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The relations of the Council of Europe with Kazakhstan

Report¹

Committee on Political Affairs and Democracy

Rapporteur: Mr Axel FISCHER, Germany, Group of the European People's Party

Summary

Kazakhstan is one of the pillars of stability in the Euro-Asian region. The report provides basic information on Kazakhstan and takes stock of recent developments in the country. It refers, in particular, to a series of reforms recently initiated by the authorities with a view to strengthening democratic governance.

Since 1997, Kazakhstan has co-operated with the Council of Europe, which it sees as an entry gate to the European political, legal and cultural space. The report argues for expanding the current co-operation under the "Neighbourhood Co-operation priorities for Kazakhstan", which is currently focused on the reform of the justice system, to other key areas where the Council of Europe can make a meaningful contribution.

The report also welcomes Kazakhstan's interest in joining Council of Europe conventions and encourages it to step up co-operation with the Venice Commission. It further calls on the Parliament of Kazakhstan to make full use of the 2004 co-operation agreement with the Parliamentary Assembly and to participate more actively in its work, including at committee level.

1. Reference to committee: Doc. 13653, Reference 4106 of 30 January 2015.



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A. Draft resolution²

1. The Parliamentary Assembly refers to [its Resolution 1506 \(2006\)](#) on external relations of the Council of Europe and reiterates its commitment to enhancing the role of the Council of Europe in promoting democracy, the rule of law and respect for human rights and fundamental freedoms beyond its borders, in particular in neighbouring regions, as an essential contribution to security, stability and development. The partner for democracy status introduced by the Assembly in 2009 and the Council of Europe policy towards its immediate neighbourhood launched in 2011 both aim to contribute to this goal.
2. In [Resolution 1526 \(2006\)](#) on the situation in Kazakhstan and its relations with the Council of Europe, the Assembly recognised the importance of Kazakhstan as one of the pillars of stability in the Euro-Asian region and called for co-operation with this country to be stepped up.
3. The political establishment and society at large in Kazakhstan see Europe as a reference point in terms of political, legal, institutional and cultural development. The political leadership of Kazakhstan has repeatedly stated its commitment to democratic transformation of the country, and has recently initiated a series of reforms aimed at strengthening democratic governance. However, the pace of reform has been slow, the political system remains highly centralised, democratic culture has yet to take root among citizens and dialogue between civil society and the authorities is at a very early stage.
4. The United Nations Human Rights Committee, in its second periodic report under the International Covenant on Civil and Political Rights (August 2016), identified a number of matters of concern, including with regard to equality and non-discrimination, violence against women, torture and ill-treatment, treatment of prisoners, independence of the judiciary and the right to a fair trial, freedom of conscience and religious belief, freedom of expression, peaceful assembly and freedom of association and participation in public life.
5. On the international scene, Kazakhstan must be praised for its positive contribution to dealing with major international problems such as the nuclear programme of Iran and the crisis in Syria. The country is also a leading actor in addressing challenges faced by Central Asia, including terrorism, drugs trafficking and security issues related to the situation in Afghanistan.
6. The Assembly recalls that, since 1997, Kazakhstan has shown interest in co-operating with the Council of Europe, which it sees as an entry gate to the European political, legal and cultural space. It welcomes the fact that, in line with its [Resolution 1526 \(2006\)](#), co-operation between the Council of Europe and Kazakhstan has intensified in recent years, even though its dynamics have suffered from bureaucratic obstacles.
7. In particular, the Assembly appreciates the fact that Kazakhstan is Party to several Council of Europe conventions, and has requested to accede to a number of other instruments, including in the fields of criminal justice and the fight against corruption. Kazakhstan has co-operated with the Council of Europe's European Commission for Democracy through Law (Venice Commission) since 1998 and became a full member in 2011. It is also in the process of joining the Group of States against Corruption (GRECO).
8. The Assembly welcomes an enhanced and structured co-operation under the programme "Neighbourhood Co-operation Priorities for Kazakhstan – Co-operation activities on Council of Europe's conventions in criminal matters" which aims to bring Kazakhstan's legal framework, the functioning of the justice system and institutional practice regarding international co-operation in criminal matters into line with European standards and best practice. Even if limited in scope at the request of Kazakhstan authorities, this programme seeks to address Kazakhstan's real needs, and to create appropriate conditions for Kazakhstan's accession to Council of Europe legal instruments for which the country has repeatedly expressed interest.
9. In the context of the implementation of "Neighbourhood Co-operation Priorities for Kazakhstan", the Assembly particularly welcomes the activities carried out under the joint Council of Europe–European Union programme "Support to the Kazakh Authorities in Improving the Quality and Efficiency of the Kazakh Justice System", which has been extended until July 2018.
10. The Assembly believes that the Council of Europe should further enhance and broaden co-operation with Kazakhstan with a view to encouraging and assisting it on the path of transformation towards democratic governance based on the rule of law and respect for human rights.

2. Draft resolution adopted unanimously by the committee on 12 October 2017.

11. The Assembly encourages Kazakhstan to explore and use Council of Europe experience and expertise in the process of reforms. It calls on the authorities of Kazakhstan to:
 - 11.1. consider the possibility of broadening Kazakhstan's participation in the European legal space, and acceding to relevant Council of Europe conventions which are open to non-member States;
 - 11.2. use more actively the possibilities offered by Kazakhstan's membership in the Venice Commission, and in particular take advantage of its experience in electoral matters;
 - 11.3. complete internal procedures for becoming a member of GRECO;
 - 11.4. consider becoming a member of other Council of Europe partial agreements such as the Co-operation Group to Combat Drug Abuse and Illicit Trafficking in Drugs (Pompidou Group) and the Enlarged Partial Agreement on Sport (EPAS).
12. The Assembly encourages the authorities of Kazakhstan and the Council of Europe, in co-ordination with the European Union where appropriate, to:
 - 12.1. build on the experience of implementing the ongoing "Neighbourhood Co-operation priorities for Kazakhstan", and to design a comprehensive follow-up to it in such a way that it covers key areas of reforms in Kazakhstan where the Council of Europe can make a meaningful contribution;
 - 12.2. consider expanding the current co-operation framework and completing it with regular political dialogue.
13. The Assembly encourages the Ombudsman of the Republic of Kazakhstan to further develop contacts and co-operation with the relevant Council of Europe bodies, including the Commissioner for Human Rights.
14. The Assembly invites the Committee of Ministers and the member States of the Council of Europe to reconsider, in the light of the results of the implementation of "Neighbourhood Co-operation priorities for Kazakhstan" and other co-operation activities, the position on Kazakhstan's accession to Council of Europe legal instruments in the fields of criminal justice and the fight against corruption.
15. The Assembly urges Kazakhstan to fully comply with its commitments under the International Covenant on Civil and Political Rights, to continue co-operation with United Nations human rights mechanisms, and to address without delay all matters of concern referred to in the United Nations Human Rights Committee's second periodic report.
16. The Assembly encourages the Senate and the Majilis of the Parliament of Kazakhstan to fully use the possibilities offered by the 2004 agreement on co-operation between the Assembly and the Parliament of Kazakhstan – whose primary aim is to establish a political dialogue between the two institutions – and to participate more actively in the various activities organised by the Assembly and its committees.

