

Kazakhstan

By Malika Tukmadiyeva

Capital: Astana
Population: 17.8 million
GNI/capita, PPP: \$22,910

Source: World Bank *World Development Indicators*.

	Nations in Transit Ratings and Averaged Scores									
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Electoral Process	6.75	6.75	6.75	6.75	6.75	6.75	6.75	6.75	6.75	6.75
Civil Society	5.50	5.75	5.75	6.00	6.25	6.50	6.50	6.50	6.50	6.75
Independent Media	6.50	6.75	6.75	6.75	6.75	6.75	6.75	6.75	6.75	6.75
National Democratic Governance	6.75	6.75	6.75	6.75	6.75	6.75	6.75	6.75	6.75	6.75
Local Democratic Governance	6.25	6.25	6.25	6.50	6.50	6.50	6.50	6.50	6.50	6.50
Judicial Framework and Independence	6.00	6.25	6.25	6.50	6.50	6.50	6.50	6.50	6.50	6.75
Corruption	6.50	6.50	6.50	6.50	6.50	6.50	6.50	6.50	6.75	6.75
Democracy Score	6.32	6.43	6.43	6.54	6.57	6.61	6.61	6.61	6.64	6.71

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. The opinions expressed in this report are those of the author(s). The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Kazakhstan remained a consolidated authoritarian state in 2017. Following the death of Uzbekistan's President Islam Karimov in 2016, Kazakh president Nursultan Nazarbayev is the only leader in the former Soviet Union who has been continuously in power since the collapse of the Union. The 77-year-old Nazarbayev, who has the constitutional status of "Founder of independent Kazakhstan, the First President of the Republic of Kazakhstan – Yelbasy,"¹ enjoys uncontested political authority and seeming popular support on the basis of "prosperity, peace, and stability" that his rule officially provides.²

The year started with a constitutional reform and an associated package of amendments to a number of laws that were seen by many as legal preparations for the transition of power.³ The reform introduced a measure of government accountability to the parliament, empowering the parliament to influence the composition of the government and dismiss its members, although the president has retained the power to dismiss the government. The change also limited the president's lawmaking capacities by removing his right to issue decrees and assume legislative powers of the parliament for up to a year. The amendments also significantly reduced the list of potential presidential candidates by requiring them to be former public or elected officials with party affiliation and in good health. Nazarbayev's status as "Yelbasy" was also added to the list of constitutional values, which may not be amended.⁴

In practice, the reform will not affect the current political structure as long as Nazarbayev is in power. But in the context of weak institutions and informal inter-elite decision making, they could be instrumental in ensuring a smooth transition that does not allow for the appearance of outsiders, and envisions greater collegiality of rule, guaranteeing continuity and the "evolutionary" development of the established political model.

In 2017, the remnants of an independent civic sector and press continued to feel the aftershocks of a turbulent 2016, which saw two major violent attacks on law enforcement and a heavy-handed crackdown on Kazakhstan's largest public protest movement. The government continued to prosecute journalists and activists, as well as individual users of social networks, on charges of "inciting social and ethnic discord," "libel," "knowingly false denunciations," "infringing the procedure for the conduct of assemblies, meetings, street marches and demonstrations,"⁵ as well as financial crimes. Several amendments to legislation have been adopted or are currently being developed with a view to tightening control over society, often on the grounds of counteracting radicalization and violent extremism. The amendments introduce new or reinforce existing restrictions on freedoms of association, speech, assembly, and religion.

Labor rights were significantly undermined in 2017 by a court ruling to liquidate the Confederation of Independent Trade Unions, the largest trade union organization in the country. The decision was protested by about 600 oil workers, who went on hunger strike in January. The authorities reacted by arresting and fining several dozen protesters; the protest organizers and the leader of the Confederation were sentenced to extended terms of imprisonment and restraint of liberty.⁶

Despite the continuing economic downturn that started in mid-2014, the former capital, Almaty, hosted the 28th Worldwide Winter Universiade in January and Astana hosted the grandiose EXPO 2017 International Specialized Exhibition during the summer months. The events were accompanied by massive "clean-ups" of the cities: homeless people were removed to nearby towns,⁷ while streets and houses were inspected by the police. Meanwhile, in order to ensure ambitious attendance rates, the regional governors forced public servants en masse, especially schoolteachers, to buy tickets for the EXPO.⁸

In 2017, Kazakhstan for the first time became a nonpermanent member of the UN Security Council, crowning the country's efforts in championing international peacemaking activities, such as a series of Syrian peace talks hosted in Astana over the course of the year.⁹

Score Changes:

- **Civil Society rating declined from 6.50 to 6.75** due to ongoing routine harassment and persecution of activists, journalists, lawyers, individual users of social networks, and religious communities against the backdrop of increasingly restrictive legislation and administrative pressure on civil society, which manifested itself in fines against two human rights NGOs and the liquidation of the Confederation of Trade Unions in 2017.
- **Judicial Framework and Independence rating declined from 6.50 to 6.75** due to recent changes that create the legal possibility of stripping citizenship for a broadly formulated range of crimes, leaving space for potential arbitrary prosecution of dissent. The right to citizenship is a fundamental human right and legal systems where dual citizenship is not recognized should provide protections against its deprivation.

