



For Free and Fair Media in Belarus

MISSION REPORT

International Fact-Finding Mission
to the Republic of Belarus

Minsk, 20-24 September 2009

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Danish Union of Journalists
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1 Introduction

This report is the result of an assessment and advocacy mission carried out in Belarus from 20-24 September 2009. The mission was undertaken by a delegation of press freedom and media development organisations with long-term relations with media workers and institutions in Belarus.

In Belarus, the mission delegation met with Belarusian government representatives and state and non-state media organisations, in order to express and exchange opinions on the present situation of independent media, press freedom, freedom of expression and access to information in Belarus.¹

¹ See Annex 11.1 – List of meetings during the mission

2 Background and purpose of the mission to Belarus



*International Media mission in front of the Presidential Administration in Minsk.
Photo: Mogens Blicher Bjerregaard/DJ*

Based on the knowledge and expertise of the participating organisations in reference to international media standards, the purpose of the mission was to undertake an assessment of the present media environment and freedom of expression situation in Belarus. In the same light, the purpose of the present report is to ensure that press freedom and media reform remain at the heart of the on-going negotiations between the European Union (EU) and the Belarusian government – both in regard to the current suspension of certain EU sanctions against Belarus, the longer term Eastern Partnership Initiative and the Human Rights Dialogue (elaborated on below). A first meeting between some of the organisations of the mission and the *Direction General E, Directorate Western Balkans, Eastern Europe and Central Asia, Council of the European Union*, was held in Brussels on 1 April 2009. Subsequently, updates on the media situation in Belarus were sent to the European Council by the group of organisations involved.²

2.1 Participants in the mission delegation and organisations involved

The organisations participating in the delegation included:

European Federation of Journalists (EFJ)/International Federation of Journalists (IFJ), Open Society Institute (OSI), Index on Censorship, International Media Support (IMS), Danish Union of Journalists (DUJ) and UNESCO. The mission was carried out in collaboration with the Belarusian Association of Journalists (BAJ) which hosted the mission in liaison with the EC delegation in Minsk. It

² See Annex 11.4 – Letter to the Council of Ministers of the EU

must be noted that a representative from the Civil Rights Defenders was supposed to take part in the mission, but was not granted a visa although she applied for one simultaneously with the other participants of the mission.

In addition to the mission-delegation, a number of other media organisations have been involved and have signed on to the mission statement. These organisations include: Civil Rights Defenders (former Swedish Helsinki Commission), PressNow, World Association of Newspapers and News Publishers (WAN), Article 19 (A19), International Press Institute (IPI), Committee to Protect Journalists (CPJ), Index on Censorship and Reporters without Borders (RSF).

2.2 Objectives of the mission

The main objective of the mission was:

To ensure the European Council insists that the Belarus government undertakes a genuine and vigorous reform of the regulation of media that establishes press freedom and the rights of journalists to work independently, to carry out their work free of undue political influence and to create a media environment in line with internationally recognised standards.

The specific objectives of the mission were:

To inform the European Institutions, in particular the Council of Ministers, as well as other institutions such as the Council of Europe, of the present media situation in Belarus, and to test the impact of the Belarus Government's commitment to reform and to advocate for media reforms.

The immediate result of the advocacy mission was the elaboration of a Mission Statement which can be found as Annex 2 in the present report. The statement was drafted during the mission and released immediately at the end of the mission. The subsequent result of the mission was the preparation of the present mission report on the current situation of media in Belarus. In line with the Swedish EU presidency and Sweden's present responsibility in leading EU's work and moving important EU issues forward, this report – including the mission statement – will be presented to the Swedish government on 16 October 2009.

3 Current media and press freedom situation in Belarus

As some representatives of the non-state media expressed in September 2009: *"We can now breathe, but we still cannot move"* others expressed at the same time: *"This is all make-up of the regime, nothing real has changed."*

3.1 Poor free media standards

Despite some symbolic and isolated gestures on the part of the authorities, Belarus continues to fall short of meeting international free media standards, and authorities still make use of a number of repressive provisions that can be used to silence critical, oppositional or alternative voices.

This is especially problematic when it comes to *access to information* which is largely restricted for the non-state media via the so-called ideological departments. These departments cut across the entire public administration in the country. Thus, since most independent media cannot access information of vital public interest, the public at large remains deprived of knowledge about important societal matters and decisions of the authorities and administrative bodies. The media in Belarus cannot under the present circumstances function fully in accordance with their role as *"a watchdog of government in all its forms, promoting transparency in public life and public scrutiny of those with power through exposing corruption, maladministration and corporate wrongdoing."*³



News kiosk in Minsk.
Photo: BAJ

³ See Annex 11.6 – Media development indicators – a framework for assessing media development, UNESCO/IPDC, March 2008

FACT-BOX: Overview of media in Belarus**Registered media organisations and institutions:**

1,314 media organizations had official registration certificates in February 2009 (900 non-state media – including everything from newspapers to advertising handouts). As of 1 October 2009: 557 printed mass media and news agencies (including 402 non-state media) passed the stage of official re-registration

The overwhelming majority of non-state media cover entertainment, advertising or specialised editions. According to BAJ, there are only about 20 national and regional independent newspapers which deal with social and political information

Newspapers:

There are 663 newspapers in Belarus (218 state and 445 non-state) plus 594 magazines (179 state and 415 non-state). The data is from 8 February 2009, before the re-registration started

TV stations:

There are 71 (30 state and 41 non-state). The data is from 8 February 2009, before the re-registration started

Production companies:

There are approximately 2,000 production companies and 586 of them are state-owned

International TV channels:

Approximately 130 channels in total (most of these are Russian) via different satellite and cable networks, and depending on the specific type of satellite dish and antenna

Radio stations:

There are 158 radio stations (137 state and 21 non-state). The data is from 8 February 2009, before the re-registration started

Internet Service Providers:

The state provider Beltelecom (ISP) company holds the national monopoly

Mobile telephony providers:

There are 4 mobile brands: Velcom, MTS, Best and BelCell

BAJ October 2009

3.2 No significant structural changes

The hope for structural change arising from the Non-paper issued by Belarus authorities on 19 November 2008 still seems premature. In the Non-paper it was officially announced that independent newspapers *Narodnaya Volya* and *Nasha Niva* could again be printed in the territory of Belarus, regain access to the state distribution network, and be included into the subscription catalogue *Belpochta*, and that several multi-stakeholder media round-tables and meetings were to be held. These promises have been kept. Yet other

promises, such as that *"the results of the discussion of the round table will be taken into account by the Belarusian side when making further improvements in the legislation and practice in this sphere"* and *"Belarusian Government wants to continue the steps towards closer cooperation with the EU [...] it wants not just the discussion, but also the implementation of concrete steps in the nearest future"* seem to have longer perspectives.

In accordance with the findings of the mission in September 2009: Economic conditions for media are not equal, subscription and distribution systems are monopolized or controlled by the state on a large scale and limit access for non-state media, allocation of broadcast licenses and frequencies is neither transparent nor equal, access to information is restricted, accreditation of journalists (working for foreign media) is restricted, legislation on defamation and extremism creates an environment of self-censorship and thus lack of publicly available information on important issues, and the newly installed *Public Coordination Council on Media*⁴ does not have any real power but plays merely a symbolic role.

3.3 Brief overview of EU-Belarus dialogue

There are several parallel processes in the EU-Belarus dialogue. The outline below gives a brief overview of various levels and platforms.

Human Rights Dialogue

The first human rights dialogue between EU and Belarus⁵ took place on 16-17 June 2009 and the next is envisaged for 2010. During the talks in June 2009, both sides raised individual cases of concern related to specific human rights issues in the EU and Belarus. Among others, these included: freedom of media, freedom of expression, freedom of association and freedom of assembly. The human rights dialogue forms part of – but is not intrinsically linked to – the suspension of the visa-ban and other sanctions.

Originally imposed by the EU in 2004 and 2006, the visa-ban sanctions resulted in travel restrictions for 40 Belarusian officials and President Lukashenko himself. The visa-ban was temporarily suspended for Lukashenko and 35 other officials, but kept for those involved in the disappearances which occurred in 1999 and 2000 and for the Chairperson of the Central Electoral Commission of Belarus.

Suspension of visa-ban sanctions

As for the decision to suspend the visa-ban sanctions, such sanctions are discussed within the European Parliament and binding decisions are made by *The General Affairs and External Relations Council (GAERC)*. GAERC is one of the oldest configurations of the "Council of the European Union"⁶ and it holds separate meetings on EU General Affairs and External Relations. Meetings bring together the Foreign Ministers of Member States. Depending on the items on the agenda, Ministers responsible for European Affairs, Defense, Development or Trade participate in these meetings.

The first suspension of the visa-ban was made in October 2008 following the parliamentary elections and after Belarus authorities had freed all remaining political prisoners from detention (those sentenced to "home arrest" remained). Partly in response to this, GAERC decided to suspend the visa-ban sanctions for 6 months. In March 2009, it was decided to uphold the suspension of the visa-ban sanctions for an additional 9 months, since some positive developments towards democratisation had been made. In the beginning of April 2009, the European Parliament sent out a press-release stating that the *"Parliament re-*

4 The Public Coordination Council on the Media includes representatives from authorities, state agencies and media outlets. It was officially created by a Ministerial Ordinance on 29 October 2008.

5 EU/Belarus Human Rights Dialogue, Prague, 16-17 June 2009: http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/er/108603.pdf (October 7th 2009)

6 About the General Affairs & External Relations Council http://ec.europa.eu/external_relations/gac/index.htm (October 7th, 2009)

*mains concerned about the human rights situation in Belarus, but welcomes the increased high-level EU-Belarus dialogue as a way of building mutual understanding. Further intensification of the dialogue must be conditional on ending restrictions on freedom and violence against opposition activists."*⁷

In the same press-release the European Parliament also called for progress during the following nine months in "reforming electoral legislation, providing equal rights to all media outlets, guaranteeing freedom of association and assembly by abolishing Article 193-1 of the Criminal Code, and guaranteeing political rights and freedoms by discontinuing the practice of politically motivated dismissals from jobs and universities."

