

National Human Rights Index

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2021

The right to work:

Expert Commentary

Score: 3.7

Including scores by component:

- Freely chosen work without any kind of compulsion - 3.6
- Equal access to work for all - 3.8
- Just and favorable conditions of work- 4.3
- Fair remuneration - 5.1
- Employment promotion and protection against unemployment - 3.3
- Protection mechanisms - 2.2

The baseline state of the right to work is described in the 2019 commentary. Assessing the state of the right to work in 2021, Index experts gave lower scores than in 2020 for the following reasons:

1. The regime's repression of dissenting workers has become widespread and systemic (arbitrary dismissals because of political views, coercion to resign at will, disciplinary punishments, and worsening working conditions as a way to persecute workers);
2. Some practices of harassment of workers disloyal to the current regime (persecution of independent trade unions¹, "black lists" for dismissals, a ban on the profession, and increased overtime, in particular for medical workers) have acquired the character of state policy
3. The repression of civil society in spring-summer 2021² had a negative impact on the labor market and on the mechanisms and ways of protection for those whose labor rights were violated;
4. Weak provision of economic, social and cultural rights in Belarus;

¹ <https://m.nashaniva.com/ru/articles/269421/?mo=b27e7be5f41a770f9344589ca3ae2ea86fb7182e>

² According to Lawtrend, since July 2021 the Belarusian authorities have liquidated more than 300 non-profit organizations, regardless of the nature of their activities (cultural, educational, human rights, social, charitable, etc.). Official grounds for liquidation included non-statutory activities, receiving two warnings from the Ministry of Justice within a year, or failure to carry out entrepreneurial activities for 24 months. The liquidation was not applied to pro-governmental NGOs. About 200 other civil society organizations decided to close down. <https://www.lawtrend.org/liquidation-nko>



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5. cases of suicide among persecuted workers;
6. coercion to join the pro-government Federation of Trade Unions of Belarus;
7. widespread practice of signing short-term contracts for one year;
8. forced labor and its new forms as part of the state policy;
9. systematic violation of collective agreements, granting preferences under collective agreements only to politically loyal workers;
10. the practice of selective selection of personnel with mandatory approval by a security specialist (usually a KGB officer), especially in state organizations;
11. systematic neglect of occupational safety, unsafe working conditions;
12. significant changes in the Labor Code (LC) of the Republic of Belarus in summer 2021³:

For example, in terms of disciplinary liability, paragraph 7 of Article 42 of the LC is supplemented with new grounds for dismissal on the employer's initiative:

1. absence from work due to serving an administrative penalty in the form of administrative detention that prevents the performance of work duties;
2. forcing employees to participate in a strike, preventing other employees from performing their job duties, calling employees to stop performing their job duties without valid reasons;
3. participation of a worker in an illegal strike, as well as in other forms of refusal of a worker to perform their labour duties (fully or partially) without good cause.

The law introduces amendments to Article 46 of the LC, according to which the necessity of prior notification of the trade union at termination of the labor contract with an employee on the above three new grounds of dismissal is excluded, as well as the possibility to include the requirement of prior consent of the trade union to dismiss on the above grounds into collective agreements.

Disciplinary liability for unlawful actions with personal data was established (Article 47 of the LC). The employer was granted the right to impose disciplinary penalties on an employee, including in cases when it was impossible to obtain an explanation from the employee (Article 199 of the LC).

Article 388 of the Labor Code is supplemented with a rule, according to which during strikes political demands are prohibited.

Article 26 of the Law "On Industrial Safety" prohibits strikes at enterprises that have hazardous production facilities.

³ <https://just-grodno.gov.by/news/2021/30-iyunya-2021-g-vstupil-v-silu-zakon-respubliki-belarus-114-z-ob-izmenenii-zakonov-po-voprosam-trud/>



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Freely chosen work without any kind of compulsion

The right to freely chosen employment is enshrined in the legislation, but not always ensured in practice. The choice of profession is limited. In 2021 the list of prohibited professions for women was neither reduced nor completely abolished. Additional grounds for dismissal have appeared.⁴ Certain groups of professions became in practice "outlawed" in the eyes of the state, in fact these professions are not safe after August 2020 and the repressions that followed in 2020-2021. This applies, for example, to journalists, especially from independent media, NGO workers, etc.⁵ Journalists are regularly detained, searched and imprisoned for performing their professional duty⁶. As of December 16, 2021, 32 journalists were detained in Belarus in connection with their professional activities: 17 women and 15 men⁷. For example, Yahor Martinovich, editor-in-chief of the newspaper Nasha Niva, has been detained since July 2021. "They just locked me up out of revenge for my professional activities," he says.⁸ The "TUT.BY case" is also exemplary.⁹

