

# Kazakhstan

	2013	2014		
<b>Internet Freedom Status</b>	<b>Partly Free</b>	<b>Partly Free</b>	Population:	17 million
Obstacles to Access (0-25)	15	15	Internet Penetration 2013:	54 percent
Limits on Content (0-35)	23	23	Social Media/ICT Apps Blocked:	Yes
Violations of User Rights (0-40)	21	22	Political/Social Content Blocked:	Yes
<b>TOTAL* (0-100)</b>	<b>59</b>	<b>60</b>	Bloggers/ICT Users Arrested:	Yes
			Press Freedom 2014 Status:	Not Free

\* 0=most free, 100=least free

## Key Developments: May 2013 – May 2014

- The decree on “Rules for the Application of Additional Measures and Temporary Restrictions during a State of Emergency,” which was adopted on January 28 and went into effect on April 12, 2014, allows authorities to suspend or terminate media publications and requires media outlets to provide copies of material for approval prior to publication during a declared state of emergency (see **Obstacles to Access** and **Limits on Content**).
- On April 23, 2014, the president signed amendments to the communications law that allow the authorities to block websites or shut off communication networks without a court order (see **Obstacles to Access** and **Limits on Content**).
- In May 2013, President Nursultan Nazarbayev signed the law “On personal information and its protection” under which investigative reporters can now be charged with violating the privacy of public officials if they publish information about corruption (see **Violations of User Rights**).

## Introduction

The government of Kazakhstan has passed multiple laws or decrees over the past year that, if applied, would significantly inhibit media and internet freedoms. On April 12, 2014, a restrictive “state of emergency” decree went into effect that would allow authorities to suspend or censor media outlets during a declared state of emergency, including political or social crises such as mass riots. Further, on April 23, the president signed amendments to the communications law allowing the authorities to shut off communications networks or block websites in the event of calls for mass public actions or unrest, or incitement to take part in extremist activities. These new regulations have the potential to significantly curb freedom of expression and press freedoms in the country, though as of May 2014, they have yet to be applied to restrict online media.

Since the late 2000s, Kazakhstan’s officials have been declaring information and communication technologies (ICTs) a development priority, including at a number of international conferences and exhibitions hosted by the relevant state bodies. In the last couple of years, however, they have been comparatively quiet on the issue, reflecting both the government’s shift to a new “pet topic” (green economy, the main theme of the World Expo 2017 to be held in Astana), and its heightened cautiousness regarding the potential threats of online communications as the autocracy approaches an uneasy transition period, with the incumbent president aging.

The ministry of transport and communications, together with Kazakhtelecom, the main telephone and internet access provider, continue efforts to upgrade the country’s ICT infrastructure and to improve and promote e-government services. State entities have been instructed to enhance their websites to incorporate better feedback functionality and to set up official accounts on social networks. The e-government portal offers citizens an opportunity to file inquiries with the responsible state bodies using a personal digital signature, though officials may often decline service, referring to technical problems. In a declared attempt to promote transparency, the website for government procurement tenders was launched in July 2012; however, the potential for public oversight is restricted since only businesses competing for contracts can gain access to documentation. It was also stated that a separate OpenData portal will be developed, but there is no precise vision for it so far (currently, it contains only scattered reference data; Kazakhstan is not a member of the Open Government Initiative). Competition exists between internet service providers (ISPs), though it is limited by the national operator Kazakhtelecom’s dominance in the market, especially of wired connections. Mobile operators, on the other hand, actively compete for subscribers.

In the past few years, critical media outlets have been blocked, including the website of the banned *Respublika* newspaper and NurAdam.kz, the website of the *Adam* opposition magazine. Additionally, sites such as Ratel.kz, the online project launched in 2013 by a group of prominent journalists, have suffered from DDoS attacks, even though hard copies of their small circulations could easily be found in the newsstands of Almaty. Most cases of prosecution of individuals involving the internet have been rooted in the individuals’ offline activism, rather than caused by their online activity.

The authorities clearly fear the internet’s democratizing potential, which has led the government to pass legislation to acquire broader control over the internet, often disguised as national security or anti-terrorism amendments, in addition to the legally endorsed practice of blocking certain websites. In May 2013, President Nursultan Nazarbayev signed the law “On personal information

and its protection," which was criticized by media activists as restrictive for journalism.<sup>1</sup> According to observers, investigative reporters can now find themselves under threat of criminal defamation charges if they publish information about official corruption that is incorrect, or, if the information turns out to be true, they can still be prosecuted for violating privacy rights. In July 2013, another law was passed that doubled the prison term for fomenting riots or "active noncompliance with lawful orders of power representatives."<sup>2</sup> Additionally, in October 2013, the Prosecutor General's office announced that the country's new criminal code would feature harsher punishment for "cybercrimes," including the spread of "socially dangerous, destructive materials," and for insults or libel on the internet.<sup>3</sup> The discussion on the draft code was still in progress in the Kazakhstani parliament as of the end of this report's coverage period.<sup>4</sup>

## Obstacles to Access

Internet access has grown significantly in Kazakhstan, increasing from a penetration rate of 11 percent in 2008 to 54 percent in 2013, according to the International Telecommunication Union (ITU).<sup>5</sup> Official statistics consistently inflate this indicator, and experts often question these figures, citing a lack of clarity in the methodology.<sup>6</sup> In 2013, the ministry of information and culture declared that nearly 10 million Kazakhstanis use the internet (over 62 percent of the total population),<sup>7</sup> or nearly all citizens between the ages of 16 and 62.<sup>8</sup> The independent think tank Profit Online argues that this figure might count the number of devices that connect to the internet in a one month period, whereas the number of monthly internet users would be around 50 percent, while the core usage (users accessing the internet at least several days a week) would be formed by a pool of 2.5 million Kazakhstanis, around 16 percent of the total population.<sup>9</sup>

Despite these statistical discrepancies, the trends clearly indicate a pattern of growth, although it has slowed over the past few years, even when judged by official declarations (in 2012 the figure claimed by the government was 60 percent). More people prefer to access the internet from home, alongside widening free access at educational institutions, workplaces, and public places. Internet speeds offered by the national operator Kazakhtelecom and private ISPs have increased at a slow but steady pace. Prices remain relatively expensive for the majority of the population, but both Kazakhtelecom and the ministry of transport and communication continue working together to decrease connection and usage fees. Prices have been lowered on wholesale web traffic for smaller

1 "Publication of any details of an official's private life will lead to imprisonment", *Exclusive.kz*, May 27, 2013, <http://exclusive.kz/obshhestvo/1957>

2 "Nazarbayev signed the law that doubles prison terms for inciting unrest in Kazakhstan," *Zonakz.net*, July 4, 2013, <http://zonakz.net/articles/70453>

3 Asem Japishveva, Adina Baikinova, "True or False," *Expertonline.kz*, December 20, 2013, <http://expertonline.kz/a12262/>

4 The president signed the criminal code outside of this report's coverage period, in July 2014.

5 International Telecommunication Union (ITU), "Percentage of individuals using the Internet," 2008 & 2013, accessed July 2014, [http://www.itu.int/en/ITU-D/Statistics/Documents/publications/mis2013/MIS2013\\_without\\_Annex\\_4.pdf](http://www.itu.int/en/ITU-D/Statistics/Documents/publications/mis2013/MIS2013_without_Annex_4.pdf)

6 "Недостаточно высокий уровень проникновения Интернета..." [Insufficient level of Internet penetration...] *Zakon*, May 8, 2010, <http://www.zakon.kz/171765-nedostatocno-vysokijj-uroven.html>.

7 "10 million Kazakhstanis use internet," *Time.kz*, December 18, 2013, <http://www.time.kz/news/society/2013/12/18/v-kazahstane-okolo-10-millionov-chelovek-polzujutsja-internetom>.

8 "Population of Kazakhstan by gender and age," Kazakhstan Statistics Agency, accessed January 9, 2014, <http://www.stat.gov.kz/getImage?id=ESTAT068476>

9 "Internet penetration rate in Kazakhstan reaches 70 percent," February 29, 2012, <http://www.profit.kz/news/8307-Proniknovenie-interneta-v-Kazahstane-dostiglo-70-procentov/#.UQokXx002wR>.

