



**KAZAKHSTAN: THE OPPRESSION  
OF JOURNALISTS AND BLOGGERS**

**SPECIAL SERVICES DEMAND  
THE DISCLOSURE OF PERSONAL DETAILS  
FROM SOCIAL NETWORKS  
IN ORDER TO ELIMINATE DISSENT**



**Kazakhstan demands that administrations of social networks disclose personal data of independent journalists, bloggers and political opponents. In retaliation for criticism, the authorities bring criminal charges of ‘spreading false information’ against inconvenient journalists. Investigative journalism, as well as activists’ posts and comments made on social networks, lead to long-term prison sentences for their authors.**

The Open Dialog Foundation was established in Poland, in 2009, on the initiative of Lyudmyla Kozlovska (who is currently the President of the Foundation). The statutory objectives of the Foundation include the protection of human rights, democracy and rule of law in the post-Soviet area. Particular attention of the Foundation is focused on the region's largest countries: Kazakhstan, Russia and Ukraine.

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## 1. INTRODUCTION

Due to the economic crisis, caused by falling oil prices, President Nazarbayev has repeatedly addressed threats to all those who *“hamper the fight against the crisis and sow discord”*: *“If there are provocateurs, in this case, law enforcement agencies have received the appropriate command. (...) These people will be stopped, I declare this authoritatively to all. Let no one take offense. We are doing it consciously for the well-being of our citizens”*. [1] Nazarbayev warned that *“there will be no pardon!”*. [2]

Law enforcement agencies which have already shut down all the influential non-state media, always follow the instructions of the president strictly. Now, the authorities have focused on the criminal prosecution of independent journalists and bloggers; also, they are striving to obtain their personal data from social networks.

This settling of scores with journalists and the large-scale mopping-up of information space (including repressive control of social networks) has resulted from the following factors:

- On the kazaword.wordpress.com portal, unknown persons posted links to stolen correspondence of Kazakh officials. Referring to the published correspondence, European and Kazakh media conducted journalistic investigations. Society was soon informed of incidents of corruption and abuse of power among senior officials of Kazakhstan. The grand scale and costs of the campaign of persecution against political opponents, both within Kazakhstan, EU countries and the United States was revealed. Widespread publicity of these facts has led to significant reputational, political and financial losses for the Kazakh leadership, including Prime Minister Karim Masimov.
- Any criticism by journalists, bloggers and even regular users of social networks is perceived by Kazakhstan as a threat to the planned transfer of power from Nazarbayev to his successor. Against the backdrop of a sharp deterioration in the economic situation and the devaluation of the currency, authorities fear social protests and, therefore, suppress any manifestation of discontent in the media and social networks.

Activists and bloggers are sentenced to long-term prison terms (up to 8 years imprisonment) for posts and comments on social networks. Prison terms are imposed even for the reposting of an extract from belles-lettres literature, signalling Kazakhstan’s regression to the Soviet era, when all statements and literature were censored. The authorities also threaten to bring Kazakh citizens to criminal liability for ‘extremist’ comments posted on the pages of other members of social network pages.

Also, ordinary users of social networks with a short reach are also subjected to prosecution. Even users who are loyal to the authorities have been put behind bars for careless comments, posted on Facebook.

A wave of persecution is aimed at depriving society of alternative sources of information and cracking down on any kind of public political debate. Show trials against journalists are conducted in order to send the message: anyone who carries out investigative journalism, fights corruption and asserts their rights, may face imprisonment. By handing down conditional sentences to activists, the authorities keep them ‘on the hook’ and paralyse their social activities.

Kazakhstan’s Committee on Statistics reported to Freedom House, that from January to November 2015, 88 criminal cases were initiated in Kazakhstan on charges of *‘inciting social, national, tribal, racial, class or religious hatred’* (Art. 174), and a further 67 criminal cases on charges of *‘spreading false information’* (Art. 274 of the CC of the RK).

This report, produced by the Open Dialog Foundation, presents numerous cases of persecution of activists and journalists for publishing materials via social networks and the media. In particular, it examines 10 cases of prosecutions for posting and reposting materials on social networks: 8 persons received prison terms or suspended sentences for ‘inciting national hatred’, and 2 persons have been put behind bars for several years for ‘incitement to terrorism or separatism’.

The report describes the cases of 3 journalists and 1 human rights defender who were presented with charges of ‘spreading false information’. Also, it points to cases where investigative journalism has resulted in 1.5 and 8 years’ imprisonment for 2 journalists. The report highlights three recent cases, typical in Kazakhstan, in which inconvenient journalists are punished with crushing fines (of approx. 100,000 euros), having been convicted of ‘defamation’.

In addition, the authorities continue to look for ways to silence dissenting journalists of the opposition portal Respublika which has repeatedly published articles on the basis of disclosed correspondence of public officials. Respublika was one of the 24 non-state media outlets which in 2012 was banned in Kazakhstan on the basis of the court judgement against political prisoner Vladimir Kozlov. [\[3\]](#) After that, a few former journalists of Respublika jointly established a new online news portal: Nakanune.kz. Journalists of Nakanune.kz maintain contact with the editor of the Respublika portal, Irina Petrushova who currently resides in the EU.