At the same time, MEPs officially supported the Council's decision to extend the arms embargo for one year and maintain restrictive measures (freezing of assets) against certain Belarusian officials, while still relaxing travel restrictions imposed in practice for the nine-month period. The conclusion was: "If Belarus makes progress on all the above points, then the travel ban on officials should be lifted altogether and others steps taken to facilitate Belarus's reintegration into the European family of democratic nations."

The Eastern Partnership

The Eastern Partnership (EaP) is an initiative of the EU, originally suggested by Poland and Sweden in 2008. Participants in the EaP are the 27 EU Member States and the 6 countries: Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova and Ukraine. The EaP is the primary instrument of EU's technical assistance to these countries. As for the prospects of the EaP, it is envisaged that closer engagement will offer opportunities to stabilise the region, extend the area of security and prosperity, and ensure economic and energy security of both the EU and its partners. Total assistance channelled from the EU to the six Eastern neighbours is envisaged to gradually grow from €450 million in 2008 to €785 million in 2013.

As stated by the EU, the reasons for including Belarus into the EaP are: "Belarus is an important Eastern neighbour of the EU, interested in developing its relations with us. Depending on its own choices and decisions, Belarus will be able to benefit from the Eastern Partnership to intensify bilateral relations with the EU. Belarus has a real opportunity to become an active partner of the EU in the framework of the European Neighbourhood Policy provided that the country embarks further on fundamental democratic and economic reforms and brings itself closer to common values. Initially, Belarus could participate in activities of the multilateral platforms."⁸

During the Prague EaP summit in May 2009, it was jointly declared by all the EaP participants – including the Republic of Belarus, represented by the First Deputy Prime Minister Mr. Vladimir Semashko – that the partnership is launched as a common endeavour, founded on mutual interests, and based on the commitments to the principles of international law and to fundamental values, including democracy, the rule of law, the respect for human rights and fundamental freedoms, as well as to market economy, sustainable development and good governance.⁹

Next moves of the EU towards Belarus

The Foreign Ministers of the EU are expected to make a decision vis-à-vis the future of the suspension of the visa-ban sanctions at a GAERC meeting set for 16-17 November 2009 under the Swedish EU Presidency which runs from 1st July 2009 to 1st January 2010.

- 7 Press Release/Better relations with Belarus conditional on progress on freedom and democracy says European Parliament http://www.europarl.europa.eu/news/expert/infopress_page/030-53244-091-04-14-903-20090401IPR53243-01-04-2009-2009-false/default_da.htm (accessed on October 7th, 2009)
- 8 FAQ on EaP: <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/09/217&format=HTML&aged=0&language=EN&guiLanguage=en>
- 9 Joint Declaration of the Prague Eastern Partnership Summit (7 May 2009): http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/er/107589.pdf

From the point of view of international NGOs, it is difficult to predict the outcome of this meeting as the EU member states seem to be divided in opposing blocs. The first bloc seemingly prefers to see more sanctions suspended in order to increase its influence in the former USSR and to counter Moscow's growing assertiveness in the region. The other bloc, backed by countries which are more critical of Belarus' poor human-rights record, are likely to take a more critical stance as to what the EU should do with their future sanction-regime towards Belarus.

Authors of this report are thus aware of the historicity and the complex political dynamics in which our findings and recommendations shall be discussed and utilized. However, it is with this purpose in mind – for the EU to make informed decisions – that this report has been prepared.

4 Physical attacks and harassment of the media



A special police officer tries to prevent a TV cameraman from filming a street action of protest after the presidential elections of 2006.
Photo: Julia Darashkevich

When the Belarus government engages with the media, it routinely uses the language of war. Speaking at the Belarusian State University in February 2008 President Lukashenko clearly stated that he considers sectors of the media beyond his direct authority a direct threat. *"Media hold a weapon of a most destructive power,"* Lukashenko told a group of journalism students at the university, *"They must be controlled by the state."*

4.1 State harassment of media

President Lukashenko's media law, signed in August 2008 and taking effect in early 2009, toughens what are already severe restrictions on media. It grants both the Ministry of Information and state prosecutors the authority to suspend or close news outlets if content is deemed to "threaten the interests of the state or the public."

The idea that the media can threaten a state from abroad, rather like tanks massing on the border, pervades the language of the state. On 25 February 2009 Tatsiana Miranyuk, judge of a district court in Brest, ordered the immediate seizure and destruction of the seventh and eighth issues of the opposition cultural magazine *Arche* on the grounds that its content was "extremist" and "a threat to the country's security".

Arche is printed and published in Minsk. It is distributed through subscription and a network of volunteers, although the state retail press distribution system refuses to distribute it. Foreign journalists and broadcasters are denied state accreditation to work in Belarus. Independent media is blocked from accepting funds directly from international media development organisations, while the present political and economic situation prevents local investments in the independent press.

Belarus's Law on Counteraction to Extremism is so loosely drafted, said one legal expert in Belarus, that almost anything said or described by a journalist could be construed under the 2007 law as "extremist", which poses particular threats to media covering such vaguely worded crimes.

The government's assault on independent media undermines its claims to the Organisation for Security and Cooperation in Europe (OSCE) and the European Union that it is willing to address the rights of journalists and to undertake much-needed reforms of its media policies.

The Belarusian government casts journalists as enemies of the state, a physical threat, or a danger to the country. In other countries, like neighbouring Russia, such language has been directly linked to the killing of journalists through incitement or more subtle means. In countries where the killers of journalists escape prosecution or punishment, these killings have multiplied.

4.2 Police and security services attacks on journalists

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.

On 16 September 2009, police blocked journalists from taking pictures and filming a peaceful civil action of 40 activists in Kastychnitskaya Square in Minsk. These included Belarusian and foreign journalists from the Associated Press, Reuters and AFP news agencies, a writer for the Charter'97 website, the US networks Radio Free Europe/Radio Liberty, the non-state *Nasha Niva* and *Belgazeta* newspapers and the BelaPAN news agency.

During peaceful demonstrations to mark the 90th anniversary of the Belarusian Democratic Republic on 25 March 2008, *Nasha Niva* photographer Andrei Lankievich was beaten by riot police and arrested. Even at Lankievich's trial the magistrate refused to accept his press card and employer's word, and ordered him to provide "sufficient proof" that he was working as a professional journalist during the demonstration. At the same time Siamion Pechanko, also with *Nasha Niva*, was sentenced to 15 days in jail under Belarusian administrative law. The journalist was charged with organising and holding an illegal demonstration. Ruta Rybcheuskine and Jonas Grishkonis, reporters from the Lithuanian National Radio & TV, were also beaten while trying to film the demonstration. The journalists were detained and released the same day – but not before police had confiscated their footage from the event¹⁰.

A key clause of the Council of Europe's resolution 1636 on indicators for media in a democracy, adopted on 3 October 2008, says journalists must be protected against physical harm. *"Journalists must be protected against physical threats or attacks because of their work,"* says one of 27 "basic principles" listed in the resolution for member states to address. *"Police protection must be provided where requested by journalists under threat. Prosecutors and courts must deal adequately and timely with cases where journalists have received threats or have been attacked."*

4.3 Impunity is the key issue

The reporters attacked or intimidated by security services in Kastychnitskaya Square on 16 September 2009 were reporting an event marking the tenth anniversary of the "disappearance" of politician Viktor Hanchar and business-

¹⁰ IFJ: http://www.ifex.org/belarus/2008/04/01/authorities_crack_down_on_independent/

¹¹ <http://www.charter97.org/en/news/2009/9/16/22003/>

man Anatol Krasouski, kidnapped ten years before. The pair are presumed dead, the killers never identified, despite the wealth of circumstantial evidence linking their apparent murder to former Interior Minister Uladzimir Navumau, former state Security Council Secretary Viktor Sheiman, former Interior Minister Yury Sivakou, and former commander of the country's "special rapid response unit" Dzmitry Paulichenka. All are banned entry to the EU and the United States on the grounds of their suspected involvement in the crime¹¹.

Yet despite the complaints of the UN Human Rights Committee, the Council of Europe's Parliamentary Assembly and the OSCE, none of those who killed Hanchar and Krasouski – or instigated their killings – have been arrested, prosecuted or tried in open court. This ten-year failure reinforces the sense that critics of the state may be threatened or even killed with impunity.

The prospect of impunity also encourages non-state groups to try to intimidate the media. Natallia Radzina, editor of the opposition news website Charter'97, on 15 July received an email threatening with sexual violence if she was not "careful" about what she posted on the website. This followed the 8 July report on her website about the pardon of the leader of the pro-Russian neo-fascist group, Russian National Unity, and the failure of the government to curb the organisation's xenophobia and racist activities.

In tandem with the violent threats against Ms. Radzina, the website itself and those working there have been subjected to a long campaign of harassment by the authorities. On 8 June the site was blocked and on 26 April police occupied the office in an apparent bid to prevent Charter'97 from reporting on the opposition's demonstrations. The internet in Belarus is dominated by the state-run internet service provider, which means that most human rights websites are sometimes inaccessible in the run-up to or during elections or street opposition rallies¹².



Cameraman Dmitri Zavadski who was kidnapped and "disappeared" on his way to Minsk Airport on 7 July 2000. Photo: BAJ

Another grim anniversary on 7 July 2009 marked nine years since the Belarusian journalist and ORT TV cameraman Dzmitry Zavadski was kidnapped and "disappeared" on his way to Minsk airport. Once again the state was implicated. Valery Ihnatovich, an officer from the state's Almaz special riot police squad, Maksim Malik, a former student at the Ministry of Interior Police Academy Alaksey Guz, and one Sjarhei Savushkin were sentenced to varying jail terms for kidnapping Zavadski, but not for murdering him. Savushkin has since been released, but all three denied the charges in a trial held in closed session. Zavadski's body was never found. The men suspected of ordering his kidnapping and murder have not been publicly identified.

