



ANALYTICAL REPORT

JULY-DECEMBER 2013

This analytical report is the result of cooperation between the Belarusian human rights organizations: Belarusian Helsinki Committee (RHRPA “BHC”, The Belarusian Association of Journalists (PA “BAJ”), The Assembly Of Pro-Democratic NGOs of Belarus, Legal Transformation Center, Human Rights Center “Viasna”, Committee “Salidarnasc”. The main objective of this review is to define the medium-term tendencies in the field of human rights, social, political and economic situation in Belarus. The report covers period July through December 2013.

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CHAPTER 1. BASIC FACTORS AFFECTING THE HUMAN RIGHTS SITUATION

In general, the human rights situation in the Republic of Belarus remains difficult and has not undergone any serious changes during the period under review. This is caused by the absence of any noticeable social and political campaigns. As for foreign policy orientations the European vector still remained powerless, even despite the Eastern Partnership Summit in Vilnius.

Capital sentences were still passed. Aleksandr Grunov and Pavel Seliun were sentenced to death for murder with aggravating circumstances.

There were changes of status of the individuals sentenced to criminal liability on the case regarding the events in Minsk on December 19, 2010. On July 19, the court released the journalist Irina Khalip who was sentenced to two years of custody with the respite of a sentence on May 16, 2011 on charges of participation in the group actions constituting a gross breach of public order. The same decision was made in respect of Vladimir Nekliaev, an ex-presidential candidate. On July 20, the two-year term of conditional sentence of Sergei Martsev expired, the sentence term of Sergey Vozniak, Aleksandr Feduta, Andrey Dmitriev and Vitaliy Rymashevskiy expired on July 22. All of them were prosecuted under chapter 1 art. 342 of the Criminal Code (organization and preparation of actions constituting a gross breach of public order or active participation therein) for participation in the protest action against the stealing of the presidential elections in 2010. On August 28, Dmitriy Dashkevich was released having served the full sentence. He had been sentenced to two years of custody of general regime by the Moscow District Court of Minsk under chapter 2 art. 399 of the Criminal Code (malicious hooliganism) on March 24, 2011, and on to one year of custody under chapter 1 art.411 of the Criminal Code (malicious disobedience to the requirements of the correctional facility's administration executing the punishment in the form of custody) on August 28, 2012. Two weeks before his release the court had put him under preventive surveillance for the term of 6 months obligating him to stay home from 20:00 till 8:00, appear at the police department three times a month, obtain the police's permission to leave abroad and outside of Minsk. On September 3, having served a three-year term, the political prisoner Aleksandr Frantskevich was released from the Ivatsevichi penal colony. Same as Dashkevich, he was put under



preventive surveillance for a six-year term after the release. On October 19, the political prisoner Pavel Severinets was released. He served his sentence in the form of three years of custody in the open correctional facility for the participation in the protest action against the stealing of the presidential elections on December 19, 2010. At the end of October, the three-year term of custody outside of correctional facility expired for Dmitry Medved, who also had been involved in the case of mass disorders. Police has registered him preventively. In December the list of political prisoners was expanded with the names of Vasiliy Parfenkov and Vladimir Eremenok sentenced to one year of custody in high security and three months of arrest respectively for the breach of the preventive surveillance requirements. The political prisoners faced a varying degree of pressure on the part of the administration of the places of detention and in some cases we could even talk about the investigative torture.

The tendency for the non-public consideration and adoption of changes in the legislation has remained continued. The draft law “On amendments and supplements to certain laws of the Republic of Belarus concerning elections and referendums” was considered secretly. The text of the draft law was not available until it was finally published, though the adopted amendments referred to the procedure of election campaign for the elections to the local Deputies Councils. The analysis of these amendments carried out by the experts of the campaign “Human Rights Defenders for Free Elections” has shown that none of the 25 recommendations formulated by the ODIHR OSCE mission according to the results of observation of the Parliamentary Elections of 2012 was fulfilled and only one of them was fulfilled partially. All other recommendations were left unrealized, and the situation has even worsened regarding three of them^[1].

The development of the draft law “On amendments and supplements to certain laws of the Republic of Belarus concerning the activity of political parties and other public associations” was carried out without any wide discussion with the public and those whom these changes would concern. The proposals on the draft law sent by the Legal Transformation Center to the Parliament were regarded as inappropriate.

The initiative proposed by 25 non-governmental organizations on July 16 regarding the organization of special parliamentary sessions concerning the NGO



legislation improvement was also regarded as inappropriate.

During the period under review the authorities continued fighting with outbreaks of the African swine fever (ASF). As by the BHC's analysis of the measures taken to liquidate and prevent the spread of the ASF demonstrated, the guarantees of the private property immunity established by the Constitution and the legislative acts within the framework of the restrictions permitted under art. 23 of the Constitution, were not observed. These violations led to the breach of the constitutional rights of citizens (property rights, immunity of residence and other legal possessions). Sick swines were confiscated from the citizens for further annihilation without the respective legal basis. Only on July 12 the Ministry of Agriculture and Food of the Republic of Belarus adopted the Decree No. 30 that provided the possibility of expropriation and annihilation of the swines sick with ASF. At the same time, the procedure of confiscation and the amount of compensation were only established on 29.08.2013 by the Decree of the Cabinet Council No. 758. Meanwhile, the range of restrictions still varied and depended on the local authorities.

