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Request for Partner for Democracy status with the Parliamentary Assembly submitted by the Parliament of the Kyrgyz Republic

Committee Opinion¹

Committee on Equality and Non-Discrimination

Rapporteur: Ms Bernadette BOURZAI, France, Socialist Group

A. Conclusions of the committee

1. The Committee on Equality and Non-Discrimination shares the conclusion reached by the Committee on Political Affairs and Democracy that partner for democracy status with the Parliamentary Assembly should be granted to the Parliament of the Kyrgyz Republic.
2. The committee believes that granting partner for democracy status will make it possible to assist Kyrgyzstan in consolidating its parliamentary democracy and establishing a democratic State based on respect for human rights and the rule of law.
3. Nonetheless, the committee has certain reservations and expresses its concern regarding the violence and discrimination towards lesbian, gay, bisexual and transgender (LGBT) persons, violence against women and the situation of minorities. The committee therefore calls on the Kyrgyz authorities to take the necessary steps to promote equality and condemn all forms of violence and discrimination on whatever grounds.
4. The draft resolution contains a gender perspective and refers to equal opportunities for women and men in political and public life in paragraph 15.7, and promoting effective equality between women and men and the fight against all forms of gender-based violence and discrimination in paragraph 15.20. It also refers to the fight against xenophobia and all forms of discrimination in paragraph 15.15 and the rights of minorities in paragraph 15.16.
5. However, several important issues are missing from the draft resolution, such as discrimination based on sexual orientation and gender identity, participation in political and public life, the linguistic rights of minorities and the fight against trafficking in human beings. Accordingly, the committee proposes a number of amendments to cover these aspects.

B. Proposed amendments to the draft resolution

Amendment A (to the draft resolution)

In the draft resolution, delete “further” in paragraph 15.7.

Explanatory note: The word “further” implies that the current participation of women in political and public life is satisfactory, which is not yet the case.

1. Reference to committee: Bureau decision, Reference 3823 of 25 November 2011. Reporting committee: Committee on Political Affairs and Democracy. See [Doc. 13461](#). Opinion approved by the committee on 7 April 2014.



Amendment B (to the draft resolution)

In the draft resolution, paragraph 15.7, insert the word “economic,” after the words “equal opportunities for women and men in”.

Explanatory note: The participation of women in economic life is essential to ensure effective equality and deserves to be emphasised.

Amendment C (to the draft resolution)

In the draft resolution, paragraph 15.16, insert the words “participation in political and public life,” after “promoting reconciliation”.

Explanatory note: The participation of national minorities in political and public life remains very limited in Kyrgyzstan and should be encouraged in order to effectively promote their inclusion and participation in society.

Amendment D (to the draft resolution)

In the draft resolution, after paragraph 15.16, insert the following paragraph:

“guaranteeing respect for the linguistic rights of minorities and promoting the right to education in minority languages;”

Explanatory note: Respect for the linguistic rights of minorities and access to education in a minority language are essential for the protection of the rights of minorities.

Amendment E (to the draft resolution)

In the draft resolution, after paragraph 15.19, insert the following paragraph:

“condemning and combating all forms of discrimination and violence based on sexual orientation and gender identity;”

Explanatory note: Discrimination and violence based on sexual orientation and gender identity must be resolutely combated and warrant particular attention in the light of the current situation in Kyrgyzstan.

Amendment F (to the draft resolution)

In the draft resolution, after paragraph 15.19, insert the following paragraph:

“not following up the draft bill drawn up on the model of laws on the prohibition of ‘homosexual propaganda’;”

Amendment G (to the draft resolution)

In the draft resolution, after paragraph 15.20, insert the following paragraph:

“increasing efforts in the fight against trafficking in human beings for the purposes of sexual exploitation and forced labour;”

Explanatory note: The fight against trafficking in human beings must be strengthened in Kyrgyzstan and appear in the draft resolution, in order to call for a specific commitment by the Kyrgyz Parliament on this issue.

