

## **KAZAKHSTAN/OSCE: A CLOSELY WATCHED PRESIDENCY**

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On 30 November 2007, the annual OSCE Ministerial Council meeting held in Madrid took the historic decision to entrust its presidency for the year 2010 to Kazakhstan, thereby lending its authority to the emergence of that country onto the international as well as regional stage. Positioned as a strategic pivot at the heart of the vast area of Central Asia and the Caspian Sea littoral, Kazakhstan is a country rich in energy resources. It constitutes a major and potential bridge for commerce and communications between Europe and Asia. Moreover, it is situated at the heart of a region whose stability and security are two indispensable conditions for the energy interests of Western countries, starting with the United States and the European Union, but also for the interests of Russia, China and the countries of the South Asian subcontinent (India and Pakistan).

Notwithstanding its historic character, this decision was highly controversial. Kazakhstan is the first of the former USSR republics, the first member of the CIS and the first Central Asian country to assume such a responsibility. Its one-year appointment to the revolving presidency of this organisation raises many questions.

Many observers doubt the ability and the will of its present rulers – who are not known to be fervent democrats or ardent advocates of the cause of human rights – to fully assume the responsibilities involved in presiding over an organisation which deals with a broad array of questions linked not only with security and cooperation but also with human rights, the rights of national minorities and democratisation.

### **1. The special circumstances of the appointment**

The OSCE Ministerial Council meeting in Madrid opened in the context of Russian-American rivalry. Russia and the United States both approached this meeting with diametrically opposed points of view about a certain number of questions. For the most part this had to do with the announced desire of Moscow to restrict the OSCE and its affiliated institutions to the problems of security and to relegate to the second level, i.e., to bury without fanfare, the problems of democratisation, defence of human rights and media freedom.

Profound differences clearly appeared during the discussion of the Russian proposal – supported by Kazakhstan and five other member states of the Community of Independent States (CIS) – to restrict to 50 the number of election observers of the *Organization for Democratic Institutions and Human Rights (ODIHR)* and to place the teams of observers under the supervision of the states being monitored. These differences were the consequence

of two recent events. First, these had to do with a report published by the ODIHR following the Kazakh elections of 18 August 2007. That report noted that Kazakhstan had made progress with its electoral process but that a certain number of commitments made to the OSCE had not been kept and the standards of the Council of Europe had not been respected.<sup>1</sup> Second, there was the decision taken by the OSCE to abandon its mission of observing the elections in Russia. In the context of the legislative elections of 2 December 2007, the ODIHR was supposed to deploy its teams but finally it was obliged to give up these plans due to what it called the '*insurmountable difficulties*' it encountered obtaining visas for its teams of observers.

Finally, after numerous heated exchanges and barbed remarks between the American Under-Secretary of State for Political Affairs, Nicholas Burns, and Sergei Lavrov, Russian Minister of Foreign Affairs, a compromise was found and the president at the time of the OSCE, Miguel Angel Moratinos, Spanish Minister of Foreign Relations, concluded that the consensus obtained<sup>2</sup> was a sign of stability for the OSCE. However, the underhanded tricks and squabbles which predominated during a large part of the meeting in Madrid reinforced the perception that the most influential member states of the OSCE were following radically different paths and held contrary objectives.

## **2. The smoke screen of a cleverly orchestrated communication**

The Kazakh authorities have never concealed how important they view the fact of being the very first of the former Soviet republics to assume the presidency of this pan-European organisation which has 56 member states. For them '*the election of Kazakhstan to the presidency of the OSCE and the processes which follow from that will have a beneficial effect on the overall modernisation of the country and the region, on the renewal of the OSCE and serve the good of all its member states.*'<sup>3</sup>

Success at Madrid came after an initial candidacy in 2002 failed. For the Kazakh authorities, who are especially solicitous of their image *urbi et orbi*, it constitutes a point of pride in communication campaigns focused on recognition of the growing political and economic importance of their country on regional and international levels. Nonetheless, these cleverly orchestrated communication campaigns raise many questions and give rise to quite a few suspicions and doubts.

The mysteries of the first of the campaign led to *Kazakhgate*<sup>4</sup> and the second involved the *Center for Strategic and International Studies (CSIS)*<sup>5</sup>.

### **a) Kazakhgate, a story without end**

The affair goes back to 2003, when the American authorities arrested James Giffen in Kennedy Airport just as he was preparing to fly to Paris. As the holder of a Kazakh diplomatic passport,<sup>6</sup> this American citizen and businessman, special advisor to President Nursultan Nazarbayev, was investigated for violating American anti-corruption laws.

