



JANUARY 2009

COUNTRY SUMMARY

## Kazakhstan

Despite hopes for meaningful reform, spurred by the country's selection as the 2010 chair of the Organization for Security and Co-operation in Europe (OSCE), human rights in Kazakhstan improved little in 2008. Draft laws on election legislation and mass media fell short of promised improvements, and parliament is considering legislation that observers fear would severely restrict the right to manifest religion or belief.

Kazakhstan's bid for the OSCE chairmanship was controversial because of its poor human rights record. Responding to OSCE members' concerns, Foreign Minister Marat Tazhin pledged in November 2007 that Kazakhstan would take several reform steps prior to assuming the chairmanship. These included amending the media law, reforming the law on elections, and liberalizing the registration requirements for political parties by the end of 2008. Tazhin further pledged that Kazakhstan would incorporate recommendations by the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) into its election legislation and promised not to weaken the ODIHR during its chairmanship. Minister Tazhin's pledges were unprecedented and welcome, but remain largely unfulfilled.

### Election Legislation

At the start of 2008 the government established a working group of government and civil society representatives to address election law reform. Members of the working group reported that they were prevented from considering the repeal of seriously flawed provisions: for example, there are currently no term limits for Kazakh President Nursultan Nazarbaev, he has sweeping powers to dissolve parliament, can appoint a third of the members of the upper chamber, and chooses the chair and two members of the seven-member Central Election Commission.

On November 11, the government sent to parliament a raft of amendments to election-related legislation. These leave unchanged the requirement that political parties gain at least seven percent of the vote to be represented in parliament. They stipulate that at least two political forces must be represented in parliament (no doubt a response to strong criticism of the 2007 parliamentary elections, which produced a single-party parliament). If only one party gets past the seven percent threshold, parliamentary seats may be distributed to the party garnering the next largest number of votes. Other draft amendments include lowering from 50,000 to 40,000 the minimum number of supporters for a party to be registered.

### **Freedom of Expression and Information**

Most media outlets in Kazakhstan remain de facto under government control through a variety of direct and indirect means. Of some 2,500 functioning media outlets, the government owns a growing proportion outright. In March 2008 Samgau, a state-owned company, purchased all the remaining privately-held stock in Khabar, once the country's most important private media group. In July the government combined its media assets, including Khabar, into a special holding company, Arna Media.

In February 2008 the Ministry of Culture, Information and Public Accord declined for the second time a draft media law—including key reforms on registering media outlets—proposed by a working group of civil society representatives. After creating a new working group, the government hedged on supporting reforms, such that the media rights organization Adil Soz called the resulting draft law at best “a tiny first step” toward international standards.

One of the weaknesses of this draft law is that it focuses solely on media operations, while ignoring other relevant criminal and administrative law. For example, the government failed to enact essential reforms on criminal libel, which is often invoked to intimidate journalists and political critics. In the first six months of 2008 authorities opened seven criminal cases against journalists for alleged libel, slander, and defamation. In 2007 there were 27 such cases.

In April 2008 authorities released Kazis Toguzbaev, a journalist sentenced to two years in prison in January 2007 for insulting President Nazarbaev in articles he wrote

criticizing the government, and expunged his verdict. The judges concluded that Toguzbaev had “demonstrated by his behavior that he was reformed.” The release is welcome, but so long as such a broad criminal libel regime remains in place, others risk spending time and effort in defending themselves against it. In August 2008 a court in Shymkent ordered the release of Nurlan Alimbekov, a philosopher arrested in 2007 on charges flowing from an email he wrote questioning Kazakhstan’s close relationship with Russia, which the government argued constituted incitement of racial hatred. Authorities had confined Alimbekov to a high-security psychiatric institution. Although the court freed him to return home, it did not dismiss the charges or conclude that Alimbekov was mentally fit under the law—only that his “treatment” does not currently require institutionalization.

In February 2008 an Astana court ordered the independent newspaper *Law and Justice* closed on grounds that it was improperly registered. Editors at the paper believed the case to be politically motivated: it had recently published allegations of corruption among the judiciary.

Beginning in April, the government-controlled internet monopoly Kaztelecom blocked access to the English- and Kazakh-language services of Radio Free Europe/Radio Liberty for seven weeks. The sites were made available again after expressions of concern from key international actors. The websites of several political opposition movements remain blocked.

## **Freedom of Religion**

Kazakh authorities continue to restrict freedom of religion, primarily by pursuing members of “non-traditional” religions. Addressing members of Kazakhstan’s ruling political party in January 2008, President Nazarbaev urged lawmakers to take steps to curb the activities of foreign missionaries. Misleading, fear-promoting statements about religious minorities in media and government statements continued during the year. In September a new draft law on religion passed the lower house of parliament. While the bill was in draft, local human rights groups characterized it as “repressive,” arguing that it imposes inappropriate restrictions on religious groups and is open to arbitrary interpretation. The draft law makes a distinction between religious groups, which have no legal status and therefore no rights, and religious

associations, which must have at least 50 members in a given locality. A religious association is the only legal entity religious communities can form. The draft law requires all communities to reregister within 18 months. On October 31 the upper house of parliament returned the draft to the lower house, requesting several insignificant changes.

## **Human Rights Defenders**

Granting Kazakhstan the OSCE chairmanship has rendered the work of local human rights groups that press for reform more challenging. On the one hand, the government has established a number of human rights-related working groups, including one to draft a National Plan on Human Rights 2008-2011. But on the other hand, the government deflects or even ignores criticism and proposals for reform from rights groups, by portraying its 2010 OSCE chairmanship as evidence that its human rights record is in good order. In July 2008 five local human rights groups signed a memorandum to jointly monitor the implementation of the government's reform promises prior to its OSCE chairmanship.

## **Key International Actors**

The OSCE remained engaged with Kazakhstan throughout 2008 on issues relating to the promised reforms and the upcoming chairmanship. After a visit to Kazakhstan in late July, OSCE Chairman-in-Office Alexander Stubb said the OSCE hoped to see "swift continuation of reforms in fields such as media, elections and political parties" and encouraged dialogue on other reforms.

Although the United States endorsed Kazakhstan's bid to chair the OSCE, US officials remained vocal about the country's slow progress on democratic and human rights reforms. In his July testimony before the US Commission on Security and Cooperation in Europe, Assistant Secretary of State for South and Central Asian Affairs Richard A. Boucher expressed the administration's support for Kazakhstan's chairmanship but admitted that reforms were uneven. Visiting Kazakhstan in October, it was reported that Secretary of State Condoleezza Rice raised with President Nazarbaev the commitments for Kazakhstan's democratic reform made in November 2007, stressing that the US looked to Kazakhstan "to show leadership by

example and, working closely with OSCE and civil society, make steady progress toward meeting all of its ... commitments, including the adoption of laws governing independent media and elections,” comments that suggest the US did not assess Kazakhstan as having made sufficient progress so far.

In September the European Union underlined “the importance of reforms in view of the Kazakh Chairmanship of the OSCE, including in the areas of media freedom, the electoral law and the registration of political parties, as confirmed at the OSCE ministerial in Madrid in December 2007.” The first round of what is to become an annual human rights dialogue in the framework of the EU’s Central Asia strategy was held in mid-October. The EU did not make public what specific issues it raised or what results the dialogue yielded.