

Belarusian Association of Journalists (BAJ)

**MASS MEDIA IN BELARUS
2004**

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C O N T E N T S

**INFRINGEMENTS OF FREEDOM OF MASS INFORMATION IN BELARUS IN 2004.
REVIEW /2**

STATISTICAL BACKGROUND /3

CHANGES IN THE LEGISLATION /5

**INFRINGEMENTS OF RIGHTS OF MASS-MEDIA AND JOURNALISTS, CONFLICTS IN
THE SPHERE OF MASS-MEDIA**

Criminal cases for publications in mass-media /13

Encroachments on journalists and media /16

Termination or suspension of mass-media by authorities /21

Detentions of journalists, summoning journalists to law enforcement bodies. Warnings of the
Office of Public Prosecutor /29

Censorship. Interference in professional independence of editions /35

Infringements related to access to information (refusals in granting information, restrictive
use of institute of accreditation) /40

The conflicts related to reception and dissemination of foreign information or activity of
foreign mass-media /47

Economic policy in the sphere of mass-media /53

Restriction of the right on founding mass-media /57

Interference with production of mass-media /59

Hindrance to distribution of mass-media production /62

SENSATIONAL CASES

The most significant litigations with participation of mass-media and journalists /70

Dmitry Zavadsky's case /79

Belarusian periodic printed editions mentioned in the monitoring /81

INFRINGEMENTS OF FREEDOM OF MASS INFORMATION IN BELARUS IN 2004. REVIEW

The year 2004 for Belarus was the year of parliamentary elections and the referendum. As usual during significant political campaigns, the pressure on mass-media has increased in 2004. The deterioration of the media situation was not a temporary deviation after which everything usually comes back to normal, but represented strengthening of systematic and regular pressure upon mass-media, which continued after the election campaign.

The monitoring carried out by the Belarusian Association of Journalists allows to draw a conclusion that infringements of freedom of mass information in 2004:

- were mainly instituted by state bodies of Belarus and their officials;
- were aimed at reducing to the minimum dissemination of the information alternative to that distributed by state bodies;
- had systematic character.

The systematic character of the actions of Belarusian authorities can be proved by "cleansing" of the information space before the elections and the referendum. If on November 1, 2003 there were 1,492 registered periodic printed editions in Belarus, then by July 1, 2004 (the decree on holding the elections was signed July 14) their quantity has decreased to 1,324 editions. The volume of broadcasting of Russian TV and radio channels in Belarus has reduced to 70% in two years.

These processes have not slowed down neither after the beginning, nor after ending of elections and the referendum. At the end of 2004 relaying of some Polish and Ukrainian TV channels has been limited in bordering areas of Belarus. The number of registered periodicals has reduced by another 103 in the second half-year of 2004.

Such reduction of the number of "legal" editions was triggered by legal and economic discrimination of non-state media on the one hand, and authorities' restrictions on creation of new mass-media on another hand (the number of newly registered editions in Belarus has decreased by 4,5 times in comparison with 2003 – from 230 to 51. 299 publications were registered in 2002, and 199 publications – in 2001).

The most essential infringements of the rights of mass-media and journalists in 2004 were:

- Suspending the activities of mass-media by orders of the Ministry of information (25 editions were suspended in the last year. In 2003 the Ministry of information suspended 8 publications, and from 2000 to 2002 – not a single one),
- Criminal prosecution and other forms of pressure for publications in mass-media (including ruinous fines and summons to law enforcement bodies),
- Attempts on life and health of journalists,
- Obstacles to production and distribution of mass-media (both by issuing normative instructions and by rendering pressure through printing houses, detention of circulation, arrests of distributors of printed editions, etc.).

STATISTICAL BACKGROUND

By the end of 2004 there were 1,221 registered printed media in Belarus. (784 newspapers, 395 magazines, 38 bulletins, 2 catalogues and 2 almanacs) (<http://mininform.gov.by/data/main/massmedia/digital/stat>). As of December 1, 2004 there were 1,255 media outlets, which means that within 1 month 22 newspapers, 11 magazines and 1 bulletin disappeared in the country. In comparison with November 2003, when Belarus had 1,492 media outlets (including news agencies), the quantity of printed mass-media has reduced even more essentially – by 118 newspapers, 125 magazines and 19 bulletins.

For the first time in last years the quantity of printed mass-media registered in Belarus started to reduce. (Until now the dynamics was opposite - for example, in 1995 there were 721 periodicals in the country, and in June 2003 – 1472 periodicals). **In 2004 the ministry of information applied a record quantity of sanctions to newspapers: it has issued 160 written warnings to 81 periodicals and suspended activities of 25 media outlets.**

As of January 1, 2005 there were 200 radio and TV channels in the country, including 149 radio stations and 51 TV channels. The number of electronic media outlet, as opposed to the number of printed media, has increased by 18 due to increase in the number of TV channels in comparison with November 2003.

Out of 149 radio channels 130 are state-owned, and 19 are not state. (Including 19 in Minsk, 23 in Minsk region, 22 in Vitebsk, 20 in Brest, 19 in Grodno, 21 in Mogilev and 25 in Gomel). Out of 51 TV channels 26 are state-owned, and 25 are non-state. (including 12 in Minsk, 3 in Minsk region, 12 in Vitebsk, 9 in Brest, 6 in Gomel, 5 in Mogilev and 4 in Grodno). (<http://mininform.gov.by/data/main/massmedia/digital/condition>)

As of 01.01.2005 there were 108 cable television operators on the territory of the country with corresponding licenses of the Ministry of communications and information. (including 11 in Minsk, 14 in Minsk region, 21 in Brest, 13 in Vitebsk, 12 in Gomel, 24 in Grodno and 14 in Mogilev) (<http://mininform.gov.by/data/main/massmedia/digital/condition>)

Besides, 9 news agencies operate in the country. In comparison with November 2003 their number has grown by one agency.

According to the Ministry of information, more than 2/3 of registered editions are non-state. However, statistical data of the ministry shows the tendency to reduction of the private sector and expansion of the state media sector. For example, if in November 2003 there were 116 periodicals in Belarus founded by ministries and institutions, then by January 1, 2005 their number has grown to 122. In the same period the quantity of mass-media outlets founded by NGOs has reduced from 130 to 115, and those founded by citizens – from 462 to 396.

In the field of electronic mass-media the quantitative advantage of the state sector is obvious. According to the Ministry of information, today there are 160 state radio and TV channels in Belarus, and only 40 are non-state. (In November, 2003 there were 120 state electronic media outlets in Belarus and 62 non-state ones).

In 2004 the national budget allocated \$29,75 million for funding of state mass media, which is almost \$2,5 million less than in 2003 (\$32,28 million). Financing of periodicals and publishing houses was set to \$5,15 million, as compared to \$6,25 million in 2002.

The Russian newspaper «Komsomolskaya Pravda v Belarusi» (circulation of the Friday issue at the end of the year - 325 thousand copies) and «Sovietskaya Belorussiya» (circulation of the Friday issue - almost 402 thousand copies) enjoyed the highest print run in 2004. «Sovietskaya Belorussiya» was

co-founded by the Administration of the President, which, executing the order of the President to reach in 2004-2005 the level of 500 thousand copies, ensures the growth of its circulation by resolving to administrative resource and carrying out “subscription campaigns”. At the end of 2004 the number of subscribers of «Sovietskaya Belorussiya» has reached 311,2 thousand.

CHANGES IN THE LEGISLATION

The new edition of the Law «On mass media» has not been adopted in 2004, despite previous expectations. From January 2001 this bill had been appearing in annual plans of preparation of bills approved by the President. However, by the end of 2004 it has not appeared in the House of Representatives.

The Law «On post communication» and new edition of the Law «On culture in Belarus», enforced in 2004, do not directly regulate relations in the sphere of mass-media. However, they have worsened the situation with the freedom of speech and information in the country. The Law «On post communication» together with several statutory acts issued by the government and the President became legal grounds for announcing subscription to mass media a licensed activity, and the Law «On culture» has authorized censorship at the stage of creation of works of art.

The Instruction of the Ministry of information dated March 2004 on distribution on the territory of Belarus of periodic printed editions registered in foreign states, the list of data making the state secret of Belarus, approved by the President in April, demonstrated the tendency of introducing further restrictions of dissemination of information and access of citizens to uncensored information in the society. However, the overall objective of the instruction of the Ministry of the information – to gain control over distribution of Russian printed editions in the country – has not been achieved because of the existing interstate agreements between Belarus and the Russian Federation which have bigger validity than the act of the ministry.

Among other normative legal acts adopted in 2004 we shall note the acts aimed at strengthening of propaganda and ideological work (from strengthening of the "ideological vertical» to carrying out various contests among journalists and editions loyal to the authorities), and also legal acts aimed at direct support of state mass-media. The budget of Belarus adopted in November 2004 allocates over 40 million dollars only from the national budget for financing of mass media in 2005.

On January 6 the Law «On post communication» came into force (10 days after its official publication).

Article 11 of the law classifies subscription to printed mass media and delivery of printed mass media as post services. According to the Resolution of the Council of Ministers № 1387 dated October 20, 2003 post services are a licensed activity. Since May 1, 2004 distribution of newspapers by subscription requires a license of the Ministry of communications (from March 2004 it was renamed into the Ministry of communications and information).

On January 26 the Ministry of information issued Resolution № 1 «On recognition as invalid certain normative legal acts on licensing ».

The Regulation on the order of issue and use of licenses for realization of publishing activities and the Regulation on licensing of polygraphic activities in Belarus and issue of sanctions to purchase polygraphic equipment, approved by the Chairman of the State Committee for Print on May 21, 1997 become invalid. This happened because from November 1, 2003 Regulations on licensing of publishing and Regulations on licensing of polygraphic activity, approved by the decision of the Council of Ministers № 1376 dated October 20, 2003 came into force.

On February, 20 the President of Belarus signed Decree № 11 «On improving personnel maintenance of ideological work in Belarus».

According to the decree, all regional departments of information in district, city and regional executive committees, and also in local regional administrations in Minsk and other cities were renamed into departments of ideological work.

Decree № 111 offered all regional executive committees to ratify by April 1 the structure and staff of employees of departments of ideological work within the limits of the regular numbers determined by the decree. The nominees of heads of departments of ideological work of regional executive committees and Minsk municipal executive committee should had to be coordinated with the Administration of the President by May 1. The nominees of editors-in-chief of national state mass-media should be coordinated in the same manner, except for those appointed by the President, and except local mass-media founded by regional executive committees and minsk municipal executive committee.

Nominees of heads of "ideological" departments of executive authorities of lower level and editors-in-chief of the mass media founded by them had to be coordinated with regional executive committees (minsk municipal executive committee).

In execution of the Decree № 111 **regional executive committees have approved Regulations on the departments of ideological work** of regional executive committees. Corresponding regulations were approved by Grodno regional executive committee on May 25 (Resolution № 258), Brest regional executive committee on May 31 (Resolution № 338), Gomel regional executive committee on June 14 (Resolution № 424), Mogilev regional executive committee on July 29 (Resolution № 18-27), Vitebsk regional executive committee on August, 19 (Resolution № 503).

It is underlined in the Regulation that a department of ideological work is a structural division of the regional executive committee reporting to the regional executive committee and to the main ideological department of the Administration of the President of Belarus. The Regulation states the primary goal of these structures as explanation of the state ideology to the population, realization of state information politics, information and ideological support of political campaigns, actions, holidays, conferences and other actions. The functions of departments of ideological work include control over infringements of the current legislation of Belarus by mass media and printing enterprises.

On February 25 the Council of Ministers approved the State program of information support of foreign policy and foreign trade activities for 2004 (Resolution № 206).

The activities of the State program of information support of foreign policy and foreign trade activities include publishing and distribution of printed materials abroad (for example, a year-book «Belarus. Facts » in Russian, English and German languages), posting information on Belarus in the Internet, distribution of information materials about Belarus via diplomatic channels, information support of official visits and actions.

On March 2 the Ministry of information approved the Instruction on distribution of periodic printed editions registered in foreign states on the territory of Belarus (Resolution №6).

According to the Instruction, distribution of periodic printed editions registered in the foreign states on the territory of Belarus, shall be carried out on the basis of the written sanction of the Ministry of information.

On March 10 the Council of Ministers of the Belarus-Russia Union State approved the Charter of the TV broadcasting organization of the Union State, structure of board of the TV broadcasting organization of the Union State and limiting regular number of employees of the TV broadcasting organization of the Union State amounting to 30 units (Resolution № 6).

The Board of TV broadcasting organization of the Union State has 7 members from Belarus, including deputy Minister of information Sergey Bulatsky, General Director of the Joint-Stock Company "Second National TV Channel" (ONT) Jury Kozijatko, Vice-president of the National State TV and Radio Broadcasting company Alexander Martynenko and director of information broadcasting department of the Joint-Stock Company "Capital TV" Valery Radutsky.

On March 17 the Council of Ministers of Belarus approved Regulations on the Ministry of Communication and information of Belarus (Resolution № 302).

On April 12 the President of Belarus has approved the List of data making the state secret of Belarus (Decree № 186).

The decree lists categories of data which can be declared state secret. The specific list of data subject to classifying had to be approved within three months by State bodies and organizations which have powers to classify data as state secrets and to protect it.

The list of such bodies was approved by the decree of the President of Belarus dated July 9, 2003 № **300 on September 8 2004. The list of State bodies and organizations which have powers to classify data as state secrets and to protect it was amended by the decree № 435** to include the State military-industrial committee. Some bodies and organizations were renamed. As a result, 63 state bodies and organizations now have powers to classify data as state secrets and to protect it, including six regional executive committees and Minsk municipal executive committee, the Ministry of information, the Ministry of culture, the Ministry of education, the Ministry of sports and tourism, the Belarusian national union of consumer societies, Committee on problems of consequences of disaster at the Chernobyl nuclear power station in the Council of Ministers, Belarusian state concern for production and realization of light industry goods, Belarusian state concern for production and realization of consumer goods, etc.

On April 16 the Governments of the CIS states signed the Convention on the status of correspondents representing mass media of the state-participant of the Commonwealth of Independent States.

The correspondent is described in this Convention as the person (irrespective of his{her} citizenship), accredited in another state-participant of the Commonwealth of Independent States and representing mass media of one of the Sides, registered according to its national legislation.

The state-participants of the Convention have undertaken to render assistance to correspondents during realization of their professional duties in access to official sources of information, to participation in press conferences and other similar actions on the bases equal to the bases, given to representatives of mass media of the state of accreditation, to recognize the right of correspondents to preserve confidentiality of the source of information, to observe the right of correspondents to freely transfer the materials to mass media which they represent in the way not forbidden by the legislation of the state of accreditation .

The right of free movement on the territory of the state of accreditation is given to correspondents, except for areas and objects requiring a special sanction to visit. In case visas are required, the Parties undertake to issue to the permanently accredited correspondents and members of their families multiple entrance / exit visas or other document giving the right of free entrance on the territory and departure from the territory of the state of accreditation according to the national legislation.

According to Item of 12 of the Convention the states - participants undertook to abstain from restrictive measures, such as stripping correspondents of accreditation or expelling them from the state of accreditation because of the contents of information transferred by them and distributed by mass media which is represented by the correspondent, except for cases of infringement of the legislation of the state of accreditation by them.

On April 22 the Minsk Regional Executive Committee adopted Resolution № 362 «On the order of payment by educational organizations and establishments of Minsk region for using the information network Internet».

This resolution approves the List of educational organizations and establishments financed from the budget of Minsk region and using services of the information network Internet from the funds allocated from the regional budget for education. The resolution also contains the Instruction on the order of payment for using Internet by educational organizations and establishments financed from the budget of the Minsk region.

Due to the budgetary funds allocated on formation{education}, it is paid no more than 20 business hours in a month.

On May 12 the Council of Ministers has issued Resolution № 552 «On some issues of the Ministry of information of Belarus». The Council of Ministers has increased the number of members of board to 9 person (originally there were 7 members in board, then 8) and has determined its new staff.

The board is an advisory body which considers the main issues of activity of the Ministry of information. Besides the Minister of information (Chairman of board), it includes his assistants and the head of control and auditing department and can also include top managers of mass media, the organizations and broadcasting companies.

On May 14 the Grodno Regional Executive Committee set up a regional commission of experts for evaluation of printed editions, films and audiovisual products and other production for presence of attributes of pornography, cult of violence and cruelty and approved Regulations on this commission and its personal structure (Resolution № 237).

The commission functions in Grodno Regional Executive Committee and following requests of the department of culture of the Regional Executive Committee carries out evaluation of concerts, entertainment programs, films, audiovisual production, printed production and other production for presence of attributes of pornography, cult of violence and cruelty.

On December 16 a similar decision № 2560 was adopted by Minsk Municipal Executive Committee. The commission functions in Minsk Municipal Executive Committee. State bodies, organizations irrespective of the form of ownership, physical entities, as well as manufacturers of the

production mentioned above, its sellers (producers, distributors) can address the commission in order to initiate evaluation of concerts, entertainment programs, films, audiovisual, printed and other production for presence of attributes of pornography, cult of violence and cruelty.

On May 18 new edition of the Law «On culture in the Republic of Belarus» was adopted.

Article 6 of the law («Freedom of creative activity») has actually authorized censorship: intervention of state bodies (organizations), their officials, legal and physical entities in the process of creation and (or) performance of fiction and art, influence on the results of creative process in cases, if its results:

- can be directed against the sovereignty of the Republic of Belarus, call for violent overthrow of the government or change of the constitutional order,
- contain data discrediting honor and dignity of the President of the Republic of Belarus, heads of state bodies which status is established by the Constitution,
- propagate war, violence and cruelty, social, national, religious, racial exclusiveness, intolerance or animosities, pornography or incite crimes,
- contain information on the ways of murder, manufacturing of devices and means of murder,
- can harm health and morals of people,
- in other cases stipulated by the Belarusian legislation.

Distribution and popularization of such products is forbidden by the Law.

On May, 28 the Ministry of information approved Regulations on National television contest (Resolution № 14).

The founders of the contest are: Ministry of information, National state broadcasting company of the Republic of Belarus, closed joint-stock company "Second National TV Channel" and closed joint-stock company "Capital TV». The personal structure of the organizing committee of the contest is set by the order of the Minister of information. The contest is carried out in 21 nominations in two categories: "The best television project of the year" and "For personal contribution to the development of TV in the Republic of Belarus".

In 2004 some more contests among journalists and editions have been held by local executive and administrative bodies.

On April 2 the Minsk regional executive committee adopted Resolution № 281 on carrying out in 2004 a regional creative review – contest among clubs of the young journalist and on approval of the Instruction on the order of carrying out in 2004 a regional creative review – contest among clubs of the young journalist.

The structure of the organizing committee is approved by the order of the Chairman of Minsk regional executive committee.

On December 1 the Minsk regional executive committee adopted a resolution on organization of a regional contest among editions of district, regional and city newspapers, as well as professional journalists. The same Resolution № 1115 approves the Instruction on the order of

carrying out the annual regional contest among editions of district, regional and city newspapers, as well as professional journalists.

The right of approval of the personal structure of the commission for summarizing the results of the annual competition is given to the Chairman of Minsk regional executive committee.

The size of award to winners of the contest is established by Item 6 of the Instruction. Items 6.2. - 6.4. establish the amounts of awards for winners among editions of regional and city newspapers (the maximum award is a car), journalists of regional and city newspapers (the maximum award is about 275 dollars) and journalists of national newspapers (550 dollars for the first place). Item 6.1. especially specifies among winners of the contest not yet carried out Minsk regional unitary enterprise "Edition of the newspaper «Minskaya Prawdа», awarding it with the premium in the amount of 5,500 Usd and the Certificate of honor of the Minsk regional executive committee.

Earlier, on August 20, the resolution on organization of annual regional contest among editions of regional, united, district and municipal newspapers, TV and radio and professional journalists was adopted by Brest regional executive committee. Its Resolution № 556 approved the corresponding Instruction.

The right of approval of personal structure of the commission summarizing the results of the annual contest was given to the Chairman of Brest regional executive committee.

The maximum size of the award established for winners of the contest in Brest region was set to 4,400 Usd for editions of mass-media and about 275 Usd for journalists. The award allocated to the organizations – winners of the contest should be spent for strengthening of the material base of editions (up to 10% of the funds can be used for awarding employees of the edition).

On July 22 the Council of Ministers issued a Resolution «On financing periodicals in 2004».

The resolution determines the list of periodicals which editions are allocated grants in 2004. Among them such political editions as «Belorusskaya Niva» (founded by the Council of Ministers), "Zviazda" (co-founders are the Council of the Republic, the House of Representatives of the National Assembly and the Council of Ministers), «Znamya Yunosti» (founded by the Belarusian Republican Youth Union and the Department on youth affairs of the Ministry of Education), «Narodnaya Gazeta» and others – in total 33 editions.

On August 20 the Ministry of information approved the Instruction on the order of allocation of grants from the republican budget to editions of periodicals. The grants are allocated for covering of losses from publishing «socially significant periodicals playing the important role in the realization of state information policy and ideology, formation of public opinion and consolidation of the society on the principles of building of the strong and prosperous Belarusian state».

On September 7 the Council of Ministers approved the Rules of rendering of postal services (Resolution № 1111).

According to Chapter 10 of the Rules printed and audiovisual materials, other data carriers containing data which can harm political or economic interests of the republic, its state security, health protection and morals of citizens are forbidden from sending by international mail. Chapter 21 of the Rules gives the operator of post communication the right to detain and open items of mail in case of presence of items forbidden from sending.

On September 10 the Council of Ministers introduced amendments to Regulations on the Ministry of information of the Republic of Belarus, approved by the Resolution of the Council of Ministers № 1545 dated October 26, 2001.

In particular, it was added in the Regulations that the Ministry of information "shall cooperate in realization of the state policy in the sphere of mass information, book publishing, polygraphy and distribution of books with the departments of ideological work of regional (and Minsk municipal) executive committees of Belarus.

On October, 14 the Council of Ministers introduced a new edition of the list of categories of employees of the National state broadcasting company authorized to receive service apartments, approved by the Resolution of the Council of Ministers № 1004 dated June 30, 1999.

The list of people having the right to expect receiving service apartments was complimented by the general producer of the National state broadcasting company and his{her} assistant, correspondents (of all kinds), the commentator and other employees (in total - 30 positions).

On October 21 the Council of Ministers issued the Resolution № 1316 «On allocation of a part of resources of the innovative fund of the Ministry of information for financing of charges of organizations of the polygraphic industry for purchasing the newspaper printing machine, process equipment and reconstruction of the building». The Resolution authorizes allocating the amount equivalent to 289 thousand US dollars for purchasing the newspaper printing machine for Brest printing house, and also allocation of funds for Nesvizh integrated printing house named after S. Budny and for Volkovysk printing house.

On October 26 the Ministry of information introduced amendments to the List of posts of executives of organizations of the national form of ownership subordinated to the Ministry of information of the Republic of Belarus, certain organizations included in the register of the Ministry of information of Belarus, and the Order of assignment (dismissal) and coordination of assignment (dismissal) for the positions included in the register of the Ministry of information of Belarus (Appendices 1 and 2 to the order of the Ministry of information of Belarus № 94 dated May 27, 2003 "On the personnel register of the Ministry of information of the Republic of Belarus").

In particular, the following executives were included in the personnel register of the Ministry of information: managers of a number of major enterprises of polygraphy and publishing houses, enterprises "Soyuzpechat", "the House of press", " International center of integration information. The public press centre of the House of press"; National book chamber of Belarus, publishing establishment "Literatura I Iskusstvo", "Publishing house " Belarus House Press", editors-in-chief and assistants editors-in-chief of the magazines "Alesya", "Vozhyk", "Vyasiolka", newspapers «Narodnaya Gazeta», «Belorusskaya Niva», «Nasha Dolya», editors-in-chief of mass media published by "Literatura I Iskusstvo", and "the House of press".

The Minister of information shall directly appoint editors-in-chief of mass-media founded by the Ministry of information, and editors-in-chief of the newspapers «Belorusskaya Niva», «Nasha Dolya» and approve employment of other editors-in-chief of the mass media mentioned above and their assistants

On November 18 the Law «On the budget of the Republic of Belarus for 2005» was adopted. According to Appendix 3 to the Law, in 2005 88,564,584,000 roubles (over 40 million dollars) will be allocated for financing of mass media only from the republican budget, from which 73,355,388,000 roubles (over 33 million dollars) will be allocated for financing of TV and radio broadcasting and 12,722,561,000 roubles (about 6 million dollars) - for financing of periodicals and publishing houses. 2,486,635,000 roubles in the republican budget are allocated for miscellaneous costs of mass media.

On November 30 the Ministry of Internal Affairs issued Resolution № 273 approving the Instruction on the order of coordination of information (advertising) materials on employment of Belarusian citizens abroad.

The specified information (advertising) materials are subject to coordination in the Department on citizenship and migration of the Ministry of Internal Affairs of Belarus. The placed advertising on employment of Belarus citizens abroad should fully comply with the coordinated advertising.

Both advertisers and distributors advertising shall bear responsibility for infringement of the Instruction.

CRIMINAL CASES FOR PUBLICATIONS IN MASS-MEDIA

Criminal liability for slander and insult in mass-media is established by six Articles of the Criminal Code: Article 188 ("Slander"), Article 189 ("Insult"), Article 367 («Slander concerning the President of the Republic of Belarus»), Article 368 («Insult of the President of the Republic of Belarus»), Article 369 («Insult of a representative of authority») and Article 391 («Insult of a judge or an assessor»).

The maximal sanction established by Articles 188 and 189 of the Criminal Code is imprisonment for the term of up to two years. Alternative sanctions could be a fine, corrective works, arrest and restriction of freedom. Articles 367-368 establish higher responsibility for slander and insult concerning representatives of authority. The maximal sanction established by Article 367 is imprisonment for 5 years, and by Article 368 - 3 years of imprisonment, Article 369 - restriction of freedom for the term of up to 3 years.

Articles 367 and 368 of the Criminal Code are applied in Belarus rather frequently. The fact of criminal prosecution of journalists of the newspaper "Pahonia" Mikola Markevich and Pavel Mazheika and the editor of the newspaper "Rabochy" Victor Ivashkevich is widely known.

In June 2004 Oxana Novikova, active member of the United Civic Party was held criminally responsible for slander concerning the president and his insult (containing, in the opinion of the Office of Public Prosecutor and the court, in leaflets).

During the 2004 election campaign the norms of the Belarusian legislation establishing higher responsibility for encroachments on honor and dignity of the President, were used again.

In September 2004 in Grodno the head of the Republican Striking Committee of Businessmen Valery Levaneusky and his colleague Alexander Vasiljev were convicted on accusation of public insult of the President of Belarus, connected with accusation of fulfillment of grave crime - abusing authority, (Part 2, Article 368 of the Criminal Code). It was underlined in the verdict that the phrase *«Come and tell, that you are against if at your expense someone goes to Austria to have a rest, ski and live happily»* printed in the leaflet contained insult of honor and dignity of the president of the Republic of Belarus and, accordingly, there was a corpus delicti stipulated by Article 368 Part 2 of the Criminal Code of Belarus.

