



SPOTLIGHT: FUNDAMENTAL RIGHTS IN CENTRAL ASIA

Recent developments in Kazakhstan

March 2016



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This document provides an overview of recent developments concerning freedom of expression and the media; freedom of association and assembly; as well as access to justice, non-discrimination and the protection of vulnerable groups in Kazakhstan. It is based on the findings of monitoring conducted by Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR) in November 2015-February 2016. International Partnership for Human Rights (IPHR, Belgium) has conducted additional research and prepared the document together with KIBHR. It has been prepared within the framework of the project “A Transnational Civil Society Coalition in Support of Fundamental Rights in Central Asia” implemented by KIBHR, Nota Bene, Turkmen Initiative for Human Rights and IPHR.

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Photo on the cover: Civil society activist Ermek Narymbaev in need of urgent medical assistance during the recent trial in his case.

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Summary

The Kazakhstani authorities continue to **stifle freedom of expression and open debate**, in particular in the context of the ongoing economic crisis and the early parliamentary elections scheduled for 20 March 2016. There has been a **series of recent arrests and criminal cases targeting journalists, civil society activists and other critical voices**. It is of particular concern that broadly and vaguely worded Criminal Code provisions banning “inciting” social, national or other “discord”, as well as “deliberately spreading false information” have increasingly been used against individuals exercising their right to freedom of expression, including on social media. This has contributed to fostering a growing climate of intimidation and to suppressing discussion on social media.

In a resolution adopted on 10 March 2016, **the European Parliament denounced violations of freedom of expression in Kazakhstan**, including in particular pressure on independent media outlets, as well as arrests and convictions of journalists, bloggers and other outspoken individuals. It called for a review of Criminal Code articles that “can be used to criminalise lawful behaviour protected by human rights law”.

These are recent individual cases of concern in view of the right to freedom of expression and other fundamental rights:

- The office of the **Nakanune.kz** news portal, known for its criticism of authorities, and the homes of several of its journalists were searched in December 2015 and its editor **Guzyal Baydalinova** remains in pre-trial detention on charges on “deliberately spreading false information”. These charges have been initiated over an article on corruptions allegations, over which the portal already lost a massive defamation suit last year.
- In a development that has prompted widespread concern within the journalist community, Chair of the Union of Journalists and National Press Club Head **Seytkazy Matayev** and his son independent KazTAG News Agency Director **Asset Matayev** are under investigation on accusations of embezzling state funds and tax fraud. Matayev the older was arrested on 22 February 2016 and remains under house arrest.
- In one of the most notorious recent free speech cases, on 22 January 2016, activists **Ermek Narymbaev** and **Serikzhan Mambetalin** were convicted of “inciting national discord” and sentenced to two and three years in prison, respectively, and prohibited from engaging in public activities for five years. The two activists, who are known as vocal government opponents on social media, were charged over Facebook posts where they shared a supposedly offensive text posted elsewhere. Mambetalin was later released under an order not to leave Almaty and Narymbaev was transferred to house arrest pending the appeal hearing expected to take place at the end of March.
- Another activist, **Bolatbek Blyalov** was also convicted of “inciting discord” in late January 2016 and sentenced to three years of restricted freedom, during which time he will be subjected to limitations on his freedom of movement and participation in public activities. The charges against Blyalov concerned YouTube posts where he expressed his opinion on issues such as social problems and nationalism.
- The five-year sentence handed down to social media administrator **Igor Sychev**, who was charged with propagating “separatism” after sharing an online survey, was upheld on appeal in January 2016. Blogger **Ermek Taychibekov** was again given a four-year sentence on charges of “inciting national discord” in December 2015 because of controversial online writings expressing pro-Russian views.

- In January 2016, an appeal court cancelled the 1.5-year sentence of activist **Amangeldy Batyrbekov**, who was convicted of defamation last October because of an article criticizing the actions of a prosecutor. However, this decision was made on procedural grounds and he was not acquitted per se. The previous month another appeal court upheld the conviction of lawyer **Bulat Baytyakov**, who was sentenced to one year of restricted freedom last summer after his actions in court were deemed to have defamed a judge.
- The conviction of Seventh Day Adventist **Yklas Kabduakasov** on charges of “inciting religious discord” was also upheld on appeal in December 2015 and his sentence was increased to two years in prison. Kabduakasov was charged for sharing his faith with others. His case forms part of a pattern of harassment against members of so-called non-traditional religious minorities.