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<sup>1</sup> [http://www.osce.org/documents/odihr/2007/08/25960\\_en.pdf](http://www.osce.org/documents/odihr/2007/08/25960_en.pdf)

<sup>2</sup> Greece was entrusted with the presidency in 2009 following Finland, and Lithuania will come after Kazakhstan in 2011.

<sup>3</sup> [http://www.osce.org/documents/mcs/2007/12/28637\\_fr.pdf](http://www.osce.org/documents/mcs/2007/12/28637_fr.pdf)

<sup>4</sup> A neologism which brings to mind the *Watergate* scandal that forced American President Richard Nixon to resign on 9 August 1974. Watergate was the name of the hotel complex where five agents in the pay of the White House were caught in June 1972 breaking into the offices of the Democratic Party's National Committee for purposes of espionage.

<sup>5</sup> <http://csis.org/>

<sup>6</sup> This is all the more surprising given that Kazakh law forbids dual nationality.

He was suspected of having served as an intermediary in an attempt to pay bribes to Kazakh authorities by American companies<sup>7</sup> wishing to open doors for themselves to the formidable Kazakh energy market. The amounts transferred - 84 million dollars presently blocked at the request of the American authorities – were deposited in Swiss bank accounts. James Giffen was also accused of having, on the way, deducted a portion of these funds for his personal use.

The American Department of Justice and the World Bank agreed on a plan to get out the crisis. The idea was to release the 84 million dollars to finance a programme to combat poverty in Kazakhstan which would be run by the *Eurasia Foundation*. Paul Wolfowitz<sup>8</sup>, who was then director of the World Bank, has admitted that he approved this project at the request of high officials of this international organisation. And according to persons close to the affair, he personally discussed this plan with President Nursultan Nazarbayev in October 2006 during a party at Blair House, the residence for diplomatic receptions located opposite the White House.

In the beginning of May 2008, a grain of sand blocked the implementation of this plan. The Department of Justice suspended its application on grounds that the *Eurasia Foundation* has on its administrative board persons who are financially linked through lobbying work to President Nazarbayev and to his government so that the foundation does not offer the required guaranties of independence.

According to the American Department of Justice, which updates the lists of American companies officially employed as lobbyists by foreign governments, there are presently two American companies working for the Kazakh authorities.<sup>9</sup>

The first such company is *APCO Worldwide Inc.*, whose president, Margery Kraus, is a member of the administrative board of the *Eurasia Foundation*<sup>10</sup>, precisely the foundation named to receive and manage the 84 million dollars. For her part, the Vice President of *APCO Worldwide Inc.*, Elizabeth Jones, the former Ambassador of the United States to Kazakhstan, is a member of the administrative board of the *Eurasia Foundation of Central Asia*<sup>11</sup>, a Central Asian affiliate of the *Eurasia Foundation*. Registration case n°4561<sup>12</sup>, filed in October 2007, states that this company intended to conduct lobbying operations and perform public relations on behalf of the government of Kazakhstan.

One can understand somewhat better the hesitancy of the Department of Justice. Given the revelations posted on the internet site of *ABC News*<sup>13</sup> on 29 September 2008, it could be that the decision to suspend the programme was especially well inspired. Indeed, the *ABC News* site reveals that certain of the analytic papers produced by the *Central Asia - Caucasus Initiative (CACI)* at John Hopkins University were financed via *APCO Worldwide* by the Kazakh authorities. On 31 January 2008, *APCO Worldwide Inc.*, acting on behalf of the

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<sup>7</sup> *Mobil Oil Co.*, *Amoco* and *Texaco* are the three firms for whom James Giffen played the role of 'facilitator.' They were later respectively absorbed by *Exxon Mobil*, *BP* and *Chevron*, and this is what spared them legal prosecution until present.

<sup>8</sup> The former number two in the Pentagon under Donald Rumsfeld, Paul Wolfowitz was widely talked about in the news due to various scandals which studded his brief tenure at the head of the World Bank. He is now *visiting scholar* at the *American Enterprise Institute (AEI)* (<http://www.aei.org/scholars/scholarID.126.filter.all/scholar.asp>), a Washington think tank of Neoconservatives. Dick Cheney, the former U.S. Vice President, whose name figures among former students of this Institute (<http://www.sourcewatch.org/index.php?title=AEI>) as well as his spouse, Lynne, are presently *senior fellows* (<http://www.aei.org/scholars/scholarID.10.filter.all/scholar.asp>) .

