



Provisional version

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 Andreas GROSS, Switzerland, Socialist Group

Report

A. Draft resolution¹

1. In adopting [Resolution 1680 \(2009\)](#) on the establishment of a “partner for democracy” status with the Parliamentary Assembly, the Assembly 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.

2. In accordance with Paragraph 15 of Resolution 1680, 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), should be eligible to request partner for democracy status with the Assembly. The Parliament of Morocco and the Palestinian National Council were granted this status in June and October 2011 respectively.

3. On 27 October 2011, the Speaker of the Parliament of Kyrgyzstan officially requested that the parliament be granted partner for democracy status with the Parliamentary Assembly of the Council of Europe. The Assembly welcomes this request, which is the first to come from Central Asia.

4. The Assembly takes note that, in his letter, the Speaker of the Kyrgyz Parliament, in line with the requirements set out in Rule 61.2 of the Rules of Procedure, reaffirmed that:

4.1. *“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.”*

4.2. *“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.”*

4.3. *“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.”*

4.4. *“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.”*

4.5. *“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.”*

5. The Assembly deems these statements as political commitments, on the part of the Kyrgyz Parliament, to a continued work towards compliance with the basic values and principles of the Council of Europe and to the requirements set forth by the Rules of the Assembly.

6. The Assembly particularly welcomes the fact that Kyrgyzstan abolished the death penalty in 2007.

7. At the same time, the Assembly notes 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. However, it deems accountability as an integral part of the partnership, and the obligation of accountability as a direct consequence of granting the status.

8. On this understanding, the Assembly considers that the request by the Kyrgyz Parliament broadly meets the formal conditions set out in its Rules of Procedure.

¹ Draft resolution adopted by the Committee in Stockholm on 12 March 2014.

9. Furthermore, the Assembly acknowledges that the Parliament, main political actors, state and public officials and civil society of Kyrgyzstan broadly share the objectives of the partnership for democracy, and consider that obtaining it would be an important incentive to further develop democracy, the rule of law and protection of human rights and fundamental freedoms in the country.

10. The Assembly is convinced that it is important that Kyrgyzstan, the only country in Central Asia to have chosen parliamentary democracy as the basis of its political system, succeeds on the path to democratic transition. It believes that Kyrgyzstan deserves full support in this endeavour.

11. The Assembly welcomes Kyrgyzstan's commitment to deep constitutional, institutional, political and legal reforms in order to strengthen democracy, and encourages the national authorities to make full use of the Council of Europe expertise and standards. It considers that the partner for democracy status provides an appropriate framework for strengthening the involvement of the Parliament of Kyrgyzstan in the realisation of these reforms.

12. At the same time, the Assembly is fully aware that Kyrgyzstan, as a young independent country with a turbulent political history and a burden of problems inherited from the past, still has a long way to go towards democracy, the rule of law and the full respect for human rights and fundamental freedoms.

13. The Assembly commits itself to help Kyrgyzstan overcome these obstacles. It stands ready to share its experience and offer its assistance in addressing them. It recalls that partner for democracy status is not a certificate of a perfect democracy but rather a tool to improve it. It deems that, by requesting partner for democracy status, the Parliament of Kyrgyzstan has demonstrated its will to embark on this path and its readiness to learn from best European practice, and has chosen Council of Europe standards as benchmarks on its way forward.

14. In this context, pervasive corruption; an ethnically flawed, non-impartial and non-independent judiciary; continued use of torture and still unresolved consequences of inter-ethnic tensions cause particular concern and must be addressed as matters of priority, including in the framework of future cooperation between the Council of Europe and Kyrgyzstan.