In a **rare not guilty verdict**, on 29 February 2016, journalist **Yulia Kozlova** was acquitted of narcotics possession charges brought against her after police allegedly found a prohibited substance when searching her apartment. The judge also ordered an examination into serious flaws in the investigation of the case, which were revealed during the trial. While this was a welcome development, there are serious concerns that other **journalists and activists have been convicted, although the proceedings against them have been marred by fair trial and due process violations**. The trial against Ermek Narymbaev and Serikzhan Mambetalin was particularly egregious in this respect, as documented by KIBHR, and the trial went ahead in spite of urgent health issues of the defendants. Other individuals inconvenient to the authorities, including opposition party leader Vladimir Kozlov have been in prison for years after being convicted in unfair trials.

The government Committee on Communications and Information **closely monitors online content and warns and initiates measures to block websites** featuring allegedly unlawful content. Under current legislation, access to sites can be fully blocked on such grounds following either a court decision or a request from the General Prosecutor’s office. Some websites have been blocked for prolonged periods of time without any official explanation. For example, the Ratel.kz and Zonakz.net news sites were inaccessible for several months until they became available again at the beginning of February 2016.

The adoption of new rules for monitoring on- and offline publications of media outlets, as well as plans to introduce a compulsory national security certificate for internet users have given rise to concerns that the authorities **may further step up internet control and censorship**.

New NGO legislation, which has been widely criticized for unduly restricting the freedom of association of NGOs, **entered into force** in mid-December 2015. NGOs have been given a deadline at the end of March 2016 to provide information for inclusion in a new database to be created under the law. Failure by NGOs to provide required or “correct” information for this database could result in that they are fined or suspended for three months.

Many **trade unions have experienced difficulties in re-registering** in accordance with the requirements of the new Trade Union Law adopted in 2014. For example, the Confederation of Independent Trade Unions of Kazakhstan, as well as a new trade union of media employees were finally registered in February 2016 and December 2015, respectively, following lengthy processes involving the repeated resubmission of application documents. Other independent trade unions continue to operate without registration and the members of such unions have reportedly faced intimidation and pressure by employers to join state-controlled state union structures.

The right to **freedom of peaceful assembly continues to be seriously restricted** in the country, as highlighted by a new KIBHR report on the results of its countrywide monitoring in this area in 2015. Over 90 percent of a total of 71 peaceful protests monitored by KIBHR last year were held without the advance permission required by law, and about one third of them ended with dispersal and detentions of participants. The total number of protests decreased significantly from previous years and not a

single political opposition rally was held, which can be attributed to the increasingly repressive climate in the country.

Recent developments in Kazakhstan

General situation

The **economic downturn** in Kazakhstan continues largely due to slumping world prices on oil, a trend that has badly affected the country's heavily natural resource dependent economy. As President Nazarbayev has repeatedly warned, the economic situation is expected to deteriorate further in coming months, with negative implications for common citizens.

Members of the lower house of the parliament voted unanimously to request the president to dissolve the current parliament in January 2016. Following this, **early parliamentary elections** were set for 20 March 2016. Aside from the ruling Nur Otan party, five political parties have been registered for the elections, including the National Social Democratic Party (NSDP) that has positioned itself as an opposition party. The election campaign of other parties than Nur Otan has up to now been low-key, and the NSDP has complained about facing obstruction in its campaigning. The OSCE Office of Democratic Institutions and Human Rights, which is monitoring the elections, [concluded](#) in an interim report issued on 11 March that the "parties' campaign platforms differ little in tone and substance" and center on themes that are "aligned with the President's long-term strategies".

All recent parliamentary and presidential elections in Kazakhstan have been [held months ahead of the scheduled election date](#), and **none of them has been deemed free and fair** by international observers. In the current lower house, Nur Otan holds 85 percent of all seats and only two other parties, both of which are considered loyal to the regime, are represented in this chamber.

In the context of the economic crisis, and the upcoming parliamentary elections, the trend of **repressive measures targeting critics and dissident voices** has continued, involving searches, arrests and criminal cases against journalists, activists and others (see more in the section on "Freedom of expression and the media"). This has contributed to a growing climate of intimidation and has suppressed discussion on social media.

