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Freedom House

Freedom on the Net 2017 - Kazakhstan

Country:

Kazakhstan (<https://freedomhouse.org/country/kazakhstan>)

Year:

2017

Status:

Not Free

Total Score:

62

(0 = Best, 100 = Worst)

Obstacles to Access:

13

(0 = Best, 25 = Worst)

Limits on Content:

23

(0 = Best, 35 = Worst)

Violations of User Rights:

26

(0 = Best, 40 = Worst)

Population:

17.8 million

Internet Penetration:

76.8%

Social Media/ICT Apps Blocked:

Yes

Political/Social Content Blocked:

Yes

Bloggers/ICT Users Arrested:

Yes

Press Freedom Status:

Not Free

Key Developments:

June 2016–May 2017

- Internet penetration increased on the back of improvements to ICT infrastructure and more market competition (See Availability and Ease of Access).
- Users reported difficulties accessing social media and communication apps on the 25th anniversary of Kazakhstan's independence (see Restrictions on Connectivity).
- Renowned Kazakhstani dissidents were targeted with malware attacks likely initiated by the government (See Technical Attacks).
- Authorities imprisoned activists attempting to organize protests using social media (See Prosecutions and Detentions for Online Activity).

Introduction:

Internet freedom in Kazakhstan improved slightly as internet penetration increased, though the overall environment remains oppressive to ICT users, with continued online censorship and arrests of social media users.

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 speech online. Kazakhstan is also developing a complex infrastructure to control internet traffic.

Within the past year, social media and communications apps have been cut off on several occasions, including on the 25th anniversary of Kazakhstan's independence in 2016. Numerous disruptions were recorded, affecting both international content-sharing platforms and critical domestic news sites. Authorities also temporarily shut down the internet following a violent attack by armed militants in the northwestern city of Aktobe.

Kazakhstani authorities used criminal charges against social media users in an effort to silence dissent and punish online mobilization, issuing prison sentences of up to five years. Opposition activists and dissidents were targeted with malware attacks that likely originated from the government.

Obstacles to Access:

The government of Kazakhstan continued to work on improving ICT infrastructure by facilitating market competition and private ownership in the telecommunications industry. Internet penetration grew and access remains affordable for much of the population. However, authorities initiated at least one temporary localized internet shutdown during the coverage period.

Availability and Ease of Access

Internet access has grown significantly in Kazakhstan over the past few years. Official statistics do not provide data on the number of urban versus rural connections, but access is more limited in rural areas, where 45 percent of the population resides. Most people access the internet from their mobile devices and at home. Free access is available in various public places.

According to Budde, a telecommunications research and consultancy site, Kazakhstan has a mature and developed mobile broadband market.¹ (<https://freedomhouse.org/print/49860#sdfootnote1sym>) Mobile internet penetration rates are high compared to other countries in the former Soviet Union.² (<https://freedomhouse.org/print/49860#sdfootnote2sym>) Mobile internet and broadband remain relatively affordable to Kazakhstani users, despite recent currency fluctuations.³ (<https://freedomhouse.org/print/49860#sdfootnote3sym>) Monthly fixed-line broadband subscriptions cost as little as KZT 3,830 (US\$12.20) in 2017,⁴ (<https://freedomhouse.org/print/49860#sdfootnote4sym>) while monthly mobile broadband subscriptions were as low as KZT 1,190 (US\$3.80) in the same year.⁵ (<https://freedomhouse.org/print/49860#sdfootnote5sym>)

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. Gender is not a barrier to internet access in Kazakhstan.

Restrictions on Connectivity

A number of laws allow the government to suspend telecommunications networks, with one such restriction occurring during the coverage period.