ISPs,<sup>10</sup> and retail prices for users were lowered in rural areas by 20 percent for Super-EVDO and 35 percent for CDMA-EVDO technology, with prepaid traffic of 3 GB to 7 GB depending on the tariff.<sup>11</sup> In late 2013, Kazakhtelecom continued investing in upgrades of its infrastructure, launching the largest internet data center in the Commonwealth of Independent States (CIS), and a 100 Gbps channel that is meant to improve consumption of external traffic.<sup>12</sup>

Kazakhtelecom's unlimited broadband subscriptions currently cost US\$25 to \$30 per month for 20 and 30 Mbps, respectively, while basic contracts offer 3GB to 10GB of high-speed traffic for a fee of US\$12 to \$20 with no extra charge for exceeded traffic, which is provided at a slower speed. These prices are relatively expensive when compared to the average monthly income of approximately US\$700 as of November 2013.<sup>13</sup> Kazakhtelecom's main competitor, Beeline, offers similar prices for unlimited contracts, but connectivity speeds are higher while prices for basic contracts are 30 percent cheaper. The number of fixed (wired) broadband subscriptions reached approximately 12 percent of inhabitants in 2013, according to estimates from the ITU.<sup>14</sup>

Mobile phone penetration is significantly higher than internet usage, with a penetration rate of over 180 percent in 2013.<sup>15</sup> Mobile telecom operators increasingly compete on the market of internet access both with each other and with other ISPs since the launch of 3G in late 2010. A growing number of people are accessing the internet on their mobile phones, tablet computers, or regular computers with USB modems. In December 2012, ALTEL, a Kazakhtelecom subsidiary, launched a 4G LTE network that is currently available in six oblasts, covering 30 percent of the total population.<sup>16</sup>

Since 2009, WiMAX has become available in Kazakhstan, mostly enjoyed by corporate clientele. In 2012, the major mobile operator Kcell, a subsidiary of the Scandinavian TeliaSonera, acquired WiMAX networks in six regions of Kazakhstan from the local company Alem Communications, sparking rumors that the spectrum would be used to develop LTE technology.<sup>17</sup> In March 2013, another asset of Alem Communications—Digital TV, a cable television and internet operator—was purchased by Kazakhtelecom, which is also a significant IPTV provider in Kazakhstan.<sup>18</sup>

The number of free Wi-Fi hotspots in public places has been growing, while internet cafes have experienced a decline in their customer base, especially in larger cities. Multiple respondents from different regions of Kazakhstan testify to the fact that cybercafes do not play a significant role as

10 "Price of internet access to be decreased from January 1," [In Russian] Forbes.kz, December 28, 2012, [http://forbes.kz/process/technologies/tsenyi\\_na\\_dostup\\_v\\_internet\\_snizyat\\_s\\_1\\_yanvarya](http://forbes.kz/process/technologies/tsenyi_na_dostup_v_internet_snizyat_s_1_yanvarya).

11 "Kazakhtelecom to lower tariffs in 2014," *Zakon.kz*, <http://www.zakon.kz/4591654-s-1-janvarja-kazakhtelekom-snizhaet.html>

12 "A 100 Gbps channel launched," Kazakhtelecom press release, December 28, 2013, <http://telecom.kz/news/single/14488/news>

13 "Average Monthly Wages," *Mojazarplata.kz*, accessed January 7, 2014, <http://mojazarplata.kz/main/zarabotnaja-plata/srednie-zarabotnye-platy>.

14 "Fixed (wired) broadband subscriptions," ITU, 2013, accessed July 2014, <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

15 "Mobile-cellular subscriptions per 100 inhabitants," ITU, 2013, accessed July 2014, <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

16 "Kazakhtelecom launches LTE in six oblasts of Kazakhstan", Kazakhtelecom press release, December 20, 2013, <http://telecom.kz/news/single/14464/news>.

17 "Kcell eyes 4G", August 16, 2012, *Profit.kz*, <http://profit.kz/news/8849/Kcell-nacelilsya-na-4G/>

18 "Kazakhtelecom purchased 100% of market share in DIGITAL TV LLC", Kazakhtelecom press release, March 29, 2013, <http://www.telecom.kz/news/single/13449/news?lang=en>

access points, with most people preferring to use the internet via mobile devices and free Wi-Fi hotspots in cafes and public places, which are not subject to any government regulation. Following government instructions, Kazakhtelecom has set up public hotspot terminals for free public access to e-government services and websites in state agencies, airports, and libraries.

Kazakhstan's ".kz" top-level domain was introduced in 1994. Currently there are more than 98,700 domains registered under ".kz" and over 1,500 domains registered under the Cyrillic ".қаз" domain (introduced in 2012), although only 62 percent and 30 percent of them are active, respectively,<sup>19</sup> and even fewer receive at least 100 visitors per day.<sup>20</sup> The government has initiated several programs to stimulate internet use, lower the digital divide, and expand e-government services.<sup>21</sup> Payments (fees and dues for state services, fines, taxes, utilities, etc.) through Egov.kz reached US\$6.5 million in 2013,<sup>22</sup> while new state services are continuously added, and the portal's mobile applications are being further developed.

Social-networking platforms and other online communication apps are increasingly popular in Kazakhstan. In the late 2000s, the government invested substantial funding into creating local analogs of popular social networks, but only the video archive Kaztube.kz survived (although its user-generated content has diminished), while others failed to generate any worthwhile user base.

The most-accessed online resources from Kazakhstan are foreign, especially Russian-based social-networking sites like Mail.ru, VKontakte.com and Odnoklassniki.ru, multiservice portals like Google and Yandex, and other sites such as YouTube, Facebook, and Wikipedia. The most-visited Kazakh site as of January 2014 was the automobile-related classified ads site Kolesa.kz, followed by the online marketplace Slando.kz, which were ranked at 12th and 13th place, respectively, out of all sites accessed within the country.<sup>23</sup>

In January 2012, amendments to the Law on National Security enabled the government to forcibly suspend telecommunications during counterterrorist operations or the suppression of mass riots (Article 23.4), although the government has not resorted to such methods since then.<sup>24</sup> Also in 2012, new legislation governing intellectual property rights was adopted to criminalize 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).<sup>25</sup> Since then, all

19 Alexander Galiev, "Kaznet has struck a record", *Computerworld.kz*, December 10, 2013, <http://www.computerworld.kz/articlekz/6133/>

20 Chulpan Gumarova, "Количество – не значит качество" [Quantity does not mean quality], *Kapital* newspaper, January 18, 2012, <http://www.kapital.kz/gazeta/biznes/4293-2012-01-18-16-50-32.html>.

21 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, [http://www.mtk.gov.kz/images/stories/contents/otr\\_prog\\_834\\_20072011.doc](http://www.mtk.gov.kz/images/stories/contents/otr_prog_834_20072011.doc)

22 "Платежи через портал электронного правительства достигли рекордных показателей" [Payments through e-government portal hold a record], *Kapital* newspaper, December 19, 2013, <http://kapital.kz/finance/24745/platezhi-cherez-egov-kz-dostigli-rekordnyh-pokazatelej.html>

23 "Top Sites in Kazakhstan," Alexa, accessed January 10, 2014, <http://www.alexa.com/topsites/countries/KZ>.

24 "Республики Казахстан О национальной безопасности Республики Казахстан" [The Law on National Security], *Zakon.kz*, July 10, 2012, [http://online.zakon.kz/Document/?doc\\_id=31106860&mode=all](http://online.zakon.kz/Document/?doc_id=31106860&mode=all).

25 See full text of the law published by the Kazakhstanskaya Pravda newspaper's website on January 12, 2012, <http://kazpravda.kz/pdf/jan12/200112law.pdf>, accessed January 24, 2012; Nate Schenckan, "Kazakhstan: Could Copyright Crackdown Be Next Frontier in Curbing Dissent?" *Eurasianet.org*, February 14, 2012, <http://www.eurasianet.org/node/64998>.

