

## National Human Rights Index

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2021

### General Human Rights Measures:

Expert Commentary

**The score: 1.9**

#### Including scores by component:

- State policy on human rights 1.7
- Interaction with civil society 1.4
- Interaction with international mechanisms 2.3
- Equality and non-discrimination 2.4

For a description of the situation of general human rights measures in previous years, see the 2019 and 2020 commentaries. In assessing the state of general human rights measures in 2021, Index experts gave lower scores than in 2020. The experts' position is explained in detail below.

According to experts, the "legal default" and human rights crisis strengthened in Belarus in 2021, which had a direct impact on the implementation of general human rights measures.

Courts are not independent and impartial, especially in politically motivated cases. Disappointment with the judiciary in the face of verdicts in politically motivated cases has led to a general distrust of the judicial system on the part of citizens. The same applies to law enforcement agencies. In 2021 defense lawyers were persecuted, many were suspended from practicing law for false reasons, in particular for failure to pass qualification test<sup>1</sup>.

In 2021, legislation directly related to human rights and their implementation was seriously toughened<sup>2</sup>. In particular, amendments were made to the Criminal Code, the Code of Administrative

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<sup>1</sup> Criminal proceedings were initiated against three lawyers on various pretexts. In 2021 the practice of calling lawyers for re-attestation is widespread. The Ministry of Justice explains the revocation of licenses by "systematic (two or more times within 12 consecutive months) violation of the requirements and conditions of the exercise of the profession of lawyer" <https://defenders.by/lawyers-persecution-2020>; <https://www.belta.by/society/view/minjust-pojasnil-lisshenie-litsenzij-nekotoryh-advokatov-451652-2021/>

<sup>2</sup> For more information on the changes in the legislation of the Republic of Belarus in 2021, see. Legislative Analysis "New Legislation in the Republic of Belarus as a Response of the Authorities to the Events of 2020, its Relationship with International Human Rights Standards", BHC, Lawtrend, 2021, [https://belhelcom.org/sites/default/files/novoe\\_zakonodatelnoe\\_regulirovanie\\_bielarus\\_2021\\_2.pdf](https://belhelcom.org/sites/default/files/novoe_zakonodatelnoe_regulirovanie_bielarus_2021_2.pdf); Report of the Special Rapporteur on the Situation of Human Rights in Belarus, Anais Marin, A/HRC/50/58, 04.05.22, paras. 22-31, [https://spring96.org/files/misc/a\\_hrc\\_50\\_58-ru.pdf](https://spring96.org/files/misc/a_hrc_50_58-ru.pdf); Report of the Special Rapporteur on the situation of



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Offenses, the law "On Counteracting Extremism", the law "On the Media", the law "On Mass Events" and several others. The law "On Preventing the Rehabilitation of Nazism" was adopted, which further restricted the ability to freely express oneself, in particular, on historical issues. Legal norms were used not for protection of human rights, but on the contrary - for repressions, punishments for disloyalty and human rights violations.

In 2021, human rights activists and their activities were effectively outlawed. The repression affected non-profit organizations, analytical centers, investigative journalists, teachers, trade union members, activists in the field of culture, medicine, sports, etc. The Belarusian authorities used a wide range of methods of pressure on society: searches, detentions and arrests, falsification of criminal cases, liquidation of organizations, and propaganda tools<sup>3</sup>. Starting from the spring of 2021, the state initiated large-scale repressions against civil society organizations<sup>4</sup> (public and human rights organizations<sup>5</sup>). Many representatives of public and human rights organizations were detained on "fabricated" cases: representatives of the Office for the Rights of People with Disabilities<sup>6</sup>, human rights defenders from

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human rights in Belarus, Anais Marin, A/HRC/47/49, 04/05/21, par. 26, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/101/84/PDF/G2110184.pdf?OpenElement>

<sup>3</sup> [https://drive.google.com/file/d/1UOYA\\_Qw8GMlj3EkWsM7C7wUc6veWoPRG/view](https://drive.google.com/file/d/1UOYA_Qw8GMlj3EkWsM7C7wUc6veWoPRG/view); Report of the Special Rapporteur on the situation of human rights in Belarus, Anais Marin, A/HRC/50/58, 04.05.22, para. 5, [https://spring96.org/files/misc/a\\_hrc\\_50\\_58-ru.pdf](https://spring96.org/files/misc/a_hrc_50_58-ru.pdf)

<sup>4</sup> 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 shut down. <https://www.lawtrend.org/liquidation-nko>