In 2015, the authorities waged war against Respublika on two fronts: in the United States and Kazakhstan. In the United States, by abusing civil procedural rules, Kazakhstan has demanded that the website and the Facebook page of Respublika be blocked; it has also demanded access to journalist’s personal details. In Kazakhstan, a former journalist of Respublika was charged with ‘spreading false information’. According to available data, the two campaigns of persecution are probably led by the Prime Minister of Kazakhstan Karim Masimov and Deputy Head of the Presidential Administration Marat Beketayev. [\[4\]](#), [\[5\]](#)

## 2. THROUGH ABUSE OF PROCESS IN US COURT, KAZAKHSTAN DEMANDS THE DISCLOSURE OF PERSONAL DETAILS OF RESPUBLIKA'S JOURNALISTS



In August 2014, on the portal [kazaword.wordpress.com](http://kazaword.wordpress.com) (hereinafter referred to as the 'kazaword' portal), unknown persons began to index and publish links to stolen correspondence of senior officials of Kazakhstan. Thus far, approx. 100,000 documents (69 gigabytes of data) have been published there. The disclosed correspondence has been referred to by numerous European media outlets: Le Temps, Mediapart, The Financial Times, Le Nouvel Observateur, RFI, Atlantico, NZZ, Yahoo France, L'Espresso, La Provence, El Pais,

as well as the Ukrainian media outlets: 'Trust.ua' and 'Obozrevatel'. Kazakh political refugee Muratbek Ketebayev has also published some of the correspondence.

**The Kazakh news portal Respublika produced a series of articles which analysed the correspondence indexed by the 'kazaword' portal.** Respublika pointed to the documents which reveal incidents of large-scale corruption among the authorities of Kazakhstan (for example, a document confirming that Karim Masimov took from France, three letters of Napoleon Bonaparte, for which Kazakhstan's Prime Minister paid 97,500 euros). [\[6\]](#)

The Respublika website also analysed correspondence which confirms that representatives of Kazakhstan prepared documents for the Ukrainian and Russian investigation into the case of opposition politician **Mukhtar Ablyazov**. The investigation into Ablyazov's case was coordinated at the level of senior officials of Russia and Ukraine. At the same time, Russia even had 'control over the judicial process'. [\[7\]](#) Citing the items of correspondence, the High Court in London refused to extradite Ablyazov's associate, Igor Kononko to Ukraine.

Respublika was registered in Russia, and the website was hosted by the American hosting company Black Lotus Communications (hereinafter referred to as 'Black Lotus'). The Respublika website has been subjected to a constant stream of DDoS attacks, and gaining access to it in Kazakhstan is only possible through the use of programmes that bypass the blockage. Therefore, journalists have duplicated their materials on Respublika's Facebook page.

### A) Kazakhstan pursues hackers and files a civil lawsuit with a New York court

On **12 March, 2015**, Kazakhstan filed a civil lawsuit in the U.S. District Court for the Southern District of New York against Doe defendants, who are defined in the complaint as 'those who illegally hacked the government's email and other accounts'. The lawsuit was brought under the US law, the Computer Fraud and Abuse Act (CFAA), which allows persons to sue for damages caused by unauthorised access to a computer system.

The lawsuit claimed that the Kazakhstan government learned on 15 January, 2015, of **the theft of correspondence and confidential documents from the Gmail account of Marat Beketayev** (until December, 2015, he served as the Executive Secretary of the Ministry of Justice, and at the moment, he holds the post of Deputy Head of the Presidential Administration), **Andrey Kravchenko** (Deputy General Prosecutor) and other state officials. Kazakhstan initiated a civil case in order to identify the hackers involved in the theft. Marat Beketayev filed a declaration with the complaint explaining his belief that his email account had been hacked.

On **13 March, 2015**, Judge Edgardo Ramos issued a Temporary Restricting Order, after which, on **20 March, 2015**, a Preliminary Injunction Order was issued. **The court decision prohibited unknown defendants (hackers) and their representatives from distributing the stolen correspondence**, as well as obliging hackers to transfer to Kazakhstan, the materials that contain information obtained from the

hacked email accounts. The judge ruled that the counsel of Kazakhstan, namely, the law firm: Curtis, Mallet-Prevost, Colt & Mosle LLP (*hereinafter referred to as 'the counsel of Kazakhstan'*), should make the decision public by posting it on the Facebook pages on which parts of the stolen correspondence were published. This was required as an injunction cannot be applied against anyone who has not been notified of it; Judge Ramos approved of the Facebook posting as a way of providing such notice.

The counsel of Kazakhstan created a page on Facebook on which the complaint, the temporary restraining order and the preliminary injunction issued with regard to the civil lawsuit were published. [8] In March and April 2015, via the Facebook page, **the counsel of Kazakhstan posted comments under Respublika's articles on its Facebook page, urging the media outlet to cease publishing the allegedly stolen correspondence.** Since the same comment has been posted under numerous publications, administrators of the Facebook-page 'Respublika' removed the comments as they would remove spam.

### **B) Kazakhstan tries to block the 'Respublika' website, but the New York court permits journalists to publish the correspondence**

In May and June 2015, **Kazakhstan repeatedly addressed the hosting company Black Lotus with a demand that 47 articles, containing copies of the stolen correspondence, be removed from Respublika's website.** The hosting company, in turn, demanded that Respublika administrators remove the articles, threatening to shut down the website completely should they fail to do so. Fearing that their site would be taken down, Respublika removed the articles as requested. On 9 June, 2015, the counsel of Kazakhstan, claiming that Respublika had removed and then re-posted many of the articles, called for the website **be blocked completely.**

At the same time, the counsel for Respublika filed a motion with the Court for the Southern District of New York, to clarify that the preliminary injunction could not, constitutionally, be applied to Respublika. Interests of the Respublika media outlet are represented by counsel of the Electronic Frontier Foundation and the law firm Davis Wright Tremaine LLP. The counsel of Respublika stated that **Kazakhstan had abused the US court's decision in order to introduce censorship and restrictions on freedom of speech.** The court was presented with the following arguments:

- In the decision concerning the unknown hackers, Judge Ramos never mentions Respublika or any other media outlets. Kazakhstan has not proven Respublika's involvement in the theft of the correspondence. The First Amendment to the US Constitution permits the publication of information of public interest, even if it has been obtained illegally, as long as the publisher was not actively involved in the illegal conduct
- From the very beginning, the documents have been posted (and are still available) on the 'kazaword' portal. Respublika, as well as other media outlets, published documents which had already been disclosed. The fact that Kazakhstan does not demand that other media outlets remove the correspondence, indicates that the underlying purpose of the government is to ban the Respublika website.
- Some of the Respublika's articles whose removal is sought by Kazakhstan, are not based on the materials of the 'kazawords' portal, but on information from other sources. However, Respublika and other media outlets, on the basis of Reporters' Privilege, have the right to keep their information sources secret.

