



Office for Democratic Institutions and Human Rights

REPUBLIC OF KAZAKHSTAN

REVIEW OF THE LEGAL FRAMEWORK FOR
MEDIA COVERAGE OF ELECTIONS



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Republic of Kazakhstan

REPORT ON THE LEGAL FRAMEWORK FOR MEDIA COVERAGE OF ELECTIONS¹

15 September 2001

I. INTRODUCTION

This analysis provides comments on the extent to which the legal framework for media coverage of elections in Kazakhstan is in accordance with international law, standards and commitments. It also provides overview comments on the general issue of media independence. These comments are based on English translations of the following laws and regulations:

- The Constitution of the Republic of Kazakhstan of 30 August 1995 (including 1998 amendments);
- The Law of the Republic of Kazakhstan “On Elections in the Republic Of Kazakhstan”, No. 407-I of 28 June 1999 (Election Law);
- The Rules of Execution of Election Campaign and Provision of Broadcasting Time in Radio and Television Programmes, and on Publication of Propaganda Pre-election Material in Periodical Press Publications of the State Mass Media to the Nominees to the Parliament and *Maslikhats* of the Republic of Kazakhstan of August 1999 (Election Media Rules);
- The Law of the Republic of Kazakhstan “On Mass Media”, No. 451-I of 23 July 1999 (and 2001 amendments) (Mass Media Law); and
- The Law of the Republic of Kazakhstan “On Administrative Procedures”, No. 107-II of 27 November 2000.

II. EXECUTIVE SUMMARY

The legal framework in relation to media coverage of elections in Kazakhstan is largely in line with international standards, although a number of provisions could be improved or clarified, and there are a few omissions. A more serious problem is the lack of independence in the broadcasting sector, including government influence over public broadcasters and a lack of independent regulation of the private broadcast sector.

Issues of concern regarding the legal framework for media coverage of elections include:

- The lack of a legal requirement for the Central Election Commission (CEC) to provide voter education;
- Confusion in the provisions on direct access to airtime regarding candidates and parties and the timing of slots, as well as a failure to differentiate between established and new parties in terms of such access;

¹

The comments have been prepared by ARTICLE 19, Global Campaign for Free Expression, an international human rights NGO, in co-operation with the OSCE/ODIHR.

- Failure of the law to impose balance and impartiality requirements on the broadcast media, including public broadcasters;
- Failure of the law to ensure that any right of reply arising during the election campaign can be exercised in a timely fashion; and
- Failure of the law to clearly set out the powers of the CEC in relation to the mass media.

Issues of concern regarding the general framework for the media include:

- Lack of independence on the part of the public media, including public broadcasters; and
- Lack of independent regulation of private broadcasters, including in relation to licensing.

III. INTERNATIONAL AND DOMESTIC LAW

Under international law, political parties and candidates have a right to express their views freely through the mass media, the public has a right to hear those views, and citizens have a right to adequate and balanced information to enable them to participate fully in voting to choose the future government. These principles, enshrined in paragraph 7.7 and 7.8 of the 1990 OSCE Copenhagen Document, are based on the rights to freedom of expression and non-discrimination, as well as the right to political participation. Guarantees of these rights are found both in international law and the Constitution of the Republic of Kazakhstan.

Two documents are of particular relevance in encapsulating international standards in this area. The first is Recommendation No. R(99)15 of the Committee of Ministers of the Council of Europe on Measures Concerning Media Coverage of Election Campaigns (Council of Europe Recommendation),² and the second is ARTICLE 19's *Guidelines for Election Broadcasting in Transitional Democracies* (ARTICLE 19 Guidelines).³ While these documents lack the formal status of international law, they are widely regarded as authoritative interpretations of international standards in this area.

A. Freedom of Expression

Freedom of expression, a fundamental human right, is protected by Article 19 of the Universal Declaration of Human Rights (UDHR),⁴ and is binding on all States as a matter of customary law. It is also guaranteed by a number of international human rights treaties, including the European Convention on Human Rights (ECHR),⁵ Article 10(1) of which states:

Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring licensing of broadcasting, television or cinema enterprises.

International law does permit limited restrictions on the right to freedom of expression and information in order to protect various private and public interests. For example, Article 10(2) of the ECHR states:

² Adopted 9 September 1999.