In November, about a year after the Decree No. 9 "On additional measures for the development of the timber industry" was passed, the public learned about its application in practice. The analysis carried out by the Belarusian Helsinki Committee in January-March 2013 showed that the practice had neutralized the odious norms of the Decree (e.g. prohibition of employees' dismissal, forced employment of the individuals who left their positions without permission, etc.). The employers did not rush to conclude the contracts on the new terms. The dismissal prohibitions also did not become widespread. However, the employee of JSC "FanDok" (Bobruisk, Mogilev region) Natalia Ivanova was refused to be dismissed upon the contract expiry referencing to the norms of Decree No. 9.^[2] In response to her application, the Mogilev Regional Executive Committee that is called to solve the disputable issues pursuant to the norms of Decree No. 9, confirmed the prohibition. However, the employer increased the employee's increment then, and Natalia Ivanova agreed to continue her work.

On November 3, 2013, in Geneva, within the framework of the 51st session of the Committee on Economic, Social and Cultural Rights the joint 4th, 5th and



6th regular reports of the Republic of Belarus on the fulfillment of the provisions of the International Covenant on the Economic, Social and Cultural Rights were considered. The Committee has proposed a number of serious recommendations based on the results of the interactive dialogue, including those regarding the problem of discrimination, forced labor and gender equality.

The III Belarusian Human Rights Forum held on October 26-27 became an important event for the Belarusian human rights society. It was attended by more than 110 delegates from 25 organization, Belarusian and foreign guests. The Forum Resolution “On the Human Rights Situation in Belarus” stated: “During the time that has passed since the previous Forum in the fall of 2010, the human rights situation in Belarus has dramatically worsened”; “unlike the resolution of the previous Forum 2010, now we cannot mention any positive changes or tendencies that would speak for the potential for the improvement of the human rights situation in Belarus”. The guide for defining the concept of a “political prisoner” that had been developed by a group of human rights defenders from Azerbaijan, Belarus, Georgia, Lithuania, Poland, Russia and the Ukraine, was presented at the Forum. The unification of the approach to the definition and usage of the concept of a “political prisoner” was the main objective of the guide. The adoption of the guide caused heated debates in the Belarusian oppositional community. In general, the Forum helped the increased consolidation of the human rights sector in the country.



Chapter 2. Observance of human rights in Belarus FREEDOM OF SPEECH

During the period under review the situation with mass media in Belarus was in a “frozen” state. The reason for that may be the absence of electoral campaigns in the country (the nearest one – the elections of deputies to local councils that do not play any significant role and do not activate the electorate – will be held in the spring 2014) and the latent nature of the political processes. Among the main events of the second half of 2013, we can point out the following ones:

- Termination of the criminal prosecution of the journalists S. Vozniak, A. Feduta, I. Khalip and A. Poczobut;
- Detentions and warnings of journalists;
- Restriction of freedom of online activity;
- Use of the law on the extremism prevention to infringe the freedom of expression.

The main negative tendencies in the area of the freedom of expression are the government’s actions aimed at the increase in state control over the online activity, publishing and distribution of books. The government uses the new law “On publishing in the Republic of Belarus” that became effective on July 7, 2013 as the legal basis for their actions. It stipulates state registration of not only book publishers and manufacturers (typographies), but also book distributors.

MASS MEDIA SITUATION

Termination of the criminal prosecution of journalists

In July, 2013 the journalists Sergey Vozniak and Irina Khalip, as well as the publicist and political analyst Aleksandr Feduta prosecuted in 2011 for the participation in the protest action after the presidential elections in 2010, were released from the criminal punishment. In September, a Belarusian correspondent of the Polish newspaper “GazetaWyborcza” Andrzej Poczobut who had been sentenced in July 2011 for libeling the President of the Republic of Belarus, was released from the punishment.



In all cases the release from the criminal punishment was the result of the expiry of conditional sentence or deferment.

Detentions and warnings of journalists

During the second half of 2013 police detained 27 journalists. In total, according to the BAJ, 45 journalists were detained in 2013 in connection with the discharge of their professional duties. 4 cases (in the first half of 2013) ended by administrative arrests for the term of 3 to 15 days.

On July 25, the correspondent of the internal policy section of the weekly “Belarusians and Market” Igor Iliash was detained by police and held for over one hour at the Moscow DDIA of Minsk on suspicion of a law violation.

On July 26, the correspondent of the non-governmental agency BelaPAN Zakhar Scherbakov, cameraman of BelaPAN Andrey Korsak and the photo correspondents of the non-governmental newspaper “Nasha Niva” Sergey Gudilin were detained in Minsk together with the participants of the action in honor of the anniversary of the declaration of independence of Belarus on July 27, 1990. Due to the BelaPAN reports, all Korsak’s and Gudilin’s photos and videos were erased.

On September 14, in Minsk, police detained the correspondent of “Radio Svoboda” Oleg Gruzdilovich and the journalists of “Nasha Niva” Irina Orekhovskaya and Anna Bodiako who were going to cover the action in memory of the convict Igor Ptichkin who had died at the detention facility. Together with the action participants they were delivered to a police department where they had their fingerprints taken and all photo and video materials erased and were released in three hours.

On October 19, in the morning, police detained ten journalists who were going to cover the return of the recently released political prisoner Pavel Severinets on the railway station platform in Minsk. They were only released from the police department after Severinets had left the railway station building.

On October 23, this and similar cases were discussed at the meeting of the Belarusian Association of Journalists with the head of MDIA of the Minsk City Executive Committee, Alexander Barsukov. But the situation did not change for the better.

On October 29, five journalists were detained at Kalvariyskoe cemetery in Minsk. They were present at laying flowers by public activists, whose action was timed to the Day of Commemoration of the Victims of Political Repressions. The



press representatives were delivered to the police department of Frunzenskiy district of Minsk where they had their documents and personal belongings checked and were released in an hour and a half.

On the same day, two more journalists – Aleksandr Borozenko and Maria Artsybasheva – were detained while carrying out a street video survey on the topic of the youth organizations in Belarus. They were released in three hours.

