements of the past few years show that the Kyrgyz Republic shares the Council of Europe’s values, which are founded on pluralism and gender equality, together with parity-based democracy, the rule of law and respect for human rights and fundamental freedoms.”

46. Throughout my visits, this principled position was confirmed by all my interlocutors, and I am convinced that they sincerely wish to build a country based on these fundamental values.

47. As mentioned earlier, Kyrgyzstan is the only country in the Central Asian region to enjoy genuine political pluralism, with dozens of political parties competing freely in transparent and credible elections. Opposition parties actively work in the parliament and challenge the governing coalition. The powers of the parliament substantially increased as regards the control over the government, whereas the powers of the president were restricted. In addition, Kyrgyzstan has a relatively free press and a vibrant civil society which has become an important force.

48. I should, however, express some caution, and remind members that in the past twenty years, Kyrgyzstan underwent two “revolutions”, i.e. violent and unconstitutional changes of power. This would have been unlikely if the country had enjoyed true democracy, the rule of law and respect for human rights. On the contrary, both previous regimes are now labelled as “authoritarian”. In fact, the 2011 presidential election was the first peaceful transfer of power in Kyrgyzstan. Accordingly, the democratic history of the country is only three years old, which is far too short for democratic culture to take roots in the society.

49. In addition, a number of remaining concerns in relation to human rights and the rule of law, including those raised by the Committee members at the meeting with the Kyrgyz delegation during the April part-session, cast doubts as to whether the statement mentioned in paragraph 39 fully reflects the reality. Compliance with the values upheld by the Council of Europe needs to be carefully observed in the years to come if the Parliament of Kyrgyzstan is to become our partner for democracy.

50. With regard to the death penalty, the letter states:

“Firm evidence of this can be seen today in the abolition of the death penalty in the Kyrgyz Republic...”.

51. I recall that the death penalty was abolished in Kyrgyzstan in June 2007, and therefore I consider that this criterion is fully met.

52. With regard to the use of the Council of Europe experience, the request contains the following paragraph:

“Our co-operation with the Council of Europe through our membership of the European Commission for Democracy through Law (the Venice Commission) has proved extremely useful for the Kyrgyz Republic and has produced positive results. We are therefore interested in making further use of the Assembly’s experience in our institutional and legislative work.”

53. In this respect, I should recall that the Venice Commission has been actively working with Kyrgyzstan on a number of occasions, including on the draft constitution (see para. 33 above). I hope that the Kyrgyz authorities will soon appoint their representative to the Venice Commission, which would increase the effectiveness of co-operation.

54. Moreover, bearing in mind that the new constitution has introduced a parliamentary system of government, co-operation with, and assistance of, our Assembly would be extremely valuable for the Kyrgyz Parliament.

55. As regards elections, the Kyrgyz Parliament has stated that:

“We have set ourselves a clear goal: to hold free and fair elections in line with international standards. We are therefore intent on building stable relations with all international organisations that have sufficient experience in this area.”

56. I recall in this context that the Assembly observed the presidential election in Kyrgyzstan in October 2011. The *Ad Hoc* Committee concluded that the election “...constituted an important step in the completion of the transitional period after the 2010 events. The citizens of the Kyrgyz Republic had the opportunity to choose from among a plurality of candidates and make informed choices as a result of free broadcast and print media. The outcome reflects the overall will of the electorate and the aspiration of the population towards enhanced stability and consolidation of the democratisation process in the country”.³

57. At the same time, the *Ad Hoc* Committee pointed to a number of shortcomings, and called on the authorities to address them, in particular as regards bringing election legislation into line with international standards.

58. In this context, reference to the intention of the parliament to build stable relations with all international organisations that have sufficient experience in electoral matters is of particular importance. Obtaining partner for democracy status with the Assembly would clearly have an added value for the parliament in this field.

³ See Doc. 12797, paragraph 40.

59. Regarding gender equality in politics and public life, the request points out:

“Firm evidence of this can be seen today in [...] the equal representation of women and men in public and political life.”

