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

Report¹

Committee on Political Affairs and Democracy

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Summary

The report offers an overview of the institutional and political situation in Jordan. It concludes that the request of the Parliament of Jordan meets, both in form and in substance, the requirements laid down in Rule 62 of the Rules of Procedure of the Assembly. It therefore proposes that partner for democracy status be granted to the Parliament of Jordan.

At the same time, the report stresses the need for Jordan to continue and deepen reforms aimed at consolidating democratic institutions, the rule of law and respect for human rights. It singles out benchmarks which are of key importance for this.

It proposes that the Parliament of Jordan be invited to appoint a delegation from among its democratically elected members and suggests that the Assembly should review, in two years' time, the state of progress achieved in implementing the political commitments undertaken by the Parliament of Jordan as well as the political and institutional reforms.

1. Reference to committee: Bureau decision, Reference 3990 of 30 September 2013.



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A. Draft resolution²

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, the rule of law and human rights and to participate in the political debate on common challenges that transcend European boundaries. Rule 62 of the Assembly’s Rules of Procedure sets out the conditions and methods for granting this status, including formal political commitments that the parliament concerned must undertake.
2. On 25 July 2013, the Speakers of the two chambers of the Jordanian Parliament addressed an official request for partner for democracy status to the President of the Assembly. After Morocco and Palestine, Jordan is the third parliament of the South Mediterranean to make such a request.
3. The Assembly takes note that, in their letter, the Speakers of the two chambers of the Jordanian Parliament, in line with the requirements set out in Rule 62.2 of the Rules of Procedure, reaffirm that the parliament represented by them shares “the same values as our colleagues members of the Council of Europe: a pluralist and gender parity-based democracy, the rule of law and respect for human rights and fundamental freedoms”, and undertook to:
 - 3.1. keep “the electoral process in compliance with international standards for parliamentary elections”;
 - 3.2. support “the balanced participation of women and men in public and political life”;
 - 3.3. continue with the “endeavours to raise the awareness of public authorities and civil society as regards abolishing the death penalty and the introduction of a moratorium on executions”;
 - 3.4. “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 particularly those of them related to [pluralist and gender parity-based democracy, the rule of law, and the respect for human rights and fundamental freedoms]”;
 - 3.5. “keep the Assembly regularly informed on the state of progress in implementing the principles of the Council of Europe”;
 - 3.6. “make use of the Assembly’s experience and the expertise of the European Commission for Democracy through Law (Venice Commission) in [their] institutional and legislative work”.
4. The Assembly therefore considers that the Jordanian Parliament’s request meets the formal criteria set out in its Rules of Procedure.
5. Furthermore, the Assembly acknowledges that, at the instigation of King Abdullah II, the parliament and its blocs, political organisations and movements, State and public officials, trade unions and civil society in Jordan share the objectives of the partnership for democracy, which aims to strengthen democracy, the rule of law and respect for human rights and fundamental freedoms in the country. Obtaining this status is considered an important incentive for continuing the reforms already begun.
6. The Assembly welcomes Jordan’s commitment to give priority to in-depth constitutional, institutional, political and legal reforms, and in particular the changes to 39 articles of the Constitution, the establishment of a Constitutional Court, the proposal for an Elections Act, the Political Parties Act and the draft legislation on decentralisation and municipalities. The partner for democracy status provides an appropriate framework for the continuation of the reform process by the Jordanian Parliament. Jordan’s national authorities are encouraged to make full use of the Council of Europe’s expertise and draw inspiration from Council of Europe standards in carrying out these reforms.
7. At a time when the peoples of a number of Arab and Mediterranean countries are clearly expressing their desire to enjoy fundamental political and social rights, the Assembly deems it important that the Jordanians want to modernise and stabilise their political institutions so as to continue firmly on the path of democratic transformation; and this despite the instability of the region and at the borders of their country.

2. Draft resolution unanimously adopted by the committee on 7 December 2015.

8. The war in Syria has led to an unprecedented influx of refugees into Jordan, a small country which is making considerable efforts to accommodate them in decent conditions. The Assembly warmly congratulates Jordan on its efforts and its exemplary hospitality and urges the international community to increase its support to the Jordanian authorities, either directly or through the international organisations operating on the ground.

9. In this context, the Assembly considers that the package of measures undertaken in 2010 and again in 2013-2015, as detailed in the report, are essential for strengthening democracy, the rule of law and respect for human rights and fundamental freedoms in the framework of a constitutional parliamentary monarchy. It calls on the Parliament of Jordan to:

9.1. continue the process of constitutional reform, in particular by consolidating the separation of powers and strengthening the role of the parliament;

9.2. continue the decentralisation reform with the aim of consolidating local and regional democracy;

9.3. adopt the Elections Act and hold free and fair elections in line with the relevant international standards; enhance public interest in, and awareness of, the democratic and electoral process, as well as ensure a higher level of participation in elections; and strengthen public monitoring of elections by independent observers;

9.4. constitutionally guarantee equality between men and women by revising Article 6.1 of the Constitution, which is discriminatory: "Jordanians are equal before the law without discrimination between them as regards to their rights and duties even if they differ in race, language or religion";

9.5. combat all forms of gender discrimination (in law and in practice); abolish all legislation that discriminates against women; fight all forms of gender-based violence; and actively promote equal opportunities for all;

9.6. apply the moratorium on executions that was established in 2006, and go beyond by abolishing the death penalty set out in the Criminal Code;

