

Belarusian Association of Journalists (BAJ)

**MASS MEDIA IN BELARUS
2010**

ANNUAL REPORT

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CONTENTS

1. VIOLATIONS OF FREEDOM OF SPEECH IN BELARUS IN 2010 (Summary)	3
1.1. Development of Situation	3
1.2. The State of Mass Media in Belarus	3
1.3. Violations of Media and Journalists' Rights in the Election Period	5
1.4. Conclusions	6
2. CHANGES IN MEDIA LEGISLATION	7
3. THE CHRONICLE OF VIOLATIONS OF FREEDOM OF SPEECH IN BELARUS IN 2010	11
3.1. The Main Violations of Media and Journalists' Rights in January – June 2010	11
3.2. The Main Violations of Media and Journalists' Rights in July – December 2010	15
3.3. The Main Violations of Media and Journalists' Rights at the Presidential Election on December 19, 2010 and during the Post-election Period	16
4. SOME ASPECTS OF VIOLATION OF PRESS FREEDOM IN BELARUS	19
4.1. Summons to State Bodies. Warnings of Prosecutor's Office and Ministry of Information	19
4.2. Pressure on Journalists on the Occasion of the Criminal Case on the Libel Against a KGB General	27
4.3. Accreditation of Journalists. Access to Information	30
4.4. Conflicts Related to Obtainment and Dissemination of Information from Abroad or Activities of Foreign Mass Media	39
4.5. Infringements on Journalists' Rights during the Presidential Election and in the Post-Election Period	42
SUPPLEMENT: OPINION ON THE WARNING ADDRESSED TO THE BELARUSIAN ASSOCIATION OF JOURNALISTS ON 13 JANUARY 2010 BY THE MINISTRY OF JUSTICE OF BELARUS – Adopted by the Venice Commission at its 85th Plenary Session (Venice, 17-18 December 2010)	49

1. VIOLATIONS OF FREEDOM OF SPEECH IN BELARUS IN 2010

1.1. Development of Situation

The Local Elections and the much more important Presidential Election were held in Belarus in the year 2010. Although the latter was to take place in February 2011, the governmental authorities made up a decision to conduct it two months before the term. Situation with freedom of speech and other civil political rights and freedoms usually deteriorates in the country at the time of large political campaigns and on the eve of them. However, the situation followed a somewhat different scenario in 2010.

The pressure on media outlets and journalists increased in the first half of the year. There were conducted KGB searches under the pretext of criminal proceedings on a criminal defamation case, filed by a KGB general Korzh, at private apartments and working places of independent journalists Sviatlana Kalinkina, Maryna Koktysh, Natallia Radzina, and Iryna Khalip. The KGB agents seized the media workers' computer equipment from their flats as well as from the "Narodnaya Vola" and "Charter'97" editorial offices. It should be emphasized that the technical equipment hasn't been returned to the journalists within the course of a year, despite the fact that they are regarded only as witnesses to the case.

The Ministry of Information of Belarus issued official warnings to the editorials of leading non-state newspapers "Narodnaya Vola" and "Nasha Niva" as well as to "Komsomolskaya Pravda in Belarus" that boasts one of the largest circulations in the country. "Nasha Niva" and "Narodnaya Vola" received three and four official warnings respectively from the Ministry of Information within the year 2010. (In order to close down a media outlet judicially, it is enough to issue two official warnings and even one warning in a number of cases (!) on any insignificant reason within a year.

A journalist and a civil activist **Aleh Biabienin** was found dead in his summer house on September 3, 2010. The journalists, who doubted the official version of suicide, received threats from the unidentified people.

The pressure on mass media somewhat decreased in the second half of 2010. Obviously, the trend was caused by a strong desire of official authorities to win the EU structures' appraisal of the Presidential election procedures.

However, the hopes were ruined, owing to the disproportionate use of power by riot police on the election day of December 19, 2010 and the following repressions that affected different social groups, including journalists.

1.2. The State of Mass Media in Belarus

According to the Ministry of Information of Belarus (<http://mininform.gov.by/rus/smi/pechat/>), 1,344 printed periodical editions were registered in Belarus as of **January 1, 2011**. The official authorities purposefully emphasize that only 397 of them are owned by the state. However, they fail to note that the majority of non-state printed media deal with such specific areas as entertainment, advertising etc. According to the BAJ monitoring

outcome, there aren't more than 30 registered non-state socio-political media in Belarus nowadays. Almost a half of them were expelled from the state-owned networks of press distribution by subscription and at retail before the previous Presidential election in 2005. The media haven't been returned to the distribution networks up till the present moment. Absolutely all independent socio-political periodicals face complications with attracting advertisers etc. As a result of economic, political, and legal discrimination of independent media, their number has decreased twice within 10 recent years. Consequently, none of officially registered independent newspapers can be found in some Belarusian regions (e.g., in Homiel region). At the same time, the Ministry of Information rejects to register new media outlets under farfetched pretexts.

Just on the contrary, the state-owned media enjoy administrative support, various preferences, and budgetary financing. 167,185,329.3 thousand Belarusian rubles (approx. EUR 40 million) were issued from the national budget only to meet the goal in 2010. The amount of national budgetary subsidies to the state-owned media outlets has totaled 214,728,238.9 thousand Belarusian rubles (approx. EUR 54 million) in 2011. More than EUR 43 million out of the sum got directed to funding the state TV and radio broadcasting in the country.

The situation with TV and radio broadcasting media in Belarus corresponds even less to the generally accepted democratic standards. The overwhelming majority of officially registered TV and radio programs belong to the state, i.e. 165 out of 237 media outlets. The remaining 72 non-state electronic media are fully controlled by the local and national governmental authorities, due to the existing system of broadcast licensing in Belarus. Thus, a popular "Autoradio" FM-radio station was deprived of its right to broadcasting at the beginning of 2011 for presenting the election addresses, delivered by opposition candidates Andrei Sannikau and Uladzimir Niaklayeu on the eve of the Presidential election 2010. (Broadcasting of election addresses is allowed by Belarusian legislation.)

The Internet remains to be the most liberalized sector of information space in Belarus. The number of Web-users exceeds 4 million people in Belarus nowadays. (The number of regular Internet users is considerably smaller. However, it is gradually increasing with time.)

The Belarusian official authorities have reacted to the reinforced importance of Internet for Belarusian people by making attempts to take control over the Web. Consequently, Presidential Ordinance No. 60 of February 1, 2010 ***"On the Measures to Improve the Use of the National Segment of the Internet Network"*** / The National Registry of Legal Acts of Belarus, 2010, No.29, 1/11368/ came into effect on July 1, 2010. 12 by-laws were adopted in the pursuance of the ordinance within the course of a year.

Accordingly,

- all Web-resources, providing their services in Belarus, were obliged to get transferred to Belarusian servers and get officially registered in the country;
- there was introduced obligatory personal identification of Wi-Fi users and cybercaf visitors;
- the modems of individual Web-users were to get identified;
- the Web-providers and mobile operators were obliged to install the CORM software for the spying purposes of KGB and police authorities;

- the authorities were to complete “black lists” of Web-sites, banned for visiting from the state institutions that domineer in the country as well from the educational and cultural establishments, such as libraries, schools, universities etc. Moreover, it was envisaged that other Internet users could apply for disabling access to the Web-pages from their computers.
- Reportedly, there has been worked out a draft bill, providing for punishment under criminal and administrative law for breaking the abovementioned requirements.

The Internet users’ access to the majority of independent Web-resources that covered the Presidential election was disabled on the polling day of December 19, 2010.

Among other, it was impossible to visit the Web-sites of <http://charter97.org> (“Charter’97”), <http://belaruspartisan.org> (“Belorusskiy Partisan”), <http://gazetaby.com> (“Salidarnasc” On-line newspaper), <http://ucpb.org> (The United Civil Party), <http://udf.by> (The United Democratic Forces), <http://electroname.com>, <http://bchd.info> (The Belarusian Christian Democracy), and <http://spring96.org> (“Viasna” Center for Human Rights).

Periodically, there appeared problems with access to the Web-pages of “European Radio for Belarus”, Radio Liberty – <http://svaboda.org>, and <http://zapraudu.info> (“Tell the Truth!” civil campaign). Moreover, the Web-users couldn’t enter their **Google**, **Facebook**, and **LiveJournal** accounts. The access to the Web-sites of popular anonymizers was disabled as well.

1.3. Violations of Media and Journalists’ Rights in the Election Period

The Presidential election 2010 was accompanied with mass violations of media and journalists’ rights.

Several journalists of Belarusian and foreign media that covered a rally, arranged by a Presidential candidate Uladzimir Niaklayeu and his supporters, towards the city center of Minsk, were knocked down and beaten by a group of security agents together with the rally participants before the closure of polling stations on December 19, 2010. While confiscating the candidate’s loudspeaker equipment, the masked offenders indulged in seizing and breaking the journalists’ professional photo and video equipment, disregarding the press cards and credentials available.

Detentions and physical attacks on journalists continued after the protest action in the evening of December 19, 2010. According to the BAJ updates, no less than **27** media workers were detained then. More than **21** reporters were beaten hard by the riot police. **13** journalists were sentenced to 10-15 days of custody under administrative law.

Seven media workers and BAJ members have been accused of breaking article 293, parts 1 and / or 2 of Belarus’ Criminal Code (“Mass riots”). The list of media workers includes **Natallia Radzina**, the “Charter’97” Web-site Editor, **Iryna Khalip**, a “Novaya Gazeta” (Russia) newspaper correspondent as well as the alternative Presidential candidates’ activists **Siarhei Vazniak**, the “Tovarisch” newspaper’s Editor-in-chief and a BAJ Board member, **Pavel Seviarynets**, a BAJ Council member, **Alaksandr Fiaduta**, an independent columnist, **Alaksandr Atroshchankau**, a spokesman for **Andrei Sannikau**, and **Dzmitry**

Bandarenka. Alaksandr Atroshchankau has been sentenced to 4 years of imprisonment in a strict regime colony. The other media workers are threatened with up to 15 years of jail. A. Fiaduta, P. Sieviarynets, and D. Bandarenka are retained in custody. I. Khalip was released from the KGB isolation ward and placed under house arrest with very strict conditions at the end of January 2011. N. Radzina and S. Vazniak were released from jail, having signed written undertakings not to leave the places of residence until the trial.

The wave of repressions against media outlets and media workers continued in the aftermath of the election. Numerous journalists, civil activists, and human rights advocates were summoned to the KGB interrogations. The KGB searches were conducted at media editorials as well as at journalists' private apartments.

Thus, the Minsk bureau of "*European Radio for Belarus*" was searched by the KGB agents in the absence of the editorial staff on **December 25, 2010**. The state security agents seized no less than 43 items of office equipment, including a server, PCs, laptop computers, dictaphones, photo cameras, and portable video cameras.

The KGB agents broke into the Minsk office of "*BelSat*" independent satellite TV Channel at night on **December 26, 2010**. They used a special electric saw to open the door. However, practically nothing could be found at the moment of the raid in the office, since the journalists had taken the equipment and left the premises several days before. The "*BelSat*" satellite TV Channel broadcasts its programs from the territory of Poland. It doesn't have any official status in Belarus. The KGB conducted searches at private apartments of four journalists, cooperating with "*BelSat*", and seized the reporters' laptops and video-cameras within a couple of days afterwards.

Another search was conducted at the premises, shared by the *Belarusian PEN* and the "*Nasha Niva*" newspaper editorial, in Minsk on **December 28, 2010**. The KGB agents seized the editorial computers, flash drives, and CDs. Besides, a KGB search was conducted at the private apartment of "*Nasha Niva*" Editor-in-chief **Andrei Skurko**.

The KGB agents conducted a search at **Yulia Darashkevich's** private apartment on **December 31, 2010**. They seized the "*Nasha Niva*" photo correspondent's portable HDDs, 2 laptop computers, and a dictaphone.

On the same day, the KGB agents searched a private apartment, belonging to **Tatsiana Haurylchyk**, a "*Nasha Niva*" cameraperson. The media worker was summoned to the KGB head office for "a talk" on **January 3, 2011**. Ms. Haurylchyk refused to obey, since her attorney wasn't allowed to accompany her during the talk. On the following day, an unknown person phoned to the journalist and menaced her with beating.

1.4. Conclusions

As before, the situation in the Belarusian media field falls short of democratic standards.

Moreover, the legislative regulation of freedom of speech has toughened considerably alongside with the media law enforcement policies in the country.

The most significant events in the Belarusian media field in 2010 were as follows:

- Enactment of legal acts, aimed at regulation of activities in the national segment of the Internet;
- Numerous gross violations of media and journalists' rights on the Presidential Election Day 2010 and during the following months.

2. CHANGES IN MEDIA LEGISLATION

On February 1, 2010 the President of the Republic of Belarus signed ordinance No. 60 *"On the Measures to Improve the Use of the National Segment of the Internet Network"*.

According to it:

- all Belarusian online resources that provide services to Belarusian citizens should be transferred to the domain zone ".by" and to Belarusian servers and get registered,
- visits to Internet cafes and other sites of shared access to Internet are only possible upon presentation of identity documents,
- modems of individual users through which they connect to Internet are also identified,
- providers (as well as operators of mobile networks) install LESS (Law-Enforcement Support Systems) accessible to the KGB and the Ministry of Internal Affairs,
- lists of online resources, access to which is mandatorily restricted for the state institutions of education and culture (libraries, schools, universities, etc.), as well as for citizens at their request, are established.

During the year, various state agencies adopted twelve regulatory acts in furtherance of the decree No. 60.

On March 19 the Ministry of Communications and Informatization adopted resolution No. 4 **"On Delegating Some Powers of the Ministry of Communication and Informatization of the Republic of Belarus"**.

The Ministry of Communications and Informatization authorized the Republican Unitary Enterprise for Oversight of Telecommunications "BelGIE", among other things, to carry out the state registration of information networks, systems and resources of the national segment of Internet located in the territory of the Republic of Belarus.

On April 29 the Council of Ministers adopted the resolution No. 644 **"On Some Questions of Streamlining of Use of the National Segment of the Global Computer Internet Network"**.

The resolution approves the Regulation on the order of the state registration of information networks, systems and resources of the national segment of the global computer Internet network located in the territory of the Republic of Belarus and establishes the term of their registration – before July 1, 2010.

On April 29 the Council of Ministers adopted resolution No. 645 **"On Some Questions of Internet Sites of the State Agencies and Organizations and on Annulment of the**

Resolution No. 192 of the Council of Ministers of the Republic of Belarus from February 11, 2006”.

The resolution approves the Regulation on the modus operandi of Internet sites of the state agencies and organizations and revokes the prior resolution “On the Approval of the Regulation about the Support of Internet Sites of the Republican Bodies of State Administration and Other State Organizations Subordinate to the Government of the Republic of Belarus”.

On April 29 the Council of Ministers, by its resolution No. 646, made changes in the **Rules of Provision of Telecommunication Services**.

The Rules have been updated, in particular, with regulations on identification of subscriber units of individual Internet users and recording of their visits to Internet resources as well as by the prescript that at the site for shared access to Internet the services are rendered after the identification of the user through recording of his or her personal data (first name, patronymic, last name, type and number of the document, allowing to identify its owner, and name of the issuing authority).

On May 6 the Rechytsa District Executive Committee, by its decision No. 1245, approved the **Regulation on the Order of Accreditation of Representatives of Mass Media at the Rechytsa District Executive Committee**.

In accordance with the Regulation, the journalists of mass media, registered in accordance with the established procedure at the Ministry of Information of the Republic of Belarus, have the right to be accredited at the Rechytsa District Executive Committee.

In order to accredit a correspondent, the editor of the mass medium should send a relevant application to the Executive Committee accompanied by a copy of the registration certificate of the mass medium. The applications are considered by the Office of Ideological Work of the Executive Committee.

The accreditation is issued for one calendar year. Among the grounds for refusal of accreditation is a warning of the Ministry of Information of the Republic of Belarus received by the editorial board during twelve months preceding the date of application for accreditation.

In the event of failure to comply with the requirements of the Regulation, the Rechytsa District Executive Committee reserves the right to warn the journalist, and in the event of the second violation to suspend accreditation of all accredited journalists of this mass medium for six months. The same measure is envisaged in the event of dissemination of untrue information or information discrediting honor, dignity or business reputation of senior officials and (or) officials of the Rechytsa District Executive Committee by the mass medium or the journalist.

On June 3 the Council of Ministers approved, by its resolution No. 855, the **list of printed mass media whose editorial boards are entitled to subsidies from the Republican budget in 2010**. The list of mass media subsidized from the budget on the non-competitive basis includes twenty-four publications. The largest-circulation Belarusian newspaper “Sovietskaja Bielorusija”, founded by the Presidential Administration, is among them.

On June 29 the Operational and Analytical Center under the President of the Republic of Belarus (OAC) and the Ministry of Communications and Informatization approved, by their joint resolution No. 4/11, the **Regulation on the Procedure of Restriction of Access of Users of Online Services to the Information Prohibited for Dissemination in Accordance with Legislative Acts**.

The Regulation established the procedure of restriction of access of users of online services to the information the contents of which are directed at:

- carrying out extremist activities;
- trafficking in weapons, ammunition, explosive devices, explosive, radioactive, poisonous, potent, venomous, and toxic substances, narcotic drugs, psychotropic substances and their precursors;
- facilitation of illegal migration and trafficking in human beings;
- distribution of pornographic materials;
- propaganda of violence, cruelty and other acts prohibited by law.

The access of state agencies and organizations as well as institutions of education and culture to such information is restricted mandatorily, and the access of other users of online services is restricted at their request. The access of special investigating bodies, prosecutor's offices, preliminary investigation bodies, the Committee for State Control, tax authorities, courts of justice as well as other agencies and organizations, determined by the OAC, to the information prohibited for dissemination is not restricted.

The access to information prohibited for dissemination is restricted on the basis of the list of online resources of restricted access established by "BelGIE" on the basis of decisions of senior officials of the Committee for State Control, Prosecutor-General's Office, the OAC, and other Republican bodies of state administration. The list of restricted use, in which resources of the national segment of Internet are included, is published on the web site of "BelGIE". The list of other online resources of restricted access is closed to the user, and their owners are not notified about the inclusion of the online resource in this list.

On June 29 the Operational and Analytical Center under the President of the Republic of Belarus, by its decision No. 52, approved the **Regulation on the Procedure of Identification of the State Agencies and Organizations that Are Not Restricted in Their Access to Information Published and Disseminated Online by Providers of Online Services**.

The Regulation establish the procedure of access of the state agencies and institutions of education and culture to the information the online dissemination of which is restricted by the Presidential decree No. 60 from February 1, 2010 "On Measures for Streamlining of Use of the National Segment of the Internet". In order to get access to such information, the state agency or organization sends a letter signed by its senior official to the OAC where it indicates the legal grounds and reasons for its need in the access to such information. The OAC takes a decision within 10 days. The decision can be appealed through courts.

On July 19 a new version of the **Law on State Secrets** was adopted. The preamble says that the law "defines the legal and organizational grounds of attribution of information to the state secrets, protection of state secrets, carrying out of other activities in the sphere of state secrets for the purpose of ensuring the national security of the Republic of Belarus". The new version of the law came into effect six months after its official publication.

On August 2 the Ministry of Information adopted the resolution No. 8 **“On Certain Measures for Implementation of the Decree of the President of the Republic of Belarus No. 510t from October 16, 2009”**.

The Ministry of Information, acting on the basis of the presidential decree No. 510 “On Streamlining of the Control (Oversight) Activities in the Republic of Belarus”, established that the main method of control within the Ministry’s competence (including the control of compliance of mass media with legislation) is carrying out of inspections, and determined the means to carry them out. Among them:

- visits to and examination of offices, manufacturing and other facilities (sites) of the inspected entity;
- gaining access, within its competence, to data banks of the inspected entity, taking into account the provisions of legislation on information, informatization and protection of information;
- summons of representatives of the inspected entity to the Ministry and reclamation of written and oral explanations from it;
- obtainment of documents (their copies), including in the electronic form, and other information related to its activities, property, etc., necessary for the inspection, from the inspected entity.

