

# MONITORING THE RIGHT TO FREE ASSEMBLY

**BELARUS 2019**

 [#right2freeassembly](https://twitter.com/right2freeassembly)



European Center for  
Not-for-Profit Law



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# Table of Contents

<b>Introduction</b> .....	<b>4</b>	<b>Administrative sanctions imposed for exercising the right to peaceful assembly</b> ..	<b>22</b>
<b>Legal Analysis</b> .....	<b>5</b>	<b>Monitoring Peaceful Assemblies</b> .....	<b>24</b>
<b>Number of Mass Events in 2019</b> ....	<b>10</b>	<b>Recommendations</b> .....	<b>27</b>
<b>Peaceful Assemblies in 2019</b> .....	<b>10</b>	<b>To the Government of Belarus</b> .....	<b>27</b>
<b>Impact of the Amendments to the Legislation</b> .....	<b>12</b>	<b>To the local authorities</b> .....	<b>27</b>
<b>Location of the Mass Events</b> .....	<b>12</b>	<b>To law enforcement agencies</b> .....	<b>28</b>
<b>Thematic Scope of Assemblies</b> ....	<b>13</b>	<b>To the international community</b> ...	<b>28</b>
<b>Size of Assemblies</b> .....	<b>15</b>		
<b>Survey of Assembly Organisers</b> ....	<b>16</b>		
<b>The right to freedom of assembly of children and adolescents</b> .....	<b>18</b>		
<b>Exercising the right to freedom of assembly during the election period</b> .....	<b>20</b>		



## Introduction

Freedom of peaceful assembly, as one of the most important human rights, is subject to protection and maintenance by the state. Along with other civil and political rights, it underlies a functioning and effective democratic system. The exercise of freedom of assembly in Belarus is severely limited, both at the legislative level and in practice. This issue has traditionally been a cause of concern of international human rights institutions, as well as civil society.

In January 2019, amendments to the Law on mass events in the Republic of Belarus came into force, which also regulates freedom of assembly. Despite promises of liberalization by the authorities, the situation with freedom of assembly in Belarus has worsened in 2019. Some traditional protests took place in a modified format, while others were cancelled altogether.

The deteriorating situation was highlighted by the authorities' response to a series of protests against a deeper integration with Russia, which were held in December 2019 in various cities of Belarus. According to the Human Rights Center 'Viasna', more than 202 trials took place in the country between December 2019 and February 2020<sup>1</sup>. The total

amount of fines imposed on protesters was about \$60,000, and 12 activists were given a combined total of 375 days of administrative arrest. In every case, people were found guilty of participating in unauthorised assembly or in the implementation of calls for participation.

This report provides an analysis of the legal regulation of peaceful assemblies in Belarus and an analysis of data on peaceful assemblies held in Belarus in 2019 based in part on the results of in-person monitoring of 21 peaceful assemblies and in part on data gathered from a range of other sources. The report also addresses issues of the implementation of the right to freedom of assembly by children, administrative prosecutions, and especially the conduct of peaceful assembly during election campaigns. Separately, recommendations are provided for all stakeholders.

The report on freedom of peaceful assembly was prepared by a coalition of human rights organizations and is aimed at a broad audience, including government officials responsible for respecting this right.

<sup>1</sup> <http://spring96.org/be/news/96104>



## Legal Analysis

On 26 January 2019 the Law of the Republic of Belarus No. 125-3 “On changes and amendments to the law of the Republic of Belarus ‘On mass events in the Republic of Belarus’” dated 17 June 2018 entered into force. Among others, the amendments address the following issues:

**1** Introduction of Article No. 9-1 into the Law on mass events. This article establishes a notification procedure of organizing mass events in permanent locations that are specifically prescribed for this purpose (before these changes were made, mass events could only be held after obtaining the permission of the local authority). At the moment, the permanently assigned locations where mass events may be held are set out by local executive and administering bodies. An analysis shows that these places are highly inconvenient, located far from city centres and infrastructures of local authorities (parks, gardens, stadiums).