As a result, Kazakhstan's Democracy Score declined from 6.64 to 6.71.

Outlook for 2018:

Assuming Nazarbayev stays in good health in 2018, nothing indicates cardinal changes in the political structure or how Kazakhstan is governed. The recent constitutional reforms only reiterate the regime's intentions to control every aspect of political life and the eventually inevitable transition of power. In the meantime, the regime will remain vulnerable and thus especially sensitive to any manifestation of dissent. In this context, the authorities are likely to continue cracking down on the perceived threat from the surviving political opposition, civil society activists, and journalists, and further tighten control over religion and social networks. These measures will be complemented by a reinforced state propaganda of "stability first" and major spending to create the desired image of Nazarbayev's legacy.

MAIN REPORT

National Democratic Governance

2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
6.75	6.75	6.75	6.75	6.75	6.75	6.75	6.75	6.75	6.75

- President Nursultan Nazarbayev has ruled Kazakhstan since 1989, and a special provision in the constitution allows him to remain in office for an unlimited number of terms. Over the years, Nazarbayev has built a highly centralized and personalized political system that ensures firm presidential control over all major governing institutions, including the parliament, the judiciary, the military, and security structures, all of which are dominated by state officials loyal to the “president’s course.”¹⁰
- On March 10, the president signed into law constitutional reforms that, in his words, were aimed at “serious redistribution of power and democratization of the political system as a whole.”¹¹ The presidential position was reframed as that of a “supreme arbiter,” focusing on the “strategic functions” of foreign policy, national security, and defense.¹²
- The government, previously the exclusive domain of the president, acquired a measure accountability to the parliament under the new constitution: the parliament is now consulted on the composition of the government and is empowered to dismiss government members. Moreover, the government is to resign its powers to the *Majilis*, the lower chamber of parliament, rather than to the president.¹³ The reforms also require the president to consult with the *Majilis* prior to appointing and dismissing the cabinet (except for the ministers of defense and foreign affairs).¹⁴ Nevertheless, the president preserves considerable influence over the executive branch, having kept the right to terminate the powers of the government, dismiss the prime minister and any other member of the government, as well as to accept or decline the resignation of the government in the event of a parliamentary motion of no confidence.
- The reform limits the previously omnipotent lawmaking powers of the president, such as the right to issue decrees with the force of law and the possibility to assume legislative powers of the parliament for up to a year. Likewise, the president no longer has the power to instruct the government to prepare and submit draft laws to the parliament, as well as the power to revoke or suspend the acts of the government and the prime minister.¹⁵ On the other hand, the president retains the right of legislative initiative, still unavailable to the parliament, whose role is confined to considering the proposals of the government.
- The constitutional reform further cemented the position of Nazarbayev personally by including “the fundamental principles [...] laid down by the Founder of independent Kazakhstan, the First President of the Republic of Kazakhstan - Yelbasy, and his status”¹⁶ into the list of constitutional values, which cannot be changed even through constitutional amendments.
- The reforms, rather than enhancing the system of checks and balances over the current regime, look more like half-hearted measures for reducing vulnerabilities of the transition to a post-Nazarbayev era, as well as for distancing Nazarbayev from “unpopular” anti-crisis policies that might tarnish the legacy of the Founder of the Nation. The reforms should provide continuity to the system put in place by Nazarbayev, excluding unexpected elements of the transition by imposing restrictions on who can stand for president and ensuring greater collegiality of the decision-making process.
- Several high-profile criminal cases were initiated in the short period of weeks in the last days of 2016 and beginning of 2017. The former chairman of the National Security Committee (KNC) Nartai Dutaev, and two high ranking officials from the President’s Administration—former deputy head

Baglan Mailybayev and deputy head of the internal policy department Nikolai Galikhin—were arrested and convicted in closed trials for divulging state secrets and abuse of power.¹⁷ The former Minister of National Economy, Kuandyk Bishimbayev, was taken into custody on corruption charges in late 2016 and is currently on trial.¹⁸