B. Explanatory memorandum by Mr Axel Fischer, rapporteur

1. Introduction

1. The Republic of Kazakhstan is one of five Central-Asian States which were parts of the former Soviet Union. Since its independence in 1991, it has been an active actor in the post-Soviet space and on the wider international scene.
2. Although the territory of the country is mainly situated in Asia, a part of it lies within the boundaries of geographical Europe. Also in political terms, Kazakhstan has much insisted on its Euro-Asian nature, and has sought to develop co-operation with Europe, including with the Council of Europe.
3. In November 2006, the Parliamentary Assembly adopted [Resolution 1526 \(2006\)](#) on the situation in Kazakhstan and its relations with the Council of Europe, whereby it stressed that it attached “great importance to furthering democracy in Kazakhstan, which it considers to be one of the pillars of stability in the Euro-Asian region”. Ten years later, it is timely to take stock of major developments in the country and its co-operation with our Organisation.
4. My main purpose as rapporteur is to analyse the development of co-operation between the Council of Europe and Kazakhstan over the last few years, identify possible shortcomings and difficulties in the implementation of ongoing programmes, and make proposals for further enhancing it for the years to come in such a way that Kazakhstan can rely on the Council of Europe’s experience on its way to introducing democratic standards.
5. I also intend to assess whether there are enough reasons for the Council of Europe to “break stereotypes” in how we view that country, as the Kazakhstani officials have urged us to do, and whether there are positive trends in the political development of the country to which the Council of Europe could possibly contribute.
6. From 31 May to 2 June 2016, I carried out a fact-finding visit to Astana and Almaty and had an opportunity to discuss relations between the Council of Europe and Kazakhstan with a number of Kazakhstani officials. My feeling was that these relations were on the right track but that further efforts were needed from both sides to make them more meaningful. A hearing held in Strasbourg in June 2016 with the participation of key Council of Europe officials responsible for the implementation of co-operation with Kazakhstan confirmed this impression.

2. General information

7. Kazakhstan is the 9th largest country in the world by territory (2 724 000 km²) and the world’s largest landlocked country. It shares borders with Russia (6 846 km, the world’s second longest border), Uzbekistan, China, Kyrgyzstan and Turkmenistan, and it also has a large portion of the Caspian Sea shore. While the country is mainly situated in Asia, about 4% of its territory lies to the west of the Ural River, considered as the geographical limit of the European continent.
8. Kazakhstan has a population of 18 million and is a multi-ethnic country with more than 130 ethnic groups. The Kazakhs make up more than 60% of its population. The Russians are the second largest group (about 23%), followed by the Uzbeks (2.8%) and the Ukrainians (2%). There are also sizeable German and Polish communities. This ethnic diversity results both from labour force migration and forceful displacements of ethnic groups in the former Soviet Union. The country has so far managed to maintain inter-ethnic concord.
9. 70% of the population are Sunni Muslims and 25% are Christians (mainly followers of the Russian Orthodox Church, but also Roman Catholics and Protestants). The Constitution of Kazakhstan defines it as a secular State and guarantees freedom of religion. Currently, there are 18 registered confessions. At the same time, some small religious communities and sects complain of harassment by the authorities.
10. Since 1997, Astana is the capital city of Kazakhstan. It is a modern, dynamic and fast-growing city with over 1 million inhabitants. The former capital Almaty (1.7 million) continues to play an important role in Kazakhstan’s economic, financial, political, cultural and social life.
11. Kazakhstan has the largest economy in Central Asia, mainly based on the country’s wealth of natural resources (oil, gas and vast mineral resources). Prior to the 2014 fall in oil prices, Kazakhstan’s economy grew at an average of 8% per year. It has continued to grow after 2014, but at a lower rate. Although the gross domestic product per capita in current prices fell from US\$13 000 (2014) to 7 140 (2016, International

Monetary Fund (IMF) estimate), it has remained stable if calculated on the basis of purchasing power parity (about US\$25 700).³ The slowdown of growth prompted Kazakhstan to engage in a broad programme of diversification of its economy.

12. In November 2015, Kazakhstan became a member of the World Trade Organization. The main trade partners for Kazakhstan exports are Italy (17.7% of all exports), China (11.9%), the Netherlands (10.8%), Russia (9.9%) and France (5.8%). The top import origins are Russia (34.5% of all imports), China (16.6%), Germany (6.5%), the United States (4.8%) and Italy (3.8%).⁴

13. The Constitution of Kazakhstan was adopted by referendum in 1995 and was amended in 1998, 2007, 2011 and 2017. It defines Kazakhstan as a unitary presidential republic. The President is elected by universal direct vote for a five-year renewable term. The current President, Mr Nursultan Nazarbayev, has been in power since June 1989 – at that time he was the leader of the Kazakhstan branch of the Communist Party of the Soviet Union. He was first elected as President in April 1990, i.e. before the break-up of the USSR, and was re-elected in 1991, 1999, 2005, 2011 and 2015.