**On 27 October, 2015, Judge Edgardo Ramos agreed with these arguments and unequivocally ruled that the ban on the publishing of the stolen correspondence does not apply to Respublika,** and cannot apply to Respublika unless Kazakhstan can prove that Respublika was actively involved in the theft of the documents.

Currently, Respublika continues to publish articles based on the disclosed correspondence.

### C) Kazakhstan demands that journalists' personal details be disclosed

In order to prove that Respublika was actively involved in the theft, Kazakhstan renewed its earlier efforts **to obtain personal details of the administrators and authors of the Facebook page of Respublika**. The first attempts were made in March and May 2015, however, Facebook refused to disclose this information. That initial request was withdrawn after Respublika filed a motion with Judge Ramos. Still, Kazakhstan reissued the request in a modified form after receiving permission to conduct discovery against Respublika from the New York court.

On **12 November, 2015**, they issued a subpoena, demanding that the Facebook provide the names, email addresses, IP-addresses and MAC-addresses of the administrators of **the Facebook pages of Respublika and Muratbek Ketebayev**, as well as those of the **authors** who analysed the stolen correspondence. Both Facebook and Respublika objected to the subpoena and Facebook refused to produce the records. Kazakhstan then filed a motion to compel production of the records. Both Respublika and Facebook have filed oppositions to the motion. A hearing on the motion will be held on 3 March 2016.

It is noteworthy that in recent demands, addressed to Facebook, Kazakhstan mentioned the oppositionist Muratbek Ketebayev. According to the counsel of Kazakhstan, the correspondence, published by Ketebayev, had not been posted on the 'kazaword' portal previously, which means that he must have obtained it from other sources. Irina Petrushova has noted that some of the correspondence was sent directly to Ketebayev, but the same materials may also be posted on the 'kazaword' portal. [\[9\]](#)

**Muratbek Ketebayev**, a former Kazakh opposition politician, one of the founders of the opposition movement 'Democratic Choice of Kazakhstan' (DCK), has been granted political asylum in Poland. In Kazakhstan, Ketebayev has been charged with 'inciting social discord', committing 'a crime against the peace and security of mankind' and other offences. Opposition politicians Muratbek Ketebayev and Mukhtar Ablyazov are long-term associates, having collaborated as far back as the time of the DCK. Ketebayev has repeatedly pointed to the political motivation underlying the charges brought against Ablyazov.

The Counsel of Kazakhstan has obtained permission from Judge Ramos to obtain a witness testimony from Ketebayev in Poland. However, it should be noted that Poland has granted protection from the Kazakh authorities to Ketebayev.

The counsel of Kazakhstan claim that Ablyazov has financed Respublika, and 'members of Ablyazov's entourage' could have 'organised' and 'financed' the hacker's attack. Respublika vehemently refutes these allegations and claims that, by making unfounded and unproven accusations, the counsel of Kazakhstan are striving to discredit both journalists and Muratbek Ketebayev. **It is now feared that Kazakhstan may claim that Petrushova, the journalists of Respublika and Ketebayev are in some way 'linked' to the hackers.** Should Kazakhstan bring about the disclosure of their personal data, based on this claim, then, according to Petrushova, this could lead to tragic consequences, as the security services will increase their harassment of Kazakh oppositionists in Europe and the United States.

### 3. FORMER RESPUBLIKA JOURNALISTS HAVE BEEN ACCUSED OF 'SPREADING FALSE INFORMATION' AND 'POSSESSION OF DRUGS'

**Gyuzyal Baydalinova and Yulia Kozlova** - journalists of the online portal Nakanune.kz and former journalists of Respublika have been subjected to prosecution under Art. 274, section 3 of the CC of the RK ('spreading false information'). Yulia Kozlova has also been charged with 'possession of drugs' (Art. 296, section 2 of the CC of the RK). Baydalinova and Kozlova are facing between 3 and 7 years' imprisonment and in addition, Kozlova could be incarcerated for 60 days for 'possession of drugs'.





was.”

The criminal case was initiated on 3 December, 2015. According to Investigator Aleksey Chapurin, in the period between 29 April, 2014 and 5 December, 2014, on the websites of Respublika and Nakanune.kz, “a group of persons, by prior collusion (...) spread false information, thus creating a risk of public disorder and causing major damage to the Kazkommertsbank JSC in the amount of 144,235,090 tenge” (approx. 393,800 euros). Investigators stated: “It has been established who the mastermind behind the publications



Previously, on 19 June, 2015, in a civil case, a Kazakh court ordered that ‘Kazkommertsbank’ be paid the amount of 20 million tenge (approx. 61,000 euros) in ‘compensation for damage caused to its business reputation’. The court ordered the removal of the article which reported on possible violations connected to the financing of the Bank’s projects, from the Nakanune.kz website. However, in the article, **journalists merely expressed assumptions and suggested that law enforcement agencies had been taking steps aimed at verifying the information provided.** [\[10\]](#)

**As it transpired, the imposition of the crushing penalty via a civil lawsuit was not the end of the matter as the authorities subsequently initiated a criminal case.** In the criminal proceedings, the sum sought for ‘damage caused to the business’ reputation’ was 6 times the amount sought in the civil case. It was stated in the criminal case that the journalists of Respublika and Nakanune.kz, in particular, Gyuzyal Baidalinova, Yulia Kozlova, Rafael Balgin and Makhambet Auezov “*may have been complicit in the publishing of these articles*”.