In December 2015, the new **Enhanced Partnership and Cooperation Agreement (EPCA)** between the EU and Kazakhstan was signed during a visit of the EU's High Representative for Foreign Affairs and Security Policy Federica Mogherini to Astana. The agreement still needs to be ratified by Kazakhstan, the EU member states, as well as the European Parliament.

Ever since the negotiations on the new EPCA began in 2011, NGOs have called for linking the conclusion of the treaty to evidence of democratic and human rights progress in Kazakhstan. A similar position has also been [taken](#) by the European Parliament, and in 2011 the EU High Representative for Foreign and Security Policy [stated](#) that the successful conclusion of the negotiations on the new agreement "will be influenced by the advancement of democratic reforms" in Kazakhstan. The EU is Kazakhstan's largest trade partner, with oil and gas [making up](#) over 90 percent of Kazakhstan's exports to the union.

Freedom of expression and the media

Media situation

Several recent high-profile cases initiated against media representatives have reinforced concerns about the lack of space for media pluralism and free speech in the country.

The Nakanune.kz news portal, which is known for its criticism of authorities, has been subjected to renewed pressure:

- On 18 December 2015, law enforcement authorities [searched](#) the Almaty office of **Nakanune.kz**, confiscating equipment and sealing the office, as well as the homes of the portal's editor **Guzyal Baydalinova**, its journalist **Yulia Kozlova** and freelance journalist **Rafael Balgin** who has worked with it. Balgin was detained immediately in connection with the searches, and Baydalinova was detained a few days later. These actions were carried out as part of a criminal case on “deliberately spreading false information” (Criminal Code article 274) opened at the initiative of Kazkommertsbank, the country's largest private bank. Last summer this bank won a defamation case against Nakanune.kz, which was ordered to pay 20 million Tenge (about 75 000 EUR at that time) in moral damages to the bank over an article on corruption allegations. The new criminal case relates to the same article, although it was removed from the portal's site following the court decision in the defamation case. Among others, the OSCE Representative on Freedom of the Media [criticized](#) the measures targeting the Nakanune.kz journalists, stating that: “Incarcerating members of the media for what they say and write is simply unacceptable”.

While Rafael Balgin was [released](#) in mid-January 2016, Guzyal Baydalinova remains in detention on charges brought under Criminal Code article 274. On 16 February 2016, her pre-trial detention was prolonged until late March. **Yulia Kozlova**, who was given witness status in the case on “deliberately spreading false information”, was again charged with illegal narcotics possession (Criminal Code article 296, part 2) after police allegedly found a prohibited substance in her apartment when searching it and a medical examination showed traces of this substance in her blood. An independent medical examination did not confirm this result. Following a trial that revealed serious flaws of the investigation, a judge at an Almaty district court handed down a verdict on 29 February 2016, [acquitting](#) Kozlova and ordering an examination of allegations of procedural violations during the investigation.

The following case has also attracted wide attention:

- On 22 February 2016, **Seytkazy Matayev**, chair of the Union of Journalists and head of the National Press Club was arrested by officials from the National Anti-corruption Bureau in Almaty. His arrest took place just before the start of a press conference where he and his son **Asset Matayev**, director of the KazTAG news agency, were going to speak about investigations initiated against the organizations they are heading, as well as pressure to which they say they have been subjected. The two men have been accused of embezzling state funds and tax fraud, charges which they deny. On 24 February, Seytkazy Matayev was transferred to house arrest. In a joint appeal to the Prosecutor General, a group of journalists expressed support for in support of Seytkazy Matayev and [stated](#) that the “serious charges against him may be interpreted as an attempt to restrict freedom of speech, in particular, as they were brought during the pre-election period”. The journalists called on the Prosecutor General to “take control of the case and ensure maximum objectivity and transparency of the investigation”. The facilities of the National Press Club are frequently used for press conferences held by public figures, business representatives, opposition members and public associations, while KazTAG is a private news agency.