- Several high-profile personnel reshuffles were especially notable in 2017. Marat Tazhin, a longtime confidante of Nazarbayev, returned to the Presidential Administration, replacing Baglan Mailybayev as the deputy head. His place as Ambassador to Russia was taken by another political heavyweight, Imangali Tasmagambetov, who left the post of deputy prime minister. Aslan Mussin, a former head of the Presidential Administration once known as one of the most powerful political actors in Kazakhstan, was relieved of his post as the Ambassador to Croatia, Bosnia and Herzegovina, and Montenegro “in connection with achievement of retirement age.”¹⁹
- In October, at the height of the Kyrgyz electoral campaign, then president Atambaev of Kyrgyzstan accused Nazarbayev of trying to influence the elections and emotionally criticized the rule of Nazarbayev as corrupt, hinting at the need for a change of leadership in Kazakhstan.²⁰ Consequently, Kazakhstan strengthened phytosanitary controls at border crossings with Kyrgyzstan, which resulted in several weeks long multi-kilometer queues on the border.²¹ In response, Atambaev canceled six Eurasian Economic Union integration aid agreements with Kazakhstan.²² The political crisis lasted almost two months and was resolved only after the election of the new president of Kyrgyzstan, Sooronbai Jeenbekov.²³
- The economic situation continued to stagnate due to low oil prices and accumulated structural problems. The government continued to use resources of the sovereign wealth fund to support the economy. In 2017, the majority of more than \$12.5 billion spent was used to support the country's financial sector, in particular, for the repayment of troubled loans of second-tier banks.²⁴ In December, the president signed a law approving minimum \$6.1 billion annually of guaranteed transfers from the National Fund of the Republic of Kazakhstan to the republican budget for 2018-2020.²⁵
- In his national address on January 31, the president announced the start of a “third stage of modernization.” Besides the institutional reforms discussed above, the reforms will focus on accelerating technological modernization, improving the business environment, maintaining macroeconomic stability, enhancing the quality of human capital, ensuring security, and fighting corruption.²⁶
- In November, the government approved the Strategic Development Plan of Kazakhstan until 2025.²⁷ The plan replaces the Development Strategy until 2020, which Minister of National Economy Timur Suleimenov said had already achieved its main tasks.²⁸ The document envisions achievement of “qualitative and sustainable growth of the economy, leading to an improvement in the standard of living of people comparable to OECD countries by 2025” by focusing on increasing the productivity and “complexity” of the economy, developing people's competence, involving private capital, orienting the economy towards exports, and opening up the potential of the regions.²⁹

Electoral Process

2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
6.75	6.75	6.75	6.75	6.75	6.75	6.75	6.75	6.75	6.75

- Although the regime has lavished attention on observing the trappings of elections, such as participation of international observers, high electoral turnout, and participation of multiple candidates/parties, the Soviet-era aphorism “elections without choice”³⁰ remains relevant in today’s Kazakhstan. None of the elections held in Kazakhstan since independence have been considered “free and fair” by credible international observers. In monitoring elections, the OSCE has consistently expressed concern over the country’s restrictive legal framework, lack of genuine political choice, and suppression of freedoms of assembly, association and expression.³¹
- In the latest presidential elections in 2015, Nazarbayev won 97.7 percent of votes; the party he leads, Nur Otan, received 82.2 percent of the votes in the 2016 elections to Majilis.³² The distinction between the state and the ruling party is effectively blurred in Kazakhstan. For instance, the *akims* (heads of a local government) of the regions and large cities, who are appointed by the president, are automatically appointed as leaders of the corresponding regional subdivisions of the party.³³
- Under this year’s amendments to the constitution and the constitutional law “On Elections”, self-nominees are no longer allowed to run for elections to the Majilis³⁴ and the presidency.³⁵ Meanwhile, in recent years it has become practically impossible for opposition parties to register. The only surviving registered party that positions itself as opposition, the Nationwide Social Democratic Party (OSDP), failed to win any seats in the latest parliamentary elections in 2016. The Communist Party of Kazakhstan (KPK) was liquidated by court decision in 2015,³⁶ and Alga! was banned as extremist in 2012, following the violent suppression of protests in the western oil town of Zhanaozen.³⁷
- The constitutional reform assigned more limits to who can run for president. A presidential candidate must have at least five years of experience in the public service or in elected government positions, have a higher education degree, and is required to provide medical examination results.³⁸ This will further narrow the suffrage rights of citizens. According to calculations by the OSDP, out of 9 million citizens with active suffrage, only 350,000 former public servants are now eligible to run for president.³⁹ Moreover, given that the legislation does not define the medical eligibility criteria, and taking into account the medical secrecy principle, this innovation leaves space for the arbitrary, non-transparent disqualification of candidates.⁴⁰
- In another change affecting the electoral process, the constitutional reform authorized the legislature to define the procedure for appointing or electing the city, district and rural akims, as well as for dismissing them from office.⁴¹ Previously, the procedure was regulated by a decree of the president.
- In 2017, four electoral campaigns were held in Kazakhstan: two by-elections to *maslikhats* (local representative bodies) were held in March and October, elections to the Senate were conducted in June, and there were indirect elections of akims of rural districts within the framework of the mechanism of local self-government in August.⁴² All of the campaigns went unnoticed by large parts of the population and lacked genuine competition. In the only four districts that published figures on the elections of rural akims, 70 percent of the winning candidates received 100 percent of votes.⁴³ That is not surprising given that all candidates were nominated by a governor and elected by the local maslikhats.
- Comparable unanimity was observed during the campaign to the Senate, where each candidate scored an overwhelming majority of the votes. Fourteen out of 16 of the elected candidates were either high-ranking officials in local administrations or in the branches of Nur Otan party.⁴⁴ Nur Otan also took majority of the seats in the by-elections to the maslikhats. For instance, as a result of the March by-elections in Kostanai region, Nur Otan won six out of seven mandates, with similar results in the rest of the regions.⁴⁵ Likewise, the October by-elections resulted in 102 seats won by Nur Otan, while two pro-presidential parties, Aul and the Communist People’s Party of Kazakhstan (KNPK),⁴⁶ won one seat each. Only one elected deputy was not affiliated with any political party.⁴⁷