Meanwhile, the insult is a deliberate humiliation of honor and dignity of a person, expressed in the indecent form. The insult envisions negative assessment of the personality of the victim, his{her} human qualities and behavior in such form which sharply contradicts the accepted norms of communication between people. For qualification of an act as an insult it is necessary, that the humiliation of honor and dignity of the person took place, that this humiliation was deliberate and was expressed in the indecent form. Negative, sharply critical evaluation of a person does not qualify as an insult if it is given in a decent form.

The phrase specified in the verdict of the court seems correct both in content and in form. Nevertheless, the court has sentenced Levaneusky and Vasiljev to two years of imprisonment (such a strict measure of punishment under given articles has been used for the first time). It is indicative that the verdict on the case of Levaneusky and Vasiljev was announced on the day of signing of the decree appointing the referendum and on the day of address of president Lukashenko to people with the request "to allow" him to participate in the next presidential elections.

Critical evaluations of activity of the head of state in election leaflets and statements of some candidates have also triggered their criminal prosecution. In autumn 2004 the Central commission on elections and republican referenda, having rejected complaints of Marina Bogdanovich, Alexander Tsynkevich and Oleg Volchak against the decisions of district electoral commissions on

cancellation of their registration as candidates and transferred materials of these cases to the Office of Public Prosecutor. On February 1, 2005 the Public Prosecutor of the Central district of Minsk V. Hodotovich ruled that campaigning materials in support of former candidates Tsynkevich and Volchak contain data of slanderous character in relation to the President, accusing him of a grave crime. The Prosecutor decided to bring a criminal case on the fact of slander concerning the President of Belarus (Part 2, Article 367 of the Criminal Code).

After the statement of opposition politicians on preparations of falsification of results of elections and the referendum the Office of Public Prosecutor of Minsk brought a criminal case on Articles 188 ("Slander") and 367 («Slander concerning the President of Belarus») on the fact of *«dissemination of obviously false fabrications discrediting the President of Belarus and other officials concerning the republican referendum and the elections»*.

After the elections the criminal prosecution for publications in mass media continue.

On March 1 the Office of Public Prosecutor of Belarus brought a criminal case for Article 367 Part 2 the Criminal Code («Slander concerning the President of Belarus») against the Chairman of the United Civic Party **Anatoly Liabedzka**. The case was triggered by Liabedzka's statements in his interview to the programs of the state Russian TV channel "**Russia**" "Zerkalo" and «Vesti Nedeli» aired on February 21 and February 22.

The case was transferred to the Office of Public Prosecutor of Minsk (*See also Item 3.7. Conflicts related to reception and dissemination of foreign information or activity of foreign mass-media*).

In 2002 Liabedzka's name already appeared in connection with initiation by the Office of Public Prosecutor of Sovetsky district of Minsk of a criminal case for the publication of the article «Gangsters Finance Belarusian Regime?» (November 2001) in the newspaper «Narodnaya Volya». The author of the article quoted Liabedzka's interview to the Russian Internet- edition "Gaset.ru" in which the opposition politician accused Belarusian authorities of illegal trade in arms.

On September 7 Dmitry Demchenko, the judge of Lenin district of Grodno, recognized **Valery Levaneusky and Alexander Vasiljev** guilty of public insult of the President of Belarus (Article 368, Part 2 of the Criminal Code). The court classified as insult of the president the leaflet with a poem «Bill for municipal services», distributed in Grodno before May 1 protests. The court ruled to confiscate for the benefit of the state several computers, printers, a risograph and other office equipment previously confiscated from Levaneusky and Vasiljev, and to collect from Mr. Levaneusky 643 thousand roubles for payment of costs of carrying out examinations during the investigation. Mr. Vasiljev was arrested in the courtroom. Mr. Levaneusky is in custody since May 2004.

On October 15 the Public Prosecutor of Minsk Nikolay Kulik has declared initiation of a criminal case on Article 188 ("Slander") and Article 367 («Slander concerning the President of Belarus») for the fact of *«dissemination of obviously false conjectures offending the President of Belarus and other officials concerning the republican referendum and the elections»*. These, in the opinion of public prosecutor, "conjectures" were sounded at the press conference carried out on October 15 by leaders of opposition parties and representatives of the initiative «For Fair Elections». During the press conference the speakers stated that falsifications of the results of elections were being prepared and showed copies of reports of electoral commissions prepared beforehand, in which the results were already written down for the benefit of Lukashenko and candidates «from the authority».

On November 3 the Public Prosecutor of Borisov V. Shpakovsky brought a criminal case on the fact of publication of an article by **Anatoly Bukas** “the crazy scamp has a finger in every pie, or silence of the lambs” in the newspaper “**Borisovskiye Novosti**”, about the editor of a local official newspaper "Adzinstva" Vera Protasevich. Mr. Bukas was accused of insult and slander in relation to Mrs. Protasevich. The article of the editor of «Borisovskiye Novosti» Bukas was a response to three publications in the official newspaper in which his personality was characterized negatively. The article appeared in «Borisovskiye Novosti» in March, but the case against the editor was brought only in November. The preliminary investigation of the case is conducted by the senior inspector of the department of preliminary investigation of Borisov Interior Department Sergey Kozlov.

On November 30 vice-president of the Belarusian Helsinki Committee **Harry Pahaniayla** learnt that a suit had been filed against him on Part 2, Article 267 of the Criminal Code (Slander of the President of Belarus in conjunction with accusation of committing a grave crime). Mr. Pahaniayla was informed of this resolution at Minsk City Public Prosecutor's Office. The case was initiated following an interview that the human rights defendant gave to the Swedish TV channel "TV-4" in August 2004. In the interview Pahaniayla Mr. expressed his suspicions regarding complicity of top Belarusian state officials, including Lukashenko, in kidnapping and possible murder of Belarusian opposition leaders. The tape with the interview was confiscated from the Swedish journalist by Belarusian customs officers when the journalist was leaving Belarus. The lawyer expressed his readiness to present to the court a range of documents, which could prove his suspicions.

In March 2005 the criminal case against G. Pahaniayla's has been stopped for lack of corpus delicti.

In December the Office of Public Prosecutor of Minsk brought a criminal case against politician **Andrey Klimau** - the author of books “Obvious Truisms”, «I have made the choice», etc. Several years ago he published a newspaper “Gazeta Andreyka Klimova”. According to the results of linguistic examination, the text of books contains statements which “*offend the President of Belarus and are stated in the obscene form*”. The Office of Public Prosecutor of Minsk has seen in these actions attributes of corpus delicti stipulated by Part 1 of Article 368 of the Criminal Code (public insult of the head of Belarus state).

ENCROACHMENTS ON JOURNALISTS AND MEDIA

In 2004 the number of encroachments and threats to journalists and mass-media has increased. Belarusian Association of Journalists directly relates it to carrying out of parliamentary elections and the referendum, since a significant part of encroachments on journalists (beating, damage of property) was executed by representatives of power structures.

The greatest resonance last year was caused by threats to a journalist from Gomel Irina Makavetskaya, beating and detention of the Russian journalist Pavel Sheremet and murder of the correspondent of "Salidarnasc" newspaper Veronika Cherkasova.

In Makavetskaya's case they have managed to find out the person who threatened her and to hold him responsible.

The case with P. Sheremet is viewed by the Belarusian Association of Journalists a provocation aimed at his intimidation, prevention of his journalistic supervision over elections and, as a result, his isolation (first – until consideration of the case on administrative offence, and later - for the term of administrative arrest).

It is not for the first time that the employee of the Russian TV «First channel» P. Sheremet was arrested by Belarusian law enforcement bodies. On July 20, 1997 P. Sheremet, then head of the Minsk bureau of the Russian TV channel ORT, was arrested together with ORT cameraman Dmitry Zavadsky after airing a report on drawbacks in protection of the Belarusian-Lithuanian border. The journalist and the cameraman have spent several months behind bars. In 2000 D. Zavadsky disappeared under obscure circumstances (See also *Section 4.2. D. Zavadsky's case*).

Severe murder of the journalist Veronika Cherkasova shocked the Belarusian journalistic community. Investigation of the case is ongoing, but reluctance of law enforcement agencies to consider any other versions except for domestic killing causes serious concern.

In the night of January 11 the correspondent of "**Belorusskaya Delovaya Gazeta**" in Gomel region **Irina Makavetskaya** received anonymous telephone threats. Within one hour an unknown man called her several times, demanding that Irina stopped her journalistic activities, and threatening "to bury" her otherwise. The journalist has managed to record one of the conversations. On January 11 she submitted an application to the police station No 2 in Gomel.

On January 13 I. Makavetskaya submitted the request to investigate the incident to the Office of Public Prosecutor of Zheleznodorozhny district of Gomel. Employees of the Office of Public Prosecutor have accepted the application, but informed that they would not consider it and will redirect it to militia, since such cases are not in their competence.

On January 14 the Minister of Internal Affairs of Belarus Vladimir Naumov declared at a press conference that he did not consider it necessary to take under personal control the incident with telephone threats to the Gomel correspondent Irina Makavetskaya. However, he promised to promote open trial of this case. Irina Makavetskaya came to Minsk herself to ask a question to the minister: "*I have to admit that in the last days militia employees have not done anything to establish the person calling and to guarantee my safety*", - she said. Mister Naumov promised to personally contact the chief of Department of Internal Affairs of Gomel regional executive committee.

On January 20 the chief of 2-nd police station of Zheleznodorozhny district of Gomel Valery Strigalev informed I. Makavetskaya that militia has established the personality of the anonym which threatened the journalist. It was a 25-year old employee of Gomel TV **Vyacheslau Bulkin**. In the explanatory note Mr. Bulkin declared that he called Irina «with the purpose to express his opinion»,

without malicious intention and without intention to finish with the journalist. Explaining motives of his actions, he said that Irina was an employee of an oppositional newspaper, distributing information which «did not correspond reality».

On the same day, on January 20, the department of criminal investigation of Zheleznodorozhny district Interior department of Gomel refused Makavetskaya's request to bring a criminal case, referring to the lack of «threats of murder, heavy physical injuries or destruction of property» (Article 186 of the Criminal Code). Simultaneously militia held Vyacheslau Bulkin who threatened Makavetskaya by phone administratively responsible for petty hooliganism (Article 156 of the Administrative Code).

On January 21 Vyacheslau Bulkin was dismissed from work. The order was signed by Victor Kotov, director of the Republican unitary enterprise "Broadcasting company "Gomel". The director offered Mr. Bulkin to submit a resignation request at his own will as soon as he learnt about the incident.

In mid-January an unknown person who introduced himself as "the dog called Rex" called twice the edition of the newspaper «**Birzha Informatsii**». He did not voice any specific threats, but reminded of the destiny of the missing Belarusian politicians and offered journalists of the newspaper «to be more reasonable». The employees of the edition have requested law enforcement bodies to establish the person of the anonym.

On January 26 Grodno militia refused to investigate the case on phone threats which the edition had received. The letter to the edition from the department of internal affairs of the administration of Leninsky district of Grodno informed that a check was carried out on the fact of phone calls to the edition, and that it was possible to find out the phone numbers of persons who called the newspaper by requesting the Office of Public Prosecutor. Meanwhile, according to the journalist Natalia Makushina, management of Grodno regional telecom department assured the edition that it was possible to carry out the investigation and to find out the number from which employees of the newspaper were threatened only on the basis of the sanction from militia.

In Minsk the apartment of the journalist **Marinas Koktysh** of the newspaper «**Narodnaya Volya**» has been plundered. M. Koktysh's apartment had two entrance doors – one iron door and one usual door. Criminals have broken open three locks, but have not stolen anything that room thieves usually steal. All journalist's notebooks have been overlooked, and one of them was torn.

On March 18 late at night three unknown persons tried to get in the premises, one of which rooms was rented as a correspondent's office of a non-state newspaper "**Djen**". Two of them were detained by militia, but were soon released. The editor-in-chief of the newspaper "Djen" Mikola Markevich says that he recognized one of the arrested persons as a Grodno region KGB officer.

On August 14 unknown persons plundered the editorial office of the newspaper "**The Minsk Times**" published by the establishment of the Administration of the President of Belarus «Edition of the newspaper «Sovietskaya Belorussiya». The unknown persons have penetrated into the office through the window having broken a window and have stolen 2 PCs.

On September 16 the editorial office of the newspaper "**The Minsk Times**" was plundered again. 2 computers and a fax have been stolen.

On August 31 in Bobruisk during shootings by the crew of the **TV and Radio Company “Mahileu”** at the "Zapadny" market director of the market Igor Fomenok has kicked out the camera from the hands of the cameraman **Gutarov**. Damages to the equipment were evaluated in the amount over 1 million roubles. The film crew of the Bobruisk correspondent office of the Broadcasting Company “Mahileu”, a structural unit of the National state broadcasting company, arrived to the market belonging to the LLC “Trading House "Zapadny" to make a report on the work of Bobruisk markets, criticized at a session of the local municipal executive committee. According to the director, he did not want to harm anybody. He blamed journalists who have not warned the administration of the market about their visit.

On September 3 criminal case was brought against I. Fomenok.

On December 29 the court of Pervomaisky district of Bobruisk issued a verdict on this case. For interference with lawful professional work of the journalist (Article 198 of the Criminal Code) and for excess of authority (Article 270 of the Criminal Code) I. Fomenok was sentenced to 3 years of imprisonment. Mr. Fomenok was arrested in the court room. Even prior to the beginning of litigation Alexander Lukashenko recollected the incident at the Bobruisk market during his meeting with employees of the Belarusian State TV and Radio Company (See also *4.1. The most significant litigations with participation of mass-media and journalists*).

On September 11 in Gomel the car belonging to the own correspondent of «**Narodnaya Volya**» in Gomel region **Anatoly Gotovchits** was damaged. At the moment of the incident the journalist fulfilled the editorial assignment for covering the seminar «Referendum as infringement of the major democratic principle of removability of the carrier of authority». The journalist noticed that a car which, according to his information, belonged to the Gomel region KGB department was parked near the hotel where the seminar took place.

For some time A. Gotovchits left his car unattended, when he followed the developments at the seminar. Having returned outside, A. Gotovchits noticed that the back right wheel of his car was deflated. There was cut in the tire about 2 cm long. The car with state numbers which had been parked beside was not there any more.

On October 16 the press photographer of the newspaper “**Vitebsk Courier**” **Alexey Vronsky** was beaten in Vitebsk. The incident took place at about 8PM in a court yard of a house on Gagarin street where the journalist lives. The first blow was done from behind (probably by knuckleduster). A. Vronsky, who is very fit, considers that the attacker operated very professionally. The assailant took away from the correspondent his camera and all accessories together with the bag. On the same evening the victim went to militia, but law enforcement bodies have failed to find the criminal.

On October 17 at about 19.30 the Director of special projects of the Russian television channel “**The First Channel**” **Pavel Sheremet** was beaten by persons in civilian clothes near the building of administration of Sovetsky district of Minsk. The attackers and P. Sheremet were delivered to Sovetsky Interior department, but then militiamen unexpectedly accused P. Sheremet of petty hooliganism (Article 156 of the Administrative Code), detained him and compulsorily brought him to a pre-trial jail, where the journalist was supposed to be detained until consideration of the case by the court. Militiamen have refused to listen to testimonies of journalists - witnesses of the incident and have not even written down their passport details. Militia also refused to hold responsible two young people who have attacked the Russian journalist. Later the press-secretary of the Ministry of Internal Affairs of Belarus Gennady Glebchik declared, that it was Mr. Sheremet who offended them and that he had attacked them first.

In the pre-trial jail they found out that Sheremet has received a craniocerebral trauma, after which he has been hospitalized.

On October 19 the Department of information and press of the Ministry of Foreign Affairs of the Russian Federation issued a statement and expressed hope that Belarusian authorities would discover and punish the persons guilty of an attack on the Director of special projects of the Russian television channel “The First Channel” Pavel Sheremet on October 17.

On October 20 consideration of the case on P. Sheremet's accusation of petty hooliganism (Article 156 of the Administrative Code) should have taken place in the Court of Sovetsky district of Minsk. However, it was unexpectedly found out that the court lacked materials on this case, which should have been delivered from Sovetsky Department of Interior. (See also *Section 3.7. The conflicts related to reception and dissemination of foreign information or activity of foreign mass-media, Section 4.1. The most significant litigations with participation of mass-media and journalists*).

In the evening of October 19 several journalists of Belarusian and foreign mass-media were beaten in the center of Minsk. Cameramen of TV channels **NTV** and **REN-TV Konstantin Morozov** and **Vladimir Kostin** were beaten by OMON (riot police) during dispersal of a street action (police has broken the NTV camera). The **Associated Press** photographer **Sergey Grits** was detained, but later released. The correspondent of the Belarusian service of **Radio Liberty Jury Svirko** suffered bodily damage from the employee of presidential security.

On October 20 J. Svirko addressed the Office of the Public Prosecutor of Belarus with request to bring criminal case under the Article “Illegal interference with the work of journalist”. In connection with the fact of beating of the Russian television cameramen the Embassy of the Russian Federation in Belarus has addressed the Belarusian authorities with an official inquiry. “The Russian side expects carrying out thorough investigation and hopes to receive exhaustive information”, the comment of the Department of information and press of the Ministry of Foreign Affairs of the Russian Federation stated.

On October 20 Veronika Cherkasova journalist of the newspaper "**Salidarnasc**" was killed in her apartment. Police named the version of the murder on domestic grounds the main version.

Among those suspected in murder of the journalist - her 15-years old son Anton Filimonov and her stepfather Vladimir Meleshko. During interrogation **on November 19** they were informed, that from witnesses they became suspected. The decision of the Office of the Public Prosecutor states that operative investigation provided information which shows involvement of Mrs. Filimonov and Meleshko in the murder of the journalist.

Meanwhile, the journalistic investigation carried out by the journalist Sergey Satsuk revealed the information which gives grounds to believe that that the murder of Veronika Cherkasova was carried out by a professional killer who dramatized the murder on domestic grounds.

On December 15 the board of the operative on duty of the Ministry of Emergency Situations of Belarus received a phone call with the message on an explosive planted in the building of the **Belarusian State TV and Radio Company**. Employees of the Ministry of Emergency Situations inspected the building but have not found any signs of explosives. For the period of the operation the staff of the Belarusian State TV and Radio Company has been evacuated from the building. The Ministry of Internal Affairs of Belarus will carry out investigation on the fact of the untrue report. It had been already the second case of false mining of the building of the Belarusian State TV and Radio Company in December. Besides, there were also two phone calls on mining of the Belarusian House of Print, which have not proved to be true.

On December 17 it became known that the deputy editor-in-chief of the newspaper “**Narodnaya Volya**” **Alexander Silich** applied for political asylum in Belgium. Alexander Silich is currently in a

camp for refugees. His request is being considered by the international Commission on affairs of refugees and by the Ministry of foreign and internal affairs of Belgium.

According to Silich, the reason for emigration was regular pressure by Belarusian authorities. Alla Silich, the wife of the journalist, said in an interview to Radio Liberty dated December 18 that her husband was in danger: the family suspected that their house was watched and their phones were tapped. According to Mrs. Silich, this started after two years ago her husband asked A .Lukashenko a question about the existence of an off-budget presidential fund.

Earlier **Nikolay Pasedzka**, the editor of the newspaper "**Region - Vesti**", applied for political asylum in Sweden. He also quoted numerous threats in his address.

On December 22 at about 20.20 **Vladimir Kostin**, cameraman of the Russian broadcasting company **REN-TV** was detained in Minsk. The journalist was kept in the Interior department of Sovetsky district of Minsk for about 2,5 hours and his camera was damaged.

V. Kostin's detention took place during a search carried out by militiamen at the Minsk office of the civil initiative "Partnership". According to Elena Slav, correspondent of REN-TV, militiamen detained the journalist almost immediately after arrival of the TV crew to the place of the incident. The cameraman was forced into a car and taken to the Interior department of Sovetsky district of Minsk, where they demanded explanations from him. According to Elena Slav, militia employees have damaged Kostin's camera. On December 22 the journalists submitted a complaint against actions of militia employees to the chief of the Interior department of Sovetsky district.

TERMINATION OR SUSPENSION OF MASS-MEDIA ACTIVITIES BY AUTHORITIES

In 2004 the Ministry of information suspended activities of 25 mass media outlets. This figure was announced on January 28, 2005 at the board meeting of the ministry by the minister Vladimir Rusakevich. Last year the ministry has also issued 160 written warnings to 81 periodicals. In the opinion of the minister, written warnings *«practically do not influence the activities of mass-media»* since they are not supported by material sanctions. The minister called suspension of activities of mass-media the most effective way of punishment. Vladimir Rusakevich emphasized that such ways of punishment *will be "resolutely and uncompromisingly"* used in the future *«to prevent any attempts to bypass Law or to try our patience»*.

Extrajudicial suspension of activity of mass-media under the decision of a registering body (the Ministry of information) is authorised by Article 16 of the Law «on press and other mass media» in case an edition violates requirements of this law. This norm has been included in the Law on press in 1998 and had not been used until 2003. For the first time the Ministry of information resolved to this sanction in February 2003, having suspended the activity of the regional newspaper «Vecherny Stolin». From May till July 2003 the ministry under various pretexts has suspended publication of the newspapers "Navinki", «Belorusskaya Delovaya Gazeta», «BDG. Dlia Sluzhebnogo Polzovania», "Echo" and «Predprnimatelskaya Gazeta».

The next round of mass suspension of activities of mass-media by the Ministry of information coincided in time with the elections campaign to the Chamber of Representatives and preceded the announcement of the referendum. Simultaneously with issuing orders to suspend publication of newspapers the ministry issued written warnings to them. The publisher of "Novaya Gazeta Smorgoni» Romuald Ulan "was warned" on the next day after suspension of publication of his newspaper.

According to Article 17 of the Law on press the editions have the right to the judicial appeal of the issued warnings within one month. Suspending the activities of mass media for infringements, which fact has not been established by court, before expiry of the term of the appeal of the warnings, the Ministry of information has undertaken the functions of a body of justice, thus violating the principle of realization of justice only by court fixed by Chapter 6 of the Constitution of Belarus.

Suspension of publication of newspapers also violates international legal obligations of Belarus in the field of freedom of speech. Article 19 of the International pact on civil and political rights, ratified by Belarus in 1973, states that restrictions of the freedom of speech (suspension of activity of mass-media by is undoubtedly one of them) not only should be established by the law, but also be necessary

- a) for respecting the rights and reputation of other persons;
- b) for protection of order, health or morals of the population.

Similar rules are fixed in the Convention of the Commonwealth of Independent States on the rights and basic freedoms of the person, adopted on May 26, 1995.

Thus, according to the international obligations of Belarus any restrictions of activity of mass-media on the part of state bodies should be necessary in a democratic society, pursue a precisely defined lawful objective and be proportional to this objective. Suspension of publication of newspapers by the Ministry of information does not meet the criteria of necessity and proportionality and does not pursue the objective which would allow to recognize intervention of enforcement authority in the activity of mass-media as permissible.

The orders of the Ministry of information on suspension of activity of newspapers also seem rather weak from the point of view of Belarusian legislation on press.

Let's consider, for example, Order № 146 on suspension of activity of the newspaper "Vremya", dated August, 24. The edition was charged that it (unitary company «Publishing house "Vremya"»), *«not having a legal address, has issued on August 12 and August 19 two issues of the newspaper with the indication of the former, nonexistent address, in violation of Articles 10 and 26 of the Law of the Republic of Belarus «on press and other mass media».*

However, Article 10 of the Law on press, to which the ministry has referred, only establishes the list of data what should be specified in the application for registration of mass media, and also documents which should be submitted together with the application for registration of mass-media. Article 10 has no relation to the activity of the already registered media outlets.

Another article which infringement by the edition was mentioned by the ministry was Article 26 of the Law on press, establishing the list of data included in the dateline which each issue of a periodical should contain. The newspaper "Time" has fulfilled its obligations for publication of information in the dateline.

As to change of legal address of the publishing house "Vremya", an edition has all rights to change its legal address at any moment, and later bring respective alterations to its constituent documents. Economic entities have one month to enter respective changes (Item 9 of Regulations on state registration and liquidation (the termination of activity) of economic entities approved by the Decree of the President of Belarus № 11 dated 16.01.1999 in the edition of the Decree № 29 dated 17.12.2002) . Article 48 of the Civil Code establishes that changes of constituent documents (in this case - change of legal address of the Publishing House "Vremya") come into force for third parties (including the Ministry of information, other state bodies and readers of the newspaper) from the moment of their state registration. That is, conclusions of the Ministry of information on discrepancy of the legal address of the edition of the newspaper "Time" with the actual legal address were obviously premature.

Having suspended the activity of the newspaper "Vremya", the Ministry of information has also roughly ignored the Law «on press and other mass media», which Article 11 provides that in case of change of location of the edition the founder is obliged to inform about it the state body which has registered the mass media for entering modifications in the certificate on registration within one month. On August 24 the term, allocated to the founder for fulfilling this obligation has not expired. Accordingly, at the moment of issue of the order on suspension of activity of the newspaper "Vremya" neither the founder nor the edition of the newspaper have not executed any infringements of legislation on mass-media. On August 30 (that is before expiration of one month term stipulated by the law) the founder of the newspaper "Vremya" in the the order established by the law informed the Ministry of information about change of location of the edition.

On November 12 the order of the Ministry of information on suspension of activity of the newspaper "Vremya" was cancelled by the Supreme Economic Court of the Republic of Belarus. It should be noted that from the beginning of 2003 it was the first case when in consideration of dispute between an independent edition a republican state body the Supreme Economic Court has sided with non-state political publication.

Other orders of the Ministry of information on suspension of activity of newspapers are not more justified. The order on suspension of publication of "Novaya Gazeta Smorgoni» was signed by Minister Rusakevich on August 16 (the warning for infringement of the law was issued to the edition after suspension of publication of the newspaper). The founder and publisher of the newspaper R.Ulan was charged with infringement of Articles 10 and 20 of the Law on press, and in

particular – publishing the newspaper by the individual businessman, instead of a legal entity. The order states that " *the newspaper «Novaya Gazeta Smorgoni» from the beginning of its foundation had been published by a legal entity, and after entering amendments into Article 10 of the Law of Belarus «on press and other mass media» it has been published by an individual businessman, in violation of Articles 10 and 20 of the Law «on press and other mass media».*

The statement that «Novaya Gazeta Smorgoni» from the beginning of its foundation had been published by a legal entity is not true: practically all the time it has been published by the individual businessman. The substantiation of suspension of the edition has shown either the level of preparation of orders in the Ministry of information, or an attempt of the ministry to somehow explain its overdue reaction to ostensibly admitted infringement («Novaya Gazeta Smorgoni» has been published from 1996, and Article 10 of the Law on press was changed in 1998)

In the legal sense substantiation of suspension of "Novaya Gazeta Smorgoni» looks just as bad. The ministry has accused the edition of violations of Articles 10 and 20 of the Law on press. Article 10, just like in the case with the newspaper "Vremya", has no relation to the essence of infringement, since it regulates the order of presentation of documents for registration of mass-media and does not establish any requirements in relation to already existing mass media. As to Article 20 of the Law on press, it really states that an edition of mass media should be a legal entity. However, Article 19 of the same law states that the founder (in our case - the individual businessman) can act as the edition, and Article 2 says that an edition can be understood not only as an organization, establishment or an enterprise, but also individual citizens carrying out production and issue of mass information.