Defamation lawsuits continue to be used by public figures against journalists and civil society activists in an attempt to **stifle criticism**. In the following case, an absurd lawsuit of that nature was eventually rejected, but only after the targeted activists had spent time and money of mounting their defence:

- In Aktobe, Head of the Centre for Adaptation of Children **Elmira Kadimova** brought a defamation suit last October against human rights defenders **Alima Abdirova** from the Ary Ana organization and **Olga Klimonova** from KIBHR's branch office, who are both members of the National Prevention Mechanism against Torture. The lawsuit concerned a report assessing the activities of the centre, which criticized current conditions there and called its leadership "corrupt". This report had not been published but shared confidentially with Kazakhstan's ombudsman. On 22 December 2015, the Aktobe City Court rejected the defamation suit. However, it also rejected a request by the human rights defenders to order Kadimova to compensate their expenses with respect to legal assistance and an expert review of their report that they commissioned.

At the end of 2015, the trial took place in the case of a brutal attack on a journalist:

- On 22 December 2015, an Almaty district court convicted Orken Mirzahan of attempted robbery in relation to journalist and blogger **Bota Zhumanova** and sentenced him to three years in prison. The attack on Zhumanova took place on 8 October 2015, when she was returning to her home in Almaty. The perpetrator approached her from behind and beat her on the head, knocked her to the ground, and kicked her before fleeing without taking anything from her. Zhumanova previously [expressed hope](#) that police will thoroughly investigate allegations that she may have been targeted because of her work.

Problematic Criminal Code provisions

As we have already [reported](#), there has recently been a **growing number of cases where journalists, activists and other individuals have been charged under problematic Criminal Code provisions**, which may be implemented so as to unduly restrict the right to freedom of expression and other fundamental rights. Broadly and vaguely worded Criminal Code provisions banning "inciting" social, national or other "discord" (article 174), as well as "deliberately spreading false information" (article 274) are of particular concern. Defamation also remains criminalized.

KIBHR and IPHR have [raised alarm](#) about this trend and called on Kazakhstan's international partners to insist that the authorities of the country stop criminally prosecuting individuals who are legitimately exercising their fundamental rights to voice opinions or share information that may not be to the liking of those in power - or of other citizens.

In the following cases, "incitement" charges [were brought](#) against activists known for criticizing and challenging the actions of authorities:

- Civil society activist **Ermek Narymbaev** and political activist **Serikzhan Mambetalin** were arrested in October 2015 on charges of "inciting national discord" because of Facebook posts where they shared and commented on a controversial online text. This text has been attributed to Head of Kazakhstan's Muslim Union Murat Telibekov, although he has denied having anything to do with it. When sharing this supposedly offensive text, the two activists did not endorse it and Mambetalin made negative comments about it. The trial against them began at an Almaty district court in December 2015. As documented by KIBHR, which monitored the proceedings, the trial was characterized by serious violations of fair trial standards, in particular lack of respect for the principle of equality of arms and bias in favour of the prosecution (see more in the section on "Access to justice, non-discrimination and the protection of vulnerable groups" below). Narymbaev and Mambetalin are widely believed to have been targeted because of their

civic and political activities. Both of them are known as vocal opponents of the authorities on Facebook and Narymbaev has frequently organized and participated in peaceful protests against government policies.

In the evening on 22 January 2016, the court handed down its verdict, sentencing Narymbaev to three years and Mambetalin to two years in prison and prohibiting them from engaging in public activities for five years. In their final words in court, the two activists insisted that they were not guilty and that the case against them was unfounded and they both appealed their sentences. However, on 29 January, Mambetalin [published](#) a letter of repentance, saying that he “fully admits his guilt” and “actively repents”. Two days later, he was released under an order not to leave Almaty pending the appeal hearing in the case. Narymbaev remained behind bars but in late February, he was [transferred](#) to house arrest in view of his state of health and family situation. The appeal hearing in the case against the two activists has been scheduled for late March 2016.

- Civil society activist **Bolatbek Blyalov** was arrested in November 2015 on charges of “inciting social and national discord” because of video clips shared on YouTube, in which he expressed his views on issues such as social problems and nationalism. The trial against him began at an Astana district court in mid-January 2016. Also in this case, there were serious concerns that the trial was conducted in a non-impartial way and that Blyalov was being prosecuted in retaliation for his civic and human rights activities. He has, among others, provided legal assistance to victims of house demolitions and property confiscations and campaigned against the launching of Russian space rockets powered by a toxic heptyl fuel from Kazakhstan’s Baikonur Cosmodrome. Following a short trial, on 21 January 2016, the court sentenced Blyalov to three years of restricted freedom, during which he will be subjected to court-imposed probation with restrictions on his freedom of movement and participation in public activities. However, he avoided imprisonment and was able to reunite with his family, including his three small children. This sentence - which was lighter than feared - was handed down after he told the court that he “admitted his guilt” and “regretted” his actions, apparently as a result of a deal with the prosecution.

