

## National Human Rights Index

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2022

### Right of Peaceful Assembly:

Expert Commentary

**Score: 1.2**

#### Including scores by component:

- General principles 1.1
- Procedural issues regarding the organization and conduct of assemblies 1.4
- Holding of assemblies 1.1

In 2022, the legal default in the state deteriorated, directly affecting the exercise of the right to peaceful assembly. The overall atmosphere within the state, marked by a sense of insecurity, stringent regulations governing peaceful assemblies, the lack of accountability among law enforcement personnel, and a dysfunctional judicial system, resulted in a situation where, despite the formal possibility to hold mass events (albeit with restrictions), in 2022 individuals either refrained from enjoying this right or were unable to exercise it without further sanctioning. When evaluating the state of the right to peaceful assembly in 2022, Index experts assigned lower scores compared to 2021. Their position is elaborated below.

#### • **General principles**

The legislation on peaceful assembly and the practice of its implementation remained unchanged, resulting in continued violations and arbitrary restrictions on the freedom of peaceful assembly. The legal framework lacks a presumption in favor of the right to peaceful assembly, and the process of obtaining permission for mass events, including single pickets, is burdened with excessive requirements and limitations, including the obligation to cover the costs associated with such events.<sup>1</sup>

Despite the extensive repression of peaceful assembly participants in 2020, there were documented attempts by citizens to exercise their right to peaceful assembly in 2022. These attempts, in addition to pro-state peaceful assemblies, included a request for anti-war solitary picket that was met with a refusal<sup>2</sup>, as well as anti-war rallies in February 2022 where participants were detained with the use of excessive force.<sup>3</sup>

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<sup>1</sup>Belarus Human Rights Index, Expert Commentary on the Right of Peaceful Assembly, 2019

<sup>2</sup> <https://news.zerkalo.io/life/17996.html?tg> <https://news.zerkalo.io/life/17418.html>

<sup>3</sup> See para. 3



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While rallies against the war were prohibited by the authorities, and participants were detained, rallies in support of Russia and its actions in Ukraine were allowed. For instance, a rally "Belarus for Russia" was held to express support for Russia's military actions in Ukraine, and only those who engaged in arguments with its participants were detained.<sup>4</sup> This instance exemplifies the differential treatment by authorities in ensuring the right to peaceful assembly based on political views.

According to the legislation, restrictions on the right to peaceful assembly must comply with the principles of legality, necessity, proportionality, and non-discrimination. Nevertheless, experts note that in practice this provision still lacks enforcement.

Experts also underscore that by the end of 2022, the trend of completely curtailing the right to peaceful assembly had solidified. It has become obvious that any attempt to obtain permission to hold a mass event of an "opposition" nature will be futile and, moreover, may potentially serve as a ground for politically motivated prosecution.

- **Procedural issues related to the organization and conduct of assemblies**

The regulation of procedural aspects related to the organization and conduct of assemblies has remained unchanged. Nevertheless, experts highlight that in 2022, the process of notifying authorities about an assembly has become not only cumbersome and bureaucratic but also risky for the applicants.

Experts note that the decision-making process for meetings has become even more opaque and unpredictable. It is now unclear who exactly makes the ultimate decision, and what consequences await the organizer for merely applying to hold an event with a theme that could be viewed as "oppositional."

As in the past, applicants do not receive clear explanations when an assembly is denied, which further demonstrates the lack of transparency in the process.<sup>5</sup>

The right to appeal against any restriction or prohibition on an assembly is not effectively enforced or implemented. Experts point out that in 2022, the judicial system had finally transformed into an instrument of repression. Moreover, in the context of an escalating legal crisis, which includes, inter alia, the widespread disbarment of lawyers, criminal prosecutions for providing legal assistance in politically motivated cases, the liquidation of human rights organizations, and persecution of their members, the exercise of the right to appeal had become practically unattainable.

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<sup>4</sup> <https://t.me/viasna96/10925>

<sup>5</sup> For instance, a former judge was denied permission to conduct a solitary picket against the war in Ukraine. The refusal was justified by a protocol issued on February 27 under Part 1 of Article 24.23 of the Administrative Code for a violation of the procedures for organizing and conducting mass events. When the woman inquired why a solitary picket was considered a mass event, she was provided with the same rationale and was told that the definition of a picket is outlined in the Law "On Mass Events": <https://news.zerkalo.io/life/17996.html?tg>  
<https://news.zerkalo.io/life/17418.html>



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Spontaneous, simultaneous assemblies and counter-demonstrations are still not allowed in Belarus, both at the legislative level and in practice. Participants in peaceful anti-war protests that took place in the first week following Russia's invasion of Ukraine were detained and convicted.<sup>6</sup>

- **Holding of assemblies**

Since Belarusian legislation and law enforcement practices do not contain a presumption in favor of peaceful assemblies, any assembly held without obtaining a permit, including spontaneous gatherings, is considered unlawful by law enforcement authorities. Consequently, they disperse such assemblies using excessive force, irrespective of the nature of the assembly.

Thus, in the beginning of 2022, a series of peaceful anti-war protests, many of which could be described as spontaneous, took place in Belarus. Participants in these actions were subjected to disproportionate force during detentions and subsequently faced convictions.