60. In this connection, it has to be acknowledged that Kyrgyzstan has made progress in promoting women's participation in politics, including with the introduction of gender quotas in party lists. According to Article 72 of the Kyrgyz electoral code, no more than 70 per cent of the same sex should be represented in the list of candidates of a political party.

61. During my visits, I had the opportunity to meet an impressive number of women in senior public positions, such as the President of the Supreme Court, the Prosecutor General, the Deputy Speaker of Parliament (who led the delegation of the Kyrgyz Parliament which visited our Assembly during the April session), and several Deputy Ministers.

62. In the current parliament, there are 28 women, which makes over 23% and is a far better figure than in more than a half of Council of Europe member States. There are also three women at the ministerial level in the government.

63. Moreover, I recall that Ms Roza Otunbaeva, former Foreign Minister, served as the President of the Kyrgyz Republic in the period of transition (2010-2011).

64. Women take an active part in the activities of civil society organisations in Kyrgyzstan, and chair many prominent NGOs.

65. At the same time, more can, and should, be done to enhance the role of women in decision-making positions within parties and in elected office at the local, regional and national levels. Participation in the activities of the Assembly on gender issues would enhance the capacity of the parliament to work towards this goal.

66. With regard to Council of Europe conventions, the Kyrgyz Parliament has stated:

“We are, without doubt, committed to further improving our efforts in these areas, and to encouraging the competent authorities of Kyrgyzstan to become party to the relevant Council of Europe conventions and partial agreements which are open for signature and ratification by non-member states, in particular those dealing with human rights, rule of law and democracy issues.”

67. On this matter, I recall that Kyrgyzstan is party to the Convention on the Recognition of Qualifications concerning Higher Education in the European Region (CETS No. 165) since 2004. It is also member of the European Commission for Democracy through Law (the Venice Commission) since 2004.

68. Kyrgyzstan is entitled to sign the European Convention on Nationality (CETS No. 166). Additionally, the Kyrgyz authorities whom I met, both in the parliament and in the government, showed interest to a number of other Council of Europe instruments.

69. It is also worth recalling, as mentioned in paragraph 37 above, that, in 2008 and 2011, Kyrgyzstan requested the right to accede to the European Convention on Mutual Assistance in Criminal Matters (CETS N° 030), but the request was turned down by the Committee of Ministers.

70. Granting partner for democracy status to the Kyrgyz Parliament would encourage the country to request the right to accede to, and help create appropriate conditions to join and implement, other relevant Council of Europe conventions and partial agreements.

71. Finally, I must admit that the request contains no formal reference to the statutory obligation to inform the Assembly regularly on the state of progress in implementing Council of Europe principles. I nevertheless believe that accountability is an important part of the partnership, and I intend to stress, in a draft Resolution, the importance of a periodical parliamentary review of the compliance by Kyrgyzstan with fundamental principles on which this partnership would be based, as well as of the progress made in the implementation of reforms in the areas where the situation needs improvement.

72. With the exception mentioned in the previous paragraph, I deem the official request by the Kyrgyz Parliament to be granted partner for democracy status with the Assembly to be consistent with the formal requirements of Rule 61.2. Moreover, in my view, the lack of an explicit reference to the obligation of

accountability does not constitute a disqualifying factor, provided that this obligation is properly referred to as a condition for granting the status.

73. As to the substance, I am convinced that the Kyrgyz parliamentarians, as well as the majority of the political forces and the society at large, are sincerely committed to building a parliamentary democracy based on the rule of law and respect for human rights in their country.

74. I therefore recommend to accept the request by the Kyrgyz Parliament and to grant it partner for democracy status.

75. However, bearing in mind the country's turbulent political history and a burden of problems inherited from the past, the Assembly needs to be both vigilant with regard to the compliance of Kyrgyzstan with the fundamental values, and prepared to assist it.

6. Need for further reforms

76. As a young independent country in the process of building democracy, Kyrgyzstan is faced with many challenges of transition. Co-operation with the Council of Europe, renowned for its know-how and expertise in democratic reform, can help the country in this process.

