

Konrad-Adenauer-Stiftung e.V.

KASACHSTAN

THOMAS HELM

Juli 2018

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The field is tilled

AMENDMENT OF THE LAW ON THE NATIONAL SECURITY COUNCIL IN KASACHSTAN

With the amendment of the law on the National Security Council in July 2018, the legal framework was completed in Kazakhstan that could enable the head of state to carry out a political transfer of power.

Observers of the Republic of Kazakhstan have been asking themselves for years: How long will President Nursultan Nazarbayev remain in office? The background to the question is, on the one hand, the almost three decades of government and, on the other hand, the age of the president, who turned 78 on 6 July. Since the late summer of 2016, when Islam Karimov died in office in neighbouring Uzbekistan, Nazarbayev has been the last remaining president to assume the high office in Soviet times.

Since Karimov's death, more and more activities have been registered in Kazakhstan, the sum of which is suitable for preparing and putting into effect a transfer of power. There are some indications that the holders of state power are shaping "Day X" and do not want to be surprised by it. The constitutional reform of early 2017, in which powers in the area of domestic policy and the control and appointment of the government were transferred from the president to parliament, should be mentioned here. The new press law at the turn of the year 2017/18, which contains improvements for journalists and media designers as well as restrictions on press freedom, is obviously intended to ensure that "Day X" is not accompanied by cross-firing or even thwarted in its objectives. There are also numerous appointments to political management staff, which on the one hand strategically fill key positions. These include the appointment of former Prime Minister Karim Massimov as Chairman of the National Security Committee and thus employers of the Republic of Kazakhstan's domestic intelligence service. On the other hand, various personnel constellations are tried out and the "apparatus" is kept in motion, so that long-term alliances can hardly be formed.

The National Security Council Act is the key building block

With the publication of a presidential decree on 12 July 2018, a legislative process lasting more than six months, in which both chambers of parliament were involved, came to a conclusion and the new law on the National Security Council came into force.

According to the law, the Security Council should "coordinate a uniform state policy in the field of national security and defence capability". The objectives are "the maintenance of internal political stability, the defence of the constitutional order, state independence, Kazakhstan's territorial integrity and national interests in the international arena" (Article 1, item 1).

Until now, the Security Council has been an advisory body set up by the President. It was founded in 1991 by presidential decree at the time of the Kazakh SSR. In 1993, this body was transformed into the Security Council of the Republic of Kazakhstan. So far, there has

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been no law regulating the Council's activities. It operated on the basis of the presidential decree of 20 March 1999.

The new Act defines the three main tasks of the Security Council as follows: 1) determining the main directions of national security and defence policy; 2) determining the tasks, developing solutions and recommendations and coordinating the activities of other state bodies and organizations in the field of national security and defence capabilities; 3) other tasks in accordance with the legislation of the Republic of Kazakhstan and with the decisions of the Chairman of the Security Council (Article 2).¹

The decisive changes associated with the new law on the National Security Council are that the formerly consultative body without a genuine legal basis will now have constitutional status and that the First President of the Republic of Kazakhstan, and thus Nursultan Nazarbayev, will legally hold the lifelong chairmanship of the body. If this is combined with the new tasks of the National Security Council outlined above, it can be seen that President Nazarbayev could continue to influence Kazakhstan's main policy guidelines even if he leaves the State Office. And what's more.

The adoption of the law could be seen as a strengthening of the institution of the presidency in relation to the incumbent and the phenomenon of the First President², notes an analyst from Kazakhstan. It cannot be ruled out that the powers of the President with regard to successors could be reduced in future.³

This means that, even after his term of office, Nazarbayev would be able to contain any president who follows him in office if he made fundamental changes to the course or even pursued a policy that was directed against his predecessor and his family.

Will the preparations lead to a change of office?

It is always difficult to draw conclusions about the exact timing of a change of power solely from preparatory steps. This is hardly possible in countries where less power is concentrated on a political position. But one thing is clear: there are increasing signs of a timely transfer of power. This is particularly indicated by a much-noticed interview by Senate President Kassym-Schomart Tokayev with BBCnews.

In this interview on 21 June 2018, Senate President Tokayev, the second man in the state and constitutional successor to the president, expressed the suspicion that Nursultan Nazarbayev would no longer run in the next presidential election in 2020. He also expressed this opinion in response to several inquiries from the interviewer, Stephen Seckur. Tokayev even left open whether he himself could run for election in 2020. Such a thing usually does not happen without a vote, especially since Tokayev has been a close confidante of the president for many years.

¹ Vgl. Irina Sevostyanova (2018): "U sovbesa Kasachstana budet svoi Sakon" (dt.: Der Sicherheitsrat wird sein eigenes Gesetz haben), in: Atameken business channel. Nachrichten. 24.01.2018. Link: <http://abctv.kz/ru/news/u-sovbeza-kazahstana-budet-svoj-zakon> (abger. 26.01.2018)

² Vgl. Ebd.

³ Vgl. Sergey Kim (2018): "Chebotaryev: v Kasachstane nachali podgotovku k transit vlasti" (dt.: Chebotaryev: in Kasachstan wurde Vorbereitungen zum Machtübergang angefangen), In: Sputnik Kazakhstan. Nachrichten. Analytik. 06.02.2018. Link: <https://ru.sputniknews.kz/analytics/20180206/4501563/chebotarev-v-kazahstane-nachali-podgotovku-k-tranzitu-vlasti.html> (abger. 25.01.2018)

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Many people in Kazakhstan have been asking for years who could succeed President Nazarbayev. Many also associate it with fears about the stability of the country. Will we continue with the current multi-sectoral foreign policy, which has balanced the forces of the power centres and which is also peace policy? Is it still a comparatively successful policy of coexistence of over 100 ethnic groups in the country, which has so far avoided major or even open conflicts? Will the path of economic transformation continue, which has also generated significant growth and an increase in prosperity?

With the new legal framework through the National Security Council, Nursultan Nazarbayev would retain a decisive influence on the fate of the country and on any successor when he leaves office. So the field is tilled.

History has shown many times that it is disadvantageous if the structure is created for a transfer of power, but the option then remains unused for a long time.

On July 6, 2018, Astana Day (also President Nazarbayev's birthday), a monument to the President was presented to the public in the National Museum. It shows Nursultan Nazarbayev sitting in a mighty armchair and in the same pose as Abraham Lincoln in the memorial of the same name in Washington D.C. While Lincoln's facial expression seems authoritative, Nazarbayev's is relaxed - a little bit like retired.