As of 2019, the issue of the ability to choose employment by certain groups of people has not been resolved. For example, the legislation has an indirect restriction for people with a group 1 disability: due to the medical statement of health, they are practically deprived of the opportunity to work. There are lists of illnesses that prohibit people from working in certain areas. The choice of professions for people with disabilities is seriously limited.

⁴ See above

⁵ <https://baj.by/ru/analytics/eto-prakticheski-zapret-na-professiyu-redaktory-izvestnyh-izdaniy-o-priznanii-tutby>

⁶ <https://spring96.org/ru/news/105919>

⁷ <https://baj.by/ru/content/reportery-bez-granic-v-tyurmah-v-mire-nahodyatsya-488-zhurnalistov>

⁸ <https://baj.by/ru/analytics/menya-prosto-zaperli-iz-mesti-za-moyu-professionalnuyu-deyatelnost-glavnyy-redaktor-nashey>

⁹ On May 18, 2021, officers of the Department of Financial Investigations (DFI) arrived at the offices of tut.by and hoster.by, employees of both companies were detained and accounts were blocked. The employees did not receive any payments until July 2021 (violation of the right to fair remuneration, as the companies continued to operate in normal mode). Altogether 15 people were detained as part of the 'TUT.by case', including directors (of tut.by itself, as well as other associated companies), journalists, editors, accountants and others. Many of them are still behind bars. All of them were recognized as political prisoners. The portal domain was blocked on the initiative of the Prosecutor's Office and now employees can only continue their work through social networks. On June 24, 2021 a trial began over the recognition of tut.by products as extremist. The portal was actually accused of journalists covering protests and talking about violence by security forces and repressions. The portal journalists allegedly "only positively" assessed the actions of the opposition and "negatively characterized" representatives of the authorities. In October 2021 the Investigative Committee of the Republic of Belarus initiated a criminal case against officials and employees of tut.by and other persons for inciting racial, national, religious or other social enmity or hatred, committed by a group of persons. But exact charges as well as specific accused persons are unknown <https://baj.by/ru/content/v-chem-obvinyayut-tutby-i-kak-eto-komentiruyut-v-kompanii>; <https://smartpress.by/news/8366/>; <https://spring96.org/ru/news/103959>; <https://spring96.org/ru/news/105246>



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Universities are massively ask to resign “at will” those lecturers who have spoken out against the illegal expulsion of students who have participated in peaceful protests since August 2020.¹⁰ Thus, political “purges” at Polotsk State University in December 2021 alone included coercion to dismiss associate professors V. Lobach, V. Yakubov and I. Bortnik. M. Saltykova-Volkovich, a lecturer, was subscribed to the university Telegram-chat, which was declared “extremist”, and as a result, she was fired.¹¹ School teachers are forced to quit *en masse* “by mutual agreement,” arguing that they do not fit the position they hold or do not meet moral standards (the real reason being dissent).¹²

Whereas in 2020 the practice of targeted dismissals for political positions was widespread, in 2021 the systematic practice of “blacklists” took root¹³. This is especially true for doctors¹⁴, miners¹⁵ and teachers, when a person cannot find a job in his or her profession after he or she has been dismissed, which leads to a de facto ban on certain professions. The practice of mass layoffs leads to a shortage of personnel and a redistribution of the workload among the remaining workers.

According to experts, the situation with forced labor worsened in 2021. The practice of forced labor in medical-labor dispensaries, among prisoners and political prisoners in particular, has become widespread. The Human Rights Center “Viasna” reports numerous violations in relations to prisoners: including forcing people with disabilities or people with cancer to do hard labor, failure to accrue pensionable service, violations of safety regulations, etc.¹⁶ There were cases of forced labor by court order. In 2021 changes were made to the mechanism of mandatory graduate placement. In practice, they began to place them only to public institutions and reject requests from private organizations. In 2021, athletes were forced to be “listed” as employees in state structures, for example, in the Ministry of Internal Affairs or the State Border Committee¹⁷. Due to the non-admission of independent observers and widespread repression of NGOs, it was impossible to monitor the situation with forced labor in residential institutions for people with disabilities in 2021. This also resulted in the fact that people there had no opportunity to defend their rights.