15. Against this background, and building on its experience of cooperation with other countries in transition, the Assembly considers that the following specific issues are of key importance for strengthening democracy, the rule of law and respect for human rights and fundamental freedoms in Kyrgyzstan:

- 15.1. holding free and fair elections in accordance with relevant international standards, and improving the electoral framework in cooperation with the Venice Commission;
- 15.2. enhancing public interest in, and awareness of, the democratic process, as well as ensuring a higher level of participation in elections and involvement of citizens in political life;
- 15.3. strengthening public monitoring of elections by independent observers, including strengthening the capacities of domestic observer networks;
- 15.3. 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;
- 15.4. further involving civil society organisations in legislative and other decision-making processes;
- 15.5. promoting education in democratic citizenship and in respect for human rights;
- 15.6. further improving equal opportunities for women and men in political and public life;
- 15.7. strengthening local and regional democracy;
- 15.8. stepping up the fight against corruption, in particular in law-enforcement agencies; strengthening transparency and accountability in the governance system;
- 15.9. consolidating justice reform with a view to ensuring the independence and impartiality of the judiciary, with particular focus on excluding ethnic bias;

- 15.10. adhering to and effectively implementing relevant international instruments in the field of human rights, including full cooperation with United Nations' special mechanisms and implementation of the United Nations Universal Periodic Review recommendations;
- 15.11. providing better training of judges, prison staff and law-enforcement agents as regards respect for international human rights standards;
- 15.12. 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;
- 15.13. improving conditions of detention, in line with the United Nations prison-related norms and standards;
- 15.14. fighting xenophobia and all forms of discrimination;
- 15.15. 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;
- 15.16. ensuring full respect for freedom of conscience, of religion and belief, including the right to change one's religion;
- 15.17. 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;
- 15.18. guaranteeing and promoting, in law and in practice, freedom of association and of peaceful assembly; ensuring strict implementation of the law on associations;
- 15.19. fighting, in law and in practice, all forms of discrimination based on gender; ensuring and actively promoting effective equality between women and men; fighting all forms of gender-based violence;
- 15.20. elaborating and implementing a coherent and comprehensive policy aimed at improving the situation of children, including stepping up efforts to reduce child labour and providing to all children the opportunity to receive high quality education.

16. The Assembly encourages the Council of Europe and Kyrgyzstan to take these elements into account in their current discussions on Neighbourhood Co-operation priorities 2014-2016.

17. The Assembly expects Kyrgyzstan to accede in due course to relevant Council of Europe conventions and partial agreements open to non-member States, in particular those dealing with human rights, rule of law and democracy issues, in accordance with the commitment included in the letter of 27 October 2011 from the Speaker of the Parliament.

18. Noting that the Parliament of Kyrgyzstan has reiterated its determination to work to ensure full implementation of the political commitments contained in Rule 61.2 of the Rules of Procedure and entered into by the letter of its Speaker on 27 October 2011, the Assembly resolves to:

- 18.1. grant partner for democracy status to the Parliament of Kyrgyzstan as from the moment of the adoption of the present resolution;
- 18.2. invite the Parliament of Kyrgyzstan to appoint a partner for democracy delegation consisting of three representatives and three substitutes to be composed in accordance with Rule 61.4 of the Assembly's Rules of Procedure.

19. The Assembly believes that progress in taking forward reforms is the prime aim of the partnership for democracy and should constitute the benchmark for assessing the efficiency of this partnership.

20. It accordingly resolves to review, no later than two years from the adoption of this resolution, the state of progress achieved in implementing the political commitments undertaken by the Parliament of Kyrgyzstan, as well as in carrying forward the specific issues mentioned in paragraph 17 above.

21. The Assembly stresses the importance of free and fair elections as a cornerstone of a genuine democracy. It therefore expects to be invited to observe elections in Kyrgyzstan as from the next general elections.

22. The Assembly is confident that granting partner for democracy status to the Parliament of Kyrgyzstan will contribute to intensifying cooperation between the country and the Council of Europe and promoting Kyrgyzstan's accession, in due course, to Council of Europe conventions. It therefore encourages the Secretary General of the Council of Europe, in coordination, as appropriate, with the European Union and other international partners, to mobilise the Organisation's expertise, including that of the Venice Commission, with a view to contributing to the full implementation of democratic reforms in Kyrgyzstan.

23. The Assembly calls on Council of Europe member and observer States and international organisations, in particular the European Union, to increase their assistance to Kyrgyzstan in the field of democratic reforms.

24. It further calls on Council of Europe member and observer States and international organisations, in particular the European Union, to find appropriate ways for assisting the Kyrgyz partner for democracy delegation to take part in the work of the Assembly and its Committees.