Kazakh torrent tracking websites have re-registered their URLs outside of the “.kz” domain zone.<sup>26</sup> Additionally, content providers have started seeking ways to offer legal, licensed music and videos.

The state (through the Sovereign Wealth Fund “Samruk-Kazyna”) owns 51 percent of Kazakhtelecom, the largest ISP, which holds an 88 percent share in the broadband internet market.<sup>27</sup> Independent ICT experts refute the allegation that other backbone operators are required to channel at least part of their traffic through Kazakhtelecom’s network infrastructure,<sup>28</sup> arguing that they might rent the national operator’s network (the most developed one) for economic reasons.<sup>29</sup> Among the five backbone ISPs, only one—Beeline—is not controlled by the government (others are affiliated either with Kazakhtelecom or other national companies, and one ISP—initially a state-owned petroleum company’s subsidiary—has unclear ownership status).

The Traffic Exchange Point—a peering center, established by Kazakhtelecom in 2008—is meant to facilitate service of first-tier providers, but in 2010, it turned down Beeline’s application to join the pool without giving any reason.<sup>30</sup> Kazakhtelecom’s dominance over the market and data transfer routes creates conditions for systemic content filtering.

The government’s decree on the rules of interaction and centralized management of telecommunication networks, dated December 8, 2011, regulates the activities of all ICT operators and aims—among other tasks—to “collect and analyze data about the current condition of traffic on international communication lines” and “provide for the court or investigatory bodies’ decisions on the suspension of operation of any networks or means of communication.”<sup>31</sup> Once the relevant state technical service receives the official decision on suspension, it immediately turns it into action and informs telecom operators on the technological parameters of the procedure. In order to provide for state supervision over the execution of such a decision, telecom operators must grant physical access to its own network control center.

On February 13, 2014, two days after an abrupt currency devaluation that frustrated many citizens, a call to hold an unsanctioned rally in Almaty became viral via its dissemination through SMS and mobile applications. At around 5 p.m., users of all mobile operators in Almaty reported problems with WhatsApp, Viber, and SMS services, which were unavailable for nearly 1.5 hours. Operators either refused to comment or cited “reasons not related to the company” for the problem.<sup>32</sup> Aside from this temporary disruption, there have been no instances of major disruptions in connectivity during the coverage period, but many proxy sites used as circumvention tools are blocked.

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26 “В Казахстане закрылись три торрент-трекера” [Three torrent-trackers closed in Kazakhstan], February 1, 2012, <http://www.today.kz/ru/news/science/2012-02-01/58802>

27 CAIFC Investment Group, <http://www.caifc.kz/userfiles/File/analytiks/kazakhtelecom.pdf>; “The analytical survey on JSC Kazakhtelecom”, 2013, pg. 2, accessed on January 11, 2014.

28 OpenNet Initiative, “Country Profile: Kazakhstan,” *Access Controlled*, accessed September 23, 2010, [http://www.access-controlled.net/wp-content/PDFs/part2/007\\_Kazakhstan.pdf](http://www.access-controlled.net/wp-content/PDFs/part2/007_Kazakhstan.pdf).

29 Interviews (January 13, 2014).

30 Comment by Mr. Kemelbek Oishybaev, Beeline’s executive, to the online Q&A session, accessed January 13, 2014, <http://yvision.kz/post/27605#comment236356>.

31 See full text of the Rules here <http://adilet.zan.kz/rus/docs/P1100001499>

32 “Messaging services were unavailable in Almaty for several hours”, Radiotochka.kz, February 13, 2014, <http://www.radiotochka.kz/news/full/1704.html>

On January 1, 2014, the website Ratel.kz posted a presentation by the ministry of communication and information (presumably, dated between December 16, 2011, when the events described in the presentation took place, and January 14, 2012, when the ministry was reorganized) regarding the government's brutal suppression of an oil worker strike in Western Kazakhstan that turned into mass riots and became known as the Zhanaozen crisis.<sup>33</sup> The presentation suggests that the government then disrupted all communications in the town (it was officially stated that the telecom lines were hit by fire) and continually blocked websites publishing unwanted information.<sup>34</sup>

On April 23, 2014, the government further expanded its legal authority to shut down ICTs when the president signed the law "On amendments and addenda to laws governing activity of the internal affairs bodies," which grants the prosecutor general's office the authority to suspend the operations of communication networks, including the provision of communication services and access to websites or particular content on websites, without a court decision. This law applies to cases when the networks are used for "felonious aims to damage the interests of individuals, society or state," including the dissemination of illegal information, calling for extremism, terrorism, mass riots, or participation in unauthorized mass public gatherings. Temporary bans can be introduced by the prosecutor general and deputy prosecutor general, whose instruction is then sent to the relevant authority. Within one hour, the relevant authority must inform service providers of the decision, which must be implemented within three hours. The law also provides for the deletion of disputed content by the person responsible for posting it online. If the publisher complies, the website can then be unblocked.<sup>35</sup>

As of April 2013, there were four mobile telephone providers in Kazakhstan, three of which use the GSM/3G standard (Kcell, Beeline, and TELE2) and one that uses CDMA/4G (ALTEL). Currently, all GSM operators are privately owned, with large foreign participation in ownership. Kazakhtelecom has fully owned ALTEL since 2006.

Several bodies regulate the ICT sector, with the main regulators reorganized periodically. In January 2012, the ministry of transport and communications was given responsibility over the technology infrastructure sector, while regulation of information-related issues was entrusted to the Committee for Information and Archives at the ministry of culture and information. In March 2014, the president issued a decree forming a separate agency known as the Agency for Communication and Information to manage issues of communication, information, and archives. There is no independent body holding a regulatory mandate to oversee internet. The Internet Association of Kazakhstan, established in 2009 in the form of a union of legal entities, claims to unite the Kazakh internet community to "improve infrastructure for Kazakhstani segment of the World Wide Web, develop common rules and reveal problems of the industry."<sup>36</sup> It participated in several working groups on internet-related legislation, yet some experts and professionals in the field have questioned the group's independence, transparency, and non-profit status.<sup>37</sup> The association does not have an

33 James Kilner, "Ten die in fighting between police and demonstrators in Kazakhstan", The Daily Telegraph, December 16, 2011, <http://www.telegraph.co.uk/news/worldnews/asia/kazakhstan/8961356/Ten-die-in-fighting-between-police-and-demonstrators-in-Kazakhstan.html>

34 Gennady Benditski, "Big Brother is Watching You", Ratel.kz, January 1, 2014, <http://wild.ratel.kz/news.php?news=135>

35 "ЗАКОН РЕСПУБЛИКИ КАЗАХСТАН, [Law of the Republic of Kazakhstan]," accessed August 2014, [http://online.zakon.kz/Document/?doc\\_id=31539059](http://online.zakon.kz/Document/?doc_id=31539059)

36 "Internet Association of Kazakhstan," accessed August 2014, <http://www.iak.kz/en/about-association/>

37 Andrei Jdanov, "Kazakh internet community splits," *Vecher.kz*, September 26, 2013, <http://vecher.kz/node/24562>

official government mandate but aims to “represent the interests of Kazakhstani internet market in state bodies” and has signed a memorandum of cooperation with the Prosecutor General’s office on “fighting illegal content.”<sup>38</sup>

The “.kz” top-level domain is managed by a registry, the Kazakhstani Network Information Center (KazNIC), and the Kazakhstani Association of IT Companies. Both were created in 2004–2005 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 deregistration of domain names.<sup>39</sup> Since 2005, the government has required that any website with a “.kz” country domain be hosted on servers within the territory of Kazakhstan.

## Limits on Content

In 2014, two laws were signed that grant greater authority to the prosecutor general and local government officials to block or censor online content. In addition to authorizing the suspension of ICT networks, the law “On amendments and addenda to laws governing activity of the internal affairs bodies,” signed by the president on April 23, 2014, grants the prosecutor general’s office the authority to block websites, without a court decision, if the websites are found to host illegal content. Additionally, the decree on “Rules for the Application of Additional Measures and Temporary Restrictions during a State of Emergency,” which was adopted on January 28 and implemented on April 12, 2014, allows officials to suspend or terminate media outlets and requires media outlets to provide local authorities with copies of material prior to publication during a declared state of emergency.