<sup>5</sup> For more details about the mechanisms of repression against Belarusian human rights defenders see. Belarus: Human Rights Outlaws, Human Constanta, 2022, [https://drive.google.com/file/d/1UOYA\\_Qw8GMlj3EkWsM7C7wUc6veWoPRG/view](https://drive.google.com/file/d/1UOYA_Qw8GMlj3EkWsM7C7wUc6veWoPRG/view)

<sup>6</sup> On January 21, 2021, the Department of Financial Investigations (DFI) of the State Control Committee of the Republic of Belarus announced the beginning of an investigation into the activities of certain employees of the Office for the Rights of Persons with Disabilities. On the same day, DFI officers conducted a search of the Office's premises, seizing computer equipment, telephones, and a significant number of documents. S. Drozdovsky and O. Grablevski were taken to the DFI for interrogation. The DFI also searched the homes and confiscated personal belongings of other employees of the Office. The DFI explained that the interrogation of the two human rights activists was part of an investigation into the activities of the Office for possible misappropriation of charitable donations and international funding. On 2 February 2021 at 9:30 a.m. S. Drozdovsky and O. Grablevsky arrived at the DFI. They were summoned under the pretext of returning the equipment confiscated during the search. They were kept in the interrogation room for seven hours and denied repeated requests for access to their lawyers. Grablevsky was at one point forced to take off all his clothes, and Drozdovsky was forced to remain motionless for the full seven hours, which caused him severe pain as a wheelchair user. On February 3, 2021, S. Drozdovsky and O. Grablevsky were detained. Their attorneys signed a non-disclosure agreement preventing them from speaking publicly about a number of details of their clients' case. In February 2021, O. Grablevsky was charged



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Viasna<sup>7</sup> (for example, Marfa Rabkova<sup>8</sup>, Ales Bialiatski<sup>9</sup>, Valentin Stefanovich, Vladimir Labkovich, Leonid Sudalenko, and others), the rest were forced to leave the country for security reasons to continue their activities. On July 14, 2021, a coordinated series of searches<sup>10</sup> and arrests of human rights

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with "fraud" under Article 209 of the Criminal Code of Belarus, and was placed in a detention center until July 31, 2021, when he was released on personal guarantee. S. Drozdovsky was charged with the same crime and placed under house arrest until his release on personal guarantee on July 31, 2021. The investigation of the Office and the charges against S. Drozdovsky and O. Grablevsky may be related to the Office's cooperation with UN agencies aimed at providing legal advice and support to persons with disabilities to promote and protect their human rights. This is confirmed by the statement of the Belarusian Ministry of Foreign Affairs in which it accuses several UN officials of laundering money with the help of the Office for the Rights of Persons with Disabilities. <https://geneva.mfa.gov.by/en/embassy/news/e5a046e6697fcaa7.html> ; [https://drive.google.com/file/d/1UOYA\\_Qw8GMlj3EkWsM7C7wUc6veWoPRG/view](https://drive.google.com/file/d/1UOYA_Qw8GMlj3EkWsM7C7wUc6veWoPRG/view)

<sup>7</sup> For more details about the mechanisms of repression against Belarusian human rights defenders see. Belarus: Human Rights Outlaws, Human Constanta, 2022, p.16, [https://drive.google.com/file/d/1UOYA\\_Qw8GMlj3EkWsM7C7wUc6veWoPRG/view](https://drive.google.com/file/d/1UOYA_Qw8GMlj3EkWsM7C7wUc6veWoPRG/view). Persecution of HRC "Viasna" employees went in waves. Some human rights defenders were arrested after the protests, others were targeted during the crackdown on 14 and 15 July 2021: 11 HRC "Viasna" defenders all over Belarus were detained during these days, as well as two former representatives of the organization. Eight human rights defenders were detained under criminal proceedings under Art. 342, part 1 and 2 (organisation and preparation of actions that seriously violate public order, or active participation in them) and Art. 243, part 2 (tax evasion) for 72 hours. Some human rights activists were released immediately after the searches and/or interrogations, some were released after 72 hours, but without lifting their status of suspects. However, 7 members of HRC "Viasna" are still detained on political grounds. For more details about the individual court cases, see the document.

<sup>8</sup> Marfa Rabkova, coordinator of the volunteer service of HRC "Viasna," has been documenting cases of torture and ill-treatment of detained protesters since the beginning of peaceful protests in Belarus in the summer of 2020. One of the key functions of the HRC "Viasna" volunteer network, coordinated by Marfa, was to monitor the right to peaceful assembly. Marfa Rabkova was detained on September 17, 2020 for allegedly teaching or otherwise training people to participate in the mass unrest; 3 months later she was indicted under Part 3 Article 130 (inciting social hatred against the authorities by a group of unidentified persons) and Part 2 Article 285 (participation in a criminal organization), and 10 months later she wrote a letter to her family saying that she would be tried under 11 articles of the Criminal Code.

