

Kazak Newspaper Fights for Survival

Major bank wins court claim that press reports damaged its reputation, while newspaper says it is being punished for its critical stance.

A leading newspaper in Kazakstan, Respublika, says its future is threatened after a state-owned bank successfully sued it for 400,000 US dollars over an article which it said damaged its reputation.

The bank, BTA, was nationalised in February this year after being affected by the global financial crisis. Most banks in Kazakstan were finding it increasingly difficult to raise money on international markets while their domestic loans suffered as borrowers found themselves unable to pay.

The newspaper says it cannot meet the damages award of 60 million tenge in local currency, and will be ruined. Its defenders claim that the lawsuit is a political move to close it down, and that this would be a major blow to media freedom in the country.

The newspaper is struggling even to pay a third of the damages, which would avoid chief editor Guzal Baidalinova being jailed for failure to pay, but it remains defiant.

Staff plan to raise money by selling a booklet and CD about BTA Bank. The booklet will include comic strips, poems, photos and funny stories in the Russian and Kazak languages. The campaign slogan is, "Let's help Respublika and get one up on BTA Bank".

On September 9, the Medeu District Court in Almaty, found in favour of BTA Bank's claim against Respublika. Judge Marat Maksudov agreed that statements made in a March 6 article were contrary to the facts and caused "moral damage to the business reputation of the bank". The judge bound the defendants to publish a disclaimer and to pay 60 million tenge to the plaintiff on behalf of the owner, publisher and editor-in-chief of the newspaper.

The newspaper asked to be allowed to pay using Eurobonds belonging to Baidalinova which were issued by a BTA-affiliated company and, but the bank rejected this proposal.

On September 18, six days before the deadline for an appeal against the ruling, all copies of the newspaper were confiscated at the print works and the accounts of the newspaper owner and the publisher were also seized.

On October 29, the Almaty City Court heard the newspaper's appeal and upheld the damages award.

Asked whether his decision took the newspaper's financial situation into account, Judge Marat Maksudov said, "We did consider everything; we considered the degree of reputational damage caused by the published material."

A spokesman for BTA Bank, Adil Dosymov, said the amount claim was based on the fact that "deposits started flowing out [of the bank] at exactly the same time as the newspaper started discrediting our business reputation, and these calculations were upheld by the court."

Describing the newspaper's offer to pay in Eurobonds as "its latest attention-seeking ploy", Dosymov said the bank could not accept these securities in settlement, first because all payments to creditors had been suspended and second because the newspaper wanted to settle at the Eurobonds' face value rather than at their current market price.

Staff at the newspaper and media rights advocates believe the court case was instigated at the behest of the Kazak authorities, who wanted to shut down this major independent news source without being seen to be involved.

"We regard this as a politically motivated lawsuit," the deputy editor-in-chief of Respublika, Oxana Makushina, told IWPR. "First, the claim was not prepared very competently. When experts reviewed a table allegedly proving that deposits flowed out from March 6 to 13, they saw that there was actually an inflow in that period. But no one mentioned that anywhere. All the court decisions were in favour of the plaintiff, while our arguments went virtually ignored."

Dosymov rejected suggestions that BTA's legal action had anything to do with politics.

"We have protested about this case being politicised, since it is solely about journalistic ethics. The editorial office is deliberately interfering in the bank's affairs and undermining its business reputation," he said.

Yermuhamet Yertysbaev, advisor to the Kazak president on political affairs, also denied said,

"Respublika newspaper is absolutely no danger to the political system. I therefore see no political context to the newspaper's closure. It's another matter that the newspaper is really guilty of permanently undermining the bank's image during the banking and financial crisis. Since the bank is a core bank with an extensive network, then, de facto, the newspaper did act against the state," he said.

Despite this, said Yertysbaev, he would like the paper to survive.

"I would not want to see Respublika closed, or any other newspaper. Actually, I am really interested in having more newspapers like it. I am interested in reading this newspaper, in seeing the actions of our political opponents. Moreover, I always have a chance to give my feedback on the pages of this newspaper," he said.

Tamara Kaleeva, who heads the speech group Adil Soz, said the claim began as a purely civil case could have been settled in court, but this then changed.

"The facts that immediately before the decision came into force, the newspaper's capacity to print was blocked, and that the bank does not want to accept its own securities as repayment, makes me think that this is a political lynching," she said.

"However much bank officials deny there is a political aspect to it, all the circumstances indicated that

political instructions were issued to liquidate the newspaper.”

The head of the Union of Journalists in Kazakstan, Seitkazy Mataev, is also inclined to believe that the bank’s claim was more than just an economic dispute.

“As for the claim – whether it was a political order, and who is behind it – all I can say is that it is the authorities. They just don’t like the newspaper’s position,” he said. “Opposition newspapers account for only one per cent of the Kazak media market and [the closure of] newspapers like Respublika and Tasjargan is a big loss.”

Adil Soz reported in February that Tasjargan had been ordered to pay 25,000 dollars in a defamation case.

Kaleeva agreed that Respublika was an important part of the media landscape.

“We have few independent newspapers that can give firm and fair criticism of government and non-government institutions. There will be no such newspaper once Tasjargan and Respublika close down,” she said.

In the meantime, Respublika and its staff are convinced it is their dissenting voice that made them a target for legal action and are focusing on the fight for survival.

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