14. The Constitution attributes to the President very large powers. Moreover, Mr Nazarbayev has a special constitutional status as “the first President” and “the leader of the nation” with some supplementary powers. In addition, Mr Nazarbayev enjoys broad support and high esteem in society and, as a result, plays the central role in political life. Thus, the political system of the country is often qualified as authoritarian rule. However, the constitutional amendments initiated by President Nazarbayev in December 2016 and adopted in March 2017 tend to redistribute some presidential powers and in particular strengthen the role of parliament.

15. The Parliament of Kazakhstan consists of the Majilis (Lower House, 107 seats elected by popular vote) and the Senate (47 seats partly appointed by regional assemblies and partly by the President). The Parliamentary Assembly has observed all parliamentary elections since 2004, including the last ones held in March 2016 (see section 3.4 below).

16. Kazakhstan introduced a moratorium on the death penalty in 2003 but its new Criminal Code enacted in 2015 maintains the death penalty for 17 types of crime (mainly terrorism-related offences and war crimes). Since the proclamation of the moratorium, six people were sentenced to death (the latest case was in November 2016) but all sentences were commuted to life imprisonment. Kazakhstan supports international efforts to introduce a worldwide moratorium on the death penalty and has voted in favour of United Nations General Assembly resolutions on the matter.

17. Kazakhstan’s human rights record remains poor. While welcoming some improvements, the United Nations Human Rights Committee’s second periodic report under the International Covenant on Civil and Political Rights,⁵ released in August 2016, identified a number of matters of concern, including with regard to equality and non-discrimination, violence against women, combating extremism and terrorism, torture and ill-treatment, treatment of prisoners, trafficking in human beings, independence of the judiciary and fair trial, freedom of conscience and religious belief, freedom of expression, peaceful assembly and freedom of association and participation in public life.

18. Since independence in 1991, Kazakhstan has developed a multi-vector foreign policy and built good relations with Europe, the United States and the Arab World. At the same time, Kazakhstan has equally good relations with two of its largest neighbours, Russia and China, with whom Kazakhstan is a member of organisations such as the Eurasian Economic Union, the Collective Security Treaty Organization and the Shanghai Cooperation Organisation.

19. Kazakhstan is situated in the challenging region that borders Afghanistan and Iran, and it has shown itself to be a willing and active partner of the international community, including Europe, in tackling these challenges.

20. In particular, the country has played a notable role in international efforts to bring peace to Afghanistan, including by sending humanitarian assistance, initiating an education programme for teaching 1 000 Afghans and facilitating overflights for International Security Assistance Force (ISAF) coalition aircraft.

3. IMF, *World Economic Outlook Database*, October 2016.

4. <http://wits.worldbank.org/CountrySnapshot/en/KAZ>.

5. UN Human Rights Committee, Concluding observations on the second periodic report of Kazakhstan, CCPR/C/KAZ/CO/2:

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsnVLXh7tWotjakJ2A4dlu%2fy2qfDftERdCyCiDGIoD6fvzZPyCZ0wxlQtC5PKOS88usA9KTALCc%2bvYBxRUcrhBBDIZ8tW718B0Mt%2bWdqyRvio>.

21. Kazakhstan has played an even more substantial role in bringing about the resolution of the standoff over the Iranian nuclear programme, notably by hosting two rounds of international talks in Almaty and supplying Iran with natural uranium in exchange for it giving up enriched uranium.
22. In the same spirit, Kazakhstan offered to host an international low-enriched uranium bank managed by the International Atomic Energy Agency (IAEA). The facility was inaugurated on 29 August 2017 in Ust-Kamenogorsk (Eastern Kazakhstan). It is designed to store up to 90 metric tons of low-enriched uranium and would serve as supply mechanism of last resort for IAEA member States which experience a supply disruption due to exceptional circumstances, and which are unable to secure nuclear power fuel from the commercial market, State-to-State arrangements or by any other means.
23. Recently, Kazakhstan's capital Astana came under the international spotlight again as it hosted several rounds of international talks on Syria – co-sponsored by Russia, Turkey and Iran and involving representatives of the Syrian Government and the armed opposition groups – which resulted in the signature of the Astana Agreement on 4 May 2017 and the establishment of several de-escalation zones in Syria. A new round of the “Astana process” took place in mid-September 2017.
24. Kazakhstan seeks to promote its role as an active player on the international scene, in particular through its involvement in multilateral diplomacy. The country's capital Astana was chosen to host the 2017 International EXPO. In 2010, Kazakhstan chaired the Organization for Security and Co-operation in Europe (OSCE).
25. For the first time in its history, Kazakhstan holds a non-permanent seat on the United Nations Security Council for 2017-2018. Kazakhstan's officially declared priorities in this capacity include building a nuclear weapon-free world, eliminating the threat of a global war, promoting peace in Afghanistan, creating a regional peace zone in Central Asia and the Global Antiterrorist Coalition under the auspices of the United Nations, fostering peace in Africa, promoting the United Nations Sustainable Development Goals and the strong connection between peace, security and development, adapting the United Nations to the needs of the 21st century and holding regular Security Council meetings at the level of Heads of State and Government in order to strengthen the collective political will to address global challenges. Kazakhstan will hold the presidency of the Security Council in January 2018.
26. The threat of terrorism is a growing concern for the authorities of the country. Hundreds of Kazakhstani nationals are believed to have fought in Syria and Iraq in the ranks of Daesh. A series of terrorist attacks hit the country in June 2016 (see section 3.6 below). They were attributed to “radical non-traditional religious movements”.
27. The country is also faced with serious challenges resulting from its situation at the crossroads of major international routes for migration and drugs trafficking (the “Northern route” from Afghanistan to Europe via Central Asia and Russia).
28. Kazakhstan is one of the former republics of the Soviet Union. Its development in the 25 years of independence should be judged against its own history and Soviet legacy but also against the development in other post-Soviet countries, notably Russia, Ukraine, Azerbaijan and Uzbekistan.
29. The geopolitical situation of Kazakhstan has a strong impact on the political choices of the country. Kazakhstan's neighbourhood, its proximity to Afghanistan, as well as many other historical and geopolitical factors influence the pace of reforms and should be taken into account when assessing Kazakhstan's results in implementing transformations and in respecting universal rights and freedoms.

