

## ANNEXE B

### **B1 Case study: Newspaper "Asaba"**

The largest and the most popular mass weekly in the Kyrgyz language 'Asaba', grew from the republican youth newspaper "Leninchil Jash" ("Young Lenin's follower"), and during the 1990s considered itself to be the natural successor to this journal. In 1993 Asaba celebrated its 70-year anniversary.

With the collapse of the party system, a "Leninchil Jash" employee M.Eshimkanov managed to obtain independence from the highest komsomol body and to create out of the newspaper a joint stock company of a closed type, the founders of which were the newspaper staff. Eshimkanov became the editor-in-chief.

At the beginning of the 1990s the newspaper became the voice of the Democratic Movement of Kyrgyzstan (DMK), having taken the radical and democratic tone. Starting from 1992, when the main political figures of the DMK were ousted from the political scene, the newspaper and editor-in-chief Eshimkanov started to move closer to President Akaev and his team. The high point of this closeness was the book "Askar Akaev. A man without middle." The authors were the chief editor of Asaba and its leading correspondent K.Imanaliev, later appointed the President's press-secretary. At that period, Asaba was the most influential newspaper in the political field of the country. According to many officials close to the President, Akaev started his working day by reading Asaba. Eshimkanov often went on foreign visits with the President and not just as a simple journalist - Akaev repeatedly introduced him as his successor. In the 1995 presidential election Eshimkanov headed Akaev's election staff.

The split between the newspaper and the President and his family took place after the elections, because, as Eshimkanov states, he was disillusioned about the President as an individual and about his policy. However, outside observers believe that the conflict happened because Eshimkanov did not accept the positions offered to him by the President. He had been expecting much more and this offended Akaev.

After a short period of calm, Asaba declared open "war", with a half-mythical publication suggesting that the country was unofficially ruled by the President's wife, Mairam Akaeva. The article was accompanied by a picture of the \_\_\_Сикстинская\_\_\_ with the First Lady's face holding the infant with Akaev's face. After this first "shot", the newspaper published critical articles about the President and his team regularly.

At this point, opposition to the newspaper sharpened with the appointment of the former Asaba correspondent Imanaliev as the President's press secretary. He would

continue to condemn the newspaper for a number of years. For example, on Sept.29, 1997 he stated at a briefing for journalists: "this should be stopped: in one issue only 8 articles against Akaev," referring to the 38th issue of the newspaper. The press secretary was particularly outraged by the photographic collage accompanying the article "Akaev and his team," which he defined as "pornographic."

At the end of 1997, dissatisfaction with the power of the newspaper was expressed through specific actions: on Nov.28 the tax service sealed the newspaper facilities, allegedly for non-payment of taxes. Again for tax violation and under the pretext that the rent resolution signed by Prime Minister Jumagulov was illegal, the newspaper was "smoked out" of the building in which it had been for 30 years. As a result of the same tax inspection, a "written off" credit was uncovered, the one provided to Asaba by the company "Kumtor Operating Co.," for publication in 1994 of the book "Askar Akaev. A man without middle". This fact became a foundation for the lawsuit initiated in 2000 against the newspaper, as a result of which it was issued a court order to pay back the credit and a fine at the amount of 1.072,000 som (US \$21,000).

At the beginning of 1999, with a move by the Commission on Morals under the Ministry of Justice, a court resolution shut down Asaba's supplement "Paishamba" because it allegedly published pornography. A second supplement "Jungli Zakonu", was also shut down.

However, opposition reached a climax in summer 2000 when the oldest deputy of the Jogorku Kenesh, T.Usubaliev, sued the newspaper for regular insult and violation of his honor and dignity over an eight year period, requiring 50 million som (US \$1 million) as compensation for moral damage. In the context of the coming 2000 presidential election in which Eshimkanov participated as a candidate, many considered this lawsuit as the White House's attempt to curb and streamline the oppositional press. Both cases (on Kumtor's credit and Usubaliev's claim) were resolved not in the newspaper's favour - despite appeals, Asaba was ordered to pay a total of 5 million som.

This unthinkable amount actually drove the newspaper into bankruptcy. It ceased publication following the court decision of March 6, 2001 and from that time Asaba journalists were published on the pages of "Respublica." At present Asaba does not come out, and when its founder tried to open three new newspapers, all registration was cancelled (see Section "Registration") in June 2001. This has given a certain "aura" of sacrifice to newspapers that have not yet been seen, which may become a determinant of their future popularity if they are eventually permitted to publish.

On August 16, 2000, chief editor Viktor Zapolsky, deputy chief editor Svetlana Krasilnikova and journalist Vladimir Nochevkin of the weekly private newspaper Delo Nomer were summoned to the Ministry of National Security. They were interrogated in relation to a criminal case against them on the grounds of a state secret disclosure. The MNS insisted that the Delo Nomer newspaper violated the secret of pre-

trial investigation and state secret. According to the journalists, the interrogation was conducted with the violation of norms established by Article 189 (2) of the Criminal and Procedural Code. After the 8-hour interrogation session, the deputy chief editor Krasilnikova was taken to hospital with a severe heart condition.

