

THE BELARUSIAN ASSOCIATION OF JOURNALISTS

Mass Media Week in Belarus

January 12 – 25, 2015

The first month of the year went on with one more fine to a journalist for contribution to foreign mass media without accreditation; also, several journalists' complaints were dismissed; a blogger was fined for insulting an official on duty; and the Supreme Court upheld the warning issued by the Information Ministry to the independent newspaper *Narodnaya Volya*.

On January 13, the Lenin district court of Brest found journalist **Alina Litvinchuk** guilty of violating art. 22.9 (illegal production and distribution of products of mass media): she violated the law by making a publication about the local department of youth Christian organization YMCA. The article was published on the *Belarusian Radio Racyja*. The journalist refused to testify against herself. Judge Sviataslau Kalina heard the witness Aliaksandr Drachuk, representative of the YMCA, confirming the identity of the journalist. The judge did not even leave for the consultation room and read out the ready-made judicial ruling: she was fined 30 basic amounts (5 400 000 rubles). Alina Litvinchuk said her constitutional rights were violated and she would appeal against the decision.

On January 13 the Pershamayski district court of Minsk **dismissed the appeal** of human rights activist **Elena Tonkacheva** against the police's decision to deport her and ban entry to Belarus for three years.

We remind that on November 5 the department on citizenship and migration annulled Elena Tonkacheva's residence permit and ordered to leave the country within a month. The grounds for the decision were minor speed limit violations, registered by video cameras. Elena Tonkacheva tried to dispute the decision in the chief police department of the Minsk City Executive Committee and then in court. Elena Tonkacheva has lived in Belarus for 30 years. She runs the Legal Transformation Center ([Lawtrend](#)), an NGO dealing with freedom of association and freedom of assembly, access to information for people with disabilities, and people's access to information of state bodies.

Judge Natallia Petukh considered the case in three hearings. The police insisted that Tonkacheva drove a car which was a source of increased danger, so, violating the speed limit, she created threat to public safety, might have caused injuries or deaths. In her turn, Elena Tonkacheva remarked that the law enforcement agencies did not present evidence that it was her who drove the car at the moments of violations; she presented proofs she had shared the car with her friend and a colleague. She also underlined that she had a daughter, of Belarusian citizenship, a job, and private property in Belarus, and nowhere else.

Before the trial, 7000 signatures were collected under electronic petitions not to expel her from the country. There were also 700 written petitions in her defense. Civil society representatives consider the actions disproportionate and treat it as persecution for human rights activities.

On January 14, the journalist from Brest **Ales Liauchuk** received a reply from the Brest

prosecutor's office. The journalist wanted to initiate a check-up into procedural violations that the police had made while drafting an administrative report against him under art. 22.9, part 2. The report was taken as grounds to fine him for work without accreditation on Belsat. As follows from the reply, signed by Ivan Chaychyts, prosecutor's deputy, the prosecutor's office dismissed the complaint.

On January 15, BAJ received a **reply from the General Prosecutor's office** regarding troubles with access to several websites at the end of December.

We remind that on December 22 BAJ requested [information](#) from the General Prosecutor's office, the department on IT crimes of the Ministry of Home Affairs, the Operative Analytical Center. Websites [naviny.by](#), [charter97.org](#), [udf.by](#), [gazetaby.com](#) and some others had experienced troubles with access since December 19. BAJ requested to hold an inquiry, restore access and bring trouble-makers to responsibility.

The General prosecutor's office said it was not involved in the matter, did not know anything about decisions to block the websites from other state bodies, and redirected BAJ's request to the Ministry of Communications and Informatization.

On January 16 the Kastychnitski district court of **Mahilou** heard the **suit** of the independent newspaper **Novy Chas** against a security officer of a shop Dzmitry Prokharau. The newspaper sued the guard for that he had offended an individual distributor of the newspaper Viktor Charavukhin: the distributor said the guard had called him a fascist. The defendant did not plead guilty, saying he did not call the distributor a fascist. Meantime, he admitted he considered the newspaper to be fascist, Nazi and nationalist. The judge ruled the guard would not be brought to administrative liability because his guilt had not been proved.

On January 19 by the Kastychnitski district court of Minsk heard the **case** filed by a **policeman against a blogger**. Alena Stohava was fined for 3 600 000 rubles (around 250USD) for insulting the police officer in a blog, under charges "insulting an official while on duty".

The police officer did not allow the woman to enter the subway because she was drunk. The disappointed blogger later wrote a blog using words "menty", "mentovskaya strana" (informal word for *policeman*, has slightly derogative meaning, but is widely used by population and in the movies), "I hate you with all my soul". The blog went viral, and the subway employees decided to publish the video compilation of the blogger's behavior. The police officer filed a lawsuit, stating he had been insulted. The main argument was that she had taken a photo of him and published in the blog, too, so all the words were addressed to him personally.

It has become quite common recently to bring people to administrative liability for defamation and insult on the Internet. In July 2013, a man [was fined](#) for insulting a police officer in negative comments on [TUT.by](#) portal. The same year, [another fine](#) was imposed on a young man who had used unpleasant comments against his examiner at the traffic police. In November 2013, a judge was offended by online comments, for which the offender paid a pretty large fine.

As for criminal cases, there have been two of the kind – against [Andzej Poczobut](#), who had

become famous also by conviction for defaming the president of Belarus in 2011, and against [Aleh Zhalnou](#), a blogger from Babruysk.

Although, ordinary citizens usually lose in media-related insult cases. The journalist from Brest had her [appeal turned down](#) by the Supreme Court; courts considered that the words “piggy” and “ungifted foolish young people” were quite OK and these were somebody’s opinions that can exist. At the end of 2014, activists from Mahilou requested the police to find owners of a defamatory website obviously aimed at discrediting political and civil activists of the region. The police [replied](#) the website was registered abroad so they were helpless here, and recommended trying courts of the country (or countries) where the website was located.