On 18 December, 2015, police raided the homes of journalists and editors of the Nakanune.kz portal. In the apartment of journalist **Yulia Kozlova**, police allegedly ‘discovered’ drugs. The search, however, **was carried out in the absence of both Kozlova and her lawyer.** The journalist stated that police had planted the drugs in her apartment. On the same day, at the police station, Kozlova was forced to submit to urine testing, and 10 minutes later it was reported that, supposedly, her urine contained traces of drugs. However, the next day, an independent examination showed that there were no drugs in Kozlova’s body. Currently, Kozlova is facing arrest.

On 26 December, 2015, the Almalinsky District Court of Almaty issued a decision to detain **Gyuzyal Baydalinova** for 2 months.

**Rafael Balgin** was also arrested for 2 months. However, on 11 January, 2015, he was suddenly released from custody and the next day, i.e. on 12 January, 2016, he gave a press conference. Along with Balgin, the press conference was given by one more individual involved in the criminal case, **Makhambet Auezov.**

**Balgin and Auezov gave ‘confessionary statements’,** according to which, the journalists of Respublika and Nakanune.kz allegedly disseminated ‘defamatory’ articles about ‘Kazkommertsbank’ in exchange ‘for cash’. At the same time, Balgin gave the name of the mastermind: businessman Tahir Kaldybayev who “*paid from 5,000 - 10,000 dollars for each article*”. Also, according to Balgin, “*Petrushova also knew from me what the nature of the transaction was, and, therefore, she was also fulfilling her role in this chain, by publishing articles*”. [\[11\]](#)

It should be noted that ‘inducement’ to give ‘confessions’ is a common practice employed by the Kazakh investigative bodies. According to Petrushova, journalist **Baydalinova also received an offer to ‘confess to all the offences’ in exchange for her freedom, but she refused to do so.**

Petrushova noted that Balgin’s and Auevov’s ‘confessions’ served to fulfil the goal of the Kazakh authorities: to discredit Respublika and obtain ‘convenient testimonies’ implicating its editor. **Petrushova believes that in this way, Kazakhstan wants to issue an international arrest warrant for her,** and, thus, deprive her of freedom of movement within the EU, which would prevent her from defending Kazakh political refugees in Europe and exposing corruption in the governing bodies of Kazakhstan as well as human rights violations they commit. In addition, according to her, Nazarbayev’s entourage may use the criminal case in order to force Russia to cancel the licence granted to Respublika.

**The criminal prosecution of Petrushova’s former colleagues may be the government’s response to Respublika’s publication of the ‘kazaword’ materials.** Furthermore, on 16 December, 2015, ‘Respublika’ published correspondence containing the information that: following *the* purchase of ‘BTA Bank’, Kazkommertsbank had remunerated foreign lawyers for creating *a* negative image of Ablyazov. [\[12\]](#) According to Petrushova, **this very article could have been the trigger for the initiation of the criminal case, in which the bank is merely a tool in the hands of the authorities.**

#### 4. CRIMINAL PROSECUTIONS AND PRISON SENTENCES FOR JOURNALISTIC INVESTIGATION



**Yaroslav Golyshkin** - journalist of the Pavlodar newspaper ‘Versya’ [‘The Version’]. On 30 October, 2015, as a result of accelerated proceedings which were held behind closed doors, the **journalist was sentenced to eight years in prison with confiscation of property**, having been convicted of the ‘extortion’ of money from the Akim of Pavlodar Province. The journalist was convicted under Articles on ‘extortion’ (Art. 194, section 4 of the CC of the RK) and ‘involving a minor in the commission of criminal offences’ (Art. 132, section 4 of the CC of the RK).

Golyshkin had engaged journalistic investigation of the case of rape in Pavlodar. The journalist recorded the testimonies of two female victims, according to which the son of Akim of Pavlodar Province participated in the rape. Entrepreneur Nurzhan Suleymenov helped the journalist contact the victims. [\[13\]](#)

According to the media reports, the son of the Akim was transferred to the category of ‘witness’ and the aggravated women were forced to drop the charges in exchange for a payment of 5,000 dollars. As a result, the case was closed ‘due to the settlement between the parties’. Soon, it was reported that unknown persons had demanded 500,000 dollars from the Akim of Pavlodar Province and threatened that the testimonies of the aggravated women would be published. The National Security Committee then took over the investigation.

According to ‘Adil Soz’, the entrepreneur Nurzhan Suleymenov ‘was caught red-handed transferring the money’. [\[14\]](#) Another suspect in the case was former investigator Farkhat Aliyasov. **Journalist Golyshkin stated that Suleymenov and Aliyasov had given false testimonies and presented him as ‘the organiser of the extortion’.** Since Suleymenov and Aliyasov ‘repented’ and ‘helped solve the crime’, the court sentenced the former to 7 years’ imprisonment, and the latter - to 3.5 years.

‘Reporters Without Borders’ stated that journalist Golyshkin had fallen victim to the fabrication of charges in a political case. [\[15\]](#)



**Amangeldy Batyrbekov** - journalist and activist from the South Kazakhstan Province, the chairman of the civic society association 'Saryagash – Adilet', a member of the Union of Journalists. On 29 October, 2015, a court sentenced the journalist to 1.5 years' imprisonment and ordered him to pay compensation for moral damages in the amount of 50,000 tenge (approx. 130 euros) for libel (Art. 130 of the CC of the RK).

Amangeldy Batyrbekov was reported by Prosecutor Nurlan Saparov. On 10 April, 2015, the journalist published in the newspaper 'Adilet', an article about an allegedly fabricated case involving two young men, in which he accused the prosecutor. The editor of the newspaper asserts that the allegations the article contained were based on documentary evidence. [\[16\]](#)



**Elena Semenova** - a human rights activist who regularly covers cases of torture which take place in the prisons of the Pavlodar Province. She is suspected of 'spreading false information' via social networks (Art. 274, section 2, point 3 of the CC of the RK).

