

MASS MEDIA OF KAZAKHSTAN CONFRONTED BY NEW CHALLENGES

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Kazakhstan's imperfect news media legislation hampers free operation of independent mass media. That was the main issue of the conference "New Challenges to the Mass Media in Contemporary Kazakhstan", held June 13-14 in Almaty.

The conference was organized by the Almaty OSCE Center in cooperation with the European Commission, International Fund for the Protection of Freedom of Expression "Adil Soz" (Kazakhstan) and Friedrich Ebert Stiftung. Numerous problems the Kazakhstani news media encounters today were identified by head of the Almaty OSCE Center Heinrich Haupt as he opened the conference. These included; criminal attacks on reporters and editorial offices linked to the democratic opposition of Kazakhstan, the concentration of news media in the hands of people close to the political leadership of the republic, restricted circulation of foreign digital media, blocked access to opposition Web sites, pressure on critical mass media by government and administrative authorities. The conference participants laid special emphasis on the need to improve a legal framework for Kazakhstani media activities to meet the guidelines of OSCE, UN and other international organizations of which this country is a member.

MEDIA LAW VIOLATION

What Kazakhstani journalists are seriously concerned about is shut-downs or suspensions imposed on various mass media as

well as cancellation of television and radio channels' licenses through court. The Fund for the Protection of Freedom of Expression, "Adil Soz", distributed to the participants a list named "News Media under Persecution". This document included more than 30 print and digital media outlets whose circulation was banned between January and May 2002, or whose fate will be decided by court. Remarkably, television and radio channels constitute the majority of items on the list.

Deputy Minister of Culture, Information and Social Concord (MCISC) Ardak Doszhan made a review of the current situation regarding mass media, and primarily, the functioning of radio and television channels in Kazakhstan. He said the licenses of a number of TV channels were canceled because the channels' leadership failed to organize work so as to use television frequencies for the 'public benefit'. By the 'public benefit' it is probably meant observance of Article 14 of the Mass Media Law restricting retransmission of foreign programs and Article 18 of the Language Law whereby 50 percent of programs must be broadcast in the state (Kazakh) language. It followed from Ardak Doszhan's report that it was precisely the

language balance issue that prompted the State Commission in charge of holding a tender for assigning television and radio wavelengths to recommend canceling the licenses of a few television channels that the Adil Soz Fund had put on the list of "News Media under Persecution". Among them was the Adal TV company from the city of Atyrau. Ardak Doszhan said the company did nothing except retransmit the MTV channel and failed to produce programs of its own in spite of the fact that the city and province are mainly populated by the Kazakhs.

ART. 19 VS. ART. 350

Meanwhile, Kazakhstani participants remained skeptical of Ardak Doszhan's arguments despite his references not only to law but also to the evidence of Gallup Media Asia, an independent investigative structure. In April 2002 Gallup Media Asia carried out MCISC-commissioned monitoring of programs transmitted by 19 television and radio companies of Kazakhstan. "The Ministry of Culture is an instigator of legal prosecution of the news media," said Adil Soz's president Tamara Kaleyeveva as she addressed the conference. According to her, quite a number of laws immediately affecting mass-media activities were adopted privately, without public debates. "What we need to do now is to purge the existing laws of antiquat-

ed provisions,” Tamara Kaleyeva pointed out, referring to Article 350 of the Code on Administrative Violations. She described this tiny article as a ‘sledge hammer the Culture Ministry used to maul news media organizations’. The article specifies strict procedures for date-line announcement. This is so that the slightest mistake may result in the suspension of a publication or TV company that fails to suit the book of the authorities.

Altogether, many conference participants every now and then reverted to the question as to how well the Kazakhstani news media laws meet international guidelines and enforcement procedures. Helpful in this respect was a memorandum focusing on Kazakhstan’s news media legislation – a document prepared by the London-based ARTICLE 19, Global Campaign For Free Expression, based on the request of the OSCE in Almaty and presented to the conference by ARTICLE 19’ officer Mr. Kenneth Bhattacharjee. The memorandum reads, “Freedom of expression, a fundamental human right, is protected by Article 19 of the Universal Declaration of Human Rights (UDHR).” Meanwhile it follows from the comments that quite a number of law provisions affecting the news media are inconsistent with the guarantee of freedom of expres-

sion. Libel, for one, is an act subject to criminal punishment in Kazakhstan, which means that “there is always the potential for abuse of criminal defamation laws”, states ARTICLE 19.

Moreover, the Criminal Code of Kazakhstan provides specific protection for the President, Deputies of Parliament and State Officers. The penalties for defaming such officials are higher than for ordinary citizens. “Under no circumstances should defamation law provide any special protection for public officials. It is now well established in international law that such officials should tolerate more, rather than less, criticism,” ARTICLE 19 continues.

LEGAL AND ETHIC ISSUES

The conference participants were also given international expert opinion on the very same Article 350 of the Code on Administrative Violations, which provides severe sanctions for the violation of the procedure for date-line announcement. “The seizure of editions and technical facilities or suspension of a mass media outlet for procedural violations of the law is disproportionate. Seizure and suspension are very harsh sanctions, which should be applied, if ever, only in extreme cases of repeated and gross abuse of the law,” the Memorandum states.

Apart from legal aspects, at issue was also professional ethics. Central to the discussion was the question as to whether the Kazakhstani mass media needs a code of journalistic ethics. It was a difficult question as nobody had any idea about what it was supposed to be and what effects it was likely to have. The conference participants remembered that not only reporters but even the President has repeatedly pointed to the need for adopting a code of professional ethics. Many saw the idea as the government’s wish to get one more instrument for pressurizing the mass media. “If adopted, the code must not be law-like,” said chairman of Kazakhstan’s Union of Journalists Seytkazy Matayev. Besides, it would be premature to speak about a unified code of ethics for journalists in Kazakhstan as there is no developed professional community that would be able to support journalists on solid ethical grounds. “What really matters is determining a reference point. Hardly shall we be able to build even a code of taboos,” pointed out Russian National Press Institute expert Yury Kazakov. Debates resulted in the addition of an item to the conference’s draft recommendations stating that it was up to every media team to draw up a code of professional ethics and to adopt them on a strictly voluntary basis.