<sup>9</sup> <http://www.usdoj.gov/criminal/fara/links/search.html>

<sup>10</sup> <http://www.eurasia.org/about/trustees.aspx>

<sup>11</sup> <http://www.efcentralasia.org/en/index.php?option=content&task=view&id=46&Itemid=22>

<sup>12</sup> <http://www.fara.gov/docs/4561-Exhibit-AB-20071015-3.pdf>

<sup>13</sup> <http://www.abcnews.go.com/Blotter/story?id=5908348&page=1>

Embassy of Kazakhstan, made a transfer of 52,300 dollars to Johns Hopkins University for two reports entitled *'The new middle class in Kazakhstan'*<sup>14</sup> and *'Parliament and Political Parties of Kazakhstan'*,<sup>15</sup> published respectively in March and April 2008 on the site of CACI. Elizabeth Jones has admitted that a third report published in July of the same year, *'Kazakhstan and the new Eurasian geopolitical situation'*<sup>16</sup> was also financed by Kazakh authorities. For his part, the director of CACI, S. Frederick Starr, has admitted he was informed about the lobbying activities of *APCO Worldwide Inc.* on behalf of Kazakhstan but he clears his name by arguing that he never dealt directly with the Kazakh authorities.

The second of these companies is an international provider of legal services, *DLA Piper*<sup>17</sup> which employs 3,700 lawyers in 65 offices situated in 25 countries. It has no ties to the *Eurasia Foundation* or to *Kazakhgate*. However, it is interesting to see how it conceives of its lobbying work for Kazakhstan. Founded in July 2001, it is registered as number 3712<sup>18</sup> with the Department of Justice and it describes its mission as follows: *'To play a part during hearings of the Sub-Committee on International Relations of the House of Representatives dealing with topics of human rights and development of democracy in the former Soviet republics of Central Asia.'* The objective of such actions is *'to ensure that the hearings depict a balanced view of the situation of human rights and development of democracy in Kazakhstan.'* In order to do this, *DLA Piper* plans to organise *'meetings in advance of these hearings between the most important members of this Sub-Committee and representatives of the Embassy of Kazakhstan.'* As needed, *DLA Piper* proposes to prepare the Kazakh representatives intellectually by passing along to them all *'useful information'* about the members of the House whom they will be meeting. To complete the picture, *DLA Piper* plans to send along with the Kazakh delegation *'a representative of independent media, business women and a representative of the Kazakh Jewish community.'* In a word, *DLA Piper* undertakes through its actions to *'smooth over the bumps'* which tarnish or could tarnish the image of Kazakhstan.

Sarah Carey, the chairman of the administrative board of the *Eurasia Foundation*, believes that her foundation provides sufficient guarantees and that it is *'unimaginable'* there could be any misappropriations of funds. The Department of Justice says only that its decision was guided by a sole and unique concern: to avoid any interference by the Kazakh authorities with the programme for using the 84 million dollars. Put in less diplomatic terms, to avoid that the 84 million dollars end up in the pockets of corrupt ministers and bureaucrats. As for James Giffen, the man at the centre of the scandal, to this day no court ruling has been made on his case.

### **a) The Center for Strategic and International Studies**

This American think tank was founded in 1962 and its *'objective is to conduct promising research and perform analysis in order to anticipate changes with regard to defence, security and regional stability and to understand international challenges such as climate, energy, world development and economic integration.'*<sup>19</sup> It established a *Task Force USA-Kazakhstan* in order *'to put in shape and support the programme of the Kazakh presidency of the 'OSCE.'*<sup>20</sup>

This is a joint initiative with the programme of the *'New European Democracies'* of the CSIS and the *Institute for New Democracies (IND)*. This institute, based in Washington, has the

<sup>14</sup> <http://www.silkroadstudies.org/new/docs/Silkroadpapers/o8o3Daly.PDF>

<sup>15</sup> <http://www.silkroadstudies.org/new/docs/Silkroadpapers/o8o4Bowyer.pdf>

<sup>16</sup> <http://www.silkroadstudies.org/new/docs/Silkroadpapers/o8o7Weitz.pdf>

<sup>17</sup> <http://www.dlapiper.com/global/about/overview/>

<sup>18</sup> <http://www.fara.gov/docs/3712-Exhibit-AB-20010718-GRDU8602.pdf>

<sup>19</sup> <http://csis.org/about-us>

<sup>20</sup> <http://csis.org/program/us-kazakhstan-osce-task-force>

mission of *'promoting good governance, human rights and the legality in developing countries undergoing fundamental political change by supporting democratic reforms through education, research and assistance to the administrations, to civil society and to the media.'*<sup>21</sup> What the internet site of this Institute fails to mention and the site of the CSIS mentions only briefly is that its operation is financed by the Kazakh government in the amount of 290,000 dollars.<sup>22</sup>