Authorities shut down internet connections in the northwestern city of Aktobe on June 5-6, 2016, during an attack by Islamist militants. The attacks were not reported by local television and misreported by Russian state media, leaving residents unable to obtain up-to-date information from independent sources online.⁶ (<https://freedomhouse.org/print/49860#sdfootnote6sym>) At least three servicemen and three civilians were killed in the attack, as well as 13 militants.⁷ (<https://freedomhouse.org/print/49860#sdfootnote7sym>)

A new law adopted in December 2016 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.⁸ (<https://freedomhouse.org/print/49860#sdfootnote8sym>) In 2012, amendments to the Law on National Security allowed the government to forcibly suspend telecommunications during antiterrorist operations or the suppression of mass riots.⁹ (<https://freedomhouse.org/print/49860#sdfootnote9sym>) Further legislation was passed to compel private actors—websites, ISPs or mobile operators—to block or disconnect service at the government's request. In 2014, a new law authorized the prosecutor general's office 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 3 hours.

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 established by Kazakhtelecom in 2008—is meant to facilitate connectivity among 10 first-tier providers, although Beeline, a major rival of Kazakhtelecom, has been repeatedly denied access.¹⁰ (<https://freedomhouse.org/print/49860#sdfootnote10sym>) The IXP provides for exchange of domestic traffic without the use of international channels. Plans to create a second IXP were announced in April 2016,¹¹ (<https://freedomhouse.org/print/49860#sdfootnote11sym>) with the expectation that it would be more inclusive.

ICT Market

According to the e-government portal of Kazakhstan, there are 24 ISPs in the country.¹² (<https://freedomhouse.org/print/49860#sdfootnote12sym>) The state owns 52 percent of Kazakhtelecom, the largest telecommunications operator in Kazakhstan, through the sovereign wealth fund Samruk-Kazyna. Alexander Klebanov, an oligarch close to the government, also holds significant stakes in Kazakhtelecom.¹³ (<https://freedomhouse.org/print/49860#sdfootnote13sym>) In February 2016, regional business associations criticized the state’s apparent tendency to favor Kazakhtelecom for government telecommunications contracts¹⁴ (<https://freedomhouse.org/print/49860#sdfootnote14sym>) Kazakhtelecom has a 75 percent share in the fixed broadband internet market,¹⁵ (<https://freedomhouse.org/print/49860#sdfootnote15sym>) a decline from 85 percent in 2015.¹⁶ (<https://freedomhouse.org/print/49860#sdfootnote16sym>) 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. In late 2015, Kazakhtelecom sold its subsidiary Altel to Tele2-Kazakhstan, a private operator.¹⁷ (<https://freedomhouse.org/print/49860#sdfootnote17sym>) All operators were given the right to offer 4G in 2016,¹⁸ (<https://freedomhouse.org/print/49860#sdfootnote18sym>) disrupting a previous monopoly held by Altel.¹⁹ (<https://freedomhouse.org/print/49860#sdfootnote19sym>) No special licensing 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

Following a reshuffle of various ministries and government bodies, the newly-established 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.²⁰ (<https://freedomhouse.org/print/49860#sdfootnote20sym>) The ministry has made some decisions that help consumers; as of January 2016, operators must provide their customers with free mobile number portability. More than 200,000 users took advantage of the service in 2016 alone.²¹ (<https://freedomhouse.org/print/49860#sdfootnote21sym>) In an apparent effort to promote transparency, the ministry established a Public Council in August 2016, a

consultative body that convenes a diverse cross-section of industry representatives. The Public Council has convened on several occasions since its inception, and has reportedly served as a forum to discuss the ministry's work, though detailed minutes of the meetings are not publicly available.

The Ministry of Defense 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.²² (<https://freedomhouse.org/print/49860#sdfootnote22sym>) The ministry recently announced a draft action plan on cybersecurity called "Cybershield".²³ (<https://freedomhouse.org/print/49860#sdfootnote23sym>)

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,²⁴ (<https://freedomhouse.org/print/49860#sdfootnote24sym>) yet some of its former members question the group's independence, transparency, and non-profit status.²⁵ (<https://freedomhouse.org/print/49860#sdfootnote25sym>) IAK participates in discussions on draft laws concerning ICT use and, since 2014, has worked with the office of the prosecutor general on fighting child abuse online, combatting hate speech, trolling, content promoting suicide among teenagers, extremism, terrorism, and cyberfraud.