On August 9 the Council of Ministers approved by its resolution No. 1174 on the **Strategy of Development of Information Society in the Republic of Belarus for the Period until 2015** and the **Plan of High Priority Measures for Implementation of the Strategy of Development of Information Society in the Republic of Belarus in 2010**.

The expected results of the implementation of the Strategy by 2015 are:

- increase in the number of subscribers and users of the landline broadband access up to 38 per 100 residents (currently, 18.3);
- increase in the number of subscribers and users of the mobile broadband access up to 53 per 100 residents (currently, 30.5);
- bringing the share of the institution of education with Internet access to 100 per cent, etc.

The plan of high priority measures for 2010 provides for the development of concepts, the state and regional programs and the establishment of a coordinating council.

On November 30 the Ministry of Information, by its resolution No.13, approved the **Instruction on the Procedure of Setting Up and Activities of the Qualification Commission and Carrying Out a Qualifications Examination for Carrying Out Publishing Activities and Annulment of Some Regulatory Legal Acts**.

The personal composition of the qualifications commission is approved by an order of the Minister of Information of the Republic of Belarus. His deputy becomes chairman of the qualifications commission.

On December 30 the President of the Republic of Belarus signed ordinance No. 712 **“On Streamlining the State System of Legal Information of the Republic of Belarus”**.

The decree approves the Regulation on activities for dissemination (provision) of legal information in the Republic of Belarus. The decree replaces the licensing of activities for dissemination of legal information by an obligation of organizations and self-employed entrepreneurs to conclude agreements on provision of legal information for its further dissemination (provision) with the National Center of Legal Information. The activities for dissemination of legal information carried out without concluding the agreement are deemed illegal. The legal information is understood to mean the texts and the mandatory particulars of the legal acts that compose the legislation of the Republic of Belarus including the international treaties.

3. THE CHRONICLE OF VIOLATIONS OF FREEDOM OF SPEECH IN BELARUS IN 2010

3.1. The Main Violations of Media and Journalists' Rights in January – June 2010

Situation in the Belarusian media field continued to deteriorate progressively in the first half year of 2010. The most alarming events in the period were as follows:

- a wave of police and KGB searches at journalists' apartments and editorial offices as well as at the premises, owned or hired by the *"Tell the Truth!"* civil campaign activists;
- the adoption of Presidential Decree No. 60 *"On the Measures to Improve the Use of the National Segment of the Internet Network"*;
- the reinforced pressure on the journalists, cooperating with foreign media;
- the issuance of official warnings to the editorials of influential non-state newspapers;
- a decision on leaving an official warning to the Belarusian Association of Journalists in force.

(The warning was aimed at restricting the possibilities to practise journalism in the country and directed to shrinking the opportunities of providing legal support to media workers.)

Police officers conducted searches at working places and private apartments of *Maryna Koktysh*, 'Narodnaya Vola' Deputy Editor-in-chief and *Sviatlana Kalinkina*, 'Narodnaya Vola' Chief Editor as well as at the editorial office of 'Charter'97' Web-site and at a private apartment, owned by an independent journalist *Iryna Khalip* in February – March 2010. The police confiscated information carriers, including PCs, CDs and DVDs, USB flash drives, and camera memory sticks in all these cases. Some intruders wore masks. The policemen entered the 'Charter'97' editorial office with the use of force. One of the officers hit the Web-site Editor N. Radzina in the face. The Public Prosecution refused to file a suit in relation to the police officers, who attacked the media worker.

The searches were held within a criminal investigation on the fact of libel in the Internet in relation to Ivan Korzh, ex-Head of KGB Department for Homiel region (article 188 of Belarus' Criminal Code). The journalists M. Koktysh, I. Khalip, S. Kalinkina, and N. Radzina

were repeatedly summoned for interrogations. Their computers were sent for expert examination that didn't bring any results that could satisfy the detectives. However, instead of returning the professional technical equipment to the owners, the legal investigators made up their minds to subject it to re-examination.

It came out later that the seized professional equipment was regarded as material evidence within the defamation suit. The legal investigator requested the experts to look into the journalists' personal e-mail correspondence. However, the specialists failed to crack the passwords of their e-mail boxes.

The events resembled a broad range of KGB and police searches, held at private apartments of independent journalists across Belarus in March 2008. The law-enforcement agencies used another criminal case on defamation of the President of Belarus as a pretext to search the apartments and offices of independent journalists then.

On March 22, 2010, the Belarusian Association of Journalists stated that it considered the police searches and interrogations of colleagues as a part of a special operation, directed against independent journalism in Belarus and demanded the responsible authorities to return immediately the journalists' personal belongings, required for carrying out their professional activity.

Nevertheless, the situation was steadily deteriorating. Thus, a famous Belarusian journalist Pavel Sheremet was deprived of Belarusian citizenship at the turn of March 2010. (He resides and works in Russia nowadays.)

P. Sheremet covered a confrontation of Belarusian police and KGB officials on the <http://belaruspartisan.org> Web-site that led to filing a criminal case on general I. Korzh's claim and resulted in further persecution of journalists and media that dared report on the conflict. As reported on April 29, 2010, another suit had been filed against the 'Charter'97' Web-site. It was caused by visitors' comments under a reprinted article, published on the Web-resource.

The state authorities continued systematic persecution of Belarusian media workers, cooperating with foreign media outlets, in 2010. (The "BelSat" TV channel's correspondents faced most of repression since the year start.) The KGB and the public prosecution bodies continued to issue official warnings to the journalists. Moreover, the law-enforcement agents tried to apply coercive methods at the beginning of the year in relation to them. Thus, police officers made an attempt to intrude into a private apartment, hired by Mikhas Yanchuk, a "BelSat" representative in Belarus, on February 3, 2010. A group of journalists spent nearly an hour and a half under a police siege in the apartment. A journalist Ivan Shulha was detained close to the doorway and sentenced to 10 days of custody as if for "disorderly conduct", that is quite an ordinary accusation in such cases.

The state authorities tried to accuse I. Shulha of offering resistance to the police officers and inflicting bodily injuries to them that could lead to filing a criminal case. However, taking into consideration the enormous publicity over the case, the authorities resolved to restrict themselves to taking the journalist into custody under administrative law for 10 days only (<http://baj.by/m-p-viewpub-tid-1-pid-7982.html>).

At the same time, the Belarusian state authorities confirmed their intention to take control over the Web in Belarus. In particular, the President of Belarus signed his ordinance No.

60 *“On the Measures to Improve the Use of the National Segment of the Internet Network”* on February 1, 2010.

Among other, the ordinance provides for:

- registration of on-line resources that deal with rendering different services in Belarus;
- identification of Internet-users, registration and storage of data about the visited Web-pages, identification of user equipment, applied in the process of rendering the Web-connection services;
- disabling of access to the “banned” information on the Web from the state institutions, the educational and cultural establishments, Web-cafes as well as on private users’ requests.

The Presidential ordinance has created broad opportunities for restricting the freedom of speech in the Internet.

The office of the OSCE Representative on Freedom of the Media has implemented a legal expertise of the Presidential ordinance, regulating the Web in Belarus (<http://baj.by/m-p-viewpub-tid-1-pid-8140.html>).

The Ministry of Justice of Belarus issued an official warning to the Belarusian Association of Journalists on January 13, 2010. The Supreme Court of Belarus left the warning in force on March 22, 2010. The verdict confirmed a ban on the use of BAJ membership cards with the word “PRESS” on them, previously issued by the Ministry of Justice of Belarus. (These membership cards were of utmost importance for free-lancers and non-staff correspondents, working in the country.) Moreover, the Supreme Court confirmed the illegality of activities, implemented by the Law Center for Media Protection at the Belarusian Association of Journalists. Another official warning to BAJ within a year’s course might lead to the Association closure.

It was before the trial that the Council of Europe Parliamentary Assembly (PACE) expressed deep concern with the official warning, addressed by the Ministry of Justice of Belarus to the Belarusian Association of Journalists.

According to PACE, the official warning “challenged the association’s internationally recognized work in the interests of journalists, media and media freedom.” Taking into consideration that Belarus is an associated member of the Venice Commission, PACE addressed to the institution with a request to look into the case and conclude if the ministerial warning could be regarded as a violation of generally accepted standards in the field of human rights. <http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta10/eREC1897.htm>

The Venice Commission issued its opinion letter on the case on December 17-18, 2010 (see Supplement).

The police conducted a series of searches in private apartments and offices of “Tell the Truth” civil campaign activists and journalists, connected with the campaign, in Minsk, Homiel, Brest, Hrodna, Mahiliou, Babruysk, Barysau, Vaukavysk, and Salihorsk on May 18, 2010. The searches were followed by confiscation of technical equipment, money, and

documents.

Three people, including Siarhei Vazniak, a BAJ Board member and the Editor of *"Tovarisch"* newspaper, were detained for three days on far-fetched charges. They were suspected of committing a criminal offense.

The official authorities continued persecution of registered and non-registered independent press distributors. The city of Vitsiebsk appeared in the focus of attention. The police officers were repeatedly detaining the *"Vitsiebskiy Kuryer"* newspaper distributors there and the local courts were imposing penalties on them. It should be mentioned that the newspaper is officially registered in Russia. The editorial had to take this step as soon as the Belarusian registration certificate of *"Vitebskiy Kuryer M"* had been invalidated. The Belarusian state authorities refuse to renew the official registration of *"Vitebskiy Kuryer"*. Moreover, they've refused thrice to register a new newspaper *"Nash Dom"* for a variety of highly arguable reasons. (It should be emphasized that even the printed media have to apply to the official authorities, in order to get registered in Belarus.)

The founders of *"Khimik"* newspaper (Navapolatsk, Vitsiebsk region) have encountered three refusals to resume their official registration status as well. (Presently, the newspaper exists as an on-line edition only.)

The Belarusian police kept on detaining the print-runs of the newspapers, printed in the neighboring country. Their distributors were penalized. In particular, Aleh Barshcheuski was fined 700,000 Belarusian rubles (approx. USD 230) on June 7, 2010 and Krystsina Shatsikava was fined the same amount on June 27, 2010. The judges disregarded a treaty between Belarus and Russia on cooperation in the printing field. According to this document, the national governments assumed a commitment to abstain from impeding the distribution of printed periodicals, registered in both states.

Apart from detaining and fining the journalists and the press distributors, the local authorities applied the Tax Inspectorate as another tool of pressure on the disliked periodicals. Thus, they commenced the unscheduled tax audits in the organizations, connected with distribution of *"Vitebskiy Kuryer"* and *"Nash Dom"* newspapers.

The Ministry of Information of Belarus issued several official warnings to the registered independent media outlets at the turn of May and at the end of May and at beginning of June 2010. (It should be noted that the Ministry may appeal to court with a request to close down a media outlet on issuing two official warnings, related to any violation of media legislation, including the minor ones, within a year's course.) Most of the warnings, mentioned above, were issued within two days – on May 31st and June 1st. They were passed to *"Narodnaya Volya"* (the third official warning within the recent year), *"Salidarnasc"* (the on-line newspaper publishes its printed issues once in half a year in order to keep its media registration certificate), and *"Novy Chas"* weekly. The media experts connected the issued official warnings with the coming Presidential election campaign.

3.2. The Main Violations of Media and Journalists' Rights in July – December 2010

The most significant facts of pressure on the media and journalists within the period under consideration were as follows:

- the entry into force of Presidential ordinance No.60 *"On the Measures to Improve the Use of the National Segment of the Internet Network"*;
- official warnings to independent periodical editions from the Ministry of Information of Belarus;
- the forced suspension of *"Bobruyskiy Kuryer"* newspaper publishing (Babruysk, Mahilou region) in consequence of its economic discrimination;
- the tragic death of a journalist and a civil activist Aleh Biabienin and threats to his colleagues, who doubted the official version of his death (suicide).

The Presidential ordinance No.60 *"On the Measures to Improve the Use of the National Segment of the Internet Network"* of February 1, 2010 came into effect on July 1, 2010. 12 by-laws were adopted in the pursuance of the decree. Accordingly, all Web-resources, providing their services in Belarus, were obliged to get transferred to Belarusian servers and get officially registered in the country. Also, there was introduced obligatory identification of Wi-Fi users and cybercaf visitors. Moreover, the modems of individual Internet users were to get identified. The authorities were to complete "black lists" of Web-sites, banned for visiting from the state institutions as well as educational and cultural establishments. (It was envisaged that other Internet users could apply for disabling access to the Web-pages from their computers.) The list of banned Web-resources outside the ".by" Web-zone is kept in secret from users at that.

The worst apprehensions of governmental attempts to take control over the Web haven't been confirmed yet. The "oppositional" Web-sites weren't included in the 'black lists'. The access to them during the Presidential election day of December 19, 2010 as well as during mass protest actions was restricted with the use of "traditional" technologies.

The Ministry of Information issued politically motivated letters of caution to the leading democratic newspapers *"Nasha Niva"*, *"Narodnaya Vola"*, and *"Novy Chas"* in July – September 2010.

The official warning to *"Nasha Niva"* was preceded by publishing the newspaper issue, dedicated to a highly critical "God Father" documentary about A. Lukashenka, filmed and broadcast by NTV (Russia). The film was extremely negatively perceived by Belarusian governmental authorities. The newspaper issue was printed. However, according to the *"Nasha Niva"* editorial, the newspaper copies didn't appear in the majority of "Sayuzdruk" news-stalls. As soon as the newspaper attracted the readers' attention to the scandalous situation, the Ministry of Information of Belarus issued a letter of caution to the newspaper editorial, dated July 22, 2010. The publisher was blamed for distribution of false information. Another letter of caution was issued to *"Nasha Niva"* on July 26, 2010. It was similarly connected with the above-mentioned documentary coverage. Thus, all in all, the newspaper publisher received three letters of caution within a year's course by the start of Presidential election campaign 2010. It is worth mentioning, that the Ministry of Information can lodge a claim against the newspaper editorial with a demand to close down a newspaper on issuing two letters of caution for any reason.

At the same time, an abrupt tax inspection was started at the “*Nasha Niva*” newspaper editorial. The attempts to appeal against the letters of caution to the Supreme Economic Court were fruitless. The latter left the official warnings in force.

“*Narodnaya Vola*” received the fourth letter of caution from the Ministry of Information within the course of a year on September 13, 2010. It was reasoned by a series of publications in “*Narodnaya Vola*” about detentions of the State Controlling Committee representatives by the KGB officers as well as about a new corruption scandal, connected with them. It was pretty evident that the state authorities attempted to suppress the facts of corruption and conflicts between the defence and law enforcement agencies in the country. (Similarly, the official authorities felt like hushing up the tension in mutual relations with the Russian political leadership in the case with “*Nasha Niva*” weekly.)

The “*Bobruyskiy Kuryer*” independent newspaper was forced to suspend publishing for economic reasons in August 2010. The suspension was preceded by numerous facts of pressure on the part of the local Executive Committee and Tax Inspectorate.

The Belarusian society was upset and shocked at the news about the tragic death of Aleh Biabienin, an independent journalist, a civil activist, and a co-founder of Charter’97 Web-site (<http://charter97.org>), who cooperated with an alternative Presidential nominee Andrei Sannikau.

He was found hanged in his summer house on September 3, 2010. The Belarusian official authorities stated hastily that the media worker had committed a suicide. The immediate conclusions appeared despite a range of contradictory facts and circumstances, revealed and highlighted by A. Biabienin’s colleagues and friends. Sviatlana Kalinkina (“*Narodnaya Vola*”), Natallia Radzina (“*Charter’97*”), as well as a journalist and a playwright Mikalay Khalezin received threats to their lives from anonymous malefactors after such publications. Numerous international organizations, human rights watchdogs, and journalist associations appealed to the Belarusian government with a demand to conduct a thorough and unbiased legal investigation on the case. Among other, the European Federation of Journalists noted that the previous high-profile cases on the crimes, related to Belarusian journalists, remained unsolved. In particular, the EFJ recollected the case of Dzmitry Zavadzki, who disappeared without a trace on July 7, 2000 and the case of Vieranika Charkasava, cruelly assassinated in her private apartment on October 20, 2004.

3.3. The Main Violations of Media and Journalists’ Rights at the Presidential Election on December 19, 2010 and during the Post-election Period

The Presidential election was held in Belarus on December 19, 2010. It was accompanied with numerous violations of media and journalists’ rights. The unprecedented mass persecutions for free expression of opinion have been taking place in the country until the present moment.

Among other, there was disabled access to the Web-sites of <http://charter97.org> (“*Charter’97*”), <http://belaruspartisan.org> (“*Belorusskiy Partisan*”), <http://gazetaby.com> (“*Salidarnasc*” On-line newspaper), <http://ucpb.org> (The United Civil Party), <http://udf.by>

(The United Democratic Forces), <http://electroname.com>, <http://bchd.info> (The Belarusian Christian Democracy), <http://spring96.org> ("Viasna" Center for Human Rights), "European Radio for Belarus", Radio Liberty, <http://zapraudu.info> ("Tell the Truth!" civil campaign), and a range of other independent Web resources in the evening of December 19, 2010. Moreover, the Web-users couldn't enter their *Google*, *Facebook*, and *LiveJournal* accounts. The access to the Web-sites of popular anonymizers was disabled as well.

Several journalists of Belarusian and foreign media that covered a rally, arranged by a Presidential candidate Uladzimir Niaklayeu and his supporters, towards the city center of Minsk, were knocked down and beaten by a group of security agents together with the rally participants before the closure of polling stations on. The masked offenders indulged in seizing and breaking the journalists' professional photo and video equipment, disregarding the press cards and credentials available.

Detentions and physical attacks on journalists continued during the mass protest actions in the evening of December 19, 2010 and afterwards. According to the BAJ updates, no less than **27** media workers were detained then. More than **21** reporters were beaten hard by the riot police. **13** journalists were sentenced to 10-15 days of custody under administrative law.

Seven media workers and BAJ members have been accused of breaking article 293, parts 1 and / or 2 of Belarus' Criminal Code ("Mass riots"). The list of media workers includes **Natallia Radzina**, the "Charter'97" Web-site Editor, **Iryna Khalip**, a "Novaya Gazeta" (Russia) newspaper correspondent as well as the alternative Presidential candidates' activists **Siarhei Vazniak**, the "Tovarisch" newspaper's Editor-in-chief and a BAJ Board member, **Pavel Seviarynets**, a BAJ Council member, **Alaksandr Fiaduta**, an independent columnist, **Alaksandr Atroshchankau**, a spokesman for Andrei Sannikau, and **Dzmitry Bandarenka**. Alaksandr Atroshchankau has been sentenced to 4 years of imprisonment in a strict regime colony. The other media workers are threatened with up to 15 years of jail. A. Fiaduta, P. Seviarynets, and D. Bandarenka are retained in custody. I. Khalip was released from the KGB isolation ward and placed under house arrest with very strict conditions at the end of January 2011. Two KGB officers keep their eye on the journalist from inside of her apartment. Nobody except Iryna's parents and son can enter the flat. Iryna cannot use the Internet and approach the hall-door and the windows. N. Radzina and S. Vazniak were released from jail, having signed written undertakings not to leave the places of residence until the trial.

On December 20, 2010, the Board of the Belarusian Association of Journalists adopted a statement of protest against "shocking facts of the use of severe force by the police against journalists and civil activists in the evening of December 19, 2010" as well as against the extremely biased coverage of the peaceful civil protest action by the state broadcasting media. *"The Belarusian society was absolutely misinformed as for the aims of the event, the number of its participants, and their actions as well as about the brutality, applied by the police agents to disperse the peaceful action participants."*

Consequently, the Ministry of Justice of Belarus sent a cross-request for explanation to the Belarusian Association of Journalists on **December 21, 2010**. The Ministry was curious what paragraph of the BAJ statutes had allowed the association to appeal on behalf of "civil activists" apart from journalists.