In order to organize a mass event, it is required to submit a notification to the local executive and administrative body no later than ten days before the proposed date of the event. The notification must indicate the purpose, type, venue, source of funding for the mass event; date, time of its

beginning and ending; an estimated number of participants; surname, name, patronymic of the organizer(s); information on the use of pyrotechnic products (type, quantity) and open fire (if the mass event implies their usage); as well as measures to ensure public order and security during the mass event and measures related to medical care and cleaning the territory after the event.

The Law also provides that local executive and administering body has to notify the organizer(s) if the event in question is deemed impermissible and of the necessity to stop the organization process, no later than five days before the date of the mass event in the following cases:

- If a prior notification about organizing a mass event at the same time and place has been submitted to the local executive and administering body by another individual; and
- If the submitted notification does not comply with the legal requirements.

It is important to emphasize that if the organizer of an assembly decides to hold it in a place that is not designated as a location for mass events; they must contact the local executive committee and must submit an

application no later than 15 days before the expected date of the mass event.

In addition, the law provides a longer list of grounds for prohibiting mass events, which are conducted with the permission of the local government, and not by notification. So, according to Part 3 of Article 6 of the Law on mass events, the decision of the head of the local executive and administrative body or his deputy on whether to give permission or to prohibit the holding of a mass event should take into account the date, place, time of its holding, number of participants, weather conditions, payment for services the protection of public order provided by the internal affairs bodies, the costs associated with medical care, cleaning up the territory after a public event, and other circumstances, affecting public safety. The organizer of a mass event has to pay for services of the public order police, medical services, and cleaning of the territory after the event is over.

**2** The introduction of a requirement that journalists carry their personal identity documents as well as an official identification as a journalist of a mass media registered in the Republic of Belarus or the document confirming accreditation of journalist of a foreign mass media in the Republic of Belarus. Additionally, a journalist has to wear a visible and distinguishing sign of mass media representative (Part 5 Article 10).

**3** Increasing the list of events falling under the Law on mass events. Thus, in addition to public sports, cultural-artistic, other artistic or religious events, a cultural event also requires a permission of local executive and administering body. The amendment has thus formally increased the scope of the Law on mass events (Part 3 Article 2).

**4** The introduction of additional requirement to be able to organize a mass event. Previously individuals were proscribed from organizing mass events if they had been administratively charged with a violation of the procedure of organizing or holding mass events within the previous year. Now the organizers of mass events must not have any convictions that have not expunged or expired for perpetrating offences against peace and security, crimes against public safety and order, morals or crimes against the State order and the exercise of power and management (Part 6 Article 4).

**5** The law also now prohibits an organizer of a mass event or other individuals to call for the organization of the event publicly before formal permission has been issued. The use of the mass media, the Internet or other means to publicise the date, place and time of an event is not allowed, nor is the production or dissemination of leaflets, posters and other materials (Part 2 Article 8).

The adopted amendments have improved the Law on mass events to a very small degree. In particular, the introduction of a notification system, rather than a permissive model, for organizing mass events in places that are permanently assigned for them might be considered as a positive step on the way to full implementation of the right to freedom of assembly. However, the currently assigned places are often in remote locations and to meet European standards it would need to be possible to hold assemblies within sight and sound, close to the target audience, this currently is not possible.

The amendments also allow the local executive and administering bodies to inform an individual, who submitted a notification of organization a mass event, about its impermissibility if the notification does

not fully comply with legal requirements. Significantly, most notifications for mass events are being denied because of non-compliance with requirements of the Law on mass events. Yet, the local executive and administrative body does not specify what exact provisions of the Law on mass events have not been complied with. As a result, the organizers must submit another application or appeal to the court in order to clarify specific reasons that served the basis for prohibition of the mass event organisation.

