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**Opinion No. 616 / 2011**

**CDL-REF(2011)028**

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

**OFFICIAL WARNING**  
**ADDRESSED BY THE MINISTRY OF JUSTICE OF BELARUS**  
**TO THE BELARUSIAN HELSINKI COMMITTEE**

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

ul. Kollektornaya, 10, 220004, Minsk  
tel./fax: 200-86-87, 200-97-55  
e-mail: kanc@minjust.by, minjust@mail.gov.by

\_\_\_\_\_ № \_\_\_\_\_

Your Ref. № \_\_\_\_\_

Council  
of the Republican human rights NGO  
“Belarus Helsinki Committee”

ul. K. Liebknechta, 68,  
room 1201,  
220036, Minsk

Re: Copy of Order  
with written warning

We enclose herewith a copy of Order № 8 from the Ministry of Justice of the Republic of Belarus, dated 12.01.2011, and we propose that the requirements set out in this order be met within the time indicated therein.

We would like to take this opportunity to inform you that an appeal may be lodged against the written warning issued in this order with the Supreme Court of the Republic of Belarus within one month.

Enclosed: 1 copy on 4 pages

Head of Department  
responsible for  
non-profit organisations

[signature]

E.O. Kirichenko

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

**ORDER**

12.01.2011 №8

**Minsk**

Re: written warning to the Republican human rights NGO  
“Belarus Helsinki Committee”

Pursuant to Section 5 of the Non-Governmental Organisations Act of the Republic of Belarus (hereinafter referred to as “the Act”), NGOs shall carry out their activities in accordance with the Constitution of the Republic of Belarus, the Act and other legislative enactments and on the basis of their own constituent instruments.

Under the terms of point 1.5 of the statutes of the Republican human rights NGO “Belarus Helsinki Committee” (hereinafter referred to as “the RHRNGO “BHC”), this legal entity carries out its activities in accordance with the current Constitution of the Republic of Belarus and any legislative enactments adopted in accordance therewith, international treaties ratified by the Republic of Belarus and the organisation’s own statutes.

Point 1.4 of the statutes of the RHRNGO “BHC” stipulates that the organisation shall base its work, *inter alia*, on the principle of the rule of law.

As established by Section 4 of the Information, Information Technology and Protection of Information Act of the Republic of Belarus, legal regulation of information relations must be based, *inter alia*, on the principle of timely submission, objectivity, completeness and accuracy of information.

Under Section 33 of this Act, information holders are required to submit information that is accurate and complete.

It has come to the notice of the Ministry of Justice of the Republic of Belarus (hereinafter referred to as “the MoJ”) that the RHRNGO “BHC” has sent a statement to the United Nations Organization concerning the mass disturbances that took place in Minsk on 19.12.2010 and other related events (hereinafter referred to as “the statement”). A study of the text of this document reveals the following.

In the statement there are unsubstantiated allegations of falsifications which are said to have taken place during the presidential elections. Furthermore, a tendentious account is given of the arrests that were made, and of the charges brought by the prosecution service against the organisers of the mass disturbances. In addition, the information given about the preliminary investigation and the MoJ’s complaints about the activities of certain lawyers acting for individuals who were being investigated has been deliberately misrepresented.

There is no truth to the statement’s claims that lawyers providing legal assistance to persons accused of organising the mass disturbances or of taking part in them were “intimidated”, and the wording of the quotations from Ministry of Justice statements and documents that are given is distorted.

The fact that the Ministry of Justice carried out an assessment of publications in connection with the tendentious provision of information in certain mass media is interpreted with reference to lawyers. What is not said is that the professional activities of the lawyers were not the focus of attention. No mention is made of the fact that there is incontrovertible evidence of deliberate misrepresentation of information provided by lawyers in the mass media, and some lawyers would not talk to journalists at all.

The statement fails to reflect the views of the self-governance bodies representing the legal profession – the Republican Bar Association and the Minsk City Bar Association – which criticised the actions of dishonest journalists, as well as the Grodno Regional Bar Association, which stripped lawyer Busko of her right to practise, before the Qualifications Commission of the Ministry of Justice had even reached its decision, for violating the Rules of Lawyer's Professional Ethics.