On January 19, the Minsk city court **dismissed the complaint** filed by **Viktar Parfionenka** who has tried for years to get accredited as a journalist of **Radio Racyja**, but the MFA denies accreditation.

Viktar Parfionenka seven times has applied for accreditation as a journalist of the *Belarusian Radio Racyja*, broadcasting from Poland for Belarusian audience; last time he applied on May 23 and got refusal with reference to the Law on Mass Media and the [Ruling on the procedure of accreditation of journalists of foreign mass media in Belarus](#). The journalist filed the complaint to the Lenin district court of Minsk (this is the district where the MFA is located). The court (judge Iryna Brolishs) dismissed the complaint without consideration. The journalist appealed to the Minsk city court, but the appeal was dismissed, too.

The journalist drew parallel with the [case of Maryna Koktysh](#) whose right to accreditation and Belarus’s obligation to issue the accreditation has been reaffirmed by the decision of the UN HRC. Unfortunately, neither Parfionenka’s claims nor the precedent of Maryna Koktysh influenced the decision of the judges’ panel of the Minsk city court. Now the journalist plans to appeal to the Supreme Court and to the UN HRC.

On January 21, the Mahilou Regional Court **dismissed the cassation appeal** of the independent newspaper **Volny Horad** (Krychau). The newspaper asked to overrule the decision of the Krychau district court dated December 8, 2014, which found that the newspaper inflicted damage to honor, dignity and business reputation to Maryna Maximava, head of the ideological department of the district executive committee. The editor was fined 7 million rubles to the benefit of the ideologist. The chief editor Siarhei Niarouny said he would file a supervisory appeal.

On January 21, the Lenin district court of **Mahilou dismissed the complaint** of Uladzimir Lapcevich, a journalist of the informational agency *BelaPAN*, against actions of official representatives of the **Mahilou Regional Council**. The journalist was not allowed to follow a session of the Council. In court, he argued that journalists, and even ordinary citizens, have the right to attend open sessions of representatives’ bodies. The chief specialist Yauhen Nalchau claimed that journalists have to apply for an invitation to cover sessions in the Council.

On January 22, correspondents of the **Ukrainian TV channel 1+1** were stopped on the

Belarusian border; they were coming to cover the anniversary of the death of Mikhail Zhyzneuski, **Euromajdan** activist; questions occurred if the journalists were allowed to **enter Belarus**.

Two journalists were going to cover the remembrance day in the village Znamya, Homel region, where the activist was buried. According to Marichka Padalko, correspondent of 1+1, Belarusian border guards had questions to journalist Valentina Dobrota. She was banned entry to Russia, that's why Belarusian border guards doubted if she was allowed to enter Belarus; although she had been accredited by the Belarusian Foreign Affairs Ministry.

The questions of accreditation were clarified, and three hours later, the team was set free and allowed to move on.

On January 23, the Brest Regional Court **dismissed the cassation appeals** of Tamara Schapiotkina from Biaroza and of Ales Liauchuk from Brest. Both of them had been fined: Tamara Shchapiotkina on December 17, for 30 basic amounts, and Ales Liauchuk on December 24, for 40 basic amounts. The charges are similar: article **22.9, part 2** – for work for foreign mass media without accreditation.

On January 22, the Ministry of Information reported it had **restricted access to two informational resources** that “contained vulgar and tabooed vocabulary and were able to inflict harm to interests of the Republic of Belarus.” Later journalists found out what the websites were: two trash websites with domain names yahooeu.by, yah.by that were registered for a physical person and were not fully functional informational resources.

On January 22, in Minsk **Belsat TV reporters were prevented from making a report** about the commemoration action near the monument of Taras Shevchenko in the memory of Nebesnaya Sotnya of **Euromajdan**. Before the action, people in plain clothes came up and claimed the cameraman was not allowed to film because Belsat was not accredited. The reporter was dragged away from the venue.

On January 23, the **Supreme Court of Minsk dismissed the appeal** of the non-state newspaper **Narodnaya Volya** against the **warning that the Ministry of Information** had issued to the outlet last autumn.

The warning concerned the [article](#) by Sviatlana Kalinkina dated October 2, 2014 ([full text](#) in the archive). The publication was the author's opinion on ratification by Belarus of the treaty on setting up the Eurasian Economic Community. The first hearing of the appeal took place on January 14 when both sides were able to voice their standings.

The Ministry of Information was represented by **Yuliya Kochyna**, head of mass media registration section, and **Viktoryja Mialeshka**, head of the legal and HR department.

They presented a conclusion on the EurAsEc, made upon their request by the Ministry of Foreign Affairs. They underlined that the Ministry thought that the article by Sviatlana Kialinkina not only inflicted harm to state and public interests, but also discredited the foreign policy of Belarusian state. The newspaper's representatives argued that the publication contained no untrue information, and the article was just an opinion. Judge Alena Kastrama left the warning in force. The editorial office was going to file a cassation

appeal to the Panel of Judges of the Supreme Court.

[Narodnaya Volya](#) is a leading print independent newspaper with circulation of 27 000 copies, published two times a week. It has had troubles with printing and distribution of print newspaper, its journalists endured searches and seizures of equipment. In 2011, the Ministry of Information sued to close the newspaper in the Supreme Court, but the case was dismissed (two warnings may become grounds for closure, more about it on [Wikipedia](#)). In 2014 its journalist Maryna Koktysh [won a case](#) with the UN HRC deciding Belarus violated the journalist's right to seek and impart information.