On November 6, in Minsk, police detained a freelance journalist Anastasia Reznikova, a BAJ member and employee of the “Novy Chas” Viacheslav Peshko and a BAJ member and film director Olga Nikolaichik. It happened near the Offenders Isolation Center (OIC) on Okrestina street, when a Gomel activist Yuri Rubtsov was released from it after three days of detention. Rubtsov was serving a sentence for neglecting the police’s demand to take off the shirt saying “Lukashenko, go away” during the sanctioned demonstration “Dziady”. The journalists were delivered to the Moscow district DDIA of Minsk where they had their passport information taken down, personal belongings examined and the video records erased.

Restriction of freedom of online activity

In July-December, 2013, we observed the escalated prosecution of online activists, including bloggers, and forum commentators on the basis of the criminal and administrative legislation. At the same time the government take measures to expand specific forms of control and responsibility on the online resources prescribed by the law “On mass media”.

On August 9, Ruslan Mirzoev, the author of the videos “Plant Chronicles” and “District Chronicles” much talked-of in Bynet, was sentenced to 7 days of administrative arrest. The official grounds for the arrest were the use of obscene language (disorderly conduct, art. 17.1 of the Administrative Code) that sounded in the video “District Chronicles” (where the author is supposedly showing the background of his district, interviews a “drug addict”, a “prostitute” and other characters of the production). In the meantime, as it was voiced on air of the state TV channel “ONT”, “the prosecution does not conceal that the obscene language is not the main cause of punishment”. According to the prosecutor’s office employee, Mirzoev was brought to liability for “social and public problems manipulation”. Further, the blogger who had been sentenced to custodial restraint outside of



correctional facility on another case earlier, had a criminal charge instituted against him under art. 415 of the Criminal Code (avoidance of sentence). On December 13, Mirzoev was sentenced to 1 year of custody.

In connection to the fact that a blogger and a public activist Gennadiy Zhulego (Svetlogorsk, Gomel region) placed a video about the house of the president of the Svetlogorsk district executive committee in the world wide web, the wife of the latter addressed the police demanding to bring the blogger to account. She believes that the blogger has offended the honor and dignity of her family by this video and the information contained in the video is of slanderous nature. On August 17, police searched Zhulego's apartment and expropriated his computer with the sanction of the prosecutor. The issue of bringing the blogger to account is being considered.

In the evening on November 20, the investigative committee searched the apartment of Denis Dashkevich, editor-in-chief of the informational portal vrogacheve.ru, and expropriated two computers and a modem. Dashkevich was informed that the search was being held within the framework of the case concerning the offense of a government representative. The criminal prosecution was initiated on application of the deputy president of the executive committee Korolchik, vrogacheve.ru reports. The basis for the institution of an action was the publication about the representative of the local "vertical".

In the end of November 2013, the Deputy Minister of Information Dmitriy Shedko claimed that it was proposed to "include a number of amendments in the law on mass media whereby the most popular and influential online resources shall be considered as mass media and shall be legally responsible for the distribution of any information up to revocation of registration" (<http://www.belta.by>). For this purpose a working group was formed out of the representatives of the interested offices.

The Belarusian law "On mass media" does not define the concept of the "online mass media" but delegates the authority for their registration and regulation to the government of the Republic of Belarus. However, the respective decree has not been adopted yet. The extension of the repressive Belarusian law on mass media on the online resources will significantly complicate their activity, and even make impossible in a number of cases and will increase the ability of the Ministry of Information to impose sanctions up to shut-down.



Use of the law on extremism prevention to oppress the freedom of expression

On July 3, the customs officers on the Belarusian-Lithuanian border expropriated 40 copies of the book by Ales Beliatsky, a Belarusian human rights defender sentenced to custody for his human right activism, from a human rights defender Tatiana Reviako. The book of culturological nature called “Consecrated by Belarus” was sent for the inspection in order to detect its reference to extremist materials. The experts did not find any calls for the extremist activity or its promotion in the book by Ales Beliatsky, but considered that “the contents of the book is of expressly tendentious and populist nature” and “may cause damage to the image of the Republic of Belarus”. The customs offered Reviako to return the books to Lithuania. The human rights defender appealed against this decision.

On September 14, the customs officers on the Belarusian-Lithuanian border expropriated the book by a Belarusian journalist and political analyst Valeriy Karbalevich “Aleksandr Lukashenko. The political portrait” from the party activist Anatoliy Molochko in order to check it for extremism. The results of the check are unknown.

On September 20, the Ministry of Information of the Republic of Belarus decided to terminate the publisher’s license issued to the publishing house “Logvinov”. The Ministry named the publication of the photo album “Belarus Press Photo 2011”, that had been recognized as the extremist materials in accordance with the decision of the court of Oshmyany district (Grodno region), as the cause. The publishing house “Logvinov”, the leader the Belarusian literature publishing, appealed against the decision of the Ministry. On November 18, the Supreme Economic Court dismissed the appeal.

FREEDOM OF ASSEMBLY

During the second half of 2013, the regular prohibitive practice regarding the freedom of peaceful assembly remained. In most of the cases local authorities dismissed the applications for mass events and the participants of the peaceful assemblies not violating the public order were brought to administrative responsibility for participation in such assemblies. There was a tendency for bringing of the participant of the peaceful assemblies, both sanctioned and not, to



administrative responsibility for the disobedience to the legal demands of the police. At the same time the courts did not study the issue of legality of the police's actions considering such cases. In general, realization of the freedom of assembly is very limited in practice, first of all, due to the imperfection of the effective laws. There are restrictions regarding the location of the assembly, the necessity to pay for the event producers' services, non-specific formulations in the law, etc.