³ (London: August 1994).

⁴ UN General Assembly Resolution 217A(III), 10 December 1948.

⁵ E.T.S. No. 5, in force 3 September 1953. While Kazakhstan is not a member of the Council of Europe the ECHR is therefore not binding. For this country, nonetheless the ECHR provides further evidence for and clarity to customary law in this area.

The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.

This Article subjects any restriction on the right to freedom of expression to a strict three-part test. This test requires that any restriction must a) be provided by law; b) be for the purpose of safeguarding a legitimate public interest; and c) be necessary to secure this interest.⁶

The third part of this test means that even measures which seek to protect a legitimate interest must meet the requisite standard established by the term “necessity”. Although absolute necessity is not required, a “pressing social need” must be demonstrated, the restriction must be proportionate to the legitimate aim pursued, and the reasons given to justify the restriction must be relevant and sufficient.⁷

Freedom of expression is protected, subject to certain restrictions, in Article 20 of the Constitution of Kazakhstan which states:

1. The freedom of speech and creative activities shall be guaranteed. Censorship shall be prohibited.
2. Everyone shall have the right to freely receive and disseminate information by any means not prohibited by law. The list of items constituting state secrets of the Republic of Kazakhstan shall be determined by law.
3. Propaganda of or agitation for the forcible change of the constitutional system, violation of the integrity of the Republic, undermining of state security, and advocating war, social, racial, national, religious, class and clannish superiority as well as the cult of cruelty and violence shall not be allowed.

Further grounds for restrictions and conditions on those restrictions are set out in Article 39 which states:

1. Rights and freedoms of an individual and citizen may be limited only by laws and only to the extent necessary for protection of the constitutional system, defence of the public order, human rights and freedoms, health and morality of the population.
2. Any actions capable of upsetting interethnic concord shall be deemed unconstitutional.
3. Any form of restrictions to the rights and freedoms of the citizens on political grounds shall not be permitted....

Freedom of political debate has been recognized as an essential foundation of a democratic society by institutions and governments around the world. The European Court has stated: “[F]reedom of political debate is at the very core of the concept of a democratic society.”⁸ The fundamental importance of freedom of political expression rests in part on the importance of an informed electorate to the functioning of a genuine democracy. The European Court has recognized that media freedom is one of the most important mechanisms for developing an informed citizenry:

⁶ For an elaboration of this test see *Goodwin v. United Kingdom*, Judgment of 27 March 1996, Application No. 17488/90, 22 EHRR 123 (European Court of Human Rights), paras. 28-37.

⁷ *Sunday Times v. United Kingdom*, Judgment of 26 April 1979, Application No. 6538/74, 2 EHRR 245 (European Court of Human Rights), para. 62. These standards have been reiterated in a large number of cases.

⁸ *Lingens v. Austria*, Judgment of 8 July 1986, Application No. 9815/82, para. 42.

Freedom of the press affords the public one of the best means of discovering and forming an opinion of the ideas and attitudes of their political leaders. In particular, it gives politicians the opportunity to reflect and comment on the preoccupations of public opinion; it thus enables everyone to participate in the free political debate which is at the very core of the concept of a democratic society.⁹

Governments are obliged to ensure media pluralism and to encourage a diversity of sources of information. The Committee of Ministers of the Council of Europe has declared that “states... should adopt policies designed to foster as much as possible a variety of media and a plurality of information sources, thereby allowing a plurality of ideas and opinions.”¹⁰ The European Court has also emphasized that “the State is the ultimate guarantor... of the principle of pluralism,” and that pluralism is necessary if the media is successfully to accomplish its public functions: “This observation is especially valid in relation to audio-visual media, whose programmes are often broadcast very widely.”¹¹

The State’s obligation to ensure pluralism in the media during election periods has been addressed in Council of Europe Recommendation No. R(99)15, which notes: “During election campaigns, regulatory frameworks should encourage and facilitate the pluralistic expression of opinions via the broadcast media.”¹²

B. Non-Discrimination

The right of political parties and candidates to have equitable access to the public media receives powerful support from the strong prohibition of discrimination, including on grounds of political opinion, under international law. Article 14 of the ECHR states:

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, *political or other opinion*, national or social origin, association with a national minority, property, birth or other status. [Emphasis added]

Article 14 of the Constitution of Kazakhstan states:

1. Everyone shall be equal before the law and court.
2. No one shall be subject to any discrimination for reasons of origin, social, property status, occupation, sex, race, nationality, language, attitude towards religion, convictions, place of residence or any other circumstances.