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 Kazakhstani Network Information Center (KazNIC) registry. The Kazakhstani Association of IT Companies administers domain names and regulates KazNIC tariffs. In January 2015, the Association doubled the minimum price of a .kz domain name.²⁶ (<https://freedomhouse.org/print/49860#sdfootnote26sym>) 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.² (<https://freedomhouse.org/print/49860#sdfootnote27sym>)

Limits on Content:

The authorities have continued to restrict content online. Entire platforms hosting user-generated content are subject to periodic blocking, often without any public justification. The most frequent reason used to justify restrictions to online content is extremism. Applications to block extremist content are reviewed in bulk and the court proceedings are not transparent. The regulator has introduced an automated monitoring system to identify banned content. New legislative amendments force ISPs to monitor the online space for supposedly illegal content, with penalties if they fail to remove it.

Blocking and Filtering

The government possesses extensive legal powers to block online content. Websites and entire content-hosting platforms were newly blocked during the coverage period. The authorities also restricted social media and communication apps following the terrorist attack in Aktobe in June 2016, hindering communication among citizens and distorting the flow of information. While users regularly use tools to circumvent censorship, many were subject to blocking or other bans during the coverage period (see "Surveillance, Privacy, and Anonymity").

Social networks and communication apps are sometimes restricted during politically sensitive events. Users reported difficulty accessing Facebook, Instagram, YouTube, and most Google services for several hours on the evening that exiled dissident Mukhtar Ablyazov live streamed an interview online from France. The outage also coincided with Kazakhstan's Independence Day, December 16, 2016. The authorities attributed the disruption to ill-explained technical troubles.²⁸

(<https://freedomhouse.org/print/49860#sdfootnote28sym>)

Similar issues were reported during rallies against land reform held in May 2016. On the eve of the scheduled rallies, users reported difficulties accessing social media apps, including Facebook, Twitter, VKontakte, WhatsApp, Viber, and YouTube,²⁹ (<https://freedomhouse.org/print/49860#sdfootnote29sym>) as well as a number of local independent online publications³⁰ (<https://freedomhouse.org/print/49860#sdfootnote30sym>) and international media outlets. Access was fully restored within approximately four days.

The following platforms were also blocked within the coverage period:

- Avaaz, an online petitions website, is intermittently blocked, usually when activists post petitions criticizing the government. For example, the platform was blocked after online activists launched a petition in January 2017 protesting new antiterrorism measures that violated citizens' privacy.³¹ (<https://freedomhouse.org/print/49860#sdfootnote31sym>) Users reported continued problems using the website in April, though it does not appear to be blocked entirely. Avaaz was previously blocked in 2014 when users launched a petition calling for the impeachment of President Nursultan Nazarbayev.³² (<https://freedomhouse.org/print/49860#sdfootnote32sym>)
- Another petitions platform, Change.org, was blocked in August 2016 after activists posted a petition calling for the resignation of then-prime minister Karim Massimov.³³ (<https://freedomhouse.org/print/49860#sdfootnote33sym>)
- A website containing a so-called blacklist of Kazakhstani judges allegedly involved in corruption is regularly inaccessible. A Supreme Court spokesperson said in October 2016 that the website is illegal, inaccurate, and damaging to the court's reputation.³⁴ (<https://freedomhouse.org/print/49860#sdfootnote34sym>) The general prosecutor's office has denied involvement in the website's blocking.³⁵ (<https://freedomhouse.org/print/49860#sdfootnote35sym>)

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, the movie database iMBD.com, and cloud storage service Mega.nz. Some international media outlets were also blocked, including the British *Daily Mail*, Russian *Meduza* and *Fergana*, and others. Blogging platforms WordPress and BlogSpot are also sporadically blocked. Tumblr, blocked by a court decision in 2015 for hosting extremist content,³⁶ (<https://freedomhouse.org/print/49860#sdfootnote36sym>) has inexplicably become available again.

