

Опыт многих индустриальных стран Азии и Европы актуален и для нашей республики, где происходит становление информационного общества, закладываются основы его развития. Создание рынка информационных услуг, появление сетей различных операторов, коммуникационных фирм в Казахстане – вот те факторы, которые влияют на перспективы развития информационной среды в стране.

Модернизация ряда стран и регионов может быть успешной при условии сохранения обществом своей идентичности в условиях коммуникационной и экономической глобализации при активном развитии новых информационных технологий. Телекоммуникационная индустрия регулируется силами международного рынка, в то время как вещательная национальная политика направлена на сохранение самобытности культурных ценностей. Здесь превалируют принципы не экономического, а, скорее, политического и культурного характера.

Формирование информационной политики Казахстана требует приоритета национальных интересов, а развивающееся информационно-культурное пространство требует активной интеграции в ближнее и дальнее зарубежье. При этом модернизация страны может быть успешной при сохранении обществом своей идентичности в условиях глобализации, что достигается в процессе определенного баланса между внешними и внутренними обстоятельствами, между импульсом извне и внутренним потенциалом общества к совершенствованию, в

развитии национальной телекоммуникационной инфраструктуры с доступом к мировым ресурсам научно-технической информации, которая может повернуть снабжение информации местного происхождения к глобальному рынку. Система такого вида – важный фактор успешного национального развития. Решение этой задачи определит успех процесса вхождения Казахстана в мировую информационную систему.

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Бұл құжат Қазақстандағы жаңа ақпараттық жүйелердің дамуы және жаңа бұқаралық ақпарат құралдары туралы.

This article is about development of information society in Kazakhstan.

The beginning of XXI century was marked by changes in communications, which were caused by the technological process. Cable networks, satellite television (TV), computerization, digital, interactive broadcasting, internet, united in a network - the new phenomenon of the information environment, which became the new means of mass communication.

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KAZAKHSTAN'S "MADRID COMMITMENTS": A LONG WAY TO GO?

Kazakhstan presents a tempting case-study of the connection between country's international commitments and domestic legislation. At the OSCE Ministerial Meeting in Madrid in 2007, when Kazakhstan's bid for OSCE chairmanship was successfully approved by a consensus of its 56 member states, the former Minister of Foreign Affairs, Marat Tazhin made pledges for further democratic progress of Kazakhstan. In particular, he talked about reformation of the election legislation,

liberalization of political parties' registration and significant improvement in the media law. Later, these pledges of Kazakhstan for its own political development were called as Kazakhstan's «Madrid Commitments» [1].

The purpose of the following chapter is to analyze basic changes in the media law, election legislation and registration of political parties, which took place after 2007; whether Kazakhstan fulfilled its "Madrid commitments"; and whether

the situation changed significantly or these measures are just a part of a window-dressing operation.

Some experts admitted that during the last years several amendments were made to media legislation, law on elections and political parties. But later they added: "these amendments can be considered as more cosmetic rather than fundamental".

Therefore the purpose of following chapters is to discuss the obligations of Kazakhstan toward international community.

Media Legislation

According to the Universal Declaration on Human Rights, "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers" [2].

On November 28th 2005 Kazakhstan has ratified International Covenant on Civil and Political Rights [3], which stipulates: "Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice" [4].

Kazakhstan has not only ratified these international documents, but it was specified in the Constitution of the Republic of Kazakhstan that Kazakhstan's international commitments prevail over national law. It is stipulated in Article 4 of the Constitution of the Republic of Kazakhstan: "International treaties ratified by Kazakhstan shall have priority over its laws and be directly implemented except in cases when the application of an international treaty shall require the adoption of a law" [5].

Moreover, Kazakhstan has signed various OSCE documents, which impose certain obligations to Kazakhstan, as a participating member state of the organization. According to Part VII of Helsinki Final Act of 1975 "the participating States will act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights" [6]. In the Istanbul Charter of 1999, it is agreed that the responsibility of the implementation of OSCE commitments lies on participating states. Further, it is said: "We reaffirm the importance of independent media and the free flow of information as well as the public's access to information. We commit ourselves to take all necessary steps to ensure the basic conditions for free and independent media and

unimpeded transborder and intra-State flow of information, which we consider to be an essential component of any democratic, free and open society" [7].

In addition, to documents mentioned above, according to Document of the Moscow meeting of the conference on the Human Dimension of the CSCE "commitments undertaken in the field of the human dimension of the CSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned." A special attention in this document is paid to the right to freedom of expression "The participating States reaffirm the right to freedom of expression, including the right to communication and the right of the media to collect report and disseminate information, news and opinions. Any restriction in the exercise of this right will be prescribed by law and in accordance with international standards. They further recognize that independent media are essential to a free and open society and accountable systems of government and are of particular importance in safe-guarding human rights and fundamental freedoms" [8].

