

# KYRGYZ REPORTER SENTENCED TO 9 YEARS UNDER WEIRD CIRCUMSTANCES

*By Egamberdy Kabulov, Fergana, Djalal-Abad, Kyrgyzstan*

**Samagan Orozaliev, a journalist from Southern Kyrgyzstan, was sentenced to nine years imprisonment. The court ruled that, using his profession as a journalist, he blackmailed a local politician-businessman. The case went unreported in the media.**

After an appeal by the son of a local businessman, people's deputy Ergesh Torobaev, the part-time reporter with the Kyrgyzstan State Television and Radio Corporation (KSTRC), Samagan Orozaliev, and the driver of his film crew were arrested on May 28, 2001. Torobaev junior had stated that he had paid Orozaliev three hundred dollars so that the reporter would not make public some facts discrediting his father. Immediately after the meeting the reporter was arrested, and three hundred dollars were found in his pocket. Orozaliev denied accepting the money and claimed it had been planted. The journalistic community only came to know of Orozaliev's arrest ten days later, when he managed to pass a petition to the Djalal-Abad regional human rights organization «Justice».

## **NO LACK OF EVIDENCE...**

On Monday, June 25, 2001, the Djalal-Abad region procurator, Kubanychbek Bakiev, held a press conference, with Orozaliev's arrest as its topic. Criminal equipment was displayed at the press conference, including a video camera, a video recorder, a television set, film-editing equipment and more than one hundred video cassettes taken from Orozaliev's film crew; found, as Procurator Bakiev put it, at a «secret apartment». Also presented at the con-

ference was a KTR reporter certificate and a parliamentary accreditation card, which Orozaliev had used to present to people at meetings, even though he had officially from the company as long ago as February 2001. However, he had a letter of reference from the management of the KSTRC program «Zamana» to the Djalal-Abad regional governor, Sultan Urmanaev, with a request to render assistance to Orozaliev as a non-staff correspondent. Officers of the Public Prosecutor's Office also exhibited a license plate with the registration number of Orozaliev's film crew's car, which according to the investigator, actually belonged to another car. The Procurator also stated that a recording existed of Orozaliev's conversation with Bakyt Torobaev, during which the journalist demanded \$1200 from the businessman. However, no recording has so far been presented to journalists.

## **MORE ACCUSATIONS**

Procurator Bakiev also stated that Orozaliev, while not a KTR official correspondent but using a reporter certificate, interviewed officials and then demanded money from them for the non-disclosure of discrediting information. After the reporter's arrest four more people appealed to the Public Prosecutor's Office claiming extortion

ing individuals, but he has refused to name them. However, a few days later the names of some officials who appealed to the Prosecutor's office against Orozaliev's actions became publicly known. These individuals were: Mr Sydykov, head of the Djalal-Abad veterinary laboratory, Mr Shaibekov, head of the regional veterinary service department, and Mr Sheraliev, head of the «Kyrgyzpochta-sy» regional branch.

## **STRANGE COINCIDENCES**

It is interesting that all of them submitted their petitions on the same day - July 20 2001 - and three weeks later the reporter was arrested. It is also interesting that Sydykov and Shaibekov confirmed that Orozaliev had demanded only 230 soms (nearly \$4) and 150 soms (about \$3) respectively. The sum stated in Sheraliev's claim was less absurd: 200 US dollars. The discovery of two cartridges from a Makarov pistol in the film crew's car during Orozaliev's arrest was also reported. But most amusingly of all was the fact that in the car search report, as one lawyer confirmed, no cartridges were mentioned at all.

Procurator Bakiev stated that six lawyers had expressed their desire to defend the journalist, but that he had only chosen two Djalal-Abad public defenders. A lawyer with «Internews Kyrgyzstan», Akmat Alagushev, was granted permission to meet Orozaliev, but the latter had ostensibly rejected the Bishkek lawyer's services. The journalist subsequently

completely denied the procurator's statement that he had rejected Alagushev's offer. This is confirmed in Orozaliev's statement on the granting of the Internews' lawyer as his defence, which was written as soon as the journalist learnt about his arrival. As the result, both the Djalal-Abad lawyer Karabaev, and Alagushev were to defend the reporter. As long ago as two days prior to his arrest, Orozaliev filed an application to the militia stating that Torobaev's people had persecuted him and his film crew and attempted to get into their car. Responding to the question as to why the militia has done nothing about this situation, and whether the application was taken into account during the course of the investigation, Procurator Bakiev said that this case had no relation to the reporter's arrest.