<sup>9</sup> Ales Bialiatski, head of the HRC "Viasna", was detained on 14 July 2021 as part of a criminal case; his home and office were searched. On 6 October 2021 the Minsk City Court considered the appeal of Ales Bialiatski against the extension of his custody. Judge Yauhen Khatkevich dismissed the complaint. Later it became known that Ales was charged under article 243 of the Criminal Code - evasion from paying taxes and dues. The trial never started in 2021. <https://prisoners.spring96.org/ru/person/ales-bjaljackiy>

<sup>10</sup> In the offices of the Belarusian Helsinki Committee, the Center for Legal Transformation (Lawtrend), the Center for Information and Legal Support of Socially Vulnerable Groups "Advokacy", the International Public Association "Gender Perspectives", the Belarusian Association of Journalists, the Human Rights Center "Viasna" and many others.



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defenders and civil society activists<sup>11</sup>. On July 30, 2021, A. Lukashenko spoke publicly about non-profit organizations and their influence: "As a result of the measures taken, 185 destructive structures posing a potential threat to national security were identified, including a representative office of a foreign non-commercial organization, 71 national and local public associations, and 113 institutions. These are big numbers"<sup>12</sup>.

The independent media were attacked: the largest news portal TUT.BY was crushed, many journalists were detained under administrative cases, some under criminal ones. As a consequence, access to information is significantly impeded. On May 18, 2021, journalists across the country were searched<sup>13</sup> and detained. 29 journalists remained behind bars as of the end of December 2021.<sup>14</sup>

### State policy on human rights

According to experts, in 2021 the situation with the adoption of legislative or other measures necessary for the effective realization of human rights deteriorated significantly. This is due, on the one hand, to the degradation of the judicial system, its inefficiency and dependence, and, as a consequence, the lack of trust in this judicial system, as well as the lack of effective remedies, which has led to the practical impossibility of protecting one's rights. On the other hand, the tightening of legislation related to the implementation of human rights has led to a wide margin of discretion in the consideration of politically motivated cases by the courts. Thus, courts began to actively apply anti-extremist legislation<sup>15</sup>, defamation articles against citizens who do not support the current government, such as

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<sup>11</sup> <https://www.fidh.org/en/issues/human-rights-defenders/belarus-coordinated-searches-and-detentions-of-journalists-and-human>

<sup>12</sup> Belta, 07/30/2021, [https://t.me/belta\\_telegramm/61654](https://t.me/belta_telegramm/61654)

<sup>13</sup> <https://www.rferl.org/a/belarus-tut-by-raid-crackdown/31261210.html>

<sup>14</sup> Belarusian Association of Journalists, Repressions against Journalists in Belarus, [2021, https://baj.by/en/analytics/figures-year-repression-media-and-journalists-belarus-2021](https://baj.by/en/analytics/figures-year-repression-media-and-journalists-belarus-2021)

<sup>15</sup> Extremist activity is interpreted broadly by the court. Responsibility arises not only for the organization, preparation and commission of attacks on the independence, territorial integrity, sovereignty, the foundations of the constitutional order, and public safety, but also for planning such activities. At the same time, such activities may be carried out, including by:

- assistance in carrying out extremist activities, receiving education or other training to participate in such activities;
- dissemination of knowingly false information about the political, economic, social, military or international situation of the Republic of Belarus, the legal status of citizens in the Republic of Belarus, discrediting the Republic of Belarus;
- insulting a representative of authority in connection with the performance of his official duties, discrediting public authorities and administration;
- inciting racial, national, religious or other social enmity or discord, political or ideological hatred, enmity or discord with respect to any social group, including committing for these purposes illegal acts against public order and public morals, the order of government, life and health, personal freedom, honor and dignity of the individual, property; obstructing the lawful activity of state bodies, etc.



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those who express their opinions through comments on social networks<sup>16</sup> ; as well as against activists, human rights defenders, and journalists<sup>17</sup>. Legislative changes have been used to punish dissenters and as a means to intimidate society as a whole.