As a matter of fact, the Ministry of information without due powers has engaged in interpretation of the law (only a legislative body which has adopted this law has a right to do so; in this case - the Chamber of Representatives). Besides, the interpretation was rather arbitrary. Earlier the Ministry of information interpreted the same norm completely differently. *«An individual businessman can act as an edition of mass-media by way of exception. This exclusive possibility is given to him{her} by part 7 of Article 19 of the above-mentioned Law which allows the founder to act as an edition. That is the founder - the citizen having the status of the individual businessman, has the right to carry out functions of an edition only concerning mass media founded by him{her}».* This is a citation from the order of the Minister of information №159 dated 02.10.2003г. ... «On suspension of publication of the newspaper «Novaya Gazeta Smorgoni» (at that moment R. Ulan was stripped of license for enterprise activity and so he transferred functions of the edition to another individual businessman, O. Kunjavskaya).

Even earlier, before issue of the Decree of the President of Belarus № 11 dated 16.03.1999 «On ordering of state registration and liquidation (termination of activity) of economic entities» part one of Article 20 of the law was used as legal grounds for registration of mass-media editions as legal entities by the State Committee on press (which assignee is the Ministry of information). That is, in 2004 the Ministry of information has demonstrated already its third interpretation of Article 20 of the Law on press, and this interpretation was extremely dangerous, since a significant amount of mass media in Belarus is published by individual businessmen.

R. Ulan has also tried to appeal against the order of the Ministry of information on suspension of activity of «Novaya Gazeta Smorgoni», but the Supreme Economic Court has refused to consider the appeal for formal reasons. Attempts to appeal against the order of the ministry in the Office of Public Prosecutor of Belarus have brought no results either.

Founders and chief editor of political newspapers which activity has been suspended in 2004, unequivocally connect actions of the Ministry of information with the election campaign and the

referendum. The analysis of orders of Minister Rusakevich on suspension of activity of these newspapers did not reveal any other explanations to these actions of the ministry.

On February 5 the Ministry of information suspended for one month publishing of a non-state newspaper "**Zgoda**", motivating its actions, among other, by infringement of state standard of registration of dateline by the edition.

On February 6 the Minister of information Vladimir Rusakevich signed the order on suspension of the newspaper «**Vecherny Stolin**» for three months. In the opinion of the ministry, the edition has roughly violated legislation: in particular, Article 30 (excess of the allowed volume of advertising) and Article 11 (change of subjects covered and language of the edition) the Law «on press and other mass media».

The newspaper was charged because in issues 42 and 44 for 2003 *«advertising materials exceeded 30% of the total volume of the newspaper»* while *«the newspaper is not registered as a specialized mass media for messages and materials of advertising character»*. The second charge to the newspaper concerned change of its subjects *«from industrial - practical and leisure to mass-political»* and language (instead of Russian and Belarus languages it has entirely switched to Russian) without informing the Ministry of information.

In July 2003 publication of the newspaper «Vecherny Stolin» has already been suspended by the Ministry of information for three months. According to Belarus legislation, two suspensions within one year can be sufficient grounds for requiring its re-registration.

On February 26 the Minister of information ordered to suspend for three months the newspaper «**Kriminalnoye Obozreniye**» which specialized on "entertaining" materials on crimes, etc. The ministry accused the newspaper of breaking requirements of Article 5 of the Law on press, and in particular – of *«attempt on morality, honour and dignity of citizens»*. The ministry considered that the edition has admitted too naturalistic and detailed description of acts of violence and cruelty.

From **March 29** publication of the newspaper «Kriminalnoye Obozreniye» was resumed, after the Ministry of information cancelled its order on suspension of activity of the edition. According to sources in the ministry, the decision has been reconsidered as a result of insistant requests on the part of edition of «Kriminalnoye Obozreniye» and readers of the newspaper.

On March 15 the Ministry of information under the same pretext suspended for three months the newspapers "**Versiya**" and «**Detectivnaya Gazeta**». The thematics of these editions coincided with those of the newspaper «Kriminalnoye Obozreniye».

On March 23 the Ministry of information refused to renew the registration certificate of the newspaper «**Golas Pruzhan**». The certificate of registration of the edition was withdrawn on October 7, 2003 by the Minister of information Rusakevich under pretext that the newspaper had not been publishing within one year. The editor of the newspaper Joseph Mashkalo has addressed the ministry with the letter in which he did not agree with the decision on cancellation of registration, arguementing his opinion that less than a year has passed from the moment of publication of the last issue of the newspaper. This time the ministry has motivated its refusal in renewal of registration by

saying that the founder of the newspaper allegedly had not submitted to the ministry the decision on creation of the edition of the newspaper and its charter in due time.

On June 3 the Ministry of information suspended for three months the newspaper «**Rabochaya Solidarnost**». On the same day it issued a warning to the newspaper.

The ministry considered that the edition has broken the Law on press, not having brought changes in the certificate of registration after one of the founders of the newspaper - Belarusian trade union of workers of automobile and agricultural mechanical engineering has given up its rights in March. The edition insisted that modifications in the certificate of registration of the newspaper had been detained on fault of Minsk municipal executive committee, which has not considered the issue of sanctioning the change of the legal address of the edition within three months.

On August 2 the Supreme Court of Belarus liquidated the Belarusian Party of Labour. Referring to this decision, the Ministry of information cancelled the certificate of registration of the newspaper «**Rabochaya Solidarnost**» which function of edition had been carried out by the the Belarusian Party of Labour.

On August 16 the Minister of information Vladimir Rusakevich signed the order on suspension of "**Novaya Gazeta Smorgoni**". The founder and publisher of the newspaper Romuald Ulan was charged with violating Articles 10 and 20 of the Law on press, and in particular – publishing the newspaper by the individual businessman, instead of a legal entity (*See above legal analysis of the order on suspension of the edition*). The warning for these infringements was issued to the publisher a day later - on August 17.

On August 20 the Ministry of information issued the order on suspension for three months of the newspaper "**Predprinimatelskaya Gazeta**", which after a long break had resumed publishing in the Spring of 2004. The edition of the newspaper was accused of violating Article 11 of the Law on press: change of subjects covered by the newspaper from "industrial - legal" to "mass-political", and change of periodicity.

On August 24 the Minister of information Rusakevich signed the order on suspension of the newspaper "**Vremya**" for three months. Simultaneously the ministry issued a warning to the edition of the newspaper. The edition was charged with indicating a wrong legal address in two last issues of the newspaper (*See above legal analysis of the order on suspension of activity of the edition*).

On August, 12 the Supreme Economic Court of the Republic of Belarus satisfied the appeal of the unitary company «Publishing House "Vremya" and recognized suspension of the newspaper illegal, and recognized the corresponding order of the Ministry of information void from the moment of its issue.

On August 27 the Ministry of information issued a warning to the edition of the newspaper «**Navinki**» for violation of the Law of the Republic of Belarus «On press and other mass media» and simultaneously suspended publication of the newspaper for three months. The warning states that the newspaper has not sent obligatory complimentary copies of its issues №1 and №2 for May and June, in violation of Article 27 of the Law on press. Besides, the warning also states that in

infringement of Article 26 of the same law the dateline of the given issues of the newspaper did not contain the date of their issue and specify a wrong address of the edition.

The order on suspension of activity of the newspaper «Navinki» says that the edition did not inform the ministry on change of its legal address and periodicity of issue of the newspaper, also mentioning infringements which have been named an occasion for issuing the warning to the newspaper.

On August 31 the Ministry of information suspended for 1 month publishing of the newspaper «**Allo! Kuplyu, Prodam, Meniaju**» from Baranovichy. The newspaper was accused of infringement of Article 11 of the Law on press, in particular with issuing an unregistered TV listings insert "Telenedelya", changing subjects covered from "advertising and information" to "mass-political" and changing periodicity of issue without having informed the Ministry of information about it.

Publishing of one more advertising newspaper “**Liuboy Kapriz**” has been suspended as well. The editorial office of this newspaper was based in Minsk, but the newspaper was published in Mogilev. Claims to the newspaper concerned change of subjects, language and periodicity of publication.

On September 20 a non-state newspaper «**Molodezhny Prospect**» was suspended for 3 months by the order of the Minister of information Vladimir Rusakevich. The edition learnt about it **on October 5**, when it received by fax the text of the order and the warning signed by the deputy Minister Liliya Ananich. Both documents were dated the same day. The ministry decided that the newspaper had committed rough infringements of Article 10 of the Law on press, when it changed the language of the edition, periodicity of publication and distributed for free two special issues of the newspapers in "Serebryanka" district in Minsk in July of the same year.

On September 24 the Ministry of information suspended for 3 months an independent newspaper «**Regionalnye Vedomosti**» (Gorki). The edition received a warning for infringement of Articles 10, 11 and 26 of the Law on press and was suspended on the same day.

In the opinion of the ministry officials, the subjects of the newspaper did not correspond those declared during registration (the edition is registered as «the newspaper for leisure» and was publishing as a political publication); instead of two declared languages (Russian and Belarusian) the newspaper used only Russian; instead of three times a week «Regionalnye Vedomosti» was published once and the legal address of the newspaper was specified in dateline incorrectly.

The same day, **September 24** the Ministry of information suspended for 3 months a non-state newspaper «**Narodny Predprinimatel**». The editor-in-chief of the edition Valery Shevchenko learnt about it on October 1, after he received by mail a warning for infringement of the Law on press and the order on suspension of the edition.

The ministry accused the newspaper of infringement of several articles of the Law on press, namely, that the edition did not sent obligatory copies of the newspaper to libraries and official establishments, did not inform the registering body on change of periodicity of publishing and language of the edition, did not specify in the dateline where the newspaper was printed, when it was signed for printing, etc. (Articles 11, 26 and 27 of the Law on press).

On September 24 a Belarusian-language independent newspaper "Regiyanalnaya Gazeta" from Molodechno was suspended for three months. The corresponding order was signed by the Minister of information Vladimir Rusakevich. The two warnings issued by the Ministry of information to the founder and to the edition of the newspaper are dated the same day. In the opinion of the minister, the edition violated Article 9 of the Law on press, having printed with the circulation of 9,100 copies an unregistered insert – TV listings "Teletydzhen" and having distributed it together with "Regiyanalnaya Gazeta" (issue №32 dated August 6 2004). The edition was also accused of infringement of Article 10 of the Law on press. Being registered as a «mass-political edition», in the dateline it called itself an "information and advertising" newspaper and instead of seven times a week it was published only once a week. Besides, as specified in the acts of the ministry, the newspaper on conditions of registration should have been distributed «in Belarus and other countries of the world», and instead it was distributed only «in the region» (Molodechno, Vileyka, Smorgon, Oshmyany, Volozhin, Myadel, Ostrovets, Minsk). Co-founder of the newspaper Alexander Mantsevich was accused of not informing within a month on change of periodicity of issue and territory of distribution of the newspaper «for entering respective alterations into the certificate of registration of the edition ».

On October 12 the Ministry of information cancelled its order on suspension of "Regiyanalnaya Gazeta". The order of Minister Rusakevich on cancellation of the previous order does not give any reasoning. Co-founder and editor-in-chief of the edition Alexander Mantsevich does not exclude, that it was triggered by a large number of reader's complaints to the address of the Ministry of information after suspension of the newspaper.

On October 5 the Ministry of information suspended for 3 months publication of the independent newspaper "Nedelya". Until the moment of suspension only one issue of this weekly was published, dated **September 23**. Except for the title the newspaper represented a copy of the newspaper "Vremya" suspended one month ago.

The order signed by the Minister of information Rusakevich stated that the *«first issue of the newspaper "Nedelya" was released with infringement of conditions of registration stipulated by Article 10 of the Law «On press and other mass media»*, not specifying which violations were committed.

On the same day, on October 5, Smolensk Printing House in which the newspaper had been printed refused to accept for printing the next issue of the edition, stating that *«according to the order of the Ministry of information of Belarus received on October 5»* the printing house *«cannot execute the last order for the newspaper "Nedelya" according to the previous agreements»*.

On October 14 the Ministry of information suspended for one month the non-state newspaper «Mestnaya Gazeta» from Volkovyssk. The ministry accused the edition of infringement of several articles of the Law «On press and other mass media», and in particular, of distributing untruthful information in the article «Something happened to the memory of the Ministry of information», criticizing the decision of the ministry to suspend «Novaya Gazeta Smorgoni». The phrase *«Nobody gave rights to the Ministry of information ... to issue illegal decisions»* was qualified as untruthful information. In the opinion of Minister Rusakevich, the newspaper violated requirements of Article 32 of the Law on press.

The ministry also accused «Mestnaya Gazeta» of violating Article 30 of the Law on press: for publication of advertisements of activities requiring licenses, *«without confirmation by the advertizer of the right of realization of such activity»*. One more infringement, in the opinion of the

Ministry officials, was that *«the dateline of the newspaper ... did not specify the full address of the printing house»* (violation of Article 26 of the Law on press).

On October 20 after unsuccessful attempts to get to the Minister of information Rusakevich the founder and editor-in-chief of "Mestnaya Gazeta» Andrey Shentorovich declared hunger-strike. He declared, that he would be on hunger strike until the ministry cancels the order on suspension of his edition and until Volkovyssk district executive committee coordinates accommodation of editorial office of the newspaper. Besides, Shentorovich demanded that competent bodies accepted for consideration materials with the facts of infringements of electoral legislation during elections and the referendum that he possessed.

On November 1 Belarusian Association of Journalists sent an open letter to the Minister of information Vladimir Rusakevich, requesting to cancel the order on suspension of "Mestnaya Gazeta». BAJ urged the minister to meet BAJ representatives and editors of non-state editions in the near future to discuss the situation in the sphere of mass-media. *«We are in general against extrajudicial suspension of publishing of newspapers. We believe that such decisions violate international legal obligations of Belarus in the field of freedom of speech and interfere with realization of the rights to free reception and dissemination of information declared in the Constitution»*, BAJ letter says.

On November 9 the editor of "Mestnaya Gazeta» Andrey Shentorovich has stopped his hunger strike after 21 days of protest. He expressed his gratitude to the readers who have collected thousands of signatures in protection of the newspaper and to his colleagues.

On November 25 Volkovyssk regional court classified the hunger-strike which editor carried out in his editorial office as a non-authorized picket and fined him 1 million 200 thousand roubles, or about 600 dollars (See also 4.1. *The most significant litigations with participation of mass-media and journalists*).

On November 24 the Ministry of information issued a warning and suspended for 3 months a non-state Grodno newspaper «**Birzha Informatsii**». According to the ministry, the article «*Treachery in the name of people*» (№36 dated September 9, 2004) violated Articles 5, 32 and 40 of the Law on press. The order on suspension and the warning signed by minister Rusakevich stated that the publication *«contained inveracious data which do not reflect the true reason of the appointed referendum and which offend honour and dignity of the President of Belarus»*.

Earlier the editor of the newspaper Elena Ravbetskaja was held administratively responsible for the same publication (Part 10 of Article 172-1 of the Administrative Code) (See also 4.1. *The most significant litigations with participation of mass-media and journalists*).

On December 24 the edition of the newspaper «Birzha Informatsii» received the letter from the Ministry of information answering the request to reduce the term of suspension of the newspaper. The deputy minister Liliya Ананич informed, that the ministry does not have any reasons for cancellation of the order on suspension of the edition.

DETENTIONS OF JOURNALISTS. SUMMONS TO LAW-ENFORCEMENT BODIES. WARNINGS ISSUED BY THE OFFICE OF THE PUBLIC PROSECUTOR

In 2004 journalists and mass-media were repeatedly exposed to pressure on the part of law enforcement bodies. Departments of the Office of Public Prosecutor displayed extraordinary activity in this field. Summons for giving explanations, written warnings (two warnings for infringement of requirements of Article 5 of the Law "On Press and other mass media" issued by a public prosecutor of any level can serve as basis for the termination of activity of mass-media in the judicial order), initiation of calling to administrative and criminal liability – this is not yet the full list of their methods of influence on mass-media and journalists.

At the end of 2004 the Office of Public Prosecutor actively punished for publications talking about falsifications of results of elections and the referendum. Intervention in the freedom of expression on the part of the Office of Public Prosecutor was aimed at preventing dissemination of the information which public prosecutor's officials considered harmful. Such intervention can not be considered permissible from the point of view of criteria of necessity, proportionality and legitimacy of the goal (See 3.1. *Termination or suspension of mass-media by authorities*).

On February 13 the Public Prosecutor of Gomel region Oleg Polovinko issued a warning to the own correspondent of "**Belorusskaya Delovaya Gazeta**" **Irina Makavetskaya** for her article "Viscount" Has Not Fit in the Belarusian Realities" ("Belorusskaya Delovaya Gazeta" №104 dated 10.12.2003). In the opinion of the Public Prosecutor, in this publication the journalist violated Article 5 of the Law «On press and other mass-media», and Article 9 of the Law «On legal proceedings and the status of judges in the Republic of Belarus» by *«publishing materials of action of proceeding without a written sanction of the judge and calling into question... his{her} independence and legality of the issued decision... on the case of bankruptcy of LLC "BST Ltd"». The Public Prosecutor warned the journalist that «in case of further infringement of the legislation I. Makavetskaya can be held responsible according to the law».*

On January 30 for the same publication the Ministry of information issued a warning to the edition of "Belorusskaya Delovaya Gazeta", stating that the newspaper violated Article 5 of the Law on press, having published a material of action of proceeding without the written sanction of the judge.

In the evening of February 25 employees of law enforcement bodies tried to enter the apartment of the assistant editor of "**Belorusskaya Delovaya Gazeta**" **Irina Khalip**. They showed her summons on reconduction. The summons to the Office of Public Prosecutor was related to the criminal case, initiated for publication of her article «Afghani Greyhound» in the newspaper «**BDG. Dlia Sluzhebnogo Polzovaniya**».

In 2003 the investigation of this case was suspended, but the Office of Public Prosecutor of the Republic of Belarus has cancelled this decision.

On April 8 correspondent of the Baranovichi newspaper "**Intex-press**" **Marina Kulikova** was summoned to the municipal Office of Public Prosecutor for explanations concerning her publication «Scandal in the Noble Family» about the fact of joining of one of the sections of the pro-governmental organization «Belarusian Republican Youth Union» to the unregistered youth movement "Zubr" ("Intex-press" № 11 dated March 11).

On April 17 following a complaint of the Chairman of Baranovichi municipal executive committee Victor Dichkovsky regarding the publication «Scandal in the Noble Family», the Public Prosecutor of Baranovichi Alexander Smal issued a warning to the editor of the newspaper "Intex-press" **Vladimir Janukevich** and correspondent **M. Kulikova**. The warnings state that the journalists have failed to check up the information that they received and have presented biased information, in violation of Article 34, Part 1 of the Constitution of the Republic of Belarus and Articles 32 and 40 of the Law on press. The edition has appealed against these warnings in the higher Office of Public Prosecutor.

On May 28 the Office of Public Prosecutor of Brest region refused to cancel the warnings, issued to the editor of the non-state Baranovichi newspaper "Intex-press" V. Janukevich and correspondent M. Kulikova by the Public Prosecutor of Baranovichi A. Smal.

In April the editor of the Grodno non-state newspaper "**Birzha Informatsii**" **Elena Ravbetskaya** was summoned for conversation to the Office of Public Prosecutor of Leninsky district of Grodno. She was asked to give explanations why one of the articles published in issue № 11 dated March 18 was signed by Jury Istomin as Chairman of Grodno municipal organization of the United Civic Party. In the opinion of the officials of the Office of Public Prosecutor, the edition distributed information on behalf of an unregistered party, which is forbidden by Article 5 of the Law on press. E. Ravbetskaya had to explain that United Civic Party is a registered party, and that its Grodno affiliate is not subject to registration.

On July 21 the editor of the newspaper "**Birzha Informatsii**" **Elena Ravbetskaya** for the second time had to give explanations in the Office of the Public Prosecutor of Leninsky district of Grodno concerning the contents of the article "Hope for EU, but try yourself...". In particular, the Public Prosecutor asked why one of the heroes of the article Alexander Milinkevich was named chairman of the Belarusian Association of Resource Centers, which some time ago received a refusal in its registration request. E. Ravbetskaya explained that in such status he took part in work of the European Parliament in Strasbourg, and therefore, in her opinion, the Law on press has not been violated.

On May 7 the correspondent of **Radio Liberty Vines Mudrov** was detained in Novopolotsk during the street action "We Remember" on the anniversary of disappearance of ex-Minister of Internal Affairs Jury Zaharenka. Except for him, militia detained 7 participants of the action. For all the arrested persons the police have made reports on infringements stipulated by Article 167-1 of the Administrative Code ("Violation of the order of organization or carrying out of religious, sports, mass cultural or other entertainment actions, and also assemblies, meetings, street processions, mass rallies and picketing").

On May 11 Novopolotsk city court stopped court proceedings not having found an administrative offence in V. Mudrov's actions. The court has also acquitted other participants of the action.

On March 11 law enforcers conducted a search in the office of the Grodno branch of the "Belarusian Language Society", renting one of their rooms to the correspondent's office of the newspaper "**Djen**". The group of six person with a video camera headed by the KGB major Sergey Severin had a sanction of the Public Prosecutor of Grodno region Vladimir Onisko. The search was carried out in the framework of investigation of the criminal case on the fact of distribution of leaflets on April 29 in Grodno which, in the opinion of investigatory bodies officials, humiliated

honor and dignity of the head of Belarus state. The leaflet contained the portrait of Valery Levaneusky, the head of Entrepreneurs' Striking Committee and an appeal to come to the authorized street action on May 1, as well as a poem, which fragment contained evaluation of results of the president's rule. The case was initiated under Article 368 of the Criminal Code («Insult of the President of the Republic of Belarus»).

The search continued for about 4 hours. KGB officers have taken away for "technical expertise" all four office computers, thus disrupting publication of the 16-th issue of the newspaper, which should have been printed on May 12 in Smolensk. According to the "Djen" editor-in-chief Mikola Markevich KGB officers were especially interested in the pictures made by "Djen" journalists during the search in the apartment of Valery Levaneusky. *"I think, that they have decided to finish with the independent edition undesirable to them under pretext of fighting with distribution of "anti-presidential" leaflets"*, Markevich commented.

On June 22 the security service has not let the correspondent of **Radio Liberty Jury Svirko**, accredited at the House of Representatives, enter the building of the House of Government. Security guards took away the journalist's dictaphone and destroyed the recordings, and then people in civilian clothes put J. Svirko in a car and took him away from the building of the House of Government. In the machine the journalist was forbidden to call or answer phone calls.

On September 7 the house of **Alexander Tsynkevich**, deputy director of the publishing house **"Vremya"** was visited twice by representatives of law enforcement bodies. Between 10 and 11 AM there came the chief local policeman of Centralny district of Minsk major Malevich and a person in the civilian clothes. They requested the house register and a sanction for conducting civil works. Alexander's wife, who was at home with two juvenile children, has refused to talk to the visitors until her husband comes home. At about 4PM representatives of the Ministry of Emergency Situations came to the house accompanied by the senior lieutenant of Centralny district Interior Department Stanishevsky and a person in civilian clothes who refused to introduce himself. Threatening with sanctions in case of refusal, they demanded to let them in the house for studying its fire safety. The visitors have not presented any documents which could confirm their status. Later militia once again tried to get in the house: One of the militiamen informed, that according to his information, there was a print-run of a "forbidden newspaper" in the house. A. Tsynkevich has refused to let in representatives of law enforcement bodies, having demanded from them an official sanction to conduct a search of his premises.

In the morning of **September 16** employee of the press-service of the human rights centre "Vyasna" **Tatyana Raviaka** and a correspondent of the news agency **"Interfax" Alexey Bukchin** were detained in the center of Minsk. Mr. Bukchin was released after his documents were checked in the Interior Department of Centralny district, and T. Raviaka was charged with an offence stipulated by Article 172, Part 3 of the Administrative Code ("distribution of printed editions published with infringement of the established order, which have no dateline, and which content is aimed at incurring damage to the state and social order, rights and legitimate interests of citizens"). The edition which contents, in the opinion of law enforcement bodies was "aimed at incurring damage to the state and social order, rights and legitimate interests of citizens", was the brochure with the report of the Special Rapporteur of the Parliamentary Assembly of the Council of Europe Christos Purgurides "Belarus: Undisclosed Crimes of the Modern History". Zinaida Gonchar, the wife of the missing politician, and Belarusian human rights activists distributed the brochure on the fifth anniversary of disappearance of Victor Gonchar and Anatoly Krasousky near the building of the Office of Public Prosecutor of Belarus to employees of this institution.

On September 16 the editor-in-chief of the Grodno independent newspaper **"Birzha Informatsii" Elena Ravbetskaya** was summoned to the Office of Public Prosecutor of Leninsky district of

Grodno concerning an article printed under her signature on September 9 “Treachery in the Name of People”. The deputy Public Prosecutor A. Abramovich informed, that a decision was made to initiate an administrative case in relation to E. Ravbetskaya (Part 10, Article 172-1 of the Administrative Code) for violation of Article 5 of the Law on press: “Use of mass media for dissemination of information which offends honor and dignity of the President of Belarus is not allowed”. The Office of Public Prosecutor had problems with the following words in the article: *“the Referendum (and the third term is not possible without it), declared by mister President, is a challenge to the society. One should not only lack any conscience, but also have a "domonical" neglect to plebs... ”*. (See 4.1. *The most significant litigations with participation of mass-media and journalists*).

On November 9 the edition of the Baranovichi independent newspaper **"Intex-press"** received a letter signed by the Public Prosecutor of the city A. Smal. *“In connection with the arisen necessity please urgently inform the Office of the Public Prosecutor of Baranovichi on the public statements placed in mass media by former candidates at elections to the House of Representatives of the National Assembly of Belarus about alleged falsifications of voting results”*. The Office of Public Prosecutor asked to submit information on the content of such publications by November 10.