9.7. implement justice reform with a view to ensuring the independence and impartiality of the judiciary and, in particular, revise the 1954 Crime Prevention Act to prevent any misuse of administrative detention;

9.8. provide better training of judges, prison staff and law-enforcement officials as regards compliance with international human rights standards;

9.9. improve conditions of detention, in line with the United Nations prison-related norms and standards;

9.10. prevent torture and inhuman or degrading treatment of persons deprived of their liberty; combat impunity for perpetrators of torture and ill-treatment;

9.11. accede to, and ensure the effective implementation of, the relevant international instruments in the field of human rights; especially fully co-operate with the United Nations special mechanisms and implement the United Nations Universal Periodic Review recommendations;

9.12. ensure full respect for freedom of conscience, religion and belief, including the right to change one's religion;

9.13. guarantee and promote freedom of expression and media independence and plurality;

9.14. guarantee and promote freedom of association and of peaceful assembly in line with international standards;

9.15. fight racism, xenophobia and all forms of discrimination;

9.16. rigorously combat corruption.

10. The Assembly expects Jordan to accede in due course to the relevant Council of Europe conventions and partial agreements, in particular those dealing with human rights, the rule of law and democracy, in accordance with the commitment expressed in the joint letter dated 25 July 2013 from the Speakers of the two chambers of the Parliament.

11. The Assembly encourages the Council of Europe and Jordan to incorporate these priorities into their current discussions on a bilateral co-operation programme.

12. In addition, the Assembly resolves to review, no later than two years from the adoption of this resolution, the state of progress achieved in implementing the political commitments entered into by the Jordanian Parliament, as well as the reforms in the areas mentioned in paragraph 9 above.

13. The Assembly stresses the importance of free and fair elections as a cornerstone of a genuine democracy. It therefore hopes to be invited to observe Jordan's parliamentary elections from the next general elections onwards.

14. Noting that the Parliament of Jordan has reiterated its determination to work to ensure full implementation of the political commitments contained in Rule 62.2 of the Rules of Procedure, and entered into by the Speakers of its two chambers in their joint letter dated 25 July 2013, the Assembly resolves to:

14.1. grant partner for democracy status to the Parliament of Jordan as from the adoption of the present resolution;

14.2. invite the Parliament of Jordan to appoint, from among its democratically elected members, a partner for democracy delegation consisting of three representatives and three substitutes, to be composed in accordance with Rule 62.4 of the Assembly's Rules of Procedure.

B. Explanatory memorandum by Ms Durrieu, rapporteur

1. Introduction

1. Following a meeting of the Sub-Committee on the Middle East in Amman in November 2012, which I had the honour to chair, and the participation of two Jordanian members of parliament in the June 2013 part-session, the Jordanian Parliament sent a letter dated 25 July 2013 (see Appendix) asking to be granted partner for democracy status with the Parliamentary Assembly of the Council of Europe.

2. The Assembly referred the request to the Committee on Political Affairs and Democracy on 30 September 2013, and the committee appointed Mr Mogens Jensen (Denmark, Socialist Group) as rapporteur. The committee held an initial exchange of views with the participation of Jordanian MPs in Lisbon in November 2013.

3. Following Mr Jensen's appointment as Danish Minister for Trade and Development, the committee appointed me as its rapporteur on 12 March 2014, and, on 25 and 26 March 2014, I undertook my first fact-finding visit to Jordan. During the April 2014 part-session, I reported on my visit to the sub-committee, which held an exchange of views with Mr Mustafa Al Hamarneh and Mr Yousef Al Qarneh, members of the Mubadara Parliamentary Bloc of the Jordanian House of Representatives.

4. On 4 and 5 September 2014, the committee discussed an information note on my fact-finding visit to Jordan and held an exchange of views with Mr Mustafa Al Hamarneh, Mr Yousef Al Qarneh and Ms Tamam Alryati, members of the Jordanian House of Representatives. The Sub-Committee on the Middle East and the Arab World held an exchange of views with Mr Abdullah Khawaldeh, a member of the Jordanian House of Representatives, during the April 2015 part-session.

5. I carried out a second fact-finding visit to Jordan from 13 to 16 September 2015 and reported on it to the committee during the October 2015 part-session. On that occasion, the committee held an exchange of views with Mr Mustafa Al Hamarneh, a member of the Jordanian House of Representatives.

6. The purpose of my role as rapporteur on the request for partner for democracy status with the Parliamentary Assembly has been defined as follows:

- verify whether the parliament's official request contains the formal commitments referred to in Rule 62.2 of the Assembly's Rules of Procedure, that is to say: an explicit reference to the aspiration of the said parliament to embrace the values of the Council of Europe; 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 European Commission for Democracy through Law (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; an obligation to inform the Assembly regularly on the state of progress in implementing Council of Europe principles;
- consider whether these commitments correspond to the reality in Jordan and, as a result, whether the status may be granted;
- assess the need for any specific conditions to be met by the Jordanian Parliament before the status is granted;
- determine the areas where further reforms are most needed, which should be the focus of the future review and monitoring process.

2. Background

7. Jordan is a small country with a total area of 89 342 km², 80% of it desert. It is bordered to the west by Palestine and Israel, to the south by Saudi Arabia, to the east by Iraq and to the north by Syria. Its population, 54% of whom are women, has been estimated at about 8 million in 2015, 2 million of them refugees. The capital city is Amman, with more than 1 million inhabitants. Arabic is the country's official language and Islam its religion. His Majesty King Abdullah II, aged 53, has been Head of State since 7 February 1999. Jordan is a constitutional monarchy that gained its independence in 1946.

