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Plenary sitting

13 March 2019

JOINT MOTION FOR A RESOLUTION

with request for inclusion in the agenda for the debate on cases of breaches of human rights, democracy and the rule of law

pursuant to Rules 135 of the Rules of Procedure

on the *Human rights situation in Kazakhstan*

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on behalf of the S&D Group

European Parliament resolution on the Human rights situation in Kazakhstan

The European parliament,

- having regard to its resolution of 12 December 2017 on the draft Council decision on the conclusion, on behalf of the Union, of the Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part and to its resolution of 10 March 2016 on Freedom of Expression in Kazakhstan;
 - having regard to European Parliament legislative resolution of 12 December 2017 on the draft Council decision on the conclusion, on behalf of the Union, of the Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part;
 - having regard to its previous resolutions on Kazakhstan, including those of 10 March 2016, 18 April 2013, 15 March 2012, and of 17 September 2009 on the case of Yevgeny Zhovtis in Kazakhstan;
 - having regard to the Enhanced Partnership and Cooperation Agreement (EPCA) signed in Astana on 21 December 2015;
 - having regard to its resolutions of 15 December 2011 on the state of implementation of the EU Strategy for Central Asia, and of 13 April 2016 on implementation and review of the EU-Central Asia Strategy;
 - having regard to the Council conclusions of 22 June 2015 and 19 June 2017 on the EU Strategy for Central Asia;
 - having regard to annual EU-Kazakhstan Human Rights Dialogues;
 - having regard to Rules 135(5) of its Rules of Procedure.
- A.** Whereas on 21 December 2015, the European Union and Kazakhstan signed an Enhanced Partnership and Cooperation Agreement (PCA) aimed at providing a broad framework for reinforced political dialogue, cooperation in home and justice affairs and in many other areas; whereas this agreement puts a strong emphasis on democracy and the rule of law, human rights and fundamental freedoms, principles of market economy and sustainable development as well as civil society cooperation, including involvement of civil society in the public-policy making;
- B.** Whereas Kazakhstan joined the European Commission for Democracy through Law (Venice Commission) in March 2012;
- C.** Whereas the government of Kazakhstan appears not to have taken any steps to revise

the broadly formulated provisions of the Criminal Code's Article 174, which bans 'inciting' social, national or other discord, and Article 274, which prohibits 'spreading information that is known to be false,' but continues to use those provisions as basis to charge and imprison civil society activists and journalists;

- D.** Whereas the number of political prisoners held in Kazakhstan has increased; whereas in 2016, peaceful rallies against changes to the Land Code took place in different regions of Kazakhstan, resulting in the detention of more than 1,000 participants (including 55 journalists), of which more than 30 people were subsequently arrested; whereas the UN Working Group on Arbitrary Detention acknowledged the arbitrary nature of detention, lack of fair trial and gross violations of some cases; whereas civil society activist Maks Bokayev is serving prison term for his legitimate participation in this peaceful mass rally;
- E.** Whereas the government of Kazakhstan cooperated with the high-level International Labor Organization (ILO) mission, and committed to implement a road map to address ILO concerns, but has not taken meaningful steps to implement provisions in the roadmap, like, amongst others, amending the Trade Union law, nor has implemented previous recommendations issued by the ILO Committee on the Application of Standards to review the Trade Union law and the Labour Code and to take all necessary measures to ensure that the Confederation of Independent Trade Unions of Kazakhstan (CITUK) and its affiliates are able to fully exercise their trade union rights;
- F.** Whereas trade union activists Nurbek Kushakbaev and Amin Eleusinov were released on parole in May 2018, but remain banned from trade union activities; whereas activist Larisa Kharkova faces similar restrictions, as well as continued judicial harassment, and Erlan Baltabay, another trade union activist from Shymkent, is under criminal investigation on questionable charges;
- G.** Whereas new NGO legislation tightened accounting rules for civil society; whereas human rights organisations are subjected to tax pressure in connection with grants received from international donors;
- H.** Whereas freedom of religion and belief has been severely undermined; whereas religious beliefs are used by the authorities as a pretext for arbitrary detention; whereas Saken Tulbayev was incarcerated after being accused of 'inciting religious hatred';
- I.** Whereas on 13 March 2018 the authorities' banned the peaceful opposition movement Democratic Choice of Kazakhstan (DCK) and more than 500 persons showing different forms of support for DCK; whereas civil activists Almat Zhumagulov and poet Kenzhebek Abishev have become victims of the Kazakhstani authorities' fight against DCK and have been sentenced respectively to 8 and 7 years of imprisonment; whereas Ablovas Dzhumayev was sentenced to 3 years' jail and Aset Abishev was sentenced to 4 years' jail for criticising the authorities online and supporting the DCK;
- J.** Whereas despite being protected in Kazakhstan's constitution, the right to freedom of association remained largely restricted in the country, that the Law on Public Association continues to require all public associations to register with the Ministry of Justice and whereas December 2015 amendments to the Law imposed burdensome reporting obligations and state regulation of funding through a government-appointed body, whereas people engaging in activities in unregistered organisations may face

administrative and criminal legal sanctions;

