



Key Developments:

JUNE 1, 2017 - MAY 31, 2018

- In March, a court banned the online opposition movement Democratic Choice of Kazakhstan (DVK), thus criminalizing DVK-related content and limiting the effectiveness of digital activism (see Digital Activism and Content Removal).
- Social media and communication platforms continue to have connectivity issues when fugitive oligarch and dissident Mukhtar Ablyazov live streams (see Blocking and Filtering).
- Authorities prosecuted internet users for “extremism,” while online outlets *Ratel.kz* and *Forbes Kazakhstan* were charged for disseminating false information via articles detailing a former government official’s alleged corrupt business dealings (see Prosecutions and Detentions for Online Activities).
- New amendments to the law on information and communications restricted anonymity online by mandating that website commentators register (see Surveillance, Privacy, and Anonymity).
- The National Security Committee took control of the State Technical Service and has been given more power over online content and ICT infrastructure (see Restrictions on Connectivity and Regulatory Bodies).

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Quick Facts

Population: 18,037,646

Internet Penetration: 76.4%

Social Media/ICT Apps Blocked: Yes

Political/Social Content Blocked: Yes

Bloggers/ICT Users Arrested: Yes

Freedom in the World Status: Not Free

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Internet freedom in Kazakhstan remained “Not Free” in 2018, as new legal amendments further restricted online anonymity and a court recognized an opposition movement as extremist.

Despite improved affordability, speeds, and internet access, the internet is heavily regulated by the country’s authoritarian government. Authorities regularly block websites and employ the legal system to stifle free expression online. Kazakhstan is also developing a complex infrastructure to control internet traffic.

The government significantly increased the cost of online dissent over the past year. On March 13, 2018, a court ruled that the Democratic Choice of Kazakhstan (DVK), an opposition movement supported by exiled oligarch Mukhtar Ablyazov, is an extremist organization. The government has since prosecuted DVK-related activity and content online under broad and harsh extremism laws.¹ Authorities have also requested that a number of social media and communication apps remove DVK content and groups from their platforms. VKontakte, Odnoklassniki, and Instagram all reportedly complied.

The government also moved to further restrict anonymity online while increasing its surveillance capabilities. New amendments to the law on information and communications require users wishing to comment on local websites to register by either using their government-issued digital signature or using SMS identification. In January 2018, new technical regulations for SORM developed by the National Security Committee reportedly became effective, which could seriously impact freedom of expression and privacy.

Obstacles to Access:

The government of Kazakhstan continued to improve ICT infrastructure by facilitating market competition and private ownership in the telecommunications industry, although the partly-government owned Kazakhtelecom announced its plans to acquire 75 percent of Kcell. There were no internet shutdowns during the reporting period, but users frequently experienced connectivity issues when trying to access social media and communication platforms.

Availability and Ease of Access

Internet access has grown significantly in Kazakhstan over the past decade. According to the government, 77 percent of the population uses the internet,² although access is more limited in rural areas where 45 percent of the population resides. By the beginning of 2018, 4G LTE network covered cities and towns with more than 50,000 residents. The government-run Digital Kazakhstan program hopes to increase internet penetration to 82 percent by 2022.³ The ambition is to ensure broadband connectivity with fiber-optic infrastructure to a large portion of rural areas by 2020.⁴

Most people access the internet from their mobile devices and at home, and the internet is often available free-of-charge in various public places in cities. According to Budde, a



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telecommunications research and consultancy company, the mobile broadband market is mature and developed, and further growth is predicted over the next five years.⁵ Both mobile internet and fixed broadband remain relatively affordable. In 2018, monthly fixed-line unlimited broadband subscriptions started at KZT 3,000 (US \$8.20),⁶ while popular monthly mobile broadband subscriptions with prepaid 8 GB traffic were as low as KZT 1,790 (US \$5.60).⁷ As of August 2018, the average monthly salary in Kazakhstan was KZT 159 125 (US \$437).⁸

Access is distributed relatively evenly across Kazakhstan's multiethnic communities. The competition between the Kazakh language and Russian language—still widely used by many urban residents as a part of the Soviet legacy—has an impact on access. All public institutions are required to provide at least two language versions on their website, and many private sector actors follow this example. However, there is much more domestic content available in Russian than in Kazakh, especially in alternative news coverage online; social media discussions are also held primarily in Russian. In late 2017, authorities decided that over the next eight years the Kazakh language will transition from using the Russian Cyrillic script to using the Latin alphabet in order to better utilize the language online.⁹ Gender does not seem to be a barrier to internet access in Kazakhstan.