8. Owing to its geopolitical position, this country, which “is keeping its borders open”, is caught in the middle of the region’s problems and has for decades suffered all the consequences of the regional conflicts, in particular the Israeli/Palestinian conflict (there are 1 million Palestinians in Jordan). The country is currently suffering very considerably from the political, economic and social impact of the Syrian conflict. On 17 November 2015, 633 644 Syrian refugees were recorded in Jordan by the Office of the United Nations High Commissioner for Refugees (UNHCR), but the Jordanians estimate the total number to be more than double that figure at 1 200 000, to which must be added 450 000 Egyptians, 50 000 Yemenis and 50 000 Libyans. Today, the proclamation of the “Islamic State” by radical jihadists who advocate terror, ethnic and religious cleansing and the expansion of the Caliphate to Baghdad poses an even greater threat to Jordan, as well as neighbouring Lebanon and Palestine.

9. Jordan is making a great effort to manage the influx of Syrian refugees and accommodate them, with the opening of the Zaatari and Azraq camps (with populations of 80 000 and 28 000 respectively) situated in the desert on the Syrian border. However, 85% of the refugees live outside the camps. Their needs are considerable and constitute a permanent challenge in view of the fact that in Zaatari the number of children is 45 000 out of a population of 80 000, including 25 000 schoolchildren. The teachers are Jordanian and their salaries amount to 50 million dollars a year. The World Food Programme (WFP) estimates the annual cost of feeding the 221 000 refugees entitled to meal tickets at 53 million dollars, or about 5 million dollars a month, including 1 million dollars for bread. Water needs are estimated at 35 litres per person per day, that is about 3 850 000 litres a day for the Zaatari camp! (the cost of a cubic metre is more than 3 dollars). The international community should do much more to support this action by Jordan.

3. Our mission

3.1. The meetings

10. In Amman, I met Mr Atef Tarawneh, Speaker of the House of Representatives, and Mr Abdulraoof Rawabdeh, President of the Senate; Mr Ahmed Obeidat, President of the National Reform Front and former Prime Minister; Mr Hamza Mansour, Secretary General of the Islamic Action Front Party as well as Mr Mohammad Al Zeud, Mr Ali Abu Alsukar and Mr Murad Al Adailah; Mr Rohile Gharaibeh, Zamzam Initiative; Ms Abla Abu Elbah, First secretary of the General People’s Democratic Party; and Mr Tuma Khader Al Obieaallah from the National Unity Party of Jordan.

11. I also met Mr Taher Almasri, former Prime Minister; Mr Salameh Hammad Suhaim, Minister of Interior; Mr Bassam Al-Talhouni, Minister of Justice; Mr Khalid Kalalkeh, Minister of Political and Parliamentary Affairs; Mr Rajai Muasher, Senator, Head of the Royal Commission in charge of the assessment of the implementation of the executive work plan of the National Integrity Charter; Mr Riyad Al Shak’a, Acting President of the Independent Electoral Commission; Mr Hisham Al Tal, President of the Judicial Council and of the Cassation Court; Mr Taher Hikmat, President of the Constitutional Court, and Judge Mansour Hadidi, member of the Court; and Mr Samjh Bino, President of the Anti-Corruption Commission.

12. I also had interviews with the following Ambassadors: in March 2014, Ms Caroline Dumas, Ambassador of France; Ms Joanna Wronecka, Ambassador of the European Union Delegation; Mr Patrizio Fondi, Ambassador of Italy; Mr Sedat Önal, Ambassador of Turkey; and in September 2015, Mr Andrea Matteo Fontana, Ambassador of the European Union Delegation; Ms Birgitta Siefker-Eberle, Ambassador of Germany; Mr Hendrik Van De Velde, Ambassador of Belgium; Ms Maria Luisa Marinakis, Ambassador of Greece; Mr Paul van den Ijssel, Ambassador of the Netherlands; Mr Boris Bolotin, Ambassador of Russia; Ms Helena Gröndahl Riandz, Ambassador of Sweden and again Ms Caroline Dumas.

13. I finally had meetings with many representatives of civil society: Mr Mousa Burayzat, Chief Commissioner, and Mr Muhammad Adnan Bakhit, Chairperson of the Board of the National Center for Human Rights; Mr Sami Hourani, Executive Director of Leaders of Tomorrow; Ms Asma Khader, Secretary General of the Jordanian National Commission for Women, and Ms Salma Al-Nemis, her successor; Ms Nadia Shamroukh, General Manager, and Ms Maysa’a Faraj from the Jordan Women Union; Ms Eva Abu Halaweh, Executive Manager of Mizan; representatives of a lawyers organisation for human rights; Ms Leen Kayyat, a lawyer specialising in human rights issues; Mr Ayoub Namour, Project Head of the El-Hayat Center and member of the Jordanian young people’s Coalition for Human Rights; Mr Amro Ziad Al-Nawayseh, also from the El-Hayat Center; Ms Layla Naffa Hamarneh, Project Manager of the Arab Women’s Organisation of Jordan; Mr Hussein Abu Rumman, Research Director of the Al Quds Center for Political Studies; Mr Suleiman Sweiss, President of the Jordan Association for Human Rights, and Mr Fahed Khitan, journalist at the *Alghad* newspaper.

