



**Analysis of the Draft Law of the Republic of Kazakhstan  
“On the Introduction of Changes and Supplements to Several Legislative Acts  
of the Republic of Kazakhstan on Issues Related to Informational-Communications  
Networks” and Kazakhstan’s OSCE Obligations in the Field of Media Legislation<sup>i</sup>**

**The Threat**

Kazakhstani legislation regulating the activities of the media and journalists remains one of the harshest in the post-Soviet space. As promised by Kazakhstani Foreign Minister Marat Tazhin at the Madrid OSCE Ministerial Council meeting, in December 2008, parliament passed “joint draft amendments to the Law on the Media that reflected the OSCE’s recommendations.” In fact, this draft failed to resolve most of the real problems facing the Kazakhstani media, as it actually includes only a small number of positive changes. Then, on January 5, 2009 the government sent to the lower house of parliament another draft law entitled “On the Introduction of Changes and Supplements to Several Legislative Acts of the Republic of Kazakhstan on Issues Related to Informational-Communications Networks.” If passed, this bill would provide the government with the legal means to seriously restrict the distribution of information through traditional media and through the Internet, including both domestic and foreign sites.

The draft would:

- Expand the range of Internet sites treated as mass media and therefore liable to the types of harsh legal punishments to which traditional media are subject.
- Allow prosecutors to temporarily close down websites without a prior court ruling.
- Create a special court proceeding that would allow the suspension or ban of the distribution of information in Kazakhstan of information on foreign web sites without the participation of the foreign party.
- Significantly broaden the grounds on which the distribution of information through the media can be suspended or stopped.

Passage of this law would mark a significant step backwards for freedom of speech in Kazakhstan at a time when the Kazakhstani government is claiming that it is taking steps to fulfill its Madrid commitments, including in the area of media freedom.

## **Problematic Provisions**

1. The draft proposes to change the term “web site” in all Kazakhstani legislation to “Internet resource.” Because Kazakhstani law considers web sites to be mass media, this will have the effect of subjecting *all material on the Internet* to the same range of criminal, civil and administrative punishments as currently apply to traditional media under the Law “On Mass Media,” one of the harshest media laws in the entire post-Soviet space.
2. The draft bill will give the Prosecutor General the right to suspend or terminate the distribution of any mass media, either domestic or foreign if he determines there is a clear violation of the law that if not stopped quickly could harm state interests. Only afterwards would the courts review the Prosecutor’s actions.
3. The draft proposes to create a special judicial proceeding to limit information presented on foreign Internet sites. This process would begin with a petition by the prosecutor or the authorized agency to the court in Astana and would take place in the absence of the foreign party. It is possible that this provision could lead to the banning of entire networks such as LiveJournal.com.
4. The law would significantly expand the grounds on which the distribution of media can be suspended or stopped. The exceedingly general nature of these new grounds, combined with the severe maximum penalties for media violating them – suspension or even closure – would in practice allow for baseless repression of Internet media.

## **Conclusions and Recommendations**

The draft requires a basic makeover with the participation of broad groups of society in order to be brought into accordance with international standards for freedom of expression and the receipt and distribution of information regardless of state borders.

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