In this case, a human rights defender was accused of “deliberately spreading false information” because of her efforts to fight against torture:

- A criminal case on “deliberately spreading false information” [was opened](#) against Pavlodar-based human rights defender **Elena Semenova** in October 2015 because of Facebook posts concerning the alleged use of torture and ill-treatment in prisons in her home region. Semenova is a member of the Kazakhstani NGO Coalition against Torture, the Public Monitoring Commission and the National Prevention Mechanism against Torture and she has documented torture allegations when monitoring prison conditions in this capacity. In December 2015, Semenova was informed that the criminal case against her had been closed.

In the following case, a blogger was convicted of “incitement” because of controversial statements made online.

- On 11 December 2015, a district court in the Zhambyl region convicted blogger **Ermek Taychibekov** of “inciting national discord” and sentenced him to four years in prison because of social media posts. Taychibekov is known for expressing “pro-Russian” views and has, among others, argued that Kazakhstan should join Russia.

In this case, a social media moderator was convicted of calling for “separatism” (Criminal Code article 180), an offense that is also so vaguely worded that it may be used to restrict the legitimate exercise of freedom of expression:

- On 8 January 2016, the East Kazakhstan Regional Court upheld the conviction of *Vkontakte* administrator **Igor Sychev**, who was sentenced to five years in prison for propagating separatism in November 2015. He was charged for sharing a survey asking visitors of the page he manages to express their opinion as to whether the East Kazakhstan Region should join the Russian Federation. Sychev has said that he did not create this survey, but only posted it on the *Vkontakte* page and that he removed it after concerns were raised about it.

This is a recent defamation case against a civic activist:

- According to the Adil Soz Foundation for Free Speech, on 28 January 2016, the South Kazakhstan Regional Court [cancelled](#) the 1.5 year prison sentence that a local court handed down against **Amangeldy Batyrbekov** - head of the Adilet public association - on defamation charges in October 2015. This decision was made on procedural rather than substantial grounds since the regional court found that the prosecutor who filed the complaint that prompted the opening of the criminal case should have done so in his official rather than private capacity. The prosecutor's complaint concerned an article published in April 2015, in which Batyrbekov questioned the lawfulness of the actions of the prosecutor in two legal cases. Kazakhstan's Criminal Code provides particular protection against slander to prosecutors, judges and other public officials.

(See also the beginning of this section, as well as the section on "Access to justice, non-discrimination and the protection of vulnerable groups" below for additional criminal cases of concern).

Internet censorship

The Committee on Communications and Information of the Ministry of Investment and Development continues to **monitor online content and initiate measures** against websites featuring content deemed unlawful. According to the Law on Communications (article 41), the committee may request providers to block access to internet resources based on a court decision or a request from the General Prosecutor's Office. It also issues warnings to the owners of websites that such measures may be taken, as in this case:

- In November 2015, the Committee on Communication and Information warned the editorial board of the www.proizvolkz.net site that this online initiative may be blocked over a video clip posted on the site, which it argued was unlawful. This video clip showed a young man setting himself on fire to protest police actions outside the Nur Otan party office in Taraz. To avoid blocking, the video clip was deleted from the site. The www.proizvolkz.net was initiated by KIBHR as a resource for sharing information about arbitrary actions by police, prosecutors and courts.

It remains of concern that access to **websites may be fully blocked because of allegations that certain material posted on them is unlawful**. As we reported before, the popular blog platform LiveJournal was blocked for four years on such grounds before access to it was restored in November 2015 on the basis of a decision of the Committee on Communications and Information. In some cases, **websites have become inaccessible** in the country, although the owners of these sites have **not received any official explanation** as to the reasons for this. At the beginning of February 2016, access to the independent information portals Ratel.kz and Zonakz.net, which had both been inaccessible since September 2015, was restored. The Committee on Communications and Information has denied having anything to do with the blocking of these sites. Another site that has been blocked without explanation is the regional Fergana News site, which become inaccessible in August 2014 after reporting on an inter-ethnic incident in southern Kazakhstan. Currently it remains unavailable.