3.2. The discussions

14. The principal discussions were with His Majesty King Abdullah II who, on 14 September 2015, granted me a particularly frank and informative interview on the situation in the Middle East. He emphasised the major risks posed by Daesh in the Middle East, Boko Haram in Africa and Al-Shabab in Ethiopia. All the problems associated with terrorism as well as the influx of refugees are coming to Europe but “the first victims are Muslims”. The King also referred to the nature and role of the coalitions that have taken up their positions in the Middle East “without any strategy”, while the fight against Daesh is a “third world war”. The biggest danger is the balkanisation of the Middle East. He also stressed the role of the regional powers Iran and Turkey, which “is a problem”, as well as Russia. On the subject of the Eastern Christians, in the wake of the Paris Conference of 8 September 2015, he was keen to point out that Christians are not a “minority” but a “component element” of “pluralist” Jordanian society. They are living a tragedy within a tragedy. In response to my question “What about the fundamental divisions between the Muslims, who are also at war elsewhere, for example in Yemen? How do you see this internal problem, which is not a minor issue?”, he replied: “This is our problem, it’s the Muslims’ responsibility.” In a key sentence, he also expressed his determination to press ahead with the internal reforms: “The instability of the region will not be an excuse not to institute reforms.” At the end of the interview, I conveyed to him the Assembly President’s invitation to address the Assembly during the January 2016 part-session.

15. During all the meetings I had, I was keen to explain the purpose of our mission for the Council of Europe. Everyone we met was open and co-operative and supported the Jordanian Parliament’s application for partner for democracy status with the Parliamentary Assembly. They emphasised that Jordan really had embarked on the road to reforms. Especially between 2010 and 2012, a third of the articles of the Constitution had been amended in such a way as to increase rights and freedoms, and the process was continuing. Others pointed out to us, however, that they thought the reforms did not go far enough and must be pursued. My impression was that there is a great demand, and also that the Jordanian authorities are determined to continue the efforts being made.

3.3. The political situation

16. A constitutional and parliamentary monarchy, an enlightened and courageous King. This sovereign wants to make Jordan a modern and stable country. However, the system is tribal and the society is conservative. When speaking of his people, in their diversity, the King speaks about the future with strong words such as “Nation”. This is a concept that needs to be defined in an Arab, Muslim and tribal society. He undoubtedly wants the opening up of this society, a freedom of will and even of territories; an ambitious objective. It is not without danger and needs to be able to evolve. The immediate problems of this country are security and terrorism.

3.3.1. The package of reforms undertaken

17. Since 2011, Jordan has embarked, under the direct leadership of the King, on some major reforms in the areas of democracy and the rule of law. One third of the Constitution (39 articles out of 131) was amended in 2011 to modernise it and to improve the balance of power between the King, the parliament and the government.

18. A Constitutional Court and an Independent Electoral Commission were set up. The establishment of the Constitutional Court and the reform of the justice system are partly the result of co-operation with the Council of Europe, which began in 2012, particularly with the European Commission for the Efficiency of Justice (CEPEJ).

19. Other reforms have been undertaken concerning the Political Parties Act, the Elections Act, transparency, corruption, human rights, women’s rights and children’s rights. The reforms have not yet been completed.

20. A Charter for National Integrity was drawn up in 2012, in accordance with a royal decree to improve Jordan’s National Integrity System, which aims to serve the citizens, preserve their dignity and protect their property through the application of existing laws, regulations and instructions on the basis of transparency, justice and equality. The Charter for National Integrity has the following objectives: encouraging the adoption of a system of values and codes of conduct in State institutions; upholding transparency with regard to public administrative activities, measures, services and results; linking responsibility and accountability in public administration; reducing the use of discretionary powers to the minimum possible; closing gaps in legislation

and addressing flaws in the organisational structure of State institutions. In February 2014, King Abdullah asked former Deputy Prime Minister Rajai Muasher to chair a Royal Commission charged with assessing and monitoring the implementation of the Executive Plan for the Charter for National Integrity.

21. Jordan has made considerable progress over the last three years, especially with all the civil and political rights granted to women and the major acts passed or being considered by the parliament, including the Elections Act and the Political Parties Act.

3.3.2. Jordan and the Council of Europe

22. Since 2010, Jordan has been a member of the Mediterranean network for co-operation on drugs and addictions (MedNET) – including addiction to alcohol and tobacco – the aim of which is to foster co-operation, discussion and two-way knowledge transfer between the countries of the Mediterranean basin and the European member States of the Pompidou Group.

23. Since 2012 co-operation with Jordan has focused in particular on supporting justice reform. The joint project “Support for the Jordanian authorities in improving the quality and efficiency of the Jordanian justice system”, financed by the European Union and implemented by the Council of Europe, has so far been the main tool for bringing about this reform. The support for reforming the justice system builds on the expertise and tools of the CEPEJ and aims to improve the efficiency and quality of the operation of the Jordanian courts. In addition, the Venice Commission is providing support with a view to consolidating the Constitutional Court, which was established on 6 October 2012.

24. The Venice Commission began working with Jordan in 2012 and has since organised several workshops, conferences and seminars in Amman on the Jordanian judicial system in general and constitutional matters in particular, including with a view to promoting individual appeals to the Constitutional Court, to which the Venice Commission attaches great importance.

25. A Neighbourhood Partnership with the Hashemite Kingdom of Jordan 2015-2017 has been established by the Council of Europe, in partnership with the European Union, to develop co-operation with the country. One of the aims of this co-operation is to facilitate the creation of a common legal space between Europe and Jordan by encouraging Jordan to request accession to key Council of Europe conventions open to non-member States.

