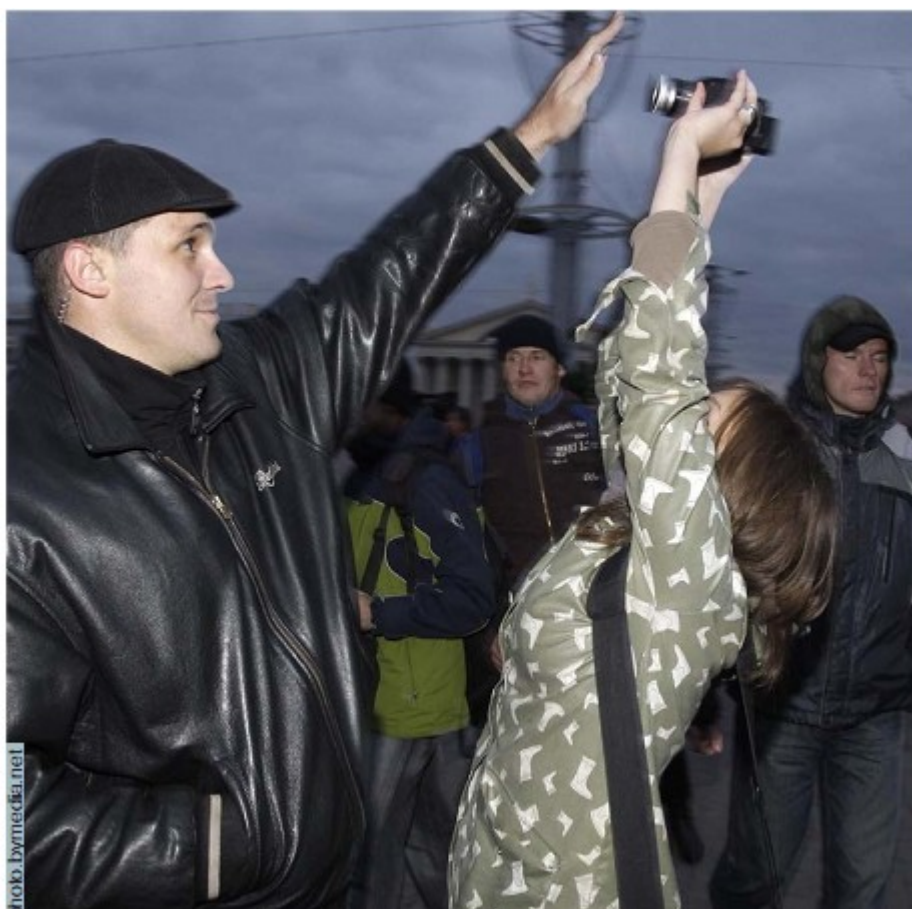


Mass Media in Belarus E-Newsletter

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A YEAR WITH A NEW MEDIA LAW



The Belarusian Association of Journalists

“The government’s assault on independent media undermines its claims... that it is willing to address the rights of journalists and to undertake much-needed reforms of its media-policies.

...In Belarus it is clear that the state tolerates violence by its police towards journalists who are going about their daily business of reporting public events.”

“For Free and Fair Media in Belarus” International Mission Report

20-24.09.2009

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1. A Year with a New Law “On Mass Media”. Development of Situation in the Media Field and Statistics

One year passed on February 8, 2010 since the moment a new law “On Mass Media” had come into force in Belarus. The experts expressed especial concern with the following provisions of the law:

- *re-registration of existing mass media;*
- *registration and regulation of on-line media activity;*
- *increase of mass media and journalists’ responsibility (e.g., according to the new law, a media outlet can be closed down by court even in case of single gross violations of legal norms or after two official warnings for any insignificant violations of the law);*
- *introduction of obligatory press accreditation for foreign correspondents and proclamation delegatization of any journalist activity without press credentials.*

At the same time, the experts marked certain simplification of regulations on registration of new printed media outlets (the mass media founders didn’t need to get approvals from the local executive authorities anymore).

The Belarusian Association of Journalists has been monitoring the practical application of the law “On Mass Media”. Basing upon the findings, it is possible to draw the following conclusions:

- Re-registration of existing media outlets finished on February 8, 2010. Generally, it was held without conflicts. However, in several cases the Ministry refused to re-register media organizations. At the same time, a large number of media outlets failed to submit documents for re-registration in time.

As of *February 1, 2010*, 67.3% of printed media (733 periodical editions), including 72.1% of non-state printed media (527 periodicals) passed the stage of official re-registration. Situation with broadcasting media appears to be a little bit worse. Thus, as of *February 1, 2010*, 52.8% of radio and TV programs (121 media outlets), including 62.9% of non-state radio and TV programs (39 media outlets) passed the stage of official re-registration. Five news agencies out of six agencies, existing in Belarus, passed the stage of official re-registration. All five news agencies are not owned by the state. Despite the fact that only more than a half of state-owned media passed the stage of official re-registration a week before the dead-line, no doubt, the majority of them will be able to carry on their activities in the future.