In relation to access to airtime on a public broadcaster during an election campaign, the European Commission of Human Rights has stated:

[T]he denial of broadcasting time to one or more specific groups may, in particular circumstances, raise an issue under Article 10 alone or in conjunction with Article 14 of the Convention. Such an issue would, in principle, arise for instance if one political party was excluded from broadcasting facilities at election time while other parties were given broadcasting time.¹³

⁹ *Castells v. Spain*, Judgment of 23 April 1992, Application No. 11798/85, para. 43.

¹⁰ Declaration on the Freedom of Expression and Information, adopted by the Committee of Ministers, 29 April 1982, para. 6.

¹¹ *Informationsverein Lentia and Others v. Austria*, Judgment of 24 November 1993, Application Nos. 13914/88, 15041/89, 15717/89, 15779/89 and 17207/90, para. 38.

¹² Section II(1).

¹³ *X and the Association of Z v. the United Kingdom*, Admissibility Decision of 12 July 1971, Application No. 4515/70, 38 *Collected Decisions* 86 (1971).

C. Right to Political Participation

Article 21 of the Universal Declaration of Human Rights guarantees the right to political participation, as does the First Protocol to the European Convention on Human Rights, which states: “The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.”¹⁴

Article 33(1) of the Constitution states: “Citizens of the Republic of Kazakhstan shall have the right to participate in the government of the state’s affairs directly and through their representatives....”

The most detailed statements of participatory right are to be found in documents of the Organisation for Security and Co-operation in Europe (OSCE). In the Copenhagen Document of June 1990, the participating states committed themselves to “ensure that the will of the people serves as the basis of the authority of government” by, among other means, ensuring “that no legal or administrative obstacle stands in the way of unimpeded access to media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process.”¹⁵

IV. MEDIA AND ELECTIONS: THE LEGAL FRAMEWORK

The specific legal framework for media coverage of elections in Kazakhstan is largely consistent with international standards, although a number of provisions could be improved or clarified, and there are a few omissions.

A. Voter Education

During the period preceding an election, it is crucial that the public are properly informed about voting processes and other matters relevant to the election, including through the public media.¹⁶ The OSCE/ODIHR assessment mission to the 1999 Presidential Elections commended the CEC for its voter education programmes but also noted problems with knowledge about the vote, and particular the secret ballot, among the public.¹⁷

The Election Law requires electoral bodies to publish information in the mass media about matters such as election districts, registration of candidates and the results of elections,¹⁸ but does not provide for voter education programmes.

Recommendation:

- The Election Law should require the CEC to ensure that the electorate are properly informed about voting processes and other relevant matters, including through the public media.

¹⁴ E.T.S. No. 9, 20 March 1952, Article 3.

¹⁵ Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, 29 June 1990, para. 7.8.

¹⁶ See ARTICLE 19 Guidelines, No. 11.

¹⁷ The Republic of Kazakhstan Presidential Election, 10 January 1999, Assessment Mission, 5 February 1999, p. 15.

¹⁸ See, for example, Articles 12(3), 12(8) and 44(4).

B. Direct Access Programmes

Free direct access to airtime for political parties and candidates, at least in the public media, is highly advisable in transitional democracies as an essential means for ensuring that voters can make informed electoral choices.¹⁹ In any case, where such airtime is provided for, it is essential that it is allocated to political parties and candidates on a fair and non-discriminatory basis. The Council of Europe Recommendation states:

Member States may examine the advisability of including in their regulatory frameworks provisions whereby free airtime is made available to political parties/candidates on public broadcasting services in electoral time.

Wherever such airtime is granted, this should be done in a fair and non-discriminatory manner, on the basis of transparent and objective criteria.²⁰

The Election Law states, in Article 28(3):

The state guarantees candidates a possibility to promulgate their programmes in the state mass media. Each candidate has the right on an equal basis with other candidates to make one fifteen-minute address on the state television, to speak once on the state radio for ten minutes as well as to publish in the state press organs two articles of the volume established by the Central (territorial) Election Commission. The character and of candidates' address and publications in the mass media are determined by the candidates themselves. It is prohibited to interrupt candidates' addresses in mass media as well as to comment them.