In 2021, the repressive and degrading practice of law enforcement agencies of publishing "repentant" videos of the detained, apparently recorded under duress, in official, pro-government or anonymous media and Telegram channels, was systematically applied. In these videos, people "confessed" to publishing critical and sometimes insulting comments on law enforcement officials and representatives of government on social networks, and "repented". Subsequently, such people were prosecuted either criminally or administratively. Also, "repentant" videos revealing details of personal life began to be published. For example, in December 2021 a video was published with A1 spokesman N. Bredeliev and S. Babashkov, marketing director of Hyundai AvtoGrad, where they confessed to belonging to the LGBT community<sup>18</sup>. Also, the "Zeltser case" became widely known when about 200 persons were detained for making comments on social networks about the incident. Criminal cases were opened against them under Article 369 of the Criminal Code ("Insulting a representative of authority") and Article 130 of the Criminal Code ("Inciting social hatred")<sup>19</sup>.

According to the statistics of the Prosecutor General's Office, more than 1,600 people were convicted in extremist cases in 2021<sup>20</sup>. The General Prosecutor's Office stressed that none of them were acquitted<sup>21</sup>. More than 400 people were convicted of defamation articles in 2021, according to HRC "Viasna"<sup>22</sup>.

On December 14, 2021, Article 361 of the Criminal Code was redrafted (the changes will take effect on January 1, 2022). It criminalizes calls for sanctions against the Republic of Belarus, individuals and legal entities of Belarus. Its possible broad interpretation in practice could actually lead to the criminalization of the preparation of reports on the human rights situation in Belarus for international human rights mechanisms.

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<sup>16</sup> <https://www.dw.com/ru/srok-za-komentarii-v-belarusi-massovo-sudjat-za-diffamaciju/a-59902109>

<sup>17</sup> See more reviews of judicial practice and legislative changes in combating "extremism" in Belarus for 2021 by Human Constanta, <https://humanconstantat.org/obzor-borby-s-ekstremizmom-v-belarusi-za-oktyabr-dekabr-2021/> ; <https://humanconstantat.org/borba-s-ekstremizmom-obzor-tendencij-avgust-i-sentyabr-2021-goda/> ; <https://humanconstantat.org/obzor-borby-s-ekstremizmom-v-belarusi-za-iyun-i-iyul-2021/> ; <https://humanconstantat.org/obzor-borby-s-ekstremizmom-v-belarusi-za-aprel-maj-2021/> ; <https://humanconstantat.org/obzor-borby-s-ekstremizmom-v-belarusi-za-yanvar-mart-2021/>

<sup>18</sup> <https://dev.by/news/zaderzhan-pr-a1>

<sup>19</sup> <https://belsat.eu/ru/news/28-10-2021-delo-zeltsera-dve-smerti-pytki-i-prizyv-k-terroru-chno-stalo-izvestno-za-mesyats/>

<sup>20</sup> <https://www.belta.by/society/view/genprokuratura-po-dela-ekstremistskoj-napravlenosti-v-2021-godu-osuzhdeno-bolee-16-tys-chelovek-480909-2022/>

<sup>21</sup> <https://euroradio.fm/ru/v-belarusi-ozvuchili-statistiku-po-borbe-s-protestami-v-2021-godu>

<sup>22</sup> <https://spring96.org/ru/news/99641>



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Formally, the legislation provides for various legal remedies, but according to experts, such remedies are not effective in practice, especially when politically motivated cases are involved<sup>23</sup>. The repression of defense lawyers, the revocation of their licenses<sup>24</sup>, the ban on lawyers, the practice of forcing lawyers to sign an agreement on non-disclosure of information about the investigation, trial, and the charges have had a negative impact on access to legal remedies for those in custody. It is practically impossible to have access to appeal disciplinary penalties for those who are in custody. There is limited access for lawyers to their defendants who are held in punitive isolation wards, which is a violation of the right to legal assistance. Those who are held in delinquents' isolation centers or in temporary detention facilities also cannot appeal against decisions in administrative cases issued against them (no pen and paper are provided, it is impossible to pay the state fee). According to the statistics of the Supreme Court, in 2021 only 79 sentences were overturned on appeal and/or cassation<sup>25</sup>.

On October 12, 2021, Resolution No. 575 of the Council of Ministers "On measures to counteract extremism and rehabilitate Nazism" was adopted, which regulates the procedure of recognition of groups of citizens, in opinion of law enforcement bodies, which carry out extremist activity, including those using messengers and social networks, as extremist formations. For the recognition of groups of citizens as extremist formations a decision of the Ministry of Internal Affairs or the KGB is required. Thus, the Ministry of Internal Affairs and KGB received the right to extrajudicially recognize certain organizations and initiatives as extremist formations, which opens up the possibility to prosecute citizens who participate in such formations. This practice is essentially an extrajudicial mechanism of bringing to criminal responsibility, as the court will not consider the issue of the extremist nature of the organization and the reasons for its being on the list, but will only consider the fact of participation in this organization. It is practically impossible to appeal against inclusion on these lists.