On November 19 the Office of Public Prosecutor of Baranovichi (Brest region) issued a warning to Arkady Blinkovsky, a former runner-up at elections to the House of Representatives of the National Assembly of Belarus who stood on Vostochny constituency №5 in Baranovichi. The occasion for the warning was his article “Candidate Comments” published in the newspaper "Intex-press" №43 dated 21.10.2004. The article talks about falsification of results of voting during elections to the Parliament. The warning was signed by the Public Prosecutor of Baranovichi A. Smal. It warns A. Blinkovsky of inadmissibility of similar infringements and explains that in case of repeated similar infringements the Office of Public Prosecutor of Baranovichi will raise the question on holding him responsible for distribution of slanderous fabrications.

On November 16 Peter Lenets, militia captain and senior inspector of the department of preventive measures and protection of the law and order of Leninsky district of Grodno visited the office of one of Grodno NGOs. It was clear from his words that he was looking for journalist **Irina Chernjavka** in order to make a report on an administrative offence. The journalist was accused of infringement of the order of organization or carrying out assemblies, meetings, street processions, picketing, etc. during the action organized by five Grodno journalists **on October 4** in Grodno, protesting against strengthening of pressure on independent press.

Militia has detained three out of five participants of the action. As a result Pavel Mazheika was sentenced by the court of Leninsky district of Grodno to seven days of administrative arrest, and Natalia and Anatoly Makushins were fined about 220 dollars each (See also 4.1. *The most significant litigations with participation of mass-media and journalists*).

On November 17 the editor of the Volkovysk independent newspaper **“Mestnaya Gazeta ”** **Andrey Shantarovich** was summoned to militia, where he was asked to give explanations concerning carrying out of a "non-authorized action" – the hunger-strike which he carried out from October 20 till November 9 in protest against the decision of the Ministry of Information to suspend his edition. Militiamen were interested in details of the hunger-strike, as well as in the leaflet informing about the hunger-strike of the editor which appeared in Volkovysk (See also 3.1. *Termination or suspension of mass-media by authorities, 4.1. The most significant litigations with participation of mass-media and journalists*).

On November 17 journalist **Alexander Koktysh** was summoned to the Office of Public Prosecutor of Zavodskoy district of Minsk. The deputy Public Prosecutor of Zavodskoy district Sergey Bondarenko was interested in participation of the journalist in the press conference held on November 21 in Moscow in the edition of the newspaper “Moskovsky Komsomolets”. In the opinion of the Office of Public Prosecutor, during the press conference there have been made statements which do not coincide with the official position of the Belarusian state concerning the parliamentary elections and the referendum.

The deputy Public Prosecutor explained to A. Koktysh provisions of Articles 188 and 400 of the Criminal Code establishing responsibility for slander and deliberately false denunciation. The Office of Public Prosecutor did not present any charges to the journalist.

On November 8 the Office of Public Prosecutor of Minsk summoned journalist **Irina Khalip** for explanations concerning her article “Dead Souls Have Voted” devoted to mass falsifications and infringements of the law during parliamentary elections and the referendum in Belarus on October 17. According to Irina, she by chance saw a letter from the deputy General Public Prosecutor Kuprijanov on the table of the Public Prosecutor Marina Popova, ordering to deal with “slandorous fabrications”.

In the Office of Public Prosecutor journalist was warned, that she bears responsibility for “slandorous fabrications” according to Article 188 of the Criminal Code of Belarus.

On November 19 I. Khalip was summoned to the Office of Public Prosecutor of Partizansky district of Minsk. Inspector Sergey Borodko asked her questions concerning the contents of her article “Revolution of the fallen leaves”, published in the Russian magazine “Novy Ochevidets” dedicated to protest actions which took place in Belarus’ capital after the announcement of results of parliamentary elections and the referendum. According to I. Khalip, the conversation was about stylistic features of the article: the prosecution asked whether the author considered certain comparisons and epithets used in it offensive for some people (A. Lukashenko, V. Rushajlo).

It was the Office of Public Prosecutor of Minsk that instructed the inspector to request explanations from the journalist and to give legal assessment of her article.

On December 7 Irina Khalip was summoned to the Office of Public Prosecutor of Belarus for her articles in the Russian newspaper “Novaya Gazeta”. The deputy chief of Department on supervision of observation of rights and freedoms of citizens of the Office of Public Prosecutor of Belarus Svyatoslav Golik and the Chief public prosecutor of the department Sergey Novikov were particularly interested in Irina Khalip's article “Drunk Executioners”, talking about execution of death penalty in Belarus. Prosecution was interested in the sources of information, since the article in described in detail the procedure of execution of death penalty in Belarus. According to her, “a very limited number of people” know about it. I. Khalip has refused to name sources, referring to Article 34 of the Law on press.

On December 8 the Office of Public Prosecutor of Belarus issued a warning to the journalist of the Belarusian service of **Radio Liberty Alherd Nevyarousky** for the article posted on the web-site of Radio Liberty, which was accompanied by pictures from a polling district during preliminary voting

at the elections to the House of Representatives of the National assembly and the referendum held October 16. According to the article, voters were given bulletins with the already marked answer “Yes” to the question asked at the referendum. In the Office of Public Prosecutor the journalist was told that the data distributed by him do not correspond to reality.

A. Nevyarousky was acquainted with Article 40 of the Law on press and other mass media and warned about the necessity of checking information. They have told the journalist that in case of recurrence of a similar case they can raise the question on stripping him off accreditation.

On December 22 cameraman of the Russian broadcasting company **REN-TV Vladimir Kostin** was detained in Minsk. He was kept in Sovetsky district Department of Interior for about 2,5 hours, and his camera was damaged (See 3.3. *Encroachments on journalists and media*).

On December 24 the editor-in-chief of "**Belorusskaya Delovaya Gazeta**" **Pyotr Martsau** was summoned to the Office of Public Prosecutor of Belarus and was handed in an official warning.

The warning was caused by the article titled “Under Impact. The Office of Public Prosecutor of the Republic Initiated Investigation of the Nearest Surrounding of Mr. Tozik” in the issue № 88 dated November 12. The author of article under the pen-name of Georgy Dan told about initiation of criminal case concerning the employee of the Committee of State Control Mr. Cherednichenko. According to the Office of Public Prosecutor, the author of the publication “has made statements in the categorical form... without reference to specific sources of information”.

The Office of Public Prosecutor believes that the author of the publication has not fulfilled requirements of Articles 32 and 40 of the Law on press (has not ensured the right of citizens on getting truthful information on the activity of state bodies and has not checked the reliability of data received by him{her}). The warning of the Office of Public Prosecutor states that P. Martsau “has refused to name authors of the specified publication and has not presented any data which would confirm truthfulness of the information mentioned in the article”.

The official warning was signed by the deputy General Public Prosecutor Nikolay Kuprijanov.

On December 28 Olga Klaskouskaya, journalist of the independent newspaper “**Narodnaya Volya**” was detained in Minsk and had to spend over one and a half hours in the Centralny district Interior Department of Minsk. The detention took place in the evening before the action of opposition planned to be held in solidarity with democratic forces of Ukraine. Together with the journalist the militia detained more than a dozen participants of the action. According to Olga Klaskouskaya, the detention was carried out by people in the civilian clothes. The journalist did not have a possibility to show her journalistic ID: they have quickly put her in a minivan together with other arrested persons, not reacting to objections.

CENSORSHIP. INFRINGEMENT OF PROFESSIONAL INDEPENDENCE OF EDITIONS

According to Article 33 of the Constitution of the Republic Belarus censorship is not allowed. Article 4 of the Law “On press and other mass media” called “Inadmissibility of censorship of mass information” defines censorship in the following way: “*requirement from an edition on the part of state bodies, organizations, establishments, public associations or their officials to preliminary coordinate messages and materials, and also the requirement to remove certain materials or messages from print (air)*”).

Legal encyclopedic dictionary which printed by the publishing house «Belaruskaya Entsyklapedyja» in 1992 gives a wider definition of the concept of "censorship": «*political-legal institute which carries out control over the contents, publication and distribution of mass information with the purpose preventing or restricting dissemination of information and ideas recognized by the society or by the state as undesirable or harmful*». The dictionary later says: «*There is preliminary censorship, or permissive (which supposes the necessity to receive a sanction from corresponding bodies on publishing of mass information), and subsequent censorship (consisting in evaluation of the published mass information and adoption of restrictive measures in case of infringement of the established requirements)*». According to this definition actions of the Ministry of information and the Office of Public Prosecutor mentioned in Sections 3.1 and 3.4, among other, classify as subsequent censorship. As to preliminary censorship, it was carried out in 2004 mainly through printing houses (licensing of the activity on rendering polygraphic services allows rendering pressure on polygraphic enterprises with the purpose of tracking the contents of newspapers printed in them).

In the reporting period intervention of state bodies - founders of mass-media in the activity of these media widely practiced. Executive committees not only influenced on the editorial policy of local state editions, but also set specific tasks for the editions and journalists for preparation of materials on certain topics and specified how these topics should be covered. It was done in violation of Article 19 of the Law on press, according to which the founder has no the right to interfere with the activity of mass-media except for the cases stipulated by this Law, the charter of the edition or the contract between the founder and the edition.

The state bodies also blatantly interfered in the activity of mass-media to which creation had no relation at all. For instance, from the second half of 2004 both state and commercial TV and radio stations in Belarus stopped playing the songs of the bands which played July 21 at an opposition mass rally. The «black list» includes about ten groups, including "Palats", "N.R.M.", "Zet", "PomidorOFF", «Drum Ecstasy», «Neiro Dubel» and Dmitry Vojtjushkevich. The Ministry of information denies there exists such a document, forbidding to air songs of these bands, but according BAJ monitoring service, TV and radio stations have received unequivocal "recommendations" to exclude them from their play lists.

However, Article 48 of the Law on press classifies censorship, intervention in the activity of editions and infringement of professional independence of editions as infringements of freedom of mass information which entails “*disciplinary, administrative, criminal and other responsibility according to the legislation of the Republic of Belarus*”. In particular, the responsibility for infringement of the freedom of mass information is established by Article 172-1 of the Administrative Code (the maximal sanction for officials is a fine amounting to approximately 550 dollars). In practice this norm of the Administrative Code has not been used neither in 2004 nor before.

In late January 2004 the Department of information and press of Gomel Regional executive committee dispatched to own correspondents of national mass-media the task to publish materials on certain topics in their editions. For instance, own correspondent of “**Belorusskaya Niva**” newspaper has received the task to publish the speech of the Chairman of committee of agriculture and foodstuffs of the Regional executive committee Leonid Apanasjuk on the topic «Revival of Village: Prospects of Development». Own correspondents of the newspapers "**Zvyazda**" and "**Respublika**" have also received tasks with indication of specific topics.

On March 4 Vitebsk Regional executive committee held a meeting of own correspondents of national state editions during which there was a discussion of the necessity of closer cooperation of journalists with regional Departments of information. According to the deputy Chair of the Regional executive committee Peter Jukzhik, it was dictated by the necessity to cover the work carried out by all divisions of regional authorities in the region operatively and truthfully.

On March 22, in execution of the decision of Brest Regional executive committee “On financial support of the state policy of support and development of small business” the Department of entrepreneurship of the Regional executive committee has addressed newspapers of the region with a letter ordering them “to provide free-of-charge publication of announcements of competition of investment projects of small businesses for state support”. Both state, and non-state editions have received instructions to print and “to inform by phone... about the issue number and the date of issue of the newspaper”.

On April 13 the newspaper "**Kiravets**" (№28) of the Kirovsky district executive committee of Mogilev region published a plan of activities of the executive committee for realization of the presidential Instruction №1. The plan consisted of 40 items, three of which directly concern the newspaper: the edition is openly instructed “to organize a series of articles” dedicated to the presidential instruction, to regularly cover activities aimed at its implementation, etc. The department of ideological work of the district executive committee, the regional Department of Internal Affairs and other bodies of local authorities were instructed to supervise the implementation of the plan.

Except for the plan of activities, "Kirovets" has also published the text of speech of the Chairman of the district executive committee A. Isachenko on measures on implementation of the Instruction № 1. Except for these materials, the issue could find space only for seven communiqués and several advertisements.

On April 13 in the Gomel region the newspaper “**Svetlagorskiya Naviny**” founded by the district executive committee, regional Council of deputies and the editorial collective published the information entitled «The Plan is Approved» under the heading “In the District Executive Committee”. The publication informs readers, that the «Chairman of the regional executive committee B. K. Pirshtuk has approved the plan of measures on ideological support of the sowing campaign». Within the framework of this plan local mass media was instructed to widely cover field works.

On April 17 and 18 relaying to Belarus of the Russian TV channel "**Russia**" was interrupted from 17.00 to 20.30. The break has coincided in time with the analytical programs "Zerkalo" and “Vesti

Nedeli” which, among other, covered the political situation in Belarus. The news agency "Interfax" quoted the Belarus Radio and TV Center as saying that this decision was adopted by the Ministry of Communications of Belarus and was justified by the necessity of “*off-schedule repair work*” at the Russian TV channel. The host of the program "Zerkalo" Nikolay Svanidze said in his interview to the Belarusian service of Radio Liberty that the management of the Russian State TV and Radio Company is indignant of the actions of the Belarusian side. He believes that switching-off was caused by preliminary announcement of the reports on Belarus.

In March 2004 the Office of Public Prosecutor of Belarus brought a criminal case against the Chairman of the United Civil Party Anatoly Liabedzka for his participation in the two programs of the "Russia" channel mentioned above. On March 23 the embassy of the Republic of Belarus in Russia issued a statement expressing concern about the "provocative" character of comments voiced on the channel regarding the development of the situation in Belarus (See also 3.7 *Conflicts related to reception and distribution of foreign information or activity of foreign mass-media*).

On May 21 a seminar of ideological workers was held in Kostiukovichy (Mogilev region). Deputy Chair of the district executive committee V. Sugako delivered a report, in which he paid a special attention to the activities of mass-media. V. Sugako demanded from journalists that their materials “reflected public, patriotic position of people, especially youth”. In the opinion of the lecturer, the local regional newspaper “**Golas Kastysukoushchyny**” badly covers the activity of the president and life of youth. Membership in the Belarusian Republican Youth Union «*does not cover half of the new generation*» and, according to V. Sugako, the regional newspaper could help improve the situation in this field. The local administration expects from the newspaper «*aggressiveness in the protection of stability*», which is allegedly undermined by opposition parties and movements. According to the lecturer, there are no such forces in Kostiukovichy region, but «*the influence on people is produced by such forces from Minsk which have subversive objectives*», especially since «*they have been trained abroad*».

On May 26 Minsk printing house "Svetoch" has removed from print an issue of a Volkovysk non-state newspaper “**Mestnaya Gazeta**”. According to the editor-in-chief of the edition Andrey Shantarovich, he got a phone call from the printing house production manager Sergey Cherginets, who declared, that he “could not pass” one of the publications, suggesting to replace it by another. The article in question was about corruption in Volkovysk tax inspection. A. Shantarovich has refused to change the material and suggested to the printing house to leave a blank spot on its place. One hour later the production manager informed that the issue was entirely removed from print.

On May 28 Minsk printing house "Svetoch" terminated its contract with "Mestnaya Gazeta" quoting outstanding financial debts of the newspaper as the reason (See also 3.10. *Interference with production of mass-media*).

It is forbidden to Belarusian radio stations to air the music performed by the groups which played on July 21 at the opposition rally. This information was informally confirmed to the Belarusian Association of Journalists in late July by several commercial and state radio stations. Employees of the Department of analysis and coordination of activity of electronic mass-media of the Ministry of information assure that this information is not true. However, according to BAJ, employees of the **First channel of the Belarusian Radio, Radio Stalitsa** and non-state FM radio stations have received oral recommendations not to air the songs performed by the groups "Palats", "N.R.M"., "Zet", "PomidorOFF", "Drum Ecstasy" and "Neiro Dubel". The newspaper «Komsomolskaya

Pravda in Belarus» learnt that Radio Stalitsa has received in printed form the black list of groups forbidden to play on air. However, as soon as journalists started to show interest to this document, the list has disappeared.

On August 13 TV channel "**Mogilev**" of the Belarusian State TV and Radio Company has failed to air the already prepared report on a spontaneous strike at a local enterprise AKMO. The strike was caused by nonpayment of salaries to workers of the factory. In spite of the fact that the reporter and the cameraman of the news service have been actively worked at the place of events, neither the report, nor news story on this topics were broadcast. According to BAJ monitoring service, the request not to air the report has arrived from the municipal executive committee. The official of the local "vertical" promised strikers to solve the problem with the salaries operatively and asked television «*not to make waves*».

On September 10 Belarusian viewers of the TV channel "**Russia**" were shown two documentary films instead of the musical show "Narodny Artist" announced beforehand. One of them was devoted to the activities of Belarusian opposition, which was presented in the film extremely negatively. During demonstration of the films there was a logo of the TV channel "Russia" on the screen.

On September 20 **Nina Bujnitskaja**, deputy editor-in-chief of a Shklov regional newspaper "**Udarny Front**" founded by the district executive committee was fired. According to the editor-in-chief of the edition Alexander Beljasov, she has resigned "at her own will", but according to BAJ monitoring service, the true reason of dismissal was publication of an "unchecked material" in the newspaper in the issue dated **September, 18**. There was published a letter of a reader under the signature "B. Kostyuk, work veteran". The letter was placed under the heading "Referendum - the Right Decision": the author of the letter emotionally expressed his support of the idea of plebiscite and approved Lukashenko's opinion to address to people. "B. Kostyuk, the work veteran" has wrote a poetic address to the head of the state in which he expressed his support. After the newspaper was printed, they found out that the published poem was an "acrostic": the first letters of the poem form a separate message which contents is completely different from the meaning of the letter of "B. Kostyuk". As the editor-in-chief of the edition was absent at the moment, the responsibility for occurrence of the publication was laid on Mrs. Bujnitskaja.

On September 21 **Gomel regional TV** broadcast a reduced version of the statement of the candidate in the 33-rd constituency, member of the Belarusian Social-Democratic Hramada Evgeny Furseev. The cutting was made without permission of the candidate and concerned the part of his statement containing assessment of the referendum declared by the President of the country. The recorded statement of the candidate had not exceed the established limit of time (5 minutes).

On September 29 issues №№ 116-117 of the newspaper "**Svetlagorskiya Naviny**" founded by the district executive committee, regional Council of Deputies and collective of the edition published a censored program of Victor Romanishko, candidate from the opposition Party BNF in Svetlogorsk district №48. The words «Lukashenko's regime» and the candidate's opinion about the referendum have been removed from the text of his election program.

On October 25 Belarusian audience have not seen in the analytical program “Vesti Nedeli” on the Russian TV channel "**Russia**" the report on the elections and referendum in Belarus. This report was replaced with the program "Expert" prepared by the Belarusian TV channel "STV".

In November the Department of ideological work of Borisov municipal executive committee was instructed to study the issue of objectivity and truthfulness of materials published in the non-state newspaper “**Homan Barysaushchyny**”.

On November 3 the chief of ideological department of Minsk regional executive committee Tatyana Deduh in noted her article in the newspaper "Adzinstva" founded by Borisov district executive committee that articles of the employee of a local lore museum **Valery Rahovich**, dedicated to underground movement in Borisov during German occupation attempt to reconsider the feat of Belarus people in the Great Patriotic War and ignore presence of numerous objective documentary sources.

The articles by Rahovich about the events of 1941-1944 in Borisov, supported by archival research, differed from the official historiography. They have caused indignation of some veterans of war who wrote a letter to local authorities and to the Administration of the President with the request to give assessment of Rahovich’s actions. Later V. Rahovich was sacked from the position of the employee of museum by order of the director of «Borisov United Museum».

INFRINGEMENTS RELATED TO ACCESS TO INFORMATION

(refusals in providing information, restrictive use of accreditation)

Article 34 of the Constitution of the Republic of Belarus guarantees to the citizens of the country the right on receiving full, truthful and timely information on the activities of state bodies, political, economic, cultural and international life. Part of 2 Article 32 of the Law «On press and other mass media» establishes that editions have the right to request information on the activities of the state bodies, organizations, public associations and their officials. Requesting information is possible both in oral and in written form. The heads of the specified bodies, organizations and associations, their assistants, employees of press-services or other authorized persons are obliged to provide the requested information within the limits of their competence no later than 10 days after receiving the inquiry.

Despite of these provisions of legislation, infringement of the rights of journalists on receiving information are so common in Belarus that on September 21, 2004 the president of the country Alexander Lukashenko had to comment on the problem. At a meeting with journalists of the National Broadcasting Company the head of state said in his reply to complaints of state TV employees that officials, heads of state institutions and enterprises have no right to refuse providing information: *«if a journalist addresses them with the request to give information – they may die, but they have to give it!»*.

The very fact of appeal of journalists of the "main" state TV channel to the president testifies to the scale of the problem. The difficulties with receiving information are especially serious at the regional level. It can be illustrated by reports from Gantsevichi district of Brest region. Local authorities not only refuse to provide information to Peter Guzaevsky, editor of the non-state newspaper «Gantsavichsky Chas» but also regularly do not let him come to open actions. For instance, on August 28 P. Guzaevsky was not allowed to attend the regional conference of education experts, and on September 21 he has been turned out from the boardroom during a regular session of the regional Council of Deputies.

The actions undertaken concerning the journalist of the independent edition have violated his rights established by Article 39 of the Law «On press and other mass media», in particular, his right to be present at socially important events and to transfer information therefrom. Exclusion of the journalist from the session and not letting him attend the conference at the time when representatives of state mass-media could be present at these events, have also violated requirements of Articles 22 and 23 of the Constitution of the Republic of Belarus. Article 22 of the Constitution establishes that all are equal before the law and have the right to equal protection of rights and legitimate interests without any discrimination, and Article 23 stipulates that restriction of the rights and personal freedoms is permitted only in the cases stipulated by the law, in the interests of national safety, social order, protection of morals, health of the population, the rights and freedoms of other persons. Guzaevsky's exclusion from the session of the district council also violates the principle of publicity of local self-government (Article 5 of the Law "On local government and self- government").

Such actions of local authorities and militia according to Article 48 of the Law "On press and other mass media" can be qualified as infringement of freedom of mass information, entailing disciplinary or administrative responsibility. However, Belarusian Association of Journalists haven't recorded any cases when officials of state bodies were made responsible for refusal in granting information to journalists of non-state editions. Article 172-1 of the Administrative Code stipulating punishment for infringement of freedom of mass information (maximal penalty for officials amounts to approximately 450 US dollars) is not used in practice.

One of effective means of restriction of access to information is refusal in accreditations or stripping of accreditation. Such practice is used in relation not only to Belarusian, but also foreign mass-media (see 3.7. *Conflicts related to receiving and dissemination of foreign information or activity of foreign mass-media*).

In early January journalist Igor Kirin was removed from the court room during open hearing of a case in Bobruisk.

I. Kirin publishes an unregistered newsletter in Glusk and edits a web site. He had planned to prepare an article about the trial. The Chairman of the court session Vasily Chimirko has forbidden the journalist not only to use a dictaphone, but also in general to be present in the court room.

On January 13 the judge of Economic Court of Grodno region Sergey Kulakovsky forbade the journalists present in the court room to publish the data received during litigation under the claim of Olga Kunjavskaja to Grodno regional executive committee. In the beginning of March 2003 O. Kunjavskaja submitted an application for registration of a private unitary publishing enterprise "Region-Press". Grodno regional executive committee has refused her in it, without explaining the reasons (see 4.1. *The most significant litigations with participation of mass-media and journalists*).

On February 6 militiamen and officials of Grodno regional executive committee forbade correspondents of the non-state newspaper "**Djen**" (Andrey Pochebut) and **the web-site belarusfree.org (Nina Polutskaja)** to be present at the session of Grodno regional Council of Deputies. The motivation was that the list of invitees approved by Vladimir Omelko, the head of Department of information and press of the regional executive committee did not include correspondents of "Djen" and belarusfree.org.

February 12 Grodno journalists **Andrzej Pisalnik** and **Irina Chernjavka** were removed from the hall where the meeting of the Department of information of Grodno regional executive committee was held with participation of the deputy Minister of information Lilia Ananich. The journalist **Julia Doroshevich** was not admitted to the room where the meeting took place at all.

Before the beginning of the session the security guard of the regional executive committee building, summoned by deputy head of Department of information of the regional executive committee Pavel Skrebko, removed Andrzej Pisalnik from the hall. Irina Chernjavko had to leave when the head of the Department of information Vladimir Omelko suggested to the people present in the room to vote on the issue of removing her from the room. The proposal was supported by seven people, but Mr. Omelko said that the decision was adopted "unanimously".

the plan of activities in the field of ideological work was discussed at the meeting. Except for employees of the Department of information of Grodno regional executive committee, it was attended by the editor-in-chief of the newspaper "Vecherny Grodno" Alexander Kuchinsky, director of the broadcasting company "Grodna" Vladimir Pertsov, BelTA news agency correspondent Richard Salat, editors of state newspapers and heads of departments of information of district executive committees of the region – in total about 50 people.

On February 13 in Gantsevichi (Brest region) during festivities on the occasion of 15-th anniversary of ending of Soviet-Afghani war the Chairman of Gantsevichi district executive

committee Vladimir Stoljar covered the photo camera lenses of the press photographer of “**Gantsavichsky Chas**” newspaper, interfering with him executing his professional duties. These actions were accompanied by comments of the head of a local vertical regarding undesirability of presence of correspondents **Sofia Jasko** and **Larisa Alimhadjajeva** of the same newspaper.

In early April the Department of ideological work refused to provide information to the journalist of the newspaper «**Brestsky Courier**» **Alexander Volkovich** on the place and time of awarding winners of the regional competition «Person of the year». The finale of the competition was supposed to take place in the building of Brest regional executive committee. The chief expert of the department Svetlana Gumina told the journalist that he would not be admitted to the regional executive committee building anyway, because the committee has not been working with non-state press for three years already.

On April 16 management of the corrective labor school № 120 in Mozyr refused to provide information to **Irina Makavetskaya**. The journalist was preparing a material on the cable TV network set up by one of the school inmates. The psychologist of the school Sergey Anatoljevich (he has refused to say his surname) authorized by the management to answer her question declared that the chief of the school Alexander Bokovets had allowed to provide information only to «Sovietskaya Belorussiya», «Gomelskaya Pravda» and the local newspaper «Zhyccce Palesia».

On April 27 assistant editor-in-chief of the newspaper "**Djen**" **Andrey Pochebut** was searched at the entrance to a court. A security guard has detained the journalist and has carried out examination of his personal belongings, including contents of his pockets, without drawing up a report and in absence of witnesses. A. Pochebut addressed the regional Office of Public Prosecutor with the request to bring a criminal case on this fact.

On May 8 the journalist received a refusal: deputy chief Public Prosecutor of Leninsky district of Grodno Irina Streltsova has referred to the Instruction on special duties of the militiaman on point duty on protection of the building of court of Lenin district of Grodno, approved by Chairman of court and the chief of Department of protection of Lenin district of Grodno. According to this document the militiaman has the right not to pass in the court building persons from video and photo equipment and other recording devices if they do not have a corresponding sanction from the Chairman of court. «*Since you are a representative of mass-media, employees of militia had grounds to suspect that you possessed the above-mentioned equipment, which was the grounds for the examination*» - the letter from the Office of Public Prosecutor says.