3. Recent political developments in Kazakhstan

3.1. Kazakhstan 2050 Strategy

30. In December 2012, President Nazarbayev announced the Strategy “Kazakhstan 2050: New Political Course of the Established State”, a programme of economic, social and political reforms aiming to promote the country in order for it to become one of the top 30 global economies by 2050. It aims to transform the country into a knowledge-based diversified economy.
31. In addition to measures to improve the business climate, facilitate investment and develop a new social policy, the Strategy contains an important chapter on strengthening statehood and the development of the Kazakhstani democracy, including decentralisation, enhancing local self-government, modernisation of the State apparatus, fighting corruption and reforming law-enforcement agencies.

32. Co-operation with the Council of Europe may play an important role in achieving these priorities, which should be taken into account when reviewing and updating future programmes.

3.2. Early presidential election, 26 April 2015

33. The latest early presidential election (originally scheduled for 2016) was held in Kazakhstan on 26 April 2015. Although the Assembly was invited to observe this election, the Bureau decided on 5 March 2015 that it would not be possible for the Assembly to observe it, given the heavy schedule of the Assembly.

34. Out of 27 nominees, three candidates were registered to run for the office of President: the incumbent President Nursultan Nazarbayev (*Nur Otan* Party), Turgun Syzdykov (Communist People's Party of Kazakhstan) and Abalgazi Kusainov (independent candidate, former Chairperson of the Federation of Labour Unions). According to the official results, President Nazarbayev obtained 97.75% of the votes, with a 95% turnout.

35. In its Statement of Preliminary Findings and Conclusions issued on 27 April 2015, the OSCE's observation mission concluded that "[p]reparations for the 26 April election were efficiently administered; however, necessary reforms for holding genuine democratic elections still have to materialise. The predominant position of the incumbent and the lack of genuine opposition limited voter choice. A restricted media environment stifled public debate and freedom of expression. Election Day generally proceeded in an orderly manner, but serious procedural deficiencies and irregularities were noted throughout the voting, counting and tabulation processes".⁶

3.3. 100 Concrete Steps to Implement Five Institutional Reforms

36. When assuming office after his re-election in 2015, President Nazarbayev announced a new national plan "100 Concrete Steps to Implement Five Institutional Reforms" to speed up transformations foreseen under the 2050 Strategy.

37. The plan put forward institutional reforms in five key areas: establishing a modern, professional, self-sustainable and autonomous State apparatus capable of effectively implementing economic programmes and public services; consolidating the rule of law, including an increased transparency of law-enforcement bodies, a new system of selection of police officers and raising professional requirements for judges; achieving industrialisation and economic growth based on diversification; unifying as a single nation for the future; and functioning as a transparent, liberal and accountable government.

38. As mentioned above, the Council of Europe could make a substantial contribution in assisting Kazakhstan to make progress on some of these priorities, in particular those which relate to the rule of law and the reform of the justice system.

3.4. Early parliamentary elections, 20 March 2016

39. On 20 January 2016, President Nazarbayev dissolved the *Majilis* (lower house of the parliament) and called for early parliamentary elections, arguing the need for renewed support to face the economic crisis resulting from the drop in oil prices.

40. The elections were held on 20 March 2016. Six political parties registered lists and took part in the elections, three of them passed the 7% threshold: *Nur Otan* (82.20% of votes, 84 seats), *Ak Zhol* (7.18%, 7 seats) and the Communist People's Party of Kazakhstan (7.14%, 7 seats).

41. The Assembly was invited to observe the elections and appointed an ad hoc committee chaired by Mr Jordi Xuclà. The committee presented a report⁷ on the elections at the meeting of the Standing Committee in Tallinn on 27 May 2016. According to this report, the elections "were efficiently organised, with some progress noted", but the country still had "a considerable way to go in meeting its international commitments for democratic elections".⁸

6. www.osce.org/odihr/elections/kazakhstan/153566?download=true.

7. Doc. 14061.

8. *Ibid.*, paragraph 36.

42. Furthermore, the ad hoc committee pointed out that “the political parties could compete relatively freely. While the participation of six parties seems to provide for some political choice, political life in Kazakhstan needs a more open and more competitive environment for the efficient functioning of a real multiparty system which is a key condition for the long term democratic stability of Kazakhstan”.⁹

43. The election observation report concluded that “the invitation by the authorities of Kazakhstan to observe the 2016 early parliamentary elections was an indication that electoral legislation and practice could be one of the important fields for future co-operation between Kazakhstan and the Council of Europe”.¹⁰ In my capacity as rapporteur, I fully share this conclusion and I intend to put an emphasis on the need for further co-operation with the Council of Europe, and in particular with the European Commission for Democracy through Law (Venice Commission), in my upcoming contacts with the authorities of Kazakhstan.

3.5. Protests against land code reform, April-May 2016

44. In November 2015, the parliament passed draft legislation on amendments to the 2003 Land Code of Kazakhstan. Under the new legislation, entities with foreign ownership would be eligible to lease agricultural land for 25 years, whereas the previous Land Code only allowed for a 10-year lease. At the same time, the local residents could no longer lease agricultural land but would be allowed to purchase it through a competition-based mechanism.

45. The announcement of the government’s decision to implement new legislation, made on 31 March 2016, prompted mass protests against the reform in many cities in the country. The public was misinformed about the content of the new law and was made to believe that foreigners would be granted the right to buy land. In a country where over 40% of the workforce resides in rural areas and 18% work in agriculture, the issue is extremely sensitive. Rumours that Chinese investors would buy out Kazakhstan’s land led to public outcry and mass unauthorised rallies. The police detained a number of protesters but no violence was reported.

46. In response to these protests, two ministers resigned. President Nazarbayev introduced a moratorium on land reform until the end of 2016. He also set up a Presidential Commission on Land Reform, a 75-member body that includes politicians, businessmen and members of civil society, to explore questions related to land reform, and to draft a new bill to submit to the parliament.

47. The political crisis over the land reform was mainly a result of the failure of the Government to provide full and clear information on a reform which could potentially bring about positive results to Kazakhstan’s agriculture, attract investment and introduce a modern and transparent system of land management. It also revealed a lack of public trust in the government and its statements.