A government decree adopted in January 2016 sets out **new rules for monitoring on- and offline publications of media outlets** for the purpose of tracking down unlawful content. According to the rules, this will be done using an automatic monitoring system, on the basis of the findings of which the “authorized body” will initiate warnings against media outlets. It is not clear how the new monitoring system will work or what organization will be in charge of the technical operation of it, and there are concerns that the new rules may contribute to increasing censorship.

At the beginning of December 2015, the state Kazakhtelecom - the country’s largest telecommunications company -- posted a press release on its website, announcing that a **national security certificate for internet users** would be introduced as of 1 January 2016. The press release stated that this certificate, which would need to be downloaded by internet users on all devices from which they access the internet, will protect users when accessing foreign websites through encrypted protocols. This announcement caused alarm within the internet community in the country, whose members are fearing that the planned scheme would enable the authorities to step up efforts to monitor and control internet use by intercepting encrypted data. The press release was subsequently deleted from the Kazakhtelecom website and up to now, no security certificate has been introduced.

European Parliament resolution

On 10 March 2016, the **European Parliament adopted a resolution denouncing violations of freedom of expression in Kazakhstan**. In the resolution, the European Parliament [expresses](#) serious concern about pressure on independent media outlets, indiscriminate blocking of websites, as well as arrests and convictions of journalists, bloggers and other individuals. It calls for a review of “articles of the Criminal Code that can be used to criminalise lawful behaviour protected by human rights law, in particular Article 174”. It also calls for quashing the convictions of Ermek Narymbaev, Serikzhan Mambetalin and Bolatbek Blyalov, releasing Guzal Baidalinova, and ending the harassment of Seytkazy and Aset Matayev. It states that it is deeply worried about the well-being of Vladimir Kozlov, Vadim Kuramshin and Aron Atabek, who it notes “have been convicted on political grounds” and demands respect for their rights. (See also the section on “Access to Justice for an update on the case of Vladimir Kozlov). The European Parliament also calls on other EU bodies, in particular the European External Action Service and the EU Delegation in Astana to closely monitor developments in this area and to raise concerns with the authorities of Kazakhstan. (For more information about the cases raised by the European Parliament, see the earlier headings under “Freedom of expression and the media”, as well as the section on “Access to justice, non-discrimination and protection of vulnerable groups”.

Freedom of association and assembly

New NGO legislation

New NGO legislation that entered into force in mid-December 2015 contains a number of problematic and vaguely worded provisions, which may result in restrictions on the freedom of association of NGOs. As we have [reported](#) before, the new law grants the Ministry of Culture and Sports broad powers to oversee NGO activities, including by managing a new government database on NGOs. Failure by NGOs to provide required or “correct” information for this database could result in that they are fined or suspended for three months. The new law also tasks a new so-called operator with allocating both state and non-state grants to NGOs without providing any guarantees for its impartiality and transparency. International and foreign organizations may channel grants through the operator “on a voluntary basis”.

Prior to its adoption, this legislation was [widely criticized](#) by civil society. The office of the [UN High Commissioner for Human Rights](#) and the [UN Special Representative](#) on the right to freedom of peaceful assembly and of association likewise warned that it may result in violations of international human rights standards. In a [statement](#) issued in February 2016, the EU also voiced concern about the new legislation and **expressed regret that the authorities have not consulted international experts** on its implementation, in spite of promises to the contrary. It called on the authorities to take into account recommendations from civil society in this respect.

Following the entry into force of the new law, the Ministry of Culture and Sports issued an order **requesting NGOs to provide information for inclusion in the new database** by the end of March 2016. This should include information about their organizations, staff members, projects and donors. **Civil society representatives have objected to the requirement** to provide information for the database, pointing out that it duplicates extensive reporting obligations that already exist for NGOs and provides for discriminatory treatment of NGOs in relation to other types of legal entities. They have also expressed concern that the vaguely worded grounds on which NGOs may be sanctioned in this context (see above) may result in arbitrary decisions. Another issue that has been raised is the lack of resources of the Ministry of Culture and Sports to deal with tens of thousands of reports from NGOs operating in the country.