Civil Society

2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
5.50	5.75	5.75	6.00	6.25	6.50	6.50	6.50	6.50	6.75

- In recent years, the government has further tightened space for civil society, introducing restrictive legislation on public assembly and associations, advocacy and legal aid, information, religion, and counter-extremism,⁴⁸ as well as imposing burdensome registration procedures and reporting obligations for NGOs, trade unions, and religious organizations.⁴⁹ In 2016, a Ministry for Religious and Civil Society Affairs was established to regulate “interaction with religious associations, ensuring the rights of citizens to freedom of religion, as well as interaction between the state and civil society.”⁵⁰
- A number of civil rights activists and regime critics remained in detention in 2017. The Open Dialog Foundation lists 37 cases of politically motivated prosecution in Kazakhstan, among them human rights defender Vadim Kuramshin; participants of the 2016 mass peaceful rally against the “land reform” Maks Bokayev and Talgat Ayan; political dissident and poet Aron Atabek; journalists Asset Matayev and Zhanbolat Mamay, and others.⁵¹
- The year started with 2016’s “counter-extremism” legislation coming into effect. The law, which was initiated in reaction to the violent attacks in Aktobe and Almaty in 2016, consisted of amendments to a dozen existing codes and laws of the Republic of Kazakhstan. The reform affected a wide range of issues, such as national security, housing, citizenship, media and communications, religious association, and more.⁵²
- In January, more than 600 oil workers in Mangistau region went on hunger strike to protest a court decision that liquidated the Confederation of Independent Trade Unions of Kazakhstan. Trade union leaders Nurbek Kushakbayev and Amin Yeleusinov were sentenced to two-and-a-half years in prison for “misappropriating another’s property,” “disobedience,” “use of violence” against a representative of authorities, and “calling on workers to continue a strike that has been declared illegal by a court.”⁵³ Three dozen other workers were ordered to pay compensation collectively amounting to 3.5 million tenge (\$10,000) to the company for the damage inflicted by the hunger strike.⁵⁴
- Before its liquidation, the Confederation was the largest trade union in the country, uniting approximately 100,000 workers. It was closed after a number of unsuccessful attempts to register due to its inability to comply with burdensome requirements of the new registration procedure for trade unions.⁵⁵
- On January 9, the former chairperson of the Confederation, Larissa Kharkova, was arrested on charges of “abuse of office” and was later sentenced to four years of restraint of liberty with confiscation of property and given a five-year ban on holding senior positions in civil society associations.⁵⁶ In September, a car belonging to Kharkova’s son was burned, and earlier that month both her son and mother were victims of muggings on the same day, in which their documents and money were stolen.⁵⁷
- In January three human rights NGOs—the International Legal Initiative Foundation (ILI), Liberty, and Kadyr Kassiyet—were subjected to an unscheduled tax audit. As a result, the court ordered ILI and Liberty to pay 1.3 million tenge (about \$4,000) and 3 million tenge (\$9,000) respectively of

corporate income tax, in direct contradiction to the Tax Code, which exempts nonprofit organizations from taxes. More than 70 Kazakhstani and international NGOs issued a joint statement declaring those cases to be “essentially a prosecution for human rights activities.”⁵⁸