26. The priority areas for intergovernmental co-operation include combating violence against women, the promotion of children’s rights; combating human trafficking; the independence and efficiency of the justice system; support for constitutional reform; the fight against corruption, money laundering and cybercrime; and the training of professionals in the areas of human rights, the rule of law and democracy.

3.3.3. Reforms achieved or under way

3.3.3.1. Children’s rights

27. Unlike fathers, married mothers in Jordan cannot pass their nationality on to their children or their spouse, so children of Jordanian mothers and foreign fathers could not obtain free health care or education. In addition, it was hard for them to obtain a driving licence or work permit. The cost of State schooling could be up to twelve times higher for non-citizens, and a one-year work permit could cost up to 5% of the average income per inhabitant. The Jordanian Government estimates that there are nearly 400 000 such children living in the country out of a total population of about 8 million.

28. During my first visit, we were told that most of these women (50 000 out of 80 000) were married to Palestinians and that giving these Palestinians Jordanian nationality would jeopardise their right to return to Palestine. This is a valid reason from a political standpoint but it should not become a pretext for not respecting children’s rights.

29. In recognition of the challenges facing these families and in response to an initiative of the Mubadara parliamentary bloc in the Jordanian Parliament, children of Jordanian mothers and non-Jordanian fathers have since January 2015 been able to apply for a special identity card enabling them to use subsidised government services such as secondary schooling and health care. Adult children of Jordanian mothers and non-Jordanian fathers will no longer be obliged to pay for a work permit and will have second priority for jobs after Jordanian citizens. They will also be able to own property and obtain driving licences.

30. In the course of the first month, nearly 10 000 applications for identity cards were made. However, in order for children to qualify for these benefits the mother must have lived in Jordan for at least five years, which creates difficulties for those whose mothers reside outside Jordan or have no evidence of their date of entry into the country or have passed away.

3.3.3.2. *Moratorium on executions and the abolition of the death penalty*

31. In their joint letter of 25 July 2013, the Speakers of the two chambers of the Jordanian Parliament stated the following with regard to the death penalty: “We will continue our endeavours to raise the awareness of public authorities and civil society as regards the abolishing of the death penalty and the introduction of a moratorium on executions. In this context, it is worth mentioning that Jordan hasn’t witnessed any case of capital punishment since 2006.”

32. A moratorium on executions has actually been in force since 2006. However, death sentences continue to be handed down (according to Amnesty International, 16 people were sentenced to death in 2013). We were told that public opinion in Jordan was not ready for abolition, and this is understandable. Despite everything, the opponents of capital punishment are increasing in number but do not yet form a majority. This is a positive sign.

33. Between the first and second visits, there were unfortunately eleven executions in December 2014 and two more in February 2015. The Jordanian parliamentarians and authorities assured me that they involved exceptional circumstances – it should not be forgotten that Jordan is at war – and that the moratorium, in force since 2006, would be maintained, despite public pressure to lift it. This was confirmed to us by the King, who, whilst insisting on the current circumstances and the emotion of his people, showed his clear intention to maintain the moratorium, to end executions and, in the long term, to abolish the death penalty.

3.3.3.3. *Administrative detention*

34. The 1954 Crime Prevention Act (or “Protective Custody Act”) allows the administrators that are the governors to initiate administrative preventive proceedings against persons who are about to commit or aid and abet a crime or who habitually commit theft, protect thieves or receive stolen goods. This act also permits the imprisonment of any person who represents a danger to others. Court judgments and interviews conducted by Human Rights Watch show that governors can make excessive use of this last provision.

35. We were also told by the Speaker of the Senate that, in some cases, this was necessary in order to protect these people, for example women accused of sexual offences, who would be in danger of being killed by their families if they were freed and reintegrated into society. “They must be protected”, he said. The King has since replaced him.

36. The authorities have also placed men in administrative detention “for their own protection” when there have been threats of tribal vengeance.

37. Amongst the people detained outside the ambit of the law on crime prevention, there are therefore women and men in “protective custody”. The governors justify their actions by reference to this law – even if it does not explicitly cover such situations. In reality, in all cases of “protective custody” they are violating the basic principles of justice by punishing the victims instead of prosecuting those responsible for making such threats. Sometimes, women and men in administrative or “preventive” detention can stay there indefinitely and have no effective means of challenging their detention.

38. During our first visit, more than one person in five in Jordanian prisons was in administrative detention. The National Centre for Human Rights informed us that there were 11 870 cases of administrative detention in 2008.

39. This practice is inconsistent with Council of Europe values in several respects: a person should not be kept in prison without a judicial decision; a person should not be kept in prison on the pretext of protecting them; and, lastly, a person should not be imprisoned for a crime they have not yet committed.

40. This is an evolving problem. Several people we spoke to, including the President of the Constitutional Court, said they were in favour of a possible repeal of this provision of the 1954 Crime Prevention Act.

41. On the occasion of my second visit to Jordan, Mr Hisham Al Tal, President of the Judicial Council and of the Cassation Court, confirmed that some governors had misused the administrative detention procedure in the past. A change in the law is currently being prepared at the initiative of Mr Hamarneh’s Mubadara group. The decision on such procedure should always be taken by a judge.

3.3.3.4. Gender equality

42. Women represent 54% of the population in Jordan. Despite recent progress, the participation of women is still low in all areas. Within the employment market, for example, women account for just 14%. With regard to gender equality in politics, the parliament has undertaken to “continue to be supporters of the balanced participation of women and men in public and political life”. The new electoral law, involving proportionality and open lists, would help in this regard.