- K.** Whereas society and human rights activists continue to face reprisals and restrictions in their activities, including human rights activist Elena Semenova, placed under travel ban for “dissemination of knowingly false information” and Shymkent-based activist Ardak Ashim, who faced charges for “inciting discord” for her critical social media posts and subjected to forced psychiatric detention; whereas on 10 May 2018 during the visit of European Parliament delegation to Kazakhstan, the police resorted to the use of excessive force against peaceful protesters who were trying to meet with Members of the European Parliament; whereas more than 150 people were detained by police and more than 30 protesters were placed under administrative arrests; whereas on 17-18 September 2018 the Kazakhstani police detained several activists who wanted to meet with Members of European Parliament delegation;
- L.** Whereas new restrictive media and information law amendments entered into force in April 2018, access to information on social media continue to be blocked, and Forbes Kazakhstan and Ratel.kz face a criminal investigation opened against them on “disseminating knowingly false information”; whereas the use of social networks is controlled and restricted by the authorities; whereas bloggers and social network users are sentenced to imprisonment, among them Ruslan Ginatullin, Igor Chupina and Igor Sychev; whereas blogger Muratbek Tungishbayev was extradited from Kyrgyzstan to Kazakhstan with gross violations of the law and was subjected to ill-treatment in Kazakhstan;
- M.** Whereas impunity for torture, and ill-treatment of prisoners and suspects remains the norm, despite government commitment to zero-tolerance for torture, and authorities have failed to credibly investigate the torture allegations during the extended oil sector labor strike in Zhanaozen in 2011;
- N.** Whereas the Almaty Prosecutor’s Office found no evidence on credible allegations of torture against businessman Iskander Yerimbetov, sentenced to seven years’ imprisonment on charges of large-scale fraud in October 2018, and whereas the UN Working Group on Arbitrary Detention concluded in 2018 that his arrest and detention is arbitrary, called for his release and expressed concern at the allegation of torture during his pre-trial detention;
- O.** Whereas high levels of violence against women and traditional patriarchal norms and stereotypes pose a great obstacle to gender equality in Kazakhstan; whereas NGOs reported that violence against women was under-reported and that there was a low rate of prosecution of cases of violence against women as well as in sexual harassment cases;
- P.** Whereas, LGBTI persons in Kazakhstan face legal challenges and discrimination; whereas both male and female same-sex sexual relations are legal in Kazakhstan, but same-sex couples and households headed by same-sex couples are not eligible for the same legal protections available to opposite-sex married couples;
- Q.** Whereas Kazakhstan ranks Nr. 143 out of 167 on the World Democracy Index, defining the country as an authoritarian regime.

1. Urges Kazakhstan to abide by its international obligations and respect human rights and fundamental freedoms; calls on the Kazakhstan's authorities to put an end to human rights abuses and any form of political repression in accordance with the principles and articles 1, 4, 5 and 235 mentioned in the EPCA;
2. Stresses that the enhancement of political, economic and cultural relations between the EU and Kazakhstan must be based on shared commitments to universal values, in particular, to democracy, the rule of law, good governance and respect for human rights; expects the EPCA to promote a strengthening of the rule of law and democratic participation by all citizens, a more diverse political landscape, a better functioning, independent and impartial judiciary, increased transparency and accountability of the government and improvements to the labour laws;
3. Welcomes the release of some political prisoners, namely: Vladimir Kozlov, Gyuzyal Baydalinova, Seytkazy Matayev, Edige Batyrov, Yerzhan Orazalinov, Sayat Ibrayev, Aset Matayev, Zinaida Mukhortova, Talgat Ayan and oil workers of Zhanaozen, as well as trade unionists Amin Eleusinov and Nurbek Kushakbayev, who nonetheless remain under restriction of freedom; welcomes the decision to release Ardak Ashim from the psychiatric clinic; condemns such a brutal measure as punitive psychiatry and calls for the withdrawal of compulsory outpatient psychiatric treatment against Ashim, and of all compulsory medical measures against activist Natalia Ulasik;
4. Calls for the full rehabilitation and immediate release of all activists and political prisoners currently in jail, namely Mukhtar Dzhakishiev, Maks Bokayev, Iskander Yerimbetov, Aron Atabek, Sanat Bukenov and Makhambet Abzhan, Saken Tulbayev, Max Bokayev as well as for the lifting of restrictions placed on the movements on others;
5. Urges the government of Kazakhstan to amend Criminal Code article 174 on "inciting social, national, clan, racial, class, or religious discord" by narrowing it to prevent arbitrary prosecutions that violate human rights norms, the Criminal Code Article 274, which broadly prohibits 'spreading information that is known to be false,' and release activists, journalists, and other critics currently detained under those charges;
6. Urges the government of Kazakhstan to end the crackdown on independent trade unions and lift restrictions on their activities, cease politically-motivated criminal prosecutions of trade union leaders, quash the convictions of Larissa Kharkova, Nurbek Kushakbaev, and Amin Eleusinov, and allow them to resume their trade union activities without interference or harassment, and address our concerns regarding the criminal investigation against Erlan Baltabay, and revise the 2014 Trade Union Law and 2015 Labor Code to bring them into compliance with International Labour Organization (ILO) standards;