B. Explanatory memorandum by Mr Gross, rapporteur

1. Introduction

1. In October 2011, the Parliament of Kyrgyzstan officially requested to be granted partner for democracy status with the Assembly. The request was referred to the Committee on Political Affairs and Democracy. Mr Mevlüt Çavuşoğlu was appointed as Rapporteur. He conducted two fact-finding visits to the country (in January and June 2013) and presented a preliminary draft report in June 2013.

2. In addition, following an exchange of views with a delegation of the Kyrgyz Parliament in April 2013, the Committee constituted an *ad hoc* Sub-Committee to visit the country. The visit took place in October 2013. I reported back to the Committee in December 2013 in my capacity as Chairperson of the *ad hoc* Sub-Committee.

3. On 26 December 2013, Mr Mevlüt Çavuşoğlu was appointed as Minister of European Union Affairs and Chief Negotiator in the Government of Turkey, and therefore left the Assembly. I was appointed as Rapporteur on 28 January 2014 with the specific task of finalising the work on the report within the previously decided timeframe. I carried out a brief visit to the country on 24-25 February 2014.

4. Upon assuming my duties, I stated that I valued the work of the previous Rapporteur and broadly shared his analysis, conclusions and proposals in relation to the request for partner for democracy status with the Assembly submitted by the Parliament of Kyrgyzstan.

5. I am grateful to my predecessor for providing us with a solid basis for assessing the request of the Kyrgyz Parliament contained in his preliminary draft report, which I have decided to include in the present memorandum (see Appendix I).

6. Therefore, instead of re-drafting the detailed report prepared by Mr Çavuşoğlu following his two visits to Kyrgyzstan as well as discussions in the Committee, I intend to limit myself to summing up the main findings on the Kyrgyz Parliament's request for granting the status, and to providing, where necessary, updated information on some specific issues raised by my predecessor and the members of the Committee.

7. For the sake of continuity in our work, I also attach the memorandum which I presented on behalf of the *ad hoc* Sub-Committee on Kyrgyzstan following our visit to the country in October 2013 (see Appendix II).

2. Main findings related to the Kyrgyz Parliament's request for granting partner for democracy status

8. The report by the former Rapporteur provides basic information on Kyrgyzstan (Chapter 2), and detailed analysis of the request submitted by its parliament with regard to its conformity, in form and substance, with the requirements for granting partner for democracy status (Chapter 5).

9. I share the view that the official letter by the Speaker of the Kyrgyz Parliament of 27 October 2011 (see Appendix III) broadly meets the formal conditions set out in the Rules of Procedure (Rule 61.2, indents 1 to 6).

10. 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 (Rule 61.2, indent 7). However, accountability is an integral part of the partnership, and the obligation of accountability must be seen as a direct consequence of granting the status. Therefore, the preliminary draft resolution suggests, in accordance with established practice, that the Assembly should review, within two years at the latest, the progress achieved in implementing the partnership.

11. On this understanding, I consider that the formal conditions for granting the status are met.

12. I believe that, in substance too, the Parliament of Kyrgyzstan qualifies for partner for democracy status. Our contacts with the Kyrgyz parliamentarians showed that they are genuinely committed to learning from the experience of European parliamentary democracies in order to consolidate and streamline democracy building in Kyrgyzstan.

13. Kyrgyzstan needs political support for the system of power based on parliamentary democracy which it adopted under the 2010 constitution. The Parliament is the key actor in the new institutional system which is

perceived as the best hope to prevent corrupted clan-based rule. That is why parliamentary democracy in Kyrgyzstan deserves to be helped, supported and encouraged. Granting partner for democracy status would certainly contribute to this purpose.

14. I also draw on Mr Çavuşoğlu's proposals with regard to reforms which should be carried out in Kyrgyzstan in order for the country to move towards democracy (Chapter 6), and I have included these elements in the preliminary draft resolution.

15. Obviously, Kyrgyzstan is far from being an accomplished democracy, and there are a number of issues of concern with regard to the rule of law and respect for human rights and fundamental freedoms. These issues, some of which are referred to in Mr Çavuşoğlu's report (Chapter 7) and were raised by Committee members with the Kyrgyz colleagues, must continue to be followed closely.

