KAZAKHSTAN

**INTRODUCTION**

Kazakhstan’s government regards the internet and other information and communication technologies (ICTs) as a potential source of growth in the quest for diversification of economy, which is highly dependent on extractive industries. With that goal in mind, the government has made efforts to liberalize the telecommunications sector and promote internet use by enhancing websites of state entities and facilitating the introduction of new data transfer technologies. At the same time, the authorities fear the internet’s democratizing potential and have begun attempting to control citizens’ access to information. In recent years, the authorities have tried to assert broader control over internet content, particularly on issues deemed threatening to the reputation of long-ruling President Nursultan Nazarbayev and on national security concerns.

Since January 2011, the environment for internet freedom has become precarious, catalyzed by the government’s response to a number of bombings attributed to religious extremists and a state of emergency declared after violent clashes between oil strikers and police in the city of Zhanaozen in western Kazakhstan in December 2011.1 As such, the past year and a half has witnessed the increased filtering of websites, revival of the block on the blog-hosting service LiveJournal, intensified surveillance at cybercafes, and some of the first serious physical assaults on bloggers and online journalists.

Senior officials have also been signaling that further restrictions may be in store. In

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September 2011, the general prosecutor was quoted as saying, “the question of control over social networks, over the internet, is a question of time…countries must join efforts to counter this evil.” Two months later, a key policy document on “Information Security until 2016” was approved by a presidential decree with the warning that the “wide use of social networks and blogs by the Kazakhstani population creates possibilities for their utilization with the aim of deliberately influencing the internal political situation.”

Internet access has grown exponentially in Kazakhstan, increasing from a 3.3 percent penetration rate in 2006 to 45 percent in 2011, according to the International Telecommunication Union (ITU), though official government statistics cite a penetration rate of over 53 percent as of the end of 2011. Experts have questioned the official statistics, arguing that the authorities count users of fixed and mobile internet separately, even though many individuals access the internet via both mobile and fixed-line connections. In terms of user demography, 57 percent are female and 62 percent are between the ages 25 and 34.

A growing number of people prefer to go online from home, alongside continued access at public libraries, educational institutions, and workplaces. Internet speeds offered by the state-run operator Kazakhtelecom and private internet service providers (ISPs) have grown at a slow but stable pace. Prices remains relatively high for the majority of the population but have decreased in recent years, with unlimited broadband access contracts starting from US$14 a month compared to the average monthly income of approximately US$670. Internet packages for most fixed-line subscribers in Kazakhstan are broken into a two-tiered
system: access to information hosted inside the country is unlimited, but for content hosted outside, contracts usually have a quota on traffic. If the quota is exceeded, the connection speed slows down, though no extra fee is charged.

Mobile phone penetration is significantly higher than internet usage, with a penetration rate of over 142 percent in 2011, up from 51 percent in 2006.\textsuperscript{10} Since the launch of 3G data packages and the lowering of prices in late-2010, a growing number of people have been accessing the internet on their mobile phones or tablet computers. The deployment of 3G services was under way throughout 2011, and the authorities announced plans in May to introduce 4G technologies in the near future.\textsuperscript{11}

Since 2009, WiMAX networks have also become available in Kazakhstan, including those offering retail options. The number of free WiFi hotspots in public places in big cities has been growing, while cybercafes continue to enjoy a stable customer base, especially when they are part of a chain. Following government instructions, Kazakhtelecom has set up public hotspots and terminals within government agencies for public access without charge, but the stations only provide access to e-government services and websites.

Kazakhstan’s “.kz” internet country code was introduced in 1994. Currently there are more than 66,000 domains registered in the Kazakhstani segment of the internet, dubbed KazNet, though only about 10,000 are active, and even fewer receive at least 100 visitors per day.\textsuperscript{12} The government has initiated several programs to stimulate internet use, lower the digital divide, and expand e-government functions. This trend continued in 2011 with the launch of the Program on Development of Information and Communication Technologies in the Republic of Kazakhstan for 2010-2014.\textsuperscript{13} In addition to expanding infrastructure to connect more citizens to the internet and mobile phone networks, the plan envisages growth of locally-produced and export-oriented ICT technologies and services.