Article 33(2)(2) provides that such broadcasts shall be funded through the republican budget, except for candidates on party lists. Paragraph 6 of the Election Media Rules appears to contradict this, stating that every candidate shall have the right to such time, paid from the republican budget. Paragraph 7 of the Rules further provides that on the republican television channels Kazakhstan-1 and Khabar, as well as the radio channel Kazakhstan-1, broadcasting time will be divided equally between all political parties.

Paragraph 10 of the Election Media Rules provides that the timing of direct access slots should be determined by the order of the applications for these slots. Any disputes should be resolved either by agreement between the candidates or by drawing lots.

The apparent contradiction noted above between Article 33(2) and Paragraph 6 should be resolved. It is possible that the Election Law envisages a dual system whereby independent candidates (not linked to a particular party) are given access via Article 28(2) and parties given access in another manner.²¹ However, this dual system is not clearly articulated in either Election Law or the Election Media Rules and Paragraph 7 of the latter in any case does not provide for party access to public newspapers.

The provisions on timing of direct access slots are unsatisfactory. Order of application is not a legitimate criterion for this purpose as this is relatively random and may well fail to take into account the relative desirability of having slots at different times during the election campaign (e.g. the beginning and end are generally more sought after). The same problem applies to drawing lots. Furthermore, this whole approach is inconsistent with the idea of granting blocks of slots to parties, to use as they see fit. Rather, each media outlet should be required to distribute party slots fairly throughout the campaign, subject to review by the CEC.

¹⁹ See ARTICLE 19 Guidelines, No. 9.

²⁰ Section II(4). See also ARTICLE 19 Guidelines, No. 9.

²¹ Possibly in Article 28(3) of the Election Law, although this is far from clear in the translated text.

Recommendations:

- Articles 28(3) and 33(2)(2) of the Election Law and Paragraphs 6 and 7 of the Election Media Rules should be reworked to ensure fair, non-discriminatory, equitable direct access to parties and possibly also to independent candidates.
- The timing of direct access slots should also be fair, balanced and non-discriminatory; slots should not be allocated on a random basis.

Content Restrictions

It is essential that parties be given wide scope to present their views and programmes to the public and so the media should not be allowed to interfere with their broadcasts. Paragraph 3 of the Election Media Rules simply states that the media are required to provide written justification of any refusal to air a programme to the candidate and to the relevant election committee. It would be better for the law to set out those limited circumstances in which such refusal would be justified. This might be based on Article 29(1) of the Election Law which states:

.... A candidate's program must not advocate ideas of violent change of the constitutional system, violation of the territorial integrity of the Republic, undermining of the State's security, war, social, racial, national, religious, class and tribal superiority as well as the cult of cruelty and violence.

At the same time, laws of general application, for example relating to defamation, remain in force during election periods and these laws often provide for liability not only of the author of statements but also of those who publish or broadcast the statements. In accordance with the above, and to prevent the media from being required to screen election programmes for actionable or illegal content, it is recommended that the media be granted some form of immunity for statements made by parties and candidates during direct access programmes.²²

Recommendations:

- Paragraph 3 of the Election Media Rules should be reworked to ensure that the media can only refuse a direct access programme in limited circumstances spelt out in the law, for example in line with the provisions of Article 29(1) of the Election Law.
- The media should be protected against indirect liability for statements made in direct access programmes outside of limited circumstances explicitly provided for, as recommended above.

C. Balance and Impartiality

Public media, both print and broadcast, have a duty to be balanced and impartial at all times but particularly during elections.²³ The private print media has a right to express political preferences.²⁴ However, the fact that the private broadcast media occupy a limited public resource, namely the airwaves, along with the power of the broadcast media to

²² See ARTICLE 19 Guidelines, No. 6.

²³ See, for example, Recommendation No. R(96)10 of the Committee of Ministers of the Council of Europe on the Guarantee of the Independence of Public Service Broadcasting, 11 September 1996, Guideline VI.