C. Explanatory memorandum by Ms Bourzai, rapporteur for opinion

1. Introduction

1. Upholding the principles of equality and non-discrimination is essential in the context of the procedure for obtaining partner for democracy status. Requests for this status should contain a reference to a commitment to uphold the values of the Council of Europe. They should also contain an undertaking to encourage the balanced participation of women and men in public and political life.²

2. A parliamentary delegation enjoying partner for democracy status must also, insofar as the number of its members allows, be composed in such a way as to ensure a fair representation of the political parties or groups present in that parliament and 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.³

3. I congratulate Mr Gross on his report, and before him, Mr Mevlüt Çavuşoğlu for his preparatory work. As rapporteur for the Committee on Equality and Non-Discrimination, I would like to shed some additional light on the most critical aspects of equality and non-discrimination issues in Kyrgyzstan, which include the situation of minorities, discrimination based on sexual orientation and gender identity, violence against women and trafficking in human beings.

4. The Committee on Equality and Non-Discrimination held an exchange of views with the delegation from the Kyrgyz Parliament led by Ms Asia Sasykbaeva, Deputy Speaker of Parliament, in April 2013. I had a further meeting with the Kyrgyz parliamentary delegation at the January 2014 part-session.

2. The situation of minorities

5. First of all, it is important to examine the situation of minorities in Kyrgyzstan. According to a system of self-declaration used during censuses, the population is 71% Kyrgyz, 14,3% Uzbek (mostly in the south of the country) and 7,8% Russian.⁴

6. The country has experienced tension in recent years, resulting in strife between groups of Kyrgyz and Uzbek origin in Osh in June 2010. These events have had a lasting effect on the minds of the population and severely undermined the peaceful co-existence between minorities.

7. Tension has remained high since 2010 and the lack of trust between the communities is now deeply entrenched. The minorities are subject to arbitrary arrests, torture and extortion by the police, often acting with total impunity. A climate conducive to intolerance, "ethnic profiling" and stereotyping has become widespread, exacerbated by the political class. There is no guarantee of the right to a fair trial and the judicial system is influenced by prejudice. The case of Mr Azimjon Askarov, a journalist of Uzbek origin and human rights activist, sentenced to life imprisonment, should be reviewed as the proceedings lacked the guarantees of a fair trial.

8. The Constitution adopted by referendum on 27 June 2010 comprises measures for protecting individuals against racial discrimination and guarantees the right to education in the minority languages. The languages spoken by the majority of the population are Kyrgyz, Uzbek and Russian. The Constitution stipulates that Kyrgyz is the State language and that Russian is an official language, and guarantees the protection of minority languages (Article 10). There is growing *de facto* use of Kyrgyz, particularly in the public services, at the expense of Russian.

9. The participation of minorities in political life remains limited, as does their representation in the local authorities, the police forces and the judicial system.⁵ The People's Assembly of Kyrgyzstan provides for purely formal representation of minorities and has no decision-making power.

10. At its March 2013 session, the United Nations Committee on the Elimination of Racial Discrimination expressed its concern about the persistence of tensions, which are liable to lead to renewed conflict.⁶ The Committee recommended that the Kyrgyz authorities continue their reform of the judicial system and the police service in order to ensure a climate of tolerance and the representation of minorities at all levels, to promote education in the minority languages and take practical, effective steps to facilitate participation by minorities and access to information in the minority languages. A governmental agency on inter-ethnic issues was set up in 2013.

2. Rule 61.2 of the Rules of Procedure of the Assembly.

3. Rule 61.4 of the Rules of Procedure of the Assembly.

4. 2009 Census, National Office of Statistics, www.stat.kg/stat.files/din.files/census/5010003.pdf.

5. United Nations High Commissioner for Human Rights, mission to Kyrgyzstan, 10 July 2012: www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12338&LangID=E.

6. Concluding observations of the United Nations Committee on the Elimination of Racial Discrimination, March 2013, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fKGZ%2fCO%2f5-7&Lang=en.