According to experts, the economic exploitation of children and youth worsened in 2021. The same types of exploitation persisted as in previous years, but because of the COVID-19 pandemic there was a practice of employing students when an enterprise or organization was short-staffed. Often such

¹⁰ <https://spring96.org/ru/news/106226>

¹¹ <https://www.currenttime.tv/a/byl-podpisan-na-ekstremistskiy-pablik-v-instagrame-mne-dali-5-sutok-aresta-i-uvolili-kak-v-belarusi-lishayut-raboty-inakomyslyaschih/31606936.html>

¹² <https://spring96.org/ru/news/106117>

¹³ <https://spring96.org/ru/news/106226>

¹⁴ <https://www.currenttime.tv/a/31607429.html>; <https://www.dw.com/ru/belarus-terjaet-luchshih-vrachej-iz-za-protestov-i-pravdy-o-kovide/a-57450074>

¹⁵ <https://www.bbc.com/russian/features-56948983>

¹⁶ <https://spring96.org/ru/news/101362>

¹⁷ <https://news.zerkalo.io/cellar/16926.html>



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students were underpaid and/or delayed in payment of wages. Also a negative trend in 2021, experts called the low pay of graduating interns, who were placed to polyclinics or hospitals.

In 2021 the practice of unjustified dismissals at both state and private enterprises for an employee's political views became deeply rooted. This practice became widespread and systemic, compared to 2020.

As of 2021, no legislative or other effective measures have been taken to ensure that workers are free from physical and psychological harassment. The problems noted in 2020 have persisted. In addition, according to experts, the practice of psychological pressure is widespread in 2021. State organizations have introduced a system of mandatory interviews with a security specialist (usually a KGB employee) when hiring. In 2021, "security pro-rectors" from the ranks of current and former law enforcement officers began actively working in higher education institutions. They conducted "preventive talks" and fired those who were seen criticizing the current regime offline or online (speaking out on social networks, taking pictures with white-red-white symbols, etc.) The general atmosphere of fear in the workplace, especially in the regions, forced people to engage in self-censorship so as not to lose their jobs. In 2021, the practice of blatant detentions and extensive coverage of such detentions in pro-government Telegram channels and the media is widespread, in order to intimidate all those who have not yet been detained.

Equal access to work for all

According to experts, in 2021 the labor market is still not open for everyone, despite the fact that there is a prohibition of discrimination in labor relations (Article 14 of the LC). No comprehensive anti-discrimination legislation has yet been passed. The list of prohibited professions for women in 2021 was neither abolished nor reduced. There are no effective legal means of protection against discrimination. On the contrary, in 2021 measures were taken by the state to encourage discrimination, especially against dissenters: the practice of "black lists" and bans on professions affects teachers, journalists, doctors, and other groups. In 2021 the hostility of the current government toward certain groups, such as the LGBTQ+ community, increased.

The Council of Ministers in its Decree No. 585 of October 14, 2021, established the information to be reflected in the reference document of an employee¹⁸. Thus, it is mandatory to specify information about his attitude to state and public institutions, the constitutional system and about the actions committed against the order of government and public safety, the presence of "anti-state manifestations" of the employee in the workplace.

According to the Presidential Decree No 292 of July 29, 2021, for the period 2021-2025 it was planned "to introduce mechanisms for reintegration of women in the labor market, including their retraining, encouragement of family entrepreneurship". It was also stated that "inclusive forms of employment

¹⁸ <https://pravo.by/novosti/novosti-pravo-by/2021/october/66805/>



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will be developed to integrate people with disabilities into the labor market, including through the mechanism of job quotas.¹⁹

According to experts, the situation with the measures taken by the state to ensure physical accessibility, including the introduction of flexible and alternative working conditions that reasonably take into account the needs of working people with disabilities, has improved somewhat in 2021. The state adopted various documents promising to take steps to ensure equal work opportunities for people with disabilities. However, according to experts, these norms are not implemented in practice and are decorative.