In total, 22 people were brought to administrative responsibility under art. 23.34 of the Administrative Code (violation of the procedure of organization and holding of the mass events) during the period under review. 15 more participants were brought to administrative responsibility under art. 23.4 of the AC (disobedience to the legal instructions or demands of an official on duty). Thus, the total number of the citizen brought to liability for the participation in peaceful assemblies in the indicated period is 37 people.

On July 4, in Mogilev, an activist of the United Civil Party Nikolai Gladyshev held a solitary picket against the deployment of the Russian air base in Belarus. He placed a poster on the fence of the former trade center in the city center saying "No to Russian air bases on the Belarusian land". One and a half hours later the activist was detained on charges of the violation of art. 23.34 of the AC.

On August 5, in Minsk, during the handout of the postcards with the information about the convicted human rights defender Ales Beliatzky, human right defenders Tatiana Reviako and Vladimir Labkovich were detained. They were delivered to the Soviet district DDIA where the records concerning administrative breach of art. 23.34 of the AC were drawn up. On August 6, the judges Pavliuchenko and Federova adjudged that both human right defenders were fined 30 basic values (for more details on this case see section "Administration of justice").

On August 17, about 50 people rode bicycles along Nezavisimosty avenue in Minsk from the city center to the National Library passing through Karl Marx street. The action called "Dandies on bikes". It was organized by the Minsk cyclers from the veloby.net community who had no political objectives. The young people in bright extraordinary clothes rode through the city, danced on the pedestrian street and gladdened the citizens and the city guests with the help of their original and memorable event. The authorities regarded this event as a mass event requiring permission. As a result, the event organizer Irina Biynik had to pay the fine in the



amount of 2 mln rubles under part 2 of the art. 23.34 of the AC.

Such practice continued with the prosecution of the participants of the bicycle run scheduled for the 5th of September in Vitebsk. According to the event organizer Vladimir Bulavsky, police, SAI and a representative of the Belarusian Republican Youth Union appeared at the scene. As a result several participants of the failed bicycle run were detained and were fined about 1 basic value (100 thousand Belarusian rubles) for the absence of the rearview mirrors, bells and lights on their bicycles. Therefore, the detention was of selective nature.

On September 14, the relatives and friends of Igor Ptichkin, who died in unexplained circumstances at the Minsk detention center No. 1, were detained while trying to observe a minute's silence by the prison walls. 18 participants of the action, as well as the correspondents of "Radio Svoboda" and "Nasha Niva", were detained. The journalists were released about 3 hours later. On September 16, the action participants Viktor Shabunia, Viktor Kotlianik, Igor Kovalev, Aleksandr Gavrish, Sergey Evmenov, Natalia Voitekhovich, Leonid Yasenovich were fined by the Central district court.

On September 27, Pavel Vinogradov, the leader of "Zmena", the youth wing of the civil campaign "Tell the Truth", was detained in Minsk. The activists of "Zmena" carried out an action on the Yakub Kolas square: they placed pig heads on the benches with the posters calling to release the political prisoners, increase the medical employees' salaries, and refrain from the implementation of the exit duty. On the same day Pavel Vinogradov was sentenced to 15 days of custody under art. 23.34 of the AC as per decision of the judge Kirill Polulekh.

On September 28, four participants of the jogging festival "Challenge Cup", organized in the Belarusian capital on the initiative of the sportswomen Alina Talay and Aleksandra Gerasimonia, were detained. The grounds for the detention were the shirts that the team of the online project Serabranka wanted to wear during the run: the shirts had a portrait of the political prisoner Nikolai Statkevich and the wording "Serebrianka for sports, Belarus and Statkevich" on them. Kirill Zhivolovich, Evgeniy Naporko, Maksim Dubovskiy and Andrey Vislovich were detained and the records were drawn up on them under part 1 art. 23.34 of the AC. The three detained were delivered to the detention center before the court session. On September 30, the judge Viktoria Shabunia fined Kirill Zhivolovich 20 basic values. Evgeniy Naporko (judge Natalia Voitekhovich), Andrei Vislovich (judge



Alesandr Yanuchikhin) and Maksim Dubovskiy were fined the same amounts. The court sessions were held in camera, journalists and human right defenders were not allowed to enter the room.

On November 3, a resident of Gomel, oppositional activist Yuri Rubtsov was detained in Minsk after the action “Dziady”. He was wearing a shirt saying “Lukashenko, go away”. On November 4, the court of the Soviet District of Minsk sentenced him to 3 days of administrative arrest. The Judge Dmitriy Pavliuchenko adjudged the activist guilty of disobedience to the orders of the police officers, art. 23.4 of the AC. The witnesses from the police who had detained Rubtsov explained that he had refused their demand to get in the car which was regarded as “disobedience”. On November 8, Yuri Rubtsov sent a complaint of an illegal administrative arrest to the Minsk City Court.

On November 6 the police officers detained 9 people who came to the detention center on Okrestina street to meet Yuri Rubtsov who had been arrested for 3 days after the protest action in Kuropaty. The detained were Leonid Kulakov, Marina Titova, Olga Nikolaichik, Pavel Vinogradov, Oksana Stepanova, Yuri Rubtsov, Yulia Sokolova, freelance journalist Anastasia Reznikova and the journalist of “Novy Chas” Viacheslav Peshko. At the Moscow District DDIA they had their personal belongings examined and the passport information written down. They were detained for three hours and then released.

On the same day, the leader of the “Malady Front” Dmitriy Dashkevich was detained near the city department store in Minsk while collecting signatures in favor of renaming Lenin street into the historical Frantsiskanskaya street. The signatures were collected within the framework of the decommunization campaign declared by the Malady Front. On the same day the judge of the Central District Court Valeriy Yesman considered the activist’s record on disobedience to the legal demands of the police and decided to arrest Dashkevich for 3 days.