Restrictions on Connectivity

A number of laws allow the government to suspend telecommunications networks. During the coverage period, there were no reports of intentional disruptions to ICT connectivity. Social media platforms, however, have repeatedly had connectivity issues when exiled dissident Mukhtar Ablyazov live streams from France (see Blocking and Filtering). These issues became more evident after March 2018, when the DVK movement, sponsored by Ablyazov, was declared extremist.¹⁰

A new law adopted in December 2017 empowers the National Security Committee (NSC) to suspend “networks and means of communication and access to the internet” in “urgent cases that may result in commitment of grave or especially grave crimes.” The NSC is not required to obtain prior approval, and can subsequently inform the prosecutor's office and Ministry of Information and Communications.¹¹ In 2012, amendments to the Law on National Security allowed the government to forcibly suspend telecommunications during anti-terrorist operations or the suppression of mass riots.¹² Further legislation was passed to compel private actors—websites, ISPs, or mobile operators—to block or disconnect service at the government's request. Since 2014, the prosecutor general's office is also authorized to issue orders to shut down communication services without a court order if “networks are used for felonious aims to damage interests of individuals, society or state,” including the dissemination of illegal information, calls for extremism, terrorism, mass riots, or participation in unauthorized public gatherings. Orders must



be executed by either telecom operators or the State Technical Service within three hours.

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The government centralizes internet infrastructure in a way that facilitates control of content and surveillance. Kazakhtelecom, through its operations and a number of subsidiaries, holds a de facto monopoly on backbone infrastructure. The country's internet exchange point (IXP) — a peering center for domestic traffic established by Kazakhtelecom in 2008—is meant to facilitate connectivity among 10 first-tier providers, although Beeline, a rival of Kazakhtelecom with an autonomous backbone infrastructure, has been repeatedly denied access.¹³ Plans to create a second IXP for international traffic were announced in April 2016,¹⁴ with the expectation that it would be more inclusive.

In July 2017, the State Technical Service, which supervises peering centers and cross-border connections, became subordinate to the National Security Committee, Kazakhstan's most powerful secret service.¹⁵ Prior to this, the service was under the Ministry of Information and Communications. In December 2017, the Law on Communication was amended to make the organization of IXPs a state monopoly on the grounds of information security.¹⁶

ICT Market

According to the e-government portal of Kazakhstan, there are 10 major ISPs and a dozen providers that cover several cities and provinces.¹⁷ The state owns 51 percent of Kazakhtelecom, the largest telecommunications operator in Kazakhstan, through the sovereign wealth fund Samruk-Kazyna.¹⁸ Alexander Klenabov, an oligarch close to the government, controls 22 percent of stakes in Kazakhtelecom.¹⁹ As of June 2016, Kazakhtelecom had a 75 percent share in the fixed broadband internet market,²⁰ a decline from 85 percent at the end of 2014.²¹ It fully or partially owns a number of other backbone and downstream ISPs.

The country's three GSM operators, Kcell, Beeline, and Tele2/Altel, are privately owned by foreign shareholders, however Kazakhtelecom owns half of Tele2/Altel after a 2016 merger of Kazakhtelecom's Altel with Tele2-Kazakhstan, a subsidiary of the Scandinavian operator.²² In January 2018, Kazakhtelecom announced its plans to acquire 75 percent of Kcell,²³ which is being sold by the Nordic Telia Company as it withdraws from post-Soviet countries.²⁴ If the deal is approved by Kazakhstan's anti-trust authority, Kazakhtelecom would control a 65 percent share of the market.²⁵

All operators were given the right to offer 4G LTE in 2016.²⁶ No special licensing is required for businesses that decide to set up a Wi-Fi hotspot, and free public access over Wi-Fi is ubiquitous in cafes, shopping centers, and other public places.