Social-networking platforms and other Web 2.0 applications are increasingly popular in Kazakhstan. The government has invested substantial funding into creating local websites and online services, including a Kazakh video-hosting website and a national social network. Nevertheless, the most accessed online resources from Kazakhstan remain foreign ones,


\textsuperscript{13} Программа по развитию информационных и коммуникационных технологий в Республике Казахстан на 2010 – 2014 годы, [Program on Development of Information and Communication Technologies in the Republic of Kazakhstan for 2010-2014], September 29, 2010, \url{http://mci.gov.kz/main?option=com_content&task=view&id=661&Itemid=29}. 
especially Russia-based social-networking platforms like Mail.Ru and Vkontakte.ru, as well as the search engine portals, Google and Yandex. YouTube, Facebook, Wikipedia, and Twitter are also growing in popularity. The most visited Kazakh site (with a “.kz” domain) as of April 2012 was the multifunctional portal Nur.Kz, resting in 14th place.  

Web 2.0 applications have been periodically blocked in Kazakhstan in recent years, though the government has not always admitted their intent behind the restrictions. The international blog-hosting platform LiveJournal was blocked for over two years from October 2008 to November 2010 by the two largest ISPs, the state-owned Kazakhtelecom, and Nursat. The impetus for the block was ostensibly to restrict access to politically sensitive content related to the President Nazarbayev’s former son-in-law Rakhat Aliyev. The website was unblocked after the disputed blog was frozen by LiveJournal administrators.

Access to LiveJournal was blocked again in August 2011, along with the Russian social-networking website Liveinternet.ru. This time, a court ordered the block under claims that some accounts on the platforms were disseminating religious extremism. A LiveJournal spokeswoman stated that the company had never received any official notice from the Kazakhstan government identifying certain accounts as extremist and requesting their removal, an action the blog-hosting provider claimed it would take if the concerns were found to be legitimate. This contributed to suspicions that the government’s claims of “religious extremism” were an excuse to block content deemed undesirable for political, not national security, reasons. Liveinternet.ru was subsequently unblocked, but LiveJournal remained inaccessible from Kazakhstan as of mid-2012. In April 2012, the Yessil District Court of Astana upheld the block while considering an appeal made by blogger Anatoly Utbanov, who argued that the wholesale blocking of LiveJournal was disproportionate.

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16 Rakhat Aliyev, Nazarbayev’s former son-in-law, had served in top positions in the country’s secret services and diplomatic service. He had large business and media holdings before definitively falling out of favor with the president and his family in 2008 after he had faced multiple charges of abduction, financial crimes and a coup attempt. Having fled abroad, Aliyev began airing inside information and allegations, in the traditional media and online, in an effort to discredit the president. Materials related to Aliyev have been systematically filtered, and republication of excerpts from his book “Godfather-in-law” is officially banned. Many observers believe that Nazarbayev’s conflict with Aliyev was the primary reason for the first blockage of LiveJournal in Kazakhstan, and also accelerated adoption of the internet-related legal amendments in 2009.
punishment for just two extremist blogs. In response, a representative of the Ministry of Communication and Information lamented the country’s inability to filter separate accounts, asserting that the technical capacity should be in place by July 2012.20

The blog-hosting platforms Blogger.com and Wordpress.com were also periodically filtered throughout much of 2011. In February 2011, a district court in Astana banned two Wordpress pages for disseminating content related to religious extremism, but this resulted in the blocking of the whole platform.21 Currently, Kazakhstani users can only access the main page of Wordpress.com and Blogger.com but not the blogs hosted by the platforms. Users from Kazakhstan also persistently report trouble accessing some of the Google’s other services, including the server Googleusercontent.com that hosts attachments sent in Gmail, the Picasa image bank, and Google Translate's URL translation function (which is also powered by Googleusercontent.com).22 Google’s search engine is accessible and is the second most visited website in the country.23

In in mid-December 2011, mobile phone and internet communications were cut off in the city of Zhanaozen, a town in western Kazakhstan, for several days. The shutdown occurred after clashes between striking oil workers and police that left 15 people dead and 100 injured. On December 16, the first day of the unrest, Kazakhstan users also reported being unable to access Twitter.24 Kazakhtelecom released a statement denying any intentional blocking, instead citing possible technical problems on the side of website as the cause,25 while the authorities blamed the blackout on the riots and arson, which had damaged communication lines and electricity intermissions.26 The next day, the president declared a state of emergency and curfew in the city.27 Some observers believed the blocks were a government attempt to prevent details of the unrest from spreading, including evidence of