On 9 October, 2015, an official of the prison system of Pavlodar Province Ersain Nurtazinov stated: *"The articles and interviews, given by E.A. Semenova, posted on social networks, show that officers of penitentiary facilities of the penal system of Pavlodar Province allegedly beat, torture, bully, rape and humiliate inmates, force them to clean the shoes and wash clothes of administration workers; they also compel prisoners to carry out repairs in the unit at their own expense and that they illegally use special means"*. According to the investigative body, Semenova's articles pose a danger of *"violation of public order among inmates"*.

Elena Semenova reported on Facebook that the prosecutor's office systematically ignores the complaints of torture, filed by prisoners. [\[17\]](#) According to civil society activist Ruslan Ozdoyev, a possible goal of the criminal prosecution may be the exclusion of Semenova from the Public Oversight Commission and the National Preventive Mechanism, which would prevent her from visiting penal colonies. [\[18\]](#)



**Andrei Tsukanov** – journalist of the video portal 16/12, activist. A criminal case was initiated against him on charges of spreading false information on Facebook (Art. 274, section 2, point 3 of the CC of the RK). On 17 April, 2015, Tsukanov wrote on Facebook that social activist Kaganat Takeyeva was a 'freelance activist of the National Bank and the city administration of Almaty'. Two days later, Tsukanov was summoned for questioning by an investigator. The current status of the criminal case is unknown. [\[19\]](#), [\[20\]](#)

## 5. CRUSHING FINES IMPOSED ON JOURNALISTS AND SUCCESSIVE CLOSURES OF MEDIA OUTLETS



**The newspaper 'Zhas Alash'** – A Kazakh-language opposition newspaper. On 13 November, 2015, Almalinsky City Court No. 2 of Almaty ordered newspaper editor, Rysbek Sarsenbay, journalist Meruert Turlybekova, reader Kaden Mukanuly and

two others to pay **40 million tenge (approx. 101,000 euros)** in ‘moral compensation’ to the head of the Tibetan medicine centre, Zhasan Zekeyuly.

According to the applicant Zekeyuly, the article ‘University professor sues his family’, published in May 2015, denigrated his honour and dignity. The Foundation for the Protection of Freedom of Speech ‘Adil Soz’ pointed out that the article was based on official documents, including court orders, and that the unreliability of the published data was not proven during the civil case. [\[21\]](#)



The magazine ‘ADAM’ – a publication which appeared after the closure of the magazine ‘ADAMbol’, accused of ‘war propaganda and agitation’.

On 22 October, 2015, the Medeuskiy District Court of Almaty granted the petition of the district prosecutor's office, thus **banning the circulation of the journal ‘ADAM’ and ordering the removal of its Facebook page**. Initially, on 27 August, 2015, the court suspended the circulation of the magazine for

3 months. Journalists posted materials on the magazine’s Facebook page. Consequently, the prosecutor demanded that the magazine be closed permanently.

The reason for the closure was minor administrative violations: the magazine published materials in Russian, while its working languages, indicated at the time of registration, were both Kazakh and Russian. The ‘Adil Soz’ Foundation emphasises that the law does not specify that newspapers and magazines are obliged to publish in all their working languages simultaneously. [\[22\]](#)

Previously, on 8 September, 2015, the Bostandykskiy District Court of Almaty ordered the chief editor of ‘ADAM’ Ayana Sharipbayeva to pay the amount of 50 million tenge (**approx. 126,300 euros**) in **compensation** for ‘moral damages caused’ to the Deputy Chairman of the National Security Committee Kabdulkarim Abdikazimov. On 14 August, 2015, ‘ADAM’ published an article entitled ‘Intelligence Service General’s Last Assignment Before Discharge’ As reported by ‘Adil Soz’, “the information given by the sources of the magazine transpired to be unreliable; therefore, the editors published an apology and a retraction”. [\[23\]](#) However, a representative of the intelligence services demanded compensation.

## 6. CRIMINAL PROSECUTIONS AND PRISON SENTENCES FOR PUBLICATIONS IN SOCIAL NETWORKS



### The case of Ermek Narymbayev and Serikzhan Mambetalin

**Ermek Narymbayev** - Almaty activist. In 2010, he publicly stated, ‘Out with Nazarbayev!’, after which he was sentenced to 4 years in prison. On 25 February, 2012, he was released under amnesty. In 2015, he was arrested for participating in unsanctioned protests.

**Serikzhan Mambetalin** - Almaty activist; previously, he was a member of the green opposition party ‘Rukhaniyat’.

On 22 January, 2016, **Narymbayev was sentenced to 3 years in prison, while Mambetalin - to 2 years' imprisonment**, both having been convicted of ‘inciting ethnic hatred’ on Facebook by ‘prior collusion’ (Art. 174, section 2 of the CC of the RK).

On 10 October, 2015, police opened a criminal case on the basis of a phone call made by an unknown man, who reported the ‘illegal’ publications on Facebook. [\[24\]](#) Since 15 October, 2015, Narymbayev and Mambetalin have been held in custody.

The investigation 'established' that *"on 8 October, 2015, E.E. Narymbayev, with a group of persons, by prior agreement with S.E. Mambetalin, while in the city of Almaty, through the use of information and communication networks, disseminated materials from the book by M.A. Telibekov 'The wind from the street', aimed at inciting national hatred, insulting national honour and undermining the dignity of the Kazakh nation"*.

The excerpt of the belles-lettres book, posted on Facebook, contains the chaotic thoughts of the literary protagonist, a Kazakh man, who lays bare his hysterical ruminations: *"The Kazakh nation will never be independent. It will always be someone else's uterine appendage, appendix, the foreskin of a foreign prick... Floundering in the slurry, we will boast of our national identity and sovereignty, while surrounded by parasites, in the darkness of ignorance and prejudice. Oh, Kazakhs, Kazakhs! ..."* [25] (an excerpt from the book is cited – Ed.).