16. In particular, pervasive corruption; an ethnically flawed, non-impartial and non-independent judiciary; continued use of torture; and still unresolved consequences of inter-ethnic tensions cause particular concern and must be addressed as matters of priority. The Parliament should take the leading role in pushing forward reforms in these areas.

17. Partner for democracy status does not provide immunity from criticism in the Assembly. On the contrary, it should provide a basis, and create conditions, for the Assembly to take a more attentive and specific look at areas where the situation needs to be seriously improved.

18. The report by Mr Çavuşoğlu concludes that the official request by the Kyrgyz Parliament to be granted partner for democracy status is consistent with the requirements of the Rules of Procedure (paragraph 72), and suggests it be accepted (paragraph 114). I agree with these conclusions and proposals. Several discussions in the Committee have shown that, while there was considerable scepticism with regard to the Kyrgyz Parliament's request in the beginning of the procedure, the majority of the colleagues now seem to favour the granting of status.

3. Visit to Kyrgyzstan (February 2014)

19. On 24-25 February 2014, I carried out a brief visit to Kyrgyzstan in order to collect updated information on the current political situation in the country and the prospects for the future. I also wanted to discuss some of the questions raised by colleagues in the previous committee meetings, especially the situation of children and the high number of labour emigrants.

20. During my visit, I had the opportunity to meet with First Deputy Prime Minister Mr Dجومart Otorbaev; Deputy Prime Minister Mr Toktokuchuk Mamytov; Minister of Culture Mr Sultan Raev and Deputy Minister for Social Development Ms Narynkul Eshenkulova. In the Parliament, I met with Deputy Speaker Ms Asiya Sasykbaeva, as well as with Chairpersons, members and the staff of the Committees on Foreign Affairs; Defence and Security; Social Affairs and Education; and Culture and Sport. I also had briefings with the representatives of the OSCE and European Union, as well as with a number of foreign representatives in Bishkek.

21. My general conclusion following this visit is that, despite many internal and external challenges, the Kyrgyz authorities are committed to strengthening parliamentary democracy and improving the rule of law as well as to fighting corruption. According to various interlocutors, the main political forces and the majority of the population continue to support the political choices made after the 2010 "revolution", including the parliamentary democratic model.

22. At the same time, many systemic problems which led to the revolution remain unresolved and may trigger a new wave of tensions. The degree of support for the current government, but also for the political model, largely depend on the capacity of the authorities to deliver practical and tangible results for the improvement of the life of most of the population.

23. Despite good economic results in 2013, with a 10.5 % growth of GDP and the inflation rate kept at 4%, living standards remain very low. The 70 % increase in foreign investment recorded in 2013 has yet to produce its positive effects on the economy and the future of the people. In some areas, unemployment reportedly reaches 50-60 % of the population. The number of Kyrgyz migrant workers abroad is now estimated to be more than one million. The authorities have stepped up efforts to fight corruption but its level remains extremely high, which further weakens people's confidence in political and public institutions, including political parties.

24. The consolidation of democracy in Kyrgyzstan, especially its parliamentary democracy, requires the transformation of its parties into genuinely democratic political parties which represent and involve citizens. Currently, while there exists about thirty parties in the country, only a few of them are more than “one man shows”; have concrete programmes; are able to represent and mobilise citizens; and function in accordance with democratic principles. Too many parties are still based on personal loyalties and function according to clan’s and clientele interests. Europe’s political experience in this field would be very useful for Kyrgyzstan. One concrete proposal would be to organise, in the framework of our future partnership with the Kyrgyz Parliament, a seminar dedicated to the role and functioning of political parties as cornerstones of democracy and to develop, together with Kyrgyz colleagues, concrete steps for the democratic transformation of their parties.

25. The apparent stability in the south remains fragile and the root causes of the 2010 inter-ethnic clashes have still to be properly addressed. Ethnic Uzbeks are strongly under-represented in the administration, in particular in law-enforcement bodies and the judiciary. Reportedly, there are no ethnic Uzbeks in the police in the areas where they represent the majority, which strengthens mistrust of the police.