The rules enshrined in existing law are ignored, including those set out in the Advocacy Act of the Republic of Belarus, pursuant to which the Ministry of Justice has taken steps aimed at supporting the professional status of lawyers; one such step has been to send a submission to the Ministry of Information of the Republic of Belarus, and lawyers have been advised to avoid instances of misrepresentation of information given out by them.

Under Section 18 of the Advocacy Act of the Republic of Belarus, in his or her professional practice, a lawyer is **bound** to observe the existing legislation precisely and rigorously.

As a result, the RHRNGO "BHC" has committed a gross breach of the requirements of the above-mentioned rules of the Information, Information Technology and Protection of Information Act of the Republic of Belarus, as well as points 1.4 and 1.5 of its own statutes.

The RHRNGO "BHC" is deliberately misleading the addressee of the statement when it asserts that investigators are groundlessly barring lawyers from disseminating information which might violate the secrecy of investigation. The RHRNGO "BHC" wrongly maintains, moreover, that national law fails to make it clear what is meant by the term "secrecy of investigation".

In actual fact, Art. 407 of the Criminal Code of the Republic of Belarus provides that anyone who, without the consent of the person conducting the inquiry, the investigator, the public prosecutor or the court, deliberately discloses data from an inquiry, preliminary investigation or closed trial, having been duly cautioned as to the inadmissibility of such disclosure, shall be prosecuted.

It is notable that the statement remains silent about the fact that Minsk City Executive Committee did not give permission for the mass gathering to be held on 19.12.2010 in the squares and streets of the City of Minsk.

This is, therefore, another instance of a gross breach by the RHRNGO "BHC" of the requirements of Sections 4 and 33 of the Information, Information Technology and Protection of Information Act of the Republic of Belarus.

The inaccurate information contained in the statement was posted on a website with the domain name [www.belhelcom.org](http://www.belhelcom.org), and also on a number of other websites.

In this way, inaccurate information was disseminated, discrediting the law enforcement agencies and judicial bodies of the Republic of Belarus.

A close look at the text of the statement has also revealed that in the heading and main body of the document, the name of the RHRNGO "BHC" is incorrect (the first part of the name showing the legal/organisational form of the legal entity has been omitted). This is in breach of the requirements of point 1.1 of the statutes of the RHRNGO "BHC", and also of Art. 50 of the Civil Code of the Republic of Belarus.

This is not the first time that there have been infringements of this kind. They are a regular occurrence on the website [www.belhelcom.org](http://www.belhelcom.org). Similar infringements are to be found on the observer form which is used by this organisation, a specimen of which is enclosed with the letter from the RHRNGO "BHC" of 28.12.2010 bearing the reference № 01-14/276. The RHRNGO "BHC" State Registration Certificate number shown in this form is incorrect moreover, and the stamp that the RHRNGO "BHC" uses on postal envelopes shows an incorrect abbreviated name of this organisation (in breach of the requirement of point 1.2 of the statutes of the RHRNGO "BHC").

In view of the above, and guided by Sections 26 and 27 of the Act, I hereby ORDER:

1. That a written warning be issued to the RHRNGO "BHC";
2. That the RHRNGO "BHC" be required to:

2.1. Draft and dispatch a letter to the same addressee as for the statement, within two days, requesting the return of that document on account of the non-objective, incomplete and inaccurate information contained therein (evidence of this requirement having been met to be presented to the MoJ within two days after the letter is dispatched to the addressee);

2.2. Within one week:

2.2.1. Hold a meeting of the governing body at which steps are to be taken to ensure that there are no further breaches of the law or of the statutes of the RHRNGO "BHC", and also to hold to account those individuals who are guilty of the breaches referred to in the order. A copy of the minutes of this meeting is to be submitted to the MoJ by 24.01.2011;

2.2.2. What remains of the print run of the forms and stamps mentioned in this order is to be destroyed, and copies of relevant records are to be submitted to the MoJ by 24.01.2011.

3. A copy of this order is to be dispatched to the governing body of the RHRNGO "BHC" for implementation.

First Deputy  
Minister

[signature]

A.V. Bileichik