

MASS MEDIA

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We have been informed about searches and arrests in a number of most prominent Belarusian media. This information is of great concern for the Council of Europe. Moreover, some of those concerned are our long-standing partners well known as high-level professionals. Legislation must be respected but investigations do not always require arrests which should be used as an ultimate tool.

***Daniel Hölting,
Spokesperson of the Secretary General
of the Council of Europe***

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We have received reports about searches and arrests of journalists from a number of independent media in Belarus. These actions contradict to the declared policy of democratization and international obligations of Belarus. The respect for fundamental rights and freedoms, including the freedom of expression and the freedom of the media, must be preserved. We join the calls to release the detainees.

***Federica Mogherini,
EU High Representative
for Foreign Policy and Security***



Situation in Belarusian Mass Media Field in July – October 2018

The situation in mass media field in Belarus remained to be tense in Belarus in July – October 2018, despite the conducted dialogue between Belarus, the European Union and the United States. (It should be underscored that among other it concerns the issues, connected with human rights.)



The Belarusian authorities continued administrative prosecution of freelance journalists for their cooperation with foreign media without the press credentials.

The number and general amount of fines, imposed on the Belarusian freelance journalists on the base of article 22.9 part 2 of Belarus Code of Administrative Offenses ('Illegal production and/or dissemination of mass media products') since January till August 2018 reached the numbers for the whole previous year, which used to be the record beating one. In particular, **freelance journalists were fined 69 times** on the base of article 22.9 part 2 of Belarus Code of Administrative Offenses by courts in 2017 to be compared to **over 90 fines on court decisions**, exceeding 80,000 Belarusian rubles (around 33,000 EUR) within the period since January till the end of October 2018.

Several criminal cases were in the focus of public attention within the period under review. They were predominantly targeting the journalists and the management of the largest Belarusian Web-portal 'TUT.BY' and the leading independent



news agency 'BelaPAN' (the so-called 'BeITA case' and criminal prosecution against the 'BelaPAN' founder and CEO Ales Lipay).



As before, there's blocked access to popular news Web-sites www.charter97.org and belaruspartisan.org from the territory of Belarus. The official authorities continue the implementation of extrajudicial blocking of acces to Web-resources. In particular, **the Ministry of Information of Belarus announced the blocking of access to at least 47 Web-sites** within the reporting period. (The Web-resources were mainly blocked for the alleged violation of legal norms on advertising, which do not envisage such penalties.)

The amendments to the Belarus Law 'On Mass Media', which reinforce the state control over the Internet, have been approved by the Constitutional Court of Belarus and published officially on the National Legal Web Portal. They will come into force since December 1, 2018.

In particular, the following changes will take place, according to the amended Law:

- **Web-resources will have the possibility of voluntary registration as mass media, however, the unreasonably complicated authorization procedure for this registration will be retained;**
- **the Web-resources, which fail to get the registered status, will be deprived of all rights of mass media and their correspondents will be deprived of their journalist status. However, all liability measures, which are stipulated by the Law 'On Mass Media', will be extended to them;**
- **the Ministry of Information will retain the authority of extrajudicial blocking of Web-resources; a range of additional grounds for blocking will be introduced at that (e.g., the use of Web-resources for implementation of activities, which are banned in accordance with legislative acts of Belarus);**





- **the owners of Web-resources will be obliged to identify the commentors on their Web-pages and forums as well as moderate their comments under the threat of legal liability for them.**



The additional liability will be established in relation to the owners of Web-resources in corresponsence with new amendments to the Code of Administrative Offenses (article 22.9 'Violation of Mass Media law'). In particular, there will be introduced fines for dissemination of banned information – max. 200 base amounts for mass media, including the Web-sites, which are registered as mass media and max. 100 base amounts for the owners of Web-resources, which are not registered as mass media in the country (approx. EUR 2,000 and EUR 1,000, respectively). The police officers will be responsible for control over observance of the media legislation in this field.



The 'BelTA Case'

On August 7, 2018, the Legal Investigation Committee of Belarus spread information on the launch of a criminal case under article 349 part 2 of the Belarus Criminal Code ('the unauthorized access to computer information, made out of personal interest that caused significant damage') that envisages the maximum punishment in the form of imprisonment for the term of up to two years.

According to the official version, following the claim, submitted by the state-owned BelTA News Agency, the Ministry of Interior officers conducted a check and identified numerous cases of illegal access to the information, owned by BelTA. In particular it was figured out that a number of persons had illegal access to the BelTA premium subscription service by means of using the passwords, which didn't belong to them. According to the statement of the Legal Investigation Committee of Belarus, the illegal activity was conducted by executives from 'Belaruskaya navuka' Publishing House, 'BelaPAN' Closed Joint Stock company and 'TutBy Media' Ltd.



