

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

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### **Kazakhstan: as 2015 draws to a close, rights to freedom of expression and freedom of association remain under threat.**

In October 2014, Kazakhstan's human rights record came under scrutiny as it submitted its second report under the UN Human Rights Council's Universal Periodic Review (UPR) mechanism. Many of the recommendations made to Kazakhstan following the UPR concerned lifting restrictions on freedom of expression, freedom of association, and freedom of peaceful assembly. These included recommendations that Kazakhstan stated had already been implemented, such as: ensuring the independence of the media and protecting the rights of human rights defenders and journalists to freedom of expression;<sup>1</sup> enhancing efforts to protect freedom of association and freedom of peaceful assembly;<sup>2</sup> and ending the practice of closing, suspending, or blocking opposition print and online publications.<sup>3</sup>

Far from having implemented these recommendations, the situation in regard to rights to freedom of expression and association in Kazakhstan has deteriorated in 2015.

Just a few days ago on 18 December, police in Almaty raided the offices of independent news outlet Nakanune.kz and the homes of three of its journalists, Guzyal Baidalinova, who owns the site, and Yulia Kozlova and Rafael Balgin, who write for the site. All three are now under investigation under Article 274 of the Criminal Code for "knowingly disseminating false information", after the outlet published articles on the activities of Kazkommertsbank, and following a libel case brought by Kazkommertsbank against the media outlet earlier in the year. Several of the journalists who work on Nakanune.kz previously worked at *Reaspublika*, an independent newspaper that was forced to close in 2012 following charges of "extremism", but which had been critical of the Kazakhstani authorities.

At least four people have faced criminal investigations for inciting national "discord" for posts made on social media sites, under vaguely worded offences of inciting social and other "discord" included in Kazakhstan's new Criminal Code, which came into effect in January 2015. This included two activists (Yermek Narymbaev and Serkzhan Mambetalin) both detained since October in pre-trial detention on charges of "inciting national discord" after they posted extracts from an unpublished book deemed to denigrate the Kazakh people on their Facebook pages. Also in October, independent current affairs magazine *Adam* was closed down and had its registration revoked by a court order, on the grounds that it had continued publishing content on its Facebook page in violation of a three-month administrative ban imposed on the print version of the magazine in September.

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<sup>1</sup> Recommendation 124.27: Take effective measures to ensure freedom of expression and independence of the media, including the media expressing critical voices, and ensure protection of journalists, bloggers, human rights defenders and independent media and their work against assaults and intimidation (Czech Republic).

<sup>2</sup> Recommendation 124.29: Enhance its efforts to respect the freedom of the press, freedom of expression and freedom of assembly and association (Japan).

<sup>3</sup> Recommendation 124.26: [Cease] the practice of closing, suspending or blocking opposition print publication and online sources and ensure equitable enjoyment of freedom of expression and peaceful assembly (Sweden).

Clauses included in the new Criminal code single out “leaders” of associations as a separate category of offenders in relation to charges of “discord” (Article 174 of the Criminal Code), subject to harsher penalties if convicted. In November, Bolatbek Blyalov, the director of the Institute of Democracy and Human Rights, became the first person to be arrested and charged for “discord” under Article 174, after supposedly incriminatory materials were found at his home. On 11 November, he was remanded in pre-trial detention for two months.

In a further, extremely worrying development, Elena Semyonova, a member of the country’s National Preventative Mechanism (NPM – a body operating under the umbrella of the National Ombudsman that monitors prison conditions, introduced in 2014 as part of Kazakhstan’s obligations under the Optional Protocol to the UN Convention Against Torture) and of the Public Monitoring Commission (PMC – a civil society monitoring mechanism for places of detention) for her region is currently under criminal investigation by the police, also under Article 274 of the Criminal Code, “knowingly disseminating false information”, after she posted information on social media about cases of ill-treatment that she had encountered during her visits to a prison.

Amendments to the Law on Non-profit Organizations signed into law on 2 December which will lead to the establishment of a central “operator” to raise funding and administer state and non-state funds to NGOs, including grants from international organizations, diplomatic missions, and international NGOs, for projects and activities that comply with a limited, government-approved list of acceptable issues. Failure to supply accurate information for the operator’s centralized database may lead to fines or a temporary ban on activities. Civil society activists in Kazakhstan are extremely concerned that this new law will be used to tighten state control over NGOs and their activities, and to limit their ability to raise funds from outside the country apart from via the central operator. Worryingly, before it was passed, there was no proper consultation on the draft law involving NGOs and other civil society representatives. Indeed, it was even difficult for civil society activists to obtain a copy of the final draft version of the law prior to its adoption.

It is time for the authorities in Kazakhstan to begin acting on their stated commitment to respecting rights to freedom of expression and association. It is time to reverse the worrying trend of using criminal legislation to silence dissent and the reporting of human rights violations. It is also time to ensure that consultation on legislation with those who will be affected by that legislation is meaningful and transparent.

### **Background**

The Republic of Kazakhstan’s report to the UPR was considered on 30 October 2014. The UN Human Rights Council adopted the outcome of the UPR on 19 March 2015 during its 28th session, including the recommendations made to Kazakhstan. Prior to the UPR, Amnesty International had submitted information on the situation of human rights in Kazakhstan:

<https://www.amnesty.org/en/documents/eur57/002/2014/en/>.