According to Adil Soz, a media rights NGO in Kazakhstan, there were 11 cases of media suspensions or forced closures in 2013, including of online media outlets, most of which were voices of the opposition or those that were critical of the government. They also reported on 14 cases of continuous or temporary website blockings, including the short-term outage of Facebook, reported by users in three cities.<sup>40</sup>

In 2009, the country’s media legislation was amended to require a court decision to block a website. In addition, court approval is legally required for any filtering to be exercised by ISPs according to the 2009 amendments to the ICT regulation.<sup>41</sup> However, these requirements have been inconsistently followed. The courts generally issue decisions to block websites in a frequent and dense manner, banning dozens of websites at a time, mostly on the grounds of religious extremism. Three justices of the Saryarka District Court of Astana are designated to deal with cases related to blocking online content.<sup>42</sup> Judges and prosecutors repeatedly display a lack of technical expertise, banning

38 “General Prosecutor’s Office and Internet Association of Kazakhstan signed a memorandum of cooperation,” Zakon.kz, February 18, 2014, <http://www.zakon.kz/4603838-generalnaja-prokuratura-i-internet.html>

39 OpenNet Initiative, “Country Profile: Kazakhstan,” December 9, 2010, <https://opennet.net/research/profiles/kazakhstan>.

40 Adil Soz, Statistics of violations of media and journalists’ rights in Kazakhstan for January–November 2013, accessed January 14, 2014, <http://www.adilsoz.kz/programms/statistika/ctatistika-narushenij-prav-smi-i-zhurnalistov-v-kazaxstane-yanvar-noyabr-2013-goda/>

41 See Law of the Republic of Kazakhstan on Amendments and Addenda into Legislative Acts Regulating Information-Communication Networks, dated July 10, 2009. full text here <http://adilet.zan.kz/rus/docs/Z090000178>.

42 Shavkat Sabirov, president of the Internet Association of Kazakhstan, said at the Roundtable “How to make internet safe for children” in Almaty, April 14, 2014.

URLs of irrelevant websites. The authorities have also sought to undermine the effectiveness of circumvention tools.

The legal framework for blocking online content changed following the amendments made on April 23, 2014 to the law, "On amendments and addenda to legislation regarding work of bodies of internal affairs,"<sup>43</sup> most of which were related to internet resources and their blocking. In addition to granting the prosecutor general's office the authority to suspend the operations of communication networks (as discussed above in "Obstacles to Access"), the new regulation provides for the suspension of access to websites without a court order, following the prosecutor general's request sent to the telecom providers or State Technical Authority by the Communications and Information Agency. However, after the owner of a resource removes the disputed content to comply with the request, the law demands access to be restored. This legislation runs counter to the law "On mass media," which still requires a court order to suspend or close access to websites.

Additionally, the decree on "Rules for the Application of Additional Measures and Temporary Restrictions during a State of Emergency," which was adopted on January 28 and entered into effect on April 12, 2014, imposes a number of restrictions to freedom of expression and association.<sup>44</sup> According to this law, Kazakh authorities can act with minimal judicial oversight, issue orders to suspend or terminate media publications (including on the internet), and suspend the activities of political parties and public associations during a state of emergency. Also during this time, media agencies must provide copies of material for publication to the local authorities at least 24 hours in advance, or in the case of breaking new reports, immediately before publication, in order to "align its content." If the outlet publishes any information that has not been approved, the commandant can issue "an order to suspend for a period established by law and/or to terminate production of mass media materials, or stop the distribution of mass media reports."<sup>45</sup> These new regulations have the potential to significantly infringe on internet users' rights and the principles of press freedom, although as of May 2014 they have yet to be applied.

Social media sites have been periodically blocked in Kazakhstan in recent years, though the government has not always admitted intent behind the restrictions. The international blog-hosting platform LiveJournal was blocked for over two years from October 2008 to November 2010 by Kazakhtelecom,<sup>46</sup> ostensibly to restrict access to politically-sensitive content related to President Nazarbayev's former son-in-law, Rakhat Aliyev.<sup>47</sup> The platform was unblocked after the disputed blog

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43 See Law of the Republic of Kazakhstan on Amendments and Addenda into Legislative Acts Regulating Activity of Bodies of Internal Affairs, dated April 23, 2014, [http://online.zakon.kz/Document/?doc\\_id=31539059](http://online.zakon.kz/Document/?doc_id=31539059)

44 "Kazakhstan: Sweeping Emergency Rules Violate Rights," Human Rights Watch, April 15, 2014, <http://www.hrw.org/news/2014/04/14/kazakhstan-sweeping-emergency-rules-violate-rights>.

45 "Об утверждении Правил применения дополнительных мер и временных ограничений в условиях чрезвычайного положения [On approval of the Rules of further measures and temporary restrictions in emergency situations]" January 28, 2014, <http://adilet.zan.kz/rus/docs/P1400000035>.

46 Karim Toktabayev, "1000 and 1 nights without LiveJournal" [in Russian], Profit.kz, October 9, 2012, <http://www.profit.kz/articles/1856-1000-i-1-noch-bez-Zhivogo-Zhurnala/#.UZpwPMo1r31>

47 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.

was frozen by LiveJournal administrators,<sup>48</sup> yet blocked again in August 2011 under claims that some accounts contained religious extremism.<sup>49</sup> A LiveJournal spokesperson 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.<sup>50</sup> The site remained inaccessible from Kazakhstan during this report's coverage period.

In February 2011, a district court in Astana banned two blogs on the Wordpress platform for disseminating content related to religious extremism, but this resulted in the blocking of the entire platform.<sup>51</sup> It is not fully clear when access was restored, and the disputed blogs are no longer available. As of 2014, Kazakhstani users can access Wordpress.com. Users reported the inaccessibility of some web-based services, including Slideshare.net, which was returning a "408 Request Time-out" error message in fall 2013. The live video streaming site Bambuser.com was originally blocked in April 2012 and remains inaccessible.<sup>52</sup>

In 2011–2012, Kazakhtelecom users had persistently reported difficulties in accessing some of Google's services, including the ability to download attachments sent in Gmail, the Picasa image bank, Google Translate's URL translation function, and others.<sup>53</sup> The cause of the problem was unclear and was never specifically explained by Kazakhtelecom officials, although the problem ceased to exist in September 2012, reportedly after Google started using local servers to cache webpages and thus enhance its search services.<sup>54</sup> According to Google's latest Transparency Report from January through June 2013, there were 3 requests from the government of Kazakhstan (none of them supported by relevant court decisions) to delete content from YouTube, including 200 items on the grounds of national security, 8 related to hate speech, and 1 related to violence. Of the three requests (totaling 209 items requested to be removed), Google complied with some or all of two of the requests.<sup>55</sup>

There were no details provided about each of the requests, but one prominent case is the blocking of a site for the Society to Assist Car Owners, an online community that is fighting against corruption and extortion of bribes by traffic police. The Society's website was blocked at least once for several days in April 2013, supposedly because of some embedded YouTube clips that were disputed.<sup>56</sup> As of

48 Adil Nurmakov, "Kazakhstan: Livejournal Unblocked After 2 Years of Filtering," Global Voices Online, November 17, 2010, <http://globalvoicesonline.org/2010/11/17/kazakhstan-livejournal-unblocked-after-2-years-of-filtering/>.

49 "Kazakhstan blocks websites to battle religious extremism," Neweurasia.net, September 9, 2011, <http://www.neweurasia.net/media-and-internet/kazakhstan-blocks-websites-to-battle-religious-extremism/>.

50 "LiveJournal portal, several blogs suspended," IFEX, September 2, 2012, [http://www.ifex.org/kazakhstan/2011/09/02/livejournal\\_suspended/](http://www.ifex.org/kazakhstan/2011/09/02/livejournal_suspended/).