A number of searches were conducted at the 'BelaPAN' News Agency, TUT.BY Web-portal and the editorial offices of some other media as well as at private apartments of their employees on August 7-9, 2018. Professional technical equipment and information carriers were seized from owners during the searches. Consequently, there were detained the BelaPAN Editor-in-chief Iryna Leushyna and the company's international observer Tatsiana Karaviankova, the TUT.by Editor-in-chief Maryna Zolatava as well as as editors Hanna Kaltyhina, Halina Ulasik, and Hanna Yermachonak, the DW correspondent in Belarus Pavel Bykouski, and the 'Belarusy i rynek' newspaper's Web-site editor Aliaksei Zhukau. All of them spent several days in custody.



Before release, all of them were forced to sign a non-disclosure agreement. All in all, 18 people were interrogated within the case.

The legal investigators' actions **evoked protests** on the part of human rights defenders, journalist organizations and international structures, including the Council of Europe, the EU, and the OSCE Representative on Freedom of the Media.

According to the Belarusian Association of Journalists, the claims regarding the alleged damage to BelTA should have been considered in civil proceedings. The article of the Criminal Code of Belarus, which was used as a reason for detaining journalists and conducting searches at their places of work and residence, is aimed at the hackers, who break computer defense systems, not at the media workers, who have received passwords from some colleagues of theirs.

Moreover, it should be underscored that all news of BelTA News Agency are publicly available, since the organization is funded from the state budget and created for distribution of governmental information. (Moreover, the media organization enjoys preferences in access to this information.) The subscription allows receiving the news updates just 15 minutes before they are published on the BelTA News Agency's Web-site. TUT.BY and BelaPAN faced the most serious pressure within the case. However, it should be mentioned that both companies obeyed to all BelTA rules concerning the use of its information for further distribution. **The Belarusian Association of Journalists believes** that the prosecution of these independent Web-resources is connected with their high popularity with the audience that exceeds by far the popularity of state-owned Web-resources, including BelTA.



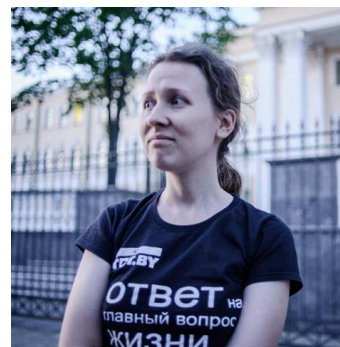
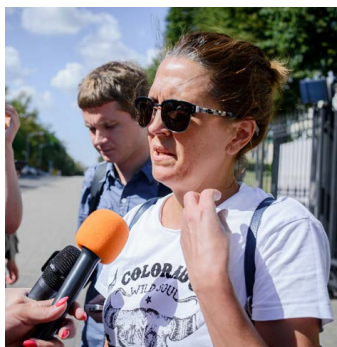
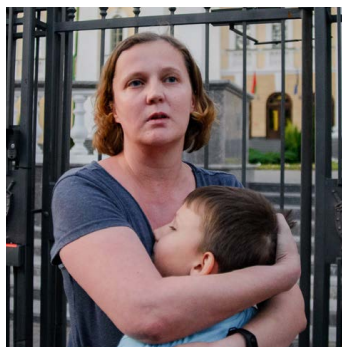
The suggestion was confirmed by the fact that criminal proceedings had been initiated in relation to the BelaPAN founder and CEO Ales Lipay earlier this year, on June 12, 2018. He was accused of the alleged intentional evasion of income tax on a large scale (article 243 part 2 of the Criminal Code of Belarus). **The Belarusian human rights organizations noted that the case was politically motivated** and linked it to the general trend towards reinforcement of pressure on non-state media and Web-resources in Belarus, including the introduction of amendments to the Mass Media law.



Ales Lipay passed away at the age of 52 on August 23, 2018. **Consequently, the legal investigation on the criminal case was terminated** in connection with his death on September 12, 2018.

The authorities started bringing charges to the defendants on the ‘BelTA case’ in early November 2018. Consequently, **the charges were filed against 14 journalists**. It is possible that the number is not final. Following the presentation of charges, the legal investigators offered the journalists to compensate the financial losses, allegedly caused by them to BelTA and some other state-owned media, which passwords had supposedly been used to enter the BelTA premium subscription news string. According to the legal investigators, it may lead to termination of criminal proceedings and their transformation to administrative cases (article 22.6 of the Belarus Code of Administrative Offenses stipulates the penalty in the form of fines in the amount of 20 – 50 base amounts, i.e. the equivalent of approx. EUR 500 – 1,225).

The amount of damage offered for reimbursement and the method of its calculation are considered by the legal investigators as an investigative secret. However, **some journalists have noted** that the sums vary from 3,000 BYN to 17,000 BYN (approx. EUR 1,250 – 7,000). Most journalists decided to agree to pay out the alleged damages. The Belarusian Association of Journalists considers the decision as the forced step on their part to avoid much more serious punishment on the criminal charges and other unfavorable consequences, related to the criminal liability. However, it should be noted that the reimbursement of damages doesn’t guarantee the termination of criminal prosecution of the accused media workers.





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