



Doc. 12056

07 October 2009

Request by the Parliament of Kazakhstan for Observer status with the Parliamentary Assembly

Information report

Committee on Political Affairs and Democracy

Rapporteur: Mr Tadeusz IWŃSKI, Poland, Socialist Group

Summary

In November 2006, the Parliament of Kazakhstan requested to be granted Observer status with the Parliamentary Assembly. The request was referred to the Political Affairs Committee.

The committee concludes that it would be difficult to support the granting of Observer status to the Parliament of Kazakhstan without a number of preconditions and commitments.

It finds it more appropriate if future co-operation between the Assembly and the Parliament of Kazakhstan would take the form of a Partnership for Democracy, on the basis of a new status to be set up following [Resolution 1680 \(2009\)](#) on the establishment of a "Partner for democracy" status with the Parliamentary Assembly and provided that there is a specific request for it by the Parliament of Kazakhstan and subject to the conditions foreseen.

1. Introduction

1. In November 2006, the Parliament of Kazakhstan, which has a co-operation agreement with the Assembly since 2004, requested to be granted Observer status with the Parliamentary Assembly. In accordance with the Rules of Procedure, the request was referred to the Political Affairs Committee for report. I was appointed as Rapporteur in April 2007.

2. Conditions for granting Observer status with the Assembly

2. In accordance with Article 60 of the Rules of Procedure, "The Assembly may, on the proposal of the Bureau, grant Observer status to national parliaments of non-member states of the Council of Europe which meet the conditions set out in paragraph 1 of Statutory Resolution (93) 26 of the Committee of Ministers on Observer status".

3. Paragraph 1 of Statutory Resolution (93) 26 of the Committee of Ministers on Observer status reads as follows: "Any state willing to accept the principles of democracy, the rule of law and the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and wishing to co-operate with the Council of Europe may be granted by the Committee of Ministers, after consulting the Parliamentary Assembly, Observer status with the Organisation."

4. Furthermore, in its [Resolution 1253 \(2001\)](#) on the abolition of the death penalty in Council of Europe Observer States, the Assembly "decides to henceforth only grant Observer status with the Assembly to national parliaments, and to only recommend the granting of Observer status with the Organisation as a whole to states which strictly respect a moratorium on executions or have already abolished the death penalty" (paragraph 11).



5. Thus, Observer status with the Assembly is designed for Parliaments of non-European states which are fully functioning democracies and guarantee the rule of law and the respect for human rights. Currently, Parliaments of Canada, Israel and Mexico enjoy this status.

6. Moreover, in [Resolution 1600 \(2008\)](#) on the Council of Europe and its Observer states: the current situation and the way forward, the Assembly, inter alia, instructed the Bureau to “delay granting parliamentary Observer status to any more parliaments until all the issues raised in this resolution have been resolved” (paragraph 30.5). At its meeting of 13 March 2008, the Bureau agreed not to make any new proposals for granting Observer status until the implementation of [Resolution 1600 \(2008\)](#) had been reviewed by the Political Affairs Committee in 2010.

3. State of procedure in the Political Affairs Committee

7. In the framework of the preparation of a report on the request of the Parliament of Kazakhstan, the committee held a hearing in March 2008 with representatives of both chambers of the Parliament, as well as representatives of political parties not represented in the Parliament.

8. In September 2008, I carried out a fact-finding visit to the country, and held discussions with State and Parliament officials, representatives of the extra-parliamentary opposition and of civil society and NGOs.

9. In addition, an ad hoc committee of the Bureau of the Assembly observed the extraordinary parliamentary elections in Kazakhstan held in August 2007.

10. The committee held several preliminary discussions on the issue, which showed that views remain quite divided as to a possible response to the request for Observer status. The majority of members were clearly in favour of upgrading existing relations with the Parliament of Kazakhstan.

11. However, a few members of the committee expressed doubts as to whether Kazakhstan has already reached a degree of democratic development sufficient for it to be considered in compliance with the criteria for obtaining Observer status.

12. Some members thought that Observer status could only be granted after Kazakhstan meets a number of preconditions to be specified, and should be accompanied by specific commitments on the part of Kazakhstan’s Parliament.

13. Others were fairly doubtful as to whether Observer status would be the most appropriate framework for strengthening co-operation with Kazakhstan and accompanying democratic reforms in this country.

14. In this context, the committee decided to accept an invitation from the Senate of Kazakhstan to hold a meeting in Astana. This meeting, which was due to take place on 26-27 May 2009, would have provided an opportunity for exchanges of views with various political actors of Kazakhstan, including the extra-parliamentary opposition, and representatives of civil society, thus helping members to form a substantiated opinion on the request of the Parliament of Kazakhstan.

15. Unfortunately, on 7 May 2009, i.e. less than three weeks before the agreed date of the meeting, the Senate of Kazakhstan decided to postpone it, arguing that many parliamentarians and representatives of political parties of Kazakhstan could not participate in it due to numerous other commitments. This unilateral decision, taken at such short notice, tends to undermine the credibility of the Kazakh side as a reliable partner, and casts doubts on the seriousness of their intentions as regards co-operation with the Assembly. Moreover, it deprives the committee of the possibility to see *in situ* the situation in the country and form a first-hand opinion on the state of progress of democratic reforms.

4. New status with the Assembly: partner for democracy

16. In June 2009, the Assembly adopted [Resolution 1680 \(2009\)](#) on the establishment of a “Partner for democracy” status with the Parliamentary Assembly based on the report by Mr Van den Brande.

17. The aim of this new status is to create a framework for institutional relations and co-operation with Parliaments of neighbouring countries on the basis of clearly expressed commitments towards democracy, respect for human rights and the rule of law.

18. Unlike Observer status, designed for accomplished democracies, the new status is tailored for countries which have made a choice for democracy and wish to use the Council of Europe's experience of, and expertise in, democratic transition. Therefore, unlike Observer status, it foresees country-specific commitments defined on a case-by-case basis with the country concerned, with a follow-up mechanism.

19. The Partner for Democracy status would seem an appropriate form for stepping up the Assembly's co-operation with Kazakhstan, which has stated its intention to build a democratic state whose key values would be the human being, human life and human rights and freedoms.

5. Conclusions

20. I assume that, when requesting to be granted Observer status with the Assembly, the Parliament of Kazakhstan was guided by a wish to develop co-operation with the Assembly and benefit from its experience in conducting democratic reforms and building a society based on the respect for human rights and the rule of law.

21. It seems that, in the current circumstances, it would be difficult for the committee to support the granting of Observer status to the Parliament of Kazakhstan without a number of preconditions and commitments.

22. At the same time, Observer status with the Assembly, in its current form, does not foresee any formal commitments, neither does it provide any follow-up mechanisms.

23. Therefore it would be more appropriate if future co-operation between the Assembly and the Parliament of Kazakhstan would take 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.