²⁴ See Council of Europe Recommendation, Section I(1).

influence opinion, means that it is important that private broadcasters also respect the need for balance and impartiality during election periods. Such balance is best achieved through self-regulation but, in the absence thereof, may also be imposed, for example through an independent broadcast regulator.

In line with the above, the Council of Europe Recommendation states:

Member States should adopt measures whereby print media outlets which are owned by public authorities when covering electoral campaigns, should do so in a fair, balanced and impartial manner, without discriminating against or supporting a specific political party or candidate.

Where self-regulation does not provide for this, member States should adopt measures whereby public and private broadcasters, during the election period, should in particular be fair, balanced and impartial in their news and current affairs programmes, including discussion programmes such as interviews or debates.²⁵

Neither the Election Law nor the Mass Media Law impose such an obligation on the media.

Recommendation:

- Either the Election Law or the Mass Media Law should impose a duty on the public media and private broadcasters to provide fair, balanced and impartial information in their reporting of news and current affairs during election campaigns.

D. Access to the Media

International law is ambivalent on the question of whether political parties should be allowed to purchase advertising space in the media during election periods and the practice of States on this varies. Where such access is allowed, however, it is important that all parties have equal opportunity to purchase advertisements, including equal rates of and terms for payment, and that the public is aware that the message is a paid political advertisement.²⁶

The Election Law does provide for the purchase of paid political advertisements²⁷ and institutes limits on the amount of advertising that may be purchased through limiting fundraising during elections.²⁸ There have been some complaints that the law did not provide for identification of these broadcasts as being paid political advertisements²⁹ but this now appears to have been addressed by Paragraph 14 of the Election Media Rules which does require proper identification of these advertisements.

Day of Reflection

The Council of Europe Recommendation suggests: “Member States may consider the merits of including a provision in their regulatory frameworks to prohibit the dissemination of partisan electoral messages on the day preceding voting.”³⁰ A day of reflection is

²⁵ Sections I(2) and II(2). See also ARTICLE 19 Guidelines, Nos. 2 and 8.

²⁶ See Council of Europe Recommendation, Section II(5).

²⁷ Articles 27(2)(1) and 28(2) and (6).

²⁸ Chapter 6. See Council of Europe Recommendation, Section II(5).

²⁹ See Report on the Legal Framework of the Parliamentary Elections In Kazakhstan, 29 June 1999, Warsaw, p. 4.

³⁰ Section III(1).

provided for in Article 32(1) of the Election Law which states: “Any kind of election canvassing is prohibited on election day and the day before it.”³¹

E. The Right of Reply

Due to the particular power of defamatory statements to cause injury during campaign periods, redress for such statements should be available in a timely fashion. An opportunity to reply, or to a correction or retraction, can provide a particularly timely and effective remedy in these circumstances.³² The Council of Europe Recommendation states:

Given the short duration of an election campaign, any candidate or political party which is entitled to a right to reply under national law or systems should be able to exercise this right during the campaign period.³³

Article 19 of the Mass Media Law does provide for a right of reply in the case of defamatory statements:

- Citizen or legal entity shall have the right to demand refutation of data derogating his honor, dignity and business reputation in court, if the person that spread this information is not able to prove that information is true.
If data derogating the honor, dignity and business reputation of citizen is disseminated in mass media, it must be refuted in the same mass media free of charge....

Neither the Election Law nor the Election Media Rules provide that any right of reply arising during the election campaign should be exercisable during the campaign period.

Recommendation:

- Either the Election Law or the Election Media Rules should provide for the timely exercise of any right of reply arising during an election campaign.

F. Opinion Polls and Election Projections

Opinion polls can exercise particular influence on the outcome of elections and can also be quite distorting. As a result, they are subject to strict reporting requirements in many countries so that the public are able to accurately assess and understand the poll's significance.³⁴ In recognition of this, The Council of Europe Recommendation states:

Regulatory or self-regulatory frameworks should ensure that the media, when disseminating the results of opinion polls, provide the public with sufficient information to make a judgement on the value of the polls. Such information could, in particular:

- name the political party or other organisation or person which commissioned or paid for the poll;
- identify the organisation conducting the poll and the methodology employed;
- indicate the sample and margin of error of the poll;
- indicate the date and/or period when the poll was conducted.³⁵

Neither the Election Law nor the Election Media Rules require opinions polls or election projections to provide such information.