26. In addition to tensions between ethnic Kyrgyz and Uzbek citizens, a recent incident between border guards from Kyrgyzstan and Tajikistan further complicated the situation in the southern regions. The borders between Kyrgyzstan and Uzbekistan and Tajikistan are only partly demarcated and there are several hundred kilometres of contested borders. These problems are linked to problems of water management and supply as well as the construction of roads who serve also as ways to traffic drugs.

27. One of the specific problems raised by the members of the Committee is child labour. In his report, Mr Çavuşoğlu refers to a study by the International Labour Organisation (ILO) and the National Statistical Committee of Kyrgyzstan “Working Children in Kyrgyzstan: Results of the 2007 Child Labour Study”. According to this research, “672 000 of the 1 467 000 children aged 5-17 in Kyrgyzstan are economically active. This figure represents 45.8 % of all children aged 5-17 and 21.9 % of all working individuals in Kyrgyzstan...”.

28. During my visit to Kyrgyzstan, I raised this issue with several interlocutors in the parliament and the government. Although my counterparts contested the data of the 2008 ILO report, and quoted much lower figures², they acknowledged the difficulty of gathering precise data and did not deny the gravity of the problem. A nation-wide research on the situation of children, including their schooling, is now being prepared by the government.

29. Whether or not the ILO figures are correct, it is clear that there is a child labour problem in Kyrgyzstan and it needs to be addressed. I am convinced, however, that this should not become an obstacle for the Assembly to grant the status to, and to co-operate with, the Parliament of Kyrgyzstan. On the contrary, as already mentioned above, the status would offer the framework for raising this and other issues of concern in our dialogue with Kyrgyz colleagues and find ways that all children get enough schooling – an undeniable condition for a better economy in the future.

30. Another serious problem related to children, and one of the consequences of child labour, is a high level of school drop-outs. According to many interlocutors, the school education system is in poor condition, classes are overcrowded, school teacher’s salaries are too low and textbooks are lacking. At the same time, education does not seem to be an issue of priority for foreign aid programmes. This situation should be changed and we should consider this also as a priority for bilateral aid. Kyrgyzstan needs international support for seriously upgrading its education system. Democracy cannot survive without well-educated and socially active citizens. Investing in education would help prepare the citizens of the future and would therefore be an investment in the consolidation of democracy.

31. In the regional context, Kyrgyzstan remains the only country which shows a serious commitment to parliamentary democracy and has a political system which seeks to provide a balance between various political actors and does not rely on a single person. The closest ‘neighbours’ who are trying to affect similar changes are South Korea and Mongolia, who are geographically closer than Turkey, with whom Kyrgyzstan shares historical roots. In view of the changes which will inevitably occur in the region in the years to come, the success of the democratic transition in Kyrgyzstan may have a stabilising effect for the whole region and should become an inspiring example for neighbouring states.

4. Conclusions

² According to the Ministry of the Social Development of Kyrgyzstan, there were 9.208 working children in 2012. Other figures quoted during the visit range from 3.000 to 120.000.

32. In my view, the Parliament of Kyrgyzstan meets the criteria laid down in Rule 61 of the Assembly's Rules of Procedure and should be granted Partner for Democracy status.

33. The letter of 27 October 2011 containing the formal request for the status to be granted should be considered as the political commitment, on the part of the Kyrgyz Parliament, to a continued work in order to conform to the basic values and principles of the Council of Europe, and to the requirements set forth by the Rules of the Assembly.

34. It is important that Kyrgyzstan, the only country in Central Asia to have chosen parliamentary democracy as the basis of its political system, continues on the path of democratic transition. Kyrgyzstan deserves full support in this endeavour.

35. At the same time, Kyrgyzstan, as a young independent country with a turbulent political history and a burden of problems inherited from the past, still has a long way to go towards democracy, the rule of law and the respect for human rights and fundamental freedoms.

36. Partner for democracy status is not a certificate of perfect democracy but a tool to improve it by openly discussing and overcoming its deficiencies. The Assembly should remain vigilant with regard to problems and shortcomings of Kyrgyzstan falling within its remit, and stand ready to share its experience and offer its assistance in addressing them.

37. By requesting partner for democracy status, the Parliament of Kyrgyzstan has demonstrated its will to embark on this path and its readiness to learn from best European practice, and has chosen Council of Europe standards as benchmarks on its way forward.

