[KZ] Amendments on information security

IRIS 2018-4:1/31

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On 28 December 2017, the President of the Republic of Kazakhstan signed into law amendments to the National Mass Media Law (see IRIS 2009-10/20) which had previously been adopted by parliament, as well as 21 other statutes. They relate to the issues of informational security, propaganda, the protection of privacy, foreign broadcasting, and access to information.

In particular, a new article in the media law sets out “basic principles” of mass media activity. Two of the four principles prescribed are “objectivity” and “veracity” (Article 2-1). In addition, the same law (Article 2) now provides a definition of propaganda which reads as follows:

“propaganda in the mass media is understood as the dissemination of views, facts, arguments and other information, including deliberately distorted, for the formation of a positive public opinion about information prohibited by the legislation of the Republic of Kazakhstan and/or for inducement of an unlimited circle of persons to commit an unlawful act or to stay inactive.”

Certain types of propaganda serve as a reason to suspend or annul the governmental permission necessary for media outlets to function (Article 13).

The Law of the Republic of Kazakhstan on Mass Media (paragraph 1-1 of Article 14) now permits media outlets to use pictures of a person without his/her permission in cases where:

1) it is taken at public events where the person is present or is taking part;

2) it is part of information on the person’s public activities, and has been published by the person himself/herself in open sources;

3) it is done in order to protect constitutional or public order, human rights and freedoms, and the health and morality of the population.

The amendments specify the procedure for media outlets to obtain information from the public authorities and set the time limit within which the editorial office should respond to an inquiry at seven working days (it had previously been three days).

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The same law amends the Statute on Telecommunications (see IRIS 2004-10/32) by establishing a state monopoly on information security that includes the control over Internet traffic across national borders (Article 9-2) and within the country (Article 23), as well as permitting fast procedures for blocking access to websites with unlawful information (Article 41-1).

The Broadcasting Statute of Kazakhstan (see IRIS 2012-3/28) was also amended to expand the notion of "broadcasting" (and relevant norms) to the online dissemination of programmes and channels (Article 1), and to further restrict the activities of foreign broadcasters (Article 18-1).

The OSCE Office of the Representative on Freedom of the Media commissioned an independent legal analysis of the amendments when they were still in draft form. The reviewer noted that, while some provisions of the draft make it compatible with international legal standards, a multitude of exceptions and amendments to the established possibilities, rights, and freedoms largely impair their potential. In particular, he noted that the definition of "propaganda" lacks narrowly defined subject-matter and legal clarity. It allows for unproportioned sanctions against the media, including those acting in a lawful way or at least in good faith.

Most of the provisions of the new statute entered into force 10 days after its official publication.

О внесении изменений и дополнений в некоторые законодательные акты Республики Казахстан по вопросам информации и коммуникаций

https://online.zakon.kz/Document/?doc_id=34205812#pos=0;0

Statute of the Republic of Kazakhstan N 128-VI of 28 December 2017 "On amendments and addenda to some legal acts of the Republic of Kazakhstan on issues of information and communications"

Комментарии к проекту закона Республики Казахстан "О внесении изменений и дополнений в некоторые законодательные акты Республики Казахстан по вопросам информации и коммуникаций"

https://www.osce.org/ru/fom/358686?download=true

Final legal review of draft law of the Republic of Kazakhstan On Amendments and Addenda to Some Legal Acts of the Republic of Kazakhstan on Issues of Information and Communications. Written by Dmitry Golovanov and commissioned by the OSCE Office of the Representative on Freedom of the Media, August 2017

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