Regulatory Bodies

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The Ministry of Information and Communication oversees communication, e-government, and the media, including the internet. The ministry also acts as the regulatory authority, with its Committee of State Control over Communications, Information, and Mass Media responsible for developing policy and law.²⁷

The Ministry of Defensive and Aerospace Industry, established in October 2016, has been tasked with developing and implementing policy concerning cybersecurity, information security, and the protection of information systems.²⁸ These issues are to be addressed in the “Cybershield” action plan, currently in development.²⁹

The National Security Committee has increased its power to make decisions relating to online content and ICT infrastructure. The Committee has taken control of the State Technical Service and has the authority to block content and disrupt internet networks for investigatory purposes and to “prevent crimes.” The committee can do so without a court order, and then only later must notify other authorized bodies within 24-hours.³⁰ In February 2017, the National Security Committee and a number of other government ministries and agencies adopted new rules for blocking or suspending internet networks, communication resources, or other internet-related content. The document is classified.³¹

The Internet Association of Kazakhstan (IAK), established in 2009 in the form of a union of legal entities, claims to unite the country's internet community,³² yet some of its former members have questioned the group's independence, transparency, and non-profit status.³³ IAK has participated in discussions on ICT-related legislation and has cooperated with the General Prosecutor's office on fighting child abuse online, hate speech, extremism, terrorism, and cyberfraud. Over the past few years, IAK's activities have been downsizing, but it continues to provide expertise on issues and draft laws.

Since 2005, the government has required that any website in the top-level “.kz” domain zone be hosted on servers within Kazakhstan. The “.kz” domain is managed by the Kazakhstan Network Information Center (KazNIC) registry. The Kazakhstani Association of IT Companies administers domain names and regulates KazNIC tariffs. In 2015, the Association doubled the minimum price of a .kz domain name,³⁴ and currently it costs around US \$10. In 2015, a law was passed granting the government the power to appoint both the registrar and the domain name administrator. Though the government has not made changes to the current appointments, some experts are concerned that this power may be subject to abuse.³⁵

Limits on Content:

The authorities have continued to restrict content online. Entire platforms hosting user-generated content are subject to periodic



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blocking, often without any public justification. The most frequent reason used to justify restrictions to online content is extremism.

This trend continued during the reporting period, as any DVK-related online content has been subject to removal on extremism grounds.

Blocking and Filtering

The government possesses extensive legal powers to block online content. Websites and entire content-hosting platforms have been blocked, and users trying to access social media and communication platforms routinely experienced connectivity issues during the reporting period. In August 2017, the authorities reported that about 30,000 websites were blocked.³⁶ Content blocked reportedly related to pornography, extremism, terrorism, and violence. While users regularly use tools to circumvent censorship, many remain subject to blocking or other bans (see Surveillance, Privacy, and Anonymity).

Social media and communication platforms are sometimes restricted during politically sensitive events. Users reported difficulty accessing Facebook, Instagram, YouTube, and Telegram multiple times during the coverage period.³⁷ The authorities have routinely attributed disruptions to ill-explained technical troubles.³⁸ Often, the inaccessibility of the platforms coincided with the live streams of Mukhtar Ablyazov. The outages became more regular after DVK, which Ablyazov supports, was recognized as an extremist organization. After the March 2018 ruling, the government requested to YouTube, Twitter, Facebook, Instagram, and Russian platforms VKontakte and Odnoklassniki to remove DVK-related content and groups (see Content Removal).³⁹ The government threatened to restrict access to or outright block the platforms if they did not comply.

In late August and early September, users reported difficulties loading pictures and other multimedia content on social media and messaging apps.⁴⁰ Around the same time in early September, there was a small brawl involving about 30 people in the capital city Astana.⁴¹ Authorities blamed technical issues of too many users trying to access the platforms around the time of the fight.⁴²

The following websites and platforms were also blocked within the coverage period:

- Avaaz and Change.org, online petitions websites, remained blocked. The sites previously have been intermittently blocked when critical causes have been promoted. For example, Avaaz was blocked in January 2017 after online activists launched a petition protesting new antiterrorism measures⁴³ and also in 2014 when users launched a petition calling for the impeachment of President Nursultan Nazarbayev.⁴⁴ Change.org was blocked in August 2016 after activists posted a petition calling for the resignation of then-prime minister Karim Massimov.⁴⁵



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- In March 2018, a court ordered that *Ratel.kz* be blocked and associated websites, following the request of prosecutors (see Prosecutions and Detentions for Online Activity).⁴⁶ The formal reason for the blocking was that the *ratel.kz* domain name had been registered under journalist Gennady Benditski, who died in December 2017, and was not properly reregistered. On May 28, 2018, a district court in Almaty banned *Ratel.kz* from publishing and deregistered the *Ratel.kz* domain name for one year. In April, the court ordered the publication to close its Facebook page.⁴⁷
- In November 2017, authorities blocked access to some Russia-based online bookstores including Ozon.ru, Eksmo publishing house, and Labyrinth for offering a book previously deemed to be “extremist.”⁴⁸ Access was reportedly restored to some of the sites after the content was removed.⁴⁹
- In February 2018, the Ministry of Information and Communications blocked GetContact, an application used to check unknown numbers, reportedly over privacy concerns.⁵⁰ The company denied deliberate wrongdoing or misuse of data.⁵¹
- In June 2017, the website of the magazine *Foreign Policy* was blocked after a critical article about the EXPO world fair in Astana was published.⁵² The website was accessible as of March 2018.
- The website of Adil Soz, the major media rights NGO in Kazakhstan, was briefly unavailable in November 2017. According to the Adil Soz’s chairwoman, access was restored after reaching the vice minister of information and communications, who cited a “technical” issue.⁵³