21 Svetlana Glushkova, “Портал Вордприс заблокировали из-за двух блогов” [Wordpress portal was closed because of two blogs], Azattyq.org, July 12, 2011, http://rus.azattyq.org/content/worldpress_kazakhtelecom_blocking_blog_/24262786.html.
officers opening fire on unarmed protestors. Others believed the purpose was to prevent the deliberate spread of misinformation, as the official information confirming the clashes and victims was made public in the evening of the same day. Two days before the Zhanaozen riots, the parliament had adopted amendments and addenda to the Law of National Security, which reserve the government’s right to forcibly suspend communications services during counter-terrorist operations or suppression of mass riots (Article 23.4). The amendments came into force in January 2012.

The state owns 51 percent of Kazakhtelecom, the largest ISP, which holds a 70 percent share in the internet access market. Another five operators are licensed to connect to the international internet, but they are required to channel at least part of their traffic through Kazakhtelecom’s backbone network facilities infrastructure. Over 100 other ISPs operate in Kazakhstan but have to purchase traffic via the above-mentioned six, making it difficult for them to compete in the market. Kazakhtelecom’s dominance over information flow routes creates the conditions for systemic content filtering and surveillance.

As of early 2012, there are four mobile telephone providers in Kazakhstan, including three using the GSM standard (GSM Kazakhstan, Beeline, and TELE2) and one using CDMA (Altel). Kazakhtelecom used to hold a 49 percent stake in GSM Kazakhstan but sold its shares to the Finnish company TeliaSonera for US$1.5 billion in December 2011 as part of the company’s asset restructuring strategy. Beeline belongs to the Russian mobile operator Vimpelcom, which acquired the Kartel company and its K-Mobile system in 2005.

Several bodies regulate the ICT sector, with the main regulators being periodically reorganized. The most recent shift in January 2012 gave the responsibility for the technology sector to the newly established Ministry of Transport and Communications, while entrusting information-related regulation to the Ministry of Culture and Information. Until that point, both functions were filled by the now dissolved Ministry of Communications and Information, whose head became the new Minister for Transport and Communications.

The “.kz” country code is managed by a registry, the Kazakhstani Network Information Center (KazNIC), and the Kazakhstani Association of IT Companies. Both were created in 2004–05 as formally nongovernmental organizations, but in practice, they are believed to be under close control of the authorities and have been known to make politicized decisions on registration and de-registration of the “.kz” domain names. The government has at various times demanded that any website with a “.kz” country domain physically host its servers on the territory of Kazakhstan. Such regulations were first introduced in April 2005, but the relevant authorities made little effort to enforce them.

In September 2010, the government declared its intention to fully enforce the regulation, prompting several controversies. The most prominent dispute took place in June 2011, when Google redirected all of the traffic from its localized Google.kz page to Google.com rather than comply with the demand to move its servers in-country, which it said would contribute to a “fractured internet” and ultimately harm Kazakh users. Shortly after the dispute became public, the government retreated and the Kazakhstani Association of IT Companies explained that the rule applies only to domain names registered after September 7, 2010.

In the past, the Kazakhstan government’s online censorship was often selective, sporadic, and inconsistent, but in 2011, it became more institutionalized and hermetic. In particular, filtering expanded from Kazakhtelecom to other ISPs, while the authorities sought to undermine the effectiveness of circumvention tools and the courts began using recently-passed laws on “religious extremism” to block websites.

According to the most recent testing conducted by the OpenNet Initiative (ONI) in 2010 on two principle ISPs, access was blocked—particularly by Kazakhtelecom—to some “opposition…websites, regional media sites that carry political content…selected social networking sites, [and] a number of proxy sites.” At the time, ONI found that censorship was often inconsistent because in some cases, blocks were only implemented by Kazakhtelecom. International news sites such as the BBC, Radio Free Europe/Radio Liberty (RFE/RL), and the New York Times and websites of international organizations such as Human Rights Watch and Freedom House are available.

