

Belarus Human Rights Index

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2025

The right to a fair trial:
Expert commentary¹

The score:	2.7
<i>including scores by component:</i>	
• Equality before the courts	2.0 -0.1
• Fair and public hearing of the case by a competent, independent and impartial tribunal	3.0
• Procedural safeguards in criminal proceedings	2.6
• Review by a higher court and compensation in cases of a miscarriage of justice	3.1 -0.1

A description of the baseline situation regarding the implementation of this right is provided in the 2019 [review](#). Although the overall score for the realisation of the right to a fair trial in 2025 remained unchanged compared to the previous reporting period, experts record a further deterioration across a number of components. **Among the main reasons are:**

- the continuing restriction of access to justice for persons outside the country, including the practice of forcibly removing released political prisoners without the documents necessary to exercise their rights;
- the continued undermining of guarantees of the independence of the judiciary, including in connection with the appointment of the former Prosecutor General as President of the Supreme Court;
- the consolidation and expansion of the practice of ‘trials of the dead’ in the context of the investigation into the ‘genocide of the Belarusian people’.

Experts also note a general deterioration in the ability to monitor judicial activity, caused both by previously entrenched problems (primarily the closed nature of court hearings, the use of non-disclosure agreements and other restrictions) and by new measures aimed at further reducing the

¹ ‘Expert’ and other nouns of the masculine grammatical gender are used in a gender-neutral sense and refer to all genders.

transparency of the judicial system (the cessation of public reporting on court hearings from March 2025).²

- **Equality before the courts**

With regard to ensuring the right to a fair trial without discrimination, experts lower the score, drawing attention to the growing trend of restricting access to justice for persons outside the country: individuals in forced exile are, in practice, deprived of an effective opportunity to bring cases before domestic courts. Despite formally envisioned avenues, in practice individuals face a range of obstacles, including difficulties in paying state fees and courts' refusal to conduct hearings by means of videoconferencing.

Furthermore, experts particularly highlight the even more vulnerable position of former political prisoners who were forcibly removed after their release: in many cases, they find themselves outside the country without the personal and procedural documents necessary, among other things, to exercise their right to access the courts. For the same reason, the experts also lower their score regarding the equality of the parties' opportunities to present their case in proceedings: the opportunities available to individuals in exile are reduced to a minimum.

Experts also draw attention to the continuing adverse effects of Decree No. 278 "On the Procedure for Issuing Documents and Performing Acts" (the "passport decree"), which has effectively made it impossible to obtain or renew passports, as well as to access a number of administrative services and other documents, outside the country. Over time, its consequences have become increasingly widespread: the number of Belarusians in exile for whom returning to the country entails a risk of politically motivated criminal prosecution, and whose passports are expiring, continues to grow. As a result, they are effectively deprived of legal capacity: the ability to exercise their rights without personal documents is significantly restricted.

- **Fair and public hearing of the case by a competent, independent and impartial tribunal**

Despite the already low score recorded in previous reporting periods, in 2025 experts further reduced the score under the indicator relating to measures guaranteeing the independence of the judiciary.

The decrease is caused, first, by the appointment of Andrei Shved – the former Prosecutor General, who spent approximately 30 years in law enforcement positions and has no prior judicial experience – as Chair of the Supreme Court.³ Experts highlight his role as Prosecutor General in consolidating and developing practices that contravene the state's international obligations, including mass criminal prosecutions in cases of 'extremist orientation',⁴ as well as the promotion and institutionalisation of

² [Human rights situation in Belarus. March 2025](#)

³ [The Supreme Court of the Republic of Belarus under the control of the security forces: Shved's new role; Law Enforcement Agencies and the Prosecutor's Office of Belarus: Careers Before/After 2020](#)

⁴ ["Not weakness, but the stance of a strong state". Shved on the commission for those wishing to return; Overview of the fight against "extremism" in Belarus for October–December 2023](#)



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the narrative of the ‘genocide of the Belarusian people’,⁵ accompanied by active investigations and trials in violation of the basic principles of fair trial (see below). According to experts, such a personnel decision contributes to a further strengthening of the prosecutorial bias in the courts’ activities.

Secondly, experts note the continuation of the practice of reappointing judges, in the vast majority of cases, for five-year terms rather than on a permanent basis, which, in the Belarusian context, constitutes an additional factor of institutional pressure on the profession.⁶

During the reporting period, the reform of the system of courts of general jurisdiction was formally completed, providing, inter alia, for the establishment of an Appellate Economic Court⁷ (to commence operation on 1 January 2026) and the introduction of a new Code of Civil Procedure, unifying procedural rules for the adjudication of civil cases.⁸ The reform is aimed at institutionally separating the appellate instance in economic matters from the court of first instance⁹ and, according to official statements, is intended to enhance objectivity and impartiality when considering appeals and objections to the judgments of economic courts of first instance.¹⁰ At the same time, experts note that the positive effect of these changes is limited, given their restricted subject-matter scope and the systemic problems affecting judicial independence.