Other websites were also intermittently or permanently unavailable during the coverage period in circumstances that lacked transparency. These included popular photo hosting site Flickr, UStream, Archive.org, and cloud storage service Mega.nz. Some international media outlets also remain blocked, including the British *Daily Mail*, Russian *Meduza*, Kyrgyz Kloop.kg, and others. Several domains of the gaming platform Steam are also blocked.⁵⁴

According to the Mass Media Law, all internet resources, including websites and pages on social networks, are considered media outlets. Under 2014 amendments to the law, the general prosecutor is authorized to order service providers to block content without a court order. ISPs must conform to such requests until the website owner deletes the content in question and the law provides no space for an ISP to reject the order or for the website owner to appeal.⁵⁵ In 2016, the Ministry of Information and Communication also gained the authority to issue takedown and blocking orders until website administrators remove content in question.

In June 2017, the Ministry of Information and Communications launched a pilot version of the blocked



websites roster, which is an online tool where users can check if a website is blocked by a court decision or government

order.⁵⁶

In February 2016, the regulator said it was adopting an “Automated System of Monitoring the National Information Space” to uncover illegal content online (see Content Removal). Several more bodies monitor online content, including the National Security Committee, the office of the president, and local government officials.

Judges and prosecutors repeatedly display a lack of technical expertise, banning URLs of irrelevant websites like search engines. Websites can be blocked even in the absence of the defendant’s representative; no further notification—to the public or the website owner—about the reason for the blocking is required. The court issues frequent decisions to block websites, banning dozens at a time, mostly on the grounds of religious extremism. The appeal procedure is opaque and is yet to be tested. As of 2016, the public can no longer access court rulings on blocking cases. An individual must apply for judicial approval in order to view rulings.⁵⁷

Content Removal

The authorities use varied means to enforce the removal of content online, including pressure on critical online outlets to take down specific content and requests to international social media platforms.

In March, the government requested that YouTube, Twitter, Facebook, Instagram, and VKontakte and Odnoklassniki remove DVK-related content and groups from their platforms.⁵⁸ On March 27, the authorities reported that VK and Odnoklassniki complied with their requests, while Instagram also removed community pages and content.⁵⁹

By equating all internet resources with media outlets, the country’s media law makes web publishers—including bloggers and users on social media websites—liable for the content they post online, but it does not further specify if online platforms are responsible for content posted by third parties. In October 2015, the regulator stated that social media users could be held liable for extremist comments posted on their pages by third parties, which would be regarded as permitting the publication of extremist materials in a mass media outlet, an offense under the Criminal Code punishable by up to 90 days in prison. Users who post or share such content may be fined for its “production, storage, import, transportation and dissemination,” and in some cases, jailed for up to 20 years.⁶⁰

2016 amendments to the Communications Law oblige ISPs to monitor content passing through their networks and decide whether to restrict content.⁶¹ The Administrative Code, in force since 2016, imposes penalties on ISPs for not complying with censorship orders, with a fine of up to US\$ 2,000.⁶²

In order to avoid having a website or page permanently blocked and to escape legal liability, owners of internet resources must remove content that is deemed extremist or is

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otherwise banned (see Blocking and Filtering). Once illegal content is identified, the regulator requires ISPs and the State Technical Service (STS) to suspend access to the entire website within three hours. The party responsible for the content then receives a request for the content's removal; if they comply, ISPs must unblock the website immediately.⁶³

In February 2016, the regulator adopted new rules for the monitoring of media, including online media, using the "Automated System of Monitoring the National Information Space."⁶⁴ As a result of this monitoring, there were reportedly approximately 270,000 takedown requests issued in 2017.⁶⁵ In May 2017, a Ministry of Information and Communication official reported that monitoring is done manually,⁶⁶ but the Minister said that an automatic system will be developed by the end of 2018.⁶⁷

Courts sometimes use defamation suits and criminal cases to force outlets to remove content. In spring 2017, *Ratel* and *Forbes Kazakhstan* were ordered to remove several articles related to an investigation of Zeinulla Kakimzhanov, a businessman and former top government official. The publications were also ordered to pay KZT 50 million (US \$160,000) in damages to Kakimzhanov.⁶⁸

During the current reporting period, Kakimzhanov again filed a criminal case against the online outlets and police raided the outlets' offices and homes of journalists (see Prosecutions and Detentions for Online Activities).⁶⁹ The suits relate to articles alleging Kakimzhanov's corrupt business dealings.