The Law No. 125-3, dated 17 July 2018, required the Council of Ministers (the Government) to set out the procedure of paying for the services of the public police, for medical services and for cleaning the territory after a mass event is over. On 24 January 2019 the Council of Ministers passed Regulation No. 49, which endorsed the procedure of paying for aforementioned services.

Regulation 49 states that after permission to organise a mass event has been given by the local executive and administering body (or in the absence of its prohibition) the organizer should make a contract with the local internal affairs office, a medical institution and a cleaning organisation for provision of relevant services no later than two days before start of the event in question.

Regulation 49 provides that the organizer of a mass event must pay for the services of internal affairs office on public order police in the following amounts:

- 3 basic amounts (around 30 euro) if the number of participants does not exceed 10 individuals;
- 25 basic amounts (around 280 euro) if the number of participants is between 11 and 100 individuals;

- 150 basic amounts (around 1,700 euro) if the number of participants is between 101 and 1000 individuals;
- 250 basic amounts (around 2,800 euro) if the number of participants exceeds 1,000 individuals.

Furthermore, there is an increase coefficient of 1.5 which is applied to the charges, if a mass event is organised in a location that is not designated by local executive and administering bodies.

In addition to the charges imposed for public order policing, the organizer also has to cover the expenses of specialist institutions (medical and communal services), which include:

- expenses for the wages of employees, based on their category, quantity and time of participation in a mass event;
- expenses for insurance of employees, in accordance with the legislation of the Republic of Belarus;
- costs incurred for supplies and materials, including medications, medical products, washing supplies;
- indirect expenses of specialist institutions;
- taxes, fees, and other obligatory payments to the state and local budgets that are provided by law.

The organizer of a mass event must pay the fees of internal affairs office and specialized institutions no later than ten days after the date of the mass event. Any disagreements between the organizer and the internal affairs office or the specialist institution in regard of the fees and expenses are addressed either through negotiations or by a court.

At the same time Regulation 49 does not

cover mass events that are financed from the State or local budgets as well as the following events:

- assemblies of workers, political parties, trade unions, religious and other organisations held indoors in accordance with the legislation of the Republic of Belarus and statutes of the corresponding organisations (or their regulations);
- assemblies held in accordance with the legislation of the Republic of Belarus on state and local assemblies;
- pickets, held in a place not prohibited for that purpose, in order to collect signatures of electorate for nomination of the President of the Republic of Belarus candidates and deputies candidates;
- assemblies, demonstrations, and pickets organized by the President of the Republic of Belarus candidates and deputies candidates, their representatives in accordance with Article 45 of the Elections Code of the Republic of Belarus; and
- mass events organized by State bodies.

The requirement to pay service fees has created a chilling effect on freedom of assembly. For example, the organizers of the peaceful assembly on 24 March 2019 in Minsk concluded a contract on public order police with the Minsk Internal Affairs Department, but refused to pay the fee due to unsatisfactory quality of the rendered services. Although according to the contract such disagreements have to be regulated through negotiations or in the court order, the four organizers of the event faced administrative charges for violating the procedure for organizing mass events (Article 23.34 CAO). They were each given fines

amounting to 30 basic amounts (325 euro).

The organizers of the traditional event the “Chernobyl Way,” which has been organized annually since 1989 on 26 April, the anniversary of the Chernobyl Catastrophe, applied to the Minsk City Executive Committee to organization the event without paying the fees. The request was denied, and organizers withdrew the application a day before the date of the event, because they could not afford to pay the service fees.

The Belarusian confederation of democratic trade unions refused to organize traditional street marches on 1 May, the International day of solidarity of workers, because they were unwilling to pay unaffordable service fees for public order police, medical and cleaning services.

Thus, the changes and amendments to the Law on mass events that provide for notification system of organization mass events have been effectively stifled by the high charges for services that have been imposed under Regulation No. 49 of the Council of Ministers, 24 January 2019.