¹² RSF: <http://www.rsf.org/Politically-motivated-harassment.html>

¹³ <http://www.veronikacherkasova.org/>

The government of Belarus has failed to properly investigate the murder of Veranika Charkasava, a well-known opposition journalist. She was brutally murdered in her apartment in Minsk on 20 October 2004. Her body was discovered with over 40 stab wounds, most of them around the neck, and a knife blade stuck in her chest. The killer did not take any money or valuables but left a trace of blood in her address book. Despite all the evidence suggesting Veranika



Veronika Cherkasova of the independent trade union Solidarnost, who was stabbed to death in her own apartment on 20 October 2004. Evidence suggests she was killed because of her professional activities.
Photo: BAJ

Charkasava was assassinated because of her professional activity, the authorities preferred to cynically and cruelly harass her family by naming her son, Anton Filimonov, and elderly stepfather, Vladimir Meleshko, suspects in their investigation.¹³

"Those who commit violence against journalists must not be allowed to do so with impunity," said Miklós Haraszti, the OSCE representative on freedom of the media on 20 December 2006. "It is a basic OSCE principle that acts of violence and intimidation against media professionals must be thoroughly investigated in accordance with the rule of law and the perpetrators must be brought to justice."

The previous paragraphs simply highlight some attacks on journalists in the past years, but more threats and attacks actually took place. The mission welcomed recent changes in Belarus and recognises that pressure on media and journalists has eased. But it also said the state must stop targeting journalists for their professional activities and obstructing them from reporting on public events and demonstrations.

Recommendations:

1. The authorities need to reform the Law on Counteraction to Extremism to bring it into line with Belarus's international human rights obligations for press freedom and freedom of expression.
2. Belarus should cooperate with a full and transparent investigation, preferably by an independent expert, into the circumstances of ORT TV cameraman Dzmitry Zavadski's disappearance nine years ago, as well as into Veranika Charkasava's murder. Credible inquiries into these cases could reduce the fear amongst journalists that they can be attacked or even killed with impunity in Belarus.
3. The Belarus authorities should take concrete steps to ensure the rights of journalists instead of targeting them through the language of war – and exposing them to even greater threats.

5 Economic conditions for the media



On 4 December 2008 the independent newspaper *Nasha Niva* was brought back to Sayuzdruk state system of press distribution after several years of being out of it.
Photo: BAJ

Traditionally, there are two ways of press distribution in Belarus – subscription and retail sales through a system of newsstands (kiosks). There are two major state enterprises that deal with those. *Sayuzdruk* is a nation-wide system of retail press distribution (kiosks). *Belposhta* (Belarusian Post) is a national post service enterprise that owns a press subscription system.

5.1 Many papers are kept outside the distribution and subscription systems

Sixteen independent newspapers were excluded from the subscription catalogue of *Belposhta* and 19 were excluded from *Sayuzdruk* retail sales system on the eve of the Presidential election in 2006. The explanation given by the enterprises was that national legislation contains no obligations to include printed periodical editions in subscription catalogues or to sell them through the system of kiosks. Courts refused to consider claims submitted by readers and editors of ousted periodical editions. Some of the newspapers which had no way of being distributed and thus had no means to survive had to stop issuing paper copies (*Salidarnasc*, *BDG*, *Khimik*), and now only exist as online publications.

The 'non-paper' of 19 November 2008 sent by the Belarusian government to the EU stated: "a real possibility for the non-governmental publications *Narodnaya Volia* and *Nasha Niva* to be printed in the territory of Belarus" and "access of the above-named publications to the state distribution network and their inclusion in the additional subscription catalogue *Belposhta*" are steps taken by the "Belarusian side" "to demonstrate the seriousness of its intentions to normalise relations with the EU".

Narodnaya Volia and *Nasha Niva* newspapers were indeed returned to *Belposhta* and *Sayuzdruk* systems. Still, they face limitations in circulation. In

addition to this, the charges for distribution of these newspapers are higher than those of other newspapers.

Another newspaper from the 'banned list', *Bobruyskiy Kurier*, returned to the state distribution systems in September 2009. Another newspaper, *Volnae Hlybokae*, received a letter confirming that the *Sayuzdruk* system was ready to accept it. The situation of the remaining 11 publications from the 'banned list' remains unsolved.

Recently, *Sayuzdruk* has put forward official "economic" arguments stating that the company had reached its maximum capacity and thus could not guarantee distribution of further papers. When the International mission asked officials how these papers could have been distributed before 2006, no serious explanation was given.

The following tables illustrate the current situation of circulation:

TABLE 1. Newspapers which are not included in the Belposhta national subscription catalogue:

- *Tovarishch* (Товарищ)
- *Novy Chas* (Новы час)
- *SNplus. Svobodnye Novosti Plus* (СНплюс. Свободные новости плюс)
- *Borisovskie Novosti* (Борисовские новости)
- *Vitebskiy Kurier-M* (Витебский курьер-М)
- *Volnae Hlybokae* (Вольнае Глыбокае)
- *Gazeta Slonikmskaya* (Газета Слоні́мская)
- *Hantsavitski Chas* (Ганцавіцкі час)
- *Intex-Press*

Regiyanalnaya Gazeta (Рэгіянальная газета) and *Gazeta Dla Vas* (Газета для вас) face limitations concerning distribution.

TABLE 2. Newspapers and magazines which are not distributed by Sayuzdruk:

- *Tovarishch* (Товарищ)
- *Novy Chas* (Новы час)
- *Arche. Pachatak* (АРЧЕ-Пачатак)
- *Borisovskie Novosti* (Борисовские новости)
- *Vitebskiy Kurier-M* (Витебский курьер-М)
- *Gazeta Slonikmskaya* (Газета Слоні́мская)
- *Hantsavitski Chas* (Ганцавіцкі час)
- *Intex-Press*
- *Niasvizhski Chas* (Нясвіжскі час)

Authorities and in particular the Presidential Administration do not consider the issue of press distribution tied to a political agenda. Their view is that the problem is entirely down to the "relationship between different companies" (i.e. *Sayuzdruk*, *Belposhta* and the concerned newspapers). During the international mission, Natallia Piatkevich, First Deputy Head of the Presidential

Administration, even considered, the fact that non-state media are not explicitly forbidden is enough to provide fair economic conditions for non-state media.

5.2 No changes in view yet

After the issue of distribution was raised by BAJ Chairperson Mrs. Zhanna Litvina the *Public Coordination Council on the Media* issued recommendations to state press distributors and non-state newspapers to "re-consider the issue of distribution"¹⁴ but the recommendations have not led to changes in the situation.¹⁵

Furthermore, a few days after the international mission took place (on 28 September 2009) *Belposhta* again refused to include the regional newspaper *Vitebskiy Kurier* in the national subscription catalogue for 2010. Their refusal was based on the same argument as previously used in response to non-state media. It was the right of and not an obligation for *Belposhta* to choose which printed publications were to be included and to refuse an "unreasonable" deal with a newspaper..

In short, the economic conditions of the press is still heavily influenced by state intervention; a level-playing field between state and non-state media is far from being reached in terms of circulation, subscription and advertising market.

The coming years will also be a key period for opening current state media to private capital. This potential development was mentioned in particular by Ms. Piatkevitch, who did not rule out that such a change would occur in the future. However she underlined that the state would maintain tight control over the process of privatisation and everything would be done to avoid a situation where specific commercial interests would control media content.

Recommendations:

1. Non-state media should have the right and possibility to operate and develop under fair and equal economic conditions, including the right to be distributed without restriction or discrimination.
2. Authorities should not consider the mere existence of non-state media as a sign of an economic level-playing field between non-state and state media.
3. Any potential privatisation of state media should be done in full transparency and in accordance with international standards and taking into account limitations of media and cross-media ownership and conflict of interests.

¹⁴ <http://baj.by/m-p-view-pub-tid-1-pid-7083.html>

¹⁵ <http://baj.by/m-p-view-pub-tid-1-pid-7209.html>

6 Accreditation and registration



Staff at BAJ busy at work.
Photo: IMS

6.1 Accreditation of journalists

A serious impediment to journalists' access to information remains the issue of accreditation. The journalists from state-owned media obtain accreditation without problems, while journalists of non-state media are frequently denied accreditation. According to accounts given by non-state media, the system and criteria for obtaining accreditation is not transparent and therefore leaves room for arbitrary decisions to be made by state bodies. While both national and regional non-state media face the same problem, the arbitrary decision-making of authorities restricts regional non-state media even more.

According to BAJ data, local authorities refuse to issue accreditations to the journalists of local non-state media with the explanation that there is no legal pretext that would authorize them to make decisions about accreditations. BelaPAN, a non-state news agency is often denied accreditation as opposed to the state-owned news agency, BelTA and almost without exception it fails to obtain accreditation in connection with any event that involves the public appearance of the President.

The media operating from Poland (*Belsat TV*, *ERB* and *Radio Racyja*) cannot obtain permission to open up offices for their correspondents in Belarus. Consequently, their journalists are not granted accreditation. The new Media Law stipulates that foreign media correspondents are obligated to work with accreditation. According to BAJ, the authorities' refusal to grant accreditation is often not accompanied by an explanation – or the previous work by the journalist without accreditation is taken as a reason for refusal. Fourteen journalists were issued with official warnings by the Public Prosecutor's Office on the grounds that by working without accreditation, they were in breach of the Media Law.

The authorities send mixed messages when it comes to accreditation of journalists. The First Deputy Head of Administration, Natallia Piatkevich states

that the system of accreditation is in place and that the possibility to obtain balanced information exists, although according to her statement *"it's normal that state media have better access to official information"*. Furthermore, she emphasizes *"that all state bodies have efficient press services that issue statements on official events on a regular basis"*. According to quoted statements, the issue of access to information is reduced to official events and one-way communication from the authorities to journalists.

The Ministry of Information denies any problem with respect to accreditation claiming that *"journalists do not need to have accreditation for the National Press Center"* and that *"for bigger national events journalists receive accreditation without any problem"*. In both official meetings, it was admitted that the problem may exist on a regional and local level.

The absence of clear and transparent procedures with respect to accreditation continues to be an obstacle for non-state media to access information on equal grounds with state-owned media.

6.2 Re-registration of mass media and new registrations

The process of mass media re-registration as foreseen by the new Media Law is on-going and no problems were pointed out with respect to the process. The Ministry of Information notes that final data on re-registered media will not be available until February 2010.

According to the same source, registration of new mass media has started in February 2009: Ninety printed media (87 privately owned and 3 state-owned) and 10 TV and radio stations (7 privately owned and 3 state-owned) were registered.