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 public 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.³⁷ (<https://freedomhouse.org/print/49860#sdfootnote37sym>) However, in January 2016, new

amendments to the Mass Media Law were passed requiring authorities to seek a court decision before content can be blocked, but only for websites that have undergone voluntary registration with the regulator. Unregistered websites can be blocked based on the regulator's decision alone. 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").

Three justices of the Saryarka District Court of Astana are designated to deal with cases related to blocking online content.³⁸ (<https://freedomhouse.org/print/49860#sdfootnote38sym>) 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.³⁹ (<https://freedomhouse.org/print/49860#sdfootnote39sym>)

Several bodies monitor online content, including the National Security Committee, the office of the president, and even local government officials. In January 2017, the prosecutor's office in Kzyl-Orda province (south Kazakhstan) declared that it had blocked access to 39 posts on Facebook and VKontakte, and to 25 accounts on YouTube, for the alleged incitement of religious and ethnic hatred in 2016.⁴⁰ (<https://freedomhouse.org/print/49860#sdfootnote40sym>) The Committee for Religious Affairs under the Ministry of Culture and Sports specifically evaluates websites for extremism and announced in June 2016 that it had blocked at least 1,205 extremist websites.⁴¹ (<https://freedomhouse.org/print/49860#sdfootnote41sym>) Further, in 2016 a court in Astana approved a request by the Ministry of Information and Communication to block 94 websites that were deemed to contain extremist, terrorist, or separatist propaganda.⁴² (<https://freedomhouse.org/print/49860#sdfootnote42sym>) The ministry announced in March 2017 that a total of 32,000 illegal online resources were blocked through a decision by a court or the regulator in 2016.⁴³ (<https://freedomhouse.org/print/49860#sdfootnote43sym>)

Content Removal

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

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 as they could 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 themselves 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.⁴⁴ (<https://freedomhouse.org/print/49860#sdfootnote44sym>)

Amendments passed to the Communications Law in January 2016 oblige ISPs to monitor content passing through their networks and make their own decisions on whether to restrict content.⁴⁵ (<https://freedomhouse.org/print/49860#sdfootnote45sym>) The Administrative Code, in force since 2016, imposes penalties on ISPs for not complying with censorship orders, with a fine of up to US\$2,000.⁴⁶ (<https://freedomhouse.org/print/49860#sdfootnote46sym>)

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 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.⁴⁷ (<https://freedomhouse.org/print/49860#sdfootnote47sym>)

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." There is no publicly available information on how this system operates.⁴⁸ (<https://freedomhouse.org/print/49860#sdfootnote48sym>) The minister of information and communication said in February 2017 that, as a result of constant monitoring, more than 110,000 pages allegedly containing terrorist, extremist, or violent content were removed following requests sent to website owners and administrators.⁴⁹ (<https://freedomhouse.org/print/49860#sdfootnote49sym>)

The public is rarely alerted to specific incidents of content removal. *Exclusive*, an online analytical news website, reported that the regulator forced it to take down an article critical of conditions in detention facilities in July 2016. The outlet complied with the request, and posted a copy of the regulator's letter, which referred to the removed article as "false and insulting to the honor and dignity of Kazakhstani law enforcement bodies."⁵⁰ (<https://freedomhouse.org/print/49860#sdfootnote50sym>)

Courts sometimes use defamation suits to force outlets to remove content. *Rate1* 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. The outlets are disputing the orders and have indicated they will appeal the decision.⁵¹ (<https://freedomhouse.org/print/49860#sdfootnote51sym>)