48. At the same time, the crisis showed the need for a better dialogue between the authorities and society. During my first visit to Kazakhstan in May-June 2016, I witnessed the discussion on the land reform crisis in the framework of a co-ordination body which included representatives of various State authorities and civil society. This practice is welcome and should be further encouraged.

3.6. Terrorist attacks, June-July 2016

49. On 5 June 2016, a group of at least 16 people attacked and robbed two gun shops and stormed a military unit of the National Guard of Kazakhstan in Aktobe (north-west of Kazakhstan near the border with Russia). Further attacks and shootings occurred in Aktobe on 8 and 10 June. The shootings left seven victims dead and 37 injured. Eighteen attackers were killed and nine were arrested. President Nazarbayev declared 9 June 2016 a day of national mourning.

50. The perpetrators of the shootings were described by the police as “followers of radical, non-traditional religious movements”, a term that is commonly used by the authorities in Kazakhstan to designate Islamic extremists. On 10 June, President Nazarbayev stated that the attackers were Salafists and probably included Daesh militants who had returned to Kazakhstan from Syria.

9. Ibid., paragraph 39.

10. Ibid., paragraph 41.

51. Another deadly terrorist attack occurred on 18 July 2016: at least 10 people, including eight police officers, were killed in an attack on a police station in the former capital city Almaty. The perpetrator of the attack, a 26-year-old Salafi Jihadist Ruslan Kulekbaev, was arrested, convicted of terrorism and murder and sentenced to death. Five of his accomplices were also arrested and sentenced to prison terms ranging from 3 to 10 and a half years.

52. In a statement released in September 2016, the Committee on National Security of Kazakhstan announced that, since January of that year, it had disrupted and arrested eight separate Islamist groups which were preparing terrorist attacks on various installations in the country.

53. Following the attacks in Aktobe and Almaty, the parliament adopted, in December 2016, a series of amendments to the legislation on combating terrorism and extremism, arms sales, migration and religious associations.

3.7. Constitutional reform, December 2016-March 2017

54. On 15 December 2016, speaking at a solemn meeting celebrating the 25th anniversary of the independence of Kazakhstan, President Nazarbayev announced his intention to propose new reforms aimed at modernising the system of government in the country. While the presidential system was not put into question, there would be some redistribution of powers with a view to strengthening the respective roles and responsibility of parliament and government, and bringing more democracy and flexibility to the system as a whole.

55. A working group “on the redistribution of powers” composed of the members of the government, the parliament, the Supreme Court, the Constitutional Council, academia and civil society prepared concrete proposals for constitutional amendments, which were presented to the country by the President on 25 January 2017. These initial proposals were submitted to a month-long nationwide discussion.

56. At a joint sitting on 6 March 2017, the Majilis and the Senate approved the final draft law which also included input from the public discussion. The President signed the law “On amendments and changes to the Constitution of Kazakhstan” on 10 March 2017.

57. The reform amends 19 articles of the Constitution. Contrary to the previous three constitutional reforms, which essentially strengthened presidential powers, the new reform aims at expanding the powers of the government and the parliament by redistributing some 30 presidential powers to other branches of government. In particular, the role of the parliament is increased in two key areas: the formation of the government and the vote of no-confidence. The supervisory powers of the parliament over government activities are strengthened as the Prime Minister has to report not only to the President but also to the parliament.

58. Furthermore, the reform abolishes the right of the President to issue decrees having the force of law. A number of important powers of the President are transferred to the government. The President would mainly focus on strategic matters, foreign policy and national security, as well as serve as supreme arbiter between the different branches of power. There are also some changes in the functioning of the judicial system, in particular as regards supervisory functions of the Supreme Court over local courts and the increased powers of the Constitutional Council. Finally, some changes are introduced in the functioning of local government.

59. The authorities of Kazakhstan requested an opinion of the Venice Commission on the draft law on the constitutional reform. In its Opinion¹¹ adopted on 11 March 2017, the Venice Commission concluded as follows (paragraph 51):

“The proposed constitutional amendments submitted for review represent a step forward in the process of democratisation of the state. Revision of the competences of the branches of power and setting up a system of checks and balances is a difficult task. Many aspects of these efforts can only be assessed over time, when practical experience has revealed the most appropriate approach, taking into account historical development and traditions, societal development, the society’s attitude towards the processes around, as well as international developments. But there can be no doubt that the reform goes in the right direction and constitutes a clear step forward. Other steps should follow in the future.”

11. Kazakhstan – Opinion on the amendments to the Constitution of Kazakhstan, CDL-AD(2017)010, [www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)010-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)010-e).

4. Relations with the Council of Europe

4.1. General remarks

60. The authorities of Kazakhstan constantly underline the double Euro-Asian identity of the country. As shown above, they have built multi-faceted and dynamic co-operation with their eastern neighbour China, and have developed close business relations with a range of countries of South and East Asia and the Gulf.

61. At the same time, both the representatives of the political establishment and of society at large openly take Europe as a model and a reference point when it comes to defining the desirable future for the country in terms of political, legal, institutional and cultural development, and the way of life in general.

62. This sensitivity needs to be borne in mind in order to understand the reasons for Kazakhstan's interest in the Council of Europe, which is considered as an entry gate to European political, legal and cultural space.

63. While the European Union is Kazakhstan's first trade partner and has established a political dialogue with the country, it does not have the appropriate framework to accommodate Kazakhstan's aspiration to get closer to Europe more substantially than by means of classical bilateral relations. Our Organisation does have such a framework: the policy towards neighbouring regions.

4.2. High-level contacts

64. Secretary General Jagland conducted the first official visit to Kazakhstan in October 2011. On that occasion, he met President Nazarbayev and held working meetings with a number of high officials. In a joint statement issued at the end of the visit, the Secretary General and Foreign Minister Kazykhanov expressed commitment to intensify co-operation. The visit gave an impetus to the drafting of a co-operation programme which was eventually launched in 2014.

65. Secretary General Jagland further met with the Foreign Minister of Kazakhstan in Brussels (January 2013) and New York (September 2013 and September 2014).