51 Svetlana Glushkova, "Портал Вордпресс 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](http://rus.azattyq.org/content/worldpress_kazakhtelecom_blocking_blog_/24262786.html).

52 "Kazakhstan - Another regime blocks Bambuser", April 19, 2012, <http://blog.bambuser.com/2012/04/kazakhstan-another-regime-blocks.html>

53 See Google Help forum thread (in Russian) at <https://groups.google.com/a/googleproductforums.com/forum/#!category-topic/gmail-ru/????-?????/dJV0yhvaG08>, accessed January 31, 2013.

54 "Разблокировка сервисов Google (обновление)" [Unblocking the Google services (update)], September 2, 2012, [http://www.fateyev.com/ru/blog/2012/google\\_services\\_unlock\\_update](http://www.fateyev.com/ru/blog/2012/google_services_unlock_update)

55 Google Transparency Report page, accessed January 13, 2014, <http://www.google.com/transparencyreport/removals/government/KZ/>

56 "Website of the Society to Assist Car Owners Blocked", *Novyi Vestnik* newspaper, April 9, 2013, <http://www.nv.kz/2013/04/09/51507/>

May 2014 the website is accessible, but its YouTube page was terminated because of “multiple third-party notifications of copyright infringement.”<sup>57</sup>

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 decision can be made in absentia of the website representative and requires no further notification—to the public or the website owner—about why the website is blocked. The law considers all internet resources as media outlets. Under these amendments, all ISPs are required to ensure blockage of banned websites, and the owners of “internet resources” are responsible for any content, posted either by themselves or other users, that is deemed illegal under Kazakhstan’s civil, criminal, or administrative laws.<sup>58</sup>

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 125 websites for reasons of “religious extremism.”<sup>59</sup> In November 2012, the National Security Committee stated that courts had banned access to nearly 950 websites in 2011–2012 for propaganda relating to terrorism, violence, and extremism, and over 150 more sites were undergoing court examinations.<sup>60</sup> In addition, the filtering of opposition websites continues without court decisions.

Avaaz.org, the international platform for online petitions, became very popular in Kazakhstan after a December 2013 scandal involving a car accident in which a high-ranking official’s son had killed one and injured five in Almaty, but was released soon after his arrest. A petition to bring him to justice generated over 5,000 signatures on Avaaz.org in the first day, and this number tripled in the following two days.<sup>61</sup> Another petition on Avaaz.org appeared on February 12—after the national currency devaluation—that listed recent failures of the government and urged president Nazarbayev to resign. The petition collected 2,000 signatures in the first day, after which the website was blocked.<sup>62</sup> It was still inaccessible as of end of May 2014. The ministry of transport and communication, responding to the official request, said it did not order the block. Kazakhtelecom refused to comment.

Ratel.kz, a new whistleblowing site, was launched in December of 2013, and in its first two months, it survived several hacking attempts, DDoS attacks, and troubles with the hosting provider that allegedly impeded access to the website, as its founders stated at a February 18 press conference.<sup>63</sup> Claiming that they were targeted because of their critical articles, the owners of Ratel denounced the

57 See the disclaimer here: <http://www.youtube.com/user/OCAKazakhstan>

58 “Парламент принял закон, усиливающий контроль над интернет-ресурсами в Казахстане” [Parliament adopted law to increase control over internet resources in Kazakhstan], Zakon.kz, June 24, 2009, <http://www.zakon.kz/141606-parlament-prinjal-zakon-usilivajushhiji.html>.

59 “В Казахстане закрыли доступ к 125 сайтам” [Kazakhstan closed access to 125 websites], Tengrinews.kz, October 1, 2011, [http://tengrinews.kz/kazakhstan\\_news/198106/](http://tengrinews.kz/kazakhstan_news/198106/).

60 “КНБ Казахстана через МИД решает вопрос закрытия экстремистских сайтов” [Kazakhstan’s NSC resolves the issue of extremist websites ban through the MFA], Tengrinews.kz, November 14, 2012, [http://tengrinews.kz/kazakhstan\\_news/knb-kazahstana-cherez-mid-reshaet-vopros-zakryitiya-ekstremistskih-saytov-223419/](http://tengrinews.kz/kazakhstan_news/knb-kazahstana-cherez-mid-reshaet-vopros-zakryitiya-ekstremistskih-saytov-223419/)

61 “Petition calling for review of the Usenov case collected 15,000 signatures”, Zakon.kz, January 28, 2014, <http://www.zakon.kz/4599217-15-tysjach-golosov-sobrala-peticija-s.html>

62 “Website with the petition on Nazarbayev’s ‘impeachment’ blocked”, Azattyq.org, January 13, <http://rus.azattyq.org/content/peticia-onlain-otstavka-nazarbaeva/25262258.html>

63 Zarina Akhmatova, “Creators of Ratel denounce DDoS attacks on their website”, February 18, 2014, [http://vlast.kz/article/sozdateli\\_sajta\\_ratel\\_su\\_zajavljajut\\_o\\_ddos\\_atakah\\_na\\_resurs-4484.html](http://vlast.kz/article/sozdateli_sajta_ratel_su_zajavljajut_o_ddos_atakah_na_resurs-4484.html)

blocking of their website, which has been intermittently exercised by Kazakhtelecom since February 14 (Ratel has since moved to the non-Kazakh domain .su) The Ratel staff presented results of ping tracing, which showed the block stemming from one of Kazakhtelecom's backbone facilities, and is based on a domain name rather than an IP address. The national operator denies any problems on its side.

The West Kazakhstan "Uralsk Week" newspaper's website (Uralskweek.kz) was blocked on April 15, 2014, as reported by editor-in-chief Lukpan Akhmedyarov on Twitter.<sup>64</sup> The independent publication has faced numerous suits and administrative pressure in the past, and Mr. Akhmedyarov suffered a brutal attack in 2012. Internet users immediately launched a campaign in support of the news outlet, posting screenshots on social media of the error message that their browsers returned of the newspaper's URL. Kazakhtelecom denied blocking the website, and access to the website was restored after one day.

As many as 596 "destructive" websites were blocked by court decisions in Kazakhstan on extremism and terrorism charges in 2013.<sup>65</sup> In January 2014, the prosecutor general's office made an announcement that they would "master new approaches to fighting cyber-terrorism," as currently the "reaction of state bodies to its challenges is not always adequate, due to lack of specialists."<sup>66</sup> One of the ways to do so, according to the spokesperson, is to "collect information" instead of "mechanic deletion" of content from the web.

In March 2010, the Computer Emergency Response Team (CERT) was established in Kazakhstan to operate under the ministry of transport communications with the aim of fighting "destructive content" and "political extremism" by blacklisting and banning certain sites,<sup>67</sup> but currently, the agency's web page defines its mandate as addressing only technical incidents (viruses, spam, unauthorized access, DDoS or hacker attacks, etc.), not dealing with "issues of law enforcement authorities' responsibility."<sup>68</sup>

In late 2012, a court order banned four of the main opposition media outlets<sup>69</sup> for alleged "propaganda of violent overthrow of government and undermining of state security" in their content.<sup>70</sup> In 2012, the website of the online newspaper Guljan.org was charged with libel by state officials and eventually banned by a court with the defendants and their representatives in absentia.<sup>71</sup> In 2013, the journalistic collective reunited and registered a print magazine and website, Nuradam.

64 Twitter status of Lukpan Ahmedyarov @LukichLukpan, April 15, 2014, <https://twitter.com/lukichlukpan/status/455977027099971585?refsrc=email>

65 "Kazakhstan closed access to 596 websites propagating extremism and terrorism," Kazinform.kz, January 17, 2014, <http://inform.kz/rus/article/2622199>

66 "New approaches to fighting cyber-terrorism to be studied by the General Prosecutor's Office", Tengrinews.kz, January 17, 2014, <http://tengrinews.kz/events/novye-podhodyi-v-borbe-s-kiberterrorizmom-izuchit-genprokuratura-248997/>

67 "В Казахстане начались проверки "неправильных" сайтов" [Checks of 'undue' websites started in Kazakhstan], Nur.kz, March 1, 2010, <http://news.nur.kz/144920.html>.