However, other sources point to problems with regional media registration, the latter being refused to non-state newspapers in Salihorsk and Babrujsk. The company "Moya provincyia" in Salihorsk failed to register the regional newspaper *Soligorsk plus*. The decision issued on August 18 2009, not to register the newspaper, was based on the fact that the company was registered on a private address. The same explanation was given to the company "Gumanitarnye tehnologii" (Babrujsk) on August 21, 2009. Both companies are founded by individuals and their registration on private addresses is not in breach of any article in the Media Law. It is worth noting that in another region, an identical application was filed and the company in question received registration for the regional newspaper. This inconsistency in registration of new mass media indicates an arbitrary approach and requires greater scrutiny of the registration process.

Some other striking examples took place a few days after the mission:

- On 30 September 2009 the management of *Autoradio* FM-radio station from Minsk received an official warning from the Ministry of Information for "non-fulfilment of the creative concept of broadcasting". The program targeted and issued with the warning is a joint project by *Autoradio* and European Radio for Belarus (ERB), held under the patronage of the European Commission. According to Yury Bazan, the General Manager of *Autoradio*, the Ministry suggested that the radio station "take steps to keep to the creative concept of its broadcasting", or its license can be revoked. This warning was issued precisely against the radio outlet visited by the international mission (see annex 1, list of meetings);

- On 12 October 2009 the Ministry of Information refused registration of the non-state newspaper *Mahiliouiski Chas* (Mahiliou Time) due to its editor-in-chief "having no higher education". An officer of the Ministry informed the editor of the newspaper of this in a telephone conversation. *Mahiliouiski Chas* applied for registration on 10 September 2009 and was previously issued as a non-registered publication with a circulation of 299 copies.

Recommendations:

1. Clear rules and conditions for accreditation of journalists should be established. They should be transparent, unambiguous and fair, and seek to allow access for all journalists to information of public interest.
2. The institute of accreditation as such should aim to facilitate access of journalists to information of public interest, and not serve as a restrictive mechanism, preventing journalists from doing their work.

7 Access to information

Access to information is a major concern for non-state media and journalists in Belarus. This concern refers mainly to two aspects:

- *The law:* some articles of Belarus' Law "On state service" and provisions of other legislation acts limit the rights of journalists to access information about the activities of authorities;
- *The practice:* state officials, in particular the regionally based, fail or deliberately refuse to provide non-state journalists with information.

7.1 The Law

On 15 July 2008, amendments to the Law "On state service in the Republic of Belarus" were adopted. In particular, the law was complemented by Article 22-1, according to which all statements to the press of officials at any level, should be authorised by the chief of their state institution or by a person authorised by the chief.



Poster cautioning
"Don't tell!" in Russian.
Photo: IMS

Back in October 2008, the General Prosecutor's Office, the State Control Committee, the Ministry of Interior, the KGB and the Ministry of Justice approved the joint Regulation on granting information to mass media on "criminal cases related to high profile crimes and crimes undermining the authority of the state". The Regulation stipulates that the right of granting such information belongs to a body of criminal prosecution and a court. Granting information on cases that are not completed is forbidden without a written approval from the judge.

7.2 The practice

The implementation of the law, and more importantly, the practices of national and local authorities, lead to journalists of non-state media being refused comments or denied access to information from state or municipal officials. Reporters are usually advised to contact ideological departments or officers to receive the comments or information they require. The cases are numerous and some situations, especially in regional non-state media, were brought to the attention of the international mission.

State media consider the ideological departments as mere procedures that can be easily bypassed to access information or report on events of public interest. However these departments are very active regionally: the presidential administration admitted during the international mission that "three to five people" are indeed "dealing with sports, culture and media" in each city. There are no written procedures or rules available to define the activities of the ideological departments. In practice, many non-state journalists have to ask these departments for information and comments before they report on political and social issues. This leads to a great amount of political interference in editorial content as well as to recurring self-censorship in non-state media.

Furthermore, authorities seem to concentrate their policy for accreditation and access to information on official events, in particular those which involve the presence of the President of the Republic. This does not take into account that other events or situations are also of public interest, in particular regional and local events. There is clear discrimination in the provision of access to information between state and non-state media when journalists strive to perform their duty by reporting on economic, social or cultural information.

In some cases journalists are clearly obstructed from reporting. The most recent case occurred in September 2009 during opposition activities in the center of Minsk.¹⁶ Police officers used force to prevent journalists of Belarusian and foreign media from covering a protest against Russian troops entering the territory of Belarus to participate in joint army manoeuvres on 9 September. Force was also used against journalists during a demonstration to commemorate the 10th anniversary of the disappearance of the politician Viktor Hanchar and businessman Anatol Krasouski on 16 September 1999.

The journalists were cornered by groups of three or four police officers in plain-clothes. Police blocked journalists' lenses with their hands and beat cameramen who tried to film the event. Despite having valid press cards, journalists were attacked by police who caused injury and damaged their equipment.¹⁷

Recommendations:

1. Journalists should not be obstructed from reporting on public events and demonstrations.

¹⁶ <http://baj.by/m-p-view-pub-tid-1-pid-7350.html>

¹⁷ BAJ: <http://baj.by/m-p-viewpub-tid-1-pid-7346.html>

2. Articles of the Belarus' Law "On State Service" that limit the journalists' right to access information about the authorities' activities should be abolished.
3. National and local authorities should clearly justify any refusal to provide journalists with information, in particular when "ideological departments" are involved.
4. Belarus authorities should define clear rules for the conduct of the ideological departments, which should not represent filters or obstacles to access to information.

8 Media policy reform



Office of the Belarusian Association of Journalists, BAJ.
Photo: Mogens Blicher Bjerregaard/DJ

The Belarusian constitution formally guarantees freedom of expression and access to information under Article 33, which states that:

"everyone is guaranteed freedom of thought and belief and free expression" and that there shall be "no monopolization of the mass media by the State, public associations or individual citizens and no censorship shall be permitted"

and under Article 34, which guarantees:

"the right to receive, store, and disseminate complete, reliable, and timely information on the activities of state bodies and public associations, on political, economic, and international life, and on the state of the environment", as well as for citizens "to familiarize themselves with material that affects their rights and legitimate interests"

However, these constitutional rights are not respected in reality as numerous laws and ordinances severely restrict them, and the actions of the authorities also often hinder their realization. Amongst the most repressive are the Law on the Media, Law on Counteraction to Extremism, Law on Public Service and Articles of the Criminal Code relating to defamation.

8.1 Law on the Media

The Law on the Media was adopted in 2008 by the Parliament without any substantive discussion or consultation with the media community or civil society. Despite calls from the international press freedom and human rights community for President Lukashenko not to sign the law, he did this in August 2008, with the law coming into force in February 2009, replacing the previous Law on the Press and Other Mass Media.

In June 2008, the Office of the OSCE Representative on Freedom of the Media released a report assessing the new draft law, which stated that:

*"the serious nature of the shortcomings in the Draft Law considerably outweighs any advantages it might have... the majority of... the provisions of the Draft Law, are unnecessary for or detrimental to freedom of expression and freedom of the media in Belarus..."*¹⁸

Articles 11 to 16 of the law deal with the registration and re-registration of media, whilst Article 34, paragraph 2, provides for a considerable shortening of the list of journalists' rights, depriving them of many legal and social guarantees¹⁹. Nevertheless, as already dealt with in a previous chapter, despite questions as to the need and purpose behind the registration process, it has been undertaken with relative efficiency by the Ministry of Information and without undue restriction being applied. The registration process is due to continue until February 2010.

Chapter 9 of the law outlines the liability of media for violating media legislation. The first step is a written warning to editors, which can be based on a number of reasons including "disseminating inaccurate information that might cause harm to state and public interests" and "distribution of information not complying with reality and defaming the honour or business reputation of individuals or the business reputation of legal entities" (Article 49, paragraph 1). Following this, the Ministry of Information can suspend the operations of media for three months for a number of reasons, including for failing to provide information on remedying offences with the necessary evidence (Article 50 paragraph 1). The last sanction that can be applied is for a court to terminate the activities of a media outlet (Article 51), including that the founders of that media would be restricted from starting a new outlet for three years (Article 10 paragraph 3.3)²⁰.



Journalists at work at the newspaper Belarusians and Market in Minsk. Photo: IMS

The fact that the Ministry of Information has not abused the increased authority as described above that the law provides is welcome. However, the possibility that it might utilize these powers in the future remains a threat and has a chilling effect on press freedoms.

In contrast to the Ministry of Information, since the new media law came into force, the public prosecution bodies have made use of their powers. In this regard, they have issued official warnings to a number of journalists in the past half year, particularly those cooperating with foreign media.

¹⁸ 'Comments on the Draft Law of the Republic of Belarus on the Mass Media' (Office of the OSCE Representative on Freedom of the Media, Page 2, June 2008)

¹⁹ 'Belarus: New Media Law Adopted' (Andrei Richter, Media Law and Policy Centre, IRIS Legal Observations of the European Audiovisual Observatory. IRIS 2008-8:7/9)

²⁰ *Ibid*

The law also provides for the creation of a Public Coordination Council to make recommendations in the sphere of the media (Article 28), with its composition and activities being defined by the Council of Ministers. This Public Coordination Council was established in 2009, including members of the state and non-state media, as well as both the Belarusian Union of Journalists (BUJ) and Belarusian Association of Journalists (BAJ). This step goes some way to bringing improved oversight and input by the media community into regulatory and policy issues, although the Council functions in an advisory capacity only. Nevertheless, calls by the Council for the inclusion of more non-state media into *Sayuzdruk* (the nation-wide state owned system of retail press distribution) and *Belposhta* (the Belarusian post that owns a press subscription system) are welcome and could be viewed as an initial demonstration of serious intent by the members of the Council to pursue a fairer and more transparent media environment.

Article 11, paragraph 1.2, creates the possibility and processes for the registration of internet media, to be decided on by the Council of Ministers. Suspension of activities of a working group appointed by the government to look into such registration should be positively received, although the possibility that this issue may be revived still exists and remains as a threat. In addition, the Ministry of Information has declined to register those on-line versions of media that have sought to obtain official registration.