66. Kazakhstan took part in the high-level conference on the Council of Europe neighbourhood policy (Baku, November 2014).

4.3. Parliamentary relations

67. Kazakhstan has been co-operating with the Council of Europe and its various bodies since 1997. The starting point of this process was a request by the Parliament of Kazakhstan to be granted special guest status with the Parliamentary Assembly. However, it was not granted since the common understanding was that special guest status was designed for the parliaments of countries which intended and were eligible to become full members of the Council of Europe.

68. In 1999, the speakers of the two chambers of the Parliament of Kazakhstan officially requested observer status with the Parliamentary Assembly. Following lengthy discussions, the Assembly's Political Affairs Committee decided not to recommend it.

69. Instead, in April 2004, the Parliamentary Assembly and the Parliament of Kazakhstan signed a co-operation agreement to establish a political dialogue with a view to promoting the principles of parliamentary democracy, the rule of law and respect for human rights and fundamental freedoms in Kazakhstan. This agreement remains the basis for our relations. Members from both chambers regularly attend the Parliamentary Assembly sessions in Strasbourg.

70. However, the interest and the involvement of the Kazakh parliamentarians have decreased over the years. Furthermore, some practices introduced at the beginning of the implementation of the agreement (e.g. the annual presentation of a report by the Parliament to the Bureau relating to democratic reforms in the country) have proven to be too burdensome and were gradually abandoned.

71. A new request for observer status with the Assembly was introduced in 2006. The Political Affairs Committee was asked to report on the matter. After thorough discussions, the committee concluded that it would be more appropriate if future co-operation between the Assembly and the Parliament of Kazakhstan took the form of a partnership for democracy, on the basis of the new status and provided that there is a specific request for it by the Parliament of Kazakhstan and subject to the conditions foreseen therein.

72. Several Presidents of the Assembly carried out visits to Kazakhstan and also met with the Speakers of the two Houses of the Parliament at various international parliamentary fora (e.g. sessions of the Interparliamentary Union and conferences organised by the Interparliamentary Assembly of the Commonwealth of Independent States).

73. As mentioned above, the Assembly has been invited to observe all nation-wide elections in Kazakhstan since 2004, and has, in most cases, participated in the observation.

74. In September 2005, the Assembly's Committee on Migration, Refugees and Population organised in Almaty, in co-operation with the Senate of the Parliament of the Republic of Kazakhstan, the Euro-Asian parliamentary forum on migration.

75. The Political Affairs Committee considered organising its meeting in Astana in May 2009 but it had to be postponed *sine die* at the initiative of the Parliament of Kazakhstan which referred to a number of conflicting commitments.

76. In my view, the current state of relations between the Assembly and the Parliament of Kazakhstan is insufficient and needs to be upgraded. Parliamentarians from Kazakhstan do not often take part in the work of Assembly committees. Instead, they prefer to arrange bilateral meetings with some Assembly members, in particular the President, leaders of political groups and chairpersons of committees.

77. I encourage them to address this lacuna and to participate more actively in our activities. Their contribution to our discussions on major international problems would certainly enrich the debate. The existing bilateral Agreement allows for it. Whether or not a different institutional framework would be needed remains to be decided, but I am confident that at this stage the continuity of dialogue and its content are more important than its form.

78. During my visit to Kazakhstan in May 2016, I conveyed this position to Mr Tokayev, Speaker of the Senate. While stating that an active participation in the work of the OSCE Parliamentary Assembly was a priority for the Parliament of Kazakhstan, Speaker Tokayev acknowledged the importance of the dialogue with our Assembly and promised to see to it that the parliamentarians who attend our sessions play a more active role in our discussions.

4.4. Council of Europe conventions, partial and enlarged agreements and intergovernmental committees

79. Kazakhstan is Party to the Convention on the Recognition of Qualifications concerning Higher Education in the European Region (ETS No. 165, since 1999), the European Cultural Convention (ETS No. 18, since 2010), the European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141, since 2015), and the Convention on Mutual Administrative Assistance in Tax Matters (ETS No. 127, since 2015).

80. Furthermore, Kazakhstan has requested several times to become Party to a number of Council of Europe conventions in the fields of criminal justice¹² and the fight against corruption.¹³ So far, the Committee of Ministers has been reluctant to agree on inviting Kazakhstan to become Party to these instruments as there were doubts on the conformity of the legal order of Kazakhstan with European standards and the capacity of the country to ensure appropriate implementation of these instruments.

81. In 2014, Kazakhstan requested to join the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198).

82. Recently, Kazakhstan has shown some interest in the Convention on Cybercrime (ETS No. 185).

83. Moreover, as a State Party to the European Cultural Convention, Kazakhstan is eligible to sign a whole number of sectorial conventions in the fields of education, sports, audiovisual co-operation, etc.

12. Namely, the European Convention on Extradition (ETS No. 24); the European Convention on Mutual Assistance in Criminal Matters (ETS No. 30) and its additional protocol (ETS No. 99); the European Convention on the International Validity of Criminal Judgements (ETS No. 70) and the European Convention on the Transfer of Proceedings in Criminal Matters (ETS No. 73), as well as the European Convention on the Suppression of Terrorism (ETS No. 90).

13. Criminal Law Convention on Corruption (ETS No. 173) and Civil Law Convention on Corruption (ETS No. 174).

84. Kazakhstan has been a full member of the Venice Commission since 2011. Prior to obtaining full membership, the country had held observer status since 1998. The Venice Commission has adopted several Opinions on various pieces of legislation of Kazakhstan, all of them at the request of the authorities of the country.¹⁴

85. In 2013, Kazakhstan requested to join GRECO, but the procedures have yet to be finalised. It also enjoys observer status in the Convention on the Elaboration of a European Pharmacopoeia (ETS No. 50) since 2006.

86. As Kazakhstan is a State Party to Council of Europe conventions, government experts from the country take part as members, participants and observers in a number of steering committees, ad hoc committees and committees established by a Convention.¹⁵

4.5. Neighbourhood co-operation priorities

87. Since 2011, the Council of Europe has developed a comprehensive policy towards its immediate neighbourhood, including the countries of Central Asia, based on developing political dialogue and demand-driven co-operation.