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34 OpenNet Initiative, “Country Profile: Kazakhstan.”
37 OpenNet Initiative, “Country Profile: Kazakhstan.”
A package of legislative amendments adopted in July 2009, which received significant domestic and international criticism, granted the state broad authority to block access to foreign online resources whose content is deemed to run counter to national laws. The amendments declared that the internet and all websites—referred to as “internet resources”—were to be considered media outlets without differentiating between news sites, blogs, chat rooms, etc. The amendments also granted the state the power to suspend and/or shut down websites hosted within Kazakhstan, including any website with content deemed to harm the interests of the public and the state. Publications involving classified information, extremist propaganda, and pornography can also be restricted. Moreover, under the amendments, all ISPs are required to ensure blockage of banned websites, and the owners of internet resources are responsible for any content, posted by themselves or other users, that is deemed illegal under Kazakhstan’s civil, criminal, and administrative laws. The law stipulated that filtering of websites could be applied only with a court decision, though this requirement is not always observed in practice. The amendments have resulted in tighter censorship, ending the phenomenon whereby users could still access pages blocked Kazakhtelecom via alternative operators.

For some time, the 2009 legal amendments stood unimplemented, but after a series of suicide bombings in 2011, several court decisions were issued ordering the blocking of websites for reasons of “religious extremism.” In August 2011, a court decision blocked access to LiveJournal and 11 other websites based on claims that the websites or certain webpages were disseminating content with signs of religious extremism. As of October 2011, access to 125 websites was blocked in Kazakhstan for carrying religious extremist content and terrorism propaganda, and 168 more were awaiting a court decision, according to the nation’s Security Council spokesperson.

Despite these legal precedents, the filtering of websites without court decisions continues. In March 2010, the Computer Emergency Response Team (CERT) was established in Kazakhstan and operates as a governmental body under the Ministry of Communications. In contrast to many of its foreign counterparts, whose mandate is restricted to address only technical incidents, Kazakhstan’s CERT also aspires to fight “destructive content” and “political extremism” by blacklisting and banning certain sites. In March 2010, when

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probed about the transparency of their work, a CERT spokesperson said that the team’s activity, including its criteria for blacklisting and the lists of blocked websites, is considered secret.42

One of the most notable cases of extralegal blocking has been the restrictions placed on the main website of Respublika, an opposition weekly paper known for its criticism of the government, which was blocked for most Kazakh users throughout 2011. The blocking was implemented without court order, and in fact, both the government and Kazakhtelecom executives have denied censoring Respublika, attributing its inaccessibility to the website’s own technical problem. The publication, financed by Mukhtar Ablyazov (a fugitive businessman and former bank owner now living in self-imposed exile somewhere in Europe), uses social networks extensively to disseminate its journalistic content and regularly updates readers on available anonymizers and other circumvention tools. The website of satellite TV channel K+, also financed by Ablyazov, is inaccessible from Kazakhstan as well.

In another example of extralegal filtering beginning in early 2011, anonymizing tools were increasingly being filtered in Kazakhstan, though no court decision had been issued against them. Many users wishing to circumvent censorship instead switched to browsers designed by the Opera Corporation,43 whose traffic compression feature initially meant to facilitate browsing with slow connections but now enables users to access blocked websites.

Since early 2009, there has also been an increase in self-censorship and content removal implemented by companies hosting online information, with many websites disabling comments to their articles.44 With the 2009 internet-related amendments coming into force, most online content providers intensified their moderation practices to monitor and censor content that could expose them to legal repercussions. The self-censorship environment solidified further following the July 2010 adoption of a law granting President Nazarbayev the status of “Leader of the Nation,” which essentially places any criticism of him and his family under the umbrella of threats to national security or reputation.

The 2008 blocking of LiveJournal, at the time the most popular blogging platform in Kazakhstan, generated significant changes to the country’s blogosphere.45 There were no

major local blogging platforms at the time. Since then, Yvision.kz has emerged as the most popular Kazakhstan-based blog-hosting platform, with over 60,000 users as of December 2011, most of them blogging in Russian. Noticing the emerging market for blog-hosting platforms, several other blogging projects have emerged since then, but few have succeeded in garnering a significant and active membership, thus leaving Yvision.kz in a dominant position. As a whole, the local blogosphere remains a relatively small community with room to grow.