The website of local television station, Rika TV, received a removal request from Russian censorship body Roskomnadzor regarding an article about a self-immolation incident in Aktobe, Kazakhstan. Roskomnadzor claimed that the content glorified suicide, and that it would block the website for Russian users if the outlet failed to comply. Rika TV ultimately agreed to remove two articles.⁵² (<https://freedomhouse.org/print/49860#sdfootnote52sym>)

The authorities also approached international companies to remove content. From July to December 2016, Google received 10 requests for content removal, primarily for national security reasons.⁵³ (<https://freedomhouse.org/print/49860#sdfootnote53sym>) Twitter reported four content removal requests, and zero compliance in the same period.⁵⁴ (<https://freedomhouse.org/print/49860#sdfootnote54sym>)

Media, Diversity and Content Manipulation

In addition to blocking and removing content, the online media landscape in Kazakhstan is also 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.

Central government procurement contracts in the media sphere reached KZT 41 billion (US\$130 million) in 2016, while local governments distributed KZT 7 billion (US\$20 million). Many progovernment online media outlets are frequent recipients of such contracts, including local privately owned blogging platforms.

Despite the challenging financial environment for independent outlets, a number of respected critical websites continue to operate. *Vlast*, an independent news website, continued operating despite a period of financial crisis peaking in July 2016 after readers rallied in support for the outlet through subscriptions and sponsorship.⁵⁵ (<https://freedomhouse.org/print/49860#sdfootnote55sym>) Other outlets have been less fortunate, and administrators of independent outlets are often targeted with trumped up charges. *Radiotochka*, a news website renowned for its investigative journalism targeting top officials, ceased operating in April 2017.⁵⁶ (<https://freedomhouse.org/print/49860#sdfootnote56sym>) The closure took place after the editor-in-chief, Bigeldy Gabdullin, was sentenced to five years' probation for blackmailing government officials, publishing defamatory material, and extorting the government.⁵⁷ (<https://freedomhouse.org/print/49860#sdfootnote57sym>)

The government has been funding and recruiting popular bloggers, social media personalities and digital advertising agencies to report on state matters.⁵⁸ (<https://freedomhouse.org/print/49860#sdfootnote58sym>) In October 2014, a group of Facebook users registered the Bloggers Alliance of Kazakhstan to "make the country's information space healthier."⁵⁹ (<https://freedomhouse.org/print/49860#sdfootnote59sym>) Their office is located in the government's headquarters, furthering speculation that it was created to mislead the public by claiming to represent all Kazakhstani bloggers. Alliance members often speak out on social issues, but never address politically sensitive questions or target key politicians. Its chairman, Galym Baituk, stated in June 2016 that bloggers in the alliance would be willing to create government propaganda.⁶⁰ (<https://freedomhouse.org/print/49860#sdfootnote60sym>)

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.⁶¹ (<https://freedomhouse.org/print/49860#sdfootnote61sym>) Private companies are also wary of their employees' online expression—an IT worker was fired in June 2016 for so-called "antigovernment" posts identified on her Facebook page.⁶² (<https://freedomhouse.org/print/49860#sdfootnote62sym>)

Digital Activism

Though users continue to actively 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.

Social media has been used with some success to mobilize protests in the past. Major rallies against land reform held in April and May 2016 were organized largely on Facebook.⁶³ (<https://freedomhouse.org/print/49860#sdfootnote63sym>) As a result of the protests, the authorities convened a public commission for land reform, designed to elicit feedback on the implementation of the law. However, the organizers of the rally—Max Bokayev and Talgat Ayan—were later arrested and sentenced to lengthy jail terms (See "Prosecutions and Detentions for Online Activities").

Violations of User Rights:

Criminal prosecution of social media users and online journalists on charges of extremism, insulting national dignity, or calling for unsanctioned protests continued within the coverage period. Netizens continued to face pressure from the authorities, including the apparent interception of their electronic correspondence. Dissidents were targeted with malware attacks, likely initiated by the government.