- In February, Olesya Khalabuzar, a former leader of the unregistered opposition party Spravedlivost (Justice), was detained by the police and, according to the activist, was questioned regarding “her role in organizing a protest against amendments to article 26 of the Constitution on regulation of property rights.”⁵⁹ In May, Khalabuzar announced that she is leaving “public life” in Kazakhstan. In her statement she said her activities as head of the party had been “erroneous and wrong” and regretted that she used “counterproductive methods” of pressure on the authorities, “blackmailing them, conducting illegal protests, and disseminating [illegal] information.”⁶⁰ In August, the Almaty district court sentenced Khalabuzar to two years’ restraint of liberty for “inciting ethnic hatred”.⁶¹
- In October, the OSDP sent applications to the *akimats* (local administrations) of 18 cities in Kazakhstan to hold a series of rallies under the slogan “OSDP Against the Rising Cost of Living!” All administrations but the akimat of the city of Semey refused to authorize the events.⁶² In Semey, the rally was obstructed by a sudden urgent repair of the bridge - the only way to the Colonel’s Island, where the rally was authorized to be held.⁶³
- In late November, on the eve of the Independence Day, which marks anniversaries of the violent crackdown on the protests of Zheltoksan (1989) and Zhanaozen (2011), members of an informal Alash discussion club, Almat Zhumagulov and Kenzhebek Abishev, were arrested in Almaty on charges of “propaganda of terrorism or public calls for the commission of an act of terrorism.”⁶⁴ The defendants’ lawyers and a number of human rights activists questioned the authenticity and coherency of the investigator’s materials.⁶⁵
- On December 11, about 700 workers of all eight mines belonging to the mining giant Arcelor Mittal Temirtau in Karaganda region refused to leave their working place in demand for salary increase and reduction of the retirement age for miners. The court ruled the strike illegal.⁶⁶ The strike ended on December 15 after the company partially agreeing to the workers’ demands and the local procurator signing a letter guaranteeing “exemption from criminal prosecution for participation in the strike.”⁶⁷ However, in late December, Natalia Tomilova, chairman of the NGO Miners’ Family (Shakhterskaya Semya) and Dmitry Sinyavsky, head of the branch of the Trade Union of Fuel and Energy Sector Employees were summoned for questioning by the police.⁶⁸
- As part of the “counter-extremism” legal reforms introduced in 2016, the Ministry for Religious and Civil Society Affairs prepared a draft amending the law on religion. The bill proposes to further tighten the already restrictive 2011 Law on Religion, including more restrictions and punishments for unauthorized religious teaching and missionary activities, participation of children in religious activities, ban of certain types of religious clothing, as well as more censorship of religious literature.⁶⁹

Independent Media

2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
6.50	6.75	6.75	6.75	6.75	6.75	6.75	6.75	6.75	6.75

- Conditions for media freedom in Kazakhstan continued to deteriorate in 2017. The government continued to crackdown on dissent under the pretext of fighting terrorism, extremism, and crime. Besides the “traditional” prosecutions for libel,⁷⁰ “instigation of national, social, religious hatred,”⁷¹

and “dissemination of knowingly false information,”⁷² journalists now increasingly often face criminal charges for financial crimes. The amendments made to the law on information and communications threaten the existence of investigative journalism, restrict Internet freedoms, and introduce vaguely defined notions of “information infringing on legitimate rights and interests” and “propaganda.”⁷³

- According to the media watchdog foundation Adil Soz, in 2017 there were 61 cases of criminal charges and 76 cases of civil suits against media outlets and journalists, including 16 cases of journalists in Kazakhstan taken under detention or arrest.⁷⁴ There were an additional 15 cases of closures and termination or suspensions of media sources or licenses including Radiotochka and Tribuna/Sayasi Kalam, and 9 cases of arbitrary blocking and restricting access to online sources, including blocking the petition site Avaaz.org, the online version of *Foreign Policy* magazine, as well as temporary blockings of WhatsApp, Facebook, Instagram and YouTube. Two media outlets, Radiotochka and Tribuna/Sayasi Kalam, were closed in 2017. The report mentions six cases of attacks on journalists in 2017.⁷⁵
- As of late 2017, more than 20 social network users were convicted for publications online, and 16 of them sentenced to imprisonment for up to 9 years on charges of “spreading propaganda of violation of the integrity of the Republic of Kazakhstan,” “inciting social and ethnic hatred,” “propaganda of terrorism or calls for terrorist attacks,” and “insult of a government representative.”⁷⁶
- In December, President Nazarbayev approved a package of amendments to the legislation on information and communications⁷⁷ that were criticized by civil society for their potential to increase self-censorship and curtail investigative journalism.⁷⁸ The new rules complicate access to official records and oblige journalists to verify all published information and to receive consent from the subjects of their reports to disseminate “personal, family and other secrets”. The legislation might further reduce online freedoms through mandatory pre-identification on the portal of “electronic government” or SMS registration for commentators in the Internet.⁷⁹
- Following the liquidation of almost all independent media, social media has emerged as an alternative platform for open discussion. Although not fully enforced yet, the 2016 amendments to the law on communications will require all Internet users to install a “national security certificate” on their devices, allowing state control over personal communications and access to information.⁸⁰
- In May, Scandinavian telecommunication company Telia expressed concern over new Kazakhstani technical regulations allowing the government to directly access telecommunications systems using the Russian-designed communications monitoring system SORM. According to Telia, the new legislation “may have serious consequences for freedom of expression.”⁸¹ In July, the government issued a decree that transferred the State Technical Service from the Ministry of Information and Communications to the care of the National Security Committee “for the implementation of centralized management of telecommunications networks, the single Internet access gateway, computer incident response service, and the Information Systems Monitoring Center.”⁸²
- In April, a court ordered two media outlets, Forbes and Ratel, to compensate former finance minister Zeynulla Kakimzhanov and his son Ilkhalid 50.2 million tenge (approximately \$160,000) on charges of “defaming the honor, dignity and business reputation” of the businessmen.⁸³ In 2016, the two outlets reported that the inspecting state bodies have revealed signs of embezzlement in the activities of a construction company affiliated with Kakimzhanovs. The court disregarded official documents submitted by the journalists as evidence, including the protests of the General Prosecutor's Office, expert opinions, and a decision of the National Anticorruption Bureau.⁸⁴