8.2 Criminal Code

There are four articles in the Criminal Code that provide for criminal defamation. These are Article 367 dealing with "Calumny in relation to the President of the Republic of Belarus", Article 368 dealing with "Insult of the President of the Republic of Belarus", Article 369 dealing with "Insult of the representative of the authorities", Article 369-1 dealing with "Discredit of the Republic of Belarus". Besides, Article 193-1 deals with activities on behalf of non-registered organisations.

As described in more detail in the publication 'Defamation Law and Practice in Belarus, Moldova and Ukraine' by Article 19, Articles 367, 368 and 369 are contrary to international standards of freedom of expression, which stipulate that public figures must tolerate higher degrees of criticism than should ordinary citizens. Moreover, the penalties provided for in the criminal code are massively disproportionate and the legislation does not even allow a defense of reasonable publication. Furthermore, Article 369-1 criminalizes defamation of the Belarusian state, whilst the widely held international standard is that public bodies do not have a reputation that is entitled to legal protection, because they do not have an emotional or financial interest for which they need to protect their good name²¹.

There were three cases when journalists were found guilty of defamation/insult of the President in 2002 and served terms of 'limited freedom', although President Lukashenko did not bring these cases himself²². In June 2002, Pavel Mazheika and Mikola Markievich of the Pahonia newspaper were sentenced to two and two and a half years of 'restricted freedom' respectively for 'false' and 'defamatory' articles published before the 2001 presidential elections. Likewise, in September 2002, Victor Ivashkevich from Rabochy was sentenced to two years of corrective labour for his article 'The Thief Must Go to Prison'²³.

In addition to journalists, between 15 and 20 cases of civil defamation related to media occur in Belarus every year.

21 'Defamation Law and Practice in Belarus, Moldova and Ukraine' (Article 19, London, June 2006)

22 The penalty for defamation of the President can be up to five years imprisonment, whilst defamation and insult of ordinary citizens can result in two years imprisonment.

23 U.S. Government Statement on Trial of Victor Ivashkevich (September 30, 2002)

In 2003, the Belarusian Association of Journalists (BAJ) undertook a campaign to abolish the Articles dealing with defamation from the Criminal Code and sent an appeal to the Constitutional Court. As a result, in September 2003 the Court issued a resolution "On the addition to the Criminal Code of the Republic of Belarus", proposing that the parliament amends Articles 367, 368 and 369. Although, the Constitutional Court's recommendations have not been implemented, there have been no cases against journalists based on these Articles in the recent years.

Despite the fact that criminal defamation has not been used in the past few years, it should still be noted that civil defamation is also used to pressurize the media. Provisions for this can be found in the civil code, electoral code and presidential decrees. All of these defamation provisions provide for the imposition of disproportionate penalties, fail to establish adequate defenses and are excessively vague²⁴.

8.3 Law on Counteraction to Extremism

The Law on Counteraction to Extremism has been used selectively to impede press freedom. Examples of the use of this law, as described in the BIIM Monitoring Report (October 2008 to January 2009), include the KGB in Brest petitioning a court in November 2008 to order the destruction of ten copies of the journal *Arche*, which had been seized in October of that year on the Belarus-Poland border. The assertion made by the KGB was that the magazine contained "calls for extremist activity and propaganda of such activity"²⁵.

In addition, other materials considered extremist under this law have included the Polish documentary film, "Lekcja Białoruskiego", the 2004 Chronicle of Human Rights Violations, and three CD collections of songs compiled by "Solidarity with Belarus"²⁶.

8.4 Law on Public Service

As dealt with in a previous chapter, certain laws and ordinances significantly restrict the media and public's access to information. Changes to the Law on Public Service have meant that public officials are obliged to have their interviews endorsed by their superiors. In addition, the Presidential Decree No.65 provides for the appointment of spokespersons, who are responsible for presenting official information from all state organisations. These spokespersons work directly with the heads of their organisations and are linked with the Presidential Office. As a result of this, public officials often refuse to provide information to the media, rather deferring the provision of such information to these spokespersons, thereby either slowing or obstructing access to information.

Recommendations:

1. The Belarusian authorities should engage in a transparent and honest dialogue with the state and non-state media and civil society on media policy and related legislation, with a view to undertaking a broad reform process aimed at bringing media policy into line with international standards.
2. The Belarusian authorities and media community should utilise the international expertise as offered by those international organisations publishing this report, as well as the Office of the OSCE Representative on Freedom of the Media, to advise on a broad media policy reform process.

24 *Defamation Law and Practice in Belarus, Moldova and Ukraine* (Article 19, London, June 2006)

25 'Real Media Freedom Still Long Way Off' (BelaPAN, 28 November 2008).

26 BIIM Monitoring Report on Development in Belarus: October 2008 to January 2009

3. Those media related laws that must be reformed to bring media policy in Belarus into line with international standards include:
 - Law on the Media
 - Law on Counteraction to Extremism
 - Law on Public Service
 - Criminal Code Articles 367, 368, 369, 369-1 and 193-1
4. Recommendations made by the Public Coordination Council that are in line with international standards, such as those calling for the introduction of more non-state media into *Sayuzdruk* and *Belposhta*, should be acted on by the authorities.

9 Broadcasting regulation and license/frequency allocation



Antenna in Minsk.
Photo: IMS

The below presented text analyses the principles of the allocation of broadcast frequencies and licenses in the Republic of Belarus as well as the setting and the functioning of the body, empowered to allocate these frequencies and licences for compliance with good practices and international standards. The purpose of this analysis is to provide an expert opinion as well as some recommendations.

9.1 Legal acts

The process of allocation of frequencies and licences as well as the functioning of the special body – Commission on Television and Radio of the Republic of Belarus (further the Commission) – empowered to manage allocation process – is regulated by the two decrees of the Council of Ministers of the Republic of Belarus (*On the Rules Regulating on the Basis of Tender Allocation of Right to Organize Terrestrial Broadcasting Activities No. 726 of 30 May 2003* and *On Electronic and Network Mass Media, No. 1826 30 December 2002*) and

two internal regulations of the Ministry of Information of the Republic of Belarus (*Regulation On the Commission on Television and Radio of the Republic of Belarus; and Regulation On the Tender based Rules to Allocate the Right to Organize Terrestrial Broadcasting Activities*).

Organisation of the public body on licensing has to adhere to certain principles widely accepted in international law. The cardinal aim of such bodies is to ensure freedom of expression and information in the sector they regulate. Both decrees as well as regulations do not explicitly state that one of the aims of the Commission is to ensure freedom of expression. The aim to ensure the public's right to receive and disseminate information is only mentioned among the other aims of the Commission, such as realisation of state policy in the field of broadcasting, efficient allocation of frequencies, creation of conditions for social development, etc.

Taking into account the history of the country and its legal tradition, it seems that the principle of ensuring freedom of expression and pluralism has to be spelled out more decisively. It should be part of law adopted by the Parliament, not just mentioned in the decrees of the Council of Ministers. Legislation establishing regulatory bodies should set out clearly the policy objectives, which should include promoting respect for freedom of expression, diversity, accuracy and impartiality, and the free flow of information and ideas. Current legislation regulating frequencies and licenses in the broadcasting sector does not include all above-mentioned policy objectives.

9.2 Regulatory body

According to the above mentioned decrees and regulations the Commission (which is the sole and only regulator of both, the broadcasting sector and the process of the allocation of licences and frequencies) is founded not by the law adopted by the Parliament, but by the decree of the Council of Ministers. The latter together with the Ministry of Information appoints all the members of the Commission, including the chairman, who ex officio is the Minister of Information. Thus the Council of Ministers and the Ministry of Information



Russian TV channel in Belarus.
Photo: IMS

are in full control of the process of allocation of all frequencies and licences. Decrees and regulation does not contain the reference to the inclusion of civil society or political party representatives into the Commission or reference on the participation of the factions of the Parliament in the constitution of the Commission.

According to the decrees and regulation the Commission is constituted and regulated solely by the executive, - the President and the Government. To emphasise the role of the executive branch, Decree No. 726 states that the broadcasters founded by the President of the Republic of Belarus and the Council of Ministers of the Republic of Belarus receive broadcast licences outside of the legal regulation, set out by the Commission. It has to be noticed that regulation does not contain any clauses on the terms of service, guarantees of independence of the members of the commission. Decrees and regulation does not contain a list of the institutions, which delegate representatives to the commission. As understood by the organisations behind this report, all of them represent different ministries and other state agencies.

9.3 Licensing processes

A number of recommendations for the licensing process could be offered in order to adhere to existing international standards in this field: for the time being, the licensing process lacks clarity and transparency. It does not operate following *open* calls for tenders, but rather by *ad hoc* receipt of applications by the licensing body, depending on the situation.

In short, the current procedures for licensing, which should be objective by nature, fail to be defined by law and do not reflect the diversity of the population. If the Belarus authorities go ahead with a certain amount of liberalisation of the broadcasting sector in the future, the licensing process should also aim to prevent undue concentration of ownership, as well as make an assessment of the financial and technical capacity of the applicant.

No one should be required to pay in advance for a licence they have not yet received, although a reasonable administrative fee for processing applications may be charged. Any refusal to issue a licence should be accompanied by written reasons and should be subject to a judicial review. Where licensees also need a broadcasting frequency, they should not have to go through a separate decision-making process to obtain this frequency; successful applicants should be guaranteed a frequency appropriate to their broadcasting licence.

Finally, with the goal of ensuring a diverse and professional broadcast media sphere, the international mission thinks that the previously unconcluded process of allocation of a broadcast frequency to BelaPAN after they were issued a license in 2006, should be reviewed, with the aim that BelaPAN is reissued with a license and given a frequency.

Recommendations:

1. Allocation of licences and frequencies as well as functioning of the relevant regulatory body should:
 - be regulated by law adopted by the Parliament;
 - be set clearly in law and not left for the discretion of the Commission;
 - be fair and transparent, include clear time limits.
2. Legal acts regulating an activity of the licensing body of the broadcast sector have to be based on:

- the values of freedom of expression, diversity, independence of mass media, promotion of pluralism as well as accuracy and impartiality;
- participation of civil society representatives in the process of appointing the members of the Commission and allocation of a minimum amount of seats in the Commission for members of civil society;
- protection of broadcasters from State interference;
- potential sanctions only in case of a breach of a clear legal requirement or license condition, with the possibility of applying these sanctions gradually.