The Kazakh blogosphere is dominated by the younger generation, but recent years have witnessed broader engagement of professionals, journalists, academics, members of parliament and other public figures, particularly on social networks. A 2011 survey by JSC Kazkontent found that 37 percent of respondents used social-networking sites, and that 38 percent published or read blogs and took part in forums. In 2011, as political activists began to more vigorously use social media to spread their message, the authorities responded by sometimes relying on popular, yet relatively loyal, bloggers to engage in propaganda campaigns, inviting them on “blogger tours,” such as the tours to Baikonur Cosmodrome for the launch of the second Kazakh satellite in July 2011 and to Zhanaozen after the riots in December 2011. Both the government and bloggers deny having financial ties to each other.

In an effort to counter criticism of the blocking of LiveJournal and to demonstrate a willingness to engage with citizens online, officials have started maintaining their own blogs in recent years. The website of every government body and local administration is required to have a blog. The website Blogs.egov.kz is called “the official blogging platform for high-ranking Kazakh officials” and is home to the blog of Prime Minister Karim Masimov. Masimov is also an active Twitter user, setting a trend for other government officials to use the microblogging service to reach citizens, and news agencies increasingly quote officials’ Twitter posts in their coverage.

Many candidates in the 2011 presidential and 2012 parliamentary elections set up Facebook and Twitter accounts for their campaigns, and the degree of their involvement in online debates grew significantly compared to previous years. This did not appear to affect the results much, however, as Nazarbayev won over 95 percent in elections that international observers found to be seriously flawed. In advance of parliamentary polls in January 2012, more politicians, especially those belonging to the radical, nationalist opposition party

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Rukhaniyat (Spirituality) who were disqualified from the vote in December 2011, used Facebook to win new supporters and advocate their platform.

Another important incident during the year involved coverage of the oil workers’ strike in Zhanaozen in December 2011 that ended in violent clashes. Initially, the government and state-run media sought to place full blame for the violence on protestors, but then footage of police firing on unarmed protestors was recorded and uploaded to the YouTube, ultimately forcing the authorities to admit that the police had contributed to the violence and to put several officers on trial.48 The government tried over 30 strikers with organizing the unrest based on charges some observers deemed unfair, particularly amidst reports of beatings and torture of detainees. Despite the positive role played by online tools in this instance, some observers cited negative effects as well, including the viral spread of rumors and manipulative misinformation over blogs and social networks, particularly over Twitter and Facebook.

Overall, civil society activists and the blogging community lack coordination and an understanding of one another’s needs. This, in addition to the low level of civic consciousness and political literacy, results in limited political online activism in Kazakhstan. On the other hand, in areas of non-political activism—such as environmental advocacy (like the campaign against construction of ski resort in the nature reserve near Almaty49) and charitable campaigns (for example, fundraising for the disabled on blogosphere and social-networking sites)—social media has repeatedly made a difference.

VIOLATIONS OF USER RIGHTS

The Kazakhstan constitution guarantees freedom of the press, but it also provides special protection for the president. In practice, the authorities use various legislative and administrative tactics to control the media and limit free expression. Since 2008, they have also taken steps to change the legal landscape for the media. Under pressure from the Organization for Security and Cooperation in Europe (OSCE) ahead of Kazakhstan’s presidency of the organization, a few amendments aimed at liberalizing media legislation were adopted in February 2009.50 Although the amendments reduced some bureaucratic obstacles, they did little to contribute to broader political liberalization.


49 See campaign’s website at http://k-zh.kz/, which features its representations in social networks.

50 Human Rights Watch, “Human Rights in Kazakhstan.”
In 2010, the parliament passed a law granting President Nazarbayev the status of “Leader of the Nation,” which attached criminal responsibility to any damage done to his image, including public insults or distortion of his private biographical facts, among other provisions. More broadly, defamation remains a criminal offense and Kazakh officials have a track record of using libel to punish critical reporting.