It is noteworthy that the UN Human Rights Committee while considering the 5th periodical report of the Republic of Belarus on fulfilment of the International Covenant on Civil and Political Rights (8–9 October 2018) expressed its concerns with regard to the amendments to the Law on mass events. In particular the Committee expressed concern over the unjustified constraints on the realization of the right to free assemblies due to:

- the general requirement the seek permission to organize any protest events;
- strict conditions for issuance of the



permission, including an obligation to keep the public order and security norms as well as to ensure medical services and cleaning the territory of events;

- limitations on organization of assemblies, in particular requiring holding them in designated places and limiting the number of participants to 1,000 for events organised by physical persons, and further prohibiting spontaneous gatherings.

Taking into account all the above mentioned information, the UN Human Rights Committee recommended that the Republic of Belarus should revise its laws, regulations and practices, including the Mass Events Act, with a view to guaranteeing the full enjoyment of the right to freedom of assembly, both in law and in practice, and to ensuring that any restrictions on the freedom of assembly, including through the application of administrative and criminal sanctions against individuals exercising that right, comply with the strict requirements of article 21 of the Covenant.<sup>2</sup>

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<sup>2</sup> CCPR/C/BLR/CO/5, para. 53.



## Peaceful Assemblies in 2019

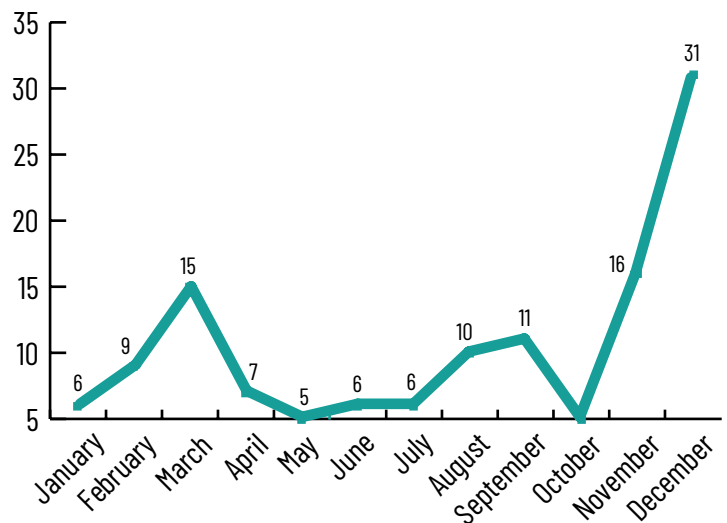
*This section analyses data gathered in 2019 in relation to the number of mass events that were held; their main features; the locations of the mass events; and their thematic scope. In addition, this section provides comparison with the number of assemblies held in previous years to illustrate changes that have taken place in number, location and themes of the events. The data for this chapter was gathered in part through independent first-hand monitoring involving attendance at 21 assemblies, as well from public resources (information of mass media and social networks), personal communications of individuals, and as a result of information provided by human rights organisations.*

### Number of Mass Events in 2019

We identified a total of 127 mass events that were held in Belarus in the period from 1 January to 31 December 2019 (Figure 1). This total included nine pickets held between 8 September and 7 October 2019 as part of a process of collecting signatures for candidates for the position of deputy to the Parliament. Activists carried out this process while also organizing pickets on other important issues.

Between 7 October and 17 November 2019,

the majority of assemblies were held within the framework of elections campaign to the Parliament, which were similar to the regular mass events in their form and thematic scope, however, we consider them in a separate chapter.



**Figure 1: The monthly frequency of mass events through 2019**

It is significant that the total of 127 mass events in 2019 was greater than those for previous years. In 2016 there were 58 mass events; in 2017 65 mass events were held, and in 2018 there were 81 mass events (Figure 2).<sup>3</sup>

<sup>3</sup> Information of 2016 and 2017 is taken from Monitoring Right to Free Assembly Belarus Country Report 2016-2017 <http://ecnl.org/wp-content/uploads/2017/12/ECNL-FoPA-Belarus-2017.pdf> Information from 2018 was calculated as a result of additional research that was based on *Monito-*

The high level of activity in March 2019 was linked to the celebration of Freedom Day and the deterioration of ecological problems in Brest, Gomel and Soligorsk.