38. The preliminary draft resolution, with a favourable view on the request for partner for democracy status, contains a list of priority areas where further progress is needed in order to consolidate democratic transition. We expect that granting the status will encourage the Parliament to play a more prominent role in the process of reforms.

39. Accountability is an important part of the partnership. In accordance with established practice, I believe that the Assembly should review, within two years at the latest, the progress achieved by the Parliament of Kyrgyzstan in implementing the aims of the partnership, with particular attention to the priority areas listed in the preliminary draft resolution.

40. In the meantime, the Committee on Political Affairs and Democracy should follow up developments in Kyrgyzstan both through regular dialogue with the Kyrgyz partner for democracy delegation in the Assembly and through fact-finding visits of a rapporteur.

41. In accordance with Rule 61.3, and taking into account the size of the population and the political diversity of Kyrgyzstan, its Parliament should be allocated three seats of representatives and three seats of substitutes. Furthermore, in accordance with Rule 61.4, the partner for democracy delegation shall be so composed as to ensure a fair representation of the political parties or groups present in the Parliament. It shall include at least the same percentage of the under-represented sex as is present in the Parliament and in any case one representative of each sex.

42. I strongly encourage the Parliament of Kyrgyzstan to avail itself the opportunity offered by partner for democracy status in order to actively participate in the work of the Assembly and its Committees. As the examples of the Moroccan Parliament and the Palestinian National Council show, such participation contributes to strengthening the position and the capacity of the parliament in the political system of the country and its responsibility for the implementation of much needed reforms.

43. We must be aware that an active participation by the Kyrgyz parliamentarians in our work – which would be the best way of contributing to the learning process and the strengthening of a democratic parliamentary culture in the country – will require additional resources from the Parliament, and that assistance from our member States and international organisations might be needed.

44. Last but not least, it needs to be borne in mind that partner for democracy status of the Kyrgyz Parliament may be questioned, suspended and even withdrawn should the parliament consistently fail to comply with its political commitments, or should political developments in the country so require.

APPENDIX I

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 country³. 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 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.

³ 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/ipecinfo/product/download.do?type=document&id=12014>.

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 Abdyldaev, 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 Pompidou 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”.⁴

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.

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.

⁴ See Doc. 12797, paragraph 40.

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 reports⁵, 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.

⁵ 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>.

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.

Committee on Political Affairs and Democracy

***ad hoc* Sub-Committee on Kyrgyzstan**

Memorandum of the fact-finding visit to Kyrgyzstan 28-31 October 2013

by Mr Andreas Gross, Chairperson, Switzerland, Socialist Group

1. Introduction

1. In October 2011, the Parliament of Kyrgyzstan officially requested to be granted partner for democracy status with the Assembly. The request was referred to the Committee on Political Affairs and Democracy.

2. Mr Mevlüt Çavuşoğlu, who was appointed as Rapporteur, conducted a fact-finding visit to the country in January 2013 and presented to the Committee an introductory memorandum in April 2013 (AS/Pol (2013) 08). He subsequently carried out a second visit to Kyrgyzstan in June 2013 and submitted a revised preliminary draft report (AS/Pol (2013) 12 rev) which the Committee decided to declassify.

3. In addition, upon an invitation by the President of the Assembly, a delegation from the Parliament of Kyrgyzstan attended the April 2013 part-session of the Assembly. The Committee had an opportunity to discuss with the Kyrgyz colleagues a number of issues of concern raised in Mr Çavuşoğlu's report. At the same time, the Committee felt that the request needed further discussions and more time for careful examination.

4. On this occasion, Ms Asya Sasykbaeva, Deputy Speaker of Parliament who headed the delegation, suggested that a group of members of the Assembly could visit Kyrgyzstan with a view to getting a better understanding of the situation in the country. The Committee welcomed this proposal and constituted an *ad hoc* Sub-Committee to this purpose, where the five Political Groups of the Assembly should be represented. It further agreed that the timing for the presentation of the report to the Assembly, and the conditions to be associated with the status, should be decided on the basis of the findings of the visit.