The authorities also approached international companies to remove content. From July to December 2017, Google received 72 requests for content removal, primarily for national security reasons.⁷⁰ In the same period, Facebook reported restricting access to one content item for defamation purposes.⁷¹

Media, Diversity, and Content Manipulation

In addition to blocking and removing content, the online media landscape in Kazakhstan is subject to less overt forms of restrictions on the free flow of information, such as progovernment propaganda and pressure to self-censor. Self-censorship in both traditional and online media outlets is pervasive. Social media remains the most liberal environment for the public exchange of news and opinions, but discourse there is considered to be very prone to manipulation and propaganda, including by commentators paid by the government. Although the authorities impose no restrictions on advertising to critical websites, the atmosphere of self-censorship extends to businesses too. Additionally, new amendments to the law on information and communications that ban anonymous online commentators (see Surveillance, Privacy, and Anonymity) is expected to further exacerbate self-censorship of internet users.

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Central government procurement contracts in the media sphere reached KZT 43 billion (about US\$ 118 million) in 2017, with a plan to increase to KZT 47 billion (about US\$ 129 million) in 2018.⁷² Many online media outlets are frequent recipients of such contracts, including local privately owned blogging platforms. In January 2018, the NGO Legal Media Center sued the Ministry of Information and Communication after the Ministry refused to publicize which organizations received procurement contracts in 2017. The court refused the case, citing that the list can be considered “commercial secrecy.”⁷³

Despite the challenging financial environment for independent outlets, a small number of respected critical websites continue to operate. The online news market is very restricted and uncompetitive, yet it is more open and diverse than the traditional media landscape. The Economist Intelligence Unit’s 2018 Inclusive Internet Index that measures the internet’s accessibility and affordability, along with whether it “enables positive social and economic outcomes,” ranked Kazakhstan 46 of 86 countries.⁷⁴

International social media and communications platforms are accessible and popular, although connectivity is regularly restricted (see Blocking and Filtering). YouTube, VK, Instagram, and Facebook are among top sites in Kazakhstan,⁷⁵ and tools like virtual private networks (VPNs) are widely used to circumvent sporadic blocking. The government has also signalled that it wants to work with popular bloggers and social media influencers to report on state matters in order to reach a larger audience.⁷⁶

Civil servants, public officials, and employees of state-owned companies are obliged to follow a set of guidelines, published in 2014, on their use of the internet. The guidelines urge employees not to post or repost material critical of the government, and not to “friend” authors of such posts in order to prevent possible threats to the image of the civil service, as well as preventing the dissemination of false information or leaks.⁷⁷

Digital Activism

Though users continue to share content on various matters, including corruption, controversies in the judicial system, and blatant cases of injustice, the use of social media and other digital tools to organize for social and political campaigns is limited. Discussions of political or social issues on social media are often eclipsed by sensationalist content widely shared online.

DVK was active predominantly on social media platforms. The court’s banning of the movement and restrictions to associated content have limited the effective use of digital tools for activism. Activists and ordinary internet users alike wishing to critique the government can now be more easily subjected to prosecution. DVK had a broad reach online, with over 10,000 followers on Facebook and more than 90,000 members on a Telegram chat, although local research has shown that a proportion of these accounts do not actively



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participate.⁷⁸ Facebook was one of the most important tools for Ablyazov to share DVK's message and critiques of President Nazarbayev.⁷⁹

Social media has been used with some success to mobilize protests in the past, but no serious campaign took place in the coverage period. The authorities continued to issue preventive warnings to activists who plan public events and demonstrations. In May 2017, for example, officials of the Almaty city administration's internal policy department and police instructed the feminist group KazFem that the planned "Women's History Night," which was coordinated through Facebook, needed official approval from the municipality.⁸⁰

Violations of User Rights:

Prosecutions social media users and online journalists on charges of extremism and distributing false information continued within the coverage period. Netizens continued to face pressure from the authorities through enhanced surveillance, intimidation, or detention. Meanwhile, new troubling legal amendments passed in December further restrict anonymity online.