³¹ See also Paragraph 2 of the Election Media Rules.

³² ARTICLE 19 Guidelines, No. 7.

³³ Section III(3).

³⁴ See ARTICLE 19 Guidelines, No. 12.

³⁵ Section III(2).

Recommendation:

- Ideally, the media should undertake, as a professional matter, to include the information noted above along with opinion polls. In the absence of such an undertaking, consideration should be given to requiring the media to provide such information, through either the Election Law or the Election Media Rules.

G. Monitoring and Complaints Body

It is essential that candidates, parties, members of the public and media workers themselves have access to a complaints system as a means of ensuring that the obligations above are respected.³⁶ While ultimate recourse to the courts in these matters is essential, the cut and thrust of politics, particularly during elections, requires a rapid, accessible forum for addressing complaints. There is, therefore, a need for an independent administrative body with full powers to redress any breaches of the above obligations.

Article 12 of the Election Law sets out in some detail the mandate of the CEC but does not specifically provide for any powers in relation to the media. Article 28(3) provides that the State shall guarantee direct access programming for candidates, but does not mention the CEC or other commissions.

Judicial review is provided for in Article 20(6) of the Election Law as follows:

Decisions and actions of an election commission can be appealed in a higher commission or in a court. A prior appeal to higher election commissions is not a necessary pre-condition for an appeal to a court.

It is unclear whether the law provides the CEC with powers in relation to the media; this should be clarified by adding this power explicitly along with the other powers listed in Article 12 of the Election Law.

Recommendations:

- Article 12 of the Election Law should be amended to make it clear that the CEC powers to enforce the obligations set out in that law in relation to the media.

V. GENERAL INDEPENDENCE OF THE MEDIA

The following section addresses the question of independence of the media, particularly in relation to the broadcasting sector. Although this is not directly related to media coverage of elections, at the same time diverse and balanced coverage of parties and candidates is not possible in the absence of an independent media sector, including independent public broadcasting. In addition, where the media is subject to government or political interference, it is unlikely that the legal framework recommended above will be probably implemented.

Under international and comparative law, it is well established that bodies with regulatory or administrative powers over both public service and private broadcasters should be *independent* from political interference. This is derived from the guarantee of freedom of expression and from general principles of public accountability. It is also derived from the

³⁶ See ARTICLE 19 Guidelines, No. 13.

State's obligation to promote pluralism within and universal access to broadcasting. The importance of independence is also reflected in international treaties, such as the European Convention on Transfrontier Television, which states in its Preamble that Member States "[reaffirm] their commitment to the principles of the free flow of information and ideas and the independence of broadcasters."³⁷

For public media, an important aspect of independence is that governing boards, as well as editorial policy, should be free from interference by government or other vested interests. As a 1996 Recommendation of the Committee of Ministers of the Council of Europe stated: "The legal framework governing public service broadcasting organisations should clearly stipulate their editorial independence and institutional autonomy..."³⁸ Although this Recommendation is directed at broadcasters, the same principle applies to publicly owned or funded print media.

It is similarly essential that regulation of private broadcasters, including the granting of licenses, is undertaken by a body which is independent of political or commercial interference. Licenses should be awarded based on objective criteria which serve the overall public interest. In 2000, the Committee of Ministers of the Council of Europe recommended:

Member States should ensure the establishment and unimpeded functioning of regulatory authorities for the broadcasting sector by devising an appropriate legislative framework for this purpose. The rules and procedures governing or affecting the functioning of regulatory authorities should clearly affirm and protect their independence.³⁹

As part of the transition to democracy, the government of Kazakhstan should transform the government media into independent public service media and establish an independent and transparent process for allocating licenses to private broadcasters.

Recommendations:

- The government of Kazakhstan should pass legislation ensuring the independence of the public media, including broadcasters, in accordance with international standards in this area.
- The government of Kazakhstan should pass legislation ensuring independent and regulation of the private broadcast sector in accordance with international standards in area.

³⁷ E.T.S. No. 132, 5 May 1989.

³⁸ Note 23, Guideline I.

³⁹ Recommendation No. R(2000)23 of the Committee of Ministers of the Council of Europe on The Independence and Functions of Regulatory Authorities for the Broadcasting Sector, 20 December 2000, Guideline 1.