68 "KZ-CERT, Computer Emergency Response Team," accessed August 2014, <http://kz-cert.kz/en/about/certinfo/>.

69 "Main opposition media silenced in space of a month," Reporters Without Borders, December 28, 2012, <http://en.rsf.org/kazakhstan-main-opposition-media-silenced-in-28-12-2012,43751.html>

70 "Прокуратура Алматы просит суд закрыть ряд оппозиционных СМИ" ["Prosecutors ask court to ban several opposition media outlets"], Tengrinews.kz, November 21, 2012, [http://m.tengrinews.kz/ru/kazakhstan\\_news/223826](http://m.tengrinews.kz/ru/kazakhstan_news/223826)

71 "Гульжан Ергалиева: Я еще не знаю, в чем меня обвиняют" [Guljan Yergaliyeva: I don't know what are the charges they bring against me], December 5, 2012, [http://forbes.kz/massmedia/guljan\\_ergalieva\\_ya\\_esche\\_ne\\_znayu\\_v\\_chem\\_menya\\_obvinyayut](http://forbes.kz/massmedia/guljan_ergalieva_ya_esche_ne_znayu_v_chem_menya_obvinyayut)

kz, which suffered from DDoS attacks on several occasions. In May 2013, the chief editor of the publication *Gulzhan Yergaliyeva* filed a complaint with the ministry of transport and communication for illegal blocking of Nuradam.kz.<sup>72</sup> In June, the journalists received an official reply saying that neither the ministry nor Kazakhtelecom were blocking the website.<sup>73</sup> As of April 2014, the domain name was reregistered and now represents an online shop.

The general atmosphere of self-censorship in both traditional and online media solidified after the package of amendments passed in 2009 increased censorship of content related to national security, copyright, privacy, extra protection of the president's honor and dignity, etc., in turn influencing the content on news sites, user-generated content platforms, and web-hosting companies. In some cases, the government suggests specific content that should not be covered in the media. For example, in December 2013, the ministry of culture and information issued an "insistent recommendation" to the media not to report on the press briefing by opposition figures about new details in the case of the opposition leader's murder in 2006; however, several traditional and online media outlets still covered the event. No new methods were used by the government or non-state actors to proactively manipulate the content and online news landscape during the coverage period, though the presence of government-paid commentators continued to be observed.

In an effort to demonstrate a willingness to engage with citizens online, officials and government institutions continue setting up and maintaining blogs on popular social-networking platforms. The website of every government body and local administration is required to have a blog, and all government press secretaries have been advised to set up their own Twitter accounts "to regularly monitor and participate in discussions, and resolve issues right where they occur."<sup>74</sup>

In February 2013, the minister of culture and information, Mukhtar Kul-Mukhammed, stated that future government procurement contracts with the media would favor more web-based publications for the "promotion of information policy."<sup>75</sup> At approximately the same time, then-state secretary Marat Tazhin expressed the need for a new information policy that would create a database of popular domestic and foreign analysts, bloggers, and moderators of social network communities.<sup>76</sup> There have been no official reports on the outcomes of these initiatives, but media NGOs have criticized the state contracts that will reportedly reach a record of US\$250 million in 2014,<sup>77</sup> both for their propagandistic bias and lack of transparency.<sup>78</sup> Kazbek Beisebaev, who has a prominent Facebook account, described his interaction with the Internet Association of Kazakhstan (which he identified as a "Tazhin list" operator, based on their self-presentation in private conversation)

72 "Gulzhan Yergaliyeva Claims Illegal Filtering", *Adil Soz*, May 27, 2013, <http://www.adilsoz.kz/news/gulzhan-ergalieva-zayavila-o-nezakonnoj-blokirovke-sajta-adambol-com/>

73 Facebook status, Аян Шарипбаев, June 6, 2013, [https://www.facebook.com/permalink.php?story\\_fbid=519599358104708&id=100001639461840](https://www.facebook.com/permalink.php?story_fbid=519599358104708&id=100001639461840).

74 "МКИ Казахстана рекомендует пресс-секретарям госорганов «переехать» в Твиттер" [MCI of Kazakhstan suggests press secretaries of state bodies "moving" to Twitter], November 23, 2012, <http://www.inform.kz/rus/article/2512711>

75 "Distribution of state information procurement contracts will be strictly tied to the rating of media outlets", *Kazinform*, February 25, 2013, <http://inform.kz/rus/article/2537802>.

76 Макпал Муканкызы, "Bloggers invented the term – 'Tazhin's list,'" *Azattyq.org*, February 27, 2013, <http://rus.azattyq.org/content/blogery-kritikuyut-initsiativu-marata-tazhina/24913675.html>.

77 Tatyana Trubacheva, "Government procurement contracts with the media to reach 40 billion tenge in 2014," *Forbes.kz*, October 10, 2013, [http://forbes.kz/massmedia/do\\_40\\_mlrd\\_tenge\\_vyirastet\\_goszakaz\\_v\\_smi\\_v\\_2014](http://forbes.kz/massmedia/do_40_mlrd_tenge_vyirastet_goszakaz_v_smi_v_2014)

78 Diana Okremova, "Official propaganda takes too much resources," *Radiotochka.kz*, December 6, 2013, <http://www.radiotochka.kz/news/full/1307.html>

as unsuccessful due to a lack of transparency in the selection of contractors and generally unclear procedures.<sup>79</sup>

In 2013, Yvision.kz—the most popular Kazakhstan-based blogging platform, with over 120,000 registered users posting on average 100 items daily—began taking information procurement contracts from the government for promoting an e-government portal and holding a blogger conference. More websites, which were initially launched as blogging platforms, have been increasingly trying to reposition themselves as editorially-supervised publications—partly because many users are migrating to Twitter and Facebook (the latter currently has over 700,000 users from Kazakhstan by estimates of InternetWorldStats.com)<sup>80</sup> and partly in an effort to look more like professional media outlets both for advertisers and the government’s information procurement contracts.

The Kazakhstani blogosphere experiences a wider engagement of professionals, officials, politicians, academics, and other public figures, particularly on social networks, which still remain a more open ground for discourse than traditional media outlets. The authorities have continued recruiting or encouraging some of the popular and loyal bloggers to engage in “special coverage” propaganda campaigns.<sup>81</sup>

Several grassroots campaigns emerged in early 2013 that actively employed various kinds of social media platforms to reach out to potential supporters, spread their message, and coordinate activities. In February 2014, after a largely unexpected 20 percent devaluation of the *tenge*, the national currency, frustrated citizens actively shared their reactions online, and two rallies held in Almaty were coordinated mostly via Facebook and WhatsApp.

More substantial online campaigns included the “Protect Kok-Zhailyau!” group, which opposed the plans of large-scale construction on the territory of a nature reserve, and a movement that opposed budget cuts to maternity benefits and an increase of the retirement age. Both groups developed consolidated positions and put forth constructive suggestions to mitigate the disputes, enabling them to resonate widely with the public. Though the campaigns garnered a limited response from the authorities, in June 2013, Serik Abdenov, the minister of labor and social protection, was fired on direct orders from the president as a result of the growing discontent around the retirement issue.<sup>82</sup> These cases demonstrated serious self-organizing potential that was not previously present in the online sphere in Kazakhstan.

## Violations of User Rights

During the coverage period, the government of Kazakhstan continued to use legal and extralegal mechanisms to control the activities of internet users. Restrictions on the use of anonymizing tools remain in place, and the government admitted to wide-scale monitoring of the web as well

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79 See Facebook post by Kazbek Beisebayev dated December 26, 2013, accessed January 14, 2014, <http://on.fb.me/KgC6Mt>.