Mambetalin criticised the book by Telibekov and, on the night of 8 October, 2015, he posted on Facebook, this excerpt, which, as he said, *"can make you vomit"*. On the morning of the same day, Mambetalin's post was shared by Narymbayev who, in turn, praised the literary work: *"In many ways, Murat Telibekov isn't far from the truth"*. *"It has been proven that Narymbayev visited Mambetalin's Facebook page where the latter had published the post"* - in the opinion of the investigator Aleksey Chapurin, that was the essence of the 'collusion' between the activists (at the same time, the investigator clarified that "he wasn't able to fully prove" the collusion). [26]

Murat Telibekov, a bodacious activist and the head of the organisation 'The Union of Muslims of Kazakhstan' was suspected of 'inciting ethnic hatred', but in October 2015, the investigation against him was suspended. Telibekov stated that the excerpt, posted on Facebook, was not part of the book. According to him, the book 'The wind from the street' was written in 1993, however, 'due to technical reasons', the entirety of the edition was destroyed. The author says that he is in possession of the sole existing printed copy of the 1993 book.

Narymbayev and Mambetalin argue that a fragment of the book was taken from the site lyakhov.kz (this fact was confirmed by an expert examination carried out by the National Security Committee). The site's owner, Aleksandr Lyakhov, who is involved in the case as a witness, said that the book was removed from the site back in 2002. According to the head of the human rights foundation "Journalists in Distress", Rozlana Taukina, **no court has ever banned the book 'The wind from the street' which means that extracts from it can legally be published.**

On 18 December, 2015, the Almalinskiy District Court of Almaty began to hear the case. **On 8 January, 2016, activists, locked in the defendants' booth, were, as an additional measure of restraint, handcuffed to their respective guards.** Both activists suffer from high blood pressure. Three times: on 28 December, 2015, 6 January, 2016 and 15 January, 2016, Narymbayev was taken from the courtroom to hospital, where his blood pressure was reduced to a normal level, and, on the request of Judge Maral Dzhartilgasova, on each occasion he was taken back to the courtroom. [27], [28]

Human rights activist Yevgeniy Zhovtis pointed out that the judge does not ensure equality for the parties, unreasonably rejects the motions of the counsels and even threatens them. On 6 January, 2016, supporters of the accused vociferously expressed their dissatisfaction with the actions the judge, after which the presence of journalists and observers (including representatives of the US Consulate) in the courtroom was forbidden. A room containing a screen, on which the hearing was broadcasted, albeit with interference, has been set up for them.

**Bolatbek Blyalov** – head of the civil organisation ‘Institute for Democracy and Human Rights’; environmental activist; defender of the rights of residents of Astana, who refuse to accept the low level of compensation they have been offered in connection with the demolition of their homes.



On 21 January, 2016, **Blyalov was sentenced to 3 years’ restriction of personal liberty**, having been convicted of ‘inciting social and national hatred’ through the media and social networks (Art. 174, section 1 of the CC of the RK).

he investigative bodies drew attention to the posts on Facebook and interviews on YouTube, in which Blyalov starkly criticised Russia's policy towards Ukraine, using the term ‘Russian fascism’. Blyalov posted this information *“deliberately, with intentions bearing signs of inciting social, national enmity or discord”* – this illogical wording has been used by the investigation bodies. [29]

On 30 October, 2015, during a search of Blyalov’s apartment, police showed him a Facebook post and asked: *“Is this yours? Have you written this?”* *“I replied that I was the author and that I was prepared to answer for my words,”*- the activist stated. [30] Blyalov was detained on 9 November, 2015 and remanded two days later. He was refused release on bail, despite the fact that he has minor dependents, including a disabled child.

The first hearing, which began on 13 January, 2016, in Saryarkinskiy District Court No. 2 of the city of Astana, was attended by representatives of the embassies of Germany, the USA and the Netherlands. On 15 January, 2016, a journalist of ‘Radio Azattyk’ was refused entry to the courtroom. According to counsels, Judge Nazgul Bapakova hastily familiarised herself with the case file before rejecting a motion to re-examine Blyalov’s publications and interviews. [31], [32]

On 21 January, 2016, Blyalov made a statement which included a ‘confession to a crime’.



**Ermek Taychibekov** – a blogger and entrepreneur from Zhambyl Province. On 11 December, 2015, the Kordayskiy District Court **sentenced Taychibekov to 4 years in prison**, having convicted him of ‘inciting ethnic hatred’ in publications on Facebook (Art. 174, section 1 of the CC of the RK). A criminal case was initiated on 30 June, 2015, by the National Security Committee on the request of the blogger Botagoz Isayeva and several other Facebook users.

In Facebook posts, Taychibekov advocated the unification of Russia and Kazakhstan as one state, headed by Nazarbayev, as well as the economic and political union of the EU and the Eurasian Union.

In early July 2015, Taychibekov was sent for compulsory examination to the Zhambyl Regional Psychiatric Hospital, where he was diagnosed with *“symptoms of paranoid syndrome with delusions of reformism and grandeur,”* as well as *“symptoms of thought disorder in the form of circumstantiality, the propensity to philosophize”*. Later, as a result of the psychiatric examination in Almaty, he was deemed ‘fit to be held responsible for his actions’. [33], [34] On 19 September, 2015, Taychibekov was arrested. At the trial, journalists were banned from any kind of video or audio recording as well as taking photos.