A broad range of international organizations and journalist associations condemned the use of force against journalists, applied by riot police and other security troops during the mass events in Minsk on **December 19-20, 2010**. In particular, letters of protest to Belarusian official authorities were sent by the International Federation of Journalists (<http://www.ifj.org/>), the Russian Union of Journalists, the Lithuanian Union of Journalists, the Exiled Journalists' Network, Reporters without Borders, the International Press Institute and its South-East European Branch SEEMO, the Norwegian Union of Journalists (NJ), Amnesty International, the Committee to Protect Journalists (New York, USA), the OSCE Representative on Freedom of the Media **Dunja Mijatovic**, and other organizations and officials.

On December 24, 2010, the Belarusian Association of Journalists appealed to the Public Prosecutor General, the Minister of Internal Affairs, and the Minister of Justice of Belarus with a request to pay attention to numerous offences of law that had taken place since December 19, 2010, to take all possible efforts to restore the rule of law and prosecute all the guilty of breaking the law. However, the Public Prosecutor's office refused to consider the appeal on the merits and the Ministry of Justice urged the Belarusian Association of Journalists to explain the reasons for adopting the appeal.

In the meantime, the wave of repressions against journalists and media continued. The journalists were summoned to the KGB interrogations. The police and KGB searches were conducted at editorial offices as well as at journalists' private apartments.

Thus, the Minsk bureau of "*European Radio for Belarus*" was searched by the KGB agents in the absence of the editorial staff on **December 25, 2010**. The state security agents seized no less than 43 items of office equipment, including a server, PCs, laptop computers, dictaphones, photo cameras, and portable video cameras. It is worth mentioning that the European Radio for Belarus is an international radio station, registered in Warsaw. Its office and correspondents have been officially accredited in Belarus by the Ministry of Foreign Affairs.

The KGB agents broke into the office of "*BelSat*" independent satellite TV Channel in Minsk at night on **December 26, 2010**. They used a special electric saw to open the door. However, practically nothing could be found at the moment of the raid in the office, since the journalists had taken the equipment and left the premises several days before. The "*BelSat*" satellite TV Channel broadcasts its programs from the territory of Poland. It doesn't have any official status in Belarus for the time being, since the Belarusian official authorities have rejected repeatedly the "*BelSat*" managers' applications for accreditation of its office and correspondents in the country.

12 computers, flash drives, and CDs were confiscated by KGB officers after a search, conducted at the premises of the *Belarusian PEN* and editorial board of "*Nasha Niva*" independent weekly that share an office in Minsk on **December 28, 2010**. Besides, a computer was confiscated during another search at the private apartment of "*Nasha Niva*" Editor-in-chief **Andrei Skurko**. According to the presented warrant, the searches were related to two criminal cases: on mass disturbances and on affront to state symbols (article 370 of Belarus' Criminal Code).

The KGB agents conducted a search at **Katsiaryna Tkachenka's** private apartment on **December 30, 2010**. They seized the "*BelSat*" representative's laptop computer.

The KGB agents conducted a search at **Yulia Darashkevich's** private apartment on **December 31, 2010**. They seized the "Nasha Niva" photo correspondent's portable HDDs, 2 laptop computers, and a dictaphone. On the same day, the KGB agents searched a private apartment, belonging to **Tatsiana Haurylchyk**, a "Nasha Niva" cameraperson. The media worker was called to come to the KGB for "a talk" on **January 3, 2011**. Tatsiana refused to obey, since her attorney wasn't allowed to accompany her during the talk. On the following day, an unknown person phoned to the journalist and menaced her with beating.

Moreover, the KGB conducted a broad range of searches at the apartments of the journalists, which had been preliminary accused of arranging the 'mass riots' in Minsk on December 19, 2010.

The seizure of information carriers and professional equipment from journalists indicates that the official authorities attempt to restrict dissemination of unbiased information about the events on December 19, 2010 and later. The Belarusian authorities kept on censoring the news programs of Russian TV broadcasters and cut out their reports about the events in Belarus with the use of local "NTV-Belarus", "RTR-Belarus", and "ORT-ONT" editorials.

Being deeply concerned with the intensifying crackdown on the media and KGB raids at the editorials and private apartments of independent journalists in Belarus, **Reporters without Borders** adopted a special appeal on **December 30, 2010**.

"The press freedom organization is alarmed by the intensity of the repression since the election and calls on the governments of the European Union, the Russian government and international institutions to respond firmly in order to prevent an even harsher crackdown on the media by Lukashenka," RSF emphasized.

The OSCE Representative on Freedom of the Media, **Dunja Mijatovic** condemned detentions and assaults of Belarusian and international journalists in Minsk following the 19 December presidential election. She called upon the Belarus' government to terminate their attacks on the independent press and immediately release all jailed journalists, including Iryna Khalip and Natallia Radzina.

4. SOME ASPECTS OF VIOLATION OF PRESS FREEDOM IN BELARUS

4.1. Summons to State Bodies. Warnings of Prosecutor's Office and Ministry of Information

On **February 1** freelance journalist and editor of the web site "**Narodnyja Naviny Vitsiebska**" **Siarhiej Sierabro** was summoned for interrogation to the Department of Internal Affairs of the Vitsiebsk Regional Executive Committee. It was only during the interrogation that the journalist learned that he was summoned as a witness in the criminal case of Siarhiej Kavaliienka (the latter was accused of displaying the white-red-white flag on the main New Year's tree in Vitsiebsk). Investigator Aksana Muravitskaja was interested why the

journalist had taken pictures of the flag and why he had published these pictures online.

Before that, the journalist was told that the conversation would touch upon the subject of the identity of the owner of the office equipment confiscated on January 13 after the search in the apartment rented by Siarhiej Sierabro.

(On January 13 the apartment of editor of “Narodnyja Naviny Vitsiebska” Siarhiej Sierabro was searched, and two computers were confiscated. The equipment was returned on January 27).

On February 22 editor of “Narodnyja Naviny Vitsiebska” **Siarhiej Sierabro** was again summoned to the police for interrogation. Senior investigator of the Department of Pre-Trial Investigation of the Department of Internal Affairs of the Vitsiebsk Regional Executive Committee **Andrej Baranau** interrogated him in the case of **Siarhiej Kavaliienka** who had displayed the white-red-white flag on the main New Year’s tree in Vitsiebsk on January 7.

The new investigator was interested in circumstances of acquaintance of Mr. Sierabro and Mr. Kavaliienka, whether editor of “Narodnyja Naviny Vitsiebska” had known that Kavaliienka was going to display the flag on the tree, as well as circumstances of the photo shooting of the event.

It is noteworthy that the investigator himself delivered the letter of convocation to Siarhiej Sierabro in his apartment in the late evening on Friday.

On February 2 freelancer from Homiel Larysa Shchyrakova was summoned to the Homiel Regional Prosecutor’s Office to have her explanations recorded. According to Prosecutor Aliesia Rabtsava, Assistant to the Head of the Conscription Office of the Homiel City Military Commissariat Ihar Aliejnikau filed a complaint against the journalist. He stated in his complaint that on January 14 Ms. Shchyrakova, who had called herself a journalist of “Belsat”, had phoned him and taken an interview about one of the conscripts who demanded alternative service. Later he heard his comments aired by this satellite television channel and decided that his rights were violated. According to Ms. Shchyrakova, she didn’t call him, and Mr. Aliejnikau lied. The Prosecutor’s Office took the journalist’s side.

On March 11 it became known that the Ministry of Information of Belarus issued the second warning during the year to CJSC “BelKP-PRESS”, founder of the newspaper “Komsomolskaja Pravda v Bielorusii”.

Both the Ministry of Information and the editorial board of “Komsomolskaja Pravda v Bielorusii” refused to reveal the grounds for the warning.

On April 23 Belarusian correspondent of the **Associated Press** news agency **Juras Karmanau** got a phone call from an unknown person who introduced himself as KGB officer Alieh Anatoljevich and invited the journalist for a talk about his recent trip to Kyrgyzstan.

The journalist refused to go to any “talks” without an official letter of convocation sent to his home address.

Juras Karmanau was in Bishkek on a mission from the Moscow bureau of Associated

Press from April 8 to April 19, covering the coup d'état in Kyrgyzstan.

On May 13 Head of the Brest Office of the Republican Public Association of Entrepreneurs "Pierspiektyva" **Viktar Chajkouski** received an official warning from the Brest Prosecutor's Office for "biased comments in mass media". "The Prosecutor's Office of the Brest region studied the materials received from the Department of the KGB of the Republic of Belarus for the Brest region about your civic activities. It follows from the received materials that you, being Deputy Head of the Belarusian Republican Public Association "Pierspiektyva" and member of the Belarusian Free Trade Union, make biased comments on the situation in the Republic of Belarus in mass media, including foreign mass media, online at the web sites racyja.by, perspektiva.org, charter97.org, euromost.org, svaboda.by, zapraudu.info", says the document dated **May 3** and signed by Deputy Prosecutor of the region, Senior Counselor of Justice Tachko. The prosecutor further warns that such activities of Mr. Chajkouski can lead to the defamation of the Republic of Belarus and its authorities that falls under Article 369-1 of the Criminal Code.

On May 25 journalist of the newspaper "Vitebskij Kurjer" (registered in Russia) **Mikalaj Pietrushenka** was summoned to the Talochyna District Office of Internal Affairs to have his explanations recorded in regard to the news story "For the Transparency of the Officials' Revenues". It emerged that the police received a complaint from **Uladzimir Shashalevich**, Head of the Bureau of Sports and Tourism of the Talochyna District Executive Committee, who was indignant about the contents of the story published by "Vitebskij Kurjer" on April 1. The publication said that the state district newspaper of Talochyna and several other newspapers hadn't published information about revenues of candidates to deputies before the local elections.

Mikalaj Pietrushenka said that he, as a local resident and voter, would like to know the annual revenue of Chairman of the District Executive Committee **Aliaksandr Marejka**, his deputy **Georgij Murashka**, as well as **Uladzimir Shashalevich**. The accountant in the Bureau headed by Shashalevich was convicted in 2009 of a theft of state funds in the amount of 123 million rubles, "but her boss emerged of this situation with unblemished reputation and runs again to the local council", stressed Pietrushenka.

On May 31 the Ministry of Information made the third warning during a year to the editorial board of the non-state newspaper "Narodnaja Volia". The warning was made for a violation of Article 4 of the Law on Mass Media that obliges the mass media to disseminate true information. The grounds for the sanction were created by a series of articles of **I.Kopyl "Niabyshyna. War"** published in the newspaper in March 2010.

Citing the conclusions of the Institute of History of the National Academy of Science of Belarus, the Ministry of Information affirms that a number of historical facts given in the publication are not true. Besides, "the dissemination of false information,... that discredits the partisan movement in Belarus and actions of the Red Army during the Great Patriotic War" lead to ... pickets, as well as new manifestations of negative public reaction", says the document signed by Minister of Information **Aleh Pralaskouski**.

On June 1 journalist and founder of the web site "Bielorusskij Partizan" Paviel Sharamiet was questioned in the Ministry of Internal Affairs of Russia at the request of law-enforcement bodies of Belarus, this time of the Hrodna Region Department of Internal Affairs. Investigators from Belarus were interested to learn who was the author of an article

published on the web site of “Bieloruskij Partizan” **on March 18** that concerned former police boss from Hrodna **Hienadz Khotska**. The article said that the police officer, who had been put by the Ministry of Internal Affairs of Belarus on the international wanted list, flew to Norway, according to some information.

The journalist said during the interrogation that he had no idea who was the author of the article, and he never met Khotska or his relatives in person.

On June 8 the Ministry of Information made a warning to the Belarusian Left Party “Just World”, the founder of the newspaper “Tovarishch”. It was accused of violation of the Law on Mass Media in connection with the change in frequency of publication. As evidence, the Ministry cites the fact that the third issue of the newspaper, registered as a weekly, was published only on May 7, 2010.

“Currently, we have the possibility to be published only once or twice a month”, confirmed Editor-in-Chief of the newspaper “Tovarishch” **Siarhei Vazniak**. Mr. Vazniak pointed out that the newspaper had external reasons to change the frequency: “The newspaper has been forced into the situation when it is impossible to earn money. We cannot distribute it through subscription; we cannot be printed in the country; we cannot even attract advertisement here”. The editor-in-chief of the newspaper links the warning from the Ministry of Information to the approaching start of the election campaign.

On June 10 it became known that the editorial board of the non-state newspaper “Novy Chas” received a warning from the Ministry of Information. The warning says about discrepancies in the publication’s imprint — absence of the patronymic of the editor-in-chief, bar code and name of the state authority in the sphere of mass communication.

On June 11 the editorial board received a letter from the Ministry of Commerce of the Republic of Belarus where the newspaper was accused of violating Sub-clause 4.6, Article 10 of the Law on Advertisement. The letter from the Ministry of Commerce points out to the fact that on May 14 the newspaper printed an advertisement of the television channel “Belsat” without indicating the name, details of the license of the advertiser and its taxpayer identification number. The Ministry of Commerce drew up a protocol on administrative violation in respect of the editorial board of “Novy Chas”. According to Editor-in-Chief of “Novy Chas” Alaksiej Karol, such attention from the authorities to the publication is a harbinger of the forthcoming election.

On June 25 Prosecutor of the Kletsk district **Aleh Karabkou** made an official warning about “inadmissibility of violation of the Law on Mass Media” to the publisher of the Catholic small-circulation newspaper “**Apostalski Vietraz**”.

Civil activist from Kletsk **Aleh Nikulin**, who publishes the newspaper with circulation of 299 copies and size of one sheet of A4 format, is accused of not being an editor of a mass medium and not being registered as a legal person, and that the bulletin is not registered as a printed mass medium. The publisher of “Apostalski Vietraz” was warned that administrative actions would be taken against him in the case of further violations of the legislation.

As noted Deputy Chairman of the BAJ lawyer **Andrei Bastunets**, such interpretation could lead to an obligation to register the school wall newspapers. “Speaking seriously,

the prosecutor from Kletsk should study the Law on Mass Media. The law permits the publication of printed mass media without registration if their circulation doesn't exceed 299 copies (Sub-clause 7.4., Clause 7, Article 13 of this Law). However, the prosecutor, for some reason, doesn't refer to these clauses, but to others that only define the terms mentioned in the Law. These clauses don't contain any mandatory instructions", Deputy Chairman of the BAJ points out.

On July 1 Deputy Editor-in-Chief of the non-state newspaper "**Narodnaja Volia**" Maryna Koktysh was summoned to the Investigation Department of the KGB to senior investigator Paviel Charniauski, as a witness in the criminal case of prosecutor Sviatlana Bajkova, as it was stated in the written letter of convocation brought to the journalist's apartment in the evening of **June 30**. Earlier, the journalists had written several articles on this topic. A week and a half ago Maryna was invited to a meeting over the phone, but then she said that she would wait for an official letter of convocation.

The interrogation in the KGB lasted for about one hour and, according to the journalist, the questions of senior investigator **Charniauski** regarded mostly her and not Bajkova. The investigator said that the KGB had no issues with the publications of the journalist about the case of Bajkova. At the same time, the investigator, for some reason, took interest in where the journalist had made her studies, since when she worked in mass media, whom she had contacts with, etc. Maryna Koktysh refused to answer most of these questions, because they had no connection to the case in relation to which she had been summoned. For the same reason, the journalist refused to sign the written undertaking not to disclose the materials of investigation.

On July 1 journalist of the web resource "**Charter-97**" **Natallia Radzina** was questioned in the Investigation Bureau of the Prosecutor's Office of Minsk. She was questioned in the framework of the criminal case initiated "against unknown persons who disseminated deliberately false information online". The question was about readers' comments at charter97.org under the article "Harassment a la 1937". The journalist was informed that, for the time being, she was a witness in that criminal case.

The interrogation was conducted by Deputy Head of the Investigation Bureau of the Prosecutor's Office **Viktar Fieshchanka** and Deputy Head of the Department for Solving High Technology Crimes of the Ministry of Internal Affairs of the Republic of Belarus (Department "K") **Ihar Parmon**. They were interested, first of all, in the way the site was working, how it was administered, where the editorial board was located and where it was registered. Many technical questions were asked. The journalist was summoned to the interrogation on June 30 over the phone.

On July 22 the Ministry of Information made a warning to the non-state national newspaper "Nasha Niva". The Ministry accused the newspaper of disseminating untrue information. The headline "The Godfather Confiscated" ("Nasha Niva", No. 26) was used as the grounds for the sanction. The publication related about how readers all around the country had not found the issue No. 26, where it had been question of the film "Godfather" aired on NTV and the reaction of the Belarusian authorities to it, in the newsstands of "Bielsajuzdruk".

"In accordance with Article 244 of the Civil Code of the Republic of Belarus, the confiscation is an unpaid seizure of property from an owner as a sanction for a crime or another wrongdoing", notes the Ministry of Information. Further, representatives of the Ministry

refer to information of "Bielsajuzdruk" that the circulation of the issue No. 25 of "Nasha Niva" from July 7, 2010 "was sent for sale to retail facilities of the enterprise". Accordingly, the Ministry of Information believes, "there was no confiscation of the publication". Information contained in the article "The Godfather Confiscated", as it is noted in the letter signed by Minister **Aleh Pralaskouski**, "can do harm to state interest as well, as it distorts the practice of interaction between the State and mass media".

On July 26 the Ministry of Information made another warning to the editorial board of "Nasha Niva" for a violation of Article 4 of the Law on Mass Media – dissemination of untrue information. This time, the article "The BRSM Advertises the Film "Godfather" with Help of Garbage", published in the issue No. 25 of "Nasha Niva", served as the grounds for sanction.

"In accordance with information of the Civil Association "Belarusian Republican Union of Youth", on April 6 in Minsk, activists of this association organized an event which was not meant to advertize this film", the letter states. Accordingly, the Ministry of Information believes, "the published information does not correspond to reality and dishonors the reputation of this legal entity".

Both warnings regard directly the issue of "Nasha Niva" that was not found in the newsstands of "Bielsajuzdruk" by readers all over the country.

The editorial board of "Nasha Niva" appealed the warnings to the Supreme Economic Court, but Judge of the Supreme Economic Court **A. Karatkievich** upheld the warnings of the Ministry of Information **on September 15**.

On August 10 freelancer from Homiel **Tatsiana Bublikava** received a warning from the Homiel Regional Prosecutor's Office about inadmissibility of violation of the Law on Mass Media signed by the Prosecutor of the region **Valantsin Shajeu**.

According to the document dated August 6, Tatstsiana Bublikava exercises journalistic activities illegally, because she doesn't have working or other relations with mass media.

The Prosecutor's Office of the Homiel Region took an interest in journalistic activities of Tatstsiana Bublikava on the grounds of a complaint of **Viktar Liebiashkou**. Mr. Liebiashkou, who works as an agronomist in the Kolkhoz "Urytskaje", on June 30 commented for Tatstsiana Bublikava on the topic of impact of heat on plants and harvest. Later, the agronomist learned that his interview had been aired by the Polish satellite television channel "Belsat".

During the enquiry made by Prosecutor **Alesia Rabtsava**, Tatstsiana Bublikava confirmed that she had indeed met Liebiashkou to interview him about arid weather. However, it happened in the framework of cooperation with a private Polish company "N.E.W.S. Informacije", with which she had an agreement on cooperation since early 2010. In accordance with the agreement, the contractor should provide video materials at the request of the Polish side. The said company doesn't carry out functions of a mass medium's editorial board. "I don't cooperate with any mass media, be it the Belarusian ones or foreign ones. I don't have a press card", the journalist said in her explanations.

On September 13 correspondent of "Gazeta Wyborcza" **Andrzej Paczobut** was summoned

to a “talk” by officers of the Department of Organized Crime and Corruption Control. The journalist’s personal online blog gave grounds for it. In this blog, the journalist shared rumors about an old man in Lida who prophesied that “Dazhynki-2010” would be the last one, there would be a lot of dead people, and the country’s leader would die.

Head of the Bureau One of the Department of Organized Crime and Corruption Control of the Department of Internal Affairs of the Hrodna Regional Executive Committee **Aliaksandr Zhukau** asked the journalist who had provided him with such information and whether he knew the old man personally.