77. Building on our experience with other countries in transition, the following areas appear to be of prime importance for the success of democratic transformation and strengthening the rule of law and respect for human rights and fundamental freedoms in Kyrgyzstan, and should be considered as elements of a possible co-operation plan between the Council of Europe and Kyrgyzstan:

- holding free and fair elections in accordance with relevant international standards, and improving the electoral framework in co-operation with the Venice Commission;
- enhancing public interest in, and awareness of, the democratic process, as well as ensuring a higher level of participation in elections;
- strengthening public monitoring of elections by independent observers, including strengthening the capacities of domestic observer networks;
- consolidating the institutional framework resulting from the 2010 constitutional reform, in particular by enhancing the separation of powers and strengthening the role of the parliament;
- further involving civil society organisations in legislative and other decision-making processes;
- promoting education in democratic citizenship and in respect for human rights;
- further improving equal opportunities for women and men in political and public life;
- strengthening local and regional democracy;
- stepping up the fight against corruption, in particular in law-enforcement agencies; strengthening transparency and accountability in the governance system;
- consolidating justice reform with a view to ensuring the independence and impartiality of the judiciary, with particular focus on excluding ethnic bias;
- adhering to and effectively implementing relevant international instruments in the field of human rights, including full co-operation with United Nations' special mechanisms and implementation of the United Nations Universal Periodic Review recommendations;
- providing better training of judges, prison staff and law-enforcement agents as regards respect for international human rights standards;
- effectively implementing legislation on the prevention of torture and inhuman or degrading treatment of persons deprived of their liberty; fighting impunity for crimes of torture and ill-treatment;

- improving conditions of detention, in line with the United Nations prison-related norms and standards;
- fighting xenophobia and all forms of discrimination;
- guaranteeing and promoting the rights of ethnic minorities, reaffirming Kyrgyzstan's status as a multi-ethnic state where all ethnic groups enjoy equal rights, promoting reconciliation, cultural diversity and inter-cultural dialogue, and actively fighting nationalist rhetoric;
- ensuring full respect for freedom of conscience, of religion and belief, including the right to change one's religion;
- guaranteeing and promoting freedom of expression and media independence and plurality; implementing legal provisions that effectively guarantee press freedom and protect the media from political pressure;
- guaranteeing, in law and in practice, and promoting freedom of association and of peaceful assembly; ensuring strict implementation of the law on associations;
- fighting all forms of discrimination, in law and in practice, based on gender; ensuring and actively promoting effective equality between women and men; fighting all forms of gender-based violence.

7. Issues of concern

78. At its meeting during the April 2013 session of the Assembly, the Committee on Political Affairs and Democracy held an exchange of views with the delegation of the Parliament of Kyrgyzstan led by Ms Asia Sasykbaeva, Deputy Speaker of the Parliament. On this occasion, the members of the Committee raised a number of issues which cause concern and demand specific attention. Additionally, I wish to mention several matters which have been brought to my attention by international human rights organisations.

7.1. News website blocked on request of parliament

79. In February 2012, at the request of the parliament, the authorities of Kyrgyzstan ordered the State-owned Internet provider, Kyrgyz Telekom, to block Internet access to the news website "Fergana" the under pretext that it published "provocative information".

80. The Parliament argued that the site, which most observers considered independent and balanced, incited ethnic hatred. In the meantime, the site remained accessible through independent Internet providers.

81. At present, the blocking has been lifted and the website is again accessible from Kyrgyzstan. However, these attempts to limit the free access to information, and to control the content of it, raise questions on the commitment of the parliament to the freedom of information, of expression and of the media, which are cornerstones of democracy.

82. During my second visit to Kyrgyzstan, I raised this issue with my Kyrgyz counterparts. While some of them sought to defend the decision to request the blocking of the website, others held that it was a hasty and ill-thought reaction.

7.2. Kiljunen Report

83. Following ethnic violence in the South in 2010, an international commission was set up to investigate these events which led to the deaths of over 470 people, and the fleeing of 400 000 from their homes. Most of the victims were members of Kyrgyzstan's Uzbek minority.