The newspaper journalists and independent observers associate the beginning of the campaign against the newspaper with its editorial policy and activities. In particular, with the article "Sensational discoveries are made behind closed doors!" (July 26, 2000), which covered the details of the closed court hearing against Felix Kulov, leader of Ar-Namys oppositional party. According to the newspaper's chief editor Zapolsky, the newspaper's problems with the government started with the beginning of the second round of the 2000 Parliamentary elections, i.e. all the elements of structural censorship were applied to the newspaper for political reasons.

## **B2 Case study: Newspaper "Delo Nomer"**

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On August 17, the journalists of Delo Nomer organized an urgent press conference where they told their colleagues from other media outlets about the case on "state secrete disclosure" initiated by the MNS against the newspaper.

On September 19, 2000, between 3:00-6:30 pm, 30 MNS employees conducted a search authorized by the Deputy Procurator General K.Kojonaliev in the offices of the newspaper's chief editor, deputy chief editor and journalist Nochevkin. The houses and apartments of these newspaper employees were subject to search as well. During the time of the search in the newspaper office, all the staff was isolated from the outside world – the office was closed for visitors, all telephone conversations and contacts of the suspects with the rest of the staff were prohibited. As a result of the search, written archive and official government documents were withdrawn from the newspaper safes as well as personal documents belonging to the journalists.

The newspaper staff decided to publish in the newspaper an address to President Akaev with a demand to stop the harassment. They threatened possible political actions if the demand was not met. The address had no response from the White House.

The lawyers of the charged journalists declared rejection of the MNS investigation department as an inherently biased agency, and formulated a demand to put forth criminal charges against the MNS investigator M.Abduhalykov (who was in charge of the search in the newspaper office) based on Articles 27, 322 (Part 1) of the Criminal Code of the Kyrgyz Republic (preparation for a crime, putting forth charges against an innocent person).

Several days later, on November 29, 2000, the chief editor Zapolsky, the deputy chief editor Krasilnikova and journalist Nochevkin were charged under Article 300 of the KR CC (disclosure of a state secret). On January 13, 2001 the newspaper's Chief Editor Zapolsky announced that the MNS intended to prolong the term of investigation into the criminal case against the newspaper.

In all, the MNS Investigation Department worked on the "state secret disclosure" case for almost seven months. The criminal prosecution of Zapolsky, Krasilnikova and Nochevkin on the charges of Article 300, Part 1 of the KR CC was stopped on February 15, 2001 "due to the changed situation." The prosecution measure – a written statement not to leave city – was removed. The General Prosecutor's Office notified the newspaper staff about this seven days after the decision was made, following the newspaper's inquiry.

Almost at the same time as the "case on state secret disclosure" against the "Delo Nomer" newspaper, a court case against the newspaper's journalist Vladimir Nochevkin was initiated. On December 1, 2000 the judge of the Pervomaysky Rayon Court of

Bishkek City, E.Abylkasymov, acquitted the Delo Nomer reporter due to absence of corpus delicti. The essence of the case was the claim against reporter Nochevkin put forward by an individual – the MNS Deputy Minister Colonel Poluektov – based on Article 127 Part 3. of the KR CC (libel associated with the charge on a grave crime or a very grave crime). The foundation for the claim was the article “Copper Secrets of Boris Trofimovich.” The plaintiff, the MNS colonel, demanded to sentence the article author Nochevkin to any term provided by Article 127 Part 3. of the KR CC as well as to impose on him a compensation for moral damage at the amount of 100,000 som. Initially the claim had a more “substantial” amount – 2 million som (about \$40,000) – as compensation for the moral damage of the dignity and reputation of the MNS deputy minister.

On January 23, 2001, a joint session of two Parliament Committees, the Security Committee and the Committee on Information Policy, – took place. The Committees refused to consider the demand of the MNS Deputy Minister Poluektov to interpret the laws with the purpose of charging the journalists of the Delo Nomer newspaper with disclosure of state secrets.

Again in January 2001, a new case against the newspaper was initiated by the claim of Misir Ahirkulov, a former MNS minister and the chief of the Presidential Administration at the moment of the claim. The newspaper won the case.

The chief editor of Delo Nomer, Zapolsky made the following comment on that case and the work of the MNS and its leaders, both former and current: “They have turned their agency into the generator of criminal and political processes that fabricate criminal cases and successfully take them to court.”

### **B3 Case study: Newspaper "Res Publica"**

Created at the beginning of 1992 and one of the first private non-state newspapers in the sovereign Kyrgyzstan, the newspaper Res Publica flourished up to 1993. Its popularity and readership grew, and Res Publica's ratings and profits were among the highest in the media sector. The newspaper also managed to get along well with the government. There was even a period of obvious favouritism from the President with all the resulting perks – trips abroad for the editor with the Presidential entourage, eloquent declarations of mutual appreciation, etc. To support its popularity and prestige, the newspaper tried to be sharp and critical. But if certain high officials got into the field of criticism, the newspaper's policy and practice was not as harsh.