10 Union issues and working rights



BAJ top leaders in meeting with the International Media Mission to Belarus, September 2009. Photo: IMS

According to the Federation of Trade Unions of Belarus, 94.1% of the economically active population of the country is affiliated to a trade union and the working relations of 97% of workers in enterprises, organisations and other institutions are regulated by means of collective agreements.

However these figures concern the so-called 'state' unions that are remnants of the Soviet era. Indeed the country is still practicing a permissive registration system (that requires a granting of permission to register, as opposed to simply notification) for public organisations and their structural units. The attitude of the state towards some opposition parties, independent trade unions and other non-governmental organisations (NGOs) has not changed over the past years.

In 2009, none of the newly-formed units of independent trade unions (the Belarusian Radio and Electronic Workers' Union (known as "REP"), the Belarusian Independent Trade Union (known as "BNP") were registered. Moreover, violent interference into trade union life continues; members of independent unions are pressured by the administrations of enterprises with only one aim – to force them to quit their unions. As recently as September 2009, the Council of the Free Belarusian Trade Union received a notice from the administration of the Leninski district of Brest threatening to liquidate a primary trade union organisation of Brest State University. According to the International Trade Union Confederation, a "slight improvement" took place recently with the abandonment of some new anti-union draft laws, but 32 people have been arrested in Belarus for their trade union activities in the past year and eight others were given short prison terms.

In the field of media, 2000 journalists are organised by the Belarusian Union of Journalists (BUJ) and some 1200 of them are members of the Belarusian Association of Journalists (BAJ).

Neither of the organisations are actual trade unions in the traditional sense of the word, negotiating and organising collective agreements. They are instead professional associations of journalists.

²⁷ <http://www.ituc-csi.org/spip.php?article3792>

10.1 The Belarusian Union of Journalists

The Chairman of BUJ, Aliaksandr Lemiashonak, told the international mission that BUJ was an "NGO" and that working conditions and salaries were negotiated by the general Trade Union Federation mostly at company level.

On a more political note, BUJ is prone to follow the government's decisions. It remained silent about the introduction of the Law on Media, and criticised BAJ for "politicising" and "dancing on a fresh grave" when the BAJ Chairperson asked for a full investigation into the suicide of human rights activist Yana Paliakova on 7 March 2009.

10.2 The Belarusian Association of Journalists

BAJ is an association for journalists mainly from non-state media and both journalists and publishers are members of the association. The main focus of BAJ is to organise journalists working for non-state media as well as to defend these media outlets and their staff. Furthermore BAJ works to maintain a professional level of journalism and reduce the isolation felt by the media community and journalists. Founded in 1995, BAJ has currently reached around 1200 members of which around 15% work in state media.

It is important to underline that BAJ, as an independent and non-political civil society group, was free to register and to operate in the country. While BAJ is relatively free to organise, there has been pressure on them in the past. They can do little formally without being closely monitored by the authorities, and their foreign guests and experts have on a number of occasions failed to obtain visas, which is a restriction on BAJ's freedom to act and train their members in union or journalistic activities.

Moreover, BAJ has faced several difficulties in registering its regional branches due to the overall situation of the freedom of association in Belarus.

10.3 Relations between State and non-State organisations

BAJ and BUJ are co-existing and seem to consider this a normal situation in a post-Soviet country where the state union remains active while new civil society groups are developing. It is up to journalists to decide if they want to join one of these organisations, or both.

Contacts exist between BAJ and BUJ through the Public Coordination Council on Media where both organisations are represented, and professional talks are organised on ethics and professionalism backed by the Code of Ethics which both BAJ and BUJ have.

Talks with state media such as *Narodnaya Gazeta* and with the State Television and BUJ leadership, showed that ethics and professional standards were the most common concern for most journalists in the country.

However, in the current context of the global economic crisis, and especially in Belarus where the minimum-wage has been as low as 229,700 BYR (57 €)²⁸ since 1st August 2009 the economic situation of journalists has certainly become critical: The squeeze on the private sector makes it difficult if not impossible for non-state media journalists to make a living with their profes-

²⁸ Source: <http://charter97.org/en/news/2009/10/1/22405/>

sion. Even journalists working for state media would certainly need the support of strong professional organisations.

Recommendations:

1. Media organisations should launch, continue and improve dialogue on professional standards of journalists and for decent working conditions in the media industry.
2. The authorities must allow journalist organisations to operate freely, without monitoring their activities and communications, and without restrictions on their visiting trainers

11 Annexes

11.1 List of meetings

Monday, 21 September

- 10.00** – Belarusian Association of Journalists, *Zhanna Litvina*, Chairperson
- 12.00** – BelaPAN Information Agency, *Ales Lipay*, General Manager
- 14.00** – *Narodnaya Gazeta* state newspaper, *Uladzimir Andryevich*, Editor-in-Chief
- 16.00** – OSCE Office in Minsk, *Jandos Asanov*, Deputy Head of the Office

Tuesday, 22 September

- 10.00** – Meeting with editors of independent printed and online media
- 11.00** – National State TV and Radio Company, *Aliaksandr Zimouski*, Chairperson
- 12.00** – Presidential Administration, *Natallia Piatkevich*, First Deputy Head of Administration
- 14.30** – Belorusy I Rynok newspaper (The Belarusians and Market), *Viaslaslau Hadasouski*, Editor-in-Chief
- 14.30** – United Masmedia, Intex Press, *Uladzimir Yanukevich*, Editor-in-Chief
- 16.30** – AutoRadio, *Yury Bazan*, General Director
- 18.00** – *Nasha Niva* newspaper and ARCHE magazine, *Andrei Dynko* and *Valer Bulhakau*

Wednesday, 23 September

- 11.00** – Ministry of Information
- 11.00** – EC Delegation
(meeting with the Delegation and ambassadors of the EU countries)
- 13.00** – Belarusian Union of Journalists, *Aliaksandr Lemiashonak*, Chairperson
- 16.00** – Round table/briefing with journalists at IBB Center

Thursday, 24 September

Belarusian Helsinki Committee

11.2 Mission statement

International Mission to the Republic of Belarus 20-24 September 2009

International Media and Press Freedom Organisations jointly call for reforms and the removal of restrictions on the media in the Republic of Belarus

A group of international media and press freedom organisations today called upon the Belarus authorities to bring the country's media environment into accordance with international standards, following the visit of a joint delegation to Minsk from 20 to 24 September 2009.

The group welcomes recent changes and recognises that pressure on media and journalists has eased. However, this must be translated into a lasting commitment to ensure the rights of journalists and to undertake much needed reforms of the media environment. Such changes need to be far reaching and irreversible.

The delegation met with media organisations and with authorities of Belarus in Minsk to exchange views and assess the current situation of the media, press freedom, freedom of expression and access to information.

The participating organisations and signatories to the present statement will present a full report as a contribution to the EU-Belarus Human Rights Dialogue and share it with other international organisations.

The undersigned organisations, consider that:

- a. Economic conditions for media outlets are not equal for all. Belsayuzdruk and Belposhta distribution systems limit access and circulation of non-state newspapers. These restrictions hinder the development of an independent and pluralistic media landscape;
- b. Non-transparent and arbitrary allocation of broadcast licences and frequencies hinder the development of independent and pluralistic broadcasting;
- c. Access to information is restricted, in particular because of the adoption and implementation of laws that limit the journalists' right to information, or discriminate between state and non-state media in accessing information of public interest;
- d. Accreditation of journalists working for Belarus or foreign media, as well as the registration of offices of media, are restricted by non-transparent and discriminatory decisions of the authorities;
- e. Belarus legislation on defamation and extremism limits press freedom, leads journalists to self-censorship and is not in line with European and international standards on press freedom;
- f. Although we welcome the new dialogue on ethics and self-regulation, the group highlights the importance that action on this issue should be driven by the media community itself.

Recommendations:

The following recommendations made by the group are aimed at improving and strengthening the media environment in Belarus for state and non-state media, as well as enhance professionalism, pluralism and the role of media in a democratic society.

1. Editorial independence of state and non-state media must be respected and they should not be targeted for their professional activities;
2. Non-state media should have the right and possibility to operate and develop under fair economic conditions, including the right to be distributed without restriction or discrimination;
3. Rules and conditions for accreditation of journalists should be established. They should be transparent, unambiguous and fair, and seek to allow access for all journalists to information of public interest;
4. Journalists should not be obstructed from reporting on public events and demonstrations;
5. The allocation of broadcasting licenses and frequencies should be defined by a legislation according to international standards and overseen by a fully independent regulator to ensure pluralism in the broadcasting sector;
6. The 'Law on the Media', the 'Law On Counteraction to Extremism' and articles of the Criminal Code relating to defamation, should be reformed to bring them into line with international press freedom and freedom of expression standards;
7. Authorities should ensure equal treatment of organisations representing journalists;
8. Media, authorities and civil society should continue the dialogue on improving media policies and practices.

Organisations signing this statement stand ready to provide expertise and support in assisting the media community and authorities to realise these recommendations.

Minsk, 24 September 2009

The organisations signing up to this statement include:

1. Article 19
2. Civil Rights Defenders
3. Committee to Protect Journalists
4. Danish Union of Journalists
5. Index on Censorship
6. International/European Federation of Journalists
7. International Media Support
8. International Publishers' Association
9. International Pen
10. International Press Institute
11. Open Society Institute
12. PressNow
13. Reporters without Borders
14. World Association of Newspapers and News Publishers

Contact:

Marc Gruber, European/International Federation of Journalists
marc.gruber@ifj.org
++32 2 235 22 00

11.3 Overview of recommendations based on findings of this report

4. Physical attacks and harassment

1. The authorities need to reform the Law on Counteraction to Extremism to bring it into line with Belarus's international human rights obligations for press freedom and freedom of expression.
2. Belarus should cooperate with a full and transparent investigation, preferably by an independent expert, into the circumstances of ORT TV cameraman Dzmitry Zavadski's disappearance nine years ago, as well as into Veranika Charkasava's murder. Credible inquiries into these cases could reduce the fear amongst journalists that they can be attacked or even killed with impunity in Belarus.
3. The Belarus authorities should take concrete steps to ensure the rights of journalists instead of targeting them through the language of war – and exposing them to even greater threats.