It should be said that during 2009-2010, there were several reforms in media legislation. Thus, under the law of the Republic of Kazakhstan, dated February 6 2009, N123-IV "Introduction of amendments and add-ins to some acts of legislation of the Republic of Kazakhstan regarding mass media", it was resolved to abolish registration requirement of television (electronic) media, exclusion of registration requirement in case of a change of a chief editor and address of an editorial office. The equal competitiveness of defendant and petitioner in courts was secured by amendments to Clause 1, Article 19 of the law on mass media and Article 43 of the Civil Code of the Republic of Kazakhstan. According to amendments to clause 4-1, Article 21 of the Law on Mass Media, the requirement to ask for consent during interviews to use audio or video recording was abolished. Finally, the confiscation of newspapers editions was defined as an alternative punishment [9].

However, there is still a room for improvement. For instance, according to specialists of organization Adil Soz, operating in Kazakhstan, the abolishment registration requirement of electronic media is not a big deal, "because all TV and radio stations must obtain a license first, making registration a rather unimportant issue for them" [10]. Moreover, specialists state the next step can be decriminalization of libel and slander as the "libel or a slander is still entailed a penalty

according to the Criminal code of the Republic of Kazakhstan”.

In particular, according to Article 219 Libel and Slander, Part 2, Section 1 of the Criminal Code of the Republic of Kazakhstan dated 16.07.1997 N196-I: “Slander which is contained in a public speech, or in a publicly displayed work, or in mass information media, shall be punished by a fine in an amount from two hundred up to five hundred monthly assessment indices, or in an amount of wages or other income of a given convict for a period from two to five months, or by engagement in public works for a period from one hundred eighty up to two hundred forty hours, or by correctional labour for a period from one year up to two years, or by restriction of freedom for a period up to two years, or detention under arrest for a period up to six months.”

And according to amendments, dated September 25, 2003 “Slander combined with an accusation of a person in the commission of a grave or an especially grave corruption crime, shall be punished by restriction of freedom for a period up to three years, or deprivation of freedom for the same period” [11].

The interesting fact is that several amendments were made to the Criminal Code of the Republic of Kazakhstan on December 7, 2009. To be exact, according to Chapter 3, Article 142: Illegal collection or distribution of information concerning the private life of a person - committed by a person with the use of his official position, as well as distribution of information indicated in the first part of this Article in a public speech, publicly demonstrated work, or in the mass information media, which entailed the same consequences, shall be punished by a fine in an amount from five hundred up to eight hundred monthly assessment indices, or in an amount of wages or other income of a given convict for a period from five to eight months, or by deprivation of the right to hold certain positions or to engage in certain types of activity for a period from two to five years, or by detention under arrest for a period from four to six months [12].

Further still, under the article 143 of the Criminal Code of the Republic of Kazakhstan “illegal violation of the confidentiality of written correspondence, telephone calls, and mail, telegraph, or other messages of citizens.. committed by a person with the use of his service position, or special technical means intended for secret receipt of information, shall be punished by a fine in an amount from five hundred up to two thousand monthly assessment indices, or in an amount of

wages or other income of a given convict for a period from one to three months, or by deprivation of the right to hold certain positions or to engage in certain types of activity for a period from two to five years, or by correctional labour for a period up to two years, or by detention under arrest for a period from two up to four months” [13].

Elections legislation

One of the most important documents in the sphere of standards of free elections is the Copenhagen documents, which Kazakhstan needs to comply with, being a member state of the OSCE.

During 2007-2010, several amendments to legislation on elections of the Republic of Kazakhstan took place.

In accordance to the governmental officials, amendments to Law on Elections will secure a multi-party Parliament. Even the threshold for Parliament representation is equal to 7%, which is considered to be relatively high in comparison with other OSCE participating states, where threshold average is equal to 2-4%, it will guarantee representation of two political parties in the Parliament. According to the law, if only one political party pass 7% threshold, then the second party that receives the highest number of votes, will be given places in the Lower Chamber of the Parliament.

The amendment to the Constitutional Law of the Republic of Kazakhstan, dated February 9, 2009 N124-IV “Introduction of amendments and add-ins to the Constitutional Law of the Republic of Kazakhstan “About elections in the Republic of Kazakhstan” decreed that mass media must spread information about events devoted to nominations of all candidates and party lists, their registrations by electoral commissions in equal amounts of advertising or broadcasting time.

But, on June 14, 2010 the Republic of Kazakhstan adopted a new constitutional law N289-IV “Introduction of amendments and add-ins to some constitutional acts of legislation of the Republic of Kazakhstan in the sphere of guaranteeing of activities of the First President of the Republic of Kazakhstan – The Leader of the Nation. Under Article 1, the First President of the Republic of Kazakhstan can be re-elected to the post of the President of the Republic of Kazakhstan for unlimited terms. As the head of the political party “Nur Otan”, the President have a right to appoint 3 members of the Central Election Commission out of 7, including the chairperson; to dismiss the Parliament and finally to appoint or to dismiss 15 out of 47 members of the the Upper Chamber of the Parliament.