80 See “Asia Internet Usage Stats, Facebook and Population Statistics” <http://www.internetworldstats.com/stats3.htm>

81 “Усилились постжанаозенские баталии блогеров” [“Post-Zhanaozen battles between bloggers have intensified”], Azattyq.org, August 20, 2012, <http://rus.azattyq.org/content/twitter-bloggers-battle-about-zhanaozen-trial/24680408.html>

82 “Kazakh Minister Fired as Netizens Criticize Pension Plans,” Global Voices, June 14, 2013, <http://globalvoicesonline.org/2013/06/14/kazakh-minister-fired-as-netizens-criticize-pension-plans/>

as the use of more advanced filtering technologies in fall 2013. On March 14, 2013, human rights activist and journalist Alexander Kharlamov was arrested for allegedly “spreading atheist ideas” and “inciting hatred” online, but observers believe his anti-corruption activism was the real reason for his arrest. He was sentenced to six months pre-trial detention (some of which was forcibly spent in a psychiatric ward) and now faces a prison sentence of up to seven years.

The constitution of Kazakhstan guarantees freedom of the press, but the criminal code provides stricter punishment for libel or insult of state officials, members of parliament, and especially, the president. The authorities also use various legislative, economic, and administrative tactics to control the media and limit free speech. Kazakhstani officials have a track record of using libel to punish critical reporting.

In January 2014, a new draft criminal code was sent to the parliament and underwent the lower chamber’s approval in the first reading. A separate section covers cybercrimes, including unsanctioned access to or illegal interception, modification, and deletion of information on computer networks. The new draft code makes the punishment for insult and libel – including those made in comments on websites – harsher (larger fines and up to three years of imprisonment), despite the government’s earlier commitment to decriminalize defamation. It also introduces criminal liability of up to 10 years in jail for the “dissemination of deliberately false information”<sup>83</sup> and criminalizes 58 delicts that are currently covered by the code of administrative offences, most of which are related to “disturbing public order.” The new criminal code was not adopted during this report’s coverage period, which ended May 31, 2014 (the new criminal code was approved by the parliament on June 11 and was signed by the president on July 3, 2014).

In May 2013, President Nursultan Nazarbayev signed the law “On personal information and its protection,” which was criticized by media activists as restrictive for journalism.<sup>84</sup> According to observers, since the law does not distinguish between information relating to private or public individuals, investigative reporters can now find themselves under the threat of prosecution for violation of privacy charges if they publish information about official corruption.<sup>85</sup>

Kazakhstan media law considers websites as media outlets, but the practice of granting these outlets the same rights and protections as traditional media is selective. In 2013, journalist Irina Mednikova reported that government officials refused to provide her with information she requested for an article that she was writing for the website Blogbasta.kz. The officials cited the absence of the website’s official registration as a media outlet as the reason for not giving the information; however, the same law stipulates that it is not necessary for the websites to obtain such registration.<sup>86</sup> In addition, new rules for the accreditation of journalists at state bodies and public associations were

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83 “Appeal by the media NGOs regarding the anti-constitutional amendments introduced by the Office of General Prosecutor”, April 7, 2014, <http://t.co/wEStn7DKzp> .

84 “Publication of any details of an official’s private life will lead to imprisonment”, *Exclusive.kz*, May 27, 2013, <http://exclusive.kz/obshhestvo/1957>

85 “Journalists Express Concern Over Kazakh Data-Protection Law,” *Radio Free Europe/Radio Liberty*, November 3, 2014, <http://www.rferl.org/content/kazakh-data-protection-law/25179583.html>.

86 Natalia Marchelova, “Websites are media, or not,” *Respublika-kaz.info*, August 26, 2013, <http://respublika-kaz.info/news/politics/32254/>

adopted by the ministry of culture and information on June 21, 2013. These rules make it impossible for online media outlets without official registration to obtain such accreditation.<sup>87</sup>

The first case of online libel in Kazakhstan reached the courts in January 2013. Two officers of the Almaty tax department published an anonymous post on the official blog of the chairman of the tax committee, claiming that their supervisor was implicated in crimes of corruption. The police inquired into the crime and six months later, the offenders appeared in court after a series of investigatory activities that included internet protocol (IP) analysis, retrieval of video recordings from cameras installed inside the cybercafe from which the comments had been posted, and the cybercafe's server data of online activities from certain PCs. The defendants maintained their innocence; however, the court sentenced both to one year of restraint of freedom, which requires notifying the police prior to leaving one's place of residence, education, or work.<sup>88</sup>

In March 2013, online journalist and civil society activist Alexander Kharlamov, from the provincial town of Ridder in Northern Kazakhstan, was arrested on charges of allegedly "inciting religious hatred" in his pro-atheism articles.<sup>89</sup> After spending six months in pre-trial detention, including several weeks in a psychiatric clinic against his will, he was released only to remain under house arrest. He continues to face charges that observers think are caused mostly by his anti-corruption activism, which made him enemies with the local administration.<sup>90</sup>

On February 5, 2014, the mayor of Almaty hosted a lunch to which he invited several popular bloggers, causing a controversy in the blogging community about whether or not the mayor was attempting to bribe them for more favorable media coverage. Three opposition activists, calling themselves bloggers, attempted to attend the lunch to which they were not invited and staged a protest outside the restaurant when they were refused entry. All three were arrested and given 10-day jail sentences. They were repeatedly detained on the eve of the Almaty mayor's general meeting with the public, allegedly for libel in the interview following their imprisonment, but since they were freed after only three hours at the police station, their colleagues believed it was more of a "preventive arrest" to block them from disturbing the event.

Dina Baidildayeva, a video-blogger and social media editor at Azattyq.org (a Kazakh subsidiary of Radio Free Europe/Radio Liberty) who frequently engages in protest actions, made a one-person picket to protest the first detention of the trio of bloggers mentioned above on February 8. She was immediately detained but freed with an administrative warning issued by the court.<sup>91</sup> Several times over the past year, a fake Facebook page alleging Ms. Baidildayeva to be a porn star has been created by unidentified users.

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87 "New rules of journalists' accreditation adopted in Kazakhstan," Internews.kz, August 14, 2013, <http://www.internews.kz/newspage/14-08-2013/2878>

88 "Клевета в Интернете" [Libel on the internet], January 29, 2013, <http://www.nomad.su/?a=13-201301300007>

89 Reporters without borders, "Authorities again urged to drop all charges against atheist blogger," September 5, 2013, <http://en.rsf.org/kazakhstan-authorities-again-urged-to-drop-05-09-2013,45141.html>

90 Human Rights Watch, "Kazakhstan: Drop Religious Incitement Charges", May 22, 2013, <http://www.hrw.org/news/2013/05/21/kazakhstan-drop-religious-incitement-charges>

91 Joanna Lillis, "Kazakhstan Arrests Four Bloggers in a Week", February 11, 2014, Eurasianet.org, <http://www.eurasianet.org/node/68027>

Since early 2011, anonymizing tools, including proxy sites and specific circumvention software, have increasingly been blocked in Kazakhstan, apparently with no proper court decision issued against them. Users wishing to circumvent censorship use the traffic compression feature in browsers designed by the Opera Software,<sup>92</sup> VPNs, and other solutions that are still available. The regulation on public access points bans the use of circumvention tools in cybercafes.<sup>93</sup>

In March 2012, the Tor Project, whose official website is intermittently inaccessible from Kazakhstan, found evidence that deep packet inspection (DPI) was being used by at least one telecommunications service provider, KazTransCom JSC, to censor and monitor the internet, particularly SSL-based encryption protocols.<sup>94</sup> A professional from a private-sector telecom company who spoke on the basis of anonymity stated that the president's administration, the Office of the Prosecutor General, and the National Security Committee plan to launch three different content monitoring systems, including software to monitor social networking sites (at least one regional administration presumably has such software already). Earlier, in February 2012, a Yvision.kz blogger published a screenshot of a tweet sent by the official account of Kazakhtelecom, which said that their "DPI system provides for traffic management and has no access to users' personal data."<sup>95</sup> According to Shavkat Sabirov, the president of the Internet Association of Kazakhstan, the DPI system was installed on the backbone infrastructure in 2010 by the Israeli company Check Point Software Technologies.<sup>96</sup>