5. Economic conditions for the media

1. Non-state media should have the right and possibility to operate and develop under fair and equal economic conditions, including the right to be distributed without restriction or discrimination.
2. Authorities should not consider the mere existence of non-state media as a sign of an economic level-playing field between non-state and state media.
3. Any potential privatization of state media should be done in full transparency and in accordance with international standards and taking into account limitations of media and cross-media ownership and conflict of interests.

6. Accreditation and Registration

1. Clear rules and conditions for accreditation of journalists should be established. They should be transparent, unambiguous and fair, and seek to allow access for all journalists to information of public interest.
2. The institute of accreditation as such should aim to facilitate access of journalists to information of public interest, and not serve as a restrictive mechanism, preventing journalists from doing their work.

7. Access to Information

1. Journalists should not be obstructed from reporting on public events and demonstrations.
2. Articles of the Belarus' Law "On State Service" that limit the journalists' right to access information about the authorities' activities should be abolished.
3. National and local authorities should clearly justify any refusal to provide journalists with information, in particular when "ideological departments" are involved.
4. Belarus authorities should define clear rules for the conduct of the "ideological departments" which should not represent filters or obstacles to access to information.

8. Media policy reform

1. The Belarusian authorities should engage in a transparent and honest dialogue with the state and non-state media and civil society on media policy and related legislation, with a view to undertaking a broad reform process aimed at bringing media policy into line with international standards.

2. The Belarusian authorities and media community should utilize the international expertise as offered by those international organizations publishing this report, as well as the Office of the OSCE Representative on Freedom of the Media, to advise on a broad media policy reform process.
3. Those media related laws that must be reformed to bring media policy in Belarus into line with international standards include:
 - Law on the Media
 - Law on Counteraction to Extremism
 - Law on Public Service
 - Criminal Code Articles 367, 368, 369, 369-1 and 193-1
4. Recommendations made by the Public Coordination Council that are in line with international standards, such as those calling for the introduction of more non-state media into Sayuzdruk and Belposhta, should be acted on by the authorities.

9. Broadcasting regulation and license/frequency allocation

1. Allocation of licenses and frequencies as well as functioning of the relevant regulatory body should:
 - be regulated by law adopted by the Parliament;
 - be set clearly in law and not left for the discretion of the Commission;
 - be fair and transparent, include clear time limits.
2. Legal acts regulating an activity of the licensing body of the broadcast sector have to be based on:
 - the values of freedom of expression, diversity, independence of mass media, promotion of pluralism as well as accuracy and impartiality;
 - participation of civil society representatives in the process of appointing the members of the Commission and allocation of a minimum amount of seats in the Commission for members of civil society;
 - protection of broadcasters from State interference;
 - potential sanctions only in case of a breach of a clear legal requirement or license condition, with the possibility of applying these sanctions gradually.

10. Union issues and working rights

1. Media organizations should launch, continue and improve dialogue on professional standards of journalists and for decent working conditions in the media industry.
2. The authorities must allow journalist organizations to operate freely, without monitoring their activities and communications, and without restrictions on their visiting trainers.

11.4 Letter sent to the Council of Ministers of the EU

Mr. Pirkka TAPIOLA
Senior Advisor Belarus, Moldova, Ukraine
Direction General E, Directorate Western Balkans, Eastern Europe
and Central Asia
Council of the European Union

Brussels, 3 April 2009

Dear Mr. Tapiola,

We would like to take this opportunity to thank you for meeting with us on 1st April to discuss the media situation in Belarus and its position in the ongoing negotiations between the European Union and the Belarus government regarding both the current suspension of the sanctions and the longer term Eastern Partnership Initiative.

We welcome your reassurance of the importance that the Council attributes to the reform of the media in these discussions and the dialogue on human rights, and particularly your extensive knowledge and understanding of the situation.

The last few months have witnessed some movement on the part of the authorities with the return of *Nasha Niva* and *Narodnaya Volya* to the state distribution systems, the relaxing of some aspects of the new media law that came into force in February, particularly regarding registration and the regulation of the internet. The establishment of the media council with the involvement of BAJ is also welcome, though can only be judged on its actions.

Despite this Belarus journalists remain the most oppressed in Europe, and there is little evidence to suggest that this is likely to change significantly any time soon. The new media law for example makes media and journalists liable to prosecution for reporting the statements of NGOs or political parties that are deemed to 'discredit the Republic of Belarus'.

We are confident that the European Council will do what it can to ensure that the Belarus government undertakes a genuine and vigorous reform of the regulation of media that establish press freedom and the rights of journalists to work independently, to carry out their work free of undue political influence and to create a media environment in line with internationally recognised standards.

To help monitor the progress the Belarus Association of Journalists has identified three key issues for immediate reform, which, if fulfilled, will demonstrate the intentions of the government in the longer run.

They are:

1. The return of all independent media to the state distribution system on fair and equal terms so that they are not economically disadvantaged (note the limitations on the numbers of *Nasha Niva* and *Narodnaya Volya* and the elevated price of distribution).
2. The free and fair accreditation of all professional journalists, including Belarus and foreign nationals, to attend and participate in all government press conferences and access to all news events.

3. Reform of the criminal code and the decriminalization of defamation.

While we note the Council's reluctance to apply any fixed pre-conditions to the dialogue in terms of progress on the reform, we welcome the fact that these are nevertheless reforms formally supported and requested by the Council.

We further welcome your invitation to us to contribute to the dialogue on Human Rights which was endorsed by the Council on 16 March with our expertise as the leading coalition of press freedom and media development organisations with the most extensive experience of working in Belarus.

To do this effectively, it is our intention to organise a mission to Belarus in September to meet with journalists, editors, associations, government officials and the media council to review the changes, if any, that have taken place and to what degree the government is meeting its commitments to respond to the demands of the European Union to improve the rights of journalists. The outcome of the mission and the recommendations would then be presented in Stockholm in October 2009.

We hope to meet with relevant officials in the European Commission, the European Council and the upcoming Swedish Presidency in the coming two months. We would be particularly interested to meet the two colleagues you recommended in the Council: Ms Riina Kionka, Personal Representative for Human Rights of Mr. Solana, and Ms Helga Schmid, Director of Policy Unit at the General Secretariat of the Council.

We also welcome any advice you can provide regarding the timing of interventions that we can make as a group to contribute to the informed decision making process of the EU.

Thank you once again.
Best Regards

Marc Gruber, International/European Federation of Journalists
Jane Larsen, International Media Support
Biljana Tatomir, Open Society Institute
Elisabetta Plebani, Press Now
Joanna Kurosz, Swedish Helsinki Committee

11.5 Mass media in Belarus, BAJ Newsletter May–August 2009

THE BELARUSIAN ASSOCIATION OF JOURNALISTS

E-Newsletter: Mass Media in Belarus

No.3 (14) May – August 2009

Half a year with a new media law

"...the Media Law is not related to the population. It is a particular branch law that stipulates the activity of the branch, i.e. the sector of the national economy, the economic sector. Mass media are meant for just the same extraction of profit like in the cases of stores, plants etc. And there is no need to make it a global problem, related to everyone."

Natalia Piatkievich, First Deputy Head of Belarusian President's Office

"The present law ensures implementation of a constitutional right of Belarusian citizens to freedom of speech, freedom of press and information..."

Preamble to the former Law of Belarus "On the Press and Other Mass Media".

Half a Year with a New Law of Belarus "On Mass Media" (Development of Situation in the Media Field and Statistics)

Six months passed on August 8, 2009 since the moment a new law "On Mass Media" had come into force in Belarus. According to media experts' findings, the law contains a range of legal regulations that toughen the state control over the media activity. The Belarusian Association of Journalists has been monitoring the practical application of the law. Basing upon the findings, it is possible to draw the following conclusions:

- *There can be seen certain progress in the field of founding new mass media and obligatory re-registration of media outlets. At the same time, the process of publishing small-circulation periodicals that can be issued without any official registration has become more complicated.*

Re-registration of mass media is implemented in the simplified way by means of submitting corresponding applications to the responsible state authority. It will be possible to have mass media re-registered in Belarus till February 8, 2010.

As of July 1, 2009, 415 printed mass media and news agencies (including 328 private media) passed the stage of official re-registration. All in all, 1,314 media organizations that had had official registration certificates on the date the new media law came into effect. Thus, only 31.6% of them got legalized in the country anew.

Also, only 38 TV and radio broadcasting media out of 158 media organizations that had been registered before February 8, 2009 passed the official re-registration procedure (16.6%), including 14 non-state media (32.2%).

Since February 8 till July 1, 2009 the Ministry of Information of Belarus registered 70 new printed periodical editions, including 69 non-state media. The majority of registered periodicals deal with entertainment, advertising etc. However, it should be noted the list includes some social and political media as well. A serious obstacle in the process of registration of new mass media got removed, as a legal norm, stipulating the necessity of getting special permits from local state authorities for allocation of media outlets in the corresponding localities got cancelled.

However, it should be noted the current licencing of printed mass media violates the international standards, accepted by the Belarusian state authorities. Moreover, it should be underscored that the registration process of media outlets is more complicated and prolonged in comparison with official registration of legal entities.

It is even more complicated to enter the media market for TV and radio broadcasting media nowadays. Since February 8 till July 1, 2009 the Ministry of Information of Belarus registered 8 new TV and radio broadcasting media, including 6 non-state and 2 state-owned media (6 TV and 2 radio broadcasting media) only. Regardless of proprietors, all TV and radio broadcasting media in Belarus are strictly controlled by the national and regional authorities. 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 "Boyykiy 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 confirmed the warning.

- *The government suspended elaboration of its legal provisions that define the process of official registration of on-line media and regulate their activity.*

According to the new media law, the government got authorized to work out the standard act. At the same time, it should be emphasized that the law failed to provide a clear definition of "the media, distributed through the global Web." This way or another, the governmental provisions haven't been elaborated yet. Moreover, the appointed working team suspended its activity. Still, the standard act can be issued at any moment, as prescribed by law.

At the same time, the Ministry of Information of Belarus rejects to register as mass media the on-line resources that express their wish to get the official recognition and submit corresponding applications to the governmental agency.