Among positive changes experts noted changes in the Labor Code in November 2021²⁰, regulating remote work, which actively spread in practice during the COVID-19 pandemic. In 2021, new Occupational Safety and Health Regulations²¹ were adopted containing a number of positive innovations²². The barrier-free environment program was retained in 2021²³.

Just and favourable conditions of work

In 2021, according to experts, the problems identified in 2020 persisted. Moreover, the topic of occupational safety and working conditions left the state's agenda and focus. At Belaruskali, working conditions in mines have deteriorated significantly²⁴. Four accidents and fatalities were recorded²⁵. In 2021, repairs at Belaruskali were postponed indefinitely, putting workers at risk of death. The state continues to conceal the statistics of occupational injuries.

In 2021, according to experts, the situation with the mechanism of compensation in case of an occupational injury or occupational disease has not changed. In July 2021 the Ministry of Health approved the instruction on the procedure for examining the professional nature of a disease²⁶. The Decree of the Council of Ministers of June 3, 2021, No304²⁷ established a new procedure of medical and social expertise starting from July 23, 2021. According to information from experts, COVID-19 death

¹⁹ https://www.nbrb.by/mp/target/pser/program_ek2021-2025.pdf?ysclid=l82y7jh2q5853747303

²⁰ <https://www.belta.by/society/view/varianty-udalenki-zabota-o-zdorovje-mintruda-anonsirovalo-novatsii-v-trudovoj-kodeks-470472-2021/>

²¹ https://etalonline.by/document/?regnum=w22137152p&q_id=3808090

²² <https://etalonline.by/novosti/korotko-o-vazhnom/novye-pravila-po-okhrane-truda/>

²³ <https://www.belta.by/society/view/mintruda-gosudarstvo-naraschivaet-finansirovanie-mer-po-sozdaniju-universalnoj-dostupnoj-sredy-472474-2021/>

²⁴ <https://www.bbc.com/russian/features-56948983>

²⁵ <http://shahter.by/proisshestiya/neschastnyj-sluchaj-na-proizvodstve-25-letnij-rabotnik-oao-belaruskalij-poluchil-travmu-nogi/>; <https://esoligorsk.by/novosti/v-soligorske/61594-neschastnyj-sluchaj-na-3ru-oao-belaruskalij-ofitsialnaya-versiya>

²⁶ <https://www.belta.by/society/view/minzdrav-utverdil-instruktsiju-o-porjadke-provedeniya-ekspertizy-professionalnogo-haraktera-448861-2021/>

²⁷ <https://etalonline.by/novosti/korotko-o-vazhnom/mediko-sotsialnaya-ekspertiza/>



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benefits began to decrease in 2021. The state continues to hide statistics on morbidity, including COVID-19-related.

In 2021, the state turned a blind eye to the COVID-19 pandemic, neglecting people's health. The cancellation of the mask regime and the tacit ban on wearing masks in October 2021 negatively affected workers employed in public places, public transportation. Due to the COVID-19 pandemic, ineffective state measures in the education system have negatively affected the health of teachers and educators.

In 2021, according to experts, inequalities in career advancement between women and men persist. There is still a pay gap between men and women in 2021, across all industries. In 2021, collective bargaining agreements of state-owned enterprises began to introduce provisions with incentives for members of state trade unions, in direct violation of the principle of non-discrimination enshrined in the Constitution. A large-scale campaign is underway to fire workers "disloyal" to the regime and replace them with "loyal" workers. Particular attention is given to possible dissenters in leadership positions and their demotion. A "glass ceiling" for dissenters is being reinforced. The practice of firing teachers and university lecturers with more than 20 years of service is widespread, contrary to collective bargaining agreements and the law in general. The unscheduled performance assessments or inspections are conducted to find a reason for dismissal.

Legislatively regulated and unhindered are: paid vacations, sick leaves, restrictions of working hours and working week, as well as daily and weekly rest periods. In 2021, however, the situation with sick leave and overtime, particularly for medical doctors, worsened significantly. For example, due to staffing shortages, medical overwork continued in 2021, moreover, because of the COVID-19 pandemic, 1800 additional hours per year were introduced for physicians²⁸. Student interns were removed from classes and sent to work without their consent. Since October 2021, when it was allowed when having COVID-19 symptoms not to go to work for 3 days without official sick leave, there has been an unspoken practice among doctors not to take a COVID-19 test and to issue a sick leave for an acute respiratory infection diagnosis.