- While the space for independent media is shrinking, the government spends about 40 billion tenge (\$120 million) yearly to support loyal media outlets that cover official view on the current events, produce patriotic materials and promote the “president’s course”.⁸⁵ Moreover, Kazakhstan continues the Soviet practice of enforced subscription to progovernment newspapers among public servants to ensure consumption of the progovernment media products.⁸⁶
- In 2017, the Ministry of Information and Communications introduced new rules of state budget allocation, replacing a public tender system with a special commission’s examination. In September a prominent media watchdog, the Legal Media Center, announced that it was refused access to information on the amounts and recipients of more than 2 billion tenge (\$6.2 million) allocated by the commission for “a cycle of films” about Nazarbayev, economic and political reforms, and the results and indicators of the transport and housing programs Nurlı Zhol and Nurlı Zher.⁸⁷ The prosecutor’s office also refused to review the watchdog’s appeal against the Ministry regarding the non-disclosure.⁸⁸
- In January, a former editor-in-chief of the Central Asia Monitor and Radiotochka, and president of the Kazakhstani PEN club, Bigeldy Gabdullin, was accused of extortion and sentenced to five years’ restricted liberty. In August, after the General Prosecutor’s appeal to increase the sentence to seven years in prison, Gabdullin stated that he is leaving journalism, adding that “he remains a strong supporter of President Nazarbayev.” On August 29, the General Prosecutor withdrew his appeal.⁸⁹
- In February, a former editor-in-chief of an opposition newspaper Tribuna/Sayashi Kalam, Zhanbolat Mamay, was arrested on money laundering charges. In September, he was sentenced to three years of restricted liberty and was banned from engaging in journalistic activities for three years.⁹⁰
- In May, a prominent journalist and the chairman of the board of Journalists in Danger, Ramazan Yesergepov, was stabbed by two unknown men on his way to meet with foreign diplomats to discuss the situation of political prisoners in Kazakhstan. Prior to the attack, Yesergepov had been detained after he and 10 other activists walked to the main post office of Almaty to send a letter to international organizations aimed at bringing attention to the case of Zhanbolat Mamay. Ramazan Yesergepov previously served three years in prison after his newspaper published an article revealing corruption schemes in the KNB. The police ruled the walk was a violation of the law on peaceful assembly. Yesergepov left the country in August after facing a threat of a new criminal charge.⁹¹
- In December, former head of the Union of Journalists of Kazakhstan, Seytkazy Matayev, was granted early release on parole due to health condition.⁹² His son Asset, former director of the private KazTAG News Agency, remained in jail on charges of fraud at year’s end.⁹³

Local Democratic Governance

2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
6.25	6.25	6.25	6.50	6.50	6.50	6.50	6.50	6.50	6.50

- Kazakhstan is a unitary state with a highly centralized form of government. The akims, as the local executive branch, are directly accountable to the president and the central government. The

maslikhats, although elected by the population, can be dismissed by the president and are thus also accountable to him. Since 2012, the government has been implementing decentralization policies, outlined in the Concept of Development of Local Self-Government until 2020.⁹⁴

- In 2017, amendments to the constitution introduced minor improvements on the redistribution of powers by enabling the parliament, rather than the president, to appoint akims at the town, rayon (district), and rural levels. The president keeps his powers to appoint akims of regions, cities of republican level, and the capital. The chairpersons of the two chambers of parliament and the prime minister are now to be consulted prior to the preterm termination of powers of maslikhats by the president.⁹⁵
- On July 11, the president signed the Law “On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on the Development of the Local Self-Government”.⁹⁶ The law envisages the introduction of an independent budget and municipal ownership of the local self-government, and the expansion of local self-governments’ powers regarding the management of budgetary processes and municipal property.⁹⁷
- Despite these minor positive changes, experts have expressed concerns regarding the “extremely low participation of citizens in local elections showing as a rule indifferent and even negative attitude of citizens to local policy and local governments”, due to the high level of corruption and public distrust of candidates and local governments.⁹⁸