Legal Environment

The constitution of Kazakhstan guarantees freedom of expression, but this right is qualified by other laws and is severely restricted in practice. A package of constitutional amendments was adopted in March 2017, ostensibly to distribute some presidential powers to the parliament, though the president remains in charge of key matters including foreign policy and national security. Critics argued that the changes are merely formal, and that Nazarbayev will continue to wield significant power.⁸¹ The amendments also allow courts to strip citizenship from individuals found to have harmed Kazakhstan's "vital interests," though this vague term is not defined.⁸²

The criminal code penalizes the dissemination of rumors, or "patently false information, fraught with the risk of breach of public order or imposition of serious damage," punishable by a fine of up to US \$70,000 and up to 10 years in jail. Libel is a criminal offence that may result in up to US \$20,000 in fines and up to two years of imprisonment. The criminal code provides stricter punishment for libel or insult of the president and other state officials, judges, and members of parliament, and Kazakhstani officials have a track record of using defamation charges to punish critical reporting.

The judiciary is not independent, and the president appoints all judges. The constitutional court was abolished in 1995 and replaced with the constitutional council, to which citizens and public associations are not eligible to submit complaints.

Prosecutions and Detentions for Online Activities

The government arrests and prosecutes individuals for posting critical commentary online. A number of internet users were targeted for DVK-related online content, while authorities also



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prosecuted the dissemination of “false” information and the spread of “terrorist” or “extremist” propaganda.

The authorities continue to prosecute for disseminating “patently false information,” a charge that was introduced into the criminal code as Article 274 in 2014 and was widely criticized as undemocratic. In 2017, 25 cases were filed under Article 274.⁸³ Two of the cases resulted in prison sentences. In one of the cases, which reportedly resulted in a two and a half year sentence, an individual posted a video of a collapsing building claiming it was in Semey. The video, however, was actually recorded in Astrakhan, Russia in 2012.⁸⁴

Two notable cases of “spreading knowingly false information” and defamation involved the online publications *Ratel.kz* and *Forbes.kz* (see Blocking and Filtering and Content Removal). Both cases were initiated by Zeinulla Kakimzhanov,⁸⁵ oligarch and former government official, and related to articles alleging his corrupt business dealings. In late 2017, both outlets were found guilty of defamation following a year-long trial and paid fines, while *Forbes.kz* published requested rebuttals. On March 30, 2018, the outlets faced new criminal charges for allegedly disseminating false information.⁸⁶ On April 2, police searched the offices of the outlets and some of the staff’s homes, and confiscated mobile phones, computers, a router, and more. Police also interrogated four journalists.⁸⁷ Civil society has condemned the prosecution of *Ratel.kz* and *Forbes.kz*.⁸⁸

The classification of DVK as an extremist group made it illegal to disseminate DVK or Ablyazov-related videos and messages online, including through social media and private messages.⁸⁹ There have been a number of arrests and prosecutions since the March 2018 decision.⁹⁰

- Aigul Akberdi was arrested and charged in relation to her posts in a DVK Telegram group.⁹¹ Akberdi’s trial was reported to begin in September 2018⁹² and she faces up to ten years in prison for advocating government overthrow on Telegram. Akberdi shared content in a DVK Telegram group prior to the March court decision and insisted that she stopped sharing content after the ruling.
- Ablovas Jumayev, Akberdi’s husband, was convicted to three years in prison for “sowing discord” on Telegram and possessing anti-government fliers in September 2018, after the coverage period of this report.⁹³ Jumayev was arrested in May 2018 and originally faced a seven-year sentence for, in part, inciting social hatred. Jumayev, like his wife, was targeted for sharing content in a DVK Telegram group prior to the March court decision, and insisted that he stopped posting after the ruling.
- Opposition activist and blogger Ardak Ashim was interrogated about DVK and originally charged with “inciting social discord” under Article 174 of the criminal code. The charges cited Facebook comments critical of the government.⁹⁴ On March 27, a court committed her to a mental hospital (see Intimidation and Violence). Her



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charges were downgraded in April to “insulting a representative of authority” under Article 378 of the criminal code.