- Problems with registration of new media appeared since August 2009.

The Ministry of Information of Belarus resumed preventing new socio-political media outlets from getting official registration certificates without any good cause seven months after the new media law had come into effect. No less than 7 new periodicals have received such refusals. Some of them got their applications back several times in a row. The Ministry of Information most often explained its refusals with insufficient competence of Editors-in-chief and improper premises for editorial offices. Surprisingly, the new law "On Mass Media" does not provide for dismissals of applications for registration of media outlets in such cases. Moreover, generally, it is not required to mention this information in the applications, according to the law. However, the Ministry of Information changed the application form for registration of mass media, violating the new Media Law, on *October 7, 2009*. Correspondingly, the applicants were obliged to describe educational background and experience of their Editors-in-chief and present information about the premises of their editorial offices.

Since *February 8, 2009* till *February 1, 2010*, the Ministry of Information of Belarus registered 152 new printed periodical editions, including 119 non-state media and 11 broadcasting media outlets (4 radio-programs and 7 TV programs), including 7 non-state broadcasting companies.

The majority of registered periodicals deal with entertainment, advertising etc.

According to the BAI calculations, there aren't less than 30 registered non-state socio-political periodicals in the country nowadays.

The number of state-owned broadcasting companies prevails in Belarus as before (86 state-owned media outlets vs. 46 non-state media organizations).

Regardless of proprietors, all TV and radio broadcasting media in Belarus are strictly controlled by the national and regional authorities.

- The publishing of small-circulation periodicals that can be issued without any official registration has become more complicated.

The new media law complicated publishing of non-registered small-circulation periodical editions in Belarus. (It is permitted to issue periodicals without any registration certificates, in case the print-run doesn't exceed 299 copies.) Presently, the publishers of small-circulation editions are obliged to present the output data and send several free copies of their publications to the responsible state authorities. Thus, e.g., 5 state institutions and organizations have to receive the periodical and non-periodical editions, distributed in 10 – 299 copies on the territory of Belarus. Moreover, it should be mentioned that the Public Prosecutor's Office for Kletsk district warned the publisher of "Boykiy

Kletsk” non-registered small-circulation newspaper for failing to have the newspaper editorial registered as a legal entity. The Public Prosecutor’s Office for Miensk region and the Prosecutor General confirmed the warning.

- The state authorities resumed executive regulation of Internet activities.

According to the new law “On Mass Media”, the Belarusian government was authorized to work out a standard act on official registration and regulation of on-line media activities. (However, the law does not present any definitions of such media). The legal provision has been severely criticized in Belarus and in the EU. Following a number of round table discussions with participation of governmental officials, OSCE representatives, and the journalistic community members, the elaboration of governmental provisions on regulation of Internet media activity was suspended. This fact was roundly welcomed in Belarus and abroad.

However, the Belarusian top officials resumed their comments upon the need to regulate the Belarusian Web-segment, starting from the end of 2009. Consequently, Presidential edict No. 60 “About the Measures on Improvement of National Segment of Internet” was signed by A. Lukashenka on *February 1, 2010*. The edict envisages official registration of Web-resources, providing on-line services in Belarus, identification of computers with Internet connection, collection and storage of personal data of Internet-users and information about the provided Internet services in the Internet-cafes in Belarus.

Although on-line media are not mentioned directly in the edict, it is related to them as well, since it provides for disabling the Web-sites that disseminate some unwanted or banned information. The edict will come into effect on July 1, 2010. It will be nearly half a year before the coming Presidential election 2011.

- The new law presented the state authorities excessive opportunities for meddling in the journalistic activity.

The Belarusian Association of Journalists noted that the Ministry of Information didn’t misuse its broad authority, related to application of sanctions against mass media, in the first half year of 2009. (It was the Public Prosecutor’s office that actively intruded into the journalist activities instead then.) However, the situation deteriorated by the end of 2009.

Thus, four influential periodical editions (“Nasha Niva”, “Narodnaya Vola”, “Komsomolskaya Pravda in Belarus”, and “Va-Bank”) received official warnings from the Ministry of Information on *November 16-17, 2009*. Moreover, “Narodnaya Vola” received another official warning on *December 24, 2009*. It

is worth mentioning that two official warnings even for absolutely insignificant faults may lead to closure of mass media by court. Thus, a leading independent newspaper “Narodnaya Vola” appeared under the threat of closure.