The instruction on special duties of the militiaman on point duty on protection of the building of court of Lenin district of Grodno” was adopted on May 15, 2002, when the criminal case against journalists of "Pahonia" newspaper was considered in this court.

On May 19 journalists were not admitted to the House of Government to the press conference of the opposition parliamentary group "Respublika". The secretary of the House of Government has not allowed to issue a single pass for them. The building was cordoned off by militia and people in the civilian clothes, and so the deputies had to hold the meeting with journalists in the street.

According to "Belorusskaya Delovaya Gazeta", the Security Service of the President was involved in this incident: since 2003 this structure is responsible for issuing passes to the Parliament building.

Such system has been introduced after in 2003 the parliamentary group "Respublika" held a meeting with representatives of oppositional political parties in the building of the House of Government.

On June 3 Belarusian and foreign journalists accredited in the House of Representatives were not let in the building of Parliament. On this day the oppositional deputy of the parliamentary group "Respublika" Valery Fralou was supposed to deliver a speech at the plenary session. After this incident the deputies planned to hold a press conference in the House of Government.

Only journalists of BT (Belarus TV), ONT (National TV), state printed editions and news agency "Interfax" have been admitted into the building of Parliament.

On June 8 journalists of non-state media could not attend the plenary session of the House of Representatives of the National Assembly of Belarus. Near the entrance to the building of the Parliament they were approached by people in civilian clothes. The law enforcers checked their journalistic IDs against the list, which had no representatives of non-state editions. The law enforcement bodies explained such unprecedented security measures by carrying out of "*security actions*», related to arrival of the Prime Minister of Russia to Minsk.

On June 22 the Security Service has not let in the Parliament building the correspondent of **Radio Liberty Jury Svirko**, accredited at the House of Representatives. The security guards have taken away the journalist's dictaphone and destroyed the recording, and then people in the civilian clothes put J. Svirko in a car and took him away from the House of Government. In the car they have forbidden the journalist to make calls or to answer the phone.

Hearings of proposals of the parliamentary group "Respublika" on modification of the Electoral Code of Belarus were scheduled for June 22 in the House of Representatives.

On June 24 deputy Chair of Pinsk municipal executive committee Alexander Kanevsky refused to provide information to the correspondent of the newspaper "**Mestnoye Vremya**" **Pavel Lehnovich** regarding the board of the State committee on affairs of religions which took place in Pinsk on June 17-18.

The official motivated his refusal to talk to the journalist by saying that the journalist had no accreditation in the municipal executive committee.

On April 9, 2004 Pinsk municipal executive committee has refused the edition of the newspaper in accreditation, saying that "*the municipal executive committee does not practice accreditation in the executive committee of journalists of various mass media. The accreditation of correspondents of mass-media is carried out for certain actions organized and conducted by the municipal executive committee*", the letter signed by A. Kanevsky says.

On June 28 a security guard of the court of Leninsky district of Grodno did not allow the journalist of **Radio Liberty Sergey Ostrovsov** and expert of the Belarusian Association of Journalists **Jury Taparashau** enter the court building. The conflict was resolved only after the journalists have left their Dictaphones outside the court building.

The guard referred to the instruction approved by the Chairman of court and the chief of Department of protection of Leninsky district of Grodno. The instruction allows guards not to let in the court

building people with video, photo equipment and other recording devices without a sanction of the Chairman of court.

On August 28 the editor of the newspaper “**Gantsavitsky Chas**” Peter Guzaevsky was not allowed to be present at the regional conference of education sector employees held in the building of the high school №3. At the entrance he was stopped by a militiaman, who demanded to present the invitation card. As soon as the journalist didn't have any, the militiaman asked Guzaevsky to leave the territory of the school. As the school principal Varvara Dydyshko explained, the administration decided to let people in only according to tickets, since the number of seats in the assembly hall was limited. Irina Domoratskaja, a journalist who has been working in the same edition relatively recently, have managed to get to the meeting. The editor believes that this happened because the militiaman did not know her by sight.

On August 31 in Bobruisk during shootings carried out by the TV crew of the **broadcasting company "Mogilev"** at the market "Zapadny" the director of the market Igor Fomenok has beaten out the camera from the hands of the cameraman **A. Gutaryov**. According to the director, he did not intend to harm anybody, and it was the journalists who were guilty, since they have not warned the administration of the market about their visit (see 3.3 *Encroachments on journalists and media, 4.1. The most significant litigations with participation of mass-media*).

On March 15 journalist of «**Novaya Gazeta Smorgoni**» **Irina Lugina** phoned Polina Shulga, director of Smorgon registry office for information. The journalist asked about the terms of opening of the new building of the registry office, and has also asked if it was possible to photograph the new House of marriage registration from within. P. Shulga asked which edition she represented and, having found out, that the phone call came from a non-state newspaper «Svetly Shlyakh», refused to provide information. «*You should know that it is forbidden to us to give information to your newspaper* », she said.

On September 21 the editor-in-chief of the newspaper “**Gantsavichsky Chas**” **Peter Guzaevsky** was not allowed to be present at the public meeting of the 10-th session of the regional Council of Deputies, which agenda included the question of accomplishment of the city of Gantsevichi and Gantsevichi district. Right at the beginning of the session, representing local deputies and visitors, the Chairman of the Council of Deputies Boris Osovtsov noted that there was an editor of a non-state newspaper present in the room. He suggested to solve the issue of presence of the journalist at the session by voting. Nobody has voted for allowing Guzaevsky to be present at the session and five people voted against it (about hundred person were present in the hall). The Chairman of Gantsevichi district executive committee Vladimir Stoljar actively supported removal of the journalist from the hall, while the chief of Gantsevichi Interior Department threatened Mr. Guzaevsky with administrative sanctions.

Correspondents of the regional state newspaper «Sovietskoye Polesye» were present at the session of the regional Council of deputies from the beginning until the end.

On September 27 Chairman of Smorgon Election Commission Valery Botko refused to talk to **Anastasia Zhernosek**, correspondent of the edition of telecasting "**Oks-TV**". The correspondent asked him for information about the past session of the election commission. ("**Oks-TV**" cameraman

has shot a report about the session at the request of Alexey Apanovich, the head of Department of information of Smorgon district executive committee). The Chairman of the election commission declared by phone to Mrs. Zhernosek that he would not give any information to her and advised her to personally attend the sessions of the commission.

The Chairman of Vitebsk – Gorkovsky district electoral commission Svetlana Menzhinskaja has refused to provide information to **Vladimir Zhigulov**, journalist of the non-state newspaper «**Vitebsky Courier**». This information appeared in “Narodnaya Volya” newspaper **on October 9**. Initially Mrs. Menzhinskaja has agreed to conversation, but later declared that she would not answer any questions of the journalist and in general *«did not want to have any affairs with press»*. *«Until the Central Electoral Commission makes a decision, I shall say nothing»*, - the chairman of the commission declared.

The topic of conversation should have been stripping of registration by the commission of the opposition candidate Pavel Sevyarynets after his speech at regional radio.

The new director of Smorgon boarding school Tatyana Leonidovna Vlasenko has refused to meet the correspondent of local TV. Answering the proposal of the edition of telecasting "**Oks-TV**" to talk about her assignment for the post of director, Tatyana Vlasenko declared, that she had a lot of work to do and had no time to meet journalists.

Lyahovich district executive committee for the second time has refused the request of the Open JSC “Publishing House “Intex-press” to accredit journalists of the newspaper “**Lyahavichsky Chas**”. In his letter dated **August 15**, the Chairman of the district executive committee A. Skakun explained that he considered accreditation of journalists inexpedient since the *“activity of the executive committee, as well as economic, cultural and sports life of the district is sufficiently covered by the newspapers “Zarya”, “Lyahavitsky Vestnik” and by regional radio”*. For the first time the refusal in accreditation of journalists of non-state edition has been explained by saying that any information can be received in the district executive committee without this formality.

On November 3 own correspondent of the newspaper “**Narodnaya Volya**” **Irina Makavetskaya** could not get on the joint session of the Presidium of the Supreme Court and the board of the Ministry of Justice in Gomel. The journalist asked the employee of the Department of ideological work of Gomel regional executive committee Valery Ohlestin about the possibility to take part in it. Mr. Ohlestin informed, that he had to inquire about it in the Department of justice. On November 2 he called I. Makavetskaya and informed that press would not be admitted to the session. The results of inspection of organization of work of the Gomel regional court, Department of justice of the regional executive committee and regional courts were reviewed at the joint session.

On November 23 the chief of road police department of Smorgon Interior Department Anatoly Grishan refused to provide information to “**Mestnaya Gazeta**”. Answering an oral inquiry of “Mestnaya Gazeta” about granting operative information, Anatoly Grishan informed that he personally had nothing against “Mestnaya Gazeta” or other editions and that he considered it useful for press to write as much as possible about road police activities. However, A. Gishan referred to the order of Peter Devjaten, chief of Smorgon Department of Interior, who in a telephone

conversation with the road police chief has once again confirmed the order - not to cooperate with "Mestnaya Gazeta".

On December 17 the correspondent of the web-site "**Trade-union Movement of Belarus**" **Irina But-Gusaim** was not admitted to the press conference of Leonid Kozik, Chairman of the Federation of Trade Unions of Belarus held in the boardroom of the Trade Unions Assembly. Having consulted with his management, an employee of the press-service has referred to lack of Irina's preliminary accreditation.

THE CONFLICTS RELATED TO RECEPTION AND DISSEMINATION OF FOREIGN INFORMATION AND ACTIVITY OF FOREIGN MASS-MEDIA

In 2004 Belarusian authorities consistently continued "to shut down" the information space of the country.

First of all, they limited the activities of Russian TV and radio channels, which have recently dominated airwaves in Belarus. According to Alexander Blokhin, the Ambassador of Russia in Belarus, the volume of their broadcasting in Belarus has decreased in last years by 70%, and this reduction mostly concerned political programs and debates. Immediately before the 2004 parliamentary elections representation of Russian State Broadcasting Company had to suspend its work in Belarus, after the employees of the correspondent's office of the TV channel "Russia" have been stripped of their accreditations. On November 17 and 19 journalists of the Russian channels First channel, NTV and REN-TV (together with some other foreign journalists were beaten by law enforcers in Minsk while fulfilling their professional duties. After the presidential elections of 2001 the official Minsk has understood the danger of distribution of alternative information through Russian electronic mass-media and has taken corresponding measures.

To has proved more difficult to affect the activities of printed editions. On March 2, 2004. the Ministry of information approved the Instruction on distribution on the territory of the Republic of Belarus of periodic printed editions registered in foreign states. According to the Ministry of information, one of overall objectives of adopting the Instruction was "ordering" distribution of Russian newspapers and magazines in Belarus, but soon became clear that the instruction did not concern them. According to the decision of the joint board of the State Committee for Print of the Russian Federation and the State Committee for Print of the Republic of Belarus dated February 15, 1999 it is not required to receive sanctions for distribution of Russian printed editions on the territory of Belarus, as stipulated by the Instruction. At the end of 2004 over 4,000 Russian medias was distributed in Belarus.

The Belarusian authorities have been trying to limit the activities of not only Russian mass-media, but also mass-media of other foreign states. In June the KGB deported from Belarus Mikhail Podolyak, a journalist of the independent newspaper "Vremya", the citizen of Ukraine. In November journalists of the Russian bureau of the French TV channel TF1 were stripped of their accreditations. At the end of the year relaying of some Ukrainian and Polish TV channels was limited in border areas of Belarus.

From early February relaying of Russian programs on the frequency of the Belarusian TV channel ONT was reduced to the minimum. Only the news program "Vremya" remained in the ONT schedule, but even this news program **of the First Russian Channel** is aired in the reduced form.

In opinion of the head of Department of special information projects of the First Channel Pavel Sheremet, the process of switching-off of the Russian channels for the Belarusian audience is coming to an end. *"In general this process was predictable, and it was developing in this direction. Therefore it has not surprised me. In Belarus they have been broadcasting a deformed version of the First Channel for a long time already, because ONT had altered the schedule at its own discretion, rearranged programs, and even censored some news programs"*, he said in an interview to the newspaper "Belorussky Rynok".

In March the Office of Public Prosecutor of Belarus has brought criminal case against Anatoly Liabedzka, chairman of the United Civil Party for his participation in two programs **of the TV Channel "Russia"** "Vesti Nedeli" and "Vremya" (See also 3.2. *Criminal cases for publications in mass-media*).

The case was brought under Article 367, Part 2 of the Criminal Code of the Republic of Belarus ("Slander concerning the President the Republic of the Republic of Belarus") on March 1 and transferred to the Minsk City Office of Public Prosecutor.

The program "Zerkalo" in which A. Liabedzka took part was aired February 21, and the program "Vesti Nedeli" with his participation was released February 22. In the program "Zerkalo" A. Liabedzka talked about the presidential fund and its sources of money. Minsk City Office of Public Prosecutor has addressed the Moscow Office of Public Prosecutor with the request to interrogate the host of the programs Nikolay Svanidze and other participants of the program, aired February 21.

On March 23 the Embassy of the Republic of Belarus in Russia issued a statement stating concern about "*provocative*" character of comments of the TV channel about the development of the situation in Belarus.

From March 25 the Instruction of the Ministry of information "On distribution on the territory of the Republic of Belarus of periodic printed editions registered in foreign states" came into force in Belarus. Unlike the previous instruction used since 1998 and concerning the state enterprise "Belpochta", the new document regulates the activities of all legal entities and individual businessmen distributing foreign editions, and concerns both subscription and retail trade.

Distributors of foreign mass-media should coordinate catalogues or lists of the editions to be distributed with the Ministry of information.

On April 17 and 18 relaying to Belarus **of the TV channel "Russia"** was interrupted from 17.00 to 20.30. The break has coincided with the analytical programs "Zerkalo" and "Vesti Nedeli".

The relaying center in the settlement Kolodishchi near Minsk has referred to a fax sent by the management of STV channel, which has the exclusive right to distribution of programs of the "Russia" channel on the territory of Belarus. The fax informed about technical maintenance from 17 o'clock till 21 o'clock on Saturday and Sunday.

In the opinion of "Zerkalo" host Mikhail Svanidze, the switching-off had been caused by preliminary announcement of the reports concerning Belarus (See also 3.5. *Censorship. Infringement of professional independence of editions*).

On June, 6 the journalist of the Russian broadcasting company **REN-TV Elena Slav and cameraman Alexey Pokrovsky** were detained in the center of Minsk when interviewing two members of the youth movement "Zubr". The journalists were detained by OMON (riot police) employees in the civilian clothes, who declared that shooting in the center of Minsk was possible only with the sanction of the Presidential Security Service.

When the journalists presented documents on accreditation of the film crew in Belarus' Foreign Ministry, OMON officers called these documents false and "persistently suggested" to the journalists and participants of the interview to proceed to the Centralny district Interior Department. In the police department the journalists started to call the Russian Consulate, the press-service of the Ministry of Internal Affairs and other institutions, after which they were released.

The similar case of OMON intervention in the work of TV reporters has taken place with the TV crew of the Russian channel **TVC**. The journalist Vera Dashkevich and cameraman Vladimir Andronov carried out in the center of Minsk (near "MacDonalds" restaurant) a poll on the topic of symbols printed of Belarusian money. OMON patrol came to the operator and started to ask what he was asking the passers-by. One of them has threatened to confiscate the tape from the journalists, *«if the questions asked do not correspond the topic of the program»*.

"Broadcasting of Russian TV channels in Belarus has reduced by 70% in the last two years", - the Ambassador of Russia in the Republic of Belarus Alexander Blokhin said on **June 11** at a press conference in Minsk.

According to the newspaper "Moskovsky Komsomolets", the Russian Ambassador noted that channel "Kultura" practically did not broadcast in Belarus, and broadcasting of channels "Russia" and NTV was strongly reduced. They frequently cut out political and programs and debates and leave entertaining programs. Relaying of Russian radio stations "Yunost" and "Mayak" in Belarus was completely stopped. In the opinion of Mr. Blokhin, this development represented an infringement of the agreement on formation of the common information space.

On June 21 KGB deported from Belarus Mikhail Podoljak, journalist of the Belarusian independent newspaper "**Vremya**" and citizen of Ukraine.

According to the Center of information and public relations of KGB, the reason for M. Podoljak's deportation was that he *"was the organizer of publication of the newspaper "Vremya" which tendentiously covered sociopolitical situation in Belarus"*, and that *"the materials published in the newspaper contained ... appeals to destabilization of the political situation in Belarus"*.

At the same time they informed that M. Podoljak had broken the Rules of staying of foreign citizens and persons without citizenship on the territory of the Republic of Belarus approved by the Council of Ministers in 1999, and in this connection his *"entry visa and the sanction for temporal presence on the territory of Belarus were cancelled"*, and he was forbidden to enter Belarus for the term of 5 years. It should be notes, that visa-free regime works between Belarus and Ukraine.

On July 22 top officials of the Municipal Department of Internal Affairs of Minsk has carried out an "explanatory conversation" with the correspondent of the **TV channel "Russia"** Dmitry Petrov. Belarusian authorities have expressed discontent with his report on the street action of the opposition dedicated to ten years of Lukashenka's rule. The report was aired live in the program "Vremya" on July 21.

On July 30 the Ministry of Foreign Affairs of Belarus stripped of accreditation four employees of the Belarus correspondent's office of the Russian state **TV channel "Russia"**. Besides, Belarusian Ministry of Foreign Affairs has postponed consideration of the application of the All-Russia State Broadcasting Company on prolongation of validity of the sanction for opening of its representation in Belarus. Belarus Ministry of Foreign Affairs has accused the correspondent of "Russia" channel D. Petrov of overstating the quantity of participants of the action carried out by opposition on July 21, and charged the All-Russian State Broadcasting Company with "repeated prejudiced coverage of events occurring in Belarus and incorrect coverage of the non-authorized action".

«Stripping our correspondents of accreditation fits in the logic of activities of Belarusian authorities aimed at restriction of broadcasting of Russian mass-media on the territory of Belarus», the Russian broadcasting company declared.

On September, 23 the Embassy of the Republic of Belarus in the Russian Federation addressed the heads and correspondents of Russian mass media concerning their coverage of the election campaign to the House of Representatives and the referendum. The Belarusian side *"expressed regret"*, that *"some Russian journalists used and presented in their reports biased information on the events occurring in Belarus"*.

"It is amazing that some correspondents actively "relay" the point of view of Belarusian oppositionists who do not have real support among the population and do not reflect the public opinion in the country», the address said.

On October 14 the crew of TV reporters of Polish **1-st channel** which arrived to Belarus for covering the elections was detained in Baranovichi. Local militia has kept the journalist Agnieszka Ramashevskaya and her film crew in a police department for about one hour. After checking their documents the journalists were released.

On October 16 in Bykhau militiamen detained the Polish journalist Anna Gerasimovich who represented **«Informator Kultury»**. A. Gerasimovich has been detained in a polling district located in a regional hospital. Militiamen have suggested the journalist to proceed with them to a police department. They asked her who she was, where she came from, what kind of visa she had and why she was interested in voting. Bykhau militiamen have kept Polish journalist in detention for more than an hour.

On October 16 in Minsk unknown persons demanded the journalist of **Czech TV** Miroslav Karas to erase the video materials shot near the Central Electoral Commission. The journalist had official accreditation of the Ministry of Foreign Affairs for covering the elections and the referendum in Belarus

According to M. Karas, people in the civilian clothes who refused to introduce himself have forbidden him to shoot the building of the Central Electoral Commission. They have taken him inside the building and demanded to erase the shot video materials. Miroslav Karas has refused to fulfill the requirements of the unknown persons and has been released only after he declared that he would address the Czech Embassy for help.

On October 17 at one of the polling districts in the district Uruchje in Minsk people in the civilian have prevented work of the film crew of the Russian TV channel **REN-TV**. The journalists have arrived on the site at 14.00, but at this time it was already empty, although voting in the country was held until 20.00. It was later discovered that all voters in this constituency have voted early. When the journalists tried to film the empty site, people in the civilian have run up to them and demanded to abandon its territory. Otherwise they threatened to detain them. The film crew had to abandon the constituency.

On October 17 people in the civilian beat Pavel Sheremet, the head of special projects of the Russian television channel “**The First Channel**”. Both the attackers and P. Sheremet have been delivered to the Sovetsky district Department of Internal Affairs, and then the militiamen have unexpectedly accused P. Sheremet of petty hooliganism (Article 1567 of the Administrative Code), detained him and compulsorily brought him to a pre-trial jail. In jail it was discovered that P. Sheremet has received a craniocerebral trauma, and so he was taken to a hospital (See also 3.3. *Encroachments on journalists and media*).

In the evening of **October 19** several journalists of Belarusian and foreign mass-media suffered during dispersal of a street protest action. Cameramen of the TV channels **NTV** and **REN-TV** Konstantin Morozov and Vladimir Kostin were beaten by OMON (militia has broken the NTV camera), the **Associated Press** photographer Sergey Grits was detained but later released and the correspondent of the Belarus service of **Radio Liberty** Jury Svirko suffered from the presidential Security guard (see also 3.3 *Encroachments on journalists and media*).

“In connection with the incident in Minsk with journalists of Russian TV channels NTV and REN - TB on October 19 the Embassy of Russia in Belarus has addressed the Belarusian authorities with a corresponding official inquiry. The Russian side expects carrying out thorough investigation and expects to receive comprehensive information on the event”, the Department of information and press of the Ministry of Foreign Affairs of Russia stated. “Unfortunately, recently it has been not the first case of such kind concerning the Russian correspondents in Minsk”.

On October 19 Representatives of the broadcasting companies accredited in Belarus, in particular **NTV** and **REN-TV** could not transfer their reports about protest actions of the opposition. The office of the broadcasting company "Mir" have referred to technical problems: malfunction of an amplifier at the television aerial. The journalists had to transfer their materials from the territories of neighboring countries.

In the morning of **October, 25** Belarusian viewers did not see in the morning repetition of the analytical program “Vesti Nedeli” of the **TV Channel "Russia"** the report dedicated to the events in Belarus. Without coordination with the Russian side this report has been replaced by advertising.

In the evening of **November 5** the TV crew of the Russian bureau of the French channel **TF1** was detained in Minsk. Near Myasnikov Square in Minsk journalists observed Zubr movement activists hanging out a large banner "Lukashenko has lost" on the railway bridge. Two persons in the civilian came to them, took away their documents and demanded to stop shooting. The crew was delivered to the police department of Moskovsky district of Minsk. Having kept the Frenchmen there for two hours, the militiamen have taken away their videocassette and have erased the record.

Later the journalists of the Russian bureau of the French channel TF1 have been stripped of accreditations at the Ministry of Foreign Affairs of Belarus.

Operators of cable television in Brest have stopped relaying three Polish TV channels fulfilling the requirement of the Ministry of information. The letter of the ministry signed by the deputy Minister of information Sergey Bulatsky, which the cable operators received said that by relaying two programs of the **Polish TV** and "**Polsat**" channel, operators violated Regulations on TV and radio

reception systems, approved by the Belarus government. According to Bulatsky, relaying of these channels had not been coordinated with the Ministry of information of Belarus.

On December 20 in Pinsk during broadcasting of teledebates of candidates for Ukrainian presidency Victor Janukevich and Victor Yushchenko on the Ukrainian TV channel "**Inter-Plus**" the sound was switched off. The sound has been switched on again only after ending of the program.

On December 22 at about 20.20 the cameraman of the Russian broadcasting company **REN-TV** Vladimir Kostin was detained in Minsk. The journalist was kept in the police department of Sovetsky district of Minsk for about 2,5 hours, and his camera was damaged (See also 3.3. *Encroachments on journalists and media*).

On December 23 the Ukrainian channel "**Inter-Plus**" has disappeared from the list of programs of cable television operators in Pinsk. Mr. Rybkovets, the head of board of the limited liability company "Efir TV" dealing with cable television in Pinsk, said that relaying of the channel was stopped in connection with the order of the Ministry of information of Belarus, saying that relaying of all Ukrainian channels in Belarus should be stopped from December 23.

ECONOMIC POLICY IN THE FIELD OF MASS-MEDIA

The economic policy of the state in the field of mass-media continued to have a strongly expressed discriminatory character concerning non-state editions.

The national budget of 2004 (Appendix №3 to the Law «On budget of the Republic of Belarus for 2004») has allocated 29, 67 million US dollars (at the rate of the National bank of Belarus on 9.01.2004) for financing of mass-media. From this amount 23,79 million dollars was allocated to financing of TV and radio broadcasting and 5,14 million dollars – for funding periodicals and publishing houses. These amounts are a little bit less than in 2003, when the national budget has allocated 32,28 million dollars (at the rate of the National Bank on 4.01.2003) for financing of mass-media. However, in 2005 it is planned to significantly increase funding of mass-media - up to 40,81 million US dollars (at the rate of the National Bank on 3.01.2005). Given general increase in funding of mass-media approximately by 37%, it is planned to increase funding of TV and radio broadcasting by 42% (up to 33,8 million dollars), and funding of periodicals and publishing houses – by 14% (up to 5,86 million dollars).

Besides direct financing, administrative measures were actively and openly used in 2004, aiming to promote economic stabilization of state mass-media, including such measures as compulsory subscription to state newspapers.

In the beginning of the year it was declared that with the purpose of improvement of financial situation of the news agency "BelTA" (unitary enterprise of the President Administration), all rights on distribution of TV listings of Belarusian TV channels are transferred to this agency. BelTA has declared that publication of these TV listings is allowed only on the basis of contracts with it and has severely (by hundreds times) increased the price of the "basic package" of the TV listings (up to 2,500 dollars per month). Discounts (up to 99 percent!) have been given to the majority of editions, but several independent editions were forced to give up publishing TV listings.

In the spring of 2004 non-state editions faced one more serious problem – announcing distribution of mass-media by subscription a licensed kind of activity (See also 2. *Changes in legislation; 3.11. Prevention of distribution of mass-media production*).

Introduction of licensing and refusals of the Ministry of Communications to issue licenses to non-state editions became serious obstacles for the creation of a full-fledged alternative network of distribution of independent press. It is indicative that the system of the Ministry of Communications issuing licenses includes "Belpochta" (i.e. the ministry refuses licenses to potential competitors of its "own" enterprise).

There is opinion among experts that the editions carrying out delivery of their own editions by subscription do not render services of communication and therefore should not receive corresponding licenses. The is also a point of view, that licenses for communication activities should be required for realization *of all* services of post communication listed in the law, instead of one of them, subscription to newspapers, classified as an additional service.