84. The commission, known as the Kyrgyzstan Inquiry Commission (KIC), had the support of the United Nations and the consent of the Kyrgyz authorities. It was led by the former member of the Finnish Parliament, Mr Kimmo Kiljunen, Special Representative for Central Asia of the OSCE Parliamentary Assembly. The commission interviewed about 750 witnesses. It also examined 700 documents, nearly 5 000 photographs, and 1 000 videos.

85. The KIC report sharply criticised the action of the Kyrgyz government during and after the unrest. According to the commission, soldiers took part in the unrest and in destroying Uzbek areas. The report also

pointed to the fact that courts in Kyrgyzstan focused on sentencing Uzbeks for acts of unrest and homicide, even though they comprised most of the victims.

86. The KIC report concluded that there was strong evidence of widespread, systematic and co-ordinated offences against ethnic Uzbeks in the southern city of Osh that would amount to crimes against humanity if proved in court. The investigations and prosecutions that had taken place were flawed and ethnically biased. According to the report, the torture of detainees in connection with the violence had been “almost universal”.

87. The commission urged Kyrgyzstan to improve the status of the Uzbeks in Kyrgyz society, to strengthen the state so that it might better protect its citizens, and to weed out hard-line nationalism.

88. The authorities accepted the KIC’s findings that torture and ill-treatment had taken place but categorically rejected that crimes against humanity had been committed, and, in turn, accused the KIC of ethnic bias and flawed methodology.

89. The Parliament of Kyrgyzstan declared Mr Kiljunen *persona non grata* in the country. It claimed that the report could harm national security and spark a new conflict by fuelling hatred in the country.

90. I am worried by this attitude of the parliament towards a report which, although critical, has been produced in good faith and broadly praised by the relevant international bodies as objective and to the point, and I invite our Kyrgyz colleagues to review it, and more generally, to accept, and to act upon, critical remarks of their international partners.

91. During my visit to Bishkek in June 2013, I brought this question up at almost every meeting, and I received a wide variety of responses ranging from full rejection of the Kiljunen report and qualifying its author as “an enemy of the Kyrgyz nation at the payroll of the Uzbek oligarchs” to signs of readiness to review the position of the parliament. Moreover, I was informed by representatives of the international community that, while the Kiljunen report continues to be rejected, many recommendations contained therein are actually being implemented by the Kyrgyz authorities.

7.3. *Members of parliamentary opposition in prison*

92. In October 2012, a group of MPs from the opposition Ata-Zhurt party led a public rally near the parliament premises, which ended in clashes with security forces as the protesters attempted to penetrate into the parliament.

93. As a result, three opposition MPs, including Mr Talant Mamytov, Deputy Speaker of the Parliament, and Mr Kamchibek Tashiyev, the leader of Ata-Zhurt party, were arrested and remained in detention during the investigation and trial.

94. In April 2013, the three MPs were convicted with charges of attempted violent seizure of power and sentenced to twelve to eighteen months in prison.

95. Without entering into a discussion on the legal aspects of the process, I wish to recall the position of our Assembly that elected politicians should work in the parliament, and not be held in prison. We must weigh this aspect as we decide on granting partner for democracy status to a parliament where elected members of the opposition are in prison.

96. This issue was among those discussed during my second visit to Kyrgyzstan. My Kyrgyz colleagues argued that it was impossible for them to interfere in the criminal investigation and to exercise pressure on the court, but made it clear that the sentence of the three opposition parliamentarians could be reviewed in the appeal process. Eventually, on 17 June 2013, the Bishkek City court overruled the sentence of the first instance court, and acquitted the three MPs, who were released in the courtroom.

7.4. *Askarov case*

97. Following ethnic violence in the South in 2010, an ethnic Uzbek rights activist and journalist Azimjon Askarov, who had worked on documenting police treatment of detainees, was sentenced to life in prison. The ombudsman of Kyrgyzstan and international human rights groups condemned his case as fabricated and politically motivated, and claimed that the prosecution was marred by serious violations of fair trial standards.