The public prosecution bodies and the KGB issued around 20 warnings to journalists within the course of a year. They mainly addressed to the media workers, cooperating with foreign media without valid press credentials. At the same time, the Ministry of Foreign Affairs of Belarus kept on refusing to accredit the “BelSat” and “Radio Racyja” correspondents in the country.

- The Belarusian official authorities continued to prevent the activity of foreign media, broadcasting to Belarus from abroad.

The Belarusian governmental authorities decided to permit opening an office of European Radio for Belarus and accredit 12 journalists and technical assistants, cooperating with the media outlet, in the country on *November 11, 2009*.

However, the activity of “BelSat” and “Radio Racyja” is still banned in Belarus.

Just another time, the Belarusian Ministry of Foreign Affairs refused the “BelSat” TV channel to open its representation in Miensk at the beginning of December 2009.

A group of police officers tried to enter a flat, rented by an official representative of Belsat TV Channel in Minsk on February 3, 2010. As a result of the incident an independent journalist Ivan Shulha, a member of the Belarusian Association of Journalists, was detained. The media worker was brought to court, groundlessly accused of “minor hooliganism” and sentenced to 10 days of arrest on February 4, 2010.

- The law hasn't ensured legal protection of journalists and their access to information.

On *September 9 and 16, 2009* as well as on *October 16, 2009*, the representatives of law-enforcement bodies prevented journalists from implementing their professional duties during protest actions ([see photo](#)).

Independent journalists Uladzimir Hrydzin and Yulia Darashkevich were detained by police for more than four hours on *October 29, 2009*. The media workers' private belongings were examined. Moreover, Ul. Hrydzin was beaten hard ([see video](#)).

The authorities arrested a journalist I. Shulha and made attempts to burst into a private apartment, hired by a “Belsat” representative in Belarus as if in reply to the demands of BAJ to prosecute the guilty in violating journalist rights in the country.

The Ministry of Justice issued an official warning to the Belarusian Association of Journalists on *January 13, 2010*. The Ministry thinks official BAJ IDs illegally contain the words "Press" and "Прэса" ("Press" in Belarusian), as the Association is not a media outlet. Moreover, the Ministry believes that the activity of the Legal Center for Media Protection at BAJ is "not provided for by the statutes of the organization."

The PACE noted with concern in its resolution of January 27, 2010 the official warning addressed by the Ministry of Justice 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."

- The law hasn't secured the journalists' access and, consequently, the public access to information.

Public servants from different regions quite often refuse to deliver any information to mass media without the local ideological workers' consent. A range of new enactments restrict dissemination of information by civil servants in the country. In particular, certain changes have been introduced in the Belarusian Law "On Public Service". Accordingly, all public officers are obliged to have their interviews preliminary endorsed by their chiefs. Moreover, the Presidential ordinance No.65 (2009) provides for the appointment of spokespeople, responsible for presenting official information, at all state structures and state-owned organizations. The officers are subordinate directly to the heads of corresponding structures and organizations. Their activity is controlled by the Presidential Office.

- The economic discrimination of independent periodical editions is continued.

As before, the "Belposhta" and "Sayuzdruk" Belarusian state enterprises refuse to distribute practically a half of officially registered independent social and political periodical editions. The positively perceived return of "Narodnaya Vola" and "Nasha Niva" newspapers at the end of 2008 as well as "Bobruyskiy Kuryer" and "Hantsavitski Chas" weekly in 2009 hasn't solved the problem as a whole.

More than 10 independent periodicals are still deprived of any possibility to be distributed through the state-owned press distribution systems. At the same time, the state-owned media continue to receive subsidies from the state budget (the planned support shrank to USD 58 million in 2010), enjoy tax concessions, and administrative preferences.

Reportedly, the state authorities started exerting pressure on large advertisers, cooperating with non-state media outlets, at the beginning of 2010.

Conclusions:

In general, the application of Belarusian Law “On Mass Media” since the moment it came into effect a year ago has indicated that:

- the official authorities intend to keep the information space of Belarus under control as before;
- the positive changes in the media field at the end of 2008 and at the beginning of 2009 were neither systematic nor irreversible. The following deterioration of situation confirmed the fact;
- the legal base, regulating the media activity, deteriorated even more considerably after the new media law and a range of other coherent by-laws had come into effect. However, firstly, the situation in the media field is determined by the law enforcement policies that largely depend on the *internal political situation* (such as the coming elections), on the one hand and various *foreign policy factors* (the carried on dialogue between the Belarus’ government and the EU structures), on the other hand.

2. Evaluation of Situation with Mass Media and Freedom of Expression in Belarus by the Belarusian Association of Journalists

The Belarusian Association of Journalists expresses its concern with the media situation in Belarus on the eve of local elections and the preparation period, preceding the Presidential elections to come.

Presently, there exist all the grounds to state that Belarusian media will not be able to provide voters with objective and up-to-date information and will not become a platform for discussion of election programs of candidates.