Legal Environment

The constitution of Kazakhstan guarantees freedom of expression, but this right is qualified by many other legislative acts 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 will remain in charge of key matters including foreign policy and national security. Critics have argued that the changes are merely formal, and that Nazarbayev will continue to wield significant power.⁶⁴ (<https://freedomhouse.org/print/49860#sdfootnote64sym>) 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.⁶⁵ (<https://freedomhouse.org/print/49860#sdfootnote65sym>)

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 from the executive, 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 of Kazakhstan continues to arrest and prosecute individuals for posting critical political or social commentary online. Following mass demonstrations against land reforms in 2016, the authorities have cracked down with particular intensity on online calls to protest.

- Activists Max Bokayev and Talgat Ayan were sentenced in November 2016 to five years in prison after coordinating “unsanctioned” land reform protests using social media. Large rallies had been organized to protest reforms to allow large swathes of agricultural land to be sold or leased to foreigners.⁶⁶ (<https://freedomhouse.org/print/49860#sdfootnote66sym>) In a trial widely condemned as politically motivated, Bokayev and Ayan were convicted of inciting social unrest and spreading false information.⁶⁷ (<https://freedomhouse.org/print/49860#sdfootnote67sym>)
- Almaty resident Almat Zhumagulov was placed under administrative arrest for 15 days in December 2016 after sharing a Facebook post calling for unsanctioned protests on Kazakhstan's day of independence. Police accused Zhumagulov of violating laws of peaceful assembly and forced him to delete the post.⁶⁸ (<https://freedomhouse.org/print/49860#sdfootnote68sym>)
- After Zhanbolat Mamay, editor-in-chief of opposition newspaper *Tribuna*, was arrested on money laundering charges, three of his supporters were briefly detained by police in February 2017 for attempting to organize a demonstration using social media.⁶⁹ (<https://freedomhouse.org/print/49860#sdfootnote69sym>)
- Four activists were briefly detained and interrogated by police in Almaty in July 2016 after posting plans in a WhatsApp group to protest on July 6, President Nazarbayev's birthday. Police issued the activists a warning for planning unsanctioned protests, and searched their homes and confiscated their electronic devices.⁷⁰ (<https://freedomhouse.org/print/49860#sdfootnote70sym>)

Defamation charges are frequently brought against social media users who post content critical of authorities:

- Human rights activist Marat Dauletbayev was sentenced to one year in prison in February 2017 after publishing a Facebook post accusing the mayor of Baikonur, Anatoly Petrenko, of improper land allocation. Dauletbayev was found to have defamed Petrenko using a communication network, an offense under Kazakhstan's Criminal Code. Dauletbayev ultimately escaped serving time in prison due to the prisoner amnesty announced for the 25th anniversary of Kazakhstan's independence.⁷¹ (<https://freedomhouse.org/print/49860#sdfootnote71sym>)
- In October 2016, activist Aidyn Yegeubayev was ordered to pay KZT 100,000 (US\$300) in moral damages to Berdibek Saparbayev, governor of the Aktobe province. Saparbayev filed the suit after Yegeubayev posted a YouTube video in which he accused the official of helping a Chinese company purchase large swathes of national agricultural land.⁷² (<https://freedomhouse.org/print/49860#sdfootnote72sym>) Yegeubayev was placed in administrative arrest for five days in February 2017 after failing to pay the damages to Saparbayev.⁷³ (<https://freedomhouse.org/print/49860#sdfootnote73sym>)
- Following the July 2016 shooting in Almaty targeting police officers, authorities temporarily detained two individuals accused of spreading rumors about the attack across social networks.⁷⁴ (<https://freedomhouse.org/print/49860#sdfootnote74sym>)

Authorities punished users posting on topics deemed likely to incite ethnic tensions, particularly

in relation to Russia:

- A court in Petropavl (North Kazakhstan) sentenced Igor Chuprina to five years in jail in December 2016 for publishing propaganda undermining Kazakhstan's territorial integrity and deliberately inciting national strife. Chuprina had published posts on VKontakte calling for Kazakhstan to join the Russian Federation. The posts were deemed to have caused social tension and interethnic strife among fellow social media users.⁷⁵ (<https://freedomhouse.org/print/49860#sdfootnote75sym>)
- In December 2016, a court in Aktobe sentenced Sanat Dossov to three years in jail for inciting interethnic hatred through his Facebook posts. Dossov had posted critical comments about Russian president Vladimir Putin, calling on Russians to stop the rise of fascism in their country. The complaint against Dossov was reportedly brought by another Facebook user who had engaged with Dossov in an online discussion.⁷⁶ (<https://freedomhouse.org/print/49860#sdfootnote76sym>)

Independent online journalists are also frequently targeted with trumped up charges. Seitkazy Matayev and Asset Matayev, co-owners of the KazTAG online news agency, were sentenced in October 2016 to six years in prison for embezzlement in a trial that was widely seen as unfair.⁷⁷ (<https://freedomhouse.org/print/49860#sdfootnote77sym>)

Surveillance, Privacy, and Anonymity

It is difficult to estimate the scope and depth of government surveillance of online communications in Kazakhstan. The "system for operational investigative measures" (SORM) of surveillance implemented by the government is similar to that of other former Soviet republics and allows for deep packet inspection (DPI) of data transmissions. The general public, as well as civil society activists, often underestimate the potential threat of government surveillance and do not always take steps to protect their privacy or use encryption software.

Some anonymizing tools are subject to blocking. Although users wishing to circumvent censorship increasingly use virtual private networks (VPNs),⁷⁸ (<https://freedomhouse.org/print/49860#sdfootnote78sym>) in June 2015, media reports said that the authorities were blocking such tools with renewed intensity, citing a court decision dated September 10, 2014 that banned "the functioning of networks and/or means of communication that can be used to circumvent the technical blocking by ISPs."⁷⁹ (<https://freedomhouse.org/print/49860#sdfootnote79sym>) Users have noticed increasing problems when trying to use VPNs,⁸⁰ (<https://freedomhouse.org/print/49860#sdfootnote80sym>) and officials have confirmed that authorities actively track and block anonymizers.⁸¹ (<https://freedomhouse.org/print/49860#sdfootnote81sym>)

The Tor Project's official website is intermittently inaccessible from Kazakhstan.⁸² (<https://freedomhouse.org/print/49860#sdfootnote82sym>) According to public records on its use, the number of connections to Tor "relay" nodes from Kazakhstan dropped by about 40 percent in October 2016. The number of users connecting via "bridge relays," which are not listed publicly and are more difficult to block, increased by about 800 percent. This pattern often indicates a censorship event.⁸³ (<https://freedomhouse.org/print/49860#sdfootnote83sym>)

The government has indicated plans to further restrict anonymity online. A proposed bill under discussion would require users wishing to comment on websites to register first with their phone numbers. Website owners would also be required to retain commenters' data for at least three months.⁸⁴ (<https://freedomhouse.org/print/49860#sdfootnote84sym>) Authorities have stated that the measures would encourage users to be civil online.⁸⁵ (<https://freedomhouse.org/print/49860#sdfootnote85sym>)

Kazakhstan's so-called national security certificate was due to come into force in January 2016, though progress towards rolling out the certificate appears to have stalled.⁸⁶ (<https://freedomhouse.org/print/49860#sdfootnote86sym>) Initial announcements indicated that all users would be required to install the certificate onto their devices, which sparked security and privacy concerns.⁸⁷ (<https://freedomhouse.org/print/49860#sdfootnote87sym>)

Various authorities monitor internet traffic. A professional from a private-sector telecom company who spoke on the condition of anonymity 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.⁸⁸ (<https://freedomhouse.org/print/49860#sdfootnote88sym>) 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.⁸⁹ (<https://freedomhouse.org/print/49860#sdfootnote89sym>)