- *The Ministry of Information didn't misuse its broad authority, related to application of sanctions against mass media, within the period under consideration. However, the public prosecution bodies frequently used their authority with the purpose of meddling in the journalistic activity.*

The OSCE Representative on Freedom of the Media Miklos Haraszti recommended the Ministry of Information of Belarus to abandon its policy of excessive use of broad authority it applied to exert sanctions against media outlets (including official warnings and suspensions from publishing) during his visit to the country in 2005.

It should be noted that actually the Ministry of Information has been keeping to the recommendations since the new media law came into effect. However, it should be mentioned that the Ministry obtained even more punitive authorities under the law. In particular, apart from issuing official warnings and suspending extrajudicially mass media from publishing, it can file suits against them in case of administrative offences. Moreover, the new media law increased a range of opportunities for seizing the mass media activity at

the suits, filed by the Ministry of Information and public prosecution bodies. Presently, the court can terminate the activity of media outlets even in case of a single violation of the law or after two official warnings even for minor breaches of the law.

Unlike the Ministry of Information, the public prosecution bodies made active use of their authority, issuing official warnings to journalists (and foreign correspondents, in particular) within the period under consideration. At least 10 media workers, cooperating with foreign media outlets have received official warnings from Public Prosecutors' offices since the new media law came into effect. Similar warnings were issued by the KGB as well.

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

The Belarusian government ignored a number of appeals, made by the European Parliament <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+P6-RC-2009-0028+0+DOC+XML+V0//EN>, PACE and other European institutions, to simplify the procedure of issuing press credentials to journalists, including foreign correspondents as well as to register officially a local representation of "Belsat" satellite TV channel, broadcasting from the territory of Poland. The Ministry of Foreign Affairs refused several times to issue credentials to the correspondents of "Belsat" TV Channel, "Radio Racyja", and "The European Radio for Belarus", broadcasting from the territory of Poland as well as to the journalists, cooperating with other foreign media. Also, the Ministry officials were putting off their decision on official registration of "Belsat" office in Belarus. At the same time, the free-lance journalists, who dared cooperate with the media, were officially warned by Public Prosecutors and the KGB.

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

A range of new enactments is aimed at restricting the dissemination of non-censored information in the country. In particular, certain changes have been approved 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 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. Public servants from different regions quite often refuse to deliver any information to mass media without the local ideological workers' consent.

- *The problems with free distribution of a number of independent periodical editions haven't been eliminated in Belarus yet.*

The *Belposhta* and *Sayuzdruk* Belarusian state enterprises continue to keep their de facto monopolist positions in the field of press distribution by subscription and at retail in Belarus. As before, they refuse to distribute practically a half of officially registered independent social and political periodical editions, i.e. 12 out of 25 periodicals of the kind, existing in Belarus. The positively perceived return of "Narodnaya Vola" and "Nasha Niva" newspapers at the end of 2008 as well as "Bobruyskiy Kuryer" weekly in 2009 hasn't solved the problem as a whole. A decision of Public Coordination Council in the Media Field to advise *Belposhta* and *Sayuzdruk* to sign distribution contracts with the non-state media didn't lead to any positive result either. Having appealed to the state-owned press distributors with a request to get back to subscrip-

tion catalogues and newsstands, the non-state periodicals received point-blank refusals as before.

Conclusions:

In general, the application of Belarusian Law "On Mass Media" since the moment it came into effect six months 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 are mainly coercive. They are connected with a dialogue between the Belarus' government and the EU structures;
- it is quite possible that in case of regressive changes in the Belarusian international policies, the new Media Law may be directed against the independent media. On the one hand, the legal base, regulating the media activity, has deteriorated even more considerably since recently and on the other hand, the recent positive changes in the media field are far from being systematic and irreversible.

Rating Lists and Events

Belarus is holding the 188th position among 195 countries in the rating list on the media freedom, prepared by *Freedom House*. The country has been included into the category of non-free states, where none or very few free media can be found. It should be noted that Belarus held the same 188th position last year.

The 13th international branch exhibition "*Mass Media in Belarus – 2009*" took place in Miensk on May 5-7, 2009. The state-owned media were mainly represented during the event. The 5th "Golden Letter" National Contest of Printed Media laureates were awarded during the event. It was quite revealing that only the state-owned media appeared to be the prize-winners. Among other, the "BelTA" State News Agency was acknowledged for the fifth time as the best news agency in Belarus. Also, the "Sovietskaya Byelorussia" daily, published by the Presidential Office, was acknowledged for the fifth time as the best socio-political newspaper in the country. Moreover, the *Belposhta* state monopolist enterprise received a special award for the press distribution.

The 4th *Belarusian Information Forum* was held in Miensk on May 6-7, 2009. The event was arranged by the Ministry of Information of Belarus, the Standing Committee of the Union State of Belarus and Russia, and the Belarusian Union of Journalists. Also, the forum was supported by the Ministry of Foreign Affairs of Belarus, the CIS Executive Committee, the OSCE Office in Miensk, and the European TV and Radio Academy. Around 400 representatives of mass media (predominantly, the state-owned media outlets), media experts, and representatives of governmental structures took part in the discussion.

Ana Karlsreiter, Advisor to the OSCE Representative on Freedom of the Media evaluated the situation with mass media in Belarus. Among other, she hailed the return of two independent newspapers "Narodnaya Vola" and "Nasha Niva" to the state distribution systems. Also, she noted that all other 13 non-state socio-political periodicals should enjoy the same opportunity in the country. Among other problems, Ana Karlsreiter mentioned excessive governmental authority for issuing official warnings, suspensions from publishing and closures of the media, difficulties with getting credentials by foreign correspondents and complications with access to information, faced

by the journalists, contributing to independent mass media, criminal liability for slander and insults in relation to high-ranking officials that prevent the media workers from implementing their professional activity and may even lead to their imprisonment.

The 7th General Congress of Belarusian Association of Journalists was held in Miensk on May 22, 2009. The delegates hailed the reports, delivered by the organization management, and approved two appeals to the supreme state authorities. Thus, they called upon the Chamber of Representatives at the National Assembly of Belarus to abandon the attempts to introduce administrative liability for extremist activity in the country. Also, they addressed to the Prime Minister of Belarus Siarhei Sidorski with a demand to normalize the situation with distribution of independent newspapers in the country. It was verified that 1157 people were the members of BAJ at the moment, when the General Congress took place.

According to the sociological data, presented by the Independent Institute for Social, Economic, and Political Research, the non-state media enjoy more and more confidence in the Belarusian society. Thus, 45.3% of respondents confided in them (to be compared with 30.5% of respondents in March 2009). At the same time, 35.5% of respondents distrusted them (to be compared with 43.2% of respondents in March 2009). More people gave credence to the state-owned media. However, the rise was smaller in comparison with the independent media. Thus, 44.7% of respondents confided in them (to be compared with 34.1% of respondents in March 2009). At the same time, 42.1% of respondents distrusted them (to be compared with 47.2% of respondents in March 2009). The experts connect the rise of confidence in mass media with the economic crisis and the people's intention to get truthful and reliable information about the real state of things in the country. In their opinion, the independent media are taken more neutrally in the Belarusian society in comparison with the state-owned media and have a serious potential for broadening their audience. 1,500 people were interrogated within the survey at the beginning of June 2009 (the statistical error totaled approximately 3%).

Nine years passed on July 7, 2009 since a Belarusian journalist and an "ORT" TV Channel's cameraman Dzmitry Zavadski had been kidnapped on his way to the airport "Miensk-2". The officers of "Almaz" Riot Police Group Valery Ihnatovich and Maksim Malik, a former student of Police Academy at the Ministry of Interior Alaksey Guz and some Siarhei Savushkin were sentenced to different terms of jail for kidnapping the media worker. (The latter person has already been released from prison.) The convicted persons didn't admit their guilt. The sentences were pronounced during a closed session of the court. The crime initiators haven't been identified so far. The journalist's corpse has never been found.

"The United Mass Media" Association of Regional Press Publishers was officially registered in Belarus on July 15, 2009. The non-profit organization was founded by the publishers of "Intex-Press" (Baranavichy, Brest region), "Borisovskiy Novosti" (Barysau, Miensk region), "Gazeta Slonimskaya" (Slonim, Hrodna region), "Gazeta dla Vas" (Ivatsevichy, Brest region), "Infa-Kuryer" (Slutsk, Miensk region), "Inform-progulka" (Luniniets, Brest region), "Volnaye Hlybokaye" (Hlybokaye, Vitsiebsk region), "Viecherniy Bobruysk" (Bobruysk, Mahilou region), and "Rehiyanalnaya Gazeta" (Maladechna, Miensk region) non-state newspapers.

The Association members plan to arrange and hold educational seminars for publishers, editors, and journalists, aimed at the improvement of their professional level.

11.6 UNESCO Media development indicators

A framework for assessing media development

UNESCO & IPDC – 2008

(<http://unesdoc.unesco.org/images/0016/001631/163102e.pdf>) page 3

Endorsed by the Intergovernmental Council of the International Programme for the Development of Communication (IPDC) at its 26th session (26-28 March 2008)

Media outlets are crucial to the exercise of freedom of expression because they provide the public platform through which the right is effectively exercised. The idea of media as a platform for democratic debate embraces a variety of overlapping functions. Media, in this context, refers to all those channels that carry news and public information. The media may be seen as:

1. A channel of information and education through which citizens can communicate with each other
2. A disseminator of stories, ideas and information
3. A corrective to the "natural asymmetry of information" (Islam 2002:1) between governors and governed and between competing private agents
4. A facilitator of informed debate between diverse social actors, encouraging the resolution of disputes by democratic means
5. A means by which a society learns about itself and builds a sense of community, and which shapes the understanding of values, customs and tradition
6. A vehicle for cultural expression and cultural cohesion within and between nations
7. A watchdog of government in all its forms, promoting transparency in public life and public scrutiny of those with power through exposing corruption, maladministration and corporate wrongdoing
8. A tool to enhance economic efficiency
9. An essential facilitator of the democratic process and one of the guarantors of free and fair elections
10. An advocate and social actor in its own right while respecting pluralistic values

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