On September 13 the Ministry of Information made the fourth warning during a year to the newspaper “Narodnaja Volia”. This time, it was for a violation of Article 4 of the Law on Mass Media that prescribes to publish true information.

According to the Ministry of Information, the editorial board violated this requirement in its articles “The KGB Knocked Out the State Control” and “A New Corruption Scandal Flares Up in the KGB” published in August (No. No. 128–129 from August 17–19 and No. No. 132–133 from August 24–26).

“The dissemination of untrue information about activities of the State Control Committee discredits this agency and can adversely affect its activities and have other negative consequences”, the Ministry warns.

On September 14 the Ministry of Information made a warning to the non-state regional publication “**Brestskaja Gazieta**” for dissemination of untrue information (Article 4 of the Law on Mass Media). The warning was signed by First Deputy Minister of Information **Lilija Ananich**. The article “Those Who Are Tired by the City Will Be Saved by Eco-dwellings” (“Brestskaja Gazeta”, No. 27 from July 2 – 8) was used as the grounds for the sanction. The Ministry of Information warned the newspaper without waiting for a retraction to be published.

On September 30 journalist of Radio Racyja **Zmitsier Kisel** was summoned to a talk at the Brest Bureau of the KGB in order to “clarify the problems that had emerged recently around his personality”. The journalist refused to go for a talk to the KGB. At the same time, it became known that the journalist had been put on the list of those restricted to travel abroad from Belarus since September 22. It emerged that Zmitsier Kisel had been included in this list at the request of the Pinsk Military Commissariat, allegedly because all documents for the last two years related to his person had disappeared from the military commissariat. According to the journalist, he had copies of all necessary documents and he would present them to the Pinsk Military Commissariat during the next few days.

On October 18 Aliaksandr Atroshchankau, press secretary of presidential candidate Andrej Sannikau, was questioned at the Prosecutor’s Office of the Minsk region. The reason for the questioning was the much talked-about film of the NTV television channel “**Godfather-4. The Last Autumn**”.

“Investigator **Azarevich** was interested in my opinion, which I had made public in the film, where I had expressed confidence in the fact that **Aleh Biabienin** had died violent death. Investigator asked whether Aliaksandr Atroshchankau had accurate information or had just made guesses.

On November 17 it became known that journalist of the non-state news agency **BelaPAN** Viktor Fiedarovich was interrogated as a witness in the criminal case against investigator of the Prosecutor General's Office Sviatlana Bajkova. Earlier, the journalist had written several publications on this topic. The interrogation was conducted at the request of the KGB that had demanded to conduct enquiry of the fact of unsanctioned divulgence of information of preliminary investigation in the case of Bajkova. Major crimes investigator of the Prosecutor General's Office Uladzimir Shyshko conducted the conversation with the journalist. He asked how the journalist had obtained certain documents related to the case, who had edited them, etc. Viktor Fiedarovich explained that he had obtained the materials legally from Sviatlana Bajkova's lawyer.

On November 25 it became known that the Ministry of Commerce wanted to hold the non-state regional newspaper "Inform-Progulka" administratively liable. The Ministry determined that the advertisement of the television channel "**Belsat**" had been published in several issues of the newspaper in May 2010 "without indicating the name and the taxpayer identification number".

According to the letter signed on November 18 by Deputy Minister I. Narkievich, the newspaper thereby violated Clause 4, Article 10 of the Law on Advertisement. Therefore, the Ministry of Commerce "warns the editorial board ... about the inadmissibility of publication (dissemination) of inappropriate advertisement".

And also because the administrative responsibility is provided for this violation, the representative of the editorial board was summoned to the Ministry of Commerce for a protocol to be drawn up.

On November 17 the Prosecutor's Office of the Hantsavichy district summoned a participant of a poll that had been conducted by the regional newspaper "**Hantsavitski Chas**". One of the poll's respondents had complained about lack of information about the election. Prosecutor **Siarhiej Dzieshka** asked whether she had really told the newspaper what had been written there, in particular, had expressed discontent with lack of information about all candidates except for the current president. During a conversation with Deputy Editor-in-Chief of "Hantsavitski Chas" Piotr Huzajeuski, Siarhiej Dzieshka wasn't able to explain after whose complaint and why the Prosecutor's Office took interest in this publication.

On December 7 freelance journalist from Vitsiebsk Uladzislau Staravierau received an official warning from the Vitsiebsk Regional Prosecutor's Office about inadmissibility of cooperation with foreign mass media without accreditation. The warning was grounded on Uladzislau Staravierau's detention at the moment when he was recording on video an interview with Uladzimir Pravalski, then a potential participant of the election campaign. "On November 8, 2010 you were making recordings on a professional video camera with the logo of "Belsat" (Polish television channel). We have no information about your accreditation in the territory of the Republic of Belarus in the capacity of a journalist of "Belsat", the warning signed by Deputy Prosecutor of the region G. Karanko stated. The journalist was warned that he could be fined in the amount from 20 to 50 basic units in accordance with Article 22.9 of the Administrative Offences Code for a violation of the Law on Mass Media.

On December 27 Editor-in-Chief of the newspaper "**Narodnaja Volia**" **Iosif Siaredzich** was summoned to the KGB over the phone as a witness. The person who introduced

himself as an investigator of the KGB wanted to meet on the same day, but he didn't communicate in the framework of which case Mr. Siaredzich had to testify. Mr. Siaredzich refused, citing lack of time, as it was exactly the day when he was preparing a new issue for print. Then, his interlocutor told that he would bring the letter of convocation to the editorial board the next morning.

4.2. Pressure on Journalists on the Occasion of the Criminal Case on the Libel Against a KGB General

On February 17 Deputy Editor-in-Chief of the newspaper "Narodnaja Volia" Maryna Koktysh was questioned in the Lieninski District Department of Internal Affairs as a witness in a criminal case opened on the fact of a number of publications dedicated to the so-called "hunter's case" (the "hunters' case" is a case of four top officials of the Homiel region police and the Ministry of Internal Affairs convicted for having allegedly organized an illegal hunting and exerted illegal pressure on KGB officers). Maryna Koktysh was interrogated by Major **Aliaksandr Chuj** in presence of representative of the Belarusian Association of Journalists Andrej Bastuniets. The investigatory actions were conducted in the framework of investigation of the criminal case opened on December 31, 2009 in accordance with Part 2, Article 188 of the Criminal Code of the Republic of Belarus upon the libel against former Head of the Department of the KGB for the Homiel region **Ivan Korzh** (afterwards – Head of the Department of the KGB for the Hrodna region).

Approximately one hour after the end of the interrogation, Aliaksandr Chuj, accompanied by policemen, searched the workplace of Maryna Koktysh. The policemen had a search warrant signed already on January 20 by Head of the Homiel Regional Department of Internal Affairs Colonel **Palashchuk** and sanctioned by Prosecutor of the Homiel region **Valantsin Shajeu**. The search ended approximately at 13h10. The policemen confiscated the system unit of the journalist's computer.

On February 26 officers of the Savietski District Department of Internal Affairs of Minsk, headed by investigator Kaminski, searched the apartment of the Editing Director of "Narodnaja Volia" **Sviatlana Kalinkina**. The search was conducted in the framework of the criminal case upon the label against General of the KGB Ivan Korzh. The policemen confiscated the computers of the journalist and her son, memory sticks and the phonebook.

According to Sviatlana Kalinkina, no publications related to the "hunter's case were printed by "Narodnaja Volia" under her name, except a short story about a video appeal of one of the detained, Aliaksandr Malajeu, to **Aliaksandr Lukashenka**.

On the same day, policemen tried to penetrate into the apartment of journalist **Iryna Khalip** who works for the Russian newspaper "Novaja Gazeta". After Iryna Khalip refused to open the door to them, the policemen told her that their visit was also related to the "hunter's case" and promised to send her a letter of convocation to an interrogation.

On March 4 journalist Iryna Khalip and her husband, politician **Andrei Sannikau** were questioned separately in the Partyzanski District Department of Internal Affairs of Minsk. The interrogation, conducted by senior interrogating officer **Aliaksandr Pazniak**, was related to the criminal case upon the libel against Ivan Korzh.

On March 5 a computer was also confiscated from Iryna Khalip and her husband, politician Andrej Sannikau, when they were crossing the border between Belarus and Lithuania.

On March 9 Dzmitry Bandarenka was questioned by the police as a witness in the same case.

In the evening of **March 16** representatives of law-enforcement bodies, in the framework of investigation of the same libel case, searched the premises of the web site "**Charter-97**", the private apartment of Iryna Khalip, the workplace of Sviatlana Kalinkina, the private apartment of Maryna Koktysh, as well as the apartment where editor of the web site "**Charter-97**" **Natallia Radzina** lived. There were also attempts to penetrate the apartments of members of the BAJ Dzmitry Bandarenka and **Alieh Biabienin**.

In all cases, the policemen confiscated information storage media — computers, compact disks, USB sticks, memory cards of photo cameras. The searches were conducted by plain-clothed policemen, some of them in masks. The penetration into the premises of the web site "**Charter-97**" was forceful, and journalist Natallia Radzina was physically injured, having got a blow in the face.

On March 26 journalists **Sviatlana Kalinkina**, **Maryna Koktysh** and **Natallia Radzina** were summoned to the Savietski Department of Internal Affairs of Minsk for interrogation as witnesses. Senior investigator of the Homiel Department of Internal Affairs **Alaksandr Pusieu** went expressly from Homiel to question witnesses.

According to Editing Director of "**Narodnaja Volia**" Sviatlana Kalinkina, the investigator was interested, in the first place, to learn who had been able to publish the "slander materials" on the web sites of "**Bielorusskij Partizan**" and "**Charter-97**". Sviatlana was asked whether she knew people who worked there. The entire interrogation was recorded on video.

The interrogation of journalist Maryna Koktysh went along the same track. She was asked whether she worked for these sites. As during the interrogation of Sviatlana Kalinkina, the conversation with the investigator was recorded on video.

Natallia Radzina spoke preliminary with the investigator and postponed the interrogation to the next week.

On April 2 journalists **Iryna Khalip**, **Sviatlana Kalinkina** and **Natallia Radzina** were summoned over the phone to the Department of Internal Affairs of the Pershamajski District of Minsk to senior investigator of the Homiel Department of Internal Affairs **Alaksandr Pusieu**.

On April 8 Belarusian journalist **Pavel Sharamet**, who now lives and works in Moscow, was interrogated for about two hours as a witness in the so called "hunters' case" – the criminal case on the libel against Ivan Korzh. The interrogation was conducted by an investigator of the Office for Internal Affairs of the town of Dolgoprudnuj of the Moscow region (the web site of "**Bielorusskij Partizan**" was registered in this town, and the company that runs its server is located there).

As Pavel Sharamiet recounted, the questions were divided into four blocks. The first one

regarded the operation of the web site "Bieloruskij Partizan". The second block was about the publication of an article on the "hunters' case" on the web site of "Charter-97". The third block regarded the publication on the web site of "Bieloruskij Partizan" of a news story about Captain of the Ministry of Internal Affairs **Viachaslau Dudkin** who was also related to the "hunters' case" and left Belarus under a threat of arrest. The investigator inquired who had published the story on the web site and how. The fourth block of questions was the biggest one and regarded Dudkin — when the journalist met him, circumstances of their meeting, topics of conversation, etc.

On April 28 editor of the web site "**Charter-97**" was summoned to another interrogation at the District Department of Internal Affairs in the criminal case upon the libel against Ivan Korzh. During the interrogation, a police officer asked a lot of questions about the editorial board of the web site of "Charter-97" – where it was located, whether the journalist was remunerated, how the web resource was administered. The journalist was informed about the results of examination of eight computers that had been confiscated from her on March 16 during the search. The computers were not returned to the journalist because an additional examination was allegedly needed. Besides, Natallia was acquainted with an ordinance about an additional technical examination in order to determine whether the web site of "Charter-97" was administered from those computers. During the additional technical examination, the e-mail, Skype and QIP accounts, through which the correspondence was conducted, will be examined.

The journalist believes that under the guise of investigation of the criminal case the authorities want to learn who creates this popular information resource to have possibilities to exercise pressure on people.

Maryna Koktysh and Sviatlana Kalinkina were also summoned to get acquainted with the results of examination and the ordinance about the additional examination.

On May 19 journalists Sviatlana Kalinkina, Maryna Koktysh and Natallia Radzina were again summoned for interrogation to the Piershamajski District Department of Internal Affairs. They received phone "invitations" from senior investigator of the Homiel Department of Internal Affairs **Aliaksandr Pusieu** a day before, on May 18.

The journalists were informed about the results of the second examination of the office equipment confiscated during the searches.

All eight computers confiscated during the search in the office of "Charter-97" as well as the USB stick and the system units of the work and home computers of Maryna Koktysh became evidence in the libel case.

In late May, Sviatlana Kalinkina got back her notebook and her son's computer (another notebook and a computer remain in the possession of investigators).

On May 26, correspondent of the Russian newspaper "Novaja Gazieta" Iryna Khalip was again questioned in the District Department of Internal Affairs of the Piershamajski district of Minsk. The interrogation, conducted by senior investigator of the Homiel Department of Internal Affairs Aliaksandr Pusieu, lasted for two hours. The journalist was informed that the computer confiscated from her earlier during a search had been added to the evidence in the criminal case opened by the Homiel Prosecutor's Office on December

31, 2009 in accordance with Part 2, Article 188 of the Criminal Code of the Republic of Belarus upon the libel against former Head of the Department of the KGB for the Homiel region **Ivan Korzh**, and thus it would not be returned in the nearest future. During the interrogation, the investigator showed keen interest in professional activities of Iryna Khalip, asked her about what she had been writing about law-enforcement bodies, and how her articles got published on the web site of "Charter-97". He also asked about her husband Andrej Sannikau.

On December 15 it became known that the Prosecutor's Office of Minsk had officially requested the materials of investigation of the criminal case upon the libel against former Head of the Department of the KGB for the Homiel region **Ivan Korzh** from the Homiel Regional Department of Internal Affairs, though the investigation had been suspended in May. Deputy Editor-in-Chief of "**Narodnaja Vola**" **Maryna Koktysh**, who has the status of witness in this criminal case, was informed about this fact by Head of the Investigating Bureau of the Minsk Prosecutor's Office **Siarhei Ivanou**. He said that "there were questions" in regard to the equipment in the framework of another criminal case, not related to the "case of Korzh". Mr. Ivanou refused to specify which one. He also avoided answering the question whether it meant carrying out an additional examination.

Press Secretary of the Minsk Prosecutor's Office **Siarhei Balashau** also didn't clarify the situation.

Senior investigator of the Homiel Regional Department of Internal Affairs **Alaksandr Pusieu**, who carries out the investigation about the libel against Ivan Korzh, said to Maryna Koktysh that the materials of the case were in Minsk since October, but he didn't know why they had been requested. At the same time, he assured that the Minsk Prosecutor's Office had no right carry out any investigating actions, including the examination of the journalists' equipment, without the knowledge of Homiel.

Maryna Koktysh declared her intention to refer to Prosecutor of Minsk **Mikalaj Kulik**, hoping to clarify the situation, in particular, to find out where the computers were, why they became of interest again, what they were going to do with the computers and when they intended to give them back.

We shall remind that the criminal case in accordance with Part 2, Article 188 of the Criminal Code of the Republic of Belarus was opened on December 31, 2009 by senior investigator Aliaksandr Pusieu upon the libel on the Internet against former Head of the Department of the KGB for the Homiel region Ivan Korzh.

Since late February Belarusian journalists Natallia Radzina, Maryna Koktysh, Iryna Khalip, and Sviatlana Kalinkina were repeatedly summoned to interrogations, searches were conducted in their apartments and workplace, and information storage media were confiscated. The greatest number of computers – eight – were confiscated from the editorial board of the web site "Charter-97".

4.3. Accreditation of Journalists

Access to Information

On January 14 the non-state socio-political newspaper "**Hazieta Slonimskaja**" informed that Head of the Information and Public Relations Office of the Department of Internal

Affairs of the Hrodna Regional Executive Committee **Georgij Jeuchar** didn't respond for almost two months to the official written demand of accreditation of journalists **Mikola Kananovich** and **Volha Shynkevich** at the Slonim District Office of Internal Affairs and **Khrystsina Marchuk** at the Department of Internal Affairs of the Hrodna Regional Executive Committee.

Editor-in-Chief of "Hazieta Slonimskaja" **Viktar Valadashchuk** sent the request addressed to Georgij Jeuchar on November 25, 2009 already. However, the newspaper didn't receive the official reply. In December 2009 Deputy Editor-in-Chief of "Hazieta Slonimskaja" Mikola Kananovich tried to learn over the phone from Mr. Jeuchar how the issue of accreditation of journalists at the Slonim District Office of Internal Affairs would be resolved. Mr. Jeuchar assured that he would send a written reply and asked to wait more.

On January 19, during the working day, officials of several state agencies refused to provide information to journalist of the non-state regional newspaper "**Borisovskije Novosti**" **Anatol Mazhou**. Anatol Mazhou was collecting information for the traditional column "Barysau: Numbers and Facts".

However, Head of the Barysau Office for Emergency Situations **Vasil Kraviets** didn't provide information about the number of fires that happened during the week. Head of the District Office of Health Care **Uladzimir Rubtsou** didn't want to communicate the number of persons who visited the injury care center of the district hospital. Head of the District Civil Registry Office **Tamara Krasouskaja**, in her turn, didn't provide information about the number of marriages and divorces during the week. Instead, she said that she had already given this information to the local state newspaper and the regional television channel and suggested to look for these data at the web site of the District Executive Committee.

Editor-in-Chief of "Borisovskije Novosti" **Anatol Bukas** filed a complaint against such actions of Barysau officials to the local Prosecutor's Office. The editor brought to the attention of Prosecutor A. Audziej the fact that lately there were more cases of refusals of local officials to provide information. However, in the official reply dated **February 19**, given by the Barysau District Executive Committee, Deputy Chairperson **Valiantsina Shutko** alleged that the above-mentioned officials had not violated the Law on Mass Media as all information about the activities of their agencies was published in the state district newspaper "**Adzinstva**" and at the official web site of the Executive Committee.

In the evening of **February 8** journalists who covered the civil action of solidarity with political prisoners **M. Autukhovich** and **U. Asipienka** in the October Square in Minsk were again rudely impeded in carrying out their professional duties by unknown plain-clothed persons.

They sealed off protestors from journalists and covered camerapersons' cameras with their hands. Journalists were not only deprived of opportunity to speak to protestors, but also to tally up their number. Two camerapersons of BelaPAN — **Vasil Siamashka** and **Volha Kliashchuk** — were, as usual, followed by several plain-clothed persons. Journalist of **Radio Liberty Alieh Hruzdilovich**, who was also recording the events on video and at one point of time turned the hand of an unknown plain-clothed young man away from his camera, got an enraged warning from the latter: "*I'm going to get physical!..*" The cameraman of the online publication charter97.org was also rudely pushed and his

camera was covered. At the same time, the plain-clothed riot police agents didn't name themselves and didn't produce any IDs. The uniformed police officers who were present in the square didn't react to journalists' demands to pay attention to unknown assailants.

However, all journalists who were impeded while carrying out their professional duties on February 8 had their journalist badges prominently displayed — and not only the ones issued by the BAJ, but also the ones issued by their news media. It didn't influence the conduct of the plain-clothed men in any way.

On February 11 reporter of the non-state news agency BelaPAN **Anatol Hatouchyts** and freelance journalist **Aleh Razhkou** were not allowed on the premises of the Court of Justice of the Savietski District of Homiel because they had TV and photo cameras in their possession. The incident took place prior to the opening of an open court session in the case of conscript Jauhien Jakavienka who was allegedly avoiding the military service. Court Chairman **Alaksandr Kostrykau**, whom Anatol Hatouchyts phoned from the lobby of the court building, qualified the actions of the security guards as correct and explained that policemen were acting in accordance with an instruction by which "... persons with photo and video equipment in their possession cannot be admitted to the court building without an approval from the court chairman or his deputy". As a result, Anatol Hatouchyts was allowed to enter the courtroom only after he left his photo camera at the entrance with Aleh Razhkou (there are no check rooms in the court building).