**Saken Baykenov** - environmental activist from Astana. On 13 April, 2015, Saryarkinskiy District Court No. 2 sentenced him to 2 years of restriction of personal liberty, having convicted him of ‘inciting ethnic hatred’ via Facebook (Art. 174, section 1 of the CC of the RK). Since 9 March, 2015 he has been held

in custody. Baykenov stated that he is the author of his publications, but it is not known for which of them he was convicted. According to some reports, he may have agreed to 'cooperate with the investigative bodies'. [\[35\]](#), [\[36\]](#)



**Tatiana Shevtsova-Valova** - Almaty resident. On 31 March, 2015, the Alatauskiy District Court sentenced her to four years' imprisonment suspended conditionally, having convicted her of 'inciting ethnic hatred' via Facebook (Art. 174 of the CC of the RK). A criminal case was initiated on the request of 11 Facebook members. According to the prosecution, in her publications, Shevtsova-Valova insulted citizens on ethnic grounds and allegedly claimed that some regions of Kazakhstan may voluntarily join Russia. Shevtsova Valova herself claims that someone created a false account in her name and falsely posted on her behalf. [\[37\]](#), [\[38\]](#)



**Mukhtar Suleymenov** - a resident of the West Kazakhstan Province. In July 2015, he was sentenced to 3 years' imprisonment, having been convicted of 'inciting ethnic hatred' via Facebook (Art. 174 of the CC of the RK). According to investigators, Suleymenov, acting as 'Mukhtar Aizhan', expressed views on Russian nationality and the destruction of Russia. [\[39\]](#)



**Alkhanashvili** (first name unknown) - a resident of Petropavlovsk (North Kazakhstan Province). In July 2015, he was sentenced to 3 years in prison, having been convicted of inciting ethnic hatred via social networks (Art. 174 of the CC of the RK). According to investigators, Alkhanashvili published materials that undermined the national pride of other ethnic groups. [\[40\]](#)



**Igor Sychev** – resident of the city of Ridder (East Kazakhstan Province), one of the administrators of the vKontakte page 'Overheard in Ridder?'. On 18 November, 2015, a court sentenced him to 5 years in prison, having convicted him of 'publicly calling for a violation of the integrity of Kazakhstan' via the social network vKontakte (Art. 180, section 2 of the CC of the RK). Since 30 September, 2015, he has been held in custody.

Investigators accused Sychev of, being the administrator of the website, allowing the publication of a survey on the prospects for the region's integration with Russia on the page 'Overheard in Ridder?'. 506 people voted in the survey, most of whom voted in favour of integration. The prosecutor considered that such a publication could encourage separatist sentiment in the region. Referring to the Ukrainian precedent, the prosecutor described the '*civil war in Ukraine*' as 'a terrible example of separatism', which '*should serve as a warning to all*'. [\[41\]](#)

Igor Sychev was not the author of the survey; he did not take part in it and removed it immediately after receiving complaints. He stated that he had accidentally published the survey which was suggested by an unknown user. [\[42\]](#) The Foundation for the Freedom of Speech 'Adil Soz' denies the existence of signs of separatist propaganda activities in Sychev's actions.



**Bulat Satkangulov** - a lawyer from the city of Rudny (Kostanay Province). Sentenced to six years in prison, having been convicted of spreading propaganda and inciting to terrorism with the use of social networks (Art. 256, section 2 of the CC of the RK).

According to the prosecution, Satkangulov kept at home materials, related to Islamic State activity, and from January to February 2014, he disseminated them via social networks ('Odnoklassniki', 'Vkontakte', 'Mail.ru'). He also sent to his friends via WhatsApp, audio recordings of statements which

allegedly 'justify terrorist activities'.

The counsel noted that all the information which Satkangulov had, was freely available online and was even televised prior to Islamic State being banned in Kazakhstan. The counsel emphasises that in conversations on religious themes with his friends, Satkangulov insisted that reconciliation is necessary. [\[43\]](#), [\[44\]](#)

## 7. LEGISLATIVE MEASURES TO LIMIT THE FREEDOM OF INFORMATION

According to the Telecommunications Committee, Kazakhs **can be held criminally responsible for other people's 'extremist' comments published via their pages on social networks**. Such actions fall under Art. 183 of the CC of the RK 'Granting authorisation for publication of extremist materials in the media' (punishable by a fine of approx. € 3,000 or imprisonment for up to 90 days). [\[45\]](#) Kazakh legislation equates social networks to 'foreign media'.

On 2 April, 2014, Parliament allowed the General Prosecutor to suspend the operation of Internet resources without trial, if they are used for 'criminal purposes'. On 24 November, 2015, Nazarbayev signed a law under which the infrastructure of 'online press' should be situated exclusively on the territory of Kazakhstan. [\[46\]](#)

On 1 January, 2016, the concept of a 'national security certificate' was introduced in the Law 'On Telecommunications'. Now, Kazakh citizens must obtain a certificate from the national provider 'Kazakhtelecom'. Experts believe that this measure will allow the authorities to block information, intercept queries from foreign websites and decrypt encrypted web pages. [\[47\]](#)

On 7 September, 2014, through legal proceedings, Kazakhstan prohibited 'anonymizers' (Internet resources which allow people to visit blocked sites). Recently, many websites have been blocked in Kazakhstan for a variety of reasons. Access to the sites Ratel.kz and Zonakz.net was blocked for a few months for reasons unknown. [\[48\]](#) Certain articles have also been blocked. Some news articles on the websites: Radio Azattyk, 'Uralskaya Nedelya' ['The Ural Week'], Forbes.kz, Eurasianet.org, Today.kz, Lenta.ru, Vlast.kz, Clashdaily.com, Kloop.kg, Daily Mail, Kommersant.ru and others were not available on the territory of Kazakhstan. [\[49\]](#)

According to data obtained by 'Adil Soz', in 2015, 8 journalists were subjected to unjustified detention. [\[50\]](#) For example, on 29 July, 2015, the reporter of 'Radio Azattyk' Ruslan Botayuly, who was filming a protest rally of returnees near the Presidential Administration building was arrested, and then released. During the arrest, the police broke the journalist's tripod and seized his phone. [\[51\]](#)



## 8. CONCLUSIONS AND RECOMMENDATIONS

Having destroyed the opposition and the largest privately-owned independent media outlet, Kazakhstan's authorities began to persecute less influential activists and bloggers, for whom social networks are probably the only means by which they are able to draw society's attention to the current problems and present alternative information. Despite the fact that these activists and bloggers do not have a wide audience, the authorities still perceive them as a threat and are striving to isolate them. While drawing the community's attention to the appearance of new political prisoners in Kazakhstan, the Open Dialog Foundation wishes to stress the importance of remembering about the prisoners of conscience: Vladimir Kozlov, Aron Atabek and Vadim Kuramshin who, for several years, have been subjected to pressure and torture in the prisons of Kazakhstan.