In May 2013, a spokesperson for the prosecutor general, Nurdaulet Suindikov, said that the monitoring of media with the purpose to identify extremist and terrorist items was to "be significantly broadened" in 2013-2017, including the monitoring of up to 10,000 websites, mostly foreign ones.<sup>97</sup> In October 2013, the prosecutor general's office admitted that Kazakhstan authorities are "able to selectively block pages" in cases of violations of Kazakhstan laws, including pages on YouTube, but not on Facebook or Twitter. Mr. Suindikov added that several ministries and agencies were working together to "find new technical ways to block sites" and expand the international agreements about fighting destructive content.<sup>98</sup> Also in October 2013, a roundtable on strengthening the prevention of terrorism and extremism was held in Almaty, where the deputy head of the city administration's internal policy unit Aidar Yesenbekov admitted that popular social networking websites like Facebook, Vk.com, and Moi Mir (mail.ru) are monitored.<sup>99</sup> On the eve of the protest rally against the abrupt currency devaluation in Almaty on February 15, 2014, several Facebook users, who had stated their intention to take part, reported that police visited their

92 "Web browser that bypasses big brother a Kazakh hit," Reuters, April 13, 2010, <http://www.reuters.com/article/2010/04/13/us-kazakhstan-internet-browser-idUSTR63C37N20100413>.

93 "В интернет-клубы теперь будут пускать только с удостоверением личности" [Internet clubs will demand IDs], Zakon.kz, January 25, 2012, <http://www.zakon.kz/kazakhstan/4469529-takie-pravila-okazanija-uslug-dostupa-k.html>.

94 "Updates on Kazakhstan Internet Censorship", March 2, 2012, <http://bit.ly/yhksVQ>.

95 Community Information Security, "Here we received official confirmation from the use of DPI Kaztel," Yvision.kz, accessed August 2014, <http://yvision.kz/post/219289>

96 As said at the Roundtable "How to make internet safe for children" in Almaty, April 14, 2014

97 "Kazakhstan authorities will monitor media on a large scale," Headline.kz, May 24, 2013, [http://news.headline.kz/chto\\_v\\_strane/v\\_kazhstane\\_budut\\_masshtabno\\_monitorit\\_smi.html](http://news.headline.kz/chto_v_strane/v_kazhstane_budut_masshtabno_monitorit_smi.html)

98 "Kazakhstan authorities unable to block Facebook and Twitter," Tengrinews.kz, October 4, 2013, <http://en.tengrinews.kz/internet/Kazakhstan-authorities-unable-to-block-Facebook-and-Twitter-23079/>.

99 Asemgul Kasenova, "Repentant terrorists' testimonies to be used in fighting extremism," Tengrinews.kz, October 1, 2013, [http://tengrinews.kz/kazakhstan\\_news/obrascheniya-raskayavshihya-terroristov-predlojili-ispolzovat-borbe-242701/](http://tengrinews.kz/kazakhstan_news/obrascheniya-raskayavshihya-terroristov-predlojili-ispolzovat-borbe-242701/)

residences to “discuss their Facebook posts” and warn them against going to an unsanctioned gathering.<sup>100</sup>

It is difficult to verify reported 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, IP addresses, browsing history, protocols of data transmission, and other data, via the installation of special software and hardware when necessary.<sup>101</sup> Providers must store user data for two years and grant access to “operative-investigatory bodies,” including the National Security Committee, secret services, military intelligence, etc., when sanctioned by a prosecutor, or in some cases “by coordination with prosecutor general’s office” or under notification of a prosecutor within 24 hours.<sup>102</sup> 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 a formality.<sup>103</sup>

New amendments to the law on countering terrorism signed by the president on January 8, 2013 and effective as of January 18, 2013<sup>104</sup> granted extra powers to the security bodies,<sup>105</sup> reiterated a vague term of “fomenting social discord,” and obliged all mass media (including online resources and citizen journalists) to “assist” the state bodies involved in counter terrorism. The exact mechanisms of assistance are not specified.

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 data about 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.”<sup>106</sup> Beginning in early 2012, parts of the decree came into force, including the requirement to install video surveillance equipment and filtering software.<sup>107</sup> As of early 2014, none of the cybercafes specifically reviewed for this report required an identification card or passport before granting access to internet. The regulation does not apply to public Wi-Fi access points.

100 Dmitry Belyakov, “Protest action against tenge devaluation held in Almaty,” Radiotochka.kz, February, 15, 2014, <http://www.radiotochka.kz/news/full/1726.html>

101 Ksenia Bondal, “Следи за базаром - нас слушают” [Watch out, we are watched], *Respublika*, republished by Zakon.kz, November 5, 2009, [http://www.zakon.kz/top\\_news/152528-objazyvaet-li-ais-i-knb-sotovykh.html](http://www.zakon.kz/top_news/152528-objazyvaet-li-ais-i-knb-sotovykh.html).

102 “Rules of rendering internet access services,” adopted by the governmental decree #1718 on December 30, 2011, and the Law on operative-investigatory activities, dated September 15, 1994, <http://www.minjust.kz/ru/node/10182>.

103 “Сотовая связь: абонент не определен и опасен” [Cellular: caller is uncertain and dangerous], Ipr.kz, June 21, 2011, <http://www.ipr.kz/kipr/3/1/51#.T7t40tx1BLc>.

104 Law of the Republic of Kazakhstan on amendments and addenda into several legislative acts of the Republic of Kazakhstan regarding counteraction to terrorism [In Russian], January 8, 2013, [http://online.zakon.kz/Document/?doc\\_id=31318154](http://online.zakon.kz/Document/?doc_id=31318154)

105 Alexandr Gribanov, “Закон особого назначения” [“Law of special task”], *Vecherniy Almaty* newspaper, January 31, 2013, <http://www.vecher.kz/node/18716>

106 “Rules of rendering internet access services,” adopted by the governmental decree #1718 on December 30, 2011, <http://medialawca.org/old/document/-11242>.

107 “В интернет-клубы теперь будут пускать только с удостоверением личности” [Internet clubs will demand IDs], *Zakon.kz*, January 25, 2012, <http://www.zakon.kz/kazakhstan/4469529-takie-pravila-okazanija-uslug-dostupa-k.html>.

Since the attack on journalist Lukpan Akhmedyarov in 2012, there have been no reported incidents of physical violence against online users.

The administrators of several independent news sites, such as UralskWeek.kz, Ratel.kz and Nuradam.kz, reported suffering sporadic DDoS attacks apparently as a result of their critical reporting. The origins of the attacks, however, has not been identified and the attacks were not reported to the Computer Emergency Response Team (CERT).<sup>108</sup> Meanwhile, the e-government portal of Kazakhstan became a target for DDoS attacks in December 2013, and CERT undertook measures to localize and block the attacks.<sup>109</sup> The website for government procurement contracts was also attacked and disabled for several hours on March 12, 2014,<sup>110</sup> and in November 2013, the same website was reportedly hacked when unidentified persons published obscene texts there.<sup>111</sup>

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108 Computer Emergency Response Team (CERT), accessed July 1, 2013, <http://kz-cert.kz/en/>

109 "E-government portal suffers from DDoS attacks," Profit.kz, December 19, 2013, <http://profit.kz/news/11276/Portal-elektronnogo-pravitelstva-podvergsya-DDoS-atakam/>

110 "Hackers attacked Kazakh government procurement website", I-news.kz, March 13, 2014, [http://i-news.kz/news/2014/03/13/7438155-hakery\\_atakovali\\_sait\\_goszakupok\\_kazahst.html](http://i-news.kz/news/2014/03/13/7438155-hakery_atakovali_sait_goszakupok_kazahst.html)

111 "Indecent poems allegedly posted on state procurement website by hackers", October 18, 2013, TengriNews.kz, [http://tengrinews.kz/kazakhstan\\_news/neprilichnyimi-stihami-sayt-goszakupok-kazahstana-mogli-atakovat-hakeryi-243841/](http://tengrinews.kz/kazakhstan_news/neprilichnyimi-stihami-sayt-goszakupok-kazahstana-mogli-atakovat-hakeryi-243841/)