In early January unitary enterprise BelTA (Belarusian Wire Agency) of the Administrations of the President of Belarus distributed information, that it *“has gained an exclusive right on distribution of programs of telecasts ... of Belarusian TV channels”* and that *“publication of TV listings of the Belarusian channels shall be carried out exclusively on the basis of contracts with the unitary enterprise BelTA”*.

Different editions of mass-media have been offered different prices of the package of TV programs, which except for the listings of Belarusian channels also included listings of other channels. A number of independent editions ("Salidarnasc", "BDG", "Narodnaya Volya", "Belorusskaya Gazeta", etc.) have received the offer to publish the TV listings at "the base price" of 5 million 25 thousand roubles (approximately 2,500 dollars) per month, which by hundreds times exceeded both the former price for printing the TV listings and the discounted price for the package offered by BelTA to the prevailing majority of editions.

Some editions have been forced to give up publishing programs of telecasts.

On January 23 the Belarusian Association of Journalists sent official inquiries to the Office of Public Prosecutor of Belarus, Ministry of economy and Ministry of information with the request to explain the situation with distribution of the program of telecasts of Belarusian TV channels and to inform what measures these structures will undertake not to allow infringement of Belarus antimonopoly law and pricing legislation.

On February 10 BAJ received an answer to its inquiry from the republican Office of Public Prosecutor. The head of department I. K. Podomatko informed that he had forwarded BAJ inquiry to the Department of antimonopoly and price policy of the Ministry of Economy.

On February 24 the deputy Minister of economy **V. Adashkevich** noted in his answer to the inquiry that *"the order of using discounts from cost prices ... should contain conditions depending on which the discounts are applied and their parameters. The applied discounts should be identical to all buyers irrespective of their form of ownership"*.

On March 9 the Belarusian Association of Journalists received an answer to its inquiry from the Ministry of information concerning legality of different tariffs for sale of TV listings to different mass-media. Without giving its own comments, the Ministry of information has forwarded to BAJ explanations of the unitary enterprise BelTA. The missive of the general director of BelTA agency Dmitry Zhuk to the deputy Minister of information Sergey Bulatsky says that the contracts for distribution of TV listings concluded between BelTA and broadcasting companies, *"does not have a word saying that TV channels cannot transfer their TV listings to others"*. This contradicts to BelTA statements about their exclusive right to distribute programs of telecasts of Belarusian channels.

In 2003 only 4 editions out of 19 regional and district state newspapers in Brest region worked without state grants. 6 more newspapers were coming nearer to full covering of their costs. This information was voiced on **February 24** at a press conference by Nina Shpak, the head of Department of information of the Regional executive committee. In Pinsk district all state newspapers are printed in color.

According to Nina Shpak, state mass-media and employees of regional Department of information believe that their main task is full and qualitative ideological support of the state policy.

On February 4 a meeting of the regional officials and ideological employees dedicated to subscription to state editions was held in Krychau district executive committee.

During the meeting the deputy Chair of the district executive committee on ideology S. Morozov stressed that all officials are civil servants, and so they are obliged to execute the state policy, one of which aspects is obligatory reading of "Sovietskaya Belorussiya" and a local district newspaper "Leninsky Klich". The deputy Chair of the district executive committee assured the people present at the meeting that the district executive committee will continue having this question "under

control” in future as well. At the end of last year S. Mironov has held several meetings on the issue of subscription, during which local officials received specific tasks regarding the subscription campaign. Under threat of punishment the local officials have managed to provide “*a gain of subscription*” for the regional newspaper by 1,000 copies. But, as it was later discovered, people have subscribed only for one month. In February the local newspaper has lost 400 readers.

On March 15 Glubokoye district executive committee distributed a letter ordering to heads of local enterprises to finish departmental and individual subscription to state editions by March 19.

Each enterprise (“*a workshop, an industrial department, a farm, a branch, an item, a kindergarten, a school, a class, a hospital, an ambulance station, a shop, etc.*”) had to subscribe to at least 3 state editions, and every “*member of the collective*” – to one national and one local newspaper. The departmental subscription had to be arranged for the second quarter “*with subsequent prolongation for quarters 3 and 4 of 2004*”.

By March 30 the enterprises had to provide a written report on the ordered subscription to the Department of information of Glubokoye district executive committee. Except for state enterprises of Glubokoye district, similar letters from the district executive committee have arrived to individual entrepreneurs - owners of trade enterprises and business companies.

On March 21 a seminar of ideological employees and officials of the area was held in Kostyukovichy (Mogilev region). The deputy Chair of the district executive committee V. Sugako has paid a large attention in his report to the issues of mass-media activities. Among the advice given to local ideological employees and journalists, were: “*to organize work with the population so that they subscribed to state editions everywhere for the second half-year*”, and also to increase collective subscription because “*it is very bad when in certain organization they receive only 2-3 newspapers, quite often departmental ones*”.

In early summer “Belsoyuzpechat” kiosk vendors in Minsk received the “Instruction on the order of placing editions donated from the budget on the show-window”. According to the instruction, they had to “put the newspapers in the first row near the shop window in the following order: “Zvyazda”, “Respublika”, “Sovietskaya Belorussiya”, “Narodnaya Gazeta”, “Kultura”, “LiM”, “Belorusskaya Niva”, “Golas Radzimy”, “The Minsk Times”, “Znamya Yunosti”, “Zorka”, “Perehodny Vozrast”, “Ranitsa”, “Siamja”, “Sportivnaya Panorama”. Besides, the newspapers donated from the budget should be hung out on the show-window in front, and the “thick” magazines donated from the budget should be put on the front shelf.

In late September heads of all educational institutions of Oktyabrsky district of Vitebsk have received an official instruction to subscribe to number of state editions. This instruction arrived in the letter of the deputy head of Administration of Oktyabrsky district P. Losicha dated **September 22**. Reminding about the approaching end of subscription for the 4-th quarter of the year, the administration of the district “*asked to speed up the work on carrying out the subscription campaign*”, since “*the educational institutions of the area lagged behind in subscription to the controlled editions*”. Under the “controlled” editions they mentioned “Zvyazda”, “Znamya Yunosti” and “Vitbichi”, founded by Vitebsk municipal executive committee and Vitebsk city council). Each educational establishment had to subscribe to 10 copies of “Zvyazda”, 21 copies of “Znamya Yunosti” and 15 copies of “Vitbichi”.

On September 24 chairmen of rural executive committees of Shchuchin district (Grodno region) received an instruction to urgently organize subscription to state editions. The telephone message with the corresponding order was signed by Ivan Sokolovsky, deputy head Shchuchin district executive committee. It ordered *“to take urgent measures for organization of subscription to “Sovietskaya Belorussiya”, “Zviazda”, “Respublika” and “Grodzenskaya Prauda”*.

On October 14 a special issue of the newspaper of the Administration of the President “Sovietskaya Belorussiya”, entirely dedicated to agitating for the question asked at the nation-wide referendum has appeared on sale. On top of each page where headings usually appear there was the appeal “Say YES to your President!”

The dateline of the newspaper indicated that the circulation of the special issue was 863,125 copies (at that time “Sovietskaya Belorussiya” was published with the circulation of about 321,000 copies). However, according to Sergey Kalyakin, the leader of the opposition communist party (Party of Communists of Belarus), the real circulation of this issue was about 3 million 200 thousand copies. The special issue was distributed free-of-charge across the whole country. Post officials said they had to distribute the agitation issue of the newspaper since they had received a special order.

A regional telecommunication enterprise in Gantsevichi has refused the request of the edition of the independent newspaper “**Gantsavitky Chas**” to air a subscription campaign ad. The communication center has referred to lack of technical possibility.

Gantsevichi regional Department of telecommunication broadcasts locally at least twice a week. It was not the first case of refusal of local telecom to air the information concerning subscription to “Gantsavitky Chas”. Half a year ago the edition of the edition addressed it with a similar request and, having received a consent, has transferred the money for the service. However, the ad has only appeared once and was not repeated any more.

Employees of the independent newspaper have learnt that workers of the regional communication center spread rumors that next year the only non-state newspaper in the region will not be published and suggested to subscribe to the official publication «Savetskaye Palessie» instead. To clarify the situation, **on December 7** the editor-in-chief of the newspaper Petr Guzaevsky met chairman of Gantsevichi district executive committee Vladimir Stoljar. The head of the regional vertical assured him that he did not give an instruction to block subscription to the independent newspaper neither in oral nor in writing.

Zhitkovichi district executive committee (Gomel region) instructed organizations and institutions to subscribe newspapers “Gomelskaya Prauda” and “Novaye Palessie” for veterans of war. However, heads of organizations and institutions have not paid enough attention to this order, which became the topic of meeting of regional executive officials. Deputy chief G. Kolupaeva noted that ideological services of enterprises and organizations did not pay enough attention to questions of departmental subscription. It was recommended to heads of enterprises to have the newspapers “Sovietskaya Belorussiya”, “Gomelskaya Prauda” and the regional newspaper “Novaye Palessie” in each department, workshop and farm, “Novaye Palessie” wrote **on December 22**.

RESTRICTION OF THE RIGHT ON FOUNDING MASS-MEDIA

In early 2005 the Minister of information Vladimir Rusakevich declared that he considered it necessary *«to toughen requirements to registration of printed and electronic mass media»*. Meanwhile, the norms of Belarusian legislation regulating the order of founding mass-media already do not correspond to democratic standards.

In Belarus the three-stage permissive order of founding printed mass-media is established. For electronic mass-media this order is even more complicated. First the founder of a printed edition should register as an economic entity (in 2004, despite regulations of the Law on press, the Ministry of information started to demand that only legal persons acted as founders of mass-media). Then the founder should receive from local authorities the sanction to accommodate the edition (the so-called coordination of mass-media accommodation). Then the founder should register mass-media in the Ministry of information.

The practice of application of these regulations of the legislation complicates the process of registration of mass-media even more. The problems arise at each stage of registration of mass-media. One of the main issues arising during registration of periodic printed editions, is the issue of coordination of accommodation of mass media with local executive and administrative bodies. According to Article 10 of the Law on press the document confirming such coordination should be enclosed to the application for registration of mass-media submitted to the Ministry of information. Local authorities chose not to give a sanction to publish a newspaper on the territory "subordinated" to them at their own discretion, thus limiting the right on founding of mass-media.

The refusals in coordination of accommodation of mass-media have been repeatedly appealed by founders of the editions in economic courts, and courts quite often recognized these decisions of executive committees as illegal. However, courts have refused to oblige executive committee to coordinate accommodation of mass-media. For instance, on January 10, 2004 the Supreme Economic Court of Belarus has nullified the refusal of Krychau municipal executive committee to coordinate accommodation of the newspaper *«Sobstvenny Kommentary»* in Krychau, having satisfied the claim of the newspaper founder V. Kudrjajtsev. However, the court has rejected the requirement to oblige the executive committee to coordinate accommodation of mass-media. The founder's next application for coordination of accommodation of mass-media to Krychau municipal executive committee was again refused. By the end of 2005 the newspaper *«Sobstvenny Kommentary»* had still not been registered (See also 4.1. The most significant litigations with participation of mass-media and journalists).

A sharp decrease in the number of newly-registered newspapers in Belarus was mentioned in the Report of Miklosz Haraszti, OSCE Representative on mass-media freedom dated March 10, 2005. In 2004 4,5 times less editions has been registered in the country in comparison with 2003 (51 against 230).

The general situation with founding mass-media was barely different in different regions. The cases recorded in Smorgon (Grodno region) can be considered typical.

On November 19 the Supreme Economic Court waived the appeal of Smorgon entrepreneur Olga Kunjavskaja against Grodno regional executive committee concerning its reluctance to register a private unitary publishing enterprise "Region - Press". It was planned that "Region - Press" would carry out the functions of edition of "**Novaya Gazeta Smorgoni**" newspaper.

O. Kunjavskaja applied to Grodno regional executive committee for registration of the enterprise "Region - Press" in early March, 2003, after the Economic Court of Grodno region cancelled registration of the publisher of "Novaya Gazeta Smorgoni" individual entrepreneur Ramuald Ulan in satisfaction of appeal of Smorgon district executive committee. Grodno regional executive committee has not registered the enterprise, and so O. Kunjavskaja had to go to court.

The litigation began on January 13 in the Economic Court of Grodno region, but was later transferred to the Supreme Economic Court. The case was considered by the judge Lyudmila Kolesnikova.

The court has issued a particular ruling in the address of Grodno regional executive committee stating that officials were late in their answer to Kunjavskaja, and did not inform her about the reasons of refusing registration to "Region - Press". However, the court has refused to satisfy the claim requirements.

On October 15 publisher Ramuald Ulan once again submitted to Smorgon district executive committee an application for coordination of office accommodation of "**Novaya Gazeta Smorgoni**" at the following address: Smorgon, Tankistov St., 8. This coordination was necessary for R. Ulan in connection with the necessity to re-register the edition after the Ministry of information suspended the newspaper twice within one year (Article 11 of the Law on press and other mass media).

On November 10 R. Ulan received the answer prepared by A. Apanovich, head of Department of information of the district executive committee which said that the application *«... will be considered in essence after reception of the answer of the Ministry of information to the inquiry of the executive committee»*. The publisher was not informed about the essence of the inquiry.

On November 11 Ramuald Ulan submitted appealed to the General Public Prosecutor V. Sheiman and to Administration of the President. The appeal was triggered by the answer received by him from Smorgon executive committee, in which regional authorities informed him that consideration to the issue of coordination of accommodation of the edition of «Novaya Gazeta Smorgoni» was postponed. The Office of Public Prosecutor of the Republic of Belarus and the Administration of the President have refused to satisfy R. Ulan's requirements.

On December 9 Mechislav Goy, Chairman of Smorgon district executive committee refused the requests of the businessmen Ramuald Ulan and Olga Kunjavskaja in coordination of accommodation of mass media. The individual entrepreneur Olga Kunjavskaja was also refused in coordination of accommodation of the advertising - entertaining newspaper "**Afisha**" at the following address: Smorgon, Tankistov St., 8. The reason for the refusal was accommodation of other organizational structures of NGOs and political parties at this address. The reason of refusal to coordinate accommodation of "**Novaya Gazeta Smorgoni**" at the same address was not explained in the letter received by R. Ulan.

On January 27, 2005 the Chairman of Smorgon district executive committee M. Goy said in his reply to another application from Ramuald Ulan for coordination of accommodation of "Novaya Gazeta Smorgoni", necessary for re-registration of this edition, that the application *"was not submitted for consideration of the executive committee since according to the order of the Ministry of information of the Republic of Belarus № 7 dated January 14, 2005 the certificate of registration of the newspaper "Novaya Gazeta Smorgoni"... has become invalid"*.

INTERFERENCE WITH PRODUCTION OF MASS-MEDIA

According to the Ministry of information, as of December 1, 2004 there were 308 enterprises, departments and sections of various forms of ownership in Belarus carrying out printing activities. Of them 46 were subordinate to the Ministry of information, 38 were regional printing houses, 2 belonged to Gosznak and one - "Belarus House of Print" - belonged to the Administration of the President.

The bulk of newspaper production is produced by state enterprises. In 2003 66,7 percent of newspapers have been printed by the unitary company «Belarus House of Print, 23 percent - by the enterprises of the Ministry of information and only 10,3 percent – by other printing enterprises.

All printing houses operate on the basis of the license issued by the Ministry of information.

Despite sufficiency of printing enterprises, many of which have been reconditioned in 1999-2003, several newspapers («Belorusskaya Delovaya Gazeta», "Salidarnasc", "Djen", "Navinki", "Tovarisch", «Mestnaya Gazeta» and "Region-Vesti") cannot find a printing house in Belarus. From time to time these editions have managed to conclude corresponding contracts with some printers, but these contracts were later terminated almost immediately by the printing houses under the pretext of "lack of technical possibilities". In individual conversations their managers referred to instructions "from above".

A number of newspapers have suspended production, and others started to print in Russian printing houses. The editions of the newspapers "Tovarisch" and «Mestnaya Gazeta» have faced this problem already after the elections and the referendum, when their printing houses have unilaterally terminated contracts for rendering of printing services.

The editions printed in Belarus face attempts of censorship on the part of printing houses (both state and non-state ones). The monitoring has registered numerous cases of pressure upon editions to remove certain materials from newspaper.

On April 26 Minsk non-state printing house "Svetoch" terminated the contract for production of the Gomel non-state newspaper «**Volny Chas**». Before this accident within a week a Rechitsa company "Titul" and a Gomel printing house "Polespechat" have also refused to print the newspaper.

If two other printing houses referred to heavy work load or problems with the equipment, neither the general director of "Svetoch" Vitaly Verchak, nor employees of the enterprise could not explain the reason of sudden cancellation of the contract, as a result of which both sides have suffered losses: the edition of the newspaper has transferred money to the printer's account and has bought newsprint, and the enterprise, according to the founder of the newspaper V. Verbovikov, has already printed about a half of circulation. The printing house has returned the film to the edition, having preliminary cut its details from it.

In mid-May Minsk printing house "Svetoch" refused to print «**Novaya Gazeta Smorgoni**».

Since May 28 "Svetoch" terminated its contract with the edition of a non-state Volkovysk newspaper «**Mestnaya Gazeta**». The printer quoted outstanding financial debts of the edition as the reason.

On May 26 the printing house has removed from print an issue of the newspaper after refusal of the editor-in-chief to replace one of publications (*See also 3.5. Censorship. Infringement of professional*

independence of editions). Printing houses in Minsk, Baranovichi and Slonim which the editor-in-chief of "Mestnaya Gazeta" Andrey Shantarovich contacted after refusal of "Svetoch" to print the edition have also refused to cooperate with the edition.

"Svetoch" had been printing "Mestnaya Gazeta" for about a year. According to the editor-in-chief, all this time settlements with the printing house were conducted with a short delay, and nothing in this respect has recently changed.

Two issues of the newspaper "**Nedelya V Molodechno**" were not published in Molodechno (Minsk region) because of the refusal of the printing house to print the circulation of the edition. The problems with printing of the newspaper have emerged after publication in the newspaper of an article about an economic seminar for businessmen and heads of state enterprises attended by the ex-head of the National Bank of the country Stanislav Bogdankevich and the head of the analytical center "Strategy" Leonid Zaiko.

On September 8 Lida printing house has refused to accept for printing an issue of a regional political newspaper "**Telescope**", arguing the refusal by saying that the edition is registered in Lida, and the information placed in it concerns another town - Smorgon. The administration has refused to take into account the argument, that the newspaper is a regional one and so it can be distributed in the whole of Grodno area, including Smorgon. The newspaper had a license for distribution in Smorgon, Lida and Mosty.

On October 20 unitary company "Publishing house "Belarus House of Print" has unilaterally terminated its contract with the edition of the newspaper "**Tovarisch**" founded by the central committee of the Party of Communists of Belarus. The general director of the enterprise Roman Olejnik has explained in an official letter that the publishing house "*for technical reasons... is not capable of printing small circulation newspapers*".

The editor-in-chief of the edition Sergey Voznjak, questioning the statement about small circulation of the edition, specified that the recent orders to the printing house were for 30 thousand copies instead of 3-7 thousand as before. S. Voznjak is confident that the true reason of such actions was the contents of the issue: it was planned to place in the next issue the text of a hot-line of the party leader, disqualified runner-up at the parliamentary elections Sergey Kalyakin with readers on the issues of the elections and the referendum.

The printing house "Krasnaya Zvezda", where the edition of the newspaper has addressed with the offer to print the newspaper, has refused referring to inconsistency with the current technological schedule. A number of non-state printing houses have also answered negatively.

At a press conference **on October 28** S. Voznjak showed several copies of the newspaper which should have been published before the referendum, but had not been printed supposedly due to malfunction of a press. (This is how the refusal to print the newspaper was explained in the printing house "Belarus House of Press"). According to the editor-in-chief of the newspaper, the whole 30-thousand circulation of the pre-referendum issue had been printed and then destroyed. Following this incident the edition has prepared a letter addressed to the General Public Prosecutor with the request to carry out investigation of drawing large scale damage to the state.

On November 17 Minsk printing house "Plutos-Market" refused to print the first issue of the Volkovysk newspaper "**Mestnaya Gazeta**" after its suspension by the Ministry of information. According to the editor-in-chief of the newspaper Andrey Shantarovich, the printing house has printed approximately 2,5 thousand copies before the printing was stopped due to "debts of the edition". The editor of the newspaper is unaware about the destiny of the printed copies. The first issue of the newspaper after the forced break talked about the hunger-strike of its editor Shantarovich and a Volkovysk businessman N. Avtuhovich and about the results of parliamentary elections and the referendum.

On November 18 A. Shantarovich received the notice in writing from the management of the printing house "Plutos-Market" that the printing house terminated the contract for printing the newspaper with the edition. A number of printing houses in Belarus where the edition addressed with the offer to sign the contract for printing have refused. On December 1 the first issue of "Mestnaya Gazeta" was printed in Smolensk (Russia).

HINDRANCE OF DISTRIBUTION OF MASS-MEDIA PRODUCTION

The right on dissemination of complete, authentic and duly information is guaranteed by Article 34 of the Constitution of Belarus. According to Article 25 of the Law «On press and other mass media», obstacles to distribution of mass media production carried out legally shall not be allowed except on the basis of the court decision which has entered into force. Article 48 of the same law classifies hindrance of activity of mass-media distributors as an infringement of freedom of mass information.

Nevertheless, in 2004 hindrance of distribution of printed editions had a mass character, not only during their sale or distribution, but also during their distribution by subscription.

From May 1, 2004 subscription to mass-media was declared a licensed activity. The Ministry of communications (later renamed into the Ministry of communications and information) declared that editions of mass-media should receive licenses for carrying out subscription and delivery of their own editions to subscribers. The Ministry referred to the Law "On post communication", which classified subscription to printed mass-media and their delivery as services of post communication (See more details in Section 2. *Changes in legislation*).

35 economic entities have duly applied for licenses to the Ministry of communications. The majority of non-state organizations were refused licenses. In June 2004 refusals were received by the LLC "Publishing House "Intex-Press", editions of the newspapers "Belorusskaya Delovaya Gazeta", "Gazeta Slonimskaya" and "Brestsky Courier". In most cases lack of technical possibilities allowing to carry out delivery of printed editions was quoted as the reason of refusal (in spite of the fact that before introduction of licensing these edition have completely fulfilled all their obligations to subscribers). Two large non-state agencies have not received licenses for subscription and delivery of periodicals either. Thus, carrying out of subscription by editions of non-state mass-media during the pre-election period was disrupted.

Besides introduction of licensing for subscription to mass-media and refusal of the Ministry of communications and information to issue corresponding licenses to a number of independent editions, authorities have also created obstacles to realization of printed mass-media in retail trade. During the whole of 2004 the editions faced a number of bureaucratic obstacles, and contractors of editions selling their newspapers faced administrative pressure. "Belsoyuzpechat" kiosks often did not put independent press on their shelves at all, or placed it in «distant corners». Many state organizations practiced open infringement of contractual obligations. For example, Gantsevichi and Pinsk branches of "Brestoblsoyuzpechat" repeatedly violated their contractual obligations for realization of the newspapers published by the «Publishing House "Intex-Press"». For instance, the Gantsevichi branch without any warning has unilaterally terminated the contract for realization of the newspaper «Gantsavichsky Chas», and Pinsk branch has refused to sell the newspaper «Myastsovy Chas». In July 2004 the director of LLC «Publishing House "Intex-Press" Vladimir Janukevich addressed the Ministry of economy with the request to influence the unitary company "Brestoblsoyuzpechat", which occupies the leading position in the market of retail distribution of periodicals and therefore falls under action of the antimonopoly law (the Law «On counteraction of monopolistic activity and development of a competition» (Article 5) directly forbids actions of the economic entity occupying the dominating position which in this or that form limit competition or access to the commodity market). Almost three months after the address the Ministry of economy informed that the unitary company "Brestoblsoyuzpechat" was not included in the register of economic entities occupying the dominating position in the commodity market.

The editions selling their print run with the help of individual businessmen or their own system of distributors have also faced problems. For instance, the individual businessman Andrey Shantarovich, the publisher and distributor of "Mestnaya Gazeta" was refused license for retail trade by Smorgon executive committee without any grounds. A. Shantarovich had to give up the idea of his own distribution network and had to conclude contracts for realization of the newspaper with other businessmen.

Within 2004, and especially during the elections and the referendum, law enforcement bodies have repeatedly detained distributors of both registered and unregistered editions (according to Article 1 of the Law on press registration of periodic printed editions distributed with circulation of less than 300 copies is not required) and confiscated print run of newspapers and leaflets.

According to Article 25 of the Law on press, confiscation of print run of the registered printed edition is not allowed, except on the basis of a court decision which has entered into force. Nevertheless, on May 26 the administrative commission of Leninsky district of Grodno (executive authority) has decided to confiscate 4,800 copies of issue №11 of the newspaper "Djen", confiscated from a carrier by Ivye militia. The editor of the newspaper Mikola Markevich was fined for «illegal distribution of a printed edition (Part 3, Article 172 of the Administrative Code) in the amount of 19 thousand roubles (about 10 Usd). The obviously illegal decision of the administrative commission was appealed against in the court of Leninsky district of Grodno, but on June 28 the court upheld it. This decision has also been upheld by the regional court.

According to the monitoring of human rights violations carried out by "Charter-97" (<http://www.charter97.org/rus/news/2005/02/08/monitoring>), over 600 cases of arrests and detentions for distribution of printed editions was registered in Belarus in 2005. As a rule the distributors of unregistered (and sometimes registered) editions were held responsible according to Articles 172 Part 3 and 172-1 Part 8 of the Administrative Code.

Article 172 Part 3 of the Administrative Code establishes responsibility for distribution of printed editions produced with violations of the established order and not having the dateline, which contents is aimed at causing damage to the state and social order, rights and legitimate interests of citizens. This offence is punishable by warning or a fine amounting to 5 base units with confiscation of print run).

According to the law, to hold someone responsible for violating Article 172 Part 3 of the Administrative Code *simultaneous presence* of the following conditions is necessary:

- 1) The person was engaged in distribution of printed editions;
- 2) The given printed editions have been produced with violations of the established order;
- 3) The given editions had no dateline (at all);
- 4) The contents of the given editions was aimed at causing damage to state and social order, rights and legitimate interests of citizens;
- 5) The given printed editions were not mass media (since the responsibility for infringement of legislation on press and other mass media, including for illegal production and distribution of mass media is established by Article 172-1 of the Administrative Code).

Article 172-1 Part 8 stipulates punishment for illegal production and distribution of mass media (the fine for citizens - up to 10 base sizes, and for officials - from 10 to 50 base units). The content of this article allows to state that for punishing somebody it is necessary, that he{she} had direct relation both to illegal production and to distribution of mass-media (i.e. print run or a part of print run of a newspaper, audio or video recording, TV, radio or film-chronicle program, etc.).