5. All five Political Groups designated their respective Chairpersons as members of the *ad hoc* Sub-Committee, which should be seen as a sign of the importance which they attached to the issue. Later on, due to his parliamentary duties, Mr Tiny Kox, Chairperson of the Group of the Unified European Left, had to cancel his participation in the visit and was replaced by Mr Andrej Hunko.

6. The *ad hoc* Sub-Committee held three preparatory meetings in June and October 2013. I was elected as Chairperson and Ms Anne Brasseur as Vice-Chairperson. Accordingly, during the visit, the *ad hoc* Sub-Committee was composed as follows:

Mr Pedro Agramunt (Spain, EPP/CD);
Ms Anne Brasseur (Luxembourg, ALDE), Vice-Chairperson;
Mr Andreas Gross (Switzerland, SOC), Chairperson;
Mr Andrej Hunko (Germany, UEL);
Mr Robert Walter (United Kingdom, EDG).

2. The visit

7. The *ad hoc* Sub-Committee agreed to carry out the visit to Kyrgyzstan from 28 to 31 October, and to organise a trip to the southern city of Osh which had been the scene of major inter-ethnic violence in June 2010.

8. The Kyrgyz authorities prepared a comprehensive programme of meetings in Bishkek and Osh along the lines of the request agreed by the members of the Sub-Committee. Additional meetings, including with representatives of the international community, as well as with civil society activists and human rights defenders, were organised by the Secretariat of the Committee. The programme of the visit is appended.

9. However, some meetings requested could not be organised: these included President Atambayev and leaders of political parties not represented in the Parliament. Also, the Sub-Committee was not able to visit in prison Mr Askarov, prominent journalist and human rights activist who is serving a life sentence after the 2010 inter-ethnic clashes: this meeting was requested on too short notice with regard to formalities to be accomplished for a visit to a penitentiary establishment.

10. Meetings with representatives of the international community (OSCE, EU Delegation and several Embassies) provided a valuable insight on the situation in Kyrgyzstan within the regional context and a broad picture of political processes in the country. Our interlocutors welcomed the visit which proved that the Assembly takes seriously the request for partner for democracy status tabled by the Parliament. Generally, they were in favour of all steps which would help consolidate Kyrgyzstan's political choice of parliamentary democracy and strengthen its institutions.

11. The meeting with civil society representatives in Bishkek was organised in co-operation with the EU Delegation, and offered an opportunity to be briefed on some human rights related issues which cause concern. At the same time, we noted that civil society is actively involved in public life and enjoys a degree of influence on political and state institutions.

12. We had a series of meetings in the Parliament, including with Speaker Jeenbekov, leaders or representatives of all five political parties which have seats, and with parliamentarians serving on several Committees. The Kyrgyz colleagues explained in detail the functioning of their Chamber, its position in the institutional system as it results from the 2010 constitution, and the rights and duties of the majority and the opposition. They also substantiated the need for their Parliament to learn from the experience of other parliamentary democracies which was the main reason for seeking partner for democracy status.

13. On the governmental side, we should single out the meetings with Deputy Prime Minister Otorbayev and Foreign Minister Abdyldaev who convincingly argued that the democratic choice of Kyrgyzstan needed support from institutions such as the Council of Europe.

14. We also met the ministers of Justice and Interior, the Chairpersons of the Supreme Court and of the recently established Constitutional Chamber, the Prosecutor General and the newly elected Ombudsman.

15. On 31 October, three members of the *ad hoc* Sub-Committee visited Osh and met with the Mayor and the members of the Municipal Council of the city, as well as with the representative of the Government in the Osh region. The main focus was on the causes and the consequences of the 2010 ethnic violence.

16. We also met in Osh a group of local human rights defenders and lawyers who have been involved in defending in the courts the representatives of the Uzbek minority. They provided credible evidence of the ill-functioning, lack of independence and ethnic bias of justice in the aftermath of the 2010 events, and confirmed information available from, and concerns expressed by, major international human rights advocacies. These systemic problems will need further attention of the Assembly.

3. Main findings and conclusions

17. Kyrgyzstan is the only country in the region of Central Asia to have opted for a political system based on parliamentary democracy. All of its immediate neighbours and also most of its traditional partners rely on strong executive power and do not allow for the degree of freedom, openness, parliamentarism and political competition which we were able to see in Kyrgyzstan. Moreover, Kyrgyzstan sets an example which its more or less authoritarian neighbours observe with a mixture of anxiety and hope to see it fail.