On November 8, the record under art. 23.34 of the AC was drawn up on deputy chairman of the UCP Vasiliy Poliakov for the participation in the action in memory of the victims of Stalin’s repressions that took place in Gomel on November 3. On November 13, the judge Sergey Novikov (Novobelitskoy Court of Gomel) fined him 35 base values.

On November 10, the funeral procession and protest action took place in Loshitskiy Yar in Minsk. The action organized by CCP-BPF was attended by 70 people. During the event, the police detained a resident of the Stolbtsy region



Leonid Smovzh, who came to the action wearing a shirt saying “Belarus without dictatorship”. On November 11, the judge Nadezhda Novitskaya adjudged Smovzh guilty of insubordination to the police (art. 23.4 of the AC) at the Leninsky District Court of Minsk and sentenced him to 5 days of administrative arrest.

On the same day, at the office of the civil campaign “Tell the Truth” in Polotsk, the police officers detained 5 activists of the Polotsk Democratic Powers Coalition: Yuri Belsky, Anton Yasinovich, Anatoliy Prokopenko, Oleg Kraiko, Yevgeny Vilsky. They were told that the meeting was taking place in the non-working hours and was disturbing the residents. All detained were delivered to the Polotsk DDIA and released 2 hours later after giving the evidence.

On the evening of November 13, Zhanna Ptichkina, the mother of Igor Ptichkin was delivered to the Moscow District Court of Minsk. She was detained by the police officers and the unknown persons in civilian dress at home on charges of avoidance of appearing in the court on the administrative case concerning the picket carried on the September 14. On that day the relatives of Igor Ptichkin and other citizens who did not believe the official version of his death wanted to lay flowers by the walls of the detention center in his memory. 18 people were detained. The human rights defender Andrei Bondarenko was prosecuted on the same charges together with Zhanna Ptichkina. They requested a lawyer. The judge Evgeniy Khatkevich satisfied their request and postponed the proceeding until the next day. On November 14, the judge considered Zhanna Ptichkina guilty of participation in the unsanctioned mass event and adjudged a warning. Andrey Bondarenko was sentenced to 5 days of administrative arrest (judge Tatiana Motyl). On the same day the Moscow district court adjudged 5 days of arrest to another participant of the action, Aleksandr Danilov.

On November 23, the police officers broke into the House of Culture in Kozlovichi village (Slutsk district) where a show of the film about the Slutsk armed uprising of 1920 had to be held. The police officer Dmitriy Shkliarevskiy explained that the event organizer Zinaida Timoshek “had no sanctions for the meeting”. The police officers split into the groups of three people and interrogated the present for over two hours in the premises of the House of Culture. Some of the police officers stood in the room doors to accompany the present to the interrogations and not let anyone escape. The law enforcement officials asked the people whether the meeting had any political aspect. The historian Nina Stuzhinskaya was invited from Minsk. She planned to show the film “40 Days of



the Peasant Republic”. Nina Stuzhinskaya is one of the creators of this film that had already been shown on ONT. A record was drawn on Zinaida Timoshek under art. 23.34 of the AC. Later she was considered guilty of the violation of the law “On mass events” and fined 20 basic values under art. 23.34 of the AC.

On November 24, a picket against the deployment of the foreign military bases on the territory of Belarus was held in Khotimsk (Mogilev region). The activists of the BPF, civil campaign “Tell the Truth” and the movement For Freedom were among its participants. The action was sanctioned by the local authorities and lasted for one hour in the town center near the district house of culture. The event participants were handing out informational materials to the passers-by, were holding white-red-white flags in their hands, as well as the flags of BPF and the campaign “Tell the Truth”. The police did not detain the organizers or participants either during or after the action. Thus, the Khotimsk Executive Committee became the only authority in the country that sanctioned a picket against the deployment of the foreign military bases and objects in Belarus, though the positive decision was made only after the 4th application of the local activists.

It should also be noted that during the period under review the applications for holding of pickets against the foreign military bases were filed by the activists of different political parties and public organizations in Mogilev, Slonim, Baranovichi, Vitebsk, Belynichi, Bykhov. It gives us the grounds to speak about the entire protest campaign against the plans of the Russian military presence in Belarus voiced at the state level. However, authorities of all of the listed towns refused to allow the pickets. On September 8, the activist Yuri Novikov carried out a non-sanctioned action for the collection of signatures under the statement “No to military bases on the Belarusian land” in the center of Mogilev for which he fined Br5.85 million.

On December 10, on the International Human Rights Day, 2 pickets were carried out in Brest. They were organized by the human rights defender Vladimir Velichkin and the local activist Zinaida Mikhnik. Up to 15 people participated in either picket. The events, permitted by the local authorities were dedicated to the 65th anniversary of the Universal Declaration of Human Rights. Apart from the Brest human rights defenders, human rights defenders and activists of Grodno, Soligorsk, Baranovichi, Vitebsk and Byaroza also applied for permission to carry out a picket, but none of the applications were approved by the local authorities.



The Minsk gay pride timed to the International Human Rights Day by the activists of the human rights project “Gay Belarus” was not allowed again.