98. Kyrgyzstan's Supreme Court upheld the verdict and refused to open a criminal investigation into Askarov's credible allegations of torture in custody. The Prosecutor General's office denied a request filed by Citizens Against Corruption, a local human rights NGO, to reopen the case on grounds of new evidence.

99. Askarov's case causes serious concerns with regard to the Kyrgyz justice system in relation to its application to citizens of non-Kyrgyz origin.

100. According to various international observers, trials of ethnic Uzbeks arrested for instigating or carrying out violence against ethnic Kyrgyz during the 2010 unrest continue not to comply with legal requirements or international standards of fairness. Numerous NGOs described pervasive violations of the right to a fair trial, including coerced confessions, use of torture, denial of access to counsel, threats and acts of violence against defendants and defense attorneys within and outside the courtroom, intimidation of trial judges by victims' relatives and friends, and convictions in the absence of sufficiently conclusive evidence or despite exculpatory evidence.

101. One cannot but conclude that the justice machinery is being used against ethnic Uzbeks, who constituted more than 70 per cent of the June 2010 casualties but comprised 80 per cent of those charged with crimes related to that violence.

102. Beating lawyers has become somewhat of a norm if they are defending suspects tried for the June 2010 events. As a result, lawyers refuse to represent and defend the interests of ethnic Uzbeks, fearing harassment and beating by claimants and their supporters.

103. The parliament should take this problem very seriously and make sure that the justice system is kept immune from any ethnic bias.

104. During my visit to Kyrgyzstan in June 2013, I raised the Askarov case with my counterparts. Again, the *leitmotiv* of responses was the need to respect the independence of the judiciary. However, while the Kyrgyz colleagues referred to the sensitive nature of the issue, there were some nuances, and several parliamentarians agreed that the case should be revisited, if not reviewed.

7.5. Torture

105. According to numerous concurring reports, torture and ill-treatment of detainees has been commonplace practice in Kyrgyzstan.

106. For instance, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mr Juan E. Méndez, mentioned in a report following his visit to Kyrgyzstan in December 2011 that "The Special Rapporteur received numerous accounts and eyewitness testimonies suggesting that torture and ill-treatment had been historically pervasive in the law enforcement sector. [...] During the violence in June 2010 and its aftermath, reports consistently highlighted the frequency and gravity of arbitrary detention, torture and ill-treatment by law enforcement bodies."

107. A report by the UN High Commissioner for Human Rights, Ms Navanethem Pillay, to the Human Rights Council at its 17th session in 2011, stated, in particular, that "Despite the efforts of the Government to address human rights issues, a number of serious concerns persist, such as the increase in reports of discriminatory practices by government bodies towards minorities, and the on-going use and practice by law enforcement bodies of ill-treatment and torture while detainees are in custody."

108. Following the examination of the report, the Human Rights Council adopted, in June 2011, a resolution in which it, *inter alia*, urged "the Government of Kyrgyzstan to ensure that progress is made in improving the human rights situation in the areas of administration of justice, torture and arbitrary detention, the right to adequate housing, the rights of women, minority rights and human rights mechanisms" and "to promote and protect human rights and fundamental freedoms for all, in particular, to address on-going arbitrary detentions, torture and corruption by law-enforcement and Government officials".

109. The authorities of Kyrgyzstan should be encouraged to adhere to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CETS N° 126), and engage in co-operation with the Council of Europe's Committee on the prevention of torture (CPT) as a means of addressing this serious human rights challenge.

110. During my June visit, I was informed that a National Council on prevention of torture had been set up, in which the parliament, the ombudsman and several representatives of civil society were represented.

7.6. Other major human rights concerns

111. The consideration of the request by the Kyrgyz Parliament to be granted partner for democracy status with the Assembly provides an opportunity to review Kyrgyzstan's human rights record, and recall issues reported by domestic and international human rights organisations. The parliament, as the key national political institution, is called to play a leading role in addressing human rights challenges, and in guaranteeing full respect of fundamental values to which the parliament declares to be committed.