In many cases of liquidation of public associations in 2021 access to some case materials was closed for leaders of organizations, who were accused of extremist activity. The possibility to appeal decisions on liquidation of some public associations was excluded, because cases on liquidation of national public associations are considered by the Supreme Court at first instance. Its decisions come into force immediately and cannot be appealed. This is a violation of the right to a fair trial.

The decrease in the score in 2021 was affected by the inaccessibility of websites of government agencies, the Internet portal Pravo.by outside of Belarus, which, according to experts, is a violation of the right to access to information.

In 2021, according to experts, fair compensation for persons whose rights have been violated was not properly implemented, despite its formal enshrinement in the law. The right to compensation is implemented only in cases where the victim is a representative of the authorities. Overall, according to experts, in 2021 the law worked only to protect the state and its representatives, but not to protect

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<sup>23</sup> Report of the Special Rapporteur on the situation of human rights in Belarus, Anais Marin, A/HRC/50/58, 04.05.22, para. 9. [https://spring96.org/files/misc/a\\_hrc\\_50\\_58-ru.pdf](https://spring96.org/files/misc/a_hrc_50_58-ru.pdf)

<sup>24</sup> <https://www.currenttime.tv/a/beloruskie-advokaty-lishenye-litsenzii/31511508.html>

<sup>25</sup> [https://www.court.gov.by/ru/justice\\_rb/statistics/baa6161e8d3941a1.html](https://www.court.gov.by/ru/justice_rb/statistics/baa6161e8d3941a1.html)



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people.

Representatives of state authorities in 2021 continued to publicly broadcast rhetoric that essentially denied the value and importance of human rights and their realization, and widely used hate speech. Moreover, hate speech was widely broadcast through the state media<sup>26</sup>. The authorities used populist techniques when, under the guise of protecting the interests of the majority, they disadvantaged members of minorities. This was manifested, in particular, in the treatment of migrants during the 2021 migration crisis<sup>27</sup>, in insulting the LGBTQ+ community, including through the publication of forced "repentance" videos<sup>28</sup>, which pro-government Telegram channels use to incite hatred against the community and against individuals. Also under the guise of protecting human rights, since August 2020, the state has continued to protect representatives of law enforcement agencies, not only through public support, but also by changing legislation (for example, by increasing liability for defamation articles in the Criminal Code). As an example of a negative attitude to human rights, we can cite Lukashenka's statements about human rights defenders and representatives of other public organizations as "destructive structures that pose a potential threat to national security"<sup>29</sup>. Despite the declared commitment to human rights, for example, in national reports within the framework of international mechanisms<sup>30</sup>, in the public space human rights continue to be positioned as values imposed by the West, which are alien to Belarusians. At the same time, UN treaty bodies in their recommendations to the Republic of Belarus constantly emphasize the universality and inalienability, interrelation and indivisibility of human rights<sup>31</sup>, but the current authorities have no such understanding.

In 2021, according to experts, the situation with the adoption and effective implementation of plans, programs and policies in the field of human rights, which take into account modern approaches to human rights, has not changed. Despite the talks, since 2020, about the adoption of the interdepartmental plan on the implementation of the recommendations of the UN treaty bodies and the UPR within the UN for 2020 -2025, it has not been adopted<sup>32</sup>.

In 2021, despite repeated recommendations of the Special Rapporteur on the situation of human rights

<sup>26</sup> <https://mediaiq.info/te-kto-podderzhivayut-deystvuyushchuyu-vlast-inogda-pokazyvayutsya-kak-lyudi-nedal>

<sup>27</sup> <https://www.opendemocracy.net/ru/kak-i-zachem-belarus-sprovotsirovala-migratsionnyy-krizis/>

<sup>28</sup> <https://reform.by/285254-zaderzhan-press-sekretar-a1>

<sup>29</sup> Belta, July 30, 2021, [https://t.me/belta\\_telegramm/61654](https://t.me/belta_telegramm/61654)

<sup>30</sup> National Report to the UPR of the UN Human Rights Council, 2020, Belarus, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/050/43/PDF/G2005043.pdf?OpenElement>

<sup>31</sup> For example, see Concluding observations on the combined fifth and sixth periodic reports of Belarus, Committee on the Rights of the Child, 2020, para. 4. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/053/93/PDF/G2005393.pdf?OpenElement>

<sup>32</sup> Report of the UN UPR Working Group on Belarus, 4 January 2021, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/000/15/PDF/G2100015.pdf?OpenElement>



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in Belarus<sup>33</sup> and the UN Committees<sup>34</sup> to create an independent national human rights institution in accordance with the UN Paris Principles, it has still not been created. The institutions presented by the Belarusian authorities as human rights institutions do not comply with the Paris Principles relating to the status of national institutions for the promotion and protection of human rights<sup>35</sup>.