Thus, it is not surprising to discover that this Force delivers in its final report<sup>23</sup> an *'overall positive'* opinion of the human rights situation in this country. In the chapter devoted to recommendations, the Task Force identifies four for the OSCE and just one for the Kazakh authorities, namely that they *'continue and strengthen their efforts at democratisation of society, guaranteeing respect for human rights and maintaining political pluralism by implementing the 2002-2012 national action plan on human rights and the concept of legal policy in Kazakhstan.'*<sup>24</sup> But as an outside expert who requested anonymity emphasizes *'this recommendation is much too vague and general to really be followed by some effect.'*<sup>25</sup> He also remarks that this report, though based on correct and exact factual data, does not reflect the strict reality of things. He cites the example of the recent reform of the law on political parties mentioned in this report. While it is exact to say that the number of members necessary for the creation of a political party has been reduced from 50,000 to 40,000, the report fails to remind us that until 2002, it was enough to have 1,500 members.

During the official presentation of this final report on 3 December 2009, Margarita Assenova, the founder and general director of the IND alluded to the economic crisis and risks of instability to explain that *'despite promises partially kept, Kazakhstan is a country which is moving in the right direction.'*

In the end, Nursultan Nazarbayev and the Kazakh authorities can congratulate themselves on having at least partly attained their objectives. With the help of a lot of dollars and reports which they ordered, i.e., thanks to an accommodating attitude, the iron fist which has ruled the country since 1990 without any sharing of power has been skillfully fitted with a velvet glove.

Undeniable economic success and a prudent diplomacy<sup>26</sup> which has given pledges of loyalty and fidelity to the CIS, to the *Organisation of the Collective Security Treaty (OTSC)* and to the *Shanghai Cooperation Organisation (SCO)* and is weaving advanced links of cooperation with NATO,<sup>27</sup> have allowed it to *'erase'* the unpleasant impression which observers have each year at the same period when reading annual reports of the various NGOs in defence of human rights or press and media freedom, as well as reports of the observers on corruption and democracy.

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<sup>21</sup> <http://www.ind-dc.org/mission.html>

<sup>22</sup> <http://www.eurasianet.org/departments/insight/articles/eav121009a.shtml>

<sup>23</sup> [http://csis.org/files/publication/O91202\\_Bugasjski\\_Kazakhstan\\_Web.pdf](http://csis.org/files/publication/O91202_Bugasjski_Kazakhstan_Web.pdf)

<sup>24</sup> Ibid.

<sup>25</sup> <http://www.eurasianet.org/departments/insight/articles/eav121009a.shtml>

<sup>26</sup> Cf. <http://www.esisc.org/documents/pdf/fr/kazakhstan-un-tsar-est-ne-413.pdf>

<sup>27</sup> Astana participates in the NATO Euro-Atlantic Partnership Council and is a participant in the Partnership for Peace. Kazakhstan is also the only Central Asian state to have held negotiations in 2006 for an Individual Partnership Action Plan – IPAP of NATO. In June 2004, the NATO summit highlighted the growing importance of Central Asia by designating the region as an area of special attention and sending to Astana a liaison officer to set up programmes to assist the modernisation of the national military structures and by creating the post of special representative of the NATO Secretary General for the Caucasus and Central Asia.



### **3. The priorities of the Kazakh presidency**

What will be the real attitude of the Kazakh authorities at the head of the OSCE as they face the challenge of human rights, freedom of the press and democratisation? Will this presidency be just light and mirrors intended to boost the reputation of Nursultan Nazarbayev? Or will it provide the Kazakh authorities with an occasion to really respect their promises? Despite doubts, one can also hope. In the course of the ministerial summit in Athens from 1st – 2nd December 2009, the Secretary of State and Minister of Foreign Affairs Kanat Saubadayev once again solemnly reconfirmed the commitments undertaken by his country and lifted the veil on what it has set as the priorities of the Kazakh presidency.<sup>28</sup>

#### **a) Continuation of the Corfu process**

Launched in June 2009 by the Greek presidency during an informal meeting of ministers of foreign affairs held on the island of Corfu, this process is aimed at responding to challenges to security in Europe. Many problems have not yet been solved while new challenges are emerging. It also aims at determining concrete measures to restore trust (relaunching the *Conventional Armed Forces in Europe Treaty (CFE Treaty)*), strengthening democracy, affirming the primacy of a constitutional state, drawing consequences from the economic crisis, continuing the fight against terrorism and organised crime and combatting the instability of neighbouring countries. The Kazakh presidency intends to continue this process and plans to officially perpetuate it during the OSCE summit intended to celebrate simultaneously the 65th anniversary of the end of the Second World War, the 35th anniversary of the signing of the Helsinki Final Act and the 25th anniversary of the Charter of Paris.