Judicial Framework and Independence

2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
6.00	6.25	6.25	6.50	6.50	6.50	6.50	6.50	6.50	6.75

- Although Kazakhstan’s constitution guarantees the separation of powers and independence of the judiciary, de facto, the executive dominates the judicial branch. The president forms a considerable part of the judiciary, namely by appointing chairpersons and judges of local and other courts; with his consent, the Senate elects the supreme body of the judicial branch of power – the Supreme Court. The pervasive corruption of the courts, and the ruling elites’ control over them, results in low public expectations and trust in the justice system.
- The constitution confers judicial powers on the procuracy and the Constitutional Council, although neither is an entity of state power or a part of the judiciary. The Constitutional Council substitutes a constitutional court and is empowered to review disputes and issues related to the operation and application of constitutional norms and interpretation.⁹⁹ However, the Council only reviews appeals from the president, the Chairman of the Senate, the Chairman of the Majilis, the prime minister, and at least one-fifth of the total number of deputies of parliament. The citizens of Kazakhstan have no recourse for direct appeals to be heard by the Constitutional Council.¹⁰⁰ On the other hand, the procuracy is empowered with the supervisory powers of the judiciary, making the institution inherently vulnerable to corruption.¹⁰¹
- In 2017, the constitutional reform introduced several minor improvements to the judicial system. The Constitutional Council is now authorized to review all constitutional amendments before their adoption, while the president received the right to appeal directly to the Council on the constitutionality of laws or other legal acts. Importantly, the reform abolished the president’s power to veto the Council’s decisions.¹⁰²

- On the other hand, the Venice Commission has voiced its concerns over the amendment transferring the power to define the “common system” of remuneration of public servants (including judges) to the government, arguing that such a provision might potentially obstruct the judiciary’s autonomy from the executive.¹⁰³
- The changes introduced under the Article 10 are particularly concerning. These amendments allow courts to deprive Kazakhstani citizens of their citizenship for terrorism offences and “other serious damage to the vital interests of the Republic of Kazakhstan”. The reform raises serious concerns, as it contradicts the inalienable right of every person to citizenship.¹⁰⁴ Moreover, given the justice system’s dependence upon political pressure, the potentially broad interpretations of terms like “terrorism” and “vital interests” may arm the state with yet another repressive instrument in its fight against political dissent.
- Torture is still widespread in Kazakhstan. According to official information, every year there are about 700 new registered complaints of “unlawful methods of investigation and violence against detainees and prisoners.”¹⁰⁵ According to Kadyr Kassiyet, a prominent human rights NGO, torture-related complaints often stay unregistered or unreported due to “risks and restrictions on the right to file complaints, [...] lack of an independent complaint mechanism, and guarantees of non-repetition of torture,” and only a small number of cases reach the court.¹⁰⁶ In 2017, torture allegedly was used during some of the year’s most notorious cases: those of Zhanbolat Mamay,¹⁰⁷ Seitkazy Matayev,¹⁰⁸ Vadim Kuramshin,¹⁰⁹ Iskander Yerimbetov,¹¹⁰ and Muratkhan Tokmadi.¹¹¹ Two of the defendants later publicly withdrew their own complaints, and no investigations of the allegations followed.
- In 2017, the UN Human Rights Committee concluded that Kazakhstan violated the right to fair trial (Vladislav Chelakh vs. Kazakhstan,¹¹² Dmitry Tyan vs. Kazakhstan¹¹³), the right not to be subjected to torture or to cruel, inhuman or degrading treatment (Dmitry Tyan vs. Kazakhstan,¹¹⁴ Zhaslan Suleimenov vs. Kazakhstan¹¹⁵), adequate detention conditions (Zhaslan Suleimenov vs. Kazakhstan), and the right to freedom of expression (Andrei Sviridov vs. Kazakhstan).¹¹⁶ Kazakhstan has yet to implement the recommendations made by the Committee.¹¹⁷
- In the last few years, investigatory and trial processes in Kazakhstan have become increasingly non-transparent. According to Evgeny Zhovtis, a prominent human rights defender, “almost all participants in criminal processes sign a pledge of secrecy of investigation. [...] Every other case concerning ‘extremism’ or ‘high-profile’ cases, especially against high-ranking officials, turn into a secret.”¹¹⁸ In September, two lawyers representing Muratkhan Tokmadi – a businessman arrested on extortion and homicide charges, the latter “on instruction of Mukhtar Ablyazov” – were suspended by the prosecutor’s office for refusing to sign a pledge of secrecy of investigation.¹¹⁹
- In October, more than 500 lawyers signed an appeal to the Prime Minister regarding the draft law on “On Advocacy and Legal Aid”,¹²⁰ which, if accepted, might jeopardize the principles of the independence and self-governance of bar associations and personal security of lawyers, and will introduce significant restriction for the legal practice. Among other things, the bill allows for questioning of lawyers as witnesses; provisions participation of judges and Ministry of Justice in disciplinary commissions, and abolishes the bar association admission fees, thus depriving the bar of financial independence.¹²¹
- On the other hand, courts in Kazakhstan are embracing online services and electronic documentation, allowing citizens to submit applications to the courts, check their status, or receive electronic copies of judicial acts through the Supreme Court’s united portal, thereby improving the transparency and efficiency of the system. In 2016, video and audio recording of the trials were

