



Strasbourg, 26 May 2010

**Opinion no. 573/2010**

**CDL(2010)052**  
Engl. only

**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**OFFICIAL WARNING**

**ADDRESSED ON 13 JANUARY 2010  
TO THE BELARUSIAN ASSOCIATION OF JOURNALISTS  
BY THE MINISTRY OF JUSTICE**

**OF BELARUS**

**MINISTRY OF JUSTICE**  
**REPUBLIC OF BELARUS**

**ORDER**

**13.01.2010 № 2**

**Minsk**

**On the issue of a written warning  
to the Public Association [GA]**

**“Belaruskaia asatsyiatsyia zhurnalistau” [BAZh – Belarus Association of Journalists]**

Pursuant to Art. 5 of the Republic of Belarus Public Associations Act (hereinafter referred to as “the Act”), a public association shall carry out its activities in compliance with the Constitution of the Republic of Belarus, the Act and other legislative enactments and on the basis of its Articles.

The Minister of Justice of the Republic of Belarus has established that in November 2009, member of the Belarus Association of Journalists Public Association (hereinafter referred to as “the GA BAZh”) A.M. Dzianisav [Denisov] committed an infringement of the legal requirements. He compiled a video report on the territory of the TAA “Shklozavod Nioman” [glass works] and recorded an interview with employees of this enterprise. In doing so, he introduced himself as a journalist and showed his official document as a member of the GA BAZh № 809, issued on 29.01.2009.

In his written explanation of 06.11.2009, A.M. Dzianisav again stated that he was a GA BAZh journalist.

At the same time, according to par. 7 of Art. 1 of the Republic of Belarus Mass Media Act, a journalist working in the mass media is a natural person engaged in the gathering, editing and creation (typesetting) of information announcements and (or) material for a juridical person, upon whom fall the functions of editing a mass medium, linked to this juridical person via work or other contractual relations.

Pursuant to par. 4.9 of Art. 34 of the Republic of Belarus Mass Media Act, a mass media journalist must, when carrying out his professional activities, proffer his official document on request. The form of the official document of a mass media journalist registered within the Republic of Belarus establishes that Republic-level agencies exercise state control in the sphere of the mass media.

The GA BAZh is not, however, a mass medium.

Nevertheless, the cover of the official document of a member of the GA BAZh, obtained by the Ministry of Justice from the administrative body of that organisation, unlawfully displays the legends “PRESS” and “PRESS REPUBLIK OF BELARUS”. An official document of the same type bearing № 809, and the same legends, issued by the organisation in question on 29.01.2009, was presented by A.M. Dzianisav when carrying out journalistic activities on the territory of the TAA “Shklozavod Nioman”.

Similar official documents have also been issued to other GA BAZh members.

Thus the GA BAZh, by issuing official documents of the type in question to its members, is in breach of the requirements of the provisions referred to above of the Republic of Belarus Mass Media Act of the Republic of Belarus, establishing that Republic-level agencies exercise state control in the sphere of the mass media.

The GA "BAZh" is not, however, a mass medium.

Nevertheless, the cover of the official document of a member of the GA "BAZh" which was obtained by the Ministry of Justice from the administrative body of that organisation unlawfully displays the legends "PRESS" and "PRESS REPUBLIK OF BELARUS". An official document of the same type bearing No. 809, and the same legends, issued by the organisation in question on 29.01.2009, was presented by A.M. Dzianisav [Denisov] when carrying out journalistic activities on the territory of the TAA "Shklozavod Nioman" [glass works].

Similar official documents have also been issued to other GA "BAZh" members.

Thus the GA "BAZh", by issuing official documents of the type in question to its members, is in breach of the requirements of the provisions referred to above of the Mass Media Act of the Republic of Belarus.

Furthermore, these actions by the GA "BAZh" have led to an unjustified assumption by members of this organisation of the powers attributed to a mass media journalist as stipulated in Art. 34 point 2 of the Mass Media Act of the Republic of Belarus.

On the GA "BAZh" website (domain name www.baj.by) is the statement: "A Centre for Legal Defence of the Mass Media operates at the GA "BAZh" ...". But such a formation is not envisaged in the Articles of the GA "BAZh". Moreover, the tasks of this formation as set out in the item concerning it go beyond the limits of the tasks of the GA "BAZh" listed in the Articles.

In addition to the above, the website contains information on the aims of the GA "BAZh" which do not match those given in the Articles.

In the light of what has been stated above, and guided by Articles 26 and 27 of the Act, I ORDER as follows:

1. That a written warning be issued to the GA "BAZh";
2. That the administrative body of the GA "BAZh" be placed under obligation to take the following steps within one month of receipt of a copy of this order:
  - to ensure that all membership documents issued previously to members of the GA "BAZh" which perpetrate the breach referred to in this order are withdrawn, and see to it that they cannot be used in future;
  - to eliminate other breaches pointed out in this order;
  - to take steps with the objective of preventing any future infringements of the requirements of the law and the organisation's Articles as mentioned in this order;
  - to submit evidence to the Ministry of Justice that the requirements listed above have been acted upon;

Furthermore, these actions by the GA BAZh have led to an unjustified assumption by members of this organisation of the powers attributed to a mass media journalist as stipulated in par. 2 of Art. 34 of the Republic of Belarus Mass Media Act.

On the GA BAZh website (domain name www.baj.by) is the statement: "A Centre for Legal Defence of the Mass Media operates at the GA BAZh ...". But such a formation is not envisaged in the Articles of the GA BAZh. Moreover, the tasks of this formation as set out in the item concerning it go beyond the limits of the tasks of the GA BAZh listed in the Articles.

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  - to eliminate other infringements pointed out in this order;
  - to take steps with the objective of preventing any future infringements of the requirements of the law and the organisation's Articles as mentioned in this order;
  - to submit evidence to the Ministry of Justice that the requirements listed above have been acted upon;
3. That this Order be conveyed to the managing body of the GA BAZh for action on the requirements set out in the Order;
4. That a copy of the Order be sent to the Ministry of Information of the Republic of Belarus for information.

Deputy Minister

[signature]

A.A. Simanau [Simonov]