Trade unions

As we have previously [reported](#), **trade unions have been required to re-register** in accordance with the provisions of the new Trade Union Law that entered into force in the summer of 2014. For many trade unions, this has **not been an easy endeavour**. For example, the Confederation of Free Trade Unions of Kazakhstan (CFTUK) has reported about the repeated failure of this federation and its member unions to re-register under new law. Finally, in February 2016, the Confederation of Independent Trade Unions of Kazakhstan (CFIUKR) - which is the legal successor of the CFTUK - was [registered](#) as a new federal-level trade union. Another association, the Trade Union of Employees of Media and Telecommunications was registered in December 2015 following a lengthy process, involving the repeated resubmission of application documents. In order to confirm its status, the new union was [required](#) to show that it has gained a sufficient number of local member organizations.

Other independent trade unions such as Aktau and Zhanarty remain unregistered. There have also been reports indicating that **independent trade union members** in the Mangistau region have [faced intimidation and pressure](#) by employers to join state-controlled trade union structures.

Restrictions on freedom of assembly

The right to **freedom of peaceful assembly continues to be seriously restricted** in the country. At the beginning of March 2016, KIBHR published a [report](#) about the findings of its monitoring in this area in 2015. KIBHR documented a total of 71 peaceful assemblies across the country last year, out of which 94 percent were held without advance permission by local authorities, as is required by law. In most cases, the organizers did not think that they needed permission or believed that their application to hold an assembly in any case would be rejected. Some refused to apply for permission out of principle. The response by authorities was selective: some unauthorized protests were allowed to go ahead without interference, while others were dispersed and participants detained and brought to court. About one third of all the documented assemblies ended with detentions. In a well-known pattern, **peaceful protests where criticism of the current regime and its policies is expressed are suppressed**, unlike other assemblies.

The total number of protests decreased significantly in 2015 from previous years mainly because of the steps taken by the authorities to eliminate the political opposition and repressive measures targeting outspoken civil society activists. Forty percent of all protests monitored by KIBHR in 2010 were organized by the political opposition, but in 2015 not a single opposition rally was held.

Another recent trend documented by KIBHR is that of a growing number of peaceful protests held by individuals. This is an example of such a case, where a peaceful protest by a retired woman was cut short following an unofficial intervention believed to have been ordered by local authorities:

- On 18 December 2015, **Soya Yortaeva** -- a retired resident of the Karabulak settlement in the Almaty region -- [hung](#) three placards expressing distrust toward the local mayor from her balcony in the apartment building where she lives. Some twenty minutes later, a car equipped with a hydraulic ladder, as well as about a dozen young men wearing medical masks arrived to the spot. Some of the men climbed up the car ladder and started tearing down the placards on Yortaeva's balcony. Due to the agitation that this incident caused her, Yortaeva suffered a heart attack and required hospitalization. A complaint was filed with police.

Access to justice, non-discrimination and the protection of vulnerable groups

Violations of fair trial rights

In its monitoring of the recent trials against journalists, activists and social media users (see the section on freedom of expression and the media), KIBHR has documented **serious violations of the right to equality of arms, the right to defence and other fair trial rights**. The high-profile trial against two activists charged over Facebook posts (for information about the substance of this case, see the section on "Freedom of expression and the media") was particularly egregious in this respect:

- As documented by KIBHR, the trial against **Ermek Narymbaev** and **Serikzhan Mambetalin** was clearly biased in favour of the prosecution and motions filed by the defence motions were routinely rejected or dismissed without consideration. The hearings were conducted at an intense pace that gave the lawyers little time to meet with their clients and adequately prepare the defence. Access of journalists and monitors to the courtroom was restricted, and although the proceedings could be watched on a screen outside the courtroom, those present complained that the low volume made it difficult to follow them. Health concerns of the defendants were also not given due attention. Narymbaev repeatedly required urgent medical assistance during the proceedings due to heart problems, but the judge did not allow him to be hospitalized. As Narymbaev's health further weakened due to a hunger strike, he had to be brought to court on a medical stretcher for the last day of the trial. A legal expert analysing the court decision in the case [pointed to](#) over two dozen violations of the law that he found in this document.