18. Unlike some of its regional neighbours, Kyrgyzstan lacks a wealth of natural resources. Moreover, the resources that it has (e.g. gold) are subject to foreign exploitation and the country faces many difficulties to

get a fair share of the profits. The living standards of the population are rather low and corruption has become endemic. The 2005 and 2010 events (referred to as “revolutions”) were caused by popular revolt against corrupt, unaccountable and clan-based regimes. The parliamentary system is perceived as the best hope to prevent this from happening again. That is why democracy in Kyrgyzstan deserves to be helped, supported and encouraged.

19. Kyrgyzstan is a member of a number of international and regional groupings (such as the Commonwealth of Independent States, the Collective Security Treaty Organisation, the Shanghai Co-Operation Organisation, etc.), and attaches importance to co-operation in these bodies in order to address its specific needs in the fields of security, counter-terrorism, border control, the fight against drug trafficking, trade, economic development, etc. However, none of these bodies put human rights, rule of law and democracy on their respective agendas. Kyrgyzstan’s membership in these institutions should not be considered incompatible with the goals of the partnership for democracy.

20. Kyrgyzstan is also a participating state in the Organisation for Security and Co-operation in Europe (OSCE), which covers a broad spectrum of activities and has developed co-operation with Kyrgyzstan in several fields related to the human dimension. Still, the main focus of OSCE activities remains on security.

21. The European Union is also co-operating with Kyrgyzstan on projects aimed at strengthening democratic institutions, promoting justice reform, empowering civil society, etc. Our meetings in Bishkek showed that both the EU Delegation and the OSCE Office are strongly in favour of supporting Kyrgyzstan on its path towards democracy.

22. The Parliament of Kyrgyzstan’s request for partner for democracy status should be seen in the broader context of the country’s efforts to strengthen its relations with Europe, and as an entry point to co-operation with the Council of Europe. Currently, contacts are on-going between the Kyrgyz authorities and our Organisation with a view to elaborating a programme of practical co-operation in a limited number of key areas to be identified by the two sides. Co-operation with the Assembly under partner for democracy status could benefit from this future project. At the same time, it would also provide an opportunity to influence the setting-up of its priorities and to oversee its implementation.

23. In view of the above, my feeling is that the *ad hoc* Sub-Committee is now in a position to agree with the main conclusions of Mr Çavuşoğlu’s report, and to recommend that the Assembly should grant partner for democracy status to the Parliament of Kyrgyzstan.

24. In so doing, we are aware, just as the Rapporteur is, that Kyrgyzstan still has a long way to go towards democracy, the rule of law and the respect for human rights and fundamental freedoms. While its record in these areas looks better than its Central Asian neighbours, it is to be assessed against European standards since the Parliament has chosen them as benchmarks on its way forward. We are therefore obliged to do what we can to make Kyrgyzstan an example of democratic success and a political success of democracy.

25. In this context, pervasive corruption, ethnically flawed, non-impartial and non-independent judiciary, continued use of torture and still unresolved consequences of inter-ethnic tensions cause particular concern and must be addressed as matters of priority, including in the framework of our future co-operation with Kyrgyzstan.

26. At the same time, partner for democracy status is not a certificate of perfect democracy but a tool to improve it by openly discussing and overcoming its deficiencies. The Parliament of Kyrgyzstan has demonstrated its will to embark on this path and its readiness to learn from best European practice.

27. Participating in the work of the Assembly and of its Committees would be an opportunity for the members of the Parliament of Kyrgyzstan to be involved in this learning process. It should contribute to strengthening the position and the capacity of the Parliament in the political system of the country and its responsibility for the implementation of much needed reforms.

28. We understand that an active participation by the Kyrgyz parliamentarians in our work – which would be the best way of contributing to a learning process and the strengthening of a democratic parliamentary culture in the country – will require additional resources from the Parliament, and that assistance from our member States and international organisations might be needed.

29. Consequently, we invite the Rapporteur to finalise his report, taking into account our conclusions and we are grateful for the work he provided us with.

APPENDIX III

**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,

(signed)
A. Keldibekov