112. According to various reports⁴, human rights issues in Kyrgyzstan include, *inter alia*, continued ethnic tensions in the Southern regions; denial of due process; lack of accountability; arbitrary arrests, torture and extortion by law-enforcement agencies; lack of judicial impartiality; harassment of civil society activists and journalists; pressure on independent media; discrimination against women and ethnic and religious minorities, etc.

113. I look forward to the contributions by the Committees on Legal Affairs and Human Rights and on Equality and Non-Discrimination in order to provide additional information and analysis on the issues within their respective competencies, so that the Assembly is duly informed of the situation in Kyrgyzstan as it decides on the parliament's request.

8. Preliminary conclusions and proposals

114. At this stage, I am convinced that the Assembly should respond positively to the request by the Parliament of Kyrgyzstan, and grant it partner for democracy status. This would provide an institutional framework for the parliament to establish co-operation with the Assembly, and through it with the parliaments of all Council of Europe member States, as well as with observers and other partners for democracy, in strengthening its institutional position and operational capacity, thus contributing to the building of a democratic Kyrgyzstan.

115. I am aware, however, that the state of democracy, respect for human rights and the rule of law in Kyrgyzstan require serious improvement. I therefore expect that our Kyrgyz colleagues will make firm commitments with regard to implementing the deep reforms which will be specified in the Assembly resolution, and which will constitute the benchmarks for the future assessment of our co-operation.

116. I also expect the Kyrgyz authorities to take concrete steps with a view to addressing specific problems which the Assembly may raise.

117. Last but not least, though Bishkek to Strasbourg is a long way, I expect that our Kyrgyz colleagues will make full use of the possibilities which the status would offer, and will commit to actively participate in the work of the Assembly and its committees. After all, without such involvement, the partnership would lose sense.

⁴ E.g. U.S. Department of State Report on Human Rights Practices for 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204404>; Human Rights Watch World Report 2013, <http://www.hrw.org/world-report/2013/country-chapters/kyrgyzstan>; Amnesty International Annual Report 2013, <http://www.amnesty.org/en/region/kyrgyzstan/report-2013>; and Freedom House "Freedom in the World 2013" report, <http://www.freedomhouse.org/report/freedom-world/2013/kyrgyzstan>.

APPENDIX

**SPEAKER
OF THE PARLIAMENT
OF THE KYRGYZ REPUBLIC**

27 October 2011
Ref. No. 749

**For the attention of the President of the Parliamentary Assembly of the Council of Europe,
His Excellency
Mr Mevlüt ÇAVUŞOĞLU**

Dear Sir,

On 30 October 2011, presidential elections are planned in the Kyrgyz Republic. For our country, where a model for the parliamentary system of government is emerging and developing, this is a very important and significant event. We have set ourselves a clear goal: to hold free and fair elections in line with international standards. We are therefore intent on building stable relations with all international organisations that have sufficient experience in this area.

Our co-operation with the Council of Europe through our membership of the European Commission for Democracy through Law (the Venice Commission) has proved extremely useful for the Kyrgyz Republic and has produced positive results. We are therefore interested in making further use of the Assembly's experience in our institutional and legislative work.

The current situation in our country and the achievements of the past few years show that the Kyrgyz Republic shares the Council of Europe's values, which are founded on pluralism and gender equality, together with parity-based democracy, the rule of law and respect for human rights and fundamental freedoms. Firm evidence of this can be seen today in the abolition of the death penalty in the Kyrgyz Republic, media freedom, and the equal representation of women and men in public and political life.

We are, without doubt, committed to further improving our efforts in these areas, and to encouraging the competent authorities of Kyrgyzstan to become party to the relevant Council of Europe conventions and partial agreements which are open for signature and ratification by non-member states, in particular those dealing with human rights, rule of law and democracy issues.

In the light of the foregoing and in accordance with Resolution 1680 of the Parliamentary Assembly of the Council of Europe (PACE) on the establishment of a "Partner for Democracy" status with the PACE, we hereby request that you consider our application for this status.

Yours faithfully,

A. Keldibekov