On December 20 and 27, the protest actions against the introduction of the state duty on cars from January 1, 2014, were held in Minsk. The calls for participation were being spread via the social networks, the permission was not applied for. The organizers called the car drivers to beep while driving along the Nezavisimosti avenue, and also to stop the vehicle in the car flow turning on the alarm signaling. On the eve of the action, the SAI threatened the car drivers with fines, forced car evacuation and criminal liability for traffic blocking. The observers became aware of 6 participants who were detained administratively before the court from December 20 till December 23; two of them were sentenced to administrative arrest (5 and 12 days). Also the facts of car expropriation from the action participants and mass penalization for beeping and groundless stops and turning on the alarm signaling became known. On the eve of the action on December 27, around 4 pm, December 26, Dmitriy Polienko, the organizer of the action group in “Vk.com” was preventively arrested and sentenced to 15 days of custody.

FREEDOM OF ASSOCIATION AND THE STATUS OF NON-GOVERNMENTAL ORGANIZATIONS IN BELARUS

Regardless of the number of legislative acts adopted in the second half of 2013 concerning the interests of the non-commercial organizations, the regulatory environment around them did not changed in general. The same negative trends preserved at the level of law enforcement during the period in review, and their intensity has not changed.

The law “On amendments and supplements to certain laws of the Republic of Belarus concerning the activity of political parties and other public associations” was adopted at the second reading on October 2, 2013, and signed by the President on November 4. The law was developed in accordance with the plan of preparation of the draft laws for 2012 approved by the Decree of the President of the Republic of Belarus dated January 9, 2012 No. 21. This law becomes effective on February 20, 2014.

Among the positive novels of this law we should name the mitigation of the



representation criterion for the establishers upon the creation of the republican and local public associations. Thus, creation of a republican association requires, in accordance with the effective law, 50 establishers. But if the effective law prescribes the existence of at least 10 establishers from 4 regions and Minsk, the law provides the possibility of presence of 1 establisher from 1 region. Also the law slightly reduces the list of the registration documents, simplifies the liquidation procedure, specifies some issues of registration of branches of the international public associations and introduces some other technical improvements.

At the same time it provides additional grounds for liquidation of public associations - non-submission of the annual reports required by law to the registering authority for three years in a row.

Despite of the fact that the law was aimed directly at the non-commercial organizations, it was developed without any broad debate with them. The proposals on the draft law sent by the Legal Transformation Center to the parliament were acknowledged as inappropriate. The initiative of 25 non-governmental organizations to hold special parliamentary hearings concerning the improvement of the law on non-commercial organizations filed on July 16 was also considered inappropriate.

The amendments to the law “On social service”, prepared with the participation of the public and establishing the state funding mechanism for non-commercial organizations by means of the state social order and the purchase of the services of the NGOs that became effective in the first half of 2013, have not started working in the full measure yet. This novel may potentially lead to positive changes in the funding of some social organizations in the future, but the developed mechanisms of implementation of this norm are aimed at the restriction of the circle of subjects that this mechanism will be available to.

The practice of random rejections to register public associations continues. The registration of the Minsk City Public Association “Russian World” was rejected again, and so was a number on regional structures of the Belarusian Christian Democracy that became desperate to register in the form of a party, and tried to legalize its activity as regional public associations. Registration of Mogilev city public association “Center of Urban Initiatives” and a number of others were refused too. Under the impact of this factor the number of Belarusian NGOs that register in the neighboring countries (Lithuania, Poland, etc.) and partially move their activity there steadily increases.



At the same time, about 30 new public associations have been registered during the indicated period. Practically half of them deal with sports, some are of ecological, cultural and social nature of activity, and 4 organizations are charity funds.

Prosecution of non-registered associations specified in the first half of 2013 did not progressed. The action initiated under art. 193-1 of the CC against the resident of the Schuchinskiy district Aleksey Schedrov was withdrawn in September, 2013 after his organization was registered as an institution.

The requirement to possess office premises in an administrative building remains a serious problem for many non-commercial organizations, because a significant part of the office stock is either owned by the state and the local authorities or is a private property of the entrepreneurs who easily give in to the authority's pressure. This problem worsened in 2013 when the list of public unions and funds entitled to preferential rent rates when leasing state-owned premises was significantly shortened. As a result, some organizations lost their premises. That fact, in turn, may entail application of sanctions against them.

On December 31, in Slonim (Grodno region), despite the effective lease agreement, a non-governmental newspaper "Gazeta Slonimskaya" and a private establishment "Shegomedkonsult" were evicted from the occupied premises. The claims of the fire inspectorate were named as the reason. "Gazeta Slonimskaya" has to change its office for the fourth time in 16 years. The establisher of "Shegomedkonsult" Ivan Shega links the eviction of both organizations to the fact that he started receiving citizens on social and medical matters in his office during the second half of 2013.

On November 1, the leader of the Ukrainians' Union "Kobzar" Nikolai Chernous filed a claim to the Brest Regional Court against the decision of the court of Baranovichi district and the town of Baranovichi dated October 24, 2013, whereby he tried to get premises for public association of the Ukrainians of Baranovichi "Kobzar". Nikolai Chernous claimed that the local officials have complicated the lease of premises and create artificial obstacles for non-governmental public organizations. The judge Nikolai Selmanovich dismissed his claim and recognized that the executive committee acted according to the law.



ADMINISTRATION OF JUSTICE

During the indicated period the courts continued to demonstrate their dependence on the executive authorities. The politically motivated processes were accompanied by gross breaches of the international standards in the area of administration of justice and the norms of the national law. As a positive moment we can specify some cases of reversal of the judgments by superior courts in connection with the committed procedural violations. The cases when judges returned the administrative case materials concerning political and public activists for further investigation are also quite frequent. At the same time it should be noted that such cases always ended with passing of a judgment of guilty.

