

Belarus Human Rights Index

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2019

Right to peaceful assembly

Score: 2.3

Including scores by component:

- General principles – 1.8
- Procedural issues regarding the organisation and conduct of assemblies – 2.0
- Holding of assemblies – 3.1

In Belarus, there is no presumption in favour of holding assemblies. A general requirement for holding any assembly is obtaining the relevant permission from local authorities. The consideration of applications to hold assemblies is conducted in a non-transparent manner; the legislation allows for the grounds for banning any assembly to be manipulated. Decisions by local authorities to ban assemblies often do not provide sufficient justification.

On 26 January 2019, amendments to the Law “On Mass Events” came into force, providing for the possibility of holding static mass events at permanent venues for mass events designated by local authorities, subject to a notification procedure. The permanent venues for mass events in question are often inappropriate or inconvenient; they also fail to meet the criteria of ‘visibility’ and ‘audibility’ for the target audience.

The Law “On Mass Events” specifies locations where the holding of mass events is prohibited. These restrictions cannot always be characterised as permissible, since the very same locations are used by the authorities to hold their own mass events.

The maximum number of participants in events organised by private individuals is limited by law and may not exceed 1,000 persons. The holding of spontaneous mass events and protests is subject to the same rules and requires prior notification and approval from the authorities.

The right to freedom of assembly is restricted in terms of who may exercise it. Thus, only citizens permanently residing in Belarus and possessing the right to vote may organise mass events. Consequently, minors, foreign nationals and persons declared legally incompetent by a court may not organise assemblies. In practice, restrictions on peaceful assemblies are applied primarily to those at



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which dissent is expressed against government policy¹. As a rule, the authorities refuse to allow peaceful assemblies initiated by the opposition and civil society activists, and arbitrarily change the venue and time of such events.

The obligation to cover the costs of holding mass events lies with their organisers (except for assemblies held under the Electoral Code). Furthermore, one of the conditions for obtaining permission to hold a peaceful assembly is the conclusion of contracts and payment for the services of public utilities, healthcare organisations and law enforcement agencies. The sums required to be paid, in particular for public order policing, are disproportionately high. Similar requirements apply to solitary pickets. The same rules govern indoor assemblies and solitary pickets, as well as any advertising and commercial campaigns². Furthermore, according to experts, the costs themselves that the organiser is required to pay, as well as the procedure for concluding contracts to cover these costs, lack transparency.

This and other provisions of the Law “On Mass Events” have been criticised by the Human Rights Committee³, as well as by the Venice Commission of the Council of Europe and the OSCE ODIHR in their joint conclusion⁴.

In particular, the Human Rights Committee, in its Concluding Observations following the consideration of the fifth periodic report of the Republic of Belarus on the implementation of the International Covenant on Civil and Political Rights, expressed concern that the State party regulates peaceful assemblies in a manner that impedes the exercise of this right. The Committee is particularly concerned by such unjustified obstacles as the general requirement to obtain authorisation for any protest action; the strict conditions for granting authorisation, including obligations to maintain public order and safety standards, as well as provisions regarding the provision of medical care and cleaning at the venues of events; restrictions on the holding of assemblies, in particular the requirement to hold them exclusively in authorised locations, restrictions on the number of participants (the number of participants in events organised by individuals must be fewer than 1,000 people) and the ban on spontaneous assemblies. Noting that the amendments made in 2018 to the

¹ Alternative report by the National Human Rights Coalition on the Republic of Belarus’s implementation of the International Covenant on Civil and Political Rights for the 124th session of the UN Human Rights Committee: https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/BLR/INT_CCPR_CSS_BLR_31288_R.pdf, para. 149

² Alternative report by the National Human Rights Coalition on the implementation by the Republic of Belarus of the International Covenant on Civil and Political Rights for the 124th session of the UN Human Rights Committee: https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/BLR/INT_CCPR_CSS_BLR_31288_R.pdf, para. 151

³ Concluding observations of the Human Rights Committee on the fifth periodic report of Belarus, 22 November 2018, CCPR/C/BLR/CO/5, para. 51

⁴ [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2012\)006-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2012)006-e)



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Law “On Mass Events” establish a notification procedure for holding assemblies, the Committee remains concerned that the notification procedure applies only to gatherings held in permanent venues specifically designated by the authorities, which are reportedly located far from the city centre⁵.

According to experts, the process of obtaining permission from local authorities to hold assemblies that run counter to the authorities’ agenda is complex and burdensome. Decisions on each application to hold an assembly are made in a non-transparent manner; refusals to allow assemblies do not contain clear justifications, but merely references to articles of the law. It is only possible to understand why a meeting was refused by appealing to the court against the decision of the local authority.

The legislation does not contain any specific provisions providing for expedited procedures for the courts to consider appeals against local authorities’ decisions to ban assemblies. Such appeals are considered under the standard procedure (appeals against the actions of local authorities must be considered by the court within one month of their receipt).

Spontaneous assemblies and counter-demonstrations are, in essence, prohibited by law. In practice, however, the authorities did not prevent assemblies from taking place in 2019.

In 2019, police officers generally did not obstruct the work of journalists and observers at mass events. At the same time, working without accreditation often hinders journalists from exercising their rights during mass events.

Despite the fact that gatherings did in fact take place in 2019, the shortcomings in the legislation on freedom of assembly lead to frequent detentions of participants in peaceful gatherings, with fines and arrests being imposed on them. In 2019, there were instances of participants in mass events being detained and held accountable, including through administrative arrests, solely for the fact of participating in a mass event without permission from the local authorities⁶. In 2019, law enforcement agencies generally did not resort to dispersing gatherings, limiting themselves to detentions and the subsequent imposition of administrative penalties on participants. According to the Human Rights Centre “Viasna”, in 2019 at least 162 rulings were issued under Article 23.34 of the Code of Administrative Offences against 121 people. Of these, detention was ordered in 13 recorded cases. Furthermore, for exercising the right to peaceful assembly and expressing opinions at street protests, three people were held liable under Article 23.4 of the Code of Administrative Offences (failure to comply with a lawful demand by an official), and 16 people were held liable under Article 17.1 (petty hooliganism) (25 recorded cases, most of which were also classified under Article 23.4 of the Code of Administrative Offences), of whom two were sentenced to detention. Eleven people (44

⁵ CCPR/C/BLR/CO/5, para. 51

⁶ Human rights situation in Belarus in 2019: Human Rights Centre “Viasna”, <https://spring96.org/en/news/95744>, pp. 12–15



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cases) were fined for breaching traffic regulations. Thus, at least 151 people have been subjected to administrative penalties for exercising their right to peaceful assembly, freedom of opinion and expression at street demonstrations, with at least 234 cases of repression recorded⁷.

Overall, law enforcement agencies do not adhere to the principle of 'do not disperse if the assembly is peaceful'. In practice, the principle that 'if an assembly is unauthorised, it must be stopped' prevails.

Actions of the police are not focused on protecting assemblies and their participants, rather on taking measures to suppress any assembly, even a peaceful one, if no permission has been obtained to hold it. According to experts, police officers do not receive training in international standards regarding the protection of human rights during peaceful assemblies. Another problem is the presence at peaceful assemblies of large numbers of police officers in plain clothes, which violates the principle of transparency in the activities of the internal affairs agencies.

Sources:

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⁷ Human rights situation in Belarus in 2019: an analytical review, Viasna Human Rights Centre, available at: <https://spring96.org/en/news/95744>



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