- Akmaral Tobylova was accused of “financing or providing information services to a criminal group” under Article 266 of the criminal code in relation to her visiting DVK’s webpage and discussing the movement on social media.⁹⁵ She was first subjected to house arrest on March 13 and later released on bail for medical reasons on April 13.
- On March 16, vlogger Askar Shaigumarov was detained for allegedly endorsing DVK on his video blog.⁹⁶

Authorities routinely use terrorism and extremism charges to prosecute online activity. According to the General Prosecutor’s office, 205 people were convicted on these charges between 2015 and 2017. 69 of the convictions were for inciting social, ethnic, class, clan, racial, or religious hatred, while 136 were for advocating or calling publicly for terrorism, usually via messaging platforms.⁹⁷ While some prosecutions have targeted legitimate terrorism-related activity online, activists and the opposition are routinely charged for terrorism, extremism, and inciting hatred. For example, in November 2017, Kenshebek Abishev and Almat Zhumagulov, among others, were detained for propagating terrorism.⁹⁸ Both were members of a WhatsApp group used to organize discussions on political issues. The government claimed that Abishev and Zhumagulov participated in a video, sent around the day of their arrest, that advocated for an “armed jihad.” There have been reports that the video was edited and that the detention and charges are politically motivated.⁹⁹

The government also charges those who insult state officials online. For example, in June 2017 a young woman was detained after she criticized police whereabouts during a public fight in which one person was killed. Police investigated her under Article 378 of the Criminal Code on insult of representative of authority.¹⁰⁰

In a positive development during the reporting period, the Supreme Court ruled in August 2017 to reverse a Uralsk city court’s decision in a defamation case filed by a police officer against the “Uralsk Weekly” newspaper and website, admitting that “a broader criticism is allowed towards public officials rather than towards private persons,”¹⁰¹ and sent the case for reconsideration to the appeals court.

Surveillance, Privacy, and Anonymity

It is difficult to estimate the scope and depth of government surveillance in Kazakhstan, but digital rights groups allege that large scale infrastructure of surveillance is in place. The government’s “system for operational investigative measures” (SORM) of surveillance, which originated from Russia, is similar to that of other former Soviet republics and allows for deep packet inspection (DPI) of data transmissions.



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In January 2018, new technical regulations for SORM developed by the National Security Committee reportedly became effective.¹⁰² Prior to this in May 2017, Telia Company, which owns the mobile telephone company Kcell, warned that these new surveillance requirements give the government real-time access to operators' networks, causing "potentially serious impacts on the freedom of expression."¹⁰³

New amendments to the law on information and communications restricted anonymity online.¹⁰⁴ In December 2017, the government passed new amendments that require users wishing to comment on local websites to register by either using the government-issued digital signature or SMS identification. Local website owners are also required to retain commenters' data for at least three months and provide the government with information about users when requested.¹⁰⁵ The Ministry of Information and Communications has given websites until the end of March to implement the new requirement, or face fines of \$750 or more.¹⁰⁶ Tengrinews.kz, one of the most popular news sites, announced in February 2018 that those commenting must register via SMS.¹⁰⁷

Although users wishing to circumvent censorship increasingly use VPNs,¹⁰⁸ some anonymizing tools have been blocked or users have noticed increasing problems when using them.¹⁰⁹ For example, in March 2018, a court blocked the IPVanish VPN service.¹¹⁰ In June 2015, media reports said that authorities were blocking such tools with renewed intensity, citing a September 2014 court decision dated that banned "the functioning of networks and/or means of communication that can be used to circumvent ISPs' technical blocking."¹¹¹

The Tor Project's official website is intermittently inaccessible from Kazakhstan. According to public records on its use, in 2016 there was a sharp decline in Tor "relay" users and a sharp increase in users connecting via "bridges," which are more commonly used when IP addresses of Tor relays are blocked.¹¹²

Top-level domain names using ".kz" must operate on domestic servers.¹¹³ In 2016, through the amendments to the Informatization Law, this data localization requirement was expanded to mandate that all personal data collected domestically by local companies be stored in-country.¹¹⁴ In late 2017, the government announced that it planned to negotiate with foreign social media and messaging platforms in hopes of them hosting local servers that could provide easier access to citizens' personal data. Negotiations are reportedly due to conclude in early 2019.¹¹⁵ Earlier, the same intention was proposed by Kalmukhanbet Kassymov, Minister of Internal Affairs, under the pretext of fighting so-called "death groups" on social media, which allegedly encourage teenagers to commit suicide.¹¹⁶

Kazakhstan's so-called national security certificate was due to come into force in January 2016, though progress toward



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rolling out the certificate appears to have stalled.¹¹⁷ Initial announcements indicated that all users would be required to install the certificate onto their devices, which sparked security and privacy concerns.¹¹⁸