There are some positive changes in the law concerning the administration of justice. On November 29, 2013 the President's Decree No. 6 "On the improvement of the judicial system of the Republic of Belarus" was adopted. As the Decree preamble states, it was adopted with the purpose of improvement of the judicial system of the Republic of Belarus, ensuring the unity of the court practice, improvement of administration of justice, further development of the courts judges' specializations and during the proceedings, improvement of the material and technical and staff supply of the courts. In accordance with the Decree No. 6 the Supreme Court and Supreme Economic Court are subject to integration from January 1, 2014 forming a single supreme court dealing with civil, criminal, administrative and economic cases – the Supreme Court that would be heading the system of the courts of general jurisdiction in the Republic of Belarus. From July 1, 2014, the military courts system will also be abolished. The cases concerning the military personnel will be transferred to the general courts. Organizational, material and technical and staff supply of the courts of general jurisdiction, organizational, material and technical support of the judges' community will be transferred from the Ministry of Justice to the Supreme Court.

On December 20, the Plenum of the Supreme Court of the Republic of Belarus adopted the decree "On ensuring publicity when administering justice and distributing information about the work of the courts".

The decree touches on the following problem questions^[3]: a) groundless restriction of the citizens' access to court rooms; b) audio, photo and video



recording of the trial proceedings by the attendants; c) carrying out court sessions in camera and the necessity of specific ground for it; d) distribution of the timely, objective and accurate information about the courts' work. The most significant judicial processes during the period in review were the following ones:

- 1) Administrative cases regarding political and social activists;
- 2) Criminal cases where capital punishment was passed;
- 3) Igor Postnov's case on forced psychiatric hospitalization;
- 4) Cases of the former political prisoners on the breach of the preventive surveillance order;
- 5) Andrey Gaidukov's espionage case.

1. Administrative cases regarding political and social activists

The practice of bringing of the political and social activists to administrative responsibility remained intact. In most of the cases, the court considered the administrative cases prescribed by art. 17.1 and 23.34 of the AC. The processes were held with gross breaches of the standards of fair judicial proceedings. In most of the cases only the law enforcement officials testified. Some court sessions actually were held in camera, for example the case of the journalists Kirill Zhivolovich, Evgeniy Naporko, Andrey Vislovich and Maksim Dubovskiy detained at the Minsk jogging festival "Challenge Cup".

In some cases, as, for example, when the considering the cases of the human rights defenders Tatiana Reviako, Vladimir Labkovich and Andrey Bondarenko, or activists of the national Bolshevik movement Dmitriy Palienko and Evgeniy Kontush, the judges sent back the administrative case materials in connection with the breaches committed by the police officers when making police records. However, in all of the listed cases the judges sentenced the defendants to the administrative prosecution.

2. Criminal cases where capital punishment was passed.

On September 17, the Supreme Court considered the cassation appeal filed by Pavel Seliun sentenced to death by the Grodno Regional Court in June, 2013. The appeal was considered by the criminal judicial board of the Supreme Court under the chairmanship of the deputy chairman of the Supreme Court Valeriy Kalinkovich. The judicial board decided to confirm the sentence.

On October 18, the criminal judicial board of the Supreme Court considered the cassation appeal of Aleksandr Grunov who had been sentenced to death by the



Gomel Regional Court. The convict's defender Sergey Krasnov emphasized that the criminal law of Belarus prescribes punitive measures other than capital punishment, such as imprisonment for eight to twenty five years or life sentence. The defender also presented a number of breaches of the criminal procedure ignored by the first instance court to the judicial board. In particular, the lawyer told that the presumption of innocence of his client, the principle of equality of the parties and the competitive judicial process were breached, and noted the existence of contradictions related to the psychological and psychiatric examination of Grunov. Moreover, the defender noted that Grunov had been already kept in a single cell for the persons sentenced to death at the detention center of DIA of Gomel regional executive committee before the judgment came into effect, where he was made to wear clothes with the inscription "CP" (capital punishment), thus he was facing the treatment, according to the defender, "as if the outcome of the case and his fate have already been predetermined". On October 22, Aleksander Grunov's sentence was reversed and the case was returned for the new judicial proceeding.

On October 26, the new consideration of Aleksandr Grunov's case began in the Gomel Regional Court. It should be noted that the case had a large public resonance, especially after the President Aleksander Lukashenko instructed the General Prosecutor's Office and the Supreme Court to deal with the resonance cases such as the cruel murder of a girl in Gomel more thoroughly at his meeting with the General Prosecutor Aleksander Koniuk: "If you, a bastard and a scum, go and commit a crime not for the first time, if you kill a person, what right do you have to live on this earth? I am not blood-minded, but the vengeance and the punishment must be proper. You should control that. Otherwise we will never put things back in order and never lower this temperature in the society. As for grave crimes and felony: if you are guilty you should answer for it with no holds barred"^[4]. On December 24, the criminal judicial council of Gomel regional court brought in the verdict of guilty and sentenced him to be shot. Under such circumstances, taking into consideration serious dependency of the judges on the executive power, and to a larger degree, on the President who appoints judges by his decrees, one can say about the undermining of the most important principle of a



fair judicial proceeding – the principle of the judges’ independence during the consideration of a case.

3. Igor Postnov’s case on the forced psychiatric hospitalization

On August 21, 2013, the Vitebsk District Court of the Vitebsk region satisfied in camera the application of the Vitebsk regional clinical center of psychiatry and narcology for the involuntary hospitalization and treatment of Igor Postnov. The case was considered in Postnov’s absence. At the same time the court decision did not contain any sufficient justification of his inability to participate in the proceeding, but a formal justification prescribed by chapter 4 of art. 391 of the Civil Procedure Code, according to which the case can be considered in the absence of a citizen due to his health condition. The court did not regard the fact that the involuntary hospitalization and treatment were applied to Igor Postnov after he had expressed his critical opinion of the state of healthcare in the Vitebsk region, specifying the law violations on the part of the directors of the healthcare facilities, and, in particular, the president of the Vitebsk regional executive committee, Aleksandr Kosinets. Moreover, the appeal to court for the involuntary hospitalization was filed by the head doctor of the Vitebsk regional clinical center of psychiatry and narcology whose actions, among others, were the objects of Igor Postnov’s criticism.