43. There are currently 18 women in the Chamber of Deputies, although the quota is for 15, and 6 women in the Senate where there is no quota. In municipal councils there is a 25% quota for women. The law on political parties requires that 10% of members of organisations that wish to become political parties be women. There are no women in government. The newspaper *Alghad*, which we visited, is the first newspaper in the Arab world to have a woman as chief editor.

44. As far as women’s rights are concerned, women’s organisations drew my attention to Article 6.1 of the Constitution of Jordan which permits discrimination against women.

45. Article 6.1 states: “Jordanians are equal before the law with no discrimination between them with regard to rights and duties, even if they differ in race, language or religion”.

46. From the moment where there is an enumeration – race, language, religion –, the absence of a reference to “gender” or “sex”, discrimination is evident and it is the same for disabled people.

47. According to the World Bank report *Women, Business and the Law 2016*, Jordan is in last place but one behind Saudi Arabia among 173 States as far as gender equality in legislation is concerned. It is also one of the States where no improvement in the situation has been recorded in the last two years. Again according to this report, areas in which discrimination between women and men exists in Jordan are: applying for a passport, being head of family, choosing where to live, conferring citizenship on children, having a job, and the ability to travel.

48. The Venice Commission has pointed out on several occasions that in a democratic State based on the rule of law and fundamental rights the Constitution must contain an explicit ban on all discrimination. This ban must cover the grounds of discrimination referred to in international instruments.

49. There are several ways of achieving this: firstly, all the prohibited grounds of discrimination can be mentioned in the article banning discrimination. This list must correspond to that appearing in the international treaties ratified by the State and to the generally accepted principles of international law.³

50. The list may also be more detailed, but in this case, “since other grounds of discrimination are likely to emerge in the future, it is important to maintain the possibility to include them in the list of grounds. Hence, their enumeration in the constitutional provisions ... should not be exhaustive”.⁴

51. It is also possible to prohibit any form of discrimination, without mentioning any of its grounds. In the Venice Commission’s opinion, even if a very broad wording complies with international standards “a reference ... to the different causes of discrimination would strengthen the impact and scope of the prohibition of discrimination”.⁵

52. At any rate, the Venice Commission recommends the insertion into the Constitution of a provision explicitly guaranteeing gender equality.⁶

53. Violence against women is another serious problem, According to Amnesty International, in 2013 “at least ten women were reported to have been killed by male relatives, victims of so-called ‘honour’ crimes”. Ms Asma Khader, Secretary General of the Jordanian National Commission for Women, informed us of about 20 such cases, only three of which ended with the killer being convicted. We strongly encouraged the debate on the Convention of the Council of Europe on the prevention and fight against violence against women and domestic violence (CETS No. 210, “Istanbul Convention”) and its signature.

3. Opinion on the Constitution of Montenegro, [CDL-AD\(2007\)047](#), paragraph 15.

4. Opinion on the draft new Constitution of Iceland, [CDL-AD\(2013\)010](#), paragraph 44.

5. Opinion on the Final Draft Constitution of the Republic of Tunisia, [CDL-AD\(2013\)032](#), paragraph 46.

6. Opinion on the Constitution of Montenegro, [CDL-AD\(2007\)047](#), paragraph 16; Opinion on the Constitution of Bulgaria, [CDL-AD\(2008\)009](#), paragraph 59.

3.3.3.5. *The spectacular set of political reforms under way*

54. Jordan is a constitutional monarchy and has a bicameral parliament. The Jordanian Parliament consists today of two chambers that sit together: the Senate and the House of Representatives. There are 150 members of the House of Representatives, who are elected for a four-year term. The number of senators may not exceed half that of the members of the House of Representatives. The 75 members of the Senate are appointed by the King for a two-year renewable term.

55. The law governing the 2012 elections to the House of Representatives establishes the election, for a four-year term, by general, direct and secret ballot, of 108 MPs to single-member local constituencies and of 15 women and 27 MPs to a general national constituency on the basis of the closed-list proportional representation system. The electoral boundaries favour the trans-Jordanian tribes. Each voter has two votes, a local and a general one.

56. The new Elections Act currently passing through the parliament for an open-list proportional representation system for all MPs, whose number will be reduced to 130. The same quotas as at present are planned for women (15), Christians (10) Bedouins (9) – there are more than 750 tribes – and Circassians and Chechens (3). The electoral boundaries are not covered by the act and will not be debated in the parliament. No decision has yet been made on the criteria for these boundaries, which is creating a certain amount of tension, or even fear. The plan is for the number of constituencies to be reduced from 45 to 23, but the distribution of MPs per constituency has yet to be determined.

57. Draft laws on the municipalities and decentralisation are also being debated in parliament. The draft Municipalities Act establishes a municipal governance structure comprising mayors, municipal councils and new elected local councils (with a separate structure for the Greater Amman municipality). The draft Decentralisation Act introduces a structure comprising new, partially elected governorate councils.

58. A Political Parties Act was passed in 2015, according to which any group or association of 150 persons (including 10% women) may apply to become a political party. Today, the existing political parties are not represented in the parliament, where MPs form blocs, most of which plan to become political parties before the next parliamentary elections.

59. Provided that the new act is passed in time, it is foreseen to hold municipal elections in May 2016, regional elections (for the governorate councils) in August 2016 and parliamentary elections in November 2016 (or in 2017). However, these dates have yet to be confirmed.