"This instruction runs counter to the norms of publicity of court proceedings set by the Code of Civil Procedure and the Code of Criminal Procedure", Deputy Chairman of the BAJ, lawyer **Andrei Bastunets** commented on this incident.

On February 14 reporter of **Radio Liberty**, who was covering a street youth action in the downtown Minsk in the evening of February 14, was compelled to delete a photo that captured a police paddy wagon. The police, explaining their demand, said that "it was forbidden to film service vehicles". The action was roughly dispersed.

On March 10 journalists of non-state mass media ("**Novy Chas**", "**Narodnaja Vola**", **Radio Liberty**, **Radio Racyja**, etc.) were not able to attend a hearing of the case of Vaukavysk entrepreneurs **Mikalaj Autukhovich** and **Uladzimir Asipienka**, held by the Supreme Court of Justice. Before the beginning of the hearing an official of the Supreme Court of Justice announced that the courtroom for 70 seats was full. The journalists who were able to attend the court meeting were permitted to film only prior to the beginning of the hearing. After the hearing began, the judge expelled press photographers and camera crews from the room granting a motion of one of the defendants, resident of Vaukavysk **Alaksandr Laryn** (besides Autukhovich and Asipienka, Mr. Laryn as well as **Mikhail Kazlou** were also targets in the investigation).

Vaukavysk entrepreneurs **Mikalaj Autukhovich**, **Uladzimir Asipienka** and **Jury Lavonau** were detained on February 8, 2009. Ten days later, they were charged under Article 218 of the Criminal Code of the Republic of Belarus (intentional destruction of or damage to property). On November 20 Asipienka and Autukhovich were charged with preparing a terrorist act.

Liavonau was released in early August, and all charges were dropped against him on September 24. In January 2010 the international human rights organization Human

Rights Watch recognized that Vaukavysk entrepreneurs had been arrested on politically motivated charges.

It became known on March 23 that journalists of the independent regional newspaper "Hantsavitski Chas" were not invited to attend a press conference of Chairman of the Hantsavichy District Executive Committee Uladzimir Stoliar that was held a day before.

On March 25 reporter of the non-state socio-political newspaper "**Intex-press**" **Liudmila Stetsko** was not allowed to attend a meeting of the Baranavichy City Territorial Election Commission; also, she was not provided with information about the registered candidates. The editorial board of "**Intex-press**" got a phone call from Chairman of the Baranavichy City Territorial Commission **Jury Shastsniou** who told that the reporters should not come to the meeting of the commission. The official said that, in accordance with legislation, the journalists had no right to be present at the tabulation of results of candidates' registration.

Immediately after the meeting, Liudmila Stetsko interviewed observers and candidates who had attended the meeting. Wishing to obtain also official information for the article, she called Jury Shastsniou. However, having invoked tiredness, he refused to provide information about the number of the registered candidates, and also refused to give an interview the next day.

On March 26 Liudmila Stetsko called Secretary of the Central Election and Republican Referendums Commission **Mikalaj Lazavik**.

The latter confirmed that the journalist's rights were infringed upon. During the phone conversation, Mr. Lazavik said that a journalist has full authority to attend all meetings of the city commission including the one dedicated to the results of the stage of registration of candidates. Moreover, according to him, the commission must provide a journalist with all information he needs upon request.

On April 6 it became known that the non-state regional publication "Babrujski Kurjer" faced refusals to provide information on the part of state officials more and more often. According to the newspaper's editor-in-chief, the Babrujsk City Executive Committee gave strict orders to state agencies to this regard. Even information about prevention of road accidents and emergency situations came under the ban.

On April 23 it became known that Chairman of the Hantsavichy District Territorial Election Commission **Alaksandr Simaha** and member of the District Election Commission **Natallia Malauka** refused to answer questions from reporter of the non-state newspaper "Hantsavitski Chas" **Iryna Damaratskaja**. The journalist inquired about the number of candidates to rural Council of Deputies in the Hantsavitski District as well as about the volume of campaign financing.

Ms. Maliauka, saying "I have no intention to comment on anything", advised the journalist to look for explanations at the Central Election Commission and in print publications.

On April 25 – on the day when the local elections were held – the chairwoman of the precinct election commission No. 75 in Minsk together with her subordinates forbade to correspondent of the European Radio for Belarus **Valer Rusielik** to make photo and

video recordings on the premises of the precinct. When the journalist began referring to legislation, the chairwoman of the commission called policemen who removed the journalist from the premises. Secretary of the Central Election Commission **Mikalaj Lazavik**, commenting on this situation, took the journalist's side unequivocally. He also promised to look into it.

Also on the election day, at the precinct No. 19 of the Minsk election district No. 30 on the premises of Gymnasium No. 33 policemen detained journalist of the non-state newspaper "Belarusy i Rynak" Vadzim Alieksandrovich. The incident took place around 8 pm when the journalist was recording the process of vote tabulation on his photo camera in the video mode. The election commission didn't like it. The journalist was detained by Deputy Head of the Frunzienski District Department of Internal Affairs Uladzislau Spirin at the request of Director of Gymnasium No. 33 Aksana Jakubouskaja. The journalist was taken to the Frunzienski District Department of Internal Affairs where his mobile phone was confiscated immediately. He was made to write an explanation without a protocol being drawn up, and he was released around 11 pm.

In Navapolatsk **on April 25** journalist **Alaksandr Muzhdabajeu** was not allowed to enter the electoral precinct and to assist at the announcement of the vote tabulation. Chairman of the Navapolatsk Town Election Commission **Piotr Husarau** said that there was "enough media" at the elections and that "all information could be obtained from the official mass media".

Besides, the local police took an interest in the journalist when he decided to interview local dwellers in town streets about their participation in the elections. The law-enforcement agents recommended Muzhdabajeu insistently not to take pictures.

On May 12 editor of the web site "**Narodnyja Naviny Vitsiebska**" **Siarzhuk Sierabro** and TV reporter **Uladzislau Staravierau** were not allowed to assist at the beginning of the court hearings against civil activist **Siarhei Kavalenka** that was held in the Court of Justice of the Kastychnitski district of Vitsiebsk. A policeman on duty said that a special permission of the chairman of the Court of Justice should be obtained in order to be able to bring photo and video equipment to the courtroom.

On May 14, for the same reason, **Siarzhuk Sierabro** was not able to attend the pronouncement of judgment in the criminal case of **Siarhei Kavalenka**. A policeman on duty said again to the journalist that it was for the chairman of the Court of Justice to grant permission to bring a photo camera on the premises. However, an appeal to the chairman brought no results. **Siarhiej Sierabro** had to stay in the lobby.

Siarhei Kavalenka was put on trial for malicious hooliganism — flying the white-red-white flag at the New Year's tree in the downtown Vitsiebsk. We shall remind that it was **Siarzhuk Sierabro** who took pictures of the flag on the tree. His pictures were widely disseminated online and were reprinted by many mass media. Several days after the incident in the court building, the journalist's apartment was searched, and later he was summoned to the police several times as a witness in the case of **Kavalienska**.

On May 12 it became known that journalists of the non-state regional newspaper "**Inform-Prugulka**" were not invited to a reception given by Chairman of the Luniniets District Executive Committee **Vasil Ahijevich** on the occasion of the Day of Press and Radio

Workers. The editorial board of "Inform-Progulka" learned that the solemn event had taken place and the reception "had passed the limits of the official one and had become a sort of press conference" from a publication in the local state newspaper "**Luninietskija Naviny**".

On May 13 journalists of the non-state newspaper "**Babrujski Kurjer**" also informed that representatives of all local mass media, with the exception of "Babrujski Kurjer", were invited to a solemn event on the occasion of the Day of Press and Radio, Television and Communication Workers in the Babrujsk City Executive Committee. "Babrujski Kurjer" was stripped of its accreditation in the Babrujsk City Executive Committee since 2004, and since then, it faced difficulties in the access to information, distribution and advertisement.

On May 18 in Homiel during a search in the apartment of a friend of human rights defender **Jury Varoniezhtsau**, policemen impeded journalists to film the moment of carrying out of confiscated items from the premises. All five hours that the search lasted, the journalists remained in the staircase near Varoniezhtsau's apartment — they were not allowed to enter the apartment and their questions were not replied to. The search was conducted by servicemen of the Department of Internal Affairs of the Homiel Regional Executive Committee.

On June 1 it became known that Head of the Main Department of Ideological Work of the Brest Regional Executive Committee Aliaksandr Rahachuk had sent letters to local mass media where he had asked to prepare questions for a press conference of Chairman of the Brest Regional Executive Committee **Kanstantsin Sumar** in advance. According to the ideologist's request, the questions for the press conference scheduled on June 29 had to be sent not later than June 1. The official explained that it would help the chairman of the regional executive committee to prepare his answers more thoroughly. Journalists believe that the regional executive authorities tried to indemnify themselves from "unpleasant" questions in this way.

On June 5 in the Vitsiebsk airport policemen didn't allow journalist **Siarzhuk Sierabro** to attend the press conference of Patriarch of Moscow and All Russia Cyril. The priest flew to Vitsiebsk in order to get from there to the Smolensk region by car. It was planned that he would answer questions from journalists at the airport. Siarzhuk Sierabro came to the airport in advance where he was detained by policemen and ordered to come to a service car. The press card of a BelaPAN reporter that was demonstrated didn't influence the policemen, and until the press conference was over, the journalist had to stay guarded in the police car, and then he was brought to Vitsiebsk in a bus together with airport employees – Siarhiey Sierabro was put there also by policemen.

On June 11 it became known that Chairman of the Luniniets District Consumer Society **Maksim Sumar** refused to provide correspondent of the non-state regional newspaper "Inform-Progulka" Tatsiana Kachanouskaja with requested information. Journalist inquired about the purchasing price of strawberries from population by state procurement officers. In response, the official said that he would give no information to "Inform-Progulka", because it would be published in the state district newspaper.

On July 14 journalists from Homiel **Aleh Razhkou** and **Tatsiana Bublikava**, who were preparing a video reportage about the abnormal heat, were not allowed to film in a

corridor of the Homiel City Medical Emergency Hospital. Also, the hospital's physician in charge **Volha Maisiejenka** refused to comment on this topic having explained her refusal by the need to get approval of her superiors. She recommended the journalists to address their demand to the chief doctor or the head of the medical service the next day. "We've asked to give simple advice to people on how to survive in the 35-degree heat outside, said Tatstsiana Bublikava. There could be no politics or crime in such a comment. But the physician was not interested in it, as well as in our press cards. Evidently, she was simply afraid to speak to journalists without her superiors".

On July 21 the editorial board of the non-state newspaper "Babrujski Kurjer" informed that an employee of the Mahiliou Regional Prosecutor's Office had refused to provide a correspondent of the publication with necessary information making reference to the absence of accreditation of the newspaper.

Journalist of "Babrujski Kurjer" **Jauhien Vaskovich** approached the regional prosecutor's office to get more information about the criminal case initiated against two Babrujsk residents who were suspected of the cruel murder of a retired person. Besides, nationwide mass media have already written about this case. However, Senior Assistant to the Prosecutor of the Mahiliou region **Ala Kuzniatsova**, after having learned what newspaper she was addressed from, refused to give any information, citing the absence of "special" accreditation of "Babrujski Kurjer" as the reason.

The journalist was advised to come to Mahiliou ("Babrujski Kurjer" is situated, respectively, in Babrujsk) and to make arrangements for accreditation.

On August 3 correspondent of "Nasha Niva" Zmitsier Pankaviets was not allowed to attend a regular meeting of the Council of Intelligentsia. Head of the Council **Uladzimir Kolas**, whom the journalist called to get permission to attend, refused categorically.

"After those dirty insinuations that you printed about the Council of Intelligentsia, we don't want to have anything in common with you. You already know what to write anyway. It is our business whom to allow to attend and whom not to", said Mr. Kolas.

On August 23 it became known that officials at the Department of Education of the Baranavichy City Executive Committee didn't respond to oral as well as written inquiries of journalists of the non-state local newspaper "**Intex-press**". Already **on July 8**, some questions related to the Belarusian-language education in the city or, rather, lack of such education, were sent to Deputy Head of the Department Maryja Svetliakova. The newspaper asked what the city officials were doing to promote education in the mother tongue. However, the editorial board got no reply even a month after, as the law requires.

In order to clarify the fate of the inquiry, correspondent of "Intex-press" Alies Hizun called the official and learned that the reply to the inquiry had been sent to the Ideology Department of the City Executive Committee. Head of the Ideology Department Tatstsiana Zhytko in the phone conversation told the journalist that she had heard about these questions, but didn't take care of them yet, and asked to call the next day. However, the next day, **on August 18**, Ms. Zhytko said that nobody had passed her any inquiry. In such a way, the officials passed the journalist to one another several times.

Trying to break the vicious circle, Alies Hizun referred to Head of the Department of

Education Mikalaj Khitryk, but the latter, in his turn, pretended to be busy and suggested to the journalist to leave a complaint in the Comments Book, if he wished so.

On August 23 it also became known that Head of the Mahiliou Regional Executive Committee **Piotr Rudnik** didn't see it necessary to reply to written inquiries of the editor of the non-state regional publication "**Babrujski Kurjer**". Anatol Sanatsienka sent letters on two occasions already (in March and June 2010) to the head of the region, but got no reply. According to "**Babrujski Kurjer**", at a meeting of ideological workers of the city, a ban on giving any information to the non-state publication from different state agencies, including the Ministry of Emergency Situations, the Department of Internal Affairs, and the State Road Police was again made public.

"Thus, senior officials of the ideological apparatus deprive readers of socially important information — about fires, road incidents, search for criminals, etc. Meanwhile, these very agencies are interested in dissemination of such information", says editor-in-chief of the publication Anatol Sanatsienka.

On September 24 it became known that the non-state newspaper "Nasha Niva" had not been accredited at the Republican Festival-Fair of Rural Workers "Dazhynki-2010". At first, in a phone conversation with head of the editorial board Andrej Skurko the organizers of "Dazhynki" said that they were not able to find the accreditation. Later, they called back and said that the newspaper had not been accredited and didn't explain the reasons for refusal.

On October 4 Head of the Ideology Department of the Niasvizh District Executive Committee **Alaksandr Karniushkin** during a phone conversation with Deputy Editor-in-Chief of the newspaper "**Niasvizhski Chas**" **Ihar Jeutukh** said that the authorities of Niasvizh interacted only with the state mass media. Mr. Jeutukh called the ideologist to learn details of the visit of Minister of Culture of Lithuania Arunas Gelunas to Niasvizh.

On October 19 a group of observers "Human Rights Defenders for Free Elections" learned that the post offices in Minsk had received an order signed by the Deputy Director of "**Belposhta**". In accordance with this document, the employees of the post offices are forbidden to give interviews to any mass media and to "disclose" the events that happen in the post. The observers don't exclude the possibility that such a step by senior officials of "Belposhta" was directly related to the presidential election.

On October 19 it became known that Belarusian and foreign journalists wouldn't be allowed to cover the international conference "Oil Refinery and Exports of Petroleum Products of the Republic of Belarus" held on November 16 and 17 in Minsk. At first, the organizers invited representatives of mass media, but on the eve of the conference the journalists were denied accreditation. The conference was organized by the British company "Confidence Capital Ltd" with the support of CJSC "Belarusian Oil Company". More than one hundred representatives of oil companies, also of the global level, took part in this event.

On October 25-27 journalists of non-state as well as state mass media faced refusals in the access to information about the explosion at the furniture factory "Pinskdrv". Meanwhile, no one of the officials of the Pinsk City Executive Committee or the city sanitary service spoke officially to city residents on October 25 or 26 to inform them about

the environmental situation in connection with the accident. In such circumstances, the main source of information in the city was rumors. After the explosion, the territory of the enterprise was sealed off by policemen; plain-clothed KGB officers ordered to fence our passers-by; journalists were also not admitted. In particular, on October 26 policemen ordered employees of the state TV Company "Pinsk" and the newspaper "Pinski Viesnik" to leave the territory. On the same day, **the European Radio for Belarus** was not able to get comments from **Viktar Sirenka**, Chief Doctor of the Minsk Emergency Hospital, where about two dozens of injured in the explosion were sent to. According to him, doctors give no comments because they didn't receive a permission to do so from the Ministry of Health. Mr. Sirenka also said that he had already refused to comment to the state television channels – BT, STV, and ANT.

On October 28 a judge of the Kastychnitski District Court of Justice of Vitsiebsk didn't permit local journalist of BelaPAN news agency Siarhiej Sierabro to take pictures during the court proceedings against a hooligan who had been insulting participants of pickets for collection of signatures in favor of potential opposition candidates. The defendant himself, Aliaksandr Hajdukou, was behaving aggressively towards the reporters who tried to take pictures of him before the court meeting.

On November 4 it became known that Editor of the non-state newspaper "UzHorak" (town of Horki of the Mahiliou region) Eduard Brokarau was not able to get information about the number of collected signatures in this region in favor of candidates from the local authorities. The information was denied to him by Head of General Affairs Department Katsiaryna Karotkina and Deputy Head of the Drybin District Executive Committee Alaksandr Lukjanchyk. In October Ms. Karotkina also refused to communicate the identities of members of the district election commission to Eduard Brokarau.

On November 24 correspondent of the non-state newspaper "Narodnaja Vola" Maryja Malievich was not admitted to the Palace of the Republic to attend a press conference with performers of classical music, participants of the concert program "Unforgettable Evening of Bel Canto". Even the fact that the journalist got accreditation in advance in the press center didn't help. An employee of the Presidential Orchestra of the Republic of Belarus who categorically refused to name herself didn't allow Maryja Malievich to enter the premises where the meeting was to be held. She said that she had an order from her superiors not to let "Narodnaja Vola" in.

On December 19 – on the day of election of the President of the Republic of Belarus – correspondents of "**Intex-press**" were not admitted during 40 minutes to an election precinct in the territory of a military base in Baranavichy. At first, Deputy Commander of the Base for Ideological Work Tsimur Dudkin demanded reporters Ales Hizun and Liudmila Prakopava to produce accreditation at the Ministry of Defense, and then an accreditation at the district election commission. The situation could be resolved only after an appeal to the city election commission.

On December 20 in Minsk officers of the duty service of the KGB didn't give any information to journalists about the whereabouts of journalists, presidential candidates and civil activists who had been detained in the night of December 19 to 20. At the attempt of the BAJ's press service to find out where members of the organization were detained (in particular, **Natallia Radzina**, **Siarhei Vazniak** and **Alaksandr Fiaduta**) the duty officer said that he wasn't able to communicate anything in this regard and wouldn't give any

additional phone numbers at which such information could be obtained.

The reason behind this request was fragmentary information that was coming from some detained persons and their families in the night of December 19 to 20, as well as the lack of any other information.

We shall remind that riot police officers broke in the office of the web site charter97.org in the night, the account of "Charter'97" on Facebook reported. The journalists had time to inform about the attack, and after that the communication was interrupted. Editor Natallia Radzina and volunteers worked on the premises. The last communication from Radzina was – "We are all in the KGB".

Siarhiej Vazniak was detained in the night in his own apartment. According to information provided by the son of the detained, persons who called themselves KGB officers came to the apartment and said that they would detain Siarhiej Vazniak in the framework of a criminal investigation. Neither the family nor the colleagues were aware of his whereabouts.

As the European Radio for Belarus reported at 9.10 am, at 5 am several plain-clothed persons came to the apartment of activist of the campaign "Tell the Truth" Aliaksandr Fiaduta, and "invited" him to a conversation to the KGB. Later, the wife of Mr. Fiaduta, speaking to the press service of the BAJ, said that her husband had been detained for at least 72 hours. He demanded to provide him with a lawyer, but this demand wasn't granted.