Criminal cases against lawyers

In the following two cases, lawyers have been convicted on criminal charges related to their work:

- On 24 December 2015, the Kostanay Regional Court rejected a cassation appeal filed by lawyer **Bulat Baytyakov**, who was convicted of defaming a judge (Criminal Code article 411) and sentenced to one year of restricted freedom in June 2015. The charges against him were brought because of appeals he filed in a labour dispute in court. When arguing his position in

that case, Baytyakov requested that the lawfulness of the actions of the judge hearing the case be investigated. As pointed out in a [statement](#) issued by KIBHR, IPHR and four other NGOs, the criminal charges against Baytyakov are of serious concern in the light of the right and duty of lawyers to protect the interests of their clients, as well as the right to freedom of expression. A [legal opinion](#) issued by the International Commission of Jurists also found an interference with his rights as a lawyer and his right to freedom of expression. A previous appeal against the sentence against Baytyakov was rejected in August 2015. If the conviction is further upheld, Baytyakov's lawyer and KIBHR [plan](#) to submit a complaint to the UN Human Rights Committee.

- Lawyer **Yevgeniy Tankov**, who was sentenced to three years in prison for showing disrespect and threatening a judge in July 2014, [launched](#) a hunger strike in January 2016 to demand respect for the rights of prisoners, including receiving proper meals, having access to information, and being allowed regular phone calls with relatives. He continued his hunger strike for more than 30 days. Tankov was criminally charged after he invited a judge to a “fly swatter duel” in court and hit him lightly with a plastic fly swatter. Civil society representatives have criticized the sentence against the lawyer as unfair and disproportionate and believe that it may have been motivated by his criticism of problems in Kazakhstan's judicial system. On 10 March 2016, a Karaganda court [rejected](#) a request by Tankov to change the remainder of his prison sentence into an alternative, lighter sentence.

Political prisoners

Opposition Alga party leader Vladimir Kozlov is Kazakhstan's most well-known prisoner to have been deprived of his liberty on grounds considered politically motivated following an unfair trial:

- **Vladimir Kozlov**, who is serving a 7.5-year sentence for his alleged role in the 2011 Zhanaozen events, continues to be subjected to a strict prison regime with serious restrictions on communication, contacts with family etc. After the latest penalty imposed on him expired at the end of February 2016, he appealed to the head of the prison colony in the Almaty region where he is held to convene a disciplinary committee meeting to change his records correspondingly. This would enable him to qualify for regular prison conditions. In December 2015, Kozlov's request for release on parole was rejected with reference to penalties imposed on him for alleged misconduct in prison.

Human rights defender **Vadim Kuramshin** and poet and dissident **Aron Atabek**, whose cases we have previously [reported](#) about, also remain imprisoned.

Child rights ombudsman

In February 2016, President Nazarbayev signed a [decree](#) setting out that an office of a **Commissioner for the Rights of the Child** will be established for the purpose of improving the national system for the protection of such rights. While this is a welcome development, it remains unclear how effectively the new Commissioner will be able to carry out his or her mandate since the decree states that this work will be carried out “on a voluntary basis”.

Freedom of religion issues

At the end of 2015, KIBHR [issued](#) a report about the implementation of the 2011 law on religious activity and religious associations, which has been widely criticized both nationally and internationally. As highlighted in the report, the law provides for **serious restrictions on religious activities**, including worship, missionary activities and the distribution of religious literature. It sets

out excessive membership requirements for religious communities to obtain registration, while banning activities of unregistered religious groups. These provisions are not compatible with international human rights standards. In its monitoring of the application of the law on religious activity and religious associations, KIBHR has also documented serious violations of the rights of believers, as well as **discrimination, stigmatization and harassment of religious minorities**.

The following recent conviction of a religious minority member on charges of “inciting discord” is part of a worrying trend of using such charges against individuals exercising their fundamental rights (see the section on “Freedom of expression and the media” above).

- On 28 December 2015, the City Court in Astana [upheld](#) the conviction of Seventh Day Adventist **Yklas Kabduakasov** on charges of “inciting religious discord” and increased his sentence to two years’ imprisonment in a labour camp. When finding him guilty in November 2015, a lower level court sentenced him to seven years of restricted freedom. The charges against Kabduakasov were [brought](#) because of his peaceful efforts to discuss his faith with others and share religious literature with them, which are crucial elements of the right to freedom of religion.