During the first days of the war, human rights defenders reported multiple detentions, including a woman from Molodechno standing near a store with a white-red-white flag, a man posting an online comment calling for a rally on the day of the referendum, another man from Zhodzina who left a message calling for a rally near a store, and a man who left a comment calling for a rally against amendments to the Constitution.<sup>7</sup>

The largest anti-war protests took place on February 27, 2022. At least 908 individuals were detained in total.<sup>8</sup> At least 68 individuals were detained during the February 28 action, where participants near the railway station in Minsk chanted "No to war".<sup>9</sup> In March 2022, human rights defenders also recorded several detentions of participants in anti-war solitary pickets.<sup>10</sup>

Despite the peaceful nature of the rallies, participants were detained using excessive force, which is inconsistent with human rights principles of legality, necessity, proportionality and non-discrimination.<sup>11</sup> Most of the detainees were convicted and punished with fines or administrative arrests.<sup>12</sup>

Experts note that, even though the level of protection afforded to participants in peaceful assemblies against any individual or group attempting to disrupt or obstruct such assemblies remains unchanged, it is essential to consider the role and status of law enforcement agencies. In a situation where the

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<sup>6</sup> See para. 3

<sup>7</sup> <https://t.me/viasna96/9629>; [https://t.me/zerkalo\\_io/37634](https://t.me/zerkalo_io/37634)

<sup>8</sup> <https://spring96.org/be/news/106930>; <https://t.me/radiosvaboda/43821>; <https://t.me/viasna96/9739>  
<https://t.me/viasna96/9702>

<sup>9</sup> <https://spring96.org/be/news/106948>

<sup>10</sup> <https://t.me/viasna96/9828> <https://t.me/viasna96/9863>; <https://t.me/nashaniva/41381>;  
[https://t.me/zerkalo\\_io/38553](https://t.me/zerkalo_io/38553)

<sup>11</sup> <https://spring96.org/be/news/107078>

<sup>12</sup> <https://spring96.org/be/news/107078>



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police have become a punitive mechanism and have completely abandoned their role in safeguarding human rights and freedoms, organizers of mass events with an "opposition" nature cannot rely on law enforcement agencies for the protection of their participants.

In 2022, journalists continued to face state repression. For instance, journalist Aleh Hruzdilovich working with RFE/RL's Belarus service was sentenced to 1.5 years in a general-security penal colony. He was found guilty of "organizing actions that grossly violate public order" under Article 342 of the Criminal Code, because he attended the rally, despite already having been stripped of his accreditation. The journalist claimed to be reporting from the rally.<sup>13</sup> Additionally, journalists Dmitry Luksha<sup>14</sup> and Oksana Kolb<sup>15</sup> were also convicted under Article 342 in 2022

According to the Belarusian Association of Journalists, 17 criminal sentences were passed against journalists and media workers in 2022. At the end of the year, 33 journalists were in detention. In 2022, the Association recorded 43 detentions of journalists, 55 searches and 20 administrative arrests.<sup>16</sup>

Fearing criminal prosecution, many independent media and journalists were forced to leave the country. The remaining journalists attempting to cover mass events cannot expect protection from law enforcement agencies and also risk facing criminal prosecution.

A similar situation, according to experts, is observed in the sphere of monitoring of peaceful assemblies. Given the mass liquidation of civil society organizations, including those that monitored peaceful assemblies, as well as the persecution of their members, monitoring became, first of all, unsafe, but also virtually impossible due to the lack of human resources within the country. Human rights defenders monitor and collect information about peaceful assemblies online.

Experts highlight that in 2022 the detentions of participants of the 2020 mass events continued. For example, dozens of people were detained and convicted solely on the basis of photos from the book "I'm coming out", which contains photos of participants of peaceful protests.<sup>17</sup>

In 2022, the activities of independent trade unions were terminated, with one of the reasons being the participation of trade union members in the peaceful protests of 2020. According to the Prosecutor General's Office, "in the course of judicial review, it was established that instead of protecting labor and socio-economic rights of trade union members, preventing illegal strikes, downtime, escalation in society, the leaders and a number of members of the above trade unions took active part in destructive activities, mass events violating public order, and distributed information products with extremist content".<sup>18</sup>

<sup>13</sup> [https://t.me/zerkalo\\_io/38647](https://t.me/zerkalo_io/38647)

<sup>14</sup> <https://prisoners.spring96.org/ru/person/dzmitryi-luksza>

<sup>15</sup> <https://prisoners.spring96.org/ru/person/aksana-kolb>

<sup>16</sup> [https://baj.by/be/analytics/smi-u-belarusi-u-2022-godze#\\_ftn1](https://baj.by/be/analytics/smi-u-belarusi-u-2022-godze#_ftn1)

<sup>17</sup> <https://t.me/viasna96/16115>, for the similar cases: <https://t.me/viasna96/12854>; <https://euroradio.fm/ru/minchanku-zaderzhali-za-foto-s-marshey-vylozhennoe-v-tinder>

<sup>18</sup> <https://t.me/prokuraturabelarus/2818>; <https://news.zerkalo.io/life/18164.html?tg>



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In 2022, the authorities continued to arbitrarily apply legislation on mass events to prosecute forms of expression that do not qualify as mass events. Thus, a teacher from Babruisk was fined 70 basic units (Br2,240) for blue and yellow ribbons in her hair. The court ruled that ribbons in the hair were a way of "expressing one's social and political mood in connection with what is happening in Ukraine", an attempt to "attract the attention of citizens", and "active participation in a mass event in the form of picketing."<sup>19</sup> On September 1, during a solemn event at Gymnasium No. 1 in Navapolatsk, a girl approached children dressed in military uniform, raised her hands up, and demonstrated the "peace" gesture.<sup>20</sup> The girl was sentenced to 7 days of arrest and fined 30 and 100 basic units.<sup>21</sup>

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<sup>19</sup> <https://news.zerkalo.io/life/12005.html>

<sup>20</sup> <https://news.zerkalo.io/life/21207.html>

<sup>21</sup> <https://t.me/viasna96/14533>



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