The system of human rights education has not been implemented at all levels (schools, colleges, universities, and advanced training). In Belarusian universities, since August 2020, pressure on lecturers has continued, and the practice of censorship has intensified. Dismissal of lecturers for expressing their civic position is widespread. At the Belarusian State University, at the Faculty of International Relations, in 2021, as compared to 2020, enrollment in paid places for the specialty "international law", where human rights law is studied during the semester, was reduced from 60 places to 35<sup>36</sup>, which shows the attitude of the state to human rights and human rights education. In 2021, ideological and patriotic education continued to be introduced in schools. Due to the forced liquidation of most social and human rights organizations, informal human rights education and access to it became virtually impossible.

### Interaction with civil society

Due to the reasons listed above (in particular, the repression of civil society in 2021, the persecution of activists and human rights defenders, "fabricated" politically motivated cases, the use of extremist legislation against organizations), civil society organizations for the protection of human rights in 2021, according to experts, have no opportunity to conduct their activities without threatening the lives and

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<sup>33</sup> Report of the Special Rapporteur on the situation of human rights in Belarus, Anais Marin, A/HRC/44/55, 08.04.2020, para. 19

<sup>34</sup> Concluding observations on the combined twentieth to twenty-third periodic reports of Belarus, Committee on the Elimination of Racial Discrimination, 21.12.2017, para. 13. "Recalling its general recommendation No. 17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention, the Committee reiterates its recommendation (see CERD/C/BLR/CO/18-19, para. 15) that the State party step up its efforts to establish a single fully independent human rights institution with a broad mandate to promote and protect human rights, including receiving and addressing individual complaints, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles)", <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6OkG1d%2fPpRiCAqhKb7yhsjw6OT861uOaWWP VKFdKVLGvmoUhZouEgBRWi%2bkkqLipRKwr9p7oy7oID4pF8%2bZUtdGPgWD8kUhhkw99rTuREHaGzUGtEns0m ZKS5cXvLBkXKLXog2VnD8hsnxP56OuvGw%3d%3d>; Concluding observations on the seventh periodic report of Belarus, Committee on Economic, Social and Cultural Rights, 24.03.2022, paras.7-8, <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4sIQ6OSmLBEDzFEovLCuWzoufcs4rD6HOGEOgu DH73fIRAsopPpCjLWHcw29upADJBJloiVOngLIMNCDrdrygrPHTYCwd7Nk5ckDjgN9clrsXcv6bPUbQRc1OVwNg%2bX2>

<sup>35</sup> Concluding observations of the Human Rights Committee on the fifth periodic report of Belarus, CCPR/C/BLR/CO/5, para. 13

<sup>36</sup> BSU, Number of Seats and Passing Grades, [https://adukar.com/by/company/2?\\_ga=2.237051139.2091130336.1655742152-512878866.1655742152](https://adukar.com/by/company/2?_ga=2.237051139.2091130336.1655742152-512878866.1655742152)



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safety of their members.

While before 2020 human rights activities were disrespected by the state, after August 2020 the state set itself the goal of eradicating all those who disagree with the current regime, especially civil society organizations.

According to experts, 2021 showed that the state does not assist civil society in promoting human rights, but instead takes systematic measures to eradicate civil society and human rights-oriented rhetoric.

In 2021 the situation with the effectively functioning mechanisms of civil society participation in the discussion of the draft normative legal acts, programs, and policies in the sphere of human rights worsened. As such mechanisms and partially their functioning, have not changed, but 2021 showed that many normative legal acts are adopted without public discussion, especially those related to human rights and their limitation, such as amendments to the Criminal Code, the Administrative Code, the law "On Combating Extremism", the law "On Mass Media", the law "On Mass Events". None of them were put up for public discussion, the drafts of these laws were not published in free access, they were adopted in a hurry. The draft of the Constitution was presented for discussion only in December 2021, while the referendum was scheduled two months later, in February 2022, which made it impossible to effectively discuss and amend the draft Constitution. According to experts, the number of comments on the draft laws posted on the discussion portal "Legal Forum" decreased several times in 2021 compared to 2020: from 38.1 to 6.55.