Various authorities monitor internet traffic. An anonymous private-sector telecom company representative stated that the president's administration, the prosecutor general's office, and the National Security Committee have been planning to launch three different content monitoring systems, including software to monitor social networking sites. In the past, the Almaty city administration acknowledged that it monitors popular social networking sites.¹¹⁹ The State Technical Service (STS), a government body established in 2008, is responsible for monitoring cross-border network traffic through a system called "centralized management of telecommunication networks" (SCM). All telecommunication operators must be connected to the SCM and are required to grant authorities physical access to their control centers.¹²⁰

Activists using social media are occasionally intercepted or punished, sometimes preemptively, by authorities who have prior knowledge of their planned activities. Reports have emerged that authorities have penetrated group chats on WhatsApp and Telegram, based on claims by activists that they faced some kind of consequences for material they posted only on the communication app. It is unclear how authorities could have gained access to these chats.¹²¹

Kazakhtelecom maintains that its DPI system is used for traffic management and provides no access to users' personal data.¹²² In July 2015, WikiLeaks published an exchange of emails between an alleged official of the special services and Hacking Team, an Italian spyware firm. The exchange of emails appears to suggest that the government might have obtained software to monitor and interfere with online traffic, including encrypted communications, as well as to perform targeted attacks against certain users and devices.¹²³

SIM card registration is required for mobile phone users. Legislation obliges both ISPs and mobile operators 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.¹²⁴ Providers must store user data for two years and grant access within 24 hours to "operative-investigatory bodies," including the National Security Committee, secret services, and military intelligence, when sanctioned by a prosecutor, or in some cases "by coordination with the prosecutor general's office."¹²⁵ The Administrative Code, in force since 2016, imposes penalties on ISPs of up to US \$20,000 for failing to store user data.¹²⁶

Amendments to the communications legislation adopted in 2016 require users to register their mobile phone devices with an International Mobile Equipment Identity (IMEI) database. Unregistered devices were to be disabled by mobile operators starting from July 1, 2017.¹²⁷ Authorities have presented the law as a measure to fight mobile phone theft and the import of

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counterfeit devices, though it remains unclear how user privacy will be safeguarded.¹²⁸ In May 2018, the Ministry of Information and Communication said that users must connect their IMEI-registered phone with their government-provided personal identification number before January 1, 2019.¹²⁹

In March 2016, the new rules for public access points required user authentication with a one-time SMS code. However, as SIM cards in Kazakhstan are subject to obligatory registration, this may enable authorities to monitor online activities of users accessing internet from public hotspots.¹³⁰ Businesses can be fined up to KZT 226,000 (\$US700) for failing to comply with the new rules, while users can be fined up to KZT 22,600 (US\$70).¹³¹ As of February 2018, a negligible number of hotspots introduced such systems in Kazakhstan. Many offer open access to their Wi-Fi.

Intimidation and Violence

Independent bloggers and online journalists have been subject to extralegal violence and intimidation in retaliation for their work. For example, in March 2018, economist, activist, and blogger Ardak Ashim's house was searched and she was detained on charges of incitement of hatred, reportedly for "negative articles about the authorities" on Facebook.¹³² She was later forcibly put in a psychiatric clinic pending trial after a judge ruled that she had "episodic paranoid schizophrenia," a diagnoses that her family denies.¹³³

Technical Attacks

Technical attacks against online news media were not observed during the coverage period, but there have been several reports about vulnerability of government websites.

In June 2017, the Center for Analysis and Investigation of Cyberattacks (CARKA), an independent organization addressing domestic cyberattacks, found that malevolent actors re-registered blacklisted websites under real IP addresses of a target website to either get a website unblocked or compromise the data of the target site.¹³⁴ For example, a pornographic site targeted the e-government program website. In January, CARKA reported that they discovered a cryptocurrency mining script on some professional accounting websites and the General Prosecutor's office's website. Experts say the script proves the websites were hacked and that sensitive data could be stolen.¹³⁵

According to a 2017 report by Kaspersky Lab, a Russia-based cybersecurity firm, Kazakhstan is ranked eighth in the world for prevalence of viruses targeting mobile phones and fourth for the number of mobile ransomware attacks.¹³⁶

Kazakhstani activists and dissidents were also subject to technical attacks prior to the coverage period,¹³⁷ and some suspect the government's involvement. In August 2016, reports emerged that opposition figures and dissidents living abroad were targeted in 2015 with malware attacks. The



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Electronic Frontier Foundation reported that the attacks were conducted by agents of the government via the Indian security

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