### HEALTH PROBLEMS

It should be noted that officials in the Public Prosecutor's office confirmed that although the withdrawn video records are regarded as criminal equipment, they are not seen as proof of committing the crime. However, according to Bakiev, a commission of experts from amongst journalists will be created, who after having seen all Orozaliev's records will estimate the degree to which they can be treated as an infringement of journalistic ethical standards. However, it wasn't clear which criteria these journalists-experts will use to finalize their conclusion, who will be invited as experts, what influence the Commission's conclusions will have on the court's decision, and why Prosecutor's officials are all of a sudden concerned with the observance of professional standards by journalists. The Procurator has refused to give any answers to these questions.

Answering questions about Orozaliev's possible release because of illness, Bakiev said that the journalist had complained of hypertension, so he had been taken to a regional hospital where a physician has declared him healthy enough to be kept in custody. To the objection made by journalists that only a medical commission com-

The case investigator promised to withdraw the action. However, Orozaliev rejected the deal, claiming he was not guilty of the crime and sure that the truth would triumph in court.

posed of at least three physicians has the right to issue such a medical certificate, rather than a single doctor, the Procurator promised that a more qualified examination of Orozaliev would be conducted as soon as possible.

After the Djalal-Abad area Procurator lost his seat in the middle of July, Orozaliev's relatives hoped that the new head of the Prosecutor's office would change the punishment, so that instead of custody the journalist would be let off with a written undertaking not to leave his place of residence. However, the Prosecutor's demotion brought no results. According to Orozaliev's sister, acting Procurator Rustam Umarov, who had investigated the case and was, according to Orozaliev's sister, a friend of the claimant's family, made it unambiguously clear that there was no hope of a non-guilty verdict.

Under the insistence of physicians, Orozaliev was taken to the cardiologic ward of the regional hospital at the end of July. He was kept there until the start of judicial proceedings. At the end of August the term for legal examination had expired, however at the request of

the investigator the new Procurator extended the term by one month. According to Orozaliev's sister, near to the end investigator Umarov had more than once asked her to talk to her brother to try to get him to make amends with the claimant and ask for his pardon. In return the case investigator promised to withdraw the action.

However, Orozaliev rejected the deal, claiming he was not guilty of the crime and sure that the truth would triumph in court.

### THE COURT CASE

Five months later, on October 19, 2001, the first hearing was held in the Djalal-Abad municipal court. At the beginning of the hearing judge Zamir Simakov prohibited proceedings from being filmed by a regional television operator. The judge and defendants weren't against the television reporter's presence, but the judge had to stop filming due to a protest by the claimant. Although the claimant and procurator were against it, Judge Simakov allowed a public defence attorney representing the regional human rights organization «Justice» to participate in the proceedings. The judge also allowed Internews lawyer Akmat Alagushev, to defend the accused. In interviews before the court proceedings each of the parties had stated their merits and claimed they had every prospect of winning the case, and the defendant, as expected, did not admit his guilt. Before the hearing, defence lawyers said that the

worse case scenario was a two-year custodial sentence, however, the sentence imposed exceeded all predictions. Orozaliev was sentenced to nine years' imprisonment and confiscation of property, and Topchuev was sentenced to eight years.

### **OUTRAGEOUS SENTENCE**

Lawyers, human rights defenders and journalists observing the proceedings unanimously declared that the sentence was too severe, and that no direct evidence of Orozaliev or Topchuev's guilt had so far been presented. Lawyers at once filed an appeal to the higher court. The appeal was to be considered on December 19, 2001, but due to the absence of some judges for unknown reasons, the appeal was postponed until December 27. However, it became clear that the appeal would again remain unconsidered because the claimant, Bakyt Torobaev, was under-

going medical treatment in Bishkek. Alagushev believes that the verdict of the municipal court is illegal. For example, in it there is no reference to evidence proving that a crime was committed. He is also sure that it is now completely impossible to predict what the Court of Appellate Jurisdiction's verdict will be.

### **SILENCE OF THE PAPERS**

During the whole period of court proceedings not a single newspaper published an impartial article about it. Moreover, the topic became taboo for all print media in the region and the republic, because all newspapers are state-owned. For example, twenty-five journalists were present at Procurator Bakiev's press conference, but no one published a single word about it. Some Djalal-Abad journalists gave their opinions concerning the Orozaliev case to this author, but asked not to be named.

All the author's attempts to publish articles about Orozaliev and his case have ended unsuccessfully, and all newspapers have rejected them. Information on Orozaliev's case could only be found on the Internews website and on the website of the state news agency Khabar.

However on Khabar's site there was an article signed by N. Kabulov, in which, in the spirit of Soviet times, the author wrote about Orozaliev's unconditional guilt. All attempts to find the author of this article were in vain, as she or he is unknown to Bishkek's journalists. The first impartial articles about Orozaliev's case appeared only in Moya Stolitsa and Fergana in November 2001, when these papers restarted printing after a four-month silence. This had been ostensibly caused by improper registration with the Ministry of Justice, which was in fact the fault of the ministry itself.