88. In 2011, Kazakhstan expressed interest in co-operation with the Council of Europe, and in particular in the conclusion of a Neighbourhood Co-operation Priorities (NCP) framework. An intensive dialogue between the Council of Europe and Kazakh authorities resulted in the drafting of a wide-ranging document entitled “The Council of Europe’s Neighbourhood Co-operation Priorities for Kazakhstan 2012-2014” which was presented to the Kazakh authorities in July 2012, after discussion in the relevant Council of Europe bodies.

89. The initial draft covered the following priority areas:

- the rule of law, with emphasis on the fight against corruption, and the criminal justice system;
- human rights, with emphasis on children’s rights, juvenile justice and human rights education;
- democracy, with emphasis on cultural co-operation, inter-ethnic and intercultural dialogue.

90. In December 2012, the Minister for Foreign Affairs of Kazakhstan proposed to limit the scope of the initial project, and to start practical co-operation with the implementation of one of the NCP chapters, focusing on specific Council of Europe conventions. He reconfirmed that Kazakhstan’s accession to these instruments meets the long-term objectives for social and political modernisation of the country, ensuring its security and stability.

91. It was therefore agreed to concentrate initially on building the capacity of the Kazakhstan authorities in the criminal justice field as a “first step” towards possible future accession to a number of Council of Europe conventions in the criminal field, in particular the European Convention on Mutual Assistance in Criminal Matters and its additional protocol; the European Convention on Extradition; the European Convention on the Transfer of Proceedings in Criminal Matters, and the European Convention on the International Validity of Criminal Judgements.

14. Opinion on the possible reform of the Ombudsman Institution in Kazakhstan, CDL-AD(2007)020, [www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2007\)020-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2007)020-e); *Amicus Curiae* Brief on the Interpretation of the Kazakh Constitution concerning the participation in the Customs Union within the Euro-Asian Economic Community for the Constitutional Council of Kazakhstan, CDL-AD(2009)058, [www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2009\)058-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2009)058-e); Joint Opinion on the constitutional law on the judicial system and status of judges of Kazakhstan, CDL-AD(2011)012; [www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2011\)012-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)012-e); Republic of Kazakhstan – Opinion on the Draft Code of Judicial Ethic, CDL-AD(2016)013, [www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)013-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)013-e); Kazakhstan – Opinion on the draft law of the Republic of Kazakhstan on administrative procedures, CDL-AD(2017)008, [www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)008-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)008-e); Kazakhstan – Opinion on the amendments to the Constitution of Kazakhstan, CDL-AD(2017)010, [www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)010-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)010-e).

15. These committees include; Steering Committee for Educational Policy and Practice (CDPPE); Steering Committee for Culture, Heritage and Landscape (CDCPP); European Committee for Social Cohesion, Human Dignity and Equality (CDDECS); Ad hoc European Committee for the World Anti-Doping Agency (CAHAMA); European Steering Committee for Youth (CDEJ); Joint Council on Youth (CMJ); European Committee on Pharmaceuticals and Pharmaceutical Care (CD-P-PH); Consumer Health Protection Committee (CD-P-SC); European Committee on Organ Transplantation (CD-P-TO); European Committee on Blood Transfusion (CD-P-TS); Monitoring Group of the Anti-Doping Convention (T-DO); Committee of the Council of Europe/UNESCO Convention on the Recognition of Qualifications concerning Higher Education in the European Region; European Network of national Information Centres on academic mobility and recognition (the ENIC Network).

92. As a result, the programme entitled “Neighbourhood Co-operation Priorities for Kazakhstan 2014-2015: co-operation activities on Council of Europe’s conventions in criminal matters” was adopted by the Committee of Ministers in December 2013.

93. In addition, the Council of Europe and Kazakhstan signed, in December 2013, a Joint Declaration on Enhancing Cooperation which formally opened the implementation of the NCP 2014-2015.

94. The authorities of Kazakhstan expect that the successful implementation of the NCP programme will create favourable conditions for the accession of Kazakhstan to the target Council of Europe conventions in the field of criminal procedure.

95. In the framework of the implementation of the NCP, the Council of Europe has already provided substantial support to several ongoing reforms in Kazakhstan, including the institutional reform of the Ombudsman and the National Preventive Mechanism, the reform of the General Prosecutor’s Office and its anti-torture project, the reform of the High Judicial Council and the revision of the criminal legislation in line with European standards.

96. Also as a part of the NCP, Kazakhstan acceded to three Council of Europe legal instruments in the field of criminal justice (mentioned in paragraph 77 above). Furthermore, in September 2015, Kazakhstan was granted observer status with the Consultative Council of European Prosecutors (CCPE).

97. Following a broadly positive interim assessment in January 2016, the NCP programme was extended until 2017 and the Council of Europe has recently proposed to the authorities of Kazakhstan to further extend it until the end of 2018.

4.6. Joint European Union–Council of Europe programmes

98. Co-operation priorities with Kazakhstan have been implemented with the support of the European Union and financed through Joint European Union–Council of Europe programmes.

99. On 25 July 2014, the Council of Europe and the European Union launched a joint programme “Support to the Kazakh authorities in improving the quality and efficiency of the Kazakh justice system”. It aims at bringing Kazakhstan’s criminal justice framework and institutional practice closer into line with European and international standards and practices through a range of measures in support of the ongoing efforts of the authorities of Kazakhstan to improve the justice system. The programme is entirely financed by the European Union and has a budget of 1.66 million euros.

100. The joint programme aims at achieving results in two particular areas, namely “Criminal proceedings and trials based on fair trial requirements for adversarial proceedings, publicity, and impartiality” and “Expanded human rights and fundamental freedoms protection in the criminal justice system”. It is carried out through specific activities bringing together Council of Europe experts and officials from various Kazakh institutions such as the Supreme Court, the General Prosecutor’s Office, the Ministry of Justice, the Republican Collegium of Advocates, the Ombudsman Office and the National Preventive Mechanism.