According to a further communication of the European Radio for Belarus, the wife of activist of the campaign "Tell the Truth" Aliaksandr Fiaduta was told that her husband was not in the KGB. Ms. Maryna herself told it to the European Radio: "I went to the KGB. They called me at 6.17 am and told that I could bring medicines for him to Kamsamolskaja Str., 30. I went there, but I was told that there was no such a person there and wouldn't be. I went to the badge room, and I'm now writing a petition to the Chairman of the KGB. How could it be – the person was taken away, a person with a badge came, and they say that he is not there... So, where is he then?"

4.4. Conflicts Related to Obtainment and Dissemination of Information from Abroad or Activities of Foreign Mass Media

On July 20 it became known that the Ministry of Foreign Affairs of Belarus again denied the request for accreditation of journalist of **Radio Racyja Viktor Parfionienka**. Last year Mr. Parfionienka also tried to get accredited to be able to work in Belarus, but then he also received a refusal.

On August 10 journalist from Homiel Tatstsiana Bublikava received a warning from the Homiel Regional Prosecutor's Office about inadmissibility of violation of the Law on Mass Media. In accordance with the document dated July 30 and signed by the Prosecutor of the Region **Valiantsin Shajeu**, Tatstsiana Bublikava exercised the profession of journalist illegally, because she didn't have professional or other relations with mass media as well as an accreditation at the Foreign Ministry as a correspondent of foreign mass media.

Finally, the prosecutor warns that “in the event of a repeat violation of the legislation on printed and other mass media you will be prosecuted more severely”.

The Prosecutor’s Office of the Homiel Region got interest in journalistic activities of Tatstsiana Bublikava following a complaint of agronomist of the Kolkhoz “Urytskaje” Viktor Liebiashkou. The latter said that he had made comments to Bublikava on the topic of impact of heat on plants and harvest, but he hadn’t given his consent on airing his interview on “Belsat”. During the inquiry conducted by Prosecutor Aliesia Rabtsava, Tatstsiana Bublikava explained that, indeed, she had met Viktor Liebiashkou to interview him about the arid weather. However, it had been in the framework of cooperation with a private Polish company “N.E.W. S. Informacije”, with which she had a cooperation agreement since early 2010. According to the agreement, the contractor has to provide video materials at the request of the Polish side. This company doesn’t carry out functions of an editorial board of mass media.

On October 7 Press Secretary of the Foreign Ministry of Belarus **Andrei Savinykh** said that no special accreditation of foreign journalists to the presidential election was planned. According to him, about 220 journalists of foreign mass media work in Belarus on a permanent basis and have permanent accreditation. Besides, every month thirty to forty representatives of foreign media apply to the Foreign Ministry for accreditation. Others can obtain temporary accreditation for a period of up to two months. In the event when a foreign journalist comes to Belarus to work without accreditation, he faces detention and deportation. Such incidents happened during previous election campaigns.

On October 7 the editorial board of the non-state newspaper “**Inform-Progulka**” received an official inquiry from the Ministry of Commerce that demanded explanations in connection with publication of advertisement of the satellite television channel “**Belsat**” in this newspaper. As follows from the letter, the Ministry already had suspicions about non-compliance of some publications with requirements of the Law on Advertisement and it was monitoring the publications that advertised “Belsat” in their pages. The newspaper was demanded to provide a document that would confirm the legal status of the foreign advertiser, a contract on production and (or) publication of this advertisement and certificates of completion for them, issues of the newspaper where this advertisement had been published starting from April that year, and written explanations “to the point”.

On November 7 it became known that the Belarusian Foreign Ministry didn’t renew the accreditation of correspondent of “The Voice of Russia” in Belarus Jauhien Ahurtsou. The term of accreditation should have expired on September 1, and the editorial board in Moscow submitted the standard application to the Foreign Ministry in advance asking to renew the accreditation of its correspondent. According to the postmarks, the letter was sent from Moscow on August 20, but, for some reason, it was received in Minsk only on September 11. After the induced delay, Jauhien Ahurtsou submitted the application to the Foreign Ministry that was considered only on November 2. On November 3 the journalist was notified that his accreditation had not been renewed in virtue of Clause 10 of the Regulations on the Procedure of Accreditation of Journalists of Foreign Mass Media in the Republic of Belarus — because of carrying out journalistic activities on behalf of foreign mass media without accreditation. A representative of the Foreign Ministry said that, during the period after the expiry of accreditation of Jauhien Ahurtsou and before the consideration of the application, the web site of the radio station published his materials. The journalist affirms that during that period he was making comments solely

as a “writer-publicist”, a private person, and he was represented in the web site of the radio station namely as such.

On November 22 it became known that the Foreign Ministry of Belarus denied the accreditation of journalist of “**Gazeta Wyborcza**” **Andrzej Paczobut**, because he had worked before for foreign mass media without it. In 2009 he was stripped of accreditation, and after that he exercised journalistic activities without the relevant authorization of the Foreign Ministry. Apart from Andrzej Paczobut, the accreditation was also denied to press photographer of “**Gazeta Wyborcza**”, who had not worked in Belarus before for foreign mass media without accreditation. Mr. Paczobut believes that these actions of the Foreign Ministry could be explained by a selective treatment of foreign mass media that were critical about the political situation in the country.

On November 18 representatives of the European Radio for Belarus, registered in Poland, received in the Foreign Ministry of Belarus an authorization for their news bureau to work officially in Belarus for another year, till November 10, 2011.

On November 19 it became known that the Foreign Ministry of Belarus authorized the Russian News and Information Agency “RIA-Novosti” to open its news bureau in Minsk for one year.

On December 12 it became known that renowned Swedish press photographer **Dean CK Cox** who specializes in post-Soviet countries didn’t manage to get accredited for coverage of the presidential election in Belarus. The Foreign Ministry of Belarus denied accreditation to Dean CK Cox and, for this reason, didn’t issue him the entry visa.

Dean CK Cox submitted the visa application to the Foreign Ministry of Belarus on November 4 already. The next day he received a phone call and was asked to come to the Embassy of Belarus in Sweden to get the visa. However, when the journalist came, he was told that there were no instructions about him.

For more than a month, Dean CK Cox was getting promises that his application would be considered, but as a result, the visa was denied to him without giving a reason. To his question whether he could come to Belarus as a tourist, he got a negative answer in the Belarusian embassy — something like, he would not get the visa anyway as it was known that he was a journalist.

Dean CK Cox worked with such mass media as **The Associated Press**, **The New York Times**, **EurasiaNet** and **Bloomberg News**. His field of interest is hard news, especially in international relations, political commentaries, social issues, etc. Mr. Cox visited Belarus during the 2006 election, and he also came last year. He had no problems in getting visa before.

On December 6 Press Secretary of the Ministry of Foreign Affairs **Andrei Savinykh** said that more than 400 foreign journalists were accredited in Belarus for the presidential election.

Among the international guests there were such world-known mass media as BBC, Reuters, Guardian, Financial Times, The Wall Street Journal, and Le Monde. According to Andrej Savinykh, there were the biggest TV and radio companies from almost all

European countries in the list of mass media.

4.5. Infringements on Journalists' Rights during the Presidential Election and in the Post-Election Period

December 19

The election of the President of the Republic of Belarus took place.

Before the closing of the polling stations a number of journalists of Belarusian and foreign mass media got hurt. It happened during the attack of law-enforcement agents on presidential candidates Uladzimir Niaklajeu and his supporters aimed at taking the PA system away from them. The journalists, who were at the scene, were beaten; their photo and video cameras were damaged and taken away with no attention paid to press cards.

The detentions and beatings of journalists continued after the protest rally on December 19 as well as the next days. According to the BAJ's information, on this and following days at least 27 journalists were detained, 21 journalists suffered physically from law-enforcement agents. Thirteen journalists were sentenced to administrative arrests of 10 to 15 days. Seven journalists and members of the BAJ are accused of a criminal offence – organization of and participation in mass disorders (Article 293 of the Criminal Code "Mass disorders").

Detained:

1. Tatsiana Bublikava, freelance journalist. Sentenced to 10 days of arrest.
2. Zmitsier Sauka, linguist, freelance journalist. Sentenced to 15 days of arrest.
3. Tsimafiej Kaspiarovich, freelance journalist. Sentenced to 13 days of arrest.
4. Illa Kuzniatsou, freelance journalist. Sentenced to 15 days of arrest.
5. Iryna Khalip, "Novaja Gazeta" (Russia), spouse of ex-candidate Andrej Sannikau, member of the BAJ. Detained in the KGB pre-trial detention center. Charges on organization of and participation in mass disorders were brought against her in the criminal case.
6. Natallia Radzina, editor of the web site "Charter-97". Beaten in the Independence Square during the mass rally on December 19. At night, the door of the office of the web site charter97.org was broken by riot police, and communication with the journalists and several volunteers, who were there with her, was interrupted. Natallia Radzina was arrested and put in the KGB pre-trial detention center. Charges on organization of and participation in mass disorders were brought against her in the criminal case.
7. Julija Rymasheuskaja, press secretary of Uladzimir Niaklajeu. Detained in the office of Niaklajeu. Sentenced to 13 days of arrest.
8. Jauhien Vaskovich, correspondent of the newspaper "Babrujski Kurjer". Sentenced to 12 days of arrest.
9. Jan Lahvinovich, freelance journalist from Maladziechna (bulletin "Za Maladziechna"). Beaten during apprehension: his head was damaged

- and his arm was broken. Sentenced to 10 days of arrest.
10. Siarhei Vazniak, editor of the newspaper "Tovarishch", member of the Board of the BAJ. Put in the KGB pre-trial detention center. Charges on organization of and participation in mass disorders were brought against him.
 11. Alaksandr Fiaduta, activist of Uladzimir Niakliajeu's campaign, journalist, philologist. Put in the KGB pre-trial detention center. Charges on organization of and participation in mass disorders were brought against him.
 12. Volha Charnykh. Former student of the Journalism Department of the Belarusian State University, now student of the Journalism Department of the Jagiellonian University (Krakow), was assisting a group of the Polish television channel TVN24 that was covering the events of December 19. Sentenced to 12 days of arrest.
 13. Dzmitry Bandarenka. Activist of Andrej Sannikau's campaign, member of the BAJ. Detained in the morning of December 20 in his own apartment. Put in the KGB pre-trial detention center. Charges on organization of and participation in mass disorders were brought against him.
 14. Pavel Sieviaryniets, activist of Vital Rymasheuski's campaign, member of the Council of the BAJ. Put in the KGB pre-trial detention center. Charges on organization of and participation in mass disorders were brought against him in the criminal case.
 15. Ruslan Ihnatovich, freelance reporter of the newspaper "Pressball", student of the Institute of Journalism of the Belarusian State University (2nd year). Sentenced to 10 days of arrest.
 16. Alaksiej Shejin, member of the BAJ. Sentenced to 12 days of arrest.
 17. Andrzej Paczobut, freelance journalist, the Polish newspaper "Gazeta Wyborcza", non-accredited. Released in the evening of December 20 after an intervention of the Polish Foreign Ministry. The second consideration of his case was held on January 13, and Judge Labko sentenced the journalist to a fine of BYR 1,750,000. On January 19, the Prosecutor's Office of the Kastrychnitski district of Minsk filed a protest against the court decision considering the fine of 50 base units to be too soft a punishment. On January 28, the Minsk City Court of Justice (Judge Karnou) overruled the previous decision of the court and sent the case back. On February 11 the Kastrychnitski District Court of Justice sentenced Andrzej Paczobut to 15 days of administrative arrest for "participation" in the unauthorized rally on December 19 ("Violation of the procedure of organization or holding of a mass event", Part 3 Article 23.34 of the Administrative Offences Code). On February 18 the Minsk City Court of Justice dismissed the cassation appeal of his lawyer and upheld the court decision.
 18. Mikalaj Khalezin, stage director of the "Free Theater", journalist of "Charter-97". Detained but released in the evening of December 20.
 19. Kastus Lashkievich, TUT.by. Detained but released in the morning of December 20.
 20. Alaksandr Uladyka, freelance journalist. Detained but released in the morning of December 20.
 21. Vadzim Zamirouski, "Bielgazieta". Detained but released in the morning of December 20. The memory card of the photo camera was taken away.

22. Maryja Antonava, "France Press". Detained but later released.
23. Aleksandr Astafiev, Sankt-Petersburg, the newspaper "Moj Rajon". Detained, convicted, but released on December 22.
24. Dmitriy Ivanov, the publication "Natsionalnyj Kontrol" (Russia). Detained in the evening of December 18 and brought to the Department of Internal Affairs of the Zavodski district to have his identity established. Later released.
25. Maksim Petrovich, the publication "Natsionalnyj Kontrol" (Russia). Detained in the evening of December 18 and brought to the Department of Internal Affairs of the Zavodski district to have his identity established. Later released.
26. Zmitsier Halko (Budzimir), freelance correspondent of Radio Liberty. Sentenced to 10 days of arrest.
27. Ales Kirkievich, freelance journalist of Radio "Tvoj Styl". Detained on December 24 for participation in a picket near Akrestsina. Sentenced to 10 days of arrest.
28. Barys Haretski, broadcaster, detained near the KGB premises while interviewing relatives of prisoners. Sentenced to 14 days of arrest for participation in the protest rally on December 19, 2010.

Suffered physically, but not detained:

1. Aleh Hruzdilovich, Radio Liberty. (Suffered from policemen on December 19. Reported that he had been struck down to the ground, kicked, and his video camera was damaged (the microphone was slapped off).
2. Andrei Liankevich, freelance journalist, press photographer. (Forcefully put in the snow by policemen when he was covering the march of Niakliajeu's supporters to the Kastychnitskaja Square. His equipment was taken away, the camera flash was broken. It happened at Niamiha Str., near Niakliajeu's headquarters).
3. Ruslan Harbachou, "Salidarnasts". (As the online newspaper "Salidarnasts" reported in its online coverage, riot police officers attacked correspondent of the web site Ruslan Harbachou, ripped his press card away and kicked him several times. It happened on December 19 near the House of Government in the Independence Square.)
4. Alena Jakzhuk, "Salidarnasts". (Forcefully put by policemen in the snow when she was covering the march of Niakliajeu's supporters to the Kastychnitskaja Square. It happened at Niamiha Str., near Niakliajeu's headquarters).
5. Zmitsier Lukashuk, European Radio for Belarus. (Forcefully put by policemen in the snow when he was covering the march of Niakliajeu's supporters to the Kastychnitskaja Square. It happened at Niamiha Str., near Niakliajeu's headquarters).
6. Julija Darashkievich, "Nasha Niva". (Forcefully put by policemen in the snow when she was covering the march of Niakliajeu's supporters to the Kastychnitskaja Square; she was rudely forced to hide the camera. It happened at Niamiha Str., near Niakliajeu's headquarters).
7. Anton Taras, BelaPAN. (Forcefully put by policemen in the snow when he was covering the march of Niakliajeu's supporters to the Kastychnitskaja

- Square. It happened at Niamiha Str., near Niakliajeu's headquarters).
8. James Hill, "The New York Times", accredited officially at the Foreign Ministry. (Forcefully put by policemen in the snow, together with Belarusian journalists, when he was covering the march of Niakliajeu's supporters to the Kastychnitskaja Square. According to his colleagues, he received a blow in his eye. It happened at Niamiha Str., near Niakliajeu's headquarters).
 9. Viktor Talochka, BelTA. (News agency "Interfax-West", citing Director General of BelTA Dzmitryj Zhuk, reported that Viktor Talochka had been "crushed by crowd" during "the attempt to storm the House of Government". According to Dzmitryj Zhuk, the journalist suffered minor injuries and his photo camera was broken).
 10. Alaksiej Matsiushkou, press photographer of the newspaper "Obozrievatiel". (Informed that the flash of his camera had been broken).
 11. Juras Karmanau, "Associated Press", accredited officially at the Foreign Ministry. (As the journalist told to the BAJ, on December 19, when the "mopping-up" began in the Independence Square, he was standing there, covering his head with his press card clearly displayed, and received several blows with police truncheons).
 12. Anton Kharchenko, TV channel "Russia Today". (As RIA-Novosti reported on December 20, citing the press service of "Russia Today", he had got a large hematoma during the "mopping-up" in the Independence Square on December 19).
 13. Viktor Filiaev, TV channel "Russia Today". (As RIA-Novosti reported on December 20, citing the press service of "Russia Today", he had got a large hematoma during the "mopping-up" in the Independence Square on December 19).
 14. Jazep Palubiatka, "Novy Chas". (Got hurt on December 19 in the Independence Square. He was helping a girl who was struck down to the ground and got a blow by truncheon at his head and a blow by a shield at his temple. With his head broken, he was taken by ambulance to the hospital of the Interior Ministry where first aid was rendered to him. He has all doctors' written opinions.)
 15. Volha Khvoin, "Novy Chas". (As the journalist reported, on December 19 in the Independence Square, she was "shaken, strangled at her throat at the backside and ejected to the roadway" by policemen).
 16. Dmitry Tarkhov, camera crew of REN-TV (As RIA-Novosti reported on December 20, citing the press service of the television channel, Tarkhov got several blows in his stomach)
 17. Ilya Omelchenko, camera crew of REN-TV (As RIA-Novosti reported on December 20, citing the press service of the television channel, Omelchenko got several blows. He was rolled in the snow and his camera was damaged).
 18. Alena Danejka, "Deutsche Welle". (She got a blow by police truncheon at her arm while filming the events near the House of Government in the Independence Square on December 19).
 19. Hans Tsezarek, press photographer of the Austrian online publication news.at, suffered an arm injury and a fracture of the index finger. He told Radio Liberty that it had happened when policemen had begun to disperse the rally at night, and he and his colleague Christoph Leermaer

had got “in between two fronts”.

20. Uladzimir Hrydzin, freelance correspondent of BelaPAN. He was beaten twice: on December 19 on the steps of the House of Government, and the second time, on December 20, also in the Independence Square, he got hurt by Deputy Head of the Minsk City Department of Internal Affairs Ihar Jausiejeu.
21. Ales Barazienka, TV cameraman. He got hurt while covering the march of Uladzimir Niakliajeu’s supporters to the Kastychnitskaja Square on December 19.

December 20

The Civil Association “Belarusian Association of Journalists” expressed strong protest against the shocking fact of the use of force by policemen against journalists and civil activists in the evening of December 19. The statement says, in particulate: *“Law-enforcement agents harshly beat our colleagues, damaged and took away their professional equipment, disregarding their press cards. Reporters of Belarusian mass media and foreign journalists officially accredited in the country got hurt... Law-enforcement agents disregarded the press cards, thus flagrantly and unfoundedly violating professional rights of our colleagues to the unimpeded gathering of information”*. The Belarusian Association of Journalists demanded an immediate investigation of all instances of violence against journalists and impediments to their professional activities as well as bringing all those guilty to justice.

On the same day, press photographer Uladzimir Hrydzin was beaten while covering the crackdown of an action in the Independence Square. Deputy Head of the Minsk City Department of Internal Affairs Ihar Jausiejeu kicked the journalist, striking him down in the snow. This moment was recorded on camera by the journalist’s colleagues.

December 21

The Ministry of Justice demanded explanations from the BAJ in regard to the previous statement of the association related to the events of December 19. The Ministry inquired why the BAJ had spoken in the defense of aggrieved “civil activists” and not only journalists.

December 22

TV cameraman Ales Barazienka was detained and later released. The journalist was detained by plain-clothed persons not far away from his home when he was going to record another news story. The cameraman was taken to the Frunzienski District Department of Internal Affairs, where his passport was checked, and he was released.

December 24

The BAJ appealed to the Minister of Justice, the Minister of Internal Affairs and the Prosecutor’s General, calling upon them to pay attention to the numerous infringements of law that had happened during the last few days. *“Law-enforcement agents violently impeded Belarusian and foreign journalists to carry out their professional activities”*, the appeal, sent by the association on December 24, stated.

On the same day, freelance journalist from Hrodna Ales Kirkievich was detained near the detention center in Akrestsina Street. The journalist was sentenced to 10 days of arrest for taking part in a solidarity picket near the walls of the detention center.