3. Discrimination based on sexual orientation and gender identity

11. There is still frequent violence and discrimination against LGBT persons in Kyrgyzstan. In 2012, LGBT groups documented over 50 cases of discrimination and violation of the rights of individuals based on their sexual orientation and/or gender identity. However, this does not reflect the actual situation as victims are afraid to make complaints.⁷

12. At the time of the 2010 United Nations Universal Periodic Review, the Kyrgyz Government undertook to combat discrimination based on sexual orientation and gender identity by accepting two recommendations. This is an encouraging political signal. However, I was recently informed by non-governmental organisations (NGOs) of the drafting of a bill on prohibiting so-called “homosexual propaganda” and would like to take this opportunity to express my deep concern about this matter.⁸

13. On 29 January 2014, Human Rights Watch published a report on police violence against gay and bisexual men in Kyrgyzstan.⁹ This report contains statements by victims of violence, harassment and extortion by the police because of their sexual orientation. The report was published amidst a growing climate of intolerance and homophobia. Following publication of this report, the acting Grand Mufti Maksat Hajji Toktomushev issued a fatwa against homosexuality. Activists defending the rights of LGBT persons regularly face threats and intimidation.¹⁰ The United Nations Human Rights Committee also condemned violence against LGBT people and called on the authorities to investigate cases of violence, prosecute the perpetrators and protect the victims.¹¹

14. Transgender men and women are also victims of violence and are stigmatised in society. Gay men from ethnic minorities are victims of multiple forms of discrimination.

15. Last January, we discussed discrimination against LGBT persons at a bilateral meeting with the Kyrgyz delegation, which highlighted the need for a change of attitudes in order to combat stereotypes. Prejudice must be countered at the level of both politicians and society in general. I therefore invite the Kyrgyz Parliament to call on the expertise of the Council of Europe in order to combat homophobia and homophobic violence.

4. Gender equality

16. The United Nations Development Programme has devised a gender inequality index which takes into account political empowerment, the labour market and reproductive health. Kyrgyzstan has a gender inequality index (0.357) slightly higher than the majority of European countries (ranging from 0.045 in the Netherlands to 0.366 in Turkey, most countries falling between 0.200 and 0.300).¹²

17. The electoral law provides for a 30% quota for women on lists for members of parliament (28 members out of a total of 120). While the participation rate of women at national level is higher than in several Council of Europe member States, it still cannot be regarded as satisfactory. I call on the authorities to step up their efforts to increase the participation of women in political and public life, at both local and national level. Women should also seek to obtain positions of responsibility within political parties.

18. The 2010 Constitution lays down the principle of equal rights between men and women and proscribes gender-based discrimination. The national gender equality strategy running up to 2020 comprises practical measures to combat discrimination. I cannot but encourage the Kyrgyz authorities to develop and consolidate a culture of equality in all fields.

7. Submission to the United Nations Human Rights Committee on Concerns and Recommendations on Kyrgyzstan, Human Rights Watch, 26 April 2013, www.hrw.org/news/2013/04/26/submission-un-human-rights-committee-concerns-and-recommendations-kyrgyzstan.

8. Observatory for the Protection of Human Rights Defenders, Kyrgyzstan: Renewed acts of harassment targeting LGBT human rights defenders and NGOs, 17 March 2014, www.omct.org/human-rights-defenders/urgent-interventions/kyrgyzstan/2014/03/d22598/.

9. Human Rights Watch, “They said we deserved this”, Police violence against gay and bisexual men in Kyrgyzstan, 29 January 2014, www.hrw.org/reports/2014/01/28/they-said-we-deserved.

10. Observatory for the Protection of Human Rights Defenders, Kyrgyzstan: Renewed acts of harassment targeting LGBT human rights defenders and NGOs, 17 March 2014, www.omct.org/human-rights-defenders/urgent-interventions/kyrgyzstan/2014/03/d22598/.

11. Committee on Human Rights, Concluding observations, Kyrgyzstan, 27 March 2014, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/KGZ/CO/2&Lang=en.