On September 12, the cassation appeal against the court decision on the involuntary hospitalization was considered in the Vitebsk Regional Court. Despite of the breaches committed during the case consideration in the court of the first instance, the civil judicial board of the Vitebsk Regional Court confirmed the decision of the Vitebsk district court on the involuntary hospitalization of Igor Postnov. At the same time, the proceeding was also held in camera, the journalists and human rights defenders were not allowed in the court room.

4. Cases of the former political prisoners on the breach of the preventive surveillance procedure.

On August 20 the judge of Pervomaiskiy district of Minsk Leonid Yarmolenko adjudged Vladimir Eremenok guilty of the breach of the preventive surveillance requirements (art. 421 of the CC) and adjudged a punishment in the form of 3 months of arrest (the state prosecutor requested 6 months of arrest). The lawyer noticed the multiple breaches committed during the investigation. Thus, the



decision of the Investigating Committee to bring a criminal action was issued on May 24, while the IC only received and registered the case files on May 27. Two reports that served as the main evidence of the breach of the preventive surveillance rules were not registered at all. The lawyer also noted that the state prosecution did not bother to find out the causes of Vladimir Eremenok's absence at home during the checks. The human rights defense center "Vesna" regarded Vladimir Eremenok's sentence as "politically motivated in order to prevent or stop his further social and political activity, and oppressive in regard to such activity. Vladimir Eremenok's sentence is the direct consequence of his sentence to 3 years of custody for the participation in the protest action after the presidential elections on December 19, 2010"^[5]. On November 12, Minsk City Court confirmed Vladimir Eremenok's sentence and it became effective.

On September 16, Vladimir Eremenok and one more former political prisoner Vasiliy Parfenkov were called to the DDIA of Pervomaiskiy district of Minsk, where they were told that on September 13 the judge of the Pervomaiskiy District Court Yuri Gorbatovskiy had considered their administrative case in their absence and had sentenced them to administrative arrest for the breach of the preventive surveillance requirements (art. 24.12 of the AC). At the same time, in accordance with art. 11.4 of the PEAC, the presence of the subjects of the administrative proceeding is mandatory.

On September 21, Vasiliy Parfenkov was brought to the DDIA of Pervomaiskiy district from the detention center and directed to the activity therapy center No. 1 in Svetlogorsk for 12 months. This decision was adopted by the Pervomaiskiy District Court of Minsk yet as of September 4. As the court decision was not appealed against, it became effective on September 17, which was the basis for Parfenkov's direction to the ATC. The human rights defenders consider the practice of forced isolation of citizens in the ATC separately from the criminal prosecution as the breach of the human rights.

On November 28, another judicial proceeding regarding Parfenkov began in the Pervomaiskiy District Court in Minsk. As in Eremenok's case, he was accused of a breach of the preventive surveillance requirements (art. 421 of the CC). V. Parfenkov was delivered to the court under escort of the police, as he had been at the ATC No. 1 in Svetlogorsk (Gomel region). The case consideration was



postponed by the judge till December 5 because Parfenkov had not received the decision on the appointment of a court session. On December 5 the court sentenced Parfenkov for one year of custody in the correctional facility of high security.

5. Andrey Gaidukov's espionage case

On July 1, the Vitebsk regional court passed sentence on Andrey Gaidukov's case. Gaidukov was brought in guilty of a crime under chapter 1 art. 14 and art. 356-1 of the CC (attempt to establish cooperation with a special service, security or intelligence agency of a foreign state) and sentenced him to 1.5 years of custody. It is the first case of application of art. 356-1 of the CC which was introduced in November 2011 and is characterized by equivocal formulations and the possibility of expansive interpretation of the criminalized actions. The case had been investigated since November 2012, all this time Gaidukov was under arrest. The proceeding was held in camera, despite the wide public resonance and the absence of a public justification of the need for the closed consideration.

During the investigation and the judicial proceeding the right to fair proceeding was violated in such parts as the presumption of innocence, the right to defense, investigation by an independent and impartial court, the principle of publicity.

On August 27, the Supreme Court of the Republic of Belarus dismissed the cassation appeal. Even before the sentence became legally effective and before the cassation appeal was considered by the Supreme Court, the major state newspaper "Sovietskaya Belorussia" published A. Gaidukov's case materials on August 21 and 23. According to the author of the publication, those were the letters of A. Gaidukov that appeared in the criminal case materials as the evidence. In the view of the fact that the published information was of evidential nature, it could have influenced the decision of the cassation institution and must not have been published before the end of the case investigation, the Legal Transformation Center (Lawtrend) send an application to the internal affairs authorities and the prosecutor's office. The check held by the prosecutor's office failed to ascertain how the materials of a criminal case and a closed judicial session could have been handed over to the state mass media. At the same time, later inadmissibility of disclosure of the confidential information was pointed to the courts in the Decree of the Plenum of the Supreme Court No. 11 dated 20.12.2013.



[1]<http://spring96.org/files/misc/vypolnenie-rekomendacii-obse.doc>

[2]<http://finance.tut.by/news374370.html>

[3]See detailed comment
<http://lawtrend.org/ru/content/about/news/postanovlenie-plenuma-verhovnogo-suda-oglasnosti/>

[4]http://naviny.by/rubrics/society/2013/11/14/ic_news_116_428163/

[5]<http://spring96.org/ru/news/65329>