December 25

The premises of the European Radio for Belarus were searched in absence of its staffers. They learned about the search from a comment at an online forum. Computers, notebooks, a server, dictaphones, photo cameras, portable video cameras – altogether 43 units – were confiscated.

December 25 and 26

At night, unknown persons broke into the office of the first independent TV channel “Belsat” in Minsk. They cut the door of the premises with a special saw. The office was empty at that moment. The journalists had left the office several days before, taking the equipment with them.

December 28

A search was conducted on the premises of the Belarusian PEN-Center where the editorial board of the newspaper “Nasha Niva” is located. KGB agents confiscated 12 computers, memory cards and compact disks.

At the same time, the private apartment of Editor-in-Chief of “Nasha Niva” Andrei Skurko was searched. His home computer and other belongings were confiscated. According to the search warrant, the searches were related to two criminal cases: on mass disorders and abuse of state symbols.

December 29

The Ministry of Justice sent another letter to the BAJ where it inquired who of the journalists, whom the association defended publicly, were its members.

The question was about a letter of the BAJ to the Minister of Justice, the Minister of Internal Affairs and the Prosecutor’s General with a demand to pay attention to infringements on journalists’ rights and to bring those guilty to justice. We shall remind that the association sent the official letters to these officials on December 24.

December 30

A search was conducted in the apartment of staffer of the TV channel “Belsat” Katsiaryna Tkachenka. A few hours before, she had been summoned to the KGB for questioning on December 31. A notebook, disks and other items were confiscated.

December 31

A search was conducted in the apartment of press photographer of “Nasha Niva” Julija Darashkievich and her husband, civil activist Paviel Jukhnievich. KGB officers showed them a warrant in the framework of the criminal case on mass disorders in Minsk in the evening of December 19. The warrant was made to the name of Darashkievich.

Two notebooks, all memory sticks, a dictaphone, external hard drives, disks, and even a DVD with the movie “Rumor Has It...” were confiscated — fifteen information storage media altogether.

Julija’s husband was detained and sentenced to 10 days of arrest.

On the same day, a search was conducted in the apartment of videographer of “Nasha Niva” Tatsiana Haurylchik. A camcorder, a computer and memory sticks that were found

in the apartment were confiscated.

On January 10 the videographer of “Nasha Niva” got a phone call from the KGB. She was told that she could collect the equipment that had been confiscated during the search on December 31.

In 2011, the infringements on rights of journalists and mass media, related to the 2010 presidential election, continued.



Strasbourg, 12 January 2011

Opinion no. 573/2010

CDL-AD(2010)053rev
Or.Eng.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

OPINION

**ON THE WARNING ADDRESSED
TO THE BELARUSIAN ASSOCIATION OF JOURNALISTS
ON 13 JANUARY 2010
BY THE MINISTRY OF JUSTICE**

OF BELARUS

**Adopted by the Venice Commission
at its 85th Plenary Session,
(Venice, 17-18 December 2010)**

on the basis of comments by

**Mr Pieter van DIJK (Member, The Netherlands)
Mr Christoph GRABENWARTER (Member, Austria)
Mr Peter PACZOLAY (Member, Hungary)
Ms Herdis THORGEIRSDOTTIR (Member, Iceland)**

TABLE OF CONTENTS

I. Introduction 3

II. Preliminary observations 3

III. Background information and facts 4

 A. The official warning..... 4

 B. The Belarusian Association of Journalists 5

 C. Subsequent events..... 5

IV. Relevant legal environment in Belarus 6

 A. Relevant constitutional provisions..... 6

 B. The Public Associations Act 7

 C. The Law on Mass Media 7

V. Issues addressed by the warning 7

 A. The warning against the BAJ in the light of the right of freedom of association..... 8

 B. The warning against the BAJ in the light of freedom of expression and freedom to receive and impart information 9

 C. The warning in the light of the principle of non discrimination 14

VI. Conclusions..... 15

I. Introduction

1. In its Recommendation 1897 (2010)¹, the Parliamentary Assembly of the Council of Europe (hereafter the Parliamentary Assembly) requested the Venice Commission to assess the compatibility with “universal human rights standards”² of an official warning addressed by the Ministry of Justice of Belarus to the Belarusian Association of Journalists (hereafter BAJ), on 13 January 2010.
2. The Venice Commission appointed Ms Thorgeirsdottir, Mr van Dijk, Mr Grabenwarter and Mr Paczolay as rapporteurs. They worked on the basis of an English translation of the warning (CDL(2010)055) and presented their individual comments (CDL(2010)053, CDL(2010)055, CDL(2010)054).
3. In order to obtain a better understanding of the situation, Mr Paczolay and Ms Martin, from the Secretariat, on 14 May 2010, had an exchange of views with Mr Simonov, Deputy Minister of Justice and signatory of the warning, as well as Ms Zhanna Litvina and Mr Andrei Aliaksandrou, respectively Chairperson and Vice-Chairperson of the BAJ.
4. The exchange of views provided an insight into the national context.
5. The delegation is grateful to the Constitutional Court of Belarus for arranging the meeting, and also to Mr Ferenc Kontra, Ambassador Extraordinary and Plenipotentiary of Hungary to Belarus, for his assistance and offer to host the exchange of views with the BAJ representatives in the premises of the Hungarian Embassy.
6. The present opinion was drawn up on the basis of the rapporteurs’ comments and of the information gathered during the exchange of views; it was adopted at the 85th Plenary Session of the Commission (Venice, 17-18 December 2010). During the session, the Commission was informed that additional factual information and clarifications on the situation in Belarus would be provided. The Commission authorised the rapporteurs to make necessary amendments to the text in the light of such additional information, which was received on 20 December 2010. Some minor amendments were subsequently made to the text on its basis.

II. Preliminary observations

7. The following opinion intends to assess the compatibility of the official warning addressed by the Ministry of Justice to the BAJ with “universal human rights standards”.
8. The assessment of the warning requested by the Parliamentary Assembly may have relevance not only for BAJ and its members, but more generally for the freedom of expression of the press in the country, For that reason, the present opinion, in some aspects, gives a more general assessment of the national relevant legislation and its compliance with international standards. However, it does not constitute an analysis of the freedom of the press or of association in the country in general, as this would exceed the scope of the Parliamentary Assembly's request.

¹ Assembly debate on 27 January 2010 (6th Sitting). Text adopted by the Assembly on 27 January 2010.

² The exact terms of the request of the Parliamentary Assembly are as following :“14. The Assembly notes with concern the official warning addressed by the justice ministry of Belarus on 13 January 2010 to the Belarusian Association of Journalists, challenging its internationally recognised work in the interests of journalists, media and media freedom. Recalling its Resolution 1372 (2004) on the persecution of the press in the Republic of Belarus, the Assembly reaffirms that media freedom is an essential condition for democracy and a requirement for membership with the Council of Europe. The Assembly calls on the authorities in Belarus not to abuse arbitral administrative regulations to restrict unduly the rights to freedom of expression and freedom of association under Articles 19 and 22 of the International Covenant on Civil and Political Rights and Articles 10 and 11 of the European Convention on Human Rights. As Belarus is an associate member of the Venice Commission, the Assembly furthermore asks the Venice Commission to analyse the compatibility of such warning by the justice ministry of Belarus with universal human rights standards”.

III. Background information and facts

A. The official warning

9. On January 13, 2010 the Ministry of Justice issued an official warning (hereinafter “the Order”) addressed to the Belarusian Association of Journalists.³ The official warning declared that the administrative body of the BAJ be placed under the obligation to ensure that all membership documents previously issued to members of the BAJ are withdrawn and see to it that they cannot be used in the future. The Ministry of Justice maintained that the press cards issued by the BAJ were unlawful as they “led to an unjustified assumption by the members of BAJ of the powers attributed to a mass media journalist” who has the right according to Article 34 paragraph 2 of the Media Act to exercise professional duties.

10. The Ministry of Justice maintains in the Order that the official BAJ press cards illegally contain the words “Press” and “Press Republic of Belarus”, as the journalist association is not a “mass media” platform and may not issue “official documents” of the type in question to its members, since this is in breach of the requirements of paragraph 7 of Article 1 and paragraph 4.9 of Article 34 of the Republic of Belarus Mass Media Act, No. 427-Z of 17 July 2008.⁴

11. Moreover, the Ministry of Justice claimed that the Legal Centre for Media Protection attached to the BAJ is “not envisaged in the statutes of the BAJ and acted beyond the statutes of the organisation.” Pro bono legal work done in support of independent journalists would not comply with BAJ’s mandate.

12. Besides, the Ministry also complains about information concerning BAJ objectives on the web site of the Association (www.baj.by) not corresponding to the statutes.

13. The BAJ was ordered to take steps to prevent any future infringements of the requirements of the law and the organisation’s statutes as mentioned in the Order and to submit evidence to the Ministry of Justice that the requirements listed in the Order⁵ had been acted upon. It must rewrite its goals on the web site and withdraw all the press cards within a month of issuing the Order.

14. The warning was issued shortly after a member of the BAJ, who was filming a documentary on a glass factory, had been prevented by a policeman from doing so; despite a former agreement by the factory’s top management and despite the fact that he had introduced himself as a journalist and presented his BAJ membership card mentioning the word “Press”.

15. The Ministry of Justice registers associations and controls that their activities are carried out in conformity with their status and with the legislation. A warning constitutes the lowest sanction, out of the three types of sanctions that can be issued with regard to associations. Further sanctions could be passed down: to suspend the activity of the association for a period of one to six months, and eventually, in pursuance of a court decision, the cessation of the activity of the association if the latter failed to comply with the previous warning. All three sanctions can be challenged directly before the Supreme Court.

16. The warning issued by the Ministry of Justice on 13 January 2010 is valid until March 2011. Belarusian presidential elections are due to take place on 19 December 2010⁶.

³ Signed by the Deputy Minister of Justice, Mr Simonov.

⁴ Legal Acts on Mass Media; Law of the Republic of Belarus, No. 427-Z of July 17, 2009

⁵ The Order can be found on the BAJ’s web-site <http://baj.by/m-media-browse-aid-52-mid-4664.html>; English translation of the order (CDL(2010)055,

⁶ Decided by the House of Representatives in Minsk on 14 September 2010.

B. The Belarusian Association of Journalists

17. The BAJ is a non-governmental, non-partisan and non-profit professional union of media workers. It is an affiliate of the International Federation of Journalists, a non-governmental organisation which campaigns for journalists within the UN system, and maintains official relations with UNESCO.⁷ According to its statutes, it works to defend the legitimate rights of journalists and campaigns for promoting the freedom of expression in the country.⁸ Founded in 1995, the BAJ has currently some 1100 members, representing a wide range of media outlets from across Belarus. Around 16 per cent of its members work with the State-sponsored media organisations. This means that the BAJ is principally an association of independent journalists. Many foreign journalists are also members of the BAJ.

18. The BAJ has been issuing its press cards for ten years.⁹ The BAJ Legal Centre has been active since 1999 and according to the dialogue with the BAJ representatives was “approved by the Ministry of Justice”; the web site has been operating since 2003.

19. The BAJ is an affiliate of “Article 19”, a global campaign for free expression in London.¹⁰ It has been an affiliate of the International Federation of Journalists since 1997¹¹ and signed an affiliation agreement with Reporters without Borders in 2003. That same year, the World Association of Newspapers (WAN) awarded the BAJ with the Golden Pen of Freedom Prize.¹² In 2004, the European Parliament awarded the BAJ the Sakharov Prize for Freedom of Thought.¹³

20. The BAJ operates from headquarters in the capital Minsk and through a network of 24 regional affiliates in all regional and important urban centres across Belarus. Only six of these premises have official status, as the others have had severe problems with getting legal residences.

C. Subsequent events

21. The international community reacted with conviction to the Ministry of justice’s legal action and made several public announcements^{14,15,16, 17}.

22. The BAJ challenged the warning before the Supreme Court.

23. On March 22, 2010, the Supreme Court upheld the Order of the Ministry of Justice obliging the BAJ to revoke its membership cards and halt issuance of similar cards, and to halt the operation of the associations internal Legal Centre for Media Protection, which provides legal defence¹⁸ to BAJ’s members, holding that it was not constitutionally established. The Supreme Court also confirmed the Order to revise the text on the BAJ web site.¹⁹ The verdict came into effect with its pronouncement. An appeal to the President of the

⁷ The International Federation of Journalists (IFJ was established in 1926) represents around 600.000 members in more than hundred countries (see <http://www.ifj.org/en/pages/about-ifj>)

⁸ <http://www.belarus.non-gov.org/organizers.htm>; see also www.baj.by

⁹ According to Zhanna Litvina, chairperson of the Belarusian Association of Journalists. <http://baj.by/m-p-viewpub-tid-1-pid-8189.html>

¹⁰ <http://www.article19.org/work/regions/europe/partners.html>

¹¹ <http://www.ifj.org/en/articles/ifj-protests-against-legal-harassment-of-belarus-association-of-journalists>

¹² <http://www.wan-press.org/article10805.html>

¹³ http://www.europarl.europa.eu/comparl/afet/droi/sakharov/prizewinners_en.htm

¹⁴ <http://www.ifj.org/en/articles/ifj-protests-against-legal-harassment-of-belarus-association-of-journalists>

See also: <http://www.exiledjournalists.net/page.php?id=595&category=news> (accessed on 4 May 2010).

¹⁵ <http://baj.by/m-p-viewpub-tid-1-pid-8189.html> (accessed 4 May 2010).

¹⁶ <http://charter97.org/en/news/2010/2/12/26313/> accessed on 4 May 2010.

¹⁷ Adopted by the BAJ Board on March 22, 2010. <http://baj.by/m-p-viewpub-tid-1-pid-8208.html> (accessed on 4 May 2010). See also: <http://charter97.org/en/news/2010/4/29/28556/> Accessed on 4 May 2010.

¹⁸ Article 2.4.3, Statute of the Association of Public Organisation “Belarusian Association of Journalists” (BAJ).

¹⁹ http://www.ifex.org/belarus/2010/03/25/baj_harassed/

Supreme Court or his deputies would have been possible. The BAJ did not appeal against the decision.

24. On May 14, 2010 the representatives of the BAJ informed the delegation of the Venice Commission that they had already complied with the warning and with the decision of the Supreme Court in order that the association would not expose itself to closure and dissolution.

25. Since then, the BAJ web site has regularly reported that other actions by the police or by the Ministry of Justice have been taken against members of the BAJ.

IV. Relevant legal environment in Belarus

A. Relevant constitutional provisions

26. According to Articles 2 and 3 of the Constitution of Belarus, the individual's rights and freedoms are the supreme goal and value of society and the State. The people are the sole source of state power and the repository of sovereignty in the Republic of Belarus.

27. In Article 7, the Constitution provides that the State and all bodies and officials shall operate within the confines of the Constitution and national law

28. The Constitution states in Article 22 that all shall be equal before the law and entitled without discrimination to equal protection of their rights and legitimate interests.

29. Restriction of personal rights and liberties shall be permitted only in instances specified by law, in the interest of national security, public order, the protection of morals and health of the population as well as rights and liberties of other persons (Article 23).

30. Article 33 of the Constitution guarantees everyone freedom of thought and belief, and free expression. No-one shall be forced to express his/her beliefs or to deny them. No monopolisation of the mass media by the State, public associations or individual citizens and no censorship shall be permitted.

31. Article 34 guarantees citizens of Belarus the right to receive, store and disseminate complete, reliable and timely information on the activities of State bodies and public associations, on political, economic, cultural and international life, and on the state of the environment. State bodies, public associations and officials shall afford citizens of the Republic of Belarus an opportunity to familiarise themselves with information that affects their rights and legitimate interests. The use of information may be restricted by legislation with the purpose to safeguard the honour, dignity, personal and family life of citizens and the full implementation of their rights.

32. Article 36 of the Constitution states that "everyone is entitled to freedom of association".

33. According to Article 8 of the Constitution, the Republic of Belarus shall recognise the supremacy of the universally acknowledged principles of international law and ensure that its laws comply with it.

34. Finally, Article 59 of the Constitution provides that the State shall take all measures at its disposal to create the domestic and international order necessary for the exercise in full of the rights and liberties of the citizens of the Republic of Belarus that are specified in the Constitution.

B. The Public Associations Act

35. The Public Associations Act No. 3252-XII of October 4, 1994 (amended as of January 4, 2010) defines public association in Article 1 as “a voluntary association of citizens associated, in the order established by the legislation, on the basis of common interests for joint exercise of civil, social, cultural and other rights.” The Public Associations Act (PAA hereinafter) does not cover trade unions.

36. According to Article 2 of the PAA, citizens of the Republic of Belarus have the right to establish, on their own initiative, public associations and to join and operate within public associations. According to Article 5 public associations, are to be established and operated in accordance with the Constitution of the Republic of Belarus, the present law, and other acts of legislation on the basis of their constituent documents. According to Article 11, legal persons cannot be members of public associations. The rights of public associations are listed in Chapter 2 and Chapter 4 of the PAA. According to Article 20, public associations have the right to create their own mass media and carry out publishing activity in the order established by law. According to Article 30, public associations may join international public associations.

C. The Law on Mass Media

37. The Mass Media Act no. 427-Z of July 17, 2009 (the MMA hereinafter) defines a “journalist” in Article 1, paragraph 7 as a “natural person engaged in collection, editing, creation (preparation) and storage of informational reports and/or materials for the legal person which is entrusted with functions of the editorial board of the mass medium, who is connected with that legal person through labour or other contractual relations. “Mass Media Information” as defined in paragraph 11 of Article 1 applies to print and broadcasting media as well as other informational reports and, according to paragraph 15, to information on the internet as well.

38. According to Article 11 of the MMA, mass media are subject to State registration. Grounds for refusal of State registration are set forth in Article 15 and the permissibility to invalidate such a registration is set forth in Article 16.

39. The status of journalists and their rights and obligations are set forth in Article 34, which states that the journalist in his/her activities is governed by the Constitution, the MMA, other law and norms of journalists’ associations. According to this article a journalist is obliged to show his/her service certificate upon request when carrying out his/her professional activity.

40. The status of the service certificate of a journalist, within the mass media platform, is registered in the territory of the Republic of Belarus and shall be established by the administrative body component in the sphere of mass information.

41. In practice, according to the information the Venice Commission’s delegation gathered during the fact finding mission, this implies that the service certificate (press cards) will be issued by the Ministry of Information which will then verify that the journalist is contractually linked with a mass media outlet which is already registered within the Ministry of information.

V. Issues addressed by the warning

42. The restrictions placed by the warning Act on the BAJ and the consequences which arise from it for the association and for the journalists that are its members, address several aspects of international fundamental rights standards.

A. The warning against the BAJ in the light of the right of freedom of association

43. Freedom of association is considered as essential to the effective functioning of a democracy. Any restriction of this right must meet strict tests of justification. It is protected under Article 22 of the ICCPR²⁰ and Article 11 of the ECHR²¹.

44. Article 22 of ICCPR reads as follows:

*“1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.”*

45. The protection afforded by Article 22 of the ICCPR, to which Belarus is a party, extends to all organisational and operational activities of an association. In the Human Rights Committee views, for the interference with freedom of association to be justified, any restriction on this right must cumulatively meet the following conditions: (a) it must be provided by law; (b) it may only be imposed for one of the purposes set out in paragraph 2; and (c) it must be “necessary in a democratic society” for achieving one of these purposes. The reference to the notion of “democratic society” indicates, in the opinion of the Human Rights Committee, that the existence and operation of associations, including those which peacefully promote ideas not necessarily favourably received by the government or the majority of the population, is a cornerstone of a democratic society.²²

46. Article 11 ECHR reads as follows²³:

*“1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.”*

47. According to Article 11 of the ECHR and the case law of the European Court of Human Rights (hereafter ECtHR), the right to freedom of association not only guarantees the right to form and register an association, but also includes those rights and freedoms that are of vital importance for an effective functioning of the association to fulfil its aims and protect the

²² Cf., CCPR communication no. 1296/2004, *Aleksander Belyatsky et al. V. Belarus*, views of 24 July 2007.