The situation with measures to balance work and family responsibilities, according to experts, has not changed from 2020.

Fair remuneration

According to experts, the situation with equal pay for work of equal value without any distinction worsened in 2021. The practice of double punishment for those who have served administrative arrests for their political stance has expanded. On the one hand, such a person was fined by the court, and, on the other hand, he was deprived of his bonuses and premiums at work. Many workers lost their union preferences because in 2021 many collective bargaining agreements at state-owned companies were amended so that only employees who were members of the state union received preferential treatment,

²⁸ <http://minzdrav.gov.by/ru/novoe-na-sayte/postanovleniem-minzdrava-ot-22-oktyabrya-2021-g-113-uregulirovan-trud-medrabotnikov/>



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which is discriminatory. In 2021, widespread workplace repression and the final destruction of independent unions began.

Since May 1, 2021, the approaches to regulation of increase of wages in state organizations and organizations, where state owns more than 50%, depending on labor productivity growth, were changed by the decree of the Council of Ministers No 243 of April 23, 2021.²⁹

Wages in 2021, according to experts, have increased, poverty has fallen, compared to the pandemic year 2020. Minimum and real wages increased. The state and business have adapted to the pandemic. The minimum wage was raised twice in 2021, but according to experts, it was not raised enough to cover all the needs of a worker and family members.

There were delays and non-payment of wages in the consumer, meat, and dairy industries in 2021. As of September 24, 2021, there were 27 prosecutor's inspections of timely payment of wages in micro and small organizations. As the result 15 managers of organizations were brought to administrative responsibility and 9 were officially warned about impermissibility of violation of labor legislation.³⁰

In March 2021, employees of Minsk Milk Factory No 1 went on strike because of their disagreement with the new labor agreement, which imposed material responsibility on the employees. Sixty-three people immediately asked for dismissal³¹.

Employment promotion and protection against unemployment

In 2021, according to experts, the state chose to increase unemployment through dismissal of workers "disloyal" to the regime. Mass layoffs are being implemented and a ban on professions is in effect. In 2021 there was downtime and hidden unemployment due to the pandemic, especially in consumer industry. On the other hand, state-owned enterprises in 2021 tried to return to pre-pandemic times and provide all those in need with jobs.

EU sectoral sanctions. The emergency (illegal) landing of a Ryanair plane by Belarusian security forces was followed by a "closure of the skies". Most European countries prohibited their companies to fly to and through Belarus, and national company "Belavia" to fly to European countries. Since May 31, 2021, Belavia has been experiencing downtime and staff cuts of up to 50%.³²

National policies aimed at eliminating unemployment and underemployment and meeting workforce needs are developed by government agencies without the participation of interest groups, there is no

²⁹ <https://pravo.by/novosti/novosti-pravo-by/2021/aprel/62674/>

³⁰ <https://prokuratura.gov.by/ru/media/novosti/zashchita-sotsialnykh-prav-grazhdan/o-trude-i-zanyatosti-naseleniya/po-trebovaniyu-organov-prokuratury-minshchiny-ustraneny-narusheniya-v-chasti-svoevremennosti-vyplaty/#:~:text=10.12%20Кодекса%20Республики%20Беларусь%20об,4%20до%2050%20базовых%20величин>

³¹ <https://charter97.org/ru/news/2022/5/14/467708/>

³² <https://novayagazeta.ru/articles/2021/05/25/belavia-obiavila-o-sokrashchenii-shtata-i-urezanii-biudzheta-iz-za-ogranichenii-na-aviaperelety>



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inclusiveness and transparency in such a process. In 2021 the practice of hiring on the basis of loyalty to the current government rather than on professional qualifications is widespread. The protection of labor rights is not facilitated by the crackdown on civil society and the forced liquidation of most NGOs.

According to experts, the situation with the mechanism of compensation in cases of job loss and unemployment benefits has not changed compared to 2020. As of December 1, 2021, there were 6.2 thousand people registered as unemployed (25.8% less than as of December 1, 2020³³). As of December 1, 2021, the labour market stress index was 0.1 unemployed persons per vacancy (unchanged from the previous year)³⁴. In the summer of 2021 more than 23,000 students were assisted with employment by the State Employment Service.³⁵

As of September 2021, there were 7.6 thousand people registered as unemployed in Belarus (23.9% less than during the same period a year ago)³⁶. As of November 2021, the employment service had helped employ 1,771 persons with disabilities³⁷.