In 2021, many human rights public councils were abolished. For example, norms about district public councils on protection of monuments of historical and cultural heritage were excluded from the Code on Culture. As for gender questions - representatives of all public associations (liquidated and not liquidated) except for the pro-governmental public organization Belarusian Union of Women were excluded from the public council. In connection with the liquidation of the Belarusian Helsinki Committee in October 2021, its chairman, Aleh Hulak, will no longer be able to serve on the Republican Public Monitoring Commission, which was designed to monitor the activities of prisons and colonies. Such changes mean a complete loss of independence and effectiveness of the mechanism, according to experts, what happens in places of detention will remain behind a closed wall, which will have a negative impact on the implementation and protection of human rights of prisoners<sup>37</sup>.

### **Interaction with international mechanisms**

According to experts, in 2021, there were no significant changes in the state's interaction with international instruments: Belarus neither withdrew from international treaties nor joined new ones. However, in June 2021, in response to the EU sanctions, the Belarusian authorities suspended their participation in the Eastern Partnership program<sup>38</sup>. Despite the ratification of the international convention on the rights of people with disabilities in 2016, in 2021, the law "On the rights of disabled

<sup>37</sup> <https://www.dw.com/ru/uslovija-v-belorusskih-tjurnah-kto-teper-ih-kontroliruet/a-59467103>

<sup>38</sup> <https://www.dw.com/ru/belarus-priostanovila-uchastie-v-vostochnom-partnerstve/a-58080349>



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people and their social integration", prepared for the implementation of the Convention on the Rights of Persons with Disabilities, did not come into force, although, according to the text of the bill, some of its parts should have come into force on January 1, 2021. This bill was adopted by the House of Representatives in the first reading on June 04, 2020, and, as of December 2021, is in preparation for the second reading.<sup>39</sup>

In 2021, the practice of the state's principled non-compliance with the decisions of international judicial and quasi-judicial bodies on individual communications about the state's violation of relevant norms of international treaties continued.

According to experts, in 2021 the interaction of the state with human rights mechanisms, including the timely provision of information about the human rights situation, significantly deteriorated. In March 2021, the UN Human Rights Council approved the establishment of the Mission of the High Commissioner for Human Rights to investigate the human rights situation in Belarus in the run-up to and after the 2020 presidential elections. Resolution 46/20 called on the UN Commissioner Michelle Bachelet to investigate, with the help of 3 experts, episodes of human rights violations in Belarus, to collect and analyze information with evidence necessary to bring perpetrators of crimes to justice<sup>40</sup>. On 21 June 2021, the Belarusian authorities suspended the work of the Adviser to the Office of the UN High Commissioner for Human Rights in Minsk. This was stated by High Commissioner Michelle Bachelet herself. According to her, it was a "window of cooperation"<sup>41</sup>. She also said that the human rights situation in Belarus continues to deteriorate. Just as in 2020<sup>42</sup>, and in 2021, Belarus refused to cooperate with the Office of the UN High Commissioner for Human Rights<sup>43</sup>, recognize its competence and give access to the territory of the state. The same situation is with the Special Rapporteur on the

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<sup>39</sup> <http://www.house.gov.by/ru/zakony-ru/view/o-pravax-invalidov-i-ix-sotsialnoj-integratsii-771/>

<sup>40</sup> Resolution 46/20 adopted by the Human Rights Council. The Human Rights Situation in Belarus Ahead of the 2020 Presidential Election and Beyond, March 24, 2021, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/073/49/PDF/G2107349.pdf?OpenElement>

<sup>41</sup> [https://t.me/dw\\_belarus/1228](https://t.me/dw_belarus/1228)

<sup>42</sup> Report of the United Nations High Commissioner for Human Rights, Situation of human rights in Belarus in the context of the 2020 presidential election, 15.02.2021, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/032/81/PDF/G2103281.pdf?OpenElement>

<sup>43</sup> On November 8, 2021, the OHCHR formally requested access to the territory of Belarus for the investigation. However, the Government of Belarus refused to cooperate and denied access to its territory. Report of the United Nations High Commissioner for Human Rights, Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath, A/HRC/49/71, 2022, para. 4, <https://reliefweb.int/report/belarus/situation-human-rights-belarus-run-2020-presidential-election-and-its-aftermath>



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situation of human rights in Belarus<sup>4445</sup>.