In addition to that, under the law dated June 14 2010 N290-IV, punishment for public offense to the honor and dignity of the First President of the Republic of Kazakhstan – The Leader of Nation can be up to one year of imprisonments. (15)

Liberalization of political parties' registration procedure

According to experts, major amendments which were taken after speech of former Minister of Foreign Affairs Marat Tazhin at the Conference in Madrid n 2007, can be considered as “insufficient in order to meet Madrid commitments”. The good news is that the required membership for registration of a political party in Kazakhstan is reduced from 50, 000 to 40, 000 members. In order to register a party, the initiative group should register an organizational committee, consisted of 1 000 people before a party registration process. Therefore, it can be concluded that these changes resulted in creation of two-level registration procedure of a political party.

It can be summed up, that certain amendments regarding the media legislation, electoral legislation and steps to liberalize requirements for political parties' registration took place in Kazakhstan within the last 3 years. However, according to experts and reports of non-governmental organizations, including Freedom House, Kazakhstan International Bureau on Human Rights, Adil Soz and OSCE monitoring reports, there are always a room for improvement. And this process takes time.

1 Kassenova, . Nargis. Kazakhstan on the eve of OSCE chairmanship: Madrid commitments and domestic political landscape, EU-Central Asia Monitoring, www.eucentralasia.ru, No7, December 2009.

2. The Universal Declaration of Human Rights, 1948, Article 19, available at: <http://www.un.org/en/documents/udhr/index.shtml#a19>

3. Available at: <http://www.pavlodar.com/zakon/?dok=03205&ogl=all>

International Covenant on Civil and Political Rights, Article 19, available at: <http://www2.ohchr.org/english/law/ccpr.htm#art19>

4. The Constitution of the Republic of Kazakhstan, General Provision, Article 4, available at: http://www.ifescentralasia.kg/Kazakhstan/ENG/conste_kaz.html

5. Helsinki Final Act 1975, Part VII, available at: <http://www.hri.org/docs/Helsinki75.html#H4.7>; Charter on European Security, Istanbul, 1999, available at: <http://www.unece.org/trans/osce/osceunece/istachart99e.pdf>

6. Document of the Moscow meeting of the conference on the Human Dimension of the CSCE, available at: <http://www.osce.org/odihr/elections/14310>

7. Monitoring of amendment to legislation of the Republic of Kazakhstan, 2009, available at: <http://www.adilsoz.kz/site.php?lan=russian&id=1054>

8. Berg, Andrea. Central Asia Researcher, Human Rights Watch, “Promises to Keep: Kazakhstan’s 2010 OSCE Chairmanship”, Commission for Security and Cooperation in Europe, July 22, 2008

9. Criminal Code of the Republic of Kazakhstan, Special Part II, Section 1, Article 219, available at: <http://www.legislationline.org/download/action/download/id/1681/file/ca1c1fb8a67f8a1c2ffe8de6554a3.htm/preview>

10. Article 142. Infringement upon Privacy of the Criminal Code of the Republic of Kazakhstan, available at: <http://www.legislationline.org/download/action/download/id/1681/file/ca1c1fb8a67f8a1c2ffe8de6554a3.htm/preview>

11. Illegal Violation of Private Correspondence, Telephone Calls, and Mail, Telegraph, or Other Messages of the Criminal Code of the Republic of Kazakhstan, available at: <http://www.legislationline.org/download/action/download/id/1681/file/ca1c1fb8a67f8a1c2ffe8de6554a3.htm/preview>

12. Berg, Andrea. Central Asia Researcher, Human Rights Watch, “Promises to Keep: Kazakhstan’s 2010 OSCE Chairmanship”, Commission for Security and Cooperation in Europe, July 22, 2008

13. Monitoring of amendment to legislation of the Republic of Kazakhstan, 2009, available at: <http://www.adilsoz.kz/site.php?lan=russian&id=1054>

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ЖАҒАНДАНУ КЕЗЕҢІНДЕГІ ЖАПОНИЯНЫҢ БҰҚАРАЛЫҚ МӘДЕНИЕТТІҢ ЖАҒА ОРТАЛЫҒЫ БОЛУҒА ҰМТЫЛЫСЫ

XXI ғасырдың басында жаһандану үрдісі әлемдік кеңістіктің басым бөлігін жаулап, оны «орталық» және «шеткі» деп екі бөлікке бөлді.

Осы уақытқа дейін жаһандық ағымдар өзінің географиясын кеңейтіп қана қоймай, әлемдік

қауымдастық өмірінің негізгі салаларын басып алды. Ол өзіне экономиканы ғана емес, саясат пен мәдениетті де бағындырды. Бұл жағдайда мәдени жаһандануды жеке зерттеу объектісі ретінде қарастыруға болады.