

## Belarus Human Rights Index

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2019

### Right to participate in public affairs

**Score: 3.0**

***Including scores by component:***

- Participation in public affairs in non-electoral contexts – 2.6
- The right to vote and be elected – 3.9
- Access to public service – 2.6

Belarus faces a fundamental problem in terms of state recognition of the importance of the role played by citizens and civil society as a whole. State bodies at all levels – including representative bodies – are not oriented towards the principle that public participation in decision-making strengthens the legitimacy of decisions taken by the state. This gives rise to non-inclusive and non-transparent forms of decision-making at all levels.

In Belarus, virtually any form of participation in public affairs requires permission, the obtaining of which is accompanied by numerous bureaucratic formalities, enabling the government to prohibit or control any activity.

Belarusian legislation enshrines various instruments and forms of citizen participation in shaping the decision-making agenda – through the exercise of the right of legislative initiative, the submission of proposals to the legislative drafting work plan and other petitions, and the organisation and conduct of national and local assemblies. In practice, however, these mechanisms are effectively non-functional.

In 2019, amendments were made to the Law "On Normative Legal Acts" and subordinate legislation adopted in its development, which somewhat expanded the mechanisms for citizen and organisational participation in the rule-making process. The principal mechanisms are the public discussion of draft normative legal acts, the forecasting of the consequences of their adoption, and legal monitoring.<sup>1</sup> At the same time, provisions on mandatory public discussion have been introduced only in relation to draft normative legal acts regulating specific legal relationships in certain areas,

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<sup>1</sup> The Belarusian expert community "Our Opinion", "What has become of public consultation on draft legislation?": <https://nmnby.eu/news/xlibris/6813.html>



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which calls into question the effectiveness of this mechanism.<sup>2</sup>

The procedure for decision-making at the regional and international level remains closed to the public. There is no transparent process for the country's leadership to coordinate specific steps in the sphere of foreign policy with parliament and society; strategic decisions in this area are taken unilaterally.

In 2019, the practice of discussion between civil society and state bodies across various platforms continued – consultations on civil and political rights were held in the context of preparations for the third cycle of the Universal Periodic Review. Nevertheless, Belarus lacks legislatively approved frameworks for interaction between state authorities and NGOs, or state–private partnership programmes.<sup>3</sup>

Belarus has no dedicated normative act on access to information held by state bodies and local self-government bodies. Access to draft normative legal acts, as well as to information on the law-enforcement practice of state bodies, is significantly restricted.<sup>4</sup>

The electoral process in the Republic of Belarus fails to meet a number of established international standards for democratic and fair elections and is accompanied by numerous violations of national legislation. Participation in elections does not constitute a meaningful mechanism for citizen engagement in public affairs. The formation of electoral commissions is traditionally marked by a discriminatory approach towards representatives of opposition parties, rendering the work of those commissions entirely closed to the public and undermining public confidence in their activities. Initiative groups supporting opposition candidates either face arbitrary refusal of registration or are subjected to pressure by law-enforcement bodies.<sup>5</sup> The practice of early voting remains one of the systemic problems of the electoral process, creating ample opportunities for the use of administrative resources and other forms of manipulation.<sup>6</sup> In the 2019 elections, more than 99% of all complaints submitted to commissions or courts were rejected or left without consideration – frequently on questionable grounds and without proper examination of the facts – undermining the effectiveness of legal remedies and public confidence in the system for resolving electoral disputes.<sup>7</sup> Participation

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<sup>2</sup> Cooperation between local authorities and non-profit organisations in Belarus: legal regulation and practice, Olga Smolyanko, Yuri Chausov: <https://www.lawtrend.org/wp-content/uploads/2019/04/book-rds-2019.pdf#viewer.action=download>, pp. 104–105.

<sup>3</sup> Ibid., p. 70

<sup>4</sup> Ibid., pp. 78–83

<sup>5</sup> Ibid., pp. 38–39

<sup>6</sup> Ibid., p. 6; Analytical report on the results of the observation of the 2019 elections to the House of Representatives of the National Assembly of the Republic of Belarus, “Human Rights Defenders for Free Elections”: [https://belhelcom.org/sites/default/files/vynikovaja\\_spravazdacha\\_parlamenckia\\_vybaru\\_2019\\_ru.pdf](https://belhelcom.org/sites/default/files/vynikovaja_spravazdacha_parlamenckia_vybaru_2019_ru.pdf) p. 6

<sup>7</sup> 2019 Early Parliamentary Elections, Final Election Observation Report of the OSCE ODIHR Mission: [https://www.osce.org/files/f/documents/f/6/450163\\_0.pdf](https://www.osce.org/files/f/documents/f/6/450163_0.pdf) p. 28

in elections is accompanied by various discriminatory and restrictive practices. The right to vote is held by citizens who have reached the age of 18 by election day. The Constitution restricts the electoral rights of persons declared legally incapacitated by a court decision. Furthermore, persons held in pre-trial detention and persons serving custodial sentences do not have the right to vote, regardless of the gravity of the offence.<sup>8</sup>

In 2019, although a significant reduction was noted – compared with previous years – in the number of politically motivated administrative arrests and criminal cases, the authorities did not fully abandon the practice of repression against citizens exercising their constitutional rights to freedom of opinion and expression, freedom of peaceful assembly and freedom of religion, nor the practice of prosecuting independent journalists.<sup>9</sup>

The Law "On Public Service" contains a number of restrictions on entry into public service (Article 33 of the Law). Certain restrictions, as well as grounds for termination of public service, may be established by other legislative acts.

According to official data, as of 1 November 2019, women accounted for 68.6% of civil servants (70.1% as of 1 July 2015<sup>10</sup>), including 58.2% of heads of organisations and their deputies, and 65.8% of heads of structural units. At the same time, 53.8% of all male civil servants hold managerial positions (heads of organisations and their deputies, heads of structural units), whilst among women employed in the civil service, this figure stands at 42.1%. Among employees of the Ministry of Foreign Affairs, the proportion of women is 34%.<sup>11</sup>

Legislation contains no specific provisions guaranteeing the free exercise of independent judgment by public servants.

Among the problems in the sphere of access to public service identified by experts are: discrimination against women in career advancement; the absence of clear, objective and publicly available criteria governing who is entitled to appointment to and advancement within public service; the existence of so-called nepotism in appointments to well-remunerated posts; and the fact that appointment and promotion are frequently based on the criterion of "loyalty" to the country's leadership rather than on performance in a previous post.

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<sup>8</sup> Ibid., pp. 12–13

<sup>9</sup> Analytical report on the results of election observation of the 2019 elections to the House of Representatives of the National Assembly of the Republic of Belarus, "Human Rights Defenders for Free Elections": [https://belhelcom.org/sites/default/files/vynikovaja\\_spravazdacha\\_parlamenteckia\\_vybaru\\_2019\\_ru.pdf](https://belhelcom.org/sites/default/files/vynikovaja_spravazdacha_parlamenteckia_vybaru_2019_ru.pdf) p. 4 p. 2;

<sup>10</sup> Eighth periodic report of the Republic of Belarus to the Committee on the Elimination of Discrimination against Women, 2016, CEDAW/C/BLR/8, paragraph 142.

<sup>11</sup> Labour and Employment in the Republic of Belarus, 2020: Statistical Compendium <https://www.belstat.gov.by/upload/iblock/c17/c1758aafc21ec069dafba92b27dea768.pdf>, p. 131.



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