Despite Belarus' participation in the OSCE, the authorities ignore and do not allow any cooperation within the framework of the Moscow Mechanism<sup>46</sup>, established after August 2020, which produced a report on human rights violations in Belarus and provided recommendations. However, the authorities did not take into account the recommendations contained therein, and therefore in November 2021 it was decided to activate the Vienna Mechanism. This initiative was supported by 35 member countries of the organization. The Belarusian authorities have been given 10 days to answer questions about the investigation of violence by security forces and incitement to hatred, combating illegal migration and the implementation of previous recommendations - seven questions in total. If the state fails to comply with the OSCE requirements, sanctions may be applied<sup>47</sup>. However, Belarus did not answer the questions.

Formally, the state submits UPR reports to UN treaty bodies. The website of the Ministry of Foreign Affairs<sup>48</sup> even reflects the information that the state has no debts on the reports, but the interaction, according to experts, is broader than the creation and forwarding of "formal" reports. Moreover, the content and process of preparation of the reports create a wrong idea about human rights in Belarus. If one reads solely national report, one would think that human rights in Belarus are 99% respected. For example, in the 2020 UPR, according to paragraph 9, "Belarus has initiated discussions - with the participation of all interested citizens - on the issue of introducing amendments to its Constitution aimed at developing a renewed structure of state administration"<sup>49</sup>. However, in practice, against the background of rampant political repressions and the defeat of civil society, the discussion is limited to the pro-governmental structures. This example illustrates how the state creates an image of a state focused on human rights, when in practice it is not so<sup>50</sup>. Within the framework of the ILO, Belarus has not provided information for 17 years.

Recommendations adopted as a result of reviewing periodic reports, monitoring missions, other

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<sup>44</sup> Report of the Special Rapporteur on the situation of human rights in Belarus, Anais Marin, A/HRC/47/49, 04/05/21, p.3, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/101/84/PDF/G2110184.pdf?OpenElement>

<sup>45</sup> Report of the Special Rapporteur on the situation of human rights in Belarus, Anais Marin, A/HRC/50/58, 04.05.22, para. 3, [https://spring96.org/files/misc/a\\_hrc\\_50\\_58-ru.pdf](https://spring96.org/files/misc/a_hrc_50_58-ru.pdf)

<sup>46</sup> <https://www.osce.org/ru/odihr/469542>

<sup>47</sup> <https://www.dw.com/ru/strany-obse-trebujut-ot-belarusi-otvetov-po-situacii-s-pravami-cheloveka/a-59727021>

<sup>48</sup> [https://mfa.gov.by/multilateral/human\\_rights/structures/](https://mfa.gov.by/multilateral/human_rights/structures/)

<sup>49</sup> Report of the UN UPR Working Group on Belarus, 4 January 2021, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/000/15/PDF/G2100015.pdf?OpenElement>

<sup>50</sup> This is also the opinion of the Special Rapporteur on Human Rights in Belarus. Report of the Special Rapporteur on the situation of human rights in Belarus, Anais Marin, A/HRC/50/58, 04.05.22, paras. 18-21, [https://spring96.org/files/misc/a\\_hrc\\_50\\_58-ru.pdf](https://spring96.org/files/misc/a_hrc_50_58-ru.pdf)



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mechanisms and procedures are not taken into account by Belarus in law and practice. In 2021, according to experts, the situation worsened. Recommendations of the treaty bodies are not taken into account from year to year. Recommendations on the UPR, adopted in 2020, have also not been applied in practice: Belarus has not acceded to the Optional Protocol against the Death Penalty, nor to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, nor to the International Convention for the Protection of All Persons from Enforced Disappearance, nor to the Rome Statute, nor to the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention); failed to criminalize domestic violence, to improve cooperation fully with the Special Rapporteur on the situation of human rights in Belarus, with other special procedures of the Human Rights Council and with the Office of the UN High Commissioner for Human Rights, and to grant them unimpeded access to the country. Belarus failed to establish an independent national human rights institution in accordance with the Paris Principles, etc. Not a single recommendation has been implemented<sup>51</sup>. The same applies to the recommendations of the Mission of the High Commissioner for Human Rights to investigate the human rights situation in Belarus and the Special Rapporteur on human rights in Belarus. As it was described above, within the OSCE - the recommendations of the Moscow Mechanism were not taken into account or even considered.

Among the positive trends in 2021, experts noted the proposal to limit the president's term of office in the draft of the updated Constitution.

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<sup>51</sup> For a full list of UPR recommendations for Belarus in 2020. - See Report of the UN UPR Working Group on Belarus, 4 January 2021, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/000/15/PDF/G2100015.pdf?OpenElement>



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