

## RESOLUTION ON THE STATE OF FREEDOM OF EXPRESSION IN KAZAKHSTAN

Recent developments<sup>1</sup> in the situation of freedom of expression and media freedom in Kazakhstan – which has been poor for many years – are a source of serious concern. In 2016, the former OSCE Media Freedom Representative Dunja Mijatović called the situation in Kazakhstan ‘deeply worrying’.<sup>2</sup>

More recently the internet and social media – one of the last space where people in Kazakhstan could speak out relatively freely – have become the subject of increasing restrictions imposed by the authorities. As access to broadcast and print media became increasingly controlled, social media sites, messaging apps and video-sharing sites effectively functioned as one of the few places where human rights defenders were able to raise awareness about human rights violations and abuses. In response, they are now being closed down, through the use of existing as well as new legislative powers to block access to online resources. Websites can be blocked not only by court order, but also by directive of the public prosecutor and, beginning in 2017, the National Security Committee.

Furthermore, administrative and criminal sanctions are increasingly imposed against people merely for exercising their right to freedom of expression online. These have included criminal prosecutions of those who use social media to criticise state policies or to organise demonstrations; the permanent closing down of independent media outlets who use social media to publish content; and, the use of administrative sanctions against individuals who use social media to share information about unsanctioned peaceful assemblies and demonstrations. Such actions have led to a ‘chilling effect’ on freedom of expression in Kazakhstan.

Meanwhile, the attack on independent media outlets continues unabated. A policy of criminal and civil investigations and prosecutions of journalists and bloggers and their subsequent imprisonment is actively pursued, frequently on charges of the ‘incitement of social, national, class or religious discord’ (Article 174 of the Criminal Code). Other allegations have included likely spurious charges of ‘disseminating false information’ (Article 274 of the Criminal Code) as well as embezzlement and tax evasion. Defamation remains a criminal offence<sup>3</sup> also, as is insult,<sup>4</sup> insult of public officials<sup>5</sup> and encroachment on the honour and dignity of the President of Kazakhstan.<sup>6</sup> As a result, journalists and editors subject their stories to self-censorship in which reporting is checked against official policy. State media, rather than functioning as public service providers, disseminate the government’s official messages unquestioningly. Moreover, although in theory a large part of registered media organisations is privately-owned, in reality most appear to be affiliated

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<sup>1</sup> See *inter alia* Amnesty International, *Think before you post. Closing down social media space in Kazakhstan*, February 2017, Index number EUR 57/5644/2017; IREX, *Media Sustainability Index 2017*; Human Rights Watch, *World Report 2017*. Further also see Human Rights Committee, Concluding Observations on the second periodic report of Kazakhstan, 9 August 2016, UN Doc. CCPR/C/KAZ/CO/2, para. 49-50.

<sup>2</sup> <http://www.osce.org/fom/218471>.

<sup>3</sup> Article 130 of the Criminal Code.

<sup>4</sup> Article 131 of the Criminal Code.

<sup>5</sup> Articles 376, 378 and 411 of the Criminal Code.

<sup>6</sup> Chapter 16 of the Criminal Code.

with the government or beholden to oligarchic interest, which in turn is affiliated with those in power. In practice, consequently, there is little independent media left.

**In light of this situation, the Assembly of Delegates of PEN International calls on the authorities of Kazakhstan to:**

- Immediately release journalists, editors, bloggers and human rights defenders who are held merely for having peacefully exercised their right to freedom of expression;
- Respect the right to freedom of expression of all individuals in Kazakhstan, online and offline;
- Refrain from abusing the criminal justice system and administrative measures to target journalists, bloggers and others for voicing criticism of the authorities, calling for peaceful demonstrations and protests, or otherwise expressing dissenting opinion;
- Decriminalise all forms of defamation and insult, in line with Kazakhstan's obligations under international human rights law;
- Amend the criminal provision on incitement to 'social, national, clan, class or religious discord' with a view to narrowing its application to instances where such restriction of freedom of expression is permitted under international human rights law;
- Ensure plurality of the media, including by transforming state media into public service providers and increasing transparency and diversity in media ownership;
- Provide unrestricted access to foreign journalists to enter the country and report.