101. Activities carried out under the joint programme contributed to promoting the reform of the justice system which is part of the National Action Plan “100 Concrete Steps” (see section 3.3 above). Legal expertise was provided as regards improving the system of evaluation of judges’ performance and strengthening the role of the High Judicial Council in this process. Council of Europe experts also contributed to carrying out the institutional reform and capacity building of the General Prosecutor’s Office and to improving the existing system of the selection of prosecutors.

102. The programme involved legal professionals and members of the National Preventive Mechanism from various regions of Kazakhstan. This should help reduce discrepancies in legal practice between the regions and harmonise jurisprudence throughout the country.

103. It is also foreseen that the joint programme will provide support to the process of the comprehensive revision of the legislative criminal framework aimed at addressing existing gaps in the Criminal and Criminal Procedure Codes which may lead to violations of rights of persons in criminal proceedings.

104. Council of Europe experts participated in projects carried out by the General Prosecutor’s Office and the Supreme Court aimed at improving national legislation and practice relating to the enhancement of the rights of victims and witnesses in criminal proceedings and child-friendly justice. Further projects are under preparation to elaborate training programmes on effective investigation and prevention of extremism and radicalism and on restorative justice. Some new projects are under consideration, including on e-justice in criminal proceedings, on sentencing policy and on acquittal rates.

105. The joint programme has contributed to better protection and promotion of human rights and fundamental freedoms in the criminal justice system by assisting with training programmes for legal professionals on plea-bargaining and effective investigation of torture. It has also supported the enhancement of the role of the Ombudsman in handling complaints and helped to strengthen the capacity of the National Preventive Mechanism to implement its functions effectively.

106. The joint programme was initially planned for a three-year implementation period ending on 24 July 2017. At the meeting of the Programme Steering Committee held in Astana on 30 June 2016, the parties involved made a request for the programme to be extended for another year. In December 2016, the Council of Europe and the European Union agreed to extend the programme until 24 July 2018.

107. Some aspects of the NCP for Kazakhstan 2014-2015 were also implemented through the regional European Union–Council of Europe joint programme “Supporting Constitutional Justice, Access to Justice and Electoral Reform in the Countries of Central Asia” which was carried out from March 2013 until August 2015. The programme was implemented by the Venice Commission and its budget of €525 000 was funded by the European Union and Finland. The purpose of the programme was to improve the capacity of Central Asian countries to conduct the reforms in the field of the judiciary in line with applicable European and international human rights standards, including the European Convention on Human Rights (ETS No. 5) and the case law of the European Court of Human Rights.

108. Furthermore, a joint European Union–Council of Europe programme “Supporting Education Policies in Democratic Citizenship and Human Rights Education in Kazakhstan” was carried out in 2013-2014 with a budget of €355 000. Designed as a follow-up to the ratification by Kazakhstan of the European Cultural Convention, the project aimed at supporting education reforms conducive to intercultural awareness and understanding, based on the principles of human rights and democracy and taking account of European standards and best practice.

4.7. The way forward

109. Kazakhstan and the Council of Europe have reached a good degree of co-operation on expert level in implementing the NCP in the area which was chosen as a priority by the Kazakh authorities. After some initial difficulties and delays due to bureaucratic hurdles, the two parties now seem to have learned to work together. Proof of this is the proposed extension of the ongoing co-operation programme.

110. Focusing on one specific area of co-operation may have been the right choice for the launching stage. But the time may have come to reconsider this decision, and to design a broader NCP project covering other areas that fit into the country’s reform agenda, provided that the Kazakh authorities are ready and willing to broaden the scope of co-operation and the Council of Europe and the European Union have the capacity and the means to do it.

111. One should also consider whether it would be appropriate to upgrade the current NCP framework and to complete it with political dialogue, as it is already the case with neighbouring countries under “second generation” neighbourhood documents (Jordan, Morocco and Tunisia).

112. Kazakhstan should be encouraged to continue moving closer to European legal space by joining key Council of Europe conventions. In turn, Council of Europe member States should be invited to reconsider their position and to lift objections to Kazakhstan becoming a Party to those conventions that the country has long sought to adhere to – if need be, after a thorough discussion on the implementation of the current NCP.

113. Ongoing co-operation of Kazakhstan with the Venice Commission is welcome and should be further encouraged, in particular in the light of the forthcoming legislative process in the country arising from the recent constitutional changes. This co-operation should be extended to electoral matters.

114. Kazakhstan should finalise its internal procedures for becoming a member of GRECO. It should also be encouraged to consider joining other partial agreements which deal with issues of relevance for the country, for instance the Co-operation Group to Combat Drug Abuse and Illicit Trafficking in Drugs (Pompidou Group) and the Enlarged Partial Agreement on Sport (EPAS).

115. At the parliamentary level, the ball is in Kazakhstan’s court: the existing co-operation agreement between the parliament and the Assembly allows for a broad and active participation of Kazakh parliamentarians in the work of the Assembly and its committees. Should the parliament wish to move forward on the institutional level and apply for partner for democracy status, the Assembly would be ready to consider it in accordance with the Rules – but there must be a clear and well thought-out decision on the matter by the parliament.

5. Conclusions

116. Kazakhstan is a country with great interest in, and important potential for, developing further co-operation with the Council of Europe, especially bearing in mind the ambitious projects of political reform and the possible contribution to this process which our Organisation can make. However, the practical implementation of co-operation projects seems at times to be lagging behind.

117. At the same time, in some European countries, there has been a degree of reluctance to go further ahead in enhancing relations with Kazakhstan, and to look at it as just one country of the region among others, without paying due attention to its particularities, the role it plays in ensuring regional stability and its wish to move closer to European standards in the process of modernisation.

118. As the then Foreign Minister Erlan Idrissov put it in our meeting on 1 June 2016, the time has come to “adjust the glasses” through which Europe views Kazakhstan.

119. I am convinced that stronger relations and enhanced co-operation between the Council of Europe and Kazakhstan would be beneficial for both sides. Kazakhstan could take advantage of the Council of Europe’s experience and expertise in accompanying countries on the path to democratic transition. The Council would encourage Kazakhstan to move further along the road of democratic reforms and contribute to spreading principles of democracy, respect for human rights and the rule of law in its neighbourhood, thus strengthening international stability and facing common threats more efficiently.