The most worrying tendencies of the recent months include the official warnings, issued by the Ministry of Information to the printed media (which, in particular, put in jeopardy issuing of *Narodnaya Vola* newspaper), and the process of working out of a decree on regulation of Internet. The threat of closing down one of the emblematic newspapers and restrictions of activities in Internet, which still remains a field of relatively free flow of information, will move Belarus even further away from meeting international standards of the freedom of expression.

On the eve of the Presidential elections of 2006 a number of non-state newspapers were deprived of the possibility to be distributed through the *Sayuzdruk* and *Belposhta* networks. Some of them had to suspend or even stop publishing. Despite the fact that the pressure on the part of the international community and the efforts of civil society inside the country made the state distribution systems restore their cooperation with some of the newspapers, about a dozen of non-state socio-political publications still fail to get into the *Sayuzdruk* newsstands and the *Belposhta* subscription catalogues.

One year passed on February 8, 2010 since the moment a new law “On Mass Media” had come into force in Belarus. Belarusian media have been going through a process of re-registration during this year, and this process goes on without conflicts. At the same time, several new non-state newspapers were refused registration. Instead of considering the recommendations issued by influential journalistic and human rights organizations and international bodies to bring the Belarusian legislation in line with the international standards, the Ministry of Information introduced additional restriction for registration of new media outlets, which are not provided for in the Media Law.

The policy of economic discrimination of non-state press has intensified. According to information of BAJ, several major advertisers stopped their cooperation with non-state media in the beginning of 2010, facing pressure on the part of the official authorities. These actions jeopardize the

development of independent mass media and, as a result, threaten distribution of objective information in the Belarusian society.

The problem of correspondents' accreditation and opening of offices of foreign media is still topical. At the end of 2009 the Belarusian MFA allowed opening of an office of the European Radio for Belarus for one year, but that did not solve the problem in principle. On the one hand, the authorities refuse accreditation to journalists of foreign media and on the other hand, the authorities declare activities of these reporters to be illegal and put pressure on them.

The problem of access to information and journalists' accreditation at state bodies has aggravated. Regional journalists feel it even worse, as they become "hostages" of local authorities" understanding of the Media Law.

Belarus still has criminal liability for slander and insult, as well as for discredit of the country.

Restrictions the police forces use against journalists who cover street actions can be called a new worrying tendency. Representatives of law enforcement agencies several times forcefully prevented journalists from conducting their professional duties, although the current Media Law guarantees their right to be present at places of public actions and to report from there.

Belarus entered one of the main European neighborhood projects, the Eastern Partnership, in 2009. Cooperation has to be based on European values, and the freedom of expression is of key importance among them, being not only one of fundamental human rights, but also a criterion of implementation of all other rights.

Belarusian authorities declared their willingness for change inside the country, but their declarations were not put into practice. We must admit that the internal national dialogue has not started; neither were recommendations of international bodies to approach the democratic media standards implemented.

The Belarusian Association of Journalists keeps stating that a real dialogue is not possible without ensuring the freedom of expression in Belarus and real improvements of the media situation in the country.

BAJ keeps demanding the following conditions to be met:

1. Ensuring equal economic conditions for media outlets with different forms of ownership, in particular:

- returning all independent newspapers to the system of *Sayuzdruk*, *Belposhta* state subscription catalogue and Belarusian printing houses, and inadmissibility of printing and distribution restrictions in future;
- elimination of any administrative and economic pressure on companies and enterprises that cooperate with editorial boards of independent media.

2. Ensuring real access to information, in particular:

- abolishing articles of the Belarus" Law "On State Service" and provisions of other legislation acts that restrict the journalists" right to access information about the activities of official authorities;
- guaranteeing the freedom of accreditation of correspondents and the opening of offices of foreign media as well as the introduction of accreditation scheme upon request;
- unacceptability of cases of refusals by state officials to provide journalists with information.

3. Bringing national media legislation in accordance with international standards, in particular:

- bringing the Belarus" media-related legislation (in particular, the Law
- "On the Media" and the Law "On Counteraction to Extremism") and its implementation in line with international standards;
- abrogating articles of the Criminal Code, that provide for criminal liability for defamation, specifically Article 188 "Calumny", Article 189 "Insult", Article 367 "Calumny in relation to the President of the Republic of Belarus", Article 368 "Insult of the President of the Republic of Belarus", Article 369 "Insult of the representative of the authorities", Article 369–1 "Discredit of the Republic of Belarus".

The Belarusian Association of Journalists is sure these steps will not only allow to hold free and democratic elections, but also foster improvement of the current situation with the freedom of expression and independent media in Belarus as necessary prerequisites for the development of a democratic country.

Adopted by the Board of Belarusian Association of Journalists

January 19, 2010