Prior to the adoption of new criminal legislation, human rights defenders had grave concerns which have now been proven justified. The new criminal code, in place since 2015, toughened the penalties for 'defamation' and 'incitement of national, social and religious hatred'. Despite the existence of penalties for 'defamation', the authorities have introduced a new article of the criminal code – 'spreading false information', which is used as an additional tool for the oppression of dissidents. Kazakhstan systematically rejects the recommendations of the UN and the EU to annul the criminal articles.

For the purpose of prosecuting inconvenient journalists, Kazakhstan uses not only its oppressive legislation. The international community should condemn Kazakhstan's attempts to abuse the judicial procedures of the United States in order to restrict freedom of speech. It is important to note that the UN Special Rapporteur on Freedom of Expression highlighted the necessity to take appropriate actions in order to protect information sources of interest to the public. [\[52\]](#)

Social networks have become a new battlefield for intelligence services in their bid to quash dissent. There's an acute need for public debate at the European Parliament, PACE, OSCE and the United Nations on the development of effective mechanisms for the protection of personal data of journalists, activists, bloggers and opposition politicians. We must not allow authoritarian states to eliminate dissent through the disclosure of personal information from social networks. Thus, the security services are striving to lay their hands on political opponents, track their movements, contacts, activities, after which the security services can threaten to murder them or hinder their public activities. Therefore, we urge you to prevent Kazakhstan's from implementing its plan regarding the disclosure of personal data of Respublika's journalists, opposition activists and politicians.

Kazakhstan systematically tramples on its international obligations, and it should not go unpunished. The elimination of dissent in Kazakhstan lead to the emergence of pockets of radicalization in the region, and therefore, the EU, the OSCE and the United Nations should initiate a more assertive dialogue with the Kazakh authorities.

The EU-Kazakhstan Enhanced Partnership and Cooperation Agreement, which has been signed, is awaiting ratification. We hereby urge the European Parliament and the parliaments of the EU to take a principled stance by postponing the ratification of the treaty until such time that Kazakhstan fulfils its obligations to protect freedom of speech.

We hereby call on the international community to increase political pressure, demanding that Kazakhstan cease prosecuting journalists, bloggers and activists, as well as review the court sentences of political prisoners already convicted. Kazakhstan should amend its legislation and remove from the Criminal Code, overtly political articles on 'incitement of national or social discord', 'defamation' and 'spreading false information'.

**All those wishing to support our demands are welcome to send their statements to the following persons and institutions:**

- EU High Representative for Foreign Affairs and Security Policy, Federica Mogherini – 1049 Brussels, Rue de la Loi / Wetstraat 200, phone: +32 2 584 11 11; +32 0 2 295 71 69;
- President of the European Parliament Martin Schulz – Rue Wiertz 60, 1047 Bruxelles, Belgique, phone: +32 0 2 28 42111, fax: +32(0)2 28 46974;
- Chairman of the European Parliament Committee on Foreign Affairs Elmar Brok – Rue Wiertz 60, 1047 Bruxelles, Belgique, phone: +32 2 28 49013 (Brussels), +33 3 881 76902 (Strasbourg);
- President of the European Council Donald Tusk – Rue de la Loi / Wetstraat 175, 1048 Brussels, phone: +32 2 28 15650, e-mail: [donald.tusk@european-council.europa.eu](mailto:donald.tusk@european-council.europa.eu);
- President of the European Commission, Jean-Claude Juncker – 1049 Brussels, Belgium Rue de la Loi / Wetstraat 200, e-mail: [president.juncker@ec.europa.eu](mailto:president.juncker@ec.europa.eu);
- President of the OSCE PA Ilkka Kanerva, – Tordenskjoldsgade 1, 1055, Copenhagen K, Denmark, phone: +35 8 9 432 3055; +35 8 9 432 3529, e-mail: [ilkka.kanerva@parliament.fi](mailto:ilkka.kanerva@parliament.fi);
- UN High Commissioner for Human Rights Zeudi Hfle Al-Husseini – Palais des Nations, CH-1211 Geneva 10, Switzerland, phone: +41 22 917 9220;
- UN Special Rapporteur on freedom of peaceful assembly and association Maina Kiai - Palais des Nations CH-1211 Geneva 10, Switzerland, fax: + 41 22 917 9006, e-mail: [freeassembly@ohchr.org](mailto:freeassembly@ohchr.org).
- Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression - Palais des Nations, CH-1211 Geneva 10, Switzerland, fax: +41 22 917 9006; e-mail: [freedex@ohchr.org](mailto:freedex@ohchr.org);
- United States Department of State - 2201 C Street NW Room 2236 Washington, D.C. 20520, tel: (202) 895-3500, e-mail: [OFMInfo@state.gov](mailto:OFMInfo@state.gov);
- United States House of Representatives - Washington, DC 20515, tel: (202) 224-3121, <http://www.house.gov/contact/>;
- Commission on Security and Cooperation in Europe (U.S. Helsinki Commission): Washinton, DC 20515, 3rd and D Streets sw, 234 Ford House Office Building, Tel.: 202-225-1901, [info@csce.gov](mailto:info@csce.gov);
- U.S. District Court (Southern District of New York): 500 Pearl Street, Worth Street, New York, 10007-1312, Tel.: 212-805-0136.

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