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, 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.⁹⁰ (<https://freedomhouse.org/print/49860#sdfootnote90sym>)

Kazakhtelecom maintains that its DPI system is used for traffic management and provides no access to users' personal data.⁹¹ (<https://freedomhouse.org/print/49860#sdfootnote91sym>) In July 2015, WikiLeaks published an exchange of emails between an alleged official of the Kazakhstani 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.⁹² (<https://freedomhouse.org/print/49860#sdfootnote92sym>)

The government has indicated that it may require foreign social media platforms to store Kazakhstani citizens' personal data on the territory of Kazakhstan. Data localization was proposed by Kalmukhanbet Kassymov, Minister of Internal Affairs, in response to a wave of concern over so-called "death groups" on social media, which supposedly encourage teenagers to commit suicide. Presumably, data localization measures would allow the authorities to crackdown on such groups more swiftly.⁹³ (<https://freedomhouse.org/print/49860#sdfootnote93sym>)

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.⁹⁴ (<https://freedomhouse.org/print/49860#sdfootnote94sym>) 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.”⁹⁵ (<https://freedomhouse.org/print/49860#sdfootnote95sym>) The Administrative Code, in force since 2016, imposes penalties on ISPs of up to US\$20,000 for failing to store user data.⁹⁶ (<https://freedomhouse.org/print/49860#sdfootnote96sym>)

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 are to be disabled by mobile operators starting from July 1, 2017.⁹⁷ (<https://freedomhouse.org/print/49860#sdfootnote97sym>) Authorities have presented the law as a measure to fight mobile phone theft and the import of counterfeit devices, though it remains unclear how user privacy will be safeguarded.⁹⁸ (<https://freedomhouse.org/print/49860#sdfootnote98sym>)

In March 2016, the regulator issued new rules for public access points, which removed all previous requirements, including the requirement to document customer IDs. Instead, a single technical method of user authentication was introduced 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.⁹⁹ (<https://freedomhouse.org/print/49860#sdfootnote99sym>) 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).¹⁰⁰ (<https://freedomhouse.org/print/49860#sdfootnote100sym>)

Intimidation and Violence

Independent bloggers and online journalists have been subject to extralegal violence and intimidation in retaliation for their work in the past.¹⁰¹ (<https://freedomhouse.org/print/49860#sdfootnote101sym>) In this coverage period, however, there were no cases of physical violence against bloggers or other ICT users.

Technical Attacks

Technical attacks against online news media and government websites were observed during the coverage period.

Online outlet *Ak Zhayk* was temporarily forced offline as a result of a series of DDoS attacks against the site in October and November 2016.¹⁰² (<https://freedomhouse.org/print/49860#sdfootnote102sym>) Journalists reporting for the outlet regarded the attacks as retaliation for their coverage of the prosecution of activists Max Bokayev and Talgat Ayan (See “Prosecutions and Detentions for Online Activities”).

In January 2017, a group called the Shadow Team hacked and defaced more than 300 government and other websites.¹⁰³ (<https://freedomhouse.org/print/49860#sdfootnote103sym>) Unknown hackers targeted a World Trade Organization affiliated website in addition to several provincial news sites in February 2017.¹⁰⁴ (<https://freedomhouse.org/print/49860#sdfootnote104sym>)

Kazakhstani activists and dissidents were also subject to technical attacks within the coverage period, and some suspect the government's involvement. In August 2016, reports emerged that Kazakhstani opposition figures and dissidents living abroad, including Irina Petrushova and Alexander Petrushov of the critical publication *Respublika*, were targeted in 2015 with malware attacks.¹⁰⁵ (<https://freedomhouse.org/print/49860#sdfootnote105sym>) The Electronic Frontier Foundation reported that the attacks were conducted by agents of the government via the Indian security company Appin Security Group.¹⁰⁶ (<https://freedomhouse.org/print/49860#sdfootnote106sym>)

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