

DECISION

On 18 July 2012, Judge A.A. Yakunchikhin of Central Rayon District Court, Minsk, with O.N. Nikolenko as Clerk, with defence counsel V.K. Mushinskiy present, having reviewed in open court the matter of an administrative offence in regard to whether:

Irina Georgievna Sukhiy, d.o.b. 16 July 1963, native of the City of Minsk, citizen of the Republic of Belarus, widow, a graduate working in a specialist capacity with Ecohome, a public association (14, Zelenaya Street, Komarovo, Myadelskiy Rayon, Minsk Oblast), previously prosecuted under the Code of the Republic of Belarus on Administrative Offences ('the CAO'), registered and residing at Flat 18, 76, Independence Avenue, Minsk, with ID No 4160763A032RV4, committed an administrative offence provided for by Article 17.1 of the CAO,

HAS ESTABLISHED that:

At 12:00 on 18 July 2012, I.G. Sukhiy was gesticulating and using coarse, offensive language while in a public place, i.e. outside 38, Novovilenskaya Street, Minsk; she failed to respond to police officers' warnings that she was committing a violation of public order and a breach of the peace.

In court, I.G. Sukhiy denied the offence, explaining that although she had indeed been outside 38, Novovilenskaya Street, Minsk, at 12:00 on 18 July 2012, she had not used offensive language and had not committed any violation of public order or breach of the peace, despite which she was apprehended by police officers.

Despite the individual before the court denying the administrative offence with which she is charged, the fact that she engaged in these incriminating acts has been established in court and is confirmed by witness testimonies.

Thus, A.S. Litvinko, witness, when questioned in court, told the court that at about 12:00 on 18 July 2012, he noticed I.G. Sukhiy, who was previously unknown to him, outside 38, Novovilenskaya Street, Minsk, where she was addressing passers-by in offensive language. He approached I.G. Sukhiy and told her to stop acting illegally; however, she continued to use coarse, offensive language, which led to her being apprehended.

The testimony given by B.M. Zhakun, witness, was similar to that of the witness A.S. Litvinko regarding the relevant points.

The fact that I.G. Sukhiy engaged in incriminating acts is also confirmed by written documents in the case:

- a record of the administrative offence from 18 July 2012 (No 0736806), drawn up with reference to I.G. Sukhiy's committing an offence which contains all the elements of an administrative offence covered by Article 17.1 of the CAO;

- the record of an interview with A.S. Litvinko, witness, from 18 July 2012, according to which at 12:00 on 18 July 2012, I.G. Sukhiy was using coarse, offensive language outside 38, Novovilenskaya Street, Minsk;

- the record of an interview with B.M. Zhakun, witness, from 18 July 2012, according to which at 12:00 on 18 July 2012, I.G. Sukhiy was using coarse, offensive language outside 38, Novovilenskaya Street, Minsk;

- an incident report from the station commander of the 19th Section of the Special Police Force of the Chief Directorate of Internal Affairs of the Minsk City Executive Committee, B.M. Zhakun, from 18 July 2012, in which he states that at 12:00 on 18 July 2012, I.G. Sukhiy was using coarse, offensive language outside 38, Novovilenskaya Street, Minsk;

- a record of administrative detention from 18 July 2012, according to which

I.G. Sukhiy was apprehended at 12:00 on 18 July 2012 outside 38, Novovilenskaya Street, Minsk, for committing an offence covered by Article 17.1 of the CAO;

The court finds these items of evidence to be relevant, admissible and reliable: taken in their entirety, they are sufficient to allow a decision to be made on the case.

The court looks with scepticism on I.G. Sukhiy's arguments, particularly her argument that she was not using offensive language or committing any violation of public order outside 38, Novovilenskaya Street, Minsk, on 18 July 2012; the court takes this view because her arguments are refuted by the witness testimonies and the documentary evidence in the case; the court's assessment is that I.G. Sukhiy has chosen these defence arguments in the aim of escaping the consequences of committing this offence.

The court regards the arguments of the defence counsel, V.K. Mushinskiy, as insignificant, particularly the argument that the witnesses' testimonies are contradictory, including as regards their direction of travel along the patrol route and the fact that the witness A.S. Litvinko did not mention in court that I.G. Sukhiy was accosting passers-by, although he mentioned it in interview; the court takes this view because these witnesses have given mutually consistent testimony about the discovery and the commission of the offence, as well as about the way in which I.G. Sukhiy was apprehended, and the court has no grounds on which to doubt this testimony.

Having examined and assessed all the evidence in the case, the court finds that I.G. Sukhiy has committed a public order violation and a breach of the peace and that her actions fall under Article 17.1 of the CAO.

The court notes, as an extenuating circumstance, the fact that I.G. Sukhiy has a dependent minor child.

The court notes, as an aggravating circumstance in the case, the fact that she continued to behave illegally, despite being told to stop.

On the grounds set out, being satisfied that I.G. Sukhiy's actions contain all the elements of an administrative offence as provided for by Article 17.1 of the CAO, and taking into account the extenuating and aggravating circumstances, the nature of the offence committed and the identity of the person who committed the administrative offence, the court concludes that the purpose of the administrative law penalty laid down can be achieved by the imposition of a penalty in the form of a fine.

On the grounds set out, pursuant to Articles 11.9 and 11.10 of the Procedure and Enforcement Code of the Republic of Belarus on Administrative Offences, the court -

HAS DECIDED:

To subject **Irina Georgievna Sukhiy** to a penalty under administrative law, on the basis of Article 17.1 of the CAO, in the form of a fine to be paid to the State in the sum of 1,500,000 roubles (15 (fifteen) basic units).

An appeal may be made against this Decision (or a notice of the Prosecutor's opposition filed) to Minsk City Court, via Central Rayon District Court, Minsk, within 10 (ten) days.

Judge: signature.

This is a true and faithful copy.

Judge:

[Round seal:]

Central Rayon District Court, Minsk