²³ Although Belarus is not yet a party to the ECHR, its standards are relevant for assessing the warrant, since Belarus wishes to become a member of the Council of Europe and, if admitted, will have to ratify the ECHR.

rights and interests of its members; the freedom of association presupposes a certain autonomy²⁴.

48. It lies at the heart of the freedom of association that an association may issue documents that show that particular persons are its members. Restrictions on issuing “official” documents may pursue a legitimate aim, i.e. the interest of public order, more precisely the aim of avoiding that a variety of “quasi-official” documents exist, while the authorities are not able to discern “official documents” from others. However, in order for such a restriction to be justified under Article 11, paragraph 2 it must have a legal basis and meet the strict criteria of necessity and proportionality.

49. The warning refers to the fact that the issue and use of membership documents constitutes a breach of Articles 1 and 34 of the Mass Media Act. Whether these articles of the mass media act would be compatible with Belarusian international obligations is not to be assessed here. The warning fails to show any reason why this infraction is a “necessity in a democratic society” of such an interdiction, and the Belarusian authorities have not advanced in any other way any arguments as to why it would be necessary to restrict the right of the journalists association (BAJ) to issue identification cards to its members.²⁵

50. The danger facing journalists in Europe is taking various forms.²⁶ Preventing the BAJ from affording its members legal protection does not seem proportionate with any of the purposes justifying restriction under Article 22, paragraph 2 of the ICCPR and Article 11, paragraph 2 of the ECHR. The prohibition of such legal protection of the BAJ members has a chilling effect on journalism as the members of the association fear penalisation of their activities. It prompts self-censorship and therefore hampers serious and responsible journalism to the detriment of other rights and freedoms underlying democracy.²⁷

51. Taking into account the severe consequences of ordering the BAJ to withdraw all membership documents issued previously to members and to see to it that they cannot be used in the future, as well as preventing the BAJ from affording its members legal protection is disproportionate and does not meet the requirements of permissible restrictions, in light of Article 22 of the CCPR²⁸ and of Article 11 of the ECHR.

52. The Venice Commission concludes that the warning fails to meet the strict criteria of justification under international and European standards.

B. The warning against the BAJ in the light of freedom of expression and freedom to receive and impart information

53. Freedom of expression is a cornerstone of democratic rights and freedoms. Freedom of expression is essential in enabling democracy to work and for public participation in decision-making.

54. Article 19 of the ICCPR reads as follows:

*“(1) Everyone shall have the right to hold opinions without interference.
(2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally or in writing or in print, in the form of art, or through any other media of his choice.*

²⁴ See, e.g., with respect to trade unions, ECtHR, *National Union of Belgian Police v. Belgium*, No. no. 4464/70, Judgment of 27 October 1975, § 39.

²⁵ Cf., CCPR communication n°1039/2001, *Boris Zvolzskov et al. v. Belarus*, views of 17 October 2006.

²⁶ CDL (2008)039; Report on the self-regulation within the media in the handling of complaints. By Herdís Thorgeirsdóttir. (Study no. 415/2008, 7 April 2008)

²⁷ Herdís Thorgeirsdóttir, *Journalism Worthy of the Name: Freedom within the Press and the Affirmative Side of Article 10 of the ECHR*, Kluwer Law International (2005).

²⁸ Cf., CCPR communication no. 1296/2004, *Aleksander Belyatsky et al. V. Belarus*, views of 24 July 2007.

(3) The exercises of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) for the respect of the rights or reputations of others; (b) for the protection of national security or public order (ordre public), or of public health or morals.”

55. Paragraph 1 requires protection of the “right to hold opinions without interference”. This is a right to which the Covenant permits no exception or restriction.²⁹ The right to opinion has been taken to mean more than simply the right to hold an opinion, equivalent to having a thought, as “holding an opinion could not be interfered with if no one knew about it”.³⁰ Protecting opinion separately emphasises the significance to form an opinion without any kind of interference, entailing a corollary duty for those traditionally associated with opinion formation in society (as the media).³¹ The States parties, as stated in the Preamble of the ICCPR, recognise that “political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights”.

56. Paragraph 2 requires protection of the right of freedom of expression, which includes not only freedom to “impart information and ideas of all kinds”, but also freedom to “seek” and “receive” them “regardless of frontiers” and in whatever medium, “either orally, in writing or in print, in the form of art, or through any other media of his choice”.

57. The exercise of any political right requires the full enjoyment of other civil and political rights protected under the ICCPR. For journalists to be able to exercise their fundamental rights they need to be able to enjoy the protection of their association.

58. Political speech enjoys special protection due to its social dimension.³² Journalists that do investigative reporting and seek to reveal the truth about political and controversial matters need the protection of their associations.³³ Journalist associations provide the paradigm for self-regulation of journalists and set the framework of ethical rules that journalists must respect when they seek to reveal the truth.

59. Article 10 of the ECHR reads as follows :

*“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and im-partiality of the judiciary.”*

60. As the European Court of Human Rights has emphasised repeatedly, freedom of expression is one of the most important issues and one of the key pillars of a functioning democracy.

²⁹ General Comment No. 10: Freedom of Expression (Art. 19) 29/6/83.

³⁰ Quoting the chairman of the UN Human Rights Committee, cf. Herdís Thorgeirsdóttir, Journalism Worthy of the Name: Freedom within the Press and the Affirmative Side of Article 10 of the European Convention on Human Rights (Martinus Nijhoff Publishers) 2005 (Chapter 3 Opinion, journalism and dignity).

³¹ Ibid.

³² Herdís Thorgeirsdóttir, Journalism Worthy of the Name: Freedom within the Press and the Affirmative Side of Article 10 of the ECHR, Kluwer Law International 2005.

³³ Ibid., Journalists for example avail themselves of the protection Article 10 of the European Convention affords if they do not adhere to their professions codes of ethics. See also: http://www.aej.org/page.asp?p_id=176

61. Although freedom of the press is not explicitly mentioned in Article 10 of the ECHR, it is clearly recognised under its scope. The role of the press in a democratic society is a vital one. The European Court of Human Rights has pointed out the role of the press as purveyor of information and public watchdog several times³⁴.

62. The scope of Article 10 of the ECHR includes multiple activities relating to disseminating information by the means of print media. Not only the publication of information in print media by journalists or by publishers, but also the relationship between journalists and publisher, the general conditions of the journalist's activity and the activity of the journalist him/herself are protected. In principle, Article 10 of the ECHR covers all fields of professional activities of a journalist, in particular the way how a journalist receives the information and how he/she arranges or modifies the information.

63. The case law on Article 10 of the ECHR reveals a clear understanding of the role of a free press as a basic condition for the "progress and development of every man". As the European Court of human Rights has held, "freedom of expression . . . is also applicable to information or ideas which offend shock or disturb the State or any other sector of the population. Such are the demands of pluralism, tolerance and broadmindedness without which there is no democratic society".³⁵ In a landmark judgment on press freedom of 1979 the European Court of Human Rights set forth the following general principle: "not only do the media have the task of imparting [such] information and ideas: the public also has a right to receive them."³⁶

64. According to Article 2 of the BAJ's Statutes, the main purpose of the BAJ is to ensure and facilitate the professional activities of its members, including their right to unimpeded acquisition, storage and distribution of information. According to the web site of the BAJ, the association deals with gathering, systematisation and dissemination of information on violation of the freedom of expression and the journalists' professional rights in Belarus. It works to defend the legitimate rights of journalists and campaigns for promoting the freedom of expression in the country.

65. The purpose of the BAJ can clearly be said to directly relate to the protection of freedom of expression and of information. Consequently, the freedom to receive and impart information needs also to be examined.

66. Article 34 of the Constitution of the Republic of Belarus provides, *inter alia*, that State bodies, public associations and officials shall afford citizens of the Republic of Belarus an opportunity to familiarise themselves with information that affects their rights and legitimate interests, thus expressly recognising the role of public associations in the dissemination of information.

67. Article 5, paragraph 2, of the Constitution provides that public associations shall have the right to use state mass media. However, this may not be interpreted to imply that they shall not be engaged in their own mass media activities. Such kind of State monopoly in the area of mass media would be contrary to Article 10 of the ECHR in conjunction with Article 11. And, indeed, Article 33 of the Constitution states that no monopolisation of the mass media by the State, public associations or individual citizens, and no censorship shall be permitted. In this respect it is also worth mentioning that Article 4 of the Constitution states that democracy in the Republic of Belarus "shall be exercised on the basis of diversity of [...] views".

³⁴ See among others *Barthold v. Germany*, No. 8734/79, Judgment of 25 March 1985; *Lingens v. Austria*, No. 9815/82, Judgment of 8 July 1986; *Monnat v. Switzerland*, No. 73604/01, Judgment of 21 September 2006.

³⁵ *Handyside v. the United Kingdom*, No. 5493/72, Judgment of 7 December 1976

³⁶ *Sunday Times v. the United Kingdom*, No. 6538/74, Judgment of 26 April 1979, para. 65.

68. The European Court of Human Rights permits States parties to the Convention “to control the way in which broadcasting is organised”, especially with regard to “technical aspects”, but otherwise the licensing measures have to comply with the requirements of paragraph 2 of Article 10 of the ECHR.³⁷ Consequently, even to the extent that the warning issued and the regulations on which it is based concern broadcasting, their justification has to be reviewed on the basis of the second paragraph of Article 10.

69. BAJ membership is open to every person who is a journalist or in profession related to development of journalism in the Republic of Belarus (Article 3.1 Statute of the BAJ). Although the BAJ is not a legal person operating in mass media according to the Mass Media Act, since it is composed of journalists it can play a substantial role in public debate.

70. Journalists are normally not obliged to reveal their journalistic sources, as the protection of these sources is one of the basic conditions for press freedom³⁸. Therefore, holding a press card is of particular importance to be able to receive information. Indeed, the journalist may not receive the same amount or quality of information from his/her sources if his/her identity as a journalist cannot be established.

71. Consequently, a restriction placed on the right of an association of journalists to issue press cards has very serious consequences for journalists and, subsequently, for the press in whole to act as the public watchdog. Whether this can be considered as a violation of freedom of expression and information, and the corollary right of the public to receive information in order to be enabled to form an opinion on controversial political matters, has to be assessed in the light of Article 19 of the ICCPR, to which Belarus is party, and of Article 10 of the ECHR.

72. The right to freedom of expression is not an absolute right; its enjoyment may be subject to limitations. As a consequence, abusive exercise of the right to freedom of expression is subject to subsequent imposition of liability.

73. Pursuant to Article 19, paragraph 3 of the ICCPR, such limitations are permissible as are provided for by law and are necessary (a) for respect of the rights or reputations of others; or (b) for the protection of national security or of public order (*ordre public*), or of public health or morals. However, such restrictions must not limit the full scope of freedom of expression or become direct or indirect methods of prior censorship. As the Human Rights Committee reiterated recently in a case against Belarus, the right to freedom of expression is of paramount importance in any democratic society, and any restrictions on its exercise must meet strict tests of justification.

74. Likewise, restrictions of the freedom of expression are possible under Article 10, paragraph 2 of the ECHR, provided there is a legal basis for the restrictions and provided that the restrictions are “*necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary*”.

75. Under the notion of “legal basis”, the ECHR refers to the legal system of the State involved, which must provide an adequate basis for the restrictive measure that must be both accessible and transparent.

76. Interferences with freedom of expression will be deemed to be ‘necessary’ only if they fulfil a ‘pressing social need’ ; interferences by legislation or executive measure that are simply ‘reasonable’ or ‘desirable’ will not be considered as a ‘necessary’ interference.

³⁷ ECtHR, *Groppera Radio AG v. Italy*, Judgment of 28 March 1990, §§ 59-61.

³⁸ See *Goodwin v. The United Kingdom*, No. 17488/90, Judgment of 27 March 1996.

77. The legal provisions quoted by the warning (Article 5, 26 and 27 PAA, and Articles 1, paragraph 7 and 34 MMA) and their application do not seem to provide for a sufficient justification according to the conditions imposed under paragraph 3 of Article 19 of the ICCPR or paragraph 2 of Article 10 of the ECHR.

78. Indeed, although the freedom of expression is guaranteed in Section II of the Belarusian Constitution, its implementation in the applicable mass media law appears in practice not to recognise that the purpose of this freedom is to enable journalists as well as other citizens to enjoy “freedom from fear and want [which] can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights”, as stated in the preamble to the ICCPR which Belarus signed and ratified in 1973 without any reservation. The mass media law in Belarus seems even in conflict with the constitutional commitment that the attainment of individual rights manifests the supreme goal and value of society, as stated in Article 2 of the Constitution of Belarus.

79. The applicable law imposes restrictions on the freedom of expression beyond what is permitted in international law.

80. Article 4 of the CCPR states that in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States parties to the treaty may take measures derogating from their obligations under the CCPR to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination on grounds prohibited under the said article. The Belarusian authorities have not advanced any argument in accordance with Article 4 of the ICCPR or any pressing social need to give priority to the application of its national law over its human rights obligations under international law.³⁹

81. As to the proportionality of the interference, the warning of the Ministry of Justice criticised the display of the terms “PRESS” and “PRESS REPUBLIK OF BELARUS” on the official documents of BAJ members. This interference is equivalent to an interference with the process of receiving and collecting information as a journalist.

82. BAJ members are engaged in journalism and should have the possibility to disclose themselves as journalists in order to carry out their activities. A threat of malpractice by using press cards has not been established. Restrictions on distributing press cards to certain types of associations operating in mass media according to the Mass Media Act might pursue certain legitimate public aims and might also be practical to achieve these aims, but it cannot be seen as proportional without any further justification.

83. It would be sufficient to distribute specific press cards under the Mass Media Act to make clear that these are under State control. Forbidding other associations such as the BAJ to use press cards using “PRESS” may, in the end, lead to a kind of censorship for BAJ journalists because they are not able to consequently receive and disseminate information in the same way as other journalistic actors. Actually, banning the use of press cards for associations such as the BAJ constitutes an intentional interference with Article 19 of the ICCPR and Article 10 of the ECHR in order to directly restrict the freedom of the press.

84. Additionally, the issuing of membership cards (press cards) is, according to European standards, usually done by journalists’ associations and not by the State. The authorities do not issue press cards, except in the case of foreign correspondents wishing to have access to specific events in the host country and therefore present their national press cards and prove that they are working as correspondents in their respective country.⁴⁰

³⁹ See i.e. CCPR communication n° 628/1995, *Tae Hoon Park v. Republic of Korea*, views of 20 October 1998.

⁴⁰ There is a foreign press association in Sweden <http://www.fpa-sweden.org/membership.htm>

85. In regards to the accreditation system under the mass media law in Belarus, the Human Rights Committee is of the view that “an accreditation system, however justified and prescribed by law, operates as a restriction on the right to impart information”.⁴¹ The issue is not only about membership cards but also about who is allowed to be journalist at all.

86. The accreditation scheme on the basis of the mass media law in Belarus does not ensure that there will be no arbitrary exclusion from access to journalism. Even if it did, the issue of licensing journalists remains a very controversial one.

87. The Venice Commission concludes that, by placing the BAJ under the obligation to ensure that all membership documents issued to BAJ members which display the word „PRESS“ and „PRESS REPUBLIK OF BELARUS“ are withdrawn, and see to it that they cannot be used in the future, the warning has infringed upon the right of the BAJ and its members to freedom to receive and impart information and ideas as guaranteed in Article 19 of the ICCPR and Article 10 of the ECHR.

88. Article 10 of the ECHR may also be of direct relevance for the question whether the freedom of association reflected in Article 11 has been infringed upon. This holds well for political parties⁴² and for religious associations⁴³, but in particular also for associations of journalists. As the ECtHR held with respect to the link between Articles 10 and 11: "Such a link is particularly relevant where – as here - the authorities' intervention against an assembly or an association was, at least in part, in reaction to views held or statements made by participants or members".⁴⁴

C. The warning in the light of the principle of non discrimination

89. Article 26 of the ICCPR⁴⁵ stipulates that all persons are equal before the law.

90. Similarly, Article 14 of the ECHR⁴⁶ stipulates that the enjoyment of the rights and freedoms set forth in the Convention shall be secured without discrimination, while Article 1 of Protocol No. 12 to the ECHR provides as follows:

1. The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

2. No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1.

91. Equality before the law implies that the application of laws and regulations as well as administrative decisions by authorities should not be arbitrary but should be based on clear coherent grounds, ensuring equality of treatment. To deny, without adequate reasoning, journalists and their associations the means necessary to practise their basic freedom of expression, a right to which everyone is entitled, seems arbitrary.⁴⁷

⁴¹ CCPR communication No. 633/1995, *Gauthier v. Canada*.

⁴² ECtHR, *Refah Partise (Prosperity Party) and Others v. Turkey*, Judgment of 31 July 2001.

⁴³ See European Commission for Democracy through Law (Venice Commission), Opinion on the Legal Status of Religious Communities in Turkey and the Right of the Orthodox Patriarchate of Istanbul to Use the Adjective "Eucumenical", CDL-AD(2010)005, 15 March 2010, § 53.

⁴⁴ ECtHR, *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, Judgment of 2 October 2001, §85.

⁴⁵ Article 26 ICCPR reads: “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

⁴⁶ Article 14 ECHR reads : “The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

⁴⁷ CCPR communication No. 633/1995, *Gauthier v. Canada*.

92. The BAJ is subjected to a difference in treatment from others in a comparable situation in the enjoyment of the freedom of expression guaranteed under the Convention. This measure, in the Venice Commission's opinion, is not objectively and reasonably justified.

93. Both journalists who are members of BAJ, and journalists who are connected with legal persons operating in mass media according to the Mass Media Act, pursue journalistic activities. Both need to collect and receive information. The exercise of their activities can be carried out only or at least more easily by using a press card.

94. There might be a legitimate aim which the Republic wishes to pursue by restricting the distribution and use of press cards to only those who are established under the Mass Media Act, such as the need to establish State controlled Republic-level agencies in the sphere of mass media (see written warning p. 1).

95. Nevertheless, there is no objective and reasonable justification for the discrimination between journalists set out in the warning. It would, for instance, be sufficient to distribute specified press cards to those journalists who are directly connected with legal persons operating in mass media under the Mass Media Act. Banning any reference to the word "PRESS" in press cards of other associations engaged in journalism cannot be regarded as proportionate.

96. Therefore, the written warning of the Ministry of Justice can also be regarded as being in violation of Article 26 of the ICCPR and Article 14 taken together with Article 10 ECHR.

VI. Conclusions

97. As a party to the ICCPR, Belarus has binding legal obligations to protect fundamental civil and political rights such as the freedom of expression (Article 19), the freedom of association (Article 22), the right to participation in public life (Article 25) and the right to equality before the law and non-discrimination (Article 26). Belarus has a positive obligation to respect these rights.

98. As a candidate country for membership of the Council of Europe and an associate member of the Venice Commission, the "acquis" of the Council of Europe, including the case law of the European Court of Human Rights, constitutes also a relevant frame of reference for the Venice Commission and the Parliamentary Assembly to assess if certain measures by the public authorities of Belarus are in conformity with international standards.

99. The rights to freedom of expression and of association are of paramount importance in any democratic society and any restriction of these must meet a strict test of justification.

100. The Ministry of Justice's Order has restricted the rights of a group of journalists to freedom of expression and the right to seek and impart information. To be able to enjoy freedom of expression of the press requires that journalists must have effective protection by their trade union or association. By denying the BAJ the right to issue press cards for their journalists the Belarusian authorities are denying these journalists the rights to have their interests protected by their association. At the same time the domestic legal situation is stripping the journalists' association, the BAJ, of effective power to protect members' interests.

101. The Ministry of Justice's Order constitutes, in the opinion of the Venice Commission, a violation of Articles 19 and 2 of the ICCPR and Articles 11 and 10 of the ECHR.

102. Additionally, since the Ministry of Justice's Order creates a discriminatory situation, it also constitutes a violation of Article 26 of the ICCPR, and Article 14 ECHR taken together with Article 10 of the ECHR, and Protocol No. 12 to the ECHR.