7. Urges the government of Kazakhstan to implement the recommendations of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, review the Law on Public Association and the condition of access to funding;
8. Urges the government of Kazakhstan to end all forms of arbitrary detention, reprisals and harassment against human rights activists and civil society organisations and political opposition movements, including against actual or perceived supporters of DVK;
9. Urges the government of Kazakhstan to review the amendments to the media and information law which entered into force this year; place a moratorium on criminal libel, take all necessary steps to abolish the relevant articles in the new Criminal Code relating to criminal libel, and establish a cap on civil defamation awards and end the harassment and reprisals against journalists critical of the government and end blocking access to information on-line and off-line;
10. Requests to implement the communications from the UN Human Rights Committee, the UN Working Group on Arbitrary Detention and the United Nations Special Rapporteur on Torture; calls for protection for victims of torture, for them to be provided with proper medical care and for proper investigation into incidents of torture; requests an end to abuse of its Interpol's extradition procedures and a stop to the harassment of political opposition; urges the government of Kazakhstan to comply to his pledges to zero-tolerance for torture and ensure that allegations of torture, including those made in the context of the Zhanaozen events, are fully investigated; urges the government of Kazakhstan to review the case of Iskander Yerimbetov in light of the conclusions of the UN Working Group on Arbitrary Detention and ensure that allegations of torture are duly investigated;
11. Notes the multi-ethnic and multi-religious character of Kazakhstan and stresses the need for a protection of minorities and their rights, in particular with regard to the use of languages, freedom of religion or belief, non-discrimination and equal opportunities; welcomes the peaceful co-existence of different communities in Kazakhstan; urges Kazakhstan to stop persecuting people for their legitimate exercise of freedom of conscience and religion; demands the immediate release of persons convicted for holding a belief;
12. Calls on the authorities to combat all forms of violence against women; calls, furthermore, to ensure effective and accessible reporting channels and protection measures that are sensitive to victims' needs and confidentiality; urges for an end to be put to impunity and for appropriate criminal sanctions against perpetrators to be ensured;
13. Insists that the rights of the LGBTI community are fully respected; Calls on the government of Kazakhstan to guarantee that the LGBTI community will not face any discrimination;
14. Calls on Kazakhstan to fully implement the recommendations from the OSCE/ODIHR international observation mission to the 20 March 2016 elections according to which the

country still has a considerable way to go in meeting its OSCE commitments for democratic elections; urges the Kazakh authorities to avoid restricting the activity of independent candidates; urges, furthermore, that citizens' electoral rights be respected;

15. Reiterates the importance of the EU and OSCE cooperation in improving good practices of democratic governance in the country, particularly in the field of human rights and rule of law, thus urging the authorities of Kazakhstan to expand the OSCE mandate in the country, in particular to restore the mandate of the OSCE Centre in Astana, as an important condition for further cooperation between the EU and Kazakhstan;
16. Calls on the EU, and in particular on the European External Action Service, to monitor closely developments in Kazakhstan, to raise concerns with the Kazakh authorities where necessary, to offer assistance, and to report regularly to Parliament; calls on the EU Delegation in Astana to continue to play an active role in monitoring the situation and to raise the issue of freedom of expression in all relevant bilateral meetings with Kazakhstan; Urges the EEAS to proactively engage in trial observation missions, in order to monitor politically sensitive trials and politically motivated prosecutions and ensure that the right to a fair trial is equally granted;
17. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the EU Special Representative for Central Asia, the governments and parliaments of the Member States, and the government and the parliament of Kazakhstan.