Although cases of imprisonment of journalists or human rights defenders have occurred in recent years, no bloggers were prosecuted or jailed in 2011 and early 2012. However, as online journalists and bloggers sought to cover the aftermath of violent clashes in Zhanaozen alongside their colleagues from traditional media outlets, several individuals were detained, threatened, or assaulted. In December 2011, Ilya Azar, a journalist from the Lenta.ru news website was detained for four hours and forced to delete recorded interviews.\(^\text{51}\) A few days later, blogger and activist Murat Tungishbayev was reportedly assaulted by police in the Magistau region who held a pistol to his head after he uploaded video footage to YouTube showing local residents holding a rally to protest the crackdown. He was released when other journalists rushed to the scene.\(^\text{52}\) In a separate but related incident in October 2011, journalists and a cameraman from the online TV and production studio Stan.tv were assaulted by unknown assailants with baseball bats when visiting west Kazakhstan to report on the oil workers’ strike that had been ongoing for several months prior to the violence that broke out in December.\(^\text{53}\) In that instance, the authorities launched an investigation into the assault, identifying two suspects now reportedly wanted by police.\(^\text{54}\)

In another incident of apparent harassment against Stan.tv, its office was visited by inspectors from the sanitary and epidemiology authorities in August 2011 who claimed that their antennas were emitting “inappropriate levels of … electromagnetic radiation” and posed a threat to the health of nearby residents. The following month, a court ruled that the station would have to stop using the antenna or shut down their production studio. Editors from the station claimed, however, that local residents said they had been pressured by police to write letters complaining about Stan.tv and that the inspections were part of an effort to discourage their independent reporting.\(^\text{55}\) The office continued its operations after


complying with the court’s demands to pay a fine of around US$350, dismantle its antenna (which was also used to access internet), and opt to use landline access “at the cost of their technical preferences.”

Throughout 2011, the issue of copyright enforcement online was a point of heated debate among the government, users, industry representatives, and other stakeholders. In January 2012, the president signed a new law on amendments and addenda in the legislation governing intellectual property rights that criminalizes the illegal use of copyrighted material (punishable by one year in prison) and the organized distribution of such material through a file-sharing hub (punishable by five years in prison). Critics argue that the law’s formulations are vague and its punishments harsh, leaving room for selective and arbitrary enforcement, including against civil society groups or opponents of the government. Prior to the new law coming into force in February 2012, already in June 2011, the authorities shut down a popular torrent-tracking website and detained two of its owners. Initially, it appeared that they may face criminal charges, but in the end, the dispute was settled without such punishment, though the owners’ computer equipment was confiscated. After the law came into force, the number of torrent-tracking sites dropped dramatically, and users turned to similar sites based outside Kazakhstan, contributing to a general slowing of internet traffic because of the upsurge in international bandwidth use.

On December 30, 2011, the government issued a decree tightening surveillance in cybercafes. Under the decree, cybercafe owners are obliged to gather the personal information of customers and retain their online activities and browsing history. This information is to be retained for no less than six months and can be accessed by “operative-investigatory bodies.” The decree also bans the use of circumvention tools in cybercafes. As of February 2012, parts of the decree have begun to come into force, including two provisions that require the installation of video surveillance equipment and filtering software in cybercafes, generating some backlash from both users and cybercafe owners. It remains unclear how these regulations might apply to public WiFi access points.
It is difficult to track or verify efforts by the National Security Committee (KNB) or other agencies to monitor internet and mobile phone communications. However, a series of regulations approved in 2004 and updated in 2009 oblige telecom operators (both ISPs and mobile phone providers) to retain records of users’ online activities, including phone numbers, billing details, internet protocol (IP) addresses, browsing history, protocols of data transmission, etc., including via installation of special software and hardware. Providers must store user data for two years and grant access to “operative-investigatory bodies” when sanctioned by a prosecutor. Furthermore, SIM card registration is required for mobile phone users at the point of purchase under the Civil Code; however, the requirement is not tightly enforced, and SIM card vendors view the registration as optional.

The administrators of several opposition-related or independent news websites such as Respublika, Kub, and Zonakz that are blocked in Kazakhstan have reported suffering sporadic distributed denial-of-service (DDoS) cyberattacks since 2009. In July 2011, a news and analysis website Guljan.org, established just two months earlier by the former editor-in-chief of the popular newspaper Svoboda Slova, reported being targeted by DDoS attacks that were crippling the site. Although many suspect that regime actors were behind the attacks, their origin has been neither independently confirmed nor investigated by the police or CERT, whose responsibility it is to address such incidents.