In 2021, employment assistance and support services continue to formally exist, but their effectiveness, according to experts, has decreased significantly. Such services do not help people from "black lists of dismissals". Human rights defenders and activists remained unprotected and without access to employment assistance and support due to civil sector repression, amendments to the Criminal Code, and the return of criminal liability for activity in an unregistered organization.

In 2021, according to experts, the possibility of advanced training, retraining for workers was negatively affected by the withdrawal from the Bologna process, the breakdown of many partnership agreements between Belarus and other countries in the field of education, the termination of the Eastern Partnership program, MOST program. Interns have had their training and internships reduced because of COVID-19. The Academy of Postgraduate Education never introduced distance learning.

In 2021, the situation with the application of effective state measures for labor market planning and forecasting remained the same as in 2020. On the one hand, in 2021 the criteria for vocational education and training in terms of planning the number of places were revised. The Ministry of Labor and Social Protection introduced a new policy for labor market planning and analysis, but the question of its effectiveness is open. On the other hand, in 2021 the state did not properly respond to the Western sanctions and did not take measures to redesign, plan, and forecast the labor market.

³³ <https://mintrud.gov.by/ru/sostojanie>

³⁴ <https://mintrud.gov.by/ru/sostojanie>

³⁵ <https://www.belta.by/society/view/sluzhba-zanjatosti-letom-trudoustroila-bolee-23-tys-uchaschihsja-461885-2021/>

³⁶ <https://www.belta.by/society/view/mintruda-bezrobotnyh-v-belarusi-stalo-pochti-na-chetvert-menshe-chem-godom-ranee-459237-2021/>

³⁷ <https://www.belta.by/society/view/sluzhba-zanjatosti-pomogla-trudoustroit-v-janvare-nojabre-1771-cheloveka-s-invalidnostiju-475407-2021/>



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According to experts, the mechanisms of state support for creating new jobs did not work in 2021. On the contrary, the state created obstacles to the creation of new jobs. For example, the state canceled benefits for the IT sector and tax incentives. The state in 2021 continued to hinder the development of small and medium-sized private businesses through taxes and inspections. Because of mass repressions, a number of sectors were particularly affected: NGOs, mass media, educational centers, advocacy.

Protection Mechanisms

Administrative procedures and other mechanisms to combat violations of the right to work, including unjustified dismissals, remain, but, according to experts, in 2021 they became even more ineffective. In 2021 people of pre-retirement and retirement age are being actively fired. Private entrepreneurs dismiss without the right to appeal against such dismissal. State-owned enterprises fire employees "for cause" (for absenteeism or at the initiative of the administration), state trade unions do not protect employees, for example, they do not recommend appealing against disciplinary punishments and do not represent employees in labor disputes. Falsification of documents flourishes, especially in state organizations and enterprises. The commission on labor disputes does not function. If in 2020 the courts made decisions in favor of employees, in 2021 this is no longer true. In 2021 not a single primary organization of independent trade unions is registered.

The right to strike is enshrined by law, but it is significantly limited. In 2021 amendments to the LC were adopted - article 388 was supplemented by the norm, according to which during strikes the presentation of political demands is prohibited. Article 26 of the law "On Industrial Safety" prohibits strikes at enterprises with hazardous production facilities. This is done "in order to exclude possible negative consequences both for the enterprise and its employees and for society as a whole"³⁸.

There are no effective judicial and other appropriate remedies since August 2020. The situation worsened in 2021 because access to defense lawyers and the assistance of human rights defenders is limited.

The right to adequate reparation in the case of harm, other violations, including in the form of restitution, compensation, satisfaction, or guarantees of non-repetition, is legally established and available for implementation. However, according to experts, in 2021 in practice it has become much more difficult to exercise this right.

³⁸ https://mintrud.gov.by/ru/news_ru/view/press-reliz-k-zakonu-respubliki-belarus-ot-28-maja-2021-g--114-z-ob-izmenenii-zakonov-po-voprosam-trudovyx-otnoshenij_4083



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