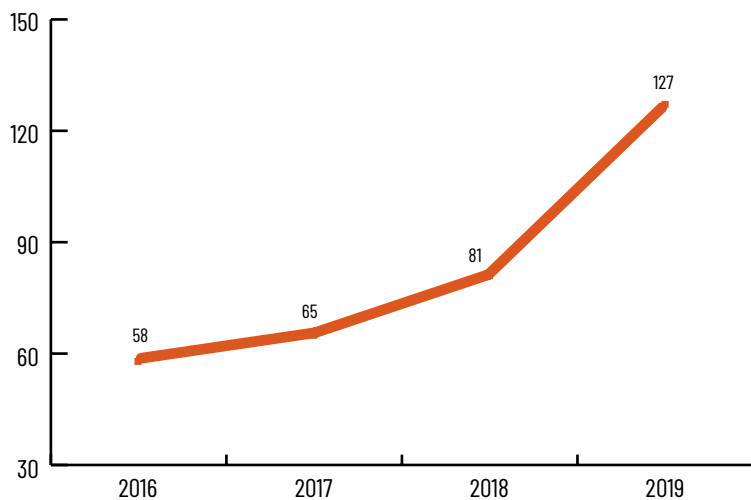


Figure 2: The annual total of mass events for from 2016 to 2019

In August the campaign ProtestBy held a number of pickets using the notification system for holding mass events, while in December 2019, 11 protests against integration with Russia took place in Belarus. Other assemblies included the distribution of special editions of newspaper *Narodnaya Volya*, which contained results of monitoring of parliamentary elections in Belarus by human rights defenders, (six distributions took place in November and one in December). There were also distributions in December 2019 dedicated to Human Rights Day (13 distributions in different cities).<sup>4</sup>

Over the course of the year at least four assemblies were disrupted by decisions of the authorities:

**1** On 13 January 2019 the authorities prohibited the organisation of an assembly against the construction of a battery factory

ring the Right to Free Assembly <http://ecnl.org/wp-content/uploads/2019/01/Belarus-Assembly-Report-2018.pdf>

<sup>4</sup> In Belarus activists may go out to crowded spots in a city to distribute newspapers with a special theme and verbally comment on the themes. Such activity is legally treated in the same way as a picket.

in Brest due to ‘previously planned sports activities’.<sup>5</sup> An application was submitted to the authorities about the organization of the event through the formal notification procedure. The assembly was intended to be held at the site of the Warriors-internationalists’ Park, which is defined as the permanent place for holding mass events. The activists decided to continue holding unauthorised assemblies despite the risk of being administratively sanctioned.

**2** On 22 August 2019 an activist was unable to organise an authorised picket against a new law on military service on the proposed date, due to the protraction of the procedure of making an agreement for cleaning the territory.<sup>6</sup> The picket was held a day after the proposed date.

**3** On 9 December 2019 the initiative ‘March, babe!’ planned to hold a picket against gender-based violence at the permanent location for holding mass events in Minsk. Their application was denied due to the ‘territory beautification’ taking place at the same time. Yet, as it was revealed later, no ‘beautification’ was carried out at the place that day.<sup>7</sup> Thus, the activists decided to hold an unauthorised assembly on 10 December<sup>8</sup> and move other assemblies to later dates (28–29 December).