#### **b) The Afghan factor**

Aware of the catastrophic impact that a collapse of Afghanistan could have on Central Asia - ‘*a destabilised Afghanistan which is a source of international terrorism and principal worldwide producer of drugs constitutes a menace to regional stability and to European security*’<sup>29</sup> -, the Minister of Foreign Affairs of Kazakhstan has deliberately placed the problems of aid to and the rehabilitation of this country at the centre of the concerns of its presidency. For this reason, he announced the signing along with the Afghan authorities of a five year agreement which deals with a programme of training a thousand Afghan civilians in the universities; these will be essentially agricultural engineers, doctors and construction technicians and is estimated to cost more than 10 million dollars per year.

Out of all the Central Asian countries, Kazakhstan is the only one to actually participate in the reconstruction of Afghanistan. For the fiscal year 2007-2008, it allocated more than 3 million dollars for social and infrastructure projects, humanitarian assistance and training Afghan border guards and security forces. For the period 2009 - 2011, it is committed to spending 5 million dollars on improving supplies of water and infrastructures to bring in grain or other goods.

#### **c) The human dimension**

Kanat Saubadayev announced his intention to organise two additional meetings of the OSCE in 2010. The first will deal with promotion of the balance between men and women and the growth of women’s participation in political and public life. The second will be devoted to the fight against trafficking of children. He also expects, with the help of the ODIHR to set up a certain number of projects. In particular, the organisation of a conference for the 20th

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<sup>28</sup> [http://www.osce.org/documents/cio/2009/12/41764\\_en.pdf](http://www.osce.org/documents/cio/2009/12/41764_en.pdf)

<sup>29</sup> <http://www.eurasiantransition.org/files/2a3af57f0ba7ad8128c911aa763b0610-249.php>

anniversary of the signing of the document of Copenhagen,<sup>30</sup> the founding document which came out of the conference on the human dimension of the CSCE<sup>31</sup>.

#### 4. Conclusion

Only in December 2010, when the progress and results obtained are in hand, will we be able to pass judgment on the Kazakh presidency which has just begun. Without any doubt this atypical and controversial presidency can be considered to be a great innovation in the history of the OSCE. It will be watched very closely.

Many organisations defending human rights and promoting democracy remain skeptical about the chances of seeing the political situation in Kazakhstan evolve in a favourable direction. Kenneth Roth, director of *Human Rights Watch*, a New York based NGO, notes that the main question is to know *'what will be the attitude of the Kazakh authorities to human rights issues during their presidency of the OSCE.'*<sup>32</sup> In the view of Janez Lenarcic, director of the ODIHR, *'assuming the presidency of the OSCE is a great responsibility and a challenge for each member country including Kazakhstan,'*<sup>33</sup> Although he recognises that Kazakhstan is a democracy in gestation, he hopes that *'the fact of presiding over the destiny of an organisation which is built as a defender of human rights and fundamental liberties will prompt it to continue its own efforts in this area domestically.'*<sup>34</sup>

On 14 September 2009, the presidential party, *Nur Otan*, suggested that Nursultan Nazarbayev be named President for life. Two years earlier the Kazakh constitution was modified, transforming the five year term into a seven year term and abolishing the limitation which had been fixed at two consecutive terms in office. While no decision has yet been taken with regard to this proposal, one thing is sure: the tenure of Nursultan Nazarbayev at the head of the OSCE will be the shortest presidential mandate that he ever assumed during his political life.

Even so, the predominant sentiment among observers is that a wolf which has gotten into the manger rarely becomes a sheep and the image of the OSCE could be tarnished for a good long time to come.

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<sup>30</sup> [http://www.osce.org/documents/odihr/1990/06/13992\\_en.pdf](http://www.osce.org/documents/odihr/1990/06/13992_en.pdf)

<sup>31</sup> The Conference for Security and Cooperation in Europe (CSCE) gave birth to the OSCE in 1995.

<sup>32</sup> <http://www.eurasianet.org/departments/insightb/articles/eav062409a.shtml>

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.