60. In this country, the “conservative tribal system”, which advocates submission to the leader, is still structurally strong and gives priority to “social organisation” over “political issues”: The political parties are weak, but then they number more than 30. In reality, the only really organised parties are the Islamists and the communists. However, this situation is also a consequence of the history of the country, where these same parties faced repression and prohibition for fifty years until 1989-1990, and minds and mentalities long petrified with fear are slow to make progress towards change. In addition, the trade unions have been active and occupied the political space. There are still around 15 of them and they are strong and rich.

61. Nevertheless, Jordanian society is not inert but needs to be stirred into action. A social and political debate is under way at various levels, especially with a view to the municipal and regional elections in 2016 and the parliamentary elections in 2016 or 2017. Interest is growing even among young people, as can be seen with the NGO “Leaders of Tomorrow”, representatives of which we met.

62. How can an electoral reform provide the basis for strengthening a nation's capacity to become a democratic country? First of all, by guaranteeing free and fair elections and ensuring that political life is actually organised around political parties, which are the pillars of a democracy. At the moment, the existing organisations have neither a declared ideology nor a specific programme, and in many cases no leader. The Islamists are better organised, especially the Muslim Brotherhood of the Islamic Action Front, which was set up in 1992. They seem “open to dialogue” and “moderate”, according to the authorities' assessments, and support “essential” and “necessary” reforms, according to their Secretary General, whom we met. They had 17 MPs in 2003, or 15% of the total, but boycotted the following elections.

63. There are eight blocs in the parliament (it is necessary to have at least 15 MPs to form a “bloc”):

- the National Union bloc, created in 2013, liberal: 16 MPs;
- the Tamkeen bloc, created in 2014, becomes involved according to the issues being debated: 15 MPs;
- the Watan (Homeland) bloc, national party, created in 2013: 20 MPs;

- the Mubadara (Initiative) bloc, created in 2014, formerly independent MPs who work with the government on various issues: 15 MPs;
- the Al-Eslah (Reform) bloc, created in 2013, reformist: 15 MPs;
- the Al-Nahda bloc, reformist, opposition: 17 MPs, reformists and opponents of the government's programme;
- the Islamic Centre bloc, moderate: 16 MPs;
- the Wifaq bloc, moderate Islamic: 16 MPs.

64. The recomposition will require alliances and mergers, especially if blocs are to transform themselves into "parties" and put forward winning lists on the basis of party programmes. For its part, the government will have to support this process, including by providing party funding, which seems to be foreseen in the law.

65. How can a real partnership with the citizens be established? The age of majority is 18 and the age of eligibility for election is 30 (25 in the municipalities). This is a little late given the fact that 62% of the population are under 24 and 70% are under 30.

66. How can the multifaceted regional structure be reorganised when the number of constituencies is reduced by half? This calls for a political will, and it seemed to us that it was to be found in the top echelons of the State and in certain social strata. It presupposes a new attitude and new institutions, and all this is happening with the Elections Act, the Political Parties Act and the laws on decentralisation. It also presupposes a shift in mentalities in the context of a respected cultural and religious identity. The ability to reconcile "identity" and "modernity".

67. The new Elections Act, which, if carried through, calls for the introduction of "open-list proportional representation without vote-splitting" (minimum of three candidates per list) may constitute this moment for an "opening up" and "revival" of Jordanian society. It will, however, be necessary to obtain a strong consensus in support of this liberation of the citizens and the regions. The intention cannot be to bring about a "sharp break" but to foster a gradual "development".

68. All these ambitious and fundamental reforms, if fully implemented, can meet the King's objective of ensuring Jordan's long-term stability.

4. Evaluation of the situation in Jordan

4.1. Regulatory requirements for partner for democracy status

69. As mentioned above, my main task as rapporteur is to assess whether the Jordanian Parliament fulfils the criteria for partner for democracy status.

70. According to Rule 62.2, any request for partner for democracy status must contain the following political commitments:

- an explicit reference to the aspiration of the said 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, rule of law and democracy issues;
- an obligation to inform the Assembly regularly on the state of progress in implementing Council of Europe principles.

71. In their joint letter of 25 July 2013, the Speakers of the two Chambers of the Jordanian Parliament clearly entered into these political commitments required by Rule 62.2.

72. In particular, as far as fundamental values are concerned, they state: “We share the same values as our colleagues members of the Council of Europe in terms of pluralist and gender parity-based democracy; the rule of law; and respect for human rights and fundamental freedoms.”

4.2. Our additional requirements on other important points

73. Other issues were raised by civil society and by NGOs:

- governance and the balance of power still seem to be weighted in favour of the Royal Court. The King holds executive power and, to a large extent, legislative power. But as we said, he is also behind all the reforms of the system and of the society. This parliamentary constitutional monarchy can, however, find other balances, particularly after the deep political reforms under way;
- freedom of expression, association and assembly. We were told that freedom of expression had improved but there was still a great deal to do, notably to reduce the process of self-censorship in the press;
- the justice system is not totally independent either;
- the fight against corruption, which is widespread, should remain a priority;
- torture and other instances of ill-treatment by the police and intelligence services were condemned. These services' actions seem to be insufficiently scrutinised and those responsible benefit from impunity;
- unfair trials of civilians accused of security-related offences;
- the anti-terrorism laws, which allow civilians to be tried by the State Security Court;
- the role played by special courts, such as the State Security Court and military courts, and by religious courts, which deal with family matters;
- civil society complains about not being recognised by the public authorities and has funding difficulties.