The first serious contradiction of the newspaper with the government took place in December 1993, when following disclosures in Parliament, Res Publica published its article "Kyrgyz Watergate". Here it raised questions on the gold affair and the involvement of the President in suspicious economic deals. As a result, the chief editor Sydykova was called to the General Prosecutor, "for persuasion and warning," as Sydykova was to recall later. Immediately after this the Financial Inspector, sent by the Government, conducted a thorough inspection of the newspaper's accounts and bills. According to Sydykova, all this was accompanied by threats of physical assault from individuals who "did not identify themselves."

By January 1994 the newspaper had moved to the opposition camp and started to fight with the government structures. On the eve of the national referendum on extension of the President's term of office, printing of the newspaper was suspended for two weeks. Since there were no legal or economic reasons (all the bills were properly paid) to reject printing the newspaper, the director of the state-printing house Uchkun, was forced to explain the decision. A.Stamov said that there was a lack of printing plates necessary to print the issue. However, the plates were absent only for this particular newspaper and the deficit was short-lived.

Immediately after publication of the referendum results the newspaper was published regularly. Later, the monopoly on printing services was to be used many times as a tool to put pressure on Res Publica. According to the newspaper's editor and journalists, another monopolist was also used to exert force – the state distribution network Kyrgyzbasmazoz.

By summer 1994, the newspaper had finally and firmly moved to the camp opposing the President. Following the publication of a three-line story commenting on President Akaev's alleged homes in Switzerland and Turkey, the President initiated a civil case against the newspaper for libel. As a result of complicated court proceedings the verdict was that the chief editor, Zamira Sydykova and deputy editor, Tamara Slascheva were found guilty of the crime prescribed by Article 128 p.2 (libel) of the

KR Civil Code and sentenced to imprisonment. They were also banned from all professional activities as journalists.

The next attack on the newspaper was associated with the main gold enterprise of the country, Kyrgyzaltyn. A number of critical articles on its activities and those of the President of the gold enterprise Dastan Sarygulov appeared in 1997. He answered with a claim against the newspaper. Despite a very professional defense, (the paper's lawyer Maximov was reputed to be one of the best in the country), the decision of the rayon court was that editor Zamira Sydykova and author of the articles Alexandr Alyanchikov should be sentenced and imprisoned in the temporary confinement cells in Bishkek. The international community voiced its concern that human rights and other democratic norms in Kyrgyzstan had been violated and that there was a real threat to the freedom of speech. Nevertheless, editor and owner of the newspaper Sydykova spent two and a half months in the cells and journalist Alyanchikov – 11 days. It took a decision by the Supreme Court to acquit both journalists.

Another journalist of Res Publica, Yrysbek Omurzakov, was also arrested in 1997. 'Libel' about bad conditions in a dormitory of one of the factories "cost" the journalist 74 days imprisonment. In essence, the following formula became the norm for the newspaper's relations with the government: the newspaper criticizes the government while the government represses the newspaper and puts its journalists in jail.

One more benchmark in the history of the newspaper was a court hearing, which almost lead to its collapse. On January 14th 2000, Res Publica lost its libel case against the President of the National TV and Radio Company, A.Karypkulov. The court determined the compensation for moral damages at the amount of 200,000 som. From March 2000, based on a letter received from the court, the printing house Uchkun suspended printing of Res Publica. This was despite the fact that the term of contract between Uchkun and the newspaper had not yet expired and the newspaper had not violated the requirement to pay the fine to Karypkulov according to the court decision. It took a great deal of time and effort for the newspaper to defend its right to print and only full payment of all fines helped the newspaper to resume printing.

Besides this form of (economic) pressure in relation to journalists, other forms of pressure were imposed on the newspaper. For example, on March 10, 2000 the newspaper's reporter Abdrasulova was arrested and charged with "participation in an unauthorized demonstration." In essence, the journalist was accused of performing her professional duties, i.e. covering the event that really occurred. The trial took place over seven days and on March 18, after paying the fine of 1,000 som, the journalist was freed. The list of harassments against the newspaper continued to grow. At the same time, the international status and reputation of the newspaper and its editor Sydykova in the battle for freedom of the press was enforced as its

relations with the government worsened. Thanks to the image of fighters for truth and fairness that had been created with the help of the government structures, the newspaper was able to obtain long-term grant support from international agencies and sustain the pressure of economic structural censorship.

Then the government utilized a new mechanism. It isolated the newspaper from the official sources of information. Since the state still remained the main producer and carrier of information, the limitations on access of Res Publica journalists to main sources of information was a disaster for its content. The newspaper gradually lost its factuality, timeliness and adequate coverage of current events. The editor and journalists tried to revive the newspaper and with the hope of keeping his journal, the editor took on some of the staff and creative potential of Asaba, another opposition newspaper that had been driven to bankruptcy. But even this symbiosis has not been able to save either Asaba or Res Publica so far.