

EIAS Briefing Seminar

“Kazakhstan’s Referendum on Constitutional Amendments – The Future of EU-Kazakhstan Relations”

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REPORT

On 14 June 2022, the European Institute for Asian Studies (EIAS) welcomed the Deputy Chief of Mission of Kazakhstan to the EU, Mr. Timur Sultangozhin, and the Head of Division for Central Asia of the European External Action Service (EEAS), Mr. Dietmar Krissler. The roundtable discussion explored key issues in EU-Kazakhstan relations, following the constitutional referendum of 5 June 2022. Opening remarks were presented by Lin Goethals, EIAS Director, before giving the floor to Mr. Sultangozhin and Mr. Krissler.

Why was the referendum significant?

Since President Tokayev took office in 2019, 4 packages of political reforms have been proposed, adopted, and implemented, preparing the ground for further policy reform. This year, as a response to Kazakhstan’s January 2022 protests, the President has launched an agenda for political and social modernization in the country. Mr. Sultangozhin emphasized the significance of the referendum, as it was the first referendum that took place since 1995, and the first constitutional one in Kazakhstan’s history, something which has not been done before in the region of Central Asia.

The scale of reforms can be observed by the number of proposed amendments, propounding to change one third of the Constitution and adding 20 new legal acts. As part of Tokayev’s “New Kazakhstan” plan, the changes gained significant support from the population, with 77% voting in favor of the constitutional reforms. The referendum was monitored by 200 international observers and political experts, including the OSCE/ODIHR.

The referendum presented key reforms for Kazakhstan, including:

- The establishment of a Constitutional Court, to which citizens can appeal directly,
- The immunity to the Ombudsperson for Human Rights in order to guarantee independence and non-accountability to any other state bodies and officials when exercising their powers,
- The removal of the death penalty in practice and in law,
- A simplification of the procedures for registering political parties, with the minimum number of citizens’ initiative groups for creating a party lowered to 5000 people to expand the political spectrum, spur the political debate and oversee the government,
- A mixed electoral system for the lower house of Parliament,
- A ban at the constitutional level for close relatives of the President on holding managerial positions in state structures,
- A ban on the membership of the Head of State in political parties for the period of his presidency,

During Tokayev’s administration efforts have been made to make the government more accountable and reduce the President’s powers. Kazakhstan can be seen as a pioneer in the region as regards reforming its political system. The changes initiated by the referendum illustrate the will of the

President to build the Second Republic through “a change in the state structure, a transition to a new political model” as the Deputy Chief of Mission explained. He added that the adoption of the reforms in the referendum is “the final transition from a super-Presidential to a Presidential republic with a strong Parliament” to ensure the interests of the people of Kazakhstan.

What are the views of the EU on the reforms?

Kazakhstan is an important partner of the EU. Its geopolitical position, energy supplies, and role as a promoter of regional cooperation in a potentially unstable Central Asian region are each strategic interests of the EU. Thus, although Russia and China remain important economic partners, the EU has offered opportunities to advance cooperation, especially since the EPCA’s entering into force in 2020. Since then, the EU has been offering support to Kazakhstan in its further steps towards democratisation, in implementing the rule of law, good governance, and quick recovery from the pandemic. The EU also aims to assist the development of the business and investment climate in Kazakhstan, notably by diversifying its economy, supporting the transition to a green economy, addressing climate change and advancing green technology. As Mr. Krissler highlighted, meetings at the highest level like the EU-Kazakhstan Cooperation Council on 20 June 2022 are a valuable opportunity to share the EU’s main strategic objectives and reiterate its engagement with Kazakhstan.

Mr. Sultangozhin observed that the relationship between the EU and Kazakhstan is now stronger than ever. The EPCA allowed for stronger cooperation in more than 29 different areas, demonstrating Kazakhstan’s achievements since independence. More and more “avenues for cooperation” are developing between the EU and Kazakhstan, such as the transition towards green energy, or in preserving human rights. By proposing reforms to ensure law enforcement and an efficient judiciary system, the "New Kazakhstan" is not shying away from questions on democracy, and opening the door to work more closely with the EU.

According to Mr. Krissler, it is critical to develop “connectivity” between the EU and Central Asia. On the political and economic side, the EU wants to support Kazakhstan to strengthen and drive forward this political and constitutional reform agenda, including the outcomes of the 5 June 2022 referendum. The EU is Kazakhstan’s first investment and trading partner and critical raw materials (CRM) play an important role in their trade relations. Furthermore, the EU is keen to maintain dialogue on regional developments, especially on security and stability. This is highly important in the current geopolitical context, as Kazakhstan faces different geopolitical challenges including its relations with Russia in the context of the war in Ukraine and mitigating the impact of the sanctions imposed on Russia, as well as its role in the Collective Security Treaty Organization (CSTO), and its relations with Afghanistan and Iran. The EU closely monitors what is happening in Kazakhstan, attempts to be understanding of its geopolitical and historical situation, maintaining a continued strategic interest in Kazakhstan.

The referendum provided a confidence vote for President Tokayev, it marks the end of the Nazerbayev era and the renewal of Kazakhstan’s state, while there will be a need for continued reform. Nevertheless, some challenges still need to be tackled: whether there is a link between the protests of January and the low turnout in Amalty; why the referendum was based on a binary "Yes/No" choice rather than with intermediate choices; and whether the referendum result will be successfully implemented through legislation. The EU also welcomes the investigation into the January 2022 events. The President is anticipated to retain most of his powers even after the changes are implemented but the reforms are heading in the right direction as the changes proposed and the attempt to mobilize the citizens are commendable. In the current geopolitical context, the EU welcomes this referendum but remains attentive to its implementation on the ground. Next year will mark the celebrations for 30 years of EU-Kazakhstan relations.