In this component, experts have also lowered their score regarding guarantees of access to justice from a procedural perspective – taking into account the aforementioned deteriorations and the generally unfavourable situation for the realisation of rights formally enshrined in legislation.

In other aspects – including the termination of judges’ mandates only on serious grounds and through due process, the absence of influence by the parties on the administration of justice, and the adjudication of civil cases without undue delay – no significant changes were recorded; the persisting problematic trends are already reflected in the correspondingly low scores under these indicators.

With regard to state fees, experts continue to highlight the persistent obstacles to paying them from abroad, as well as the need to set a cap on them, the absence of which remains a significant barrier to access to justice, particularly in property disputes.¹¹

⁵ Andrei Shved not only supports the monopolisation of the assessment of complex historical reality in the context of the “genocide of the Belarusian people”, but also links this topic in his statements to current political events, thereby further fuelling hostility towards dissidents: [Overview of the fight against ‘extremism’ in Belarus for April–June 2025](#); [Remembrance of the Second World War: how lawyers’ lectures on genocide violate the rights to historical truth and national heritage](#).

⁶ For an example, see <https://pravo.by/document/?guid=12551&p0=P32500142>

⁷ <https://president.gov.by/ru/documents/ukaz-no-141-ot-3-aprela-2025-g>

⁸ [The Economic Court of Appeal will begin operations on 1 January 2026](#)

⁹ [Economic justice reform completed in Belarus – what the new appellate structure will do](#)

¹⁰ [The Economic Court of Appeal will begin operations on 1 January 2026](#)

¹¹ Experts have highlighted this issue previously; see, in particular, expert comments on the score for the right to a fair trial in 2022 and 2024: <https://index.belhelcom.org/en/>

Scores have also been lowered regarding the openness of court proceedings to the general public. In the experts' view, courts have effectively become restricted-access facilities: alongside the already established practice of declaring hearings closed and prosecuting individuals engaged in lawful court monitoring,¹² all visitors are recorded, and in some cases even relatives of the accused are arbitrarily denied access to proceedings (including by reclassifying them as witnesses). Reports have also been received of requirements to delete photographs of notice boards displaying court schedules. At the same time, the general schedule of court hearings on the website of the Supreme Court has, since March 2025, remained inaccessible to the public, significantly hindering access to information about proceedings and the scale of criminal prosecution.¹³

- **Procedural safeguards in criminal trials**

The scale of criminal prosecution has not decreased: during the reporting period, at least 1,254 politically motivated criminal convictions were recorded.¹⁴ Prosecution within the framework of large-scale criminal cases has continued: in 2025, among others, the “Hajun case” is illustrative, in which, through the use of overly broad wording of Article 361-4 of the Criminal Code (“Facilitation of extremist activity”), courts have been convicting en masse individuals who in one way or another interacted with the Telegram bot of the “Belaruski Hajun” project.¹⁵

No qualitative changes were recorded during the reporting period in respect of the presumption of innocence, the prompt notification of the nature and grounds of charges, the provision of adequate facilities for the defence (including access to a lawyer and guarantees of confidentiality of communication),¹⁶ the right to trial without undue delay, the examination of witnesses relevant to the defence, the provision of interpretation where necessary, protection against coercion to obtain testimony, or the treatment of minors in a manner appropriate to their age; the existing low scores reflect the persistence of previously identified practices..

Experts lowered the score with regard to the guarantee of the accused’s right to be tried in their presence, in light of the practice of “trials of the dead” in the context of the investigation into the “genocide of the Belarusian people”, which became entrenched in 2025.

¹² [“This is not a sign of a thaw.” Viasna human rights defenders on how the regime is destroying evidence of its crimes](#); In February 2025, the Supreme Court considered (and dismissed) the appeal of Vitaly Chopik, who was convicted for carrying out lawful monitoring of court hearings: <https://prisoners.spring96.org/en/person/vital-czopik>

¹³ [“This is not a sign of a thaw.” Viasna human rights defenders on how the regime is destroying evidence of its crimes](#)

¹⁴ [At least 1,254 people convicted in 2025: the results of criminal prosecution](#)

¹⁵ [Overview of the application of anti-extremism legislation \(October–December 2025\)](#)

¹⁶ In this regard, there is continued pressure on the legal profession, a *de facto* inability to find a defence lawyer for politically motivated cases, and the creation of conditions in which it is actually safer for the defence in politically and ideologically charged trials to adopt a position that aligns with that of the prosecution (see the practice of ‘trials of the dead’ below).