12. UNDP, Human Development Indicators 2013, <http://hdr.undp.org/en/countries/profiles/KGZ>.

19. Women are active in the political sphere and in the voluntary sector. However, tradition weighs heavily on people's attitudes, with stereotyping typical of a patriarchal society, in which men take part in public and economic life and women take care of their families and their homes. The participation of women in economic life is limited and has reportedly decreased in recent years.

5. Violence against women

20. The Kyrgyz government is committed to combating violence against women and has taken a series of specific measures in recent years. I welcome these moves and more particularly the adoption of a national action plan to combat violence against women and a law to combat violence against women (2011). Additional efforts must be made and the financial resources made available to ensure that these are put into effect.

21. Young girls are still being forcibly abducted, even though abduction is now a criminal offence which carries a sentence (7 years' imprisonment, or 10 years where the girl is under the age of 17). Furthermore, the victims of these abductions are often subjected to rape.¹³ In most cases, forced abduction results in forced marriage. The police do not treat this problem as a priority and have a tendency to turn a blind eye. Specific training should be given to police officers and judges on combating violence against women, including forced abductions, and national awareness-raising campaigns should be run.

22. Polygamy, an offence under the Criminal Code, is believed still to be practised. Domestic violence remains something of a taboo subject and is not systematically reported. Economic difficulties have confined many women to a violent environment, or have apparently obliged them to agree to become a second or third wife.

23. Assistance to victims of domestic violence is provided by shelters run by NGOs. To date, there are only 12 such shelters in the country, facing significant financial difficulties. The reception capacity of these shelters falls far short of victims' needs.

6. The fight against trafficking in human beings

24. Kyrgyzstan is a country of origin and transit for victims of human trafficking. Kyrgyz men and women are victims of trafficking for the purposes of forced labour and are sent primarily to the Russian Federation, Kazakhstan and Turkey. Kyrgyz women are also victims of trafficking for sexual exploitation to the United Arab Emirates, the Russian Federation, Kazakhstan and Turkey. Victims of trafficking from Uzbekistan, Tajikistan and Turkmenistan transit through Kyrgyzstan.

25. The Kyrgyz Government acknowledges this problem and has undertaken to combat it. The law on preventing and combating trafficking in human beings of 2005, amended in 2011, establishes trafficking for sexual exploitation and forced labour as a criminal offence and provides for a prison sentence ranging from 5 to 20 years. In January 2013, the Kyrgyz Government adopted a national anti-human trafficking action plan for the period 2013-2016.

26. Additional efforts and resources are required to identify and investigate cases of trafficking and to prosecute the traffickers. To this end, there should be training on the fight against trafficking for police officers and judges.

7. Conclusions of the rapporteur

27. The granting of partner for democracy status is only the beginning of a process of dialogue and co-operation. I support the position of the Committee on Political Affairs and Democracy that partner for democracy status should be granted to the Kyrgyz Parliament. We suggest that this status be granted in order to encourage closer co-operation with the Council of Europe, especially in the areas discussed in this opinion.

28. In granting this status, the Assembly encourages the Kyrgyz Parliament to continue its process of democratic development and to strengthen the human rights protection system and its implementation.

13. Human Rights Watch, Concerns and Recommendations on Kyrgyzstan submitted to the United Nations Human Rights Committee in advance of its Pre-Sessional Review of Kyrgyzstan, 26 April 2013, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fNGO%2fKGZ%2f14596&Lang=en.

29. The Committee on Equality and Non-Discrimination will be closely monitoring developments regarding discrimination and violence based on sexual orientation and gender identity, respect for the rights and political representation of minorities and the question of violence against women and trafficking in human beings. Ultimately, accession to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (ETS No. 210) could be encouraged. I also call on the delegation of the Kyrgyz Parliament to follow the work of the parliamentary network "Women free from violence".

30. I cannot conclude without adding a few words about the human rights defenders who play a key role in protecting and promoting human rights. Representatives of non-governmental organisations working to protect the rights of minorities have been subject to harassment, intimidation and threats. In order to demonstrate its commitment and attachment to the values of the Council of Europe, the Kyrgyz Parliament should undertake to protect the human rights defenders and enable them to work without being harassed and without fear of reprisals.