5. Our proposals

74. Regarding making use of the experience of the Council of Europe, the request contains the following statement: “Our Parliament always seeks to enrich our experience from that of the others; thus we do have the intention to make use of the Assembly’s experience and as well the expertise of the European Commission for Democracy through Law (Venice Commission) in our institutional and legislative work.”

75. As regards the Council of Europe conventions, the Jordanian Parliament has undertaken 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, particularly those ... related to (human rights, the rule of law and democracy)”.

76. With respect to accountability, the Jordanian Parliament has undertaken to “keep the Assembly regularly informed on the state of progress in implementing the principles of the Council of Europe”.

77. Concerning elections, the Jordanian Parliament has undertaken to “[keep] the electoral process in compliance with international standards for parliamentary elections” and ensure free and fair elections.

78. Our Assembly is very interested in the progress achieved in fields relating to democracy, respect for human rights and the rule of law and would like a regular follow up to the evolution of the situation.

79. The decision to grant, suspend or remove the partner for democracy status is taken by an Assembly resolution, on the basis of a report by the Committee on Political Affairs and Democracy, by an opinion of the Committee on Legal Affairs and Human Rights and an opinion of the Committee on Equality and Non-Discrimination, and if appropriate, any other competent committee of the Assembly. These committees ensure, in the areas related to their specific mandates, the follow up of the progress made in the implementation of the engagements undertaken by the parliaments concerned at the time of their request for the status. The Assembly decides on the number of members of a partner for democracy delegation.

6. Conclusions

80. The question that needs to be asked, therefore, is whether the Jordanian Parliament fulfils, at the present time, the conditions for obtaining the status of partner for democracy.
81. It should be noted that this is not about an application from Jordan for full membership of the Council of Europe. Consequently, the criteria are not the same and neither are the requirements to be met, because the situations differ fundamentally, which must be borne in mind.
82. For this Middle Eastern country, which is small but pivotal in the context of a destabilised region in a state of war, the desire for fundamental reforms embarked upon by this courageous King is exemplary.
83. It is a conservative tribal system that the reforms intend to modernise. They are being called for by part of the population and many of them have already been launched. They are ambitious and have been described in the report. Their aim is to ensure Jordan's long-term democratisation and stability.
84. However, we need to understand that this process starts from a low base and that this is a complex society. It is an evolutionary and necessarily continuous process, and we must provide assistance with patience, understanding and determination. Jordan is on the right path.
85. The King and the parliament have entered into the commitments required by the Council of Europe in support of Jordan's application so that the reforms to be continued bring Jordan closer to the values of our institution and to democratic standards.
86. The role of a rapporteur in this instance is to analyse the situation and assess responsibly and objectively whether the conditions render the country capable of pressing ahead with the commitments made. It is also to ascertain the determination of the King and the parliament in this regard and to scrutinise the decisions taken and the measures implemented to achieve these objectives.
87. Your rapporteur wishes to express her full confidence in this country and its brave people, its representatives and its King. They deserve our respect and our support.
88. The rapporteur therefore requests the Assembly to grant the Parliament of Jordan partner for democracy status and to continue to monitor this process with both rigour and sympathetic consideration.

Appendix I – Letter from the Jordanian Parliament to Mr Jean-Claude Mignon, President of the Parliamentary Assembly, dated 27 July 2013

Excellency,

The Sub-Committee on the Middle East of the Committee on Political Affairs and Democracy of the Parliamentary Assembly of the Council of Europe paid a visit to Jordan on 6-7 April 2013. The newly created “Status of Partner for Democracy” was raised during the said visit and as well in the letter dated 19 April 2013 we received after the visit.

On 16 May 2013 we wrote to the Sub-Committee on the Middle East expressing our interest in being granted this Status. In reply, we received a letter dated 11 June 2013 to send a small delegation to Strasbourg to discuss – inter alia – the matter in detail. We sent a delegation in the last week of June 2013.

In the light of the various correspondence exchanged and the information brought back by our said delegation, the House of Parliament (both of its Chambers: the Senate and the House of Representatives) of the Hashemite Kingdom of Jordan has the honour to hereby request to be granted the “Status of Partner for Democracy” by the Parliamentary Assembly of the Council of Europe.

We are submitting this request for said Status in the light of the following facts and elements as provided for in the Assembly’s Rules of Procedure:

- Jordan’s Parliament is committed to keeping the electoral process in compliance with international standards for parliamentary elections.
- We have been and will continue to be supporters of the balanced participation of women and men in public and political life.
- We share the same values of our colleagues members of the Council of Europe in terms of pluralist and gender parity-based democracy; the rule of law; and the respect for human rights and fundamental freedoms. In this connection we will 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 particularly those of them related to these issues.
- We will continue our endeavours to raise the awareness of public authorities and civil society as regards the abolishing of the death penalty and the introduction of a moratorium on executions. In this context, it is worth mentioning that Jordan hasn’t witnessed any case of capital punishment since 2006.
- Our Parliament always seeks to enrich our experience from that of the others; thus we do have the intention to make use of the Assembly’s experience and as well the expertise of the European Commission for Democracy through Law (Venice Commission) in our institutional and legislative work.
- It is our intention to keep the Assembly regularly informed of the state of progress in implementing the principles of the Council of Europe.

Hoping that this request of ours will meet your esteemed Assembly’s approval, please accept our highest esteem and consideration.

Yours Truly,

Signed:

Taher Masri Eng. Saad Hayel Srour

President of the Senate Speaker of the House of Representatives