How can the referendum be the starting point of a further and sincere engagement with civil society?

Addressing the low voter turnout in Almaty, Mr. Sultangozhin affirmed that, while the city is one of the most significant economic centers of Kazakhstan, it is a rebellious, free spirit city. From his perspective, the low turnout was in line with Almaty's culture.

Regarding the practical implementation of the reforms, the Parliament would be expected to be busy in the next 6 months adopting the resolutions included in the referendum. Kazakhstan wants to work with European policymakers to better understand how laws are produced and implemented and learn from best practices.

The "Yes or No" question may be a narrow one, but a referendum is the only way to direct democracy. While it may not be ideal to have such limited voting options for the referendum, having successfully held a referendum in itself can be considered a major step forward for Kazakhstan. The government awaits the recommendations made by international elections committees (including the OSCE/ODIHR report) on how to make referendums more effective in the future. The reforms are a work in progress, with changes to the electoral code coming up, media laws to be changed and electoral transparency to be increased. As mentioned before, since 2019, 4 packages of political reforms have already been implemented. They included, for example, a lowering of the registration barrier for establishing political parties from 50,000 to 20,000 (December 2019) - the referendum now lowering this to 5000 - and the legal formalization of the institutions of online petitions (January 2021). Each reform has been building on the previous one, and while progress may be incremental, democratization in Kazakhstan is still coming along.

Q&A Session

The discussion then moved on to a Q&A session with the audience, addressing questions on geopolitics, particularly Kazakhstan's position towards Russia and the recent events in Ukraine.

According to Mr. Sultangozhin, Kazakhstan's relations with Russia and its neighbours are constantly changing and have always been "dynamic". On the one hand, the bilateral sanctions on Russia have had tremendous effects on Nur-Sultan's economy, and finding new avenues for cooperation with different actors, especially on transit, transportation, and logistics, is essential, as the sanctions have hampered the ability to deliver and receive certain goods. On the other hand, Kazakhstan is one of the largest landlocked countries in the world, posing a major challenge for international trade. Kazakhstan is therefore expanding and improving its "Middle Corridor" transportation roads, in order to provide alternative trade routes through Georgia and Turkey. Although it has adjusted to the international political landscape by supporting the sovereignty and territorial integrity of Ukraine as a friendly nation while having sent humanitarian aid, Russia and Kazakhstan have deep historical and cultural ties, as well as an important strategic border of 70.000km. This includes a high trade volume, making further actions difficult.

EU-Kazakhstan relations have now gained a new aspect given the new political situation. The EU respects and acknowledges Kazakhstan's membership in the CSTO and the Shanghai Cooperation Organization (SCO) and recognizes the context of Russia-Kazakhstan relations. Yet Kazakhstan can be an important regional security actor, by playing a positive role in the region in times of conflict. For example, Mr. Krissler mentioned the concerns the international community had about Afghanistan's political turmoil and the resulting instability spreading in the region, including Central Asia (through drugs, weapons, and human trafficking). This situation proved to be a positive example of Kazakhstan's engagement in restoring stability in the region. The Special Representatives in Central Asia for Afghanistan also often hold meetings with the EU Special Envoys for Central Asia and Afghanistan to strengthen coordination between them.

Kazakhstan's position in the Ukraine war will not be “instrumented” by the EU. The EU is taking special care not to damage the Kazakh economy in its response to the war in Ukraine. While conflict and sanctions continue, ongoing EU discussions with Kazakhstan and their embassy allow for cooperation on concrete topics such as on the transport of crude oil, the ownership of pipelines through Russian territories, the loading of ships towards Europe, and other pressing issues. For example, as the sanctions are not directed at third countries, the EU made sure the 6th package of sanctions will not impact Kazakh oil or its transportation. As the reassurance and dialogue between the two countries show, there is still a way for cooperation. There is an understanding in the EU of the limited margins to maneuver and the political pressure put on Central Asian countries.

Which new opportunities in the field of logistics, transportation, and energy connectivity between Kazakhstan and the EU emerge and how can they be addressed?

The issue of landlockedness is a major challenge for Nur-Sultan. Kazakhstan massively relies on investments in infrastructure, notably rail, road and (dry) ports, to act as logistical hubs and a way to open up to global markets. This includes important investments in the port of Aktau, or the development of new railway roads on the Middle Corridor linking Europe to China, that can transport goods in as little as 14 days, instead of the 55 by sea shipping. Looking forward, it will be important to standardize customs, logistics, and enhance cooperation between firms in order to overcome the disadvantage of being landlocked. Domestic and international actors need to tackle the lack of infrastructure, the lack of transport ships and vessels, and increase the flow of goods transported. These issues are currently looked at in partnership with the European Bank for Reconstruction and Development (EBRD), illustrating clear future opportunities for further connectivity between the EU and Kazakhstan. Mr. Krissler stated that the EBRD pays close attention to transport connections between Europe and Central Asia through the Middle Corridor, currently developing a study on alternative routes and railways.

The question of energy transport remains nonetheless a challenge. The EU needs to mitigate its dependence on Russian fossil fuels and promote diversification of energy supply sources, as well as better energy efficiency. The European Commission's new flagship initiative “Repower EU” allows to speed up the energy transition due to the current geopolitical context. Thus, how can a country like Kazakhstan be useful in this context? According to Mr. Krissler, it is by finding cooperation under the green deal and finding long-term solutions in the transition toward green energy and decarbonization, instead of focusing on oil and promoting trade with its current energy supplies.

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