

National Human Rights Index

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2023

Right of Peaceful Assembly:

Expert Commentary

The score:	1.1	-0.1
<i>Including scores by component:</i>		
• General principles	1	-0.1
• Procedural issues regarding the organization and conduct of assemblies	1.4	
• Holding of assemblies	1	-0.1

Experts do not observe significant legislative changes of the situation in the sphere of freedom of peaceful assembly compared to 2022. The general repressive atmosphere and the lack of a real opportunity to hold any spontaneous or planned peaceful assemblies on an independent initiative do not allow a qualitative assessment of the realization of this right in practice: the right to freedom of peaceful assembly in the country is not realized. Nevertheless, when assessing the state of the right to peaceful assembly in 2023, the Index experts gave lower scores than in 2022. **Among the main reasons are:**

- the overall situation continues to worsen due to the politicization of state bodies, the lack of guarantees for the independence of the judiciary and the decline in public confidence in this institution, as well as the lack of predictability of regulations affecting the realization of human rights and freedoms;
- the rates of payment for the services of internal affairs bodies to protect public order during assemblies have been increased;
- detentions of participants in the peaceful protests of 2020 continue; some of those convicted for participation in peaceful protests who have fully served their sentences have been re-arrested.

• **General principles**

There have been no game-changing changes to the legislation on peaceful assembly. The regulation continues to lack a presumption in favor of freedom of assembly and imposes excessive requirements and restrictions, including the existence of an obligation to pay the costs of assembly. In 2023, by the resolution of the Council of Ministers No. 577 of 02.09.2023, the obligation to pay for the services of



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internal affairs bodies to protect public order during assemblies was increased - including for events with up to 10 participants (from 3 basic rates in the previous version to 10 basic rates)¹.

The requirement that restrictions on the right to freedom of peaceful assembly comply with the principles of legality, necessity, proportionality and non-discrimination is still not implemented in practice.

In 2022, the experts noted the finalization of a trend towards the complete eradication of the right to peaceful assembly, which is expressed, *inter alia*, in the lack of a realistic possibility to safely attempt to obtain authorization to hold a mass event without the risk of facing politically motivated persecution. This situation persisted and continued to be reinforced throughout 2023.

- **Procedural issues regarding the organization and conduct of assemblies**

The regulation of procedural issues of organizing and holding assemblies has not changed. The process of informing the authorities about an assembly remains not only cumbersome, bureaucratic and non-transparent, but also unsafe for complainants.

The right to appeal against any restriction or prohibition of an assembly remains unenforced by the state. Moreover, the overall situation continues to worsen due to the politicization of the state authorities, the lack of guarantees for the independence of the judiciary and the decline in public confidence in this institution, as well as the lack of predictability of regulation affecting the realization of human rights and freedoms².

Spontaneous, simultaneous assemblies and counter-demonstrations are not allowed, both at the legislative level and in practice.

- **Holding of assemblies**

In 2023, the possibilities for the safe conduct of peaceful assemblies on an independent initiative were still lacking; and, participants in the peaceful protests of 2020 continued to be detained. They were convicted under Article 342 of the Criminal Code (CC), which establishes liability for organizing, preparing and participating in actions that grossly violate public order³: at least 1,789 persons are

¹ Resolution of the Council of Ministers of 02.09.2023 N 577 "On Amending Resolution of the Council of Ministers of the Republic of Belarus of January 24, 2019 N 49»: <https://pravo.by/document/?guid=12551&p0=C22300577>

² See also National Human Rights Index: Right to freedom of expression, Right to a fair trial (Expert commentaries 2023): <https://index.belhelcom.org/>

³ Dzmitryi and Natallja Haro: <https://prisoners.spring96.org/ru/person/dzmitryi-haro>; Meryem Herasimenka: <https://prisoners.spring96.org/ru/person/natallja-haro>; Aljaksei Kireeu: <https://prisoners.spring96.org/ru/person/meryem-herasimenka>; Mikhail Makarau: <https://prisoners.spring96.org/ru/person/aljaksei-kireeu>; Natallja Halavaszcanka: <https://prisoners.spring96.org/ru/person/mikhail-makarau>; Aleh Szaiko: <https://prisoners.spring96.org/ru/person/natallja-halavaszcanka>; Andrei Tryzubau: <https://prisoners.spring96.org/ru/person/aleh-szaiko>; Andrei Tryzubau: <https://prisoners.spring96.org/ru/person/andrei-tryzubau>



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known to have been convicted under Article 342(1) of the CC since 2020⁴. In addition, persons who called for participation in protests were also prosecuted under this Article.⁵ In 2023, the authorities continued to consider as unauthorized activities, in particular picketing, various individual forms of expression, such as: posting on social networks⁶, displaying flags, singing songs⁷.

During the year, those convicted of participating in peaceful protests were released after having served their full sentences. Some of them were detained again⁸.

Independent reporting and face-to-face monitoring of peaceful assemblies, if any, was not possible under conditions of mass repression. Persecution of journalists continued in 2023: according to the Belarusian Association of Journalists, 32 media representatives were in detention at the end of 2023. In 2023, BAJ also recorded 46 detentions of journalists, 34 searches and 16 administrative arrests⁹. Fearing criminal prosecution, many independent media and journalists continued to leave the country. Remaining journalists cannot expect protection from law enforcement agencies when attempting to cover a mass event on the contrary they risk facing criminal prosecution.

tryzubau; Andrei Dzmitryey: <https://prisoners.spring96.org/be/person/andrei-dzmitryey>; Artur Khlucz: <https://prisoners.spring96.org/ru/person/artur-khlucz>; Taccjana Jankouskaja: <https://prisoners.spring96.org/ru/person/taccjana-jankouskaja-andreyeuna>; Alena Dzmitryeva: <https://prisoners.spring96.org/ru/person/alena-dzmitryeva> and others.

⁴ https://spring96.org/files/reviews/ru/review_2023_ru.pdf, P. 17

⁵ Halymzhan Bakirau: <https://prisoners.spring96.org/ru/person/halymzhan-bakirau>; Aljaksei Mileuski: <https://prisoners.spring96.org/ru/person/aljaksei-mileuski>

⁶ <https://vicieskspring.org/news/sud/item/5964-alenu-kavalenku-ashtrafaval-i-za-fotazdymki-pratestau-2020-goda-na-sud-yana-ne-z-yavilasya>

⁷ Meryem Herasimenka: <https://prisoners.spring96.org/ru/person/meryem-herasimenka>

⁸ Andrei Ivanjuszyn: <https://prisoners.spring96.org/ru/person/andrei-ivanjuszyn>

⁹ <https://baj.media/be/analytics/represii-suprac-zhurnalistau-i-medyya-u-2023-godze-spis-znyavolenyh>



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