However, the practice of application of these articles of the Administrative Code shows that law enforcers do not always stick to the law. In 2004 courts and administrative commissions in their decisions on administrative responsibility as a rule duplicated reports on administrative offences filed by militiamen. It happened in spite of the fact that the Human Rights Committee of the United Nations has adopted several decisions recognizing such practice as violating Belarus' obligation in the field of freedom of expression.

On January 15 in Smorgon tax inspection officers detained three distributors of “**Mestnaya Gazeta**”, and on the next day - one more distributor. The Smorgon issue of the edition contained the materials prepared by the journalists of the «Novaya Gazeta Smorgoni» suspended by the authorities.

The officers filed reports for trading without license and newspapers and money from their sale have been confiscated. Tax inspectors referred to the decision of Smorgon district executive committee dated December 18, 2003 introducing new rules of retail trade and supposedly excluding printed editions from list of goods. However, on January 15 the edition of “Mestnaya Gazeta” received in the district executive committee the approved list of goods for retail trade, mentioning, among other, newspapers. According to the founder of “Novaya Gazeta Smorgoni” Ramuald Ulan, the distributors of the edition had corresponding licenses.

On January 16 the last issue of the independent newspaper "Region-Vesti" was published in Svetlogorsk. It was the fourth successive issue of the edition which published only the program of telecasts.

According to the editor-in-chief of "Region-Vesti" Nikolay Pasedko, the edition had to print only the program of telecasts after Svetlogorsk district executive committee has forbidden the management of the printing house to accept for print all other information materials under the logo "Region-Vesti". First deputy Chair of Svetlogorsk district executive committee Eugeny Zhdanovich has categorically denied this information, stating that the district executive committee “*is not dealing with such cases*”.

But even as the program of telecasts the edition has not got to its subscribers. Svetlogorsk branch of "Gomeloblpochna" informed the editions about termination of the contract for distribution of the newspaper (from the beginning of 2004 "Region-Vesti" was distributed only among subscribers).

On January 21 it became known that the print run of the magazine "Asambleya" has disappeared from Minsk post office. The founder of the magazine is the executive bureau of the unregistered Assembly of nongovernmental organizations. In conversation with senders of the magazine post employees informed that the Office of Public Prosecutor was involved in this case.

The magazine "Asambleya" had been distributed among NGOs in sealed envelopes from individuals. It was a special issue of the magazine “NGOs and elections”, prepared for dispatch on January 10 that "has disappeared" from the post office. The Issue contained analytical materials dedicated to possible participation of NGOs in the future election campaign to the House of Representatives, as well as the list of surnames of judges, public prosecution employees and experts of judicial authorities involved in liquidation of nongovernmental organizations in Belarus. The lawyers of the NGO Assembly have declared about violation of secret of private correspondence.

On January 28 the first issue of the newspaper "**Djen**" was published after half a year break. On the same day LLC "Roscherk" with which the edition had signed the contract for delivery of the newspaper across Belarus, refused to cooperate with the edition.

On January 30 state enterprise "Grodnooblsoyuzpechat" refused to sell "Djen" newspaper. It was the only company with which the edition could conclude the corresponding agreement. While breaking the contract, the director of the unitary company "Grodnooblsoyuzpechat" T. M. Volchkevich referred to the order of the Ministry of information dated January 10 on centralized conclusion of contracts through the unitary company "Belsoyuzpechat".

In late January the administration of the shop "Alesya" in Baranovichi terminated the contract of rent with the individual businessman Sergey Ersh, who, among others, sold local newspapers "Intex-Press", "Shag" and "Allo". The administration of the shop has not explained the reasons of termination of the contract, and has not authorized the sale of independent newspapers when the department of marketing of the publishing house "Intex-Press" has addressed the shop managers with the corresponding inquiry.

In February local authorities in Brest and Grodno regions started to collect data on distributors of regional newspapers. Some independent editions have received from district executive committees inquiries asking to submit information about legal entities and individual businessmen engaged in distribution of independent editions, their addresses and essential elements of documents allowing them to trade in printed materials.

In particular, such inquiries were received by the editions of the newspapers "Lyahavitsky Chas", "Intex-press" (Baranovichi) and "Mestnaya Gazeta" (Volkovysk). Lyahovichy and Volkovysk district executive committees referred to the orders of regional executive committees recommending them to collect this data by March 1. The letters also referred to the presidential decree № 516 dated September 24, 2001. The corresponding item of the decree only said that "*the Ministry of information shall perform state regulation in the field of transfer and distribution of information*". The deputy Chair of Lyahovichy district executive committee Nikolay Kulitsky assured, that the inquiry concerns not only independent, but also state editions (in particular, the newspaper "Lyahavitsky Vesnik").

From March 20 Baranovichi double liability company "Yuzhanka" unilaterally terminated the contract on sale of the independent newspaper "**Intex-press**". As a substantiation of the decision the director of the trade enterprise A. N. Kozlova quoted signing of the contract with the unitary enterprise "Belsoyuzpechat" for delivery and sale to the population of Belarus of the *«leading state newspapers and magazines»*.

The note on termination of the contract was signed on March 18, and the edition of "Intex-press" received it on March 22.

In the evening **on April 7** road police in Ivje (Grodno region) arrested the print run of the independent newspaper "**Djen**" transported to Grodno from the Smolensk printing house.

According to the officer on duty of Ivje Interior Department Nehvedovich, the reason for the arrest was that "*all the accompanying documents raise doubts in their validity*". The editor of "Djen"

Mikola Markevich says all the documents have been made out properly and registered in the corresponding state bodies. One week prior to the incident the print run of the previous issue of "Djen" was detained at the same road police post, but later released after short examination.

On May 26 the administrative commission of Leninsky district of Grodno fined Markevich for "distribution of the printed edition released with infringement of the established order and having no dateline, which contents is aimed at drawing damage to the state and social order" (Article 172, Part 3 of the Administrative Code) in the amount of 19 thousand roubles (about 10 Usd) and ruled to confiscate 4,800 copies of issue №11 of the newspaper. M. Markevich has appealed against the decision of the administrative commission in court.

On June 28 the court of Leninsky district of Grodno (judge Anna Chileko) upheld the decision of the administrative commission (See also 4.1. *The most significant litigations with participation of mass-media and journalists*).

On April 27 trading Republican unitary enterprise "Brestoblsyuzpechat" refused to sign the contract on sale of the newspaper "**Kabelnoye Televidenie**" in connection with "*congestion of trading areas*".

From **May 1** subscription and delivery of printed mass-media were declared a licensed activity.

In the evening of **May 14** the head of a local office of the United Civic Party Vladimir Shantsev was detained in Mogilev, near to the city centre, when distributing free-of-charge to passers-by the independent newspaper "**Vremya**". Two hours later V. Shantsev was released without filing a report, but more than one and a half hundred copies of the newspaper were confiscated.

On June 2 the board of the Ministry of communications and information refused to give out licenses for carrying out subscription and delivery of printed editions to several private enterprises. In most cases the ministry quoted absence of the "technical base" for operative delivery of editions as the reason for refusal. The actions of the ministry have directly supported the monopoly of "Belpochta", which is included into the structure of the Ministry of communications and information and has been included in the State register of economic entities occupying the dominating position in the commodity markets of Belarus for several years already.

The private companies which have not received the license for subscription and delivery of press include "Publishing House "Intex-Press", unitary enterprise "Marat" (edition of "Belorusskaya Delovaya Gazeta"), agency "Media-Press", etc. In total the Ministry of communications and information has considered 35 applications for the license. The ministry has refused to practically all applicants of non-state form of ownership applying for distribution of political editions. Concerning some editions the decision was not taken.

In June the Ministry of information refused to take measures in relation to Pinsk branch of "Beloblsyuzpechat" which had refused to sign the contract with the publishing house "Intex-Press" for retail sale of the newspaper «**Myastsovy Chas**» for 10 months, referring to «*congestion of the trading network*».

Answering the complaint of the newspaper publisher to the Ministry of information, into which structure "Belsoyuzpechat" is included, deputy Minister S. Bulatsky informed that the ministry cannot force signing contracts, *"except for the cases when the duty to conclude the contract is stipulated by legislation or a voluntary accepted obligation"*.

On July 15 tax inspection of Smorgon district inspected the activity of distributors of "**Novaya Gazeta Smorgoni**", which resumed publishing on May 20 after its suspension. For one of them, Larisa Rostova, the inspectors have drawn up an act on selling the newspaper in the non-authorized place. As L. Rostova worked on the basis of the contract with Olga Kunjavskaja, the tax inspector A. Radevich has filed a report on an administrative offence concerning the latter and has forwarded it to court.

On August 13 the judge of Smorgon district Alexander Demeshchik after a three-day trial made a decision for the benefit of distributors of the edition and stopped the case on administrative offence concerning the individual entrepreneur O. Kunjavskaja for lack of corpus delicti.

O. Kunjavskaja was engaged in distribution of "Novaya Gazeta Smorgoni" under the contract with the founder and the publisher of the newspaper Ramuald Ulan.

On August 12 road police officers of Zhlobin district 1,073 copies of the independent newspaper "**Vremya**" and 5 copies of the Russian newspaper "Novaya Gazeta" from Vladimir Katsora, deputy chair of the Gomel regional organization of the United Civic Party. Besides, they confiscated 15 packages of leaflets with the program of the coalition "Five +" - "Five steps to better life".

V. Katsora was detained at a road police post in the village Lebedevka of Zhlobin district approximately at 19 o'clock when traveling by car from Minsk to Gomel. Having declared that V. Katsora's car was in search in connection with the case on stealing, road police officers brought him to the regional department of militia, where they have searched his car and have drawn a report on confiscation of printed editions. The corresponding reports were made by militia captain Vladimir Zaretsky, senior representative of criminal investigation department.

On August 31 the court of Zhlobin district instructed local militia to check the origin of the newspaper "Vremya". The transportation of leaflets was classified by the judge Elena Ermolchik as an activity on behalf of an unregistered political party or public organization, and so Katsora and was fined 585 thousand roubles (about 270 US dollars). The judge has ruled to destroy the leaflets.

Several large shops in Minsk have refused to sell independent editions, including "Belorussky Rynok", "Belorusskaya Delovaya Gazeta" and "Belorusskaya Gazeta". "Belorusskaya Gazeta" faced this problem **on August 23**. According to Victor Bondarenko, executive director of "Belorusskaya Gazeta", trade enterprises "Preston-Market" and supermarket "Natsyjanalny" have unilaterally terminated contracts with the edition without any warnings. He said that managers of the shops did not conceive that they had received the corresponding instruction from Minsk municipal executive committee.

"Belorusskaya Delovaya Gazeta" managers confirm this information. Sources of the edition inform that the heads of large shops in the capital were summoned to Minsk municipal executive committee for a meeting with Vladimir Mirgalovsky, first deputy chief of Central department of consumer market. V. Mirgalovsky has refused to confirm this information to "Belorusskaya Delovaya Gazeta" correspondent and declared that *"it has no relation to newspapers"*.

On August 29 at a market in Orsha militia detained Gennady Ananjev, the founder and the editor of the newspaper "**Vremya**", who distributed the edition to passers-by. Ananjev had been kept in custody for about one hour. In Sharkovshchina (Vitebsk region) United Civic Party member Valery Korolev was detained at a local market for distributing the newspapers "**Zgoda**", "**Novy Chas**", "**Tut I Tsiaper**" and leaflets of the election coalition "Five +". V. Korolev has spent about two hours in a local police station. Police have failed to find anything illegal in the actions of G. Ananjev and V. Korolev.

On September 28 militiamen in the settlement Voronovo (Grodno region) filed a report on the pensioner Juzef Kirvel on accusation of distribution of the newspaper "**Tut I Tsiaper**".

The district militiaman Andrey Lopjan informed Belarusian Association of Journalists that he had detained Juzef Kirvel at the request of KGB employees *«As they said, Kirvel distributed leaflets at the market»*.

The pensioner was kept for about two hours at the police station. Having studied the newspaper, militiamen told him, that was published illegally and had fake dateline. They demanded from the pensioner to explain, where and from whom he had received the newspaper.

In October in town of Gorki more than 500 copies of democratic editions, most of which were the newspapers "**Tut I Tsiaper**" and "**Zgoda**" were confiscated from the journalist Edward Brokorev, activist of the election headquarters of the candidate Andrey Jurkov. E. Brokorev had received them from the bus driver who arrived from Minsk, when he was approached by militiaman and the unknown person in the civilian clothes, who have demanded him to proceed to the police station.

In the police station they have looked at the newspapers and confiscated most of the copies. Having kept the journalist for two and a half hours, they have filed a report and released him.

On October 12 State traffic inspectorate officers confiscated over 300 copies of the newspaper "**Nedelya**" and about 7 thousand leaflets "Say "No" to Lukashenka!" after a search in the car of Arthur Tsurbakova, authorized representative of Ales Korneenko, candidate from UCP in Gomel. The car with two more authorized representatives of the candidate Sergey Semenov and Roman Oljanik was stopped on the entrance to the town of Dobrush. All three were taken to the regional department of militia. A. Tsurbakov was accused of distribution of printed materials without dateline, after which he was brought to the regional court and fined 5 base units or about 50 Usd.

On the day of elections **on October 17** a number of web-sites have been blocked in Belarus, including web-sites of "Charter-97", Radio Liberty, United Civic Party, human rights center "Vyasna", civil initiative "Partnerstva". In the morning of October 17 these Internet resources worked as usual, but after 12.00 they stopped loading. A similar situation was observed in Belarus on September 9, 2001 during the last presidential elections.

Several book shops in the capital have refused to sell Belarusian cultural **magazine "Arche"**. This information was voiced **on October 28** at the press conference organized in the Belarusian

Association of Journalists by Valery Bulgakov, editor-in-chief of the edition. The administration of several shops demanded that the edition also took back all previous issues of the magazine.

Bulgakov noted that the problems with distribution of the edition have arisen after publication of the issue dedicated to 10 years anniversary of A. Lukashenka's rule (№4 for 2004).

From **December 2** "Belsoyuzpechat" stopped distributing the literary and art magazine "Arche"

A regional telecommunication enterprise in Gantsevichi has refused the request of the edition of the independent newspaper "Gantsavitsky Chas" to air a subscription campaign ad. The communication center has referred to lack of technical possibility.

Gantsevichi regional Department of telecommunication broadcasts locally at least twice a week. It was not the first case of refusal of local telecom to air the information concerning subscription to "Gantsavitsky Chas". Half a year ago the edition of the edition addressed it with a similar request and, having received a consent, has transferred the money for the service. However, the ad has only appeared once and was not repeated any more.

On November 18 Hoiniki court recognized members of the United Civic Party Nikolay Isachenko and Leonid Sudalenko guilty of illegal production and distribution of mass media (Article 172-1, Part 8 of the Administrative Code). The court has classified as mass media the leaflets which represented x-copies of the newspaper «Narodnaya Volya», brochures «Dear fellow countrymen» and «Five steps to better life», urging to vote against the question offered by A. Lukashenka for the referendum.

United Civic Party activists distributed these leaflets on October 10. On the basis of militia reports, Fyodor Gvozdev, business manager of Hoiniki district executive committee has made reports on the administrative offence as the official authorized by the regional Council.

The Chair of Hoiniki court Lyudmila Dembovskaja fined A. Isachenko 5 base units (120 thousand roubles, or 55 US dollars), and judge Michael Gorashchenko fined L. Sudalenko 6 base sizes (144 thousand roubles, or 66 US dollars).

Private unitary enterprise "Varyag" (owner of a Pinsk local TV channel and an FM-station «Svoye Radio») has received the order of Pinsk municipal executive committee to dismantle its transmitter. The executive committee referred to complaints of inhabitants of the house on which roof the equipment was located that the transmitter was supposedly negatively influencing their health.

The "Varyag" administration has rejected the claim about harm to health, having referred to the conclusion of the Republican center of hygiene, epidemiology and public health and the Belarusian sanitary and hygiene research institute. Pinsk inhabitants have also acted in protection of the TV channel "Varyag" and the radio station «Svoye Radio» and began to gather signatures. By **November 19** they have gathered more than 3 thousand signatures.

Nevertheless, Pinsk municipal executive committee has addressed the court with a claim to annul the contract on rent of the premises occupied by the broadcasting company "Varyag".

On December 7 Brest regional economic court has rejected the claim of the municipal executive committee. The lease contract for the premises occupied by the private unitary enterprise "Varyag" was recognized as prolonged till May 1, 2005. By that time the transmitter for the signal of "Svoye Radio" and the local TV signal will remain on the roof of building №6 on Karasev street in Pinsk.

The most significant litigations with participation of mass-media

SUPREME ECONOMIC COURT REJECTS CLAIMS OF "BELORUSSKAYA DELOVAYA GAZETA» ("BDG")

On February 10, 2004 Supreme Economic Court (judge Lyudmila Kolesnikova) rejected the claim of the unitary enterprise "Marat" (edition of "Belorusskaya Delovaya Gazeta") to the Ministry of information to recognize void the warning issued to the newspaper on December 16, 2003.

The prevention warning was issued for the article "It Was Your – and Now It Is Ours", published in "BDG" on May 21, 2003; in particular, for the information that some top Mogilev officials are suspected in purposeful excitation of procedure of bankruptcy of a machine-building factory. The ministry of information stated that the persons mentioned in the article have no official status of suspects according to the Criminal Code. Besides, in the opinion of the ministry, the publication contained a wrong estimation of the financial situation of the Mogilev machine-building factory, and so the newspaper has distributed wrongful information, in violation of requirements of Article 32 of the Law on press.

However, the information on the financial situation of the Mogilev factory has been distributed in the official press release of the Committee of state control and has been printed in the newspaper without changes.

On February 19 the Supreme Economic Court has rejected the claim of the edition of "Belorusskaya Delovaya Gazeta» to the Ministry of information to recognize void the warning, issued to the newspaper on December 26, 2003. The reason for the warning was three articles by the journalist Sergey Satsuk «He Has Left Through the Window. Serial Maniac has Destroyed the Myth About Inaccessibility of "Americanka" jail" ("BDG" №82, dated September 24, 2003), «One Against All» ("BDG" №84 dated October 1, 2003) and «Attempt Which Has Not Happened» ("BDG" №96 dated November 12). The ministry considered that in the specified publications the newspaper distributed «information not corresponding to reality», in infringement of Article 32 of the Law on press.

Issuing the warning has been initiated by KGB, which have not addressed the edition with the requirement to publish a refutation.

On March 23 Supreme Economic Court rejected one more claim of "BDG" edition to the Ministry of information. The newspaper tried to appeal the warning dated January 30 issued for Irina Makavetskaya's article "Viscount" Has Not Fit In Belarusian Realities" which appeared in issue №104 of "BDG" dated December 10, 2003. The ministry of information considered that the journalist has violated Article 5 of the Law on press, having published materials of ongoing court proceedings without a written sanction of the judge.

On February 13 the Office of Public Prosecutor of Gomel region issued a warning to Irina Makavetskaya for her article "Viscount" Has Not Fit In Belarusian Realities".

On July 23 Supreme Economic Court (judge Arkady Suslo) rejected the claim of the unitary enterprise "Marat" (edition of "Belorusskaya Delovaya Gazeta") to recognize void the decision of the Ministry of communications and information of Belarus not to issue the license for subscription and delivery of periodicals to the enterprise.

COURT CASES IN CONNECTION WITH REGISTRATION OF MASS-MEDIA

On January 10 Supreme Economic Court satisfied the claim of the Krichev entrepreneur Vladimir Kudryavtsev to Krichev district executive committee to recognize void the refusal in accommodation of his edition "Sobstvennyy Kommentary". The court has also issued an "instruction" to the Mogilev regional executive committee, which has earlier recognized the actions of Krichev authorities as lawful.

In March, 2003 V. Kudryavtsev received the certificate of a private entrepreneur, with the main activity indicated as publishing of newspapers. In June 2003 he addressed Krichev district executive committee with the application for coordination of accommodation of the newspaper "Sobstvennyy Kommentary" (this coordination, according to Article 10 of the Law «On press and other mass-media» is required for registration of mass-media in the Ministry of information). The district executive committee has rejected the businessman's request to coordinate the legal address on the basis that he allegedly could not act as an edition of mass-media. Mr. Kudryavtsev has appealed this refusal in Mogilev regional executive committee, and the latter has recognized Krichev officials' decision illegal, but has not cancelled it. After that Krichev district executive committee has made changes to its decision on refusal in coordination of accommodation of mass-media, having removed the motivation from it at all. Having received another complaint from the businessman, Mogilev regional executive responded that Krichev authorities' decision was lawful. After that Kudryavtsev has complained to the economic court of Mogilev region. After two sessions the case was adopted for consideration in the first instance by the Supreme Economic Court.

The results of the trial positive for the businessman have not exempted him from the necessity of coordination of accommodation of the newspaper office with Krichev authorities. By the end of 2004 he has still not received such coordination.

On February 19 Supreme Economic Court waived the appeal of Smorgon entrepreneur Olga Kunjavskaja to Grodno regional executive committee. O. Kunjavskaja tried to appeal against the refusal of the regional executive committee to register a private unitary enterprise "Region - Press". Having rejected the claim, the judge Lyudmila Kolesnikova informed that she would issue an individual "definition" to the address of Grodno regional executive committee officials, who have not specified the reason of refusal in registration and have also delayed the answer to the businesswoman.

O. Kunjavskaja, the wife of the publisher of "Novaya Gazeta Smorgoni" Ramuald Ulan, submitted the application for registration of a private unitary publishing enterprise "Region - Press" to Grodno regional executive committee in early March 2003, but the officials have refused it without explaining the reasons. It was planned that the unitary company "Region - Press" would take over the functions of the edition of "Novaya Gazeta Smorgoni" after the economic court of Grodno region had cancelled registration of the individual businessman R. Ulan, publisher and founder of the newspaper, in satisfaction of the claim of Smorgon district executive committee. The consideration of the claim of O. Kunjavskaja began on January 13 in the economic court of Grodno region, but later the Supreme economic court has requested the materials of the case.

S. ATROSHCHANKA AND "OBOZREVATEL" AGAINST "NARODNAYA VOLYA"

On February 18 the court of Leninsky district of Minsk partially satisfied the suit on protection of honor, dignity, business reputation and indemnification of moral damages to LLC "Alliance -

Media" (founder of the newspaper "Obozrevatel") to the edition of the newspaper "Narodnaya Volya". The court has obliged "Narodnaya Volya" to print a refutation of the information and to pay legal costs and pay for the services of the lawyer hired by the LLC "Alliance - Media". However, the judge Valentina Zinkevich has rejected the requirement of LLC "Alliance - Media" to compensate moral damages in the amount of 50 million roubles.

The appeal was triggered by the article printed on September 3, 2003 "How "Obozrevatel" of Sergey Atroshchanka Treated Leonid Levin In the Bandits' Way". The author of the article described the conflict between the edition of "Obozrevatel" (chief editor S. Atroshchanka) and L. Levin which has arisen on the ground of the article "Deputies Kostyan, Navasyad and Fralou - Personal Anti-Semites?" L. Levin assured that in this article which represented L. Levin's interview to "Obozrevatel" the journalist Anna Muravskaja has misquoted him, since he has never accused V. Navasyad and V. Fralou of anti-Semitism. "Obozrevatel" has refused to fulfill L. Levin's requirement and print a refutation, and "Narodnaya Volya" wrote about it.

In the opinion of respondents, the court has not given an appropriate evaluation of the actions of the edition of "Obozrevatel" in relation to L. Levin and has unreasonably classified speculations of the journalist as not corresponding to reality.

On April 26 Minsk city court rejected the cassation appeal of the edition of the newspaper "Narodnaya Volya" to cancel the decision of Leninsky district court dated **February 18**.

On October 21 the court of Moskovsky district of Minsk has refused the claim of Valery Fralou for protection of honor and dignity to the edition of the newspaper "Obozrevatel" and Anna Muravskaja, author of the article "Deputies Kostyan. Fralou and Navasyad - Personal Anti-Semites?".

V. Fralou demanded from respondents 100 million roubles for being called an anti-Semite in the article. The court has rejected the claimant, having referred, among other, to the fact that the truthfulness of the information printed in "Obozrevatel" was recognized by decision of the court of Leninsky district of Minsk dated February 18.

On March 1 the court of Leninsky district of Minsk (judge Vera Tupik) partially satisfied the claim of the businessman Sergey Atroshchanka to "Narodnaya Volya" and to Marina Koktysh, author of the article "What Business Feels Good in Belarus?", having obliged to compensate moral damages of the claimant in the amount of 15 million roubles (over 6,900 US dollars).

Marina Koktysh's article "What Business Feels Good in Belarus?" appeared in "Narodnaya Volya" in the autumn of 2003 and represented a selection of statements of the people well-known in the business circles concerning the statement of Sergey Atroshchanka that "...Belarus has excellent conditions for business". S. Atroshchanka classified a number of statements as direct insults in his address. The respondents assured that the challenged statements have not distributed any information about S. Atroshchanka at all and that the well-known scientists and businessmen estimated not the claimant, but his statement and business environment in Belarus.

The respondents have appealed against the decision of Leninsky district court in the cassation order, but **on May 3** the board of Minsk city court has upheld it.

On September 29 Sergey Atroshchanka once again addressed the court of Leninsky district of Minsk with the requirement to collect from the edition of the newspaper «Narodnaya Volya» his

additional legal costs related to consideration of the cassation appeal of the edition. The complaint concerned the decision of the court related to the publication “What Business Feels Good in Belarus?”. The judge Valentina Bortnik has satisfied claim requirements in full and ruled to collect another 776 thousand roubles from the edition. The most part of this sum was in payment of the lawyer of S. Atroshchanka.

On October 5 the court of Leninsky district of Minsk has considered a similar claim to “Narodnaya Volya” on the part of LLC "Alliance - Media" (founder of the newspaper "Obozrevatel"). The judge Victor Gonchar has ruled to collect from the edition 840 thousand roubles for indemnification of additional charges of the claimant related to consideration of the cassation appeal of the edition. The appeal concerned the decision of Leninsky district court dated **February 18** on the case about the publication "How "Obozrevatel" of Sergey Atroshchanka Treated Leonid Levin In the Bandits' Way”.

In the opinion of "Narodnaya Volya” representatives, such judiciary practice is not based on the Civil Code of Belarus and impedes realization of the right on appeal of decisions.

On July 1 the appeal council at the National Center of Intellectual Property (NCIP) upheld the decision adopted by NCIP in December 2003, according to which the trade mark “Narodnaya Volya” has been provided to the businessman Sergey Atroshchanka. This decision was appealed against by the unitary company “Narodnaya Volya”.

The newspaper “Narodnaya Volya” has been registered as mass media by Iosif Siaredzich almost 9 years ago, and for this time nobody has challenged his authorships. The fact that S. Atroshchanka knew about existence of this "brand" at the moment of registration of the trade mark is undoubtful, since the businessman had initiated some litigations against the newspaper before.