introduced; according to the Supreme Court, 98 percent of trials conducted in 2017 were recorded and available at the portal.¹²²

Corruption

2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
6.50	6.50	6.50	6.50	6.50	6.50	6.50	6.50	6.75	6.75

- National strategic documents, such as Kazakhstan-2050, the Strategic Development Plan until 2020, and the Nation's Plan “100 concrete steps”, give the fight against corruption the highest priority. In February, in his annual address to the nation, President Nazarbayev listed “rooting out corruption” as one of the five priorities of the country’s “third modernization” strategy.¹²³ In 2017, Kazakhstan continued to implement the Anticorruption Strategy for 2015-2025, which is designed to facilitate “transition from combating consequences to the systematic prevention of corruption.”¹²⁴ Despite extensive anticorruption legislation and much government emphasis on the issue, petty corruption, nepotism, patronage, and state capture are endemic.
- According to Anticorruption Agency’s annual report, out of 520 corruption-related criminal cases initiated against national government employees in 2016, 309 involved officials in the Ministry of Interior, while 58 cases were against Ministry of Finance employees.¹²⁵ In June, the deputy chair of the agency criticized the public councils under state bodies, calling them a “formality”: “half of the public councils have never even discussed countering corruption.”¹²⁶
- Anticorruption criminal legislation was frequently utilized in inter-elite struggles or to crackdown on dissent in 2017. During the year, journalists Zhanbolat Mamay, Bigeldy Gabdullin, Seitkazy and Asset Matayevs, trade union leaders Larissa Kharkova, Amin Eleusinov and Nurbek Kushakbayev, a housing rights activist Makhambet Abzhan were all convicted of financial crimes.¹²⁷
- At the same time, grand corruption in Kazakhstan is often left without proper investigation or considered by courts to be a lesser crime. In September 2016, a former president of the Khorgos International Center for Cross Border Cooperation, Vasily Ni, was caught in the act of receiving a bribe of \$1 million for preferentially accepting an investment tender. In April 2017, an Almaty court ruled to release Ni and his co-defendant from criminal liability, as, in the words of the judge, “the defendant repented of his crime, did not cause any damage, and helped to solve the case”.¹²⁸ According to prominent lawyer Jokhar Utebekov, unprecedented measures were taken to conceal the release of Ni, such as removing the case from the online database of judicial decisions.¹²⁹
- In November, Kazakhstan’s Minister of Defense and Aerospace Industry, Beibut Atamkulov, and former energy minister and current head of the state-owned oil and gas company KazMunayGaz, Sauat Mynbayev, were featured in the Paradise Papers, a major leak of offshore financial documents. The Paradise Papers investigations revealed that Sauat Mynbayev, one of the key decision makers in the lucrative Kazakhstani oil and gas industry for more than a decade, was a co-founder and former shareholder of Meridian Capital, a transnational investment company in oil and gas, mining, banking, and other spheres worth at least \$3 billion.¹³⁰ The leak revealed that his fellow Meridian Capital co-founders included top executives of Kazkommertsbank, formerly the largest bank in the country, which provided Meridian with access to easy credit. The bank has been bailed out by the state several times,¹³¹ before it was acquired in June by Halyk Bank (owned by President

Nazarbayev's son-in-law) and the National Welfare Fund "Samruk-Kazyna" for a symbolic price of 1 tenge (\$0.002).¹³²

- Since 2007, Kazakhstan has rolled out a system of providing public services through the "E-Government" online portal and through "one-stop-shops". The system eliminated direct contact between service providers and citizens, thus significantly reducing petty corruption and improving the efficiency and transparency of public service provision processes. In 2017 the government approved the Digital Kazakhstan program that should ensure continuity of those successes by development of digital infrastructure, increasing digital literacy of the population, introduction of digital technologies to improve the competitiveness of various sectors of the economy and of the electronic and mobile government systems.¹³³

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