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In December 2025, a sixth criminal case against a deceased defendant in this category of cases was referred to the Supreme Court.¹⁷ At the same time, according to statements by the former Prosecutor General, now Chair of the Supreme Court, Andrei Shved, this practice will be expanded: up to ten such cases are expected to be referred to the Supreme Court in 2026.¹⁸ In the experts' assessment, these proceedings in essence amount to a travesty of judicial process, constituting a serious violation of the accused's right to be tried in their presence, as well as of other procedural guarantees – ranging from the right to an effective defence (which in such cases in practice adopts a position close to that of the prosecution,¹⁹ including due to the pronounced ideological nature of these trials²⁰) to the requirements of admissibility and reliability of evidence in relation to events so remote in time.²¹

With regard to the implementation of the principle *ne bis in idem*, experts also lowered the score in light of the continued set of practices allowing for the arbitrary extension of periods of detention in places of deprivation of liberty through new convictions, including through the use of Article 411 of the Criminal Code (“Malicious disobedience to the lawful demands of the administration of a correctional institution”).²²

The experts also draw attention to Law No. 61-3 “On Amendments to the Codes on Criminal Liability”,²³ which came into force during the reporting period and provides for a review of penalties

¹⁷ [Killed at least 1,706 persons: deceased SS officer Hans Ziegling to stand trial for the genocide of the Belarusian people](#)

¹⁸ [The drive for justice will continue. A new President has been introduced to the staff of the Supreme Court of the Republic of Belarus](#)

¹⁹ See the statement by lawyer Alexander Gombalevsky, which casts doubt on the integrity of the defence in this trial: [Remembrance of the Second World War: how lawyers' lectures on genocide violate the rights to historical truth and national heritage](#).

²⁰ The investigation into the ‘genocide of the Belarusian people’ and the subsequent trials are one of the key components of the state-imposed interpretation of history, used, among other things, for ideological influence in the present: see the use of data from this investigation and the trials for the purposes of ‘patriotic education’ of young people: <https://prokuratura.gov.by/ru/media/novosti/o-nesovershennoletnikh-i-molodezhi/organy-prokuratury-m29122025/>; [Remembrance of the Second World War: how lawyers' lectures on genocide violate the rights to historical truth and national heritage](#)

²¹ Examples of evidence used in court proceedings can be found, in particular, here: [Revealing the details of the case of the executioner Yermolchik, who brutally murdered 247 civilians](#)

²² [Term without end: Article 411 turns a served sentence into endless imprisonment](#); “In practice, article 411 allows for indefinite imprisonment because the same individual can be repeatedly convicted, for an unlimited number of times, to imprisonment while still serving an initial prison term or immediately upon its termination.” – see the statement by the Working Group on Arbitrary Detention and several UN Special Rapporteurs regarding arbitrary sentences and the extension of prison terms under Article 411 of the Criminal Code: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=30496>

²³ <https://pravo.by/document/?guid=12551&p0=H12500061>



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for a number of offences and the introduction of more lenient forms of punishment.²⁴ In particular, the circumstances in which a custodial sentence is not imposed have been expanded to include certain categories of parents, persons with Group I disabilities, and minors who have committed minor or less serious offences for the first time.

However, these provisions do not apply to persons accused of “extremist offences”, which, in the experts’ view, effectively nullifies the proclaimed humanisation of legislation. At the same time, the amendments extend the extraterritorial scope of criminal law, including the possibility of prosecution for acts committed outside the country that are not recognised as criminal offences in the state where they were committed, including those related to statements and other forms of non-violent expression of opinion.²⁵

- **Review by a higher court and compensation in the event of a miscarriage of justice**

Under this component, experts lowered the score for the indicator ensuring the possibility of proper review of convictions on the basis of facts and law, in light of the above-mentioned appointment of Andrei Shved as Chair of the Supreme Court. He has consistently supported the systematic application of “anti-extremism” legislation and has publicly declared a policy of identifying and holding accountable participants in the 2020 protests and other individuals regarded by the State as dissenters. In the experts’ view, this deprives formally existing avenues for appealing convictions – including through the submission of complaints to the Chair of the Supreme Court – of even theoretical effectiveness..

Scores were also lowered for the indicator guaranteeing access to documents necessary for the effective exercise of the right to appeal, as well as in respect of the right to compensation in the event of a miscarriage of justice, in light of the situation of former political prisoners who were expelled, in many cases not only without personal documents but also without the procedural documents necessary to exercise their right to appeal a conviction.²⁶ In the absence of such documents, and given the cumulative restrictions on access to justice, the right to compensation – even where a judicial error is recognised within the existing system – remains, in substance, illusory.

²⁴ As part of the amendments, penalties for 97 criminal offences, amongst other things, were revised. In 65 cases, more lenient penalties were introduced, including 24 offences for which, prior to the amendments, imprisonment was the only possible penalty: [Review of the fight against ‘extremism’ in Belarus for January–March 2025](#)

²⁵ Ibid.

²⁶ [40 political prisoners pardoned, including politician Mikalai Statkevich.](#)