The representatives of “Narodnaya Volya” drew attention that the registration of the trade mark has for S. Atroshchanka took only a few days, while according to the existing legislation only preliminary expert evaluation of his application should have taken six months. If the registration of the trade mark was held according to all stipulated procedures, S. Atroshchanka would not have time to register the brand “Narodnaya Volya”: the new Law “On trade marks” which has come into force on January 1, 2004, forbids to register a trade mark which coincides with the title of mass-media without the consent of its founder. In the previous edition of the law this norm had the same sense, but has been formulated not so precisely (“without consent of the rights holder”), to which the National center of intellectual property has referred.

By the end of 2004 S. Atroshchanka has not undertaken any steps in connection with registration of the trade mark “Narodnaya Volya” to his name.

EGOR RYBAKOU AGAINST “NARODNAYA VOLYA”

On May 31 the board of Supreme Court of the Republic of Belarus on civil cases considered the protest of the Supreme Court Chairman Mr. Vyshkevich on the case of Egor Rybakou against the newspaper “Narodnaya Volya”, its journalist Marina Koktysh and former TV host Eleonora Ezerskaya. The board has reduced the amount of indemnification for moral damages to be paid to the former head of Belarusian State TV and Radio Company E. Rybakou by M. Koktysh and E. Ezerskaya, from three to one million roubles. For the edition of the newspaper “Narodnaya Volya” the amount has remained unchanged - 50 million roubles (over 23 thousand US dollars).

The first consideration of the appeal took place **on September 26, 2003**. The reason for the conflict was the article published in 2001 “Eleonora Ezerskaya: I Guarantee Five Poods of Love”. E. Rybakou, then Chairman of the National State Broadcasting Company considered, that the information published in it did not correspond to reality and offended his honor, dignity and business reputation. The board of the Minsk city court **on November 17, 2003** reconsidered this case following the appeal of the edition and protest of the Office of Public Prosecutor. It has not only rejected complaints of respondents, but has also increased the amount of indemnification to Mr., Rybakou from 10 to 50 million for “Narodnaya Volya” and from 1 to 3 million for M. Koktysh and E. Ezerskaya.

At the moment of consideration by the Supreme Court of the protest Egor Rybakou has already spent almost 4 months in KGB investigation jail. Right after his dismissal from job in February, 2004 he was accused of large-scale plunders, bribery and abusing authority and then arrested.

COURT REJECTS APPEAL OF “NARODNAYA VOLYA”

On August 13 the court of Leninsky district of Minsk (judge Zenkevich) waived the claim of the edition of the newspaper “Narodnaya Volya” against the actions of an officer of the court. The edition appealed to recognize illegal actions of the officer of the court K. Krajnov, as a result of which publishing of two issues of the newspaper “Narodnaya Volya” has been disrupted.

On August 4 K. Krajnov under the pretext of execution of judgments under the claims of Egor Rybakou and Sergey Atroshchanka warned the director of the printing house “Krasnaya Zvezda” that he had no right to print the newspaper “Narodnaya Volya” until private unitary enterprise “Narodnaya Volya” pays its duty in accordance with the court decisions. The claim stated that the officer of the court had no right to forbid the director of a printing house to print the newspaper “Narodnaya Volya”. Besides, the edition stated that imposing arrest on the newsprint necessary for economic activities has also been made with infringements of the law, since the cost of other property of the private unitary enterprise “Narodnaya Volya” arrested earlier by far exceeded the amount of the fine to be collected from the edition.

Having considered the appeal, the court has recognized the actions of the officer of the court lawful and has refused the edition of “Narodnaya Volya” in satisfaction of its requirements. The arrest of the edition property was removed before consideration of the appeal in connection with payment of all penalties by the edition.

A week later, **on August 20**, the Office of Public Prosecutor of Belarus finished investigation of the case of the former Chairman of the Belarusian State TV and Radio Company Egor Rybakou, for the benefit of whom the officer of the court had collected the most part of the money, and forwarded the case to the Board on criminal cases of the Supreme Court. **On February 11, 2005** E. Rybakou was sentenced to 11 years of imprisonment with confiscation of property and a ban to occupy responsible posts within 5 years.

PROSECUTION OF GRODNO JOURNALISTS

On September 30 the court of Leninsky district of Grodno ruled to collect from Elena Ravbetskaya, the editor-in-chief of the newspaper “Birzha Informatsii” the fine in the amount of 70 basic units (1 million 300 thousand roubles, or 600 US dollars). This was the result of hearings of the administrative case instituted against the journalist by the Office of Public Prosecutor of Leninsky district of Grodno. The judge Natalia Kozel considered that E. Ravbetskaya had distributed in mass

media untruthful information offending honor and dignity of the President of the Republic of Belarus (Part 10, Article 172-1 of the Administrative Code).

The case was triggered by the article “Treachery In the Name of People” printed on the front page of the newspaper **on September 9** (№36). The claims were caused by the following fragment of the publication: *“the Referendum (and the third term is not possible without it), declared by mister President, is a challenge to the society. One should not only lack any conscience, but also have a "domonical" neglect to plebs...”* The court has considered, that the article distributed untruthful information which *«does not reflect the true reason of the referendum appointed according to Article 85 of the Constitution, calling the referendum «a challenge to the society» with the indication to lack of conscience».*

On November 1 the court of Leninsky district of Grodno sentenced Pavel Mazheika, the head of Grodno branch of the Belarusian Association of Journalists, to 7 days of administrative arrest. He was accused of infringement of the order of organization of assemblies, meetings, street processions, picketing, etc. (Article 167, Part 1 of the Administrative Code). The court has seen infringement in the action which five Grodno journalists carried out on October 4, protesting against strengthening of pressure on independent press. The occasion for carrying out the action became the verdict against Elena Ravbetskaya, the editor-in-chief of the newspaper “Birzha Informatsii”, charged with distribution of the information offensive for the President.

Immediately after the announcement of the verdict the journalist has declared hunger-strike in the court room.

On November 3 the court of Leninsky district of Grodno (judge Victoria Kulakovskaja) decided on the same basis to collect 20 basic units (220 dollars) from journalists Natalia Makushina and Anatoly Makushin who had participated in the same protest action against strengthening of pressure on journalists together with P. Mazheika and two more colleagues.

Militia did not let the representatives of press who came to court with badges “Freedom to Mazheika!” enter the court room, demanding them to take off the badges.

Militia detained Natalia and Anatoly Makushins **on November 29** in the court room of Leninsky district court, which on that day considered the administrative case of Pavel Mazheika.

COURT RECOGNISES LAWFUL CONFISCATION OF THE NEWSPAPER "DJEN"

On May 26 the Administrative commission of Leninsky district of Grodno fined **N. Markevich** for “distribution of editions produced with infringement of the established order which have no dateline and which contents can cause damage to the state and social order, rights and legitimate interests of citizens (Part 3 of Article 172 of the Administrative Code) in the amount of 19 thousand roubles (less than 10 dollars) and ruled to confiscate 4,800 copies of issue №11 of the newspaper "Djen" (see also *3.11 Obstacles to distribution of mass-media production*). The administrative commission has counted an opinion of a militiaman as proof that the newspaper could damage state and social order, rights and legitimate interests of citizens. The militiaman considered potentially dangerous the publication of reasoning Valery Levaneusky, the head of the striking committee of entrepreneurs about, elaborating on whether Belarusians can protect their rights by means of active protests.

N. Markevich and his representative insisted that Article 172 of the Administrative Code does not concern activities of mass media (the responsibility for violation of the legislation on mass-media is established by Article 172-1), but determines responsibility for violation of rules of distribution of

printed matter such as leaflets. According to them, the newspaper "Djen" was published according to requirements of the legislation, it had all necessary information in the dateline, N. Markevich was not engaged in distribution himself, and in general, the printrun of the newspaper has been arrested by militia even before it has reached distributors (which means there was no fact of distribution). At the moment of arrest of the printrun N. Markevich was in an absolutely different place. Besides, according to Article 25 of the Law "On press and other mass media", confiscation of the printrun or a part of printrun of mass-media can take place only on the basis of the decision of court, and not the decision of an administrative commission.

N. Markevich has appealed against the decision of the administrative commission in court. **On June 28** the court of Leninsky district of Grodno (judge Anna Chileko) upheld the decision of the district commission on confiscation of printrun of the newspaper "Djen" and punishment the editor-in-chief of the newspaper Mikola Markevich by a fine. The board on civil cases of the Grodno region court which in August considered N. Markevich's cassation appeal against the judgment dated June 28 has also upheld the decision of Leninsky district court in Grodno.

EUGENY KRYZHANOVSKY AGAINST "BELORUSSKAYA DELOVAYA GAZETA" ("BDG")

On November 2 the court of Oktyabrsky district of Minsk considered the suit for indemnification of moral damages of Mr. Kryzhanousky and ruled to collect three million roubles (approximately 1,380 dollars) from "Belorusskaya Delovaya Gazeta" and 500 thousand roubles (about 230 dollars) from the journalist Sergey Satsuk.

The occasion for the proceedings was the publication "It Was a Good Joke, or the One Who Laughs Without Consequences Has a Good Laugh" which has appeared in "BDG" on March 5, 2004. S. Satsuk's article talked about participation of the firm "Hristofor-Clearing" among which founders was also E. Kryzhanousky, in the activity of one of Minsk "financial pyramids" because of which many Belarusian enterprises have had financial losses.

in April, 2004 Mr. Kryzhanousky filed a suit for protection of honor and dignity concerning this publication, and the court has recognized the information distributed by the newspaper as untruthful. At that time E. Kryzhanousky did not raise the question of indemnification of moral damages. After "BDG" published a part of the court decision, concerning refutation of the information distributed by the newspaper, E. Kryzhanousky went to court once again, this time demanding material indemnification at the rate of 100 million roubles from the newspaper and 20 million roubles from the journalist.

COURT ACQUITS BELARUSIAN STATE TV AND RADIO COMPANY

On March 7 the Pervomaisky district court in Minsk rejected the suit of Tatyana Protska, Chair of the Belarusian Helsinki Committee and her husband Dmitry Kozyr against the National State Broadcasting Company of the Republic of Belarus and its journalist Jury Prakopau.

Claimants demanded indemnification of moral damages after the journalists have violated the secret of their private life and distributed information not corresponding to reality. In court they have presented a number of documents, proving that BT film crew entered private property without permission from its owners. Besides, claimants have submitted documentary proof of deterioration of condition of their own health and health of their relatives after the mentioned program was aired. All these documents have been adopted for consideration by the court, but have not affected in any way its decision.

The suit was triggered by the program “In the Focus of Attention” shown on the First national TV channel in the evening of **February, 29** and repeated in the morning of March 1, 2004. Jury Prakopau's report talked about incomes and property of some representatives of Belarusian political parties and NGOs - including head of Belarusian Helsinki Committee Tatyana Protska and her husband Dmitry Kozyr, the head of “Zabolotye” farm located in Smalyavichy district. The house and cars supposedly belonging to this family have been shown in the report, and the author named a large sum of money, supposedly equivalent to the monthly salary of the head of the Belarusian Helsinki Committee.

On July, 12 the Pervomaisky district court in Minsk refused to initiate a civil case under the suit of BNF Party for protection of business reputation against Belarusian State Broadcasting Company and its journalist Jury Prakopau. The court considered, that BNF Party, as a noncommercial legal entity, could not have “business reputation” at all. The court definition says that *“this dispute belongs to the sphere of political debate which influences on formation of citizens’ political views and is not subject to consideration in court”*.

The suit was triggered by the program “In the Focus of Attention”, shown on BT on April 25, and, in particular, J. Prakopau’s report “Black Truth”, in which the TV reporter declared that the chairman of BNF Party Vintsuk Viachorka promised to cancel all privileges to people who suffered from the Chernobyl disaster in case he comes to power.

On August 9 the Board on civil cases of the Minsk city court has upheld the decision of the Pervomaisky district court of Minsk dated July 12.

On August 17 Pervomaisky district court of Minsk (judge Anatoly Aniskevich) rejected the suit of the Chairman of the United Civic Party Anatoly Liabedzka for protection of honor, dignity and business reputation against the three Belarusian broadcasting companies which have shown in May the film “The Road To Nowhere”. The politician demanded that the court recognized the information distributed in the film not corresponding to reality and obliged BT, ONT and STV to run refutation and to call the surnames of authors of the film who acted under pseudonyms.

The court has failed to discover the surnames of those who worked on the film, except for Alexander Zimousky, general director of STV who has recognized his authorship in court.

THE TRIAL OF PAVEL SHEREMET HAS NOT TAKEN PLACE

The trial of Pavel Sheremet, the head of the department of special projects of the Russian TV “First Channel”, scheduled for October 20, has not taken place. It was unexpectedly announced that Sovetsky district Department of Interior had not forwarded Sheremet's case to court.

P. Sheremet was arrested in the evening of October 17 on accusations of hooliganism. Police have filed a report on the administrative offence stipulated by Article 156 of the Administrative Code (petty hooliganism) against the journalist. The militiamen have disregarded P. Sheremet's statement that he was attacked, they have not reordered statements of witnesses of the incident and have detained the journalist. He was later brought to the pre-trial jail of the Ministry of Internal Affairs on Okrestina street, where the journalist felt unwell. From the jail he was delivered to a hospital, where doctors discovered a craniocerebral trauma. (See also 3.3. Encroachments on journalists and media;

3.7. Conflicts related to reception and distribution of foreign information or activity of foreign mass-media).

On October 22 the department of information and public relations of the Municipal Department of Internal Affairs of Minsk municipal executive committee distributed information that investigation of the case of P. Sheremet was temporarily suspended, and that the documents were sent for additional check.

"VREMYA" NEWSPAPER SUSPENDED ILLEGALLY

On November 12 Supreme Economic Court of the Republic of Belarus nullified the order on suspension of the newspaper "Vremya".

The publication of the newspaper was suspended for 3 months on August 24 by the Order № 146 signed by the Minister of information Vladimir Rusakevich. The occasion for suspension of the edition was that the private unitary company "Publishing House "Vremya" had not informed the Ministry of information about the change of its legal address.

Edition has appealed against the order of the minister in court. During the proceeding it was discovered, that the initiative of calling the edition of the newspaper "Vremya" to account came from the Office of Public Prosecutor of the Republic of Belarus. The representatives of the edition have presented to the court the documents which have confirmed timeliness of notification of the Ministry of information about the change of the legal address of the newspaper "Time".

After two-day trial the judge Arkady Suslo has satisfied in full the claim requirements, having nullified the order of the Minister of information №146 "On suspension of activity of the newspaper "Vremya" and ruled to collect from the respondent the legal costs incurred by the claimant. The decision has come into force from the moment of its announcement in court.

The judgment for the benefit of the edition has been made shortly before the end of the term for which the edition of the newspaper "Vremya" has been suspended. Despite of it, representatives of the claimant have expressed satisfaction with the results of proceedings, since two suspensions of activity of mass media within one year require its obligatory re-registration.

EDITOR FINED FOR HUNGER-STRIKE

On November 25 Volkovysk regional court ruled to collect from Andrey Shantarovich 50 basic units (1 million 200 thousand Belarusian roubles, or 550 dollars). The judge Jury Yakimovich has classified the hunger-strike of the founder and editor-in-chief of "Mestnaya Gazeta" as a non-authorized picket.

A. Shantarovich declared hunger-strike on October 20 in protest against the decision of the Ministry of information to suspend for one month publication of his newspaper. The editor continued his protest for 21 days in the correspondent's office of "Mestnaya Gazeta" in Volkovysk.

On November 17 the chief of department of Volkovysk Interior Department Alexander Glebov filed a report on administrative offence for A. Shantarovich (Article 167-1 "Infringement of the order of organization or carrying out of assemblies, meetings, street processions, demonstrations and picketing"). In court he argued his position by saying that posters with information on the hunger-strike have been posted across the whole town. In his opinion, it has made the action public and has transformed it into a non-authorized picket.

3 YEARS OF IMPRISONMENT FOR IMPEDING WITH JOURNALISTS' WORK

On December 29 the director of Bobruisk market "Zapadny" Ilya Fomenok was sentenced to 3 years of imprisonment for impeding with lawful journalistic activities and abuse of power. The court proceedings were triggered by the conflict on August 31, when during preparation of a report about work of markets by journalists I. Fomenok has damaged the camera of the film crew of the broadcasting company "Mogilev" (part of the National State Broadcasting Company of the Republic of Belarus). This case was mentioned by Alexander Lukashenka during his meeting with National State Broadcasting Company staff before the court proceedings (See also 3.3. *Encroachments on journalists and media* 3.6. Infringements related to access to information).

Dmitry Zavadsky's case

Journalist D. Zavadsky, cameraman of the Russian TV channel "ORT", is missing since July 7, 2000, when he disappeared on the way from Minsk to the airport "Minsk-2".

On March 14, 2002 Minsk regional court has recognized the group headed by Valery Ignatovich, former employee of a special division "Almaz" guilty of abduction of the journalist and sentenced two persons to life imprisonment, and several more - to different terms of imprisonment. The destiny of the journalist himself has remained obscure. On November 27, 2003 the court of Frunzensky district of Minsk has issued the decision to recognize the missing journalist as dead.

On December 10, 2003 the Office of Public Prosecutor of the Republic of Belarus resumed investigation of the case of Zavadsky's disappearance. It can not be excluded that renewal of the case was related to the visit of the Special Rapporteur of the Political Committee of the Parliamentary Assembly of the Council of Europe Hristos Purgurides to Minsk. Mr. Purgurides have prepared a report on missing people and visited Minsk twice in November - December 2003.

On March 31, 2004 the Office of Public Prosecutor of Belarus for the second time suspended investigation of the case of Dmitry Zavadsky's disappearance, having referred to "*non-finding of the missing person*".

On April 9 the international organization "Reporters without borders" and Belarusian Association of Journalists issued a joint statement expressing concern about termination of investigation of the criminal case initiated on the fact of disappearance of the television cameraman Dmitry Zavadsky.

On July 20 at a press-conference for Belarusian and foreign journalists the President of Belarus Alexander Lukashenka declared, that he had some documents which could "*turn Zavadsky's case into an anti-case*".

On August 4 the mother of the missing journalist Olga Zavadskaya submitted to the Office of Public Prosecutor of Belarus the request for renewal of investigation of the case of Zavadsky's disappearance in connection with newly discovered circumstances. It has been specified in the request that A. Lukashenka's words at the press conference show that he has actual information and documents concerning the case of disappearance of D. Zavadsky, not publicized and not investigated by the investigation and court. Olga Zavadskaya demanded to check these facts and, in case there are grounds for this, to resume investigation in connection with the newly discovered circumstances. The Office of Public Prosecutor has not reacted in any way to the request, and **on September 17** O. Zavadskaya filed a complaint against illegal actions of the Public Prosecutor's

Office employees to Centralny district court of Minsk demanding to oblige them to give a motivated answer.

On October 12 the judge of Centralny district court of Minsk S. Gonchar refused to consider O. Zavadskaya's complaint against actions of officials of the Office of Public Prosecutor of Belarus since it was "beyond their jurisdiction". After that O. Zavadskaya filed a complaint to the court of highest authority. **On November 25** the board of the Minsk city court under presidency of judge Lugina rejected Olga Zavadskaya's complaint.

On December 3 O. Zavadskaya received a letter from the Office of Public Prosecutor of Belarus signed by the head of department F. A. Shedov. The letter said that *«the investigation of the criminal case on accusation of Ignatovich and Malik established that it has gathered all materials on the specified episode of the crime. There are no other materials in the bodies of the Office of Public Prosecutor or other state organizations. Under such circumstances there are no reasons for resuming investigation in connection with the newly opened circumstances...»*. From the answer of the Office of Public Prosecutor it is not clear, whether documents, which existence was declared at the press conference on July 20 by A. Lukashenka and which O. Zavadskaya's requested to study have been demanded and investigated.

On December 10 O. Zavadskaya sent a complaint to the General Public Prosecutor P. Miklashevich against the refusal of the Republican Office of Public Prosecutor to resume investigation of the newly discovered circumstances in the case of disappearance of her son.

BELARUSIAN PERIODIC PRINTED EDITIONS MENTIONED IN THE MONITORING

- "Adzinstva"** – Borisov political newspaper founded by Borisov municipal executive committee
- "Alesya"** - magazine founded by the State Committee of the Republic of Belarus for Press (today - the Ministry of information)
- "Allo!"** - non-state Baranovichy advertising - information regional newspaper
- "Asambleya"** - unregistered non-state bulletin of the unregistered Assembly of democratic nongovernmental organizations
- "Belorusskaya Gazeta"** - non-state republican information and analytical edition
- "Belorusskaya Delovaya Gazeta"** - non-state republican political edition
- "Belorusskaya Niva"** - political newspaper founded by the Council of Ministers
- "Belorussky Rynok"** - non-state analytical newspaper for businessmen
- "Birzha Informatsii"** - non-state political newspaper from Grodno
- "Brestsky Courier"** - non-state political newspaper
- "Borisovskie Novosti"** - non-state political newspaper
- "Versiya"** – non-state newspaper specializing on entertaining materials on criminal subjects
- "Vecherny Grodno"** - political newspaper founded by Grodno municipal executive committee, republican news agency «Vecherny Brest» and a newspaper «Vyacherni Gomel Express».
- "Vecherny Stolin"** - independent newspaper, has not published for a long time
- "Vitebsky Courier"** - independent political newspaper
- "Vozhyk"** - comic magazine founded by the Council of Ministers
- "Volny Chas. Svobodnoye Vremya"** - leisure edition (Gomel, Mozyr, Zhlobin, Retchitsa), has not published for a long time
- "Vremya"** – non-state political newspaper
- "Vyaselka"** - children's magazine founded by the Belarus children's fund and edition of the magazine "Vyaselka"
- "Gansavichsky Chas"** - Gantsevichi non-state political edition founded by LLC «Publishing House "Intex-Press" and Vladimir Janukevich

"Golas Kastsiukoushchyny" - regional political newspaper founded by Kostiukovich regional executive committee

"Golas Pruzhan" - regional non-state political newspaper; which certificate on registration was recognized invalid by the Ministry of information in 2003.

"Goman Barysaushchyny" - non-state political, educational newspaper

"Gomelskaya Prawda" - political newspaper founded by Gomel regional executive committee, the Gomel regional Council of deputies and editorial staff of the newspaper

"Djen" - republican and regional political non-state newspaper

"Detectivnaya Gazeta" - non-state newspaper specializing on entertaining materials on criminal subjects

"Zhyccie Palessia" - Mozyr political newspaper founded by Mozyr municipal executive committee

"Zarya" - Brest regional political newspaper founded by Brest regional Council of deputies, Brest regional executive committee and editorial staff

"Zvyazda" – national political newspaper founded by the Council of the Republic, House of Representatives of the National Assembly and the Council of Ministers

"Zgoda" - independent republican information-analytical newspaper

"Znamya Yunosti" - political newspaper founded by the Belarusian Republican Youth Union and Department on youth affairs of the Ministry of Education

"Intex-Press" – Baranovich non-state political newspaper founded by the broadcasting company "Intex" and LLC «Publishing House "Intex-Press"»

"Kabelnoye Televidenie" - Brest TV listings newspaper

"Kiravets" - regional political newspaper (Kirov, Mogilev region) founded by Kirov regional executive committee

"Komsomolskaya Pravda" v Belorussii" - non-state political newspaper

"Kriminalnoye Obozrenie" - non-state newspaper, specialising on materials on criminal subjects

"Leninsky Klich" - Krichev district newspaper founded by Krichev regional executive committee

"Lyuboy Kapriz" - Mogilev non-state information-advertising newspaper

"Liahavitsky Vesnik" - political newspaper founded by Liahavichy regional Council of deputies and a regional executive committee

"Liahavitsky Chas" - non-state political newspaper founded by LLC "Publishing House "Intex-Press" and Vladimir Janukevich

"Mestnaya Gazeta" - non-state political newspaper (Volkovysk). After suspension of "Novaya Gazeta Smorgoni» it is published in Smorgon

"Minsk Times International" - state political edition

"Novaya Gazeta Smorgoni" - non-state regional political newspaper (since 2005 its certificate on registration was cancelled)

"Molodyozhny Prospect" - non-state political edition founded by the republican youth organization «Grazhdansky Forum» and Vladimir Novosjad

"Narodnaya Volya" - daily national non-state political newspaper

"Narodnaya Gazeta" - state political newspaper

"Nasha Dolya" - political newspaper founded by the Central board of the Belarus society of invalids

"Navinki" - non-state satirical newspaper

"Narodny Predprinimatel" - non-state political edition

"Nedelya" – non-state political newspaper, which was published after suspension of the newspaper "Vremya". The edition was suspended immediately after the first issue was published.

"Novaye Palessie" - political newspaper of Zhitkovichi district (Gomel region) founded by Zhitkovichi regional executive committee and a regional Council of deputies

"Novy Chas" - non-state political edition founded by the Minsk city organization of the Belarusian Language Society named after Francisk Skaryna

"Obozrevatel" - political newspaper founded by LLC "Alliance-Media". Its chief editor Sergey Atroshchenka initiated closing of a non-state newspaper «Svobodnye Novosti». The remaining staff of the newspaper currently publish the newspaper «SN+» - «Svobodnye Novosti Plus»

"Predprinimatelskaya Gazeta" - non-state newspaper for enterprising people

"Rabochaya Solidarnosc" - non-state political newspaper founded by the Belarusian Party of Labor, Belarusian trade union of workers of automobile industry and agricultural mechanical engineering. The registration certificate of the newspaper was cancelled by the Ministry of information.

"Region-Vesti" - Svetlogorsk (Gomel region) non-state political edition. Its founder and editor Nikolay Pasedko has applied for political asylum in Sweden.

"Regionalnye Vedomosti" - Gorki non-state political edition

"Regiyanalnaya Gazeta" - non-state information-advertising weekly edition for regions and for the republic (published in Molodechno, Vileyka, Lida, Oshmyany, Volozhin, Miadel and Ostrovets)

"Savetskaye Palessie" - political newspaper of Gantsevichi district (Brest region) founded by Gantsevichi district executive committee, regional Council of deputies and working collective of the edition

"Salidarnasc" – non-state political newspaper published by the Belarusian Independent Trade Union

"Svetlagorskiya Naviny" - political newspaper founded by Svetlogorsk regional executive committee, regional Council of deputies and editorial staff of the newspaper

"Svetly Shlyakh" - political newspaper founded by Smorgon regional executive committee and regional Council of deputies.

"Sovietskaya Belorussia – Belarus Segodnya" - political newspaper founded by the Administration of the President and the editorial council

"Tovarisch" – non-state political left-wing newspaper founded by the Central committee of the Party of Communists of Belarus.

"Tut I Tsiaper" - unregistered edition distributed in the regions of Belarus

"Telescope" – non-state regional newspaper (Mosty, Lida, Schuchin)

"Udarny Front" – Shklov regional political newspaper founded by Shklov regional executive committee

"Shag" – Baranovichy non-state newspaper