**4** On 27 December 2019, an assembly of the campaign ‘Fresh Wind’ (Svezhiy Veter) was disrupted by the police.<sup>9</sup> The activists were inviting everyone into the post office building in Minsk to sign referrals to the authorities against integration with Russia. However,

<sup>5</sup> <https://naviny.by/new/20190112/1547288464-v-breste-za-pretili-dva-zaplanirovannyh-mitinga-protiv-stroitelstva>

<sup>6</sup> <https://euroradio.fm/ru/mezhvedomstvennyy-futbol-kak-chinovniki-studenta-s-piketom-tuda-syuda-posylali>

<sup>7</sup> <https://spring96.org/ru/news/95409>

<sup>8</sup> <https://kyky.org/news/zadushena-golyimi-rukami-ottsa-v-minske-ustroili-art-installyatsiyu-o-zhertvah-domashnego-nasilija>

<sup>9</sup> <https://www.svaboda.org/a/30347945.html>

before the assembly started, the building was filled with plain-clothed police, and the organizers terminated the event.

## Impact of the Amendments to the Legislation

The changes to the legislative procedural regulation of organizing mass events do not appear to have increased civic engagement and active use of the right to freedom of assembly according to the new procedure. According to our information, the new procedure was applied to 12 assemblies (11 in Minsk and one in Mogilev), another 4 assemblies were organized through application for the special permit, including assemblies dedicated to Freedom Day, on 24 March, in Minsk and Grodno; and 2 assemblies in remembrance of the repressed on 3 and 10 November in Minsk.

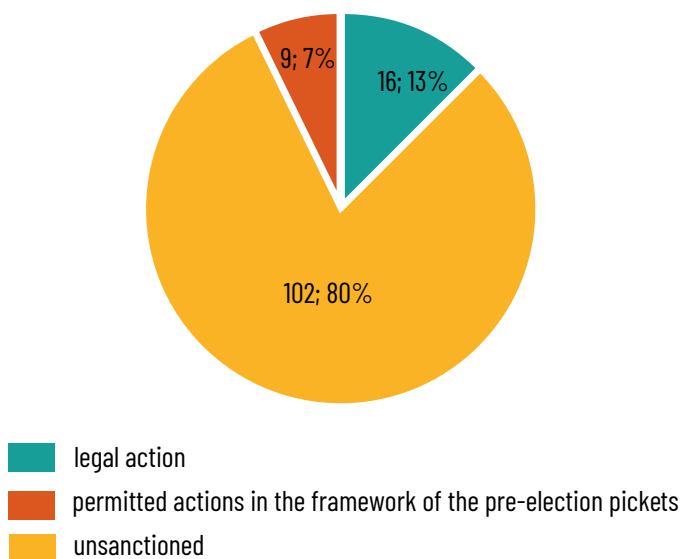


Figure 3: Legal status of mass events in 2019

As highlighted in Figure 3, only 20% of the total of 127 assemblies were considered legal, either because they followed the new notification procedure (13% of the total) or because they were pre-election pickets (7% of the total) and which are lawful activities.

Importantly, 102 out of the 127 mass events were organized without requesting permission or providing notification, which according to the Belarusian legislation is considered “unauthorized.”

In several cases representatives of the opposition did notify the executive committees about their intention to hold a peaceful assembly (for instance, the event of 20 December 2019 in Minsk<sup>10</sup>). Yet, these steps did not ensure “legalization” of the events, and their participants were sanctioned for “participation in an unauthorized mass event”

## Location of the Mass Events

Geographically assemblies were held during 2019 in 17 cities across Belarus, with the largest number, 51, held in the capital Minsk, while 43 mass events were held in Brest. In the previous year, 2018, Minsk had deferred the title of the city with the most protests to Brest, but in 2019 Minsk recovered its first place position. There were no more than 5 mass events held in any other location in 2019 (Figure 4).

In contrast to the years 2016 and 2018, when assemblies were held in only 9 cities in Belarus, the geographic coverage of mass events in 2019 has increased considerably and almost achieved the level of 2017, when assemblies were held in 19 different cities (Figure 5). Moreover, in 2019 there were assemblies held in a number of new cities, including Dobrush, Lida and Smorgon, which had not hosted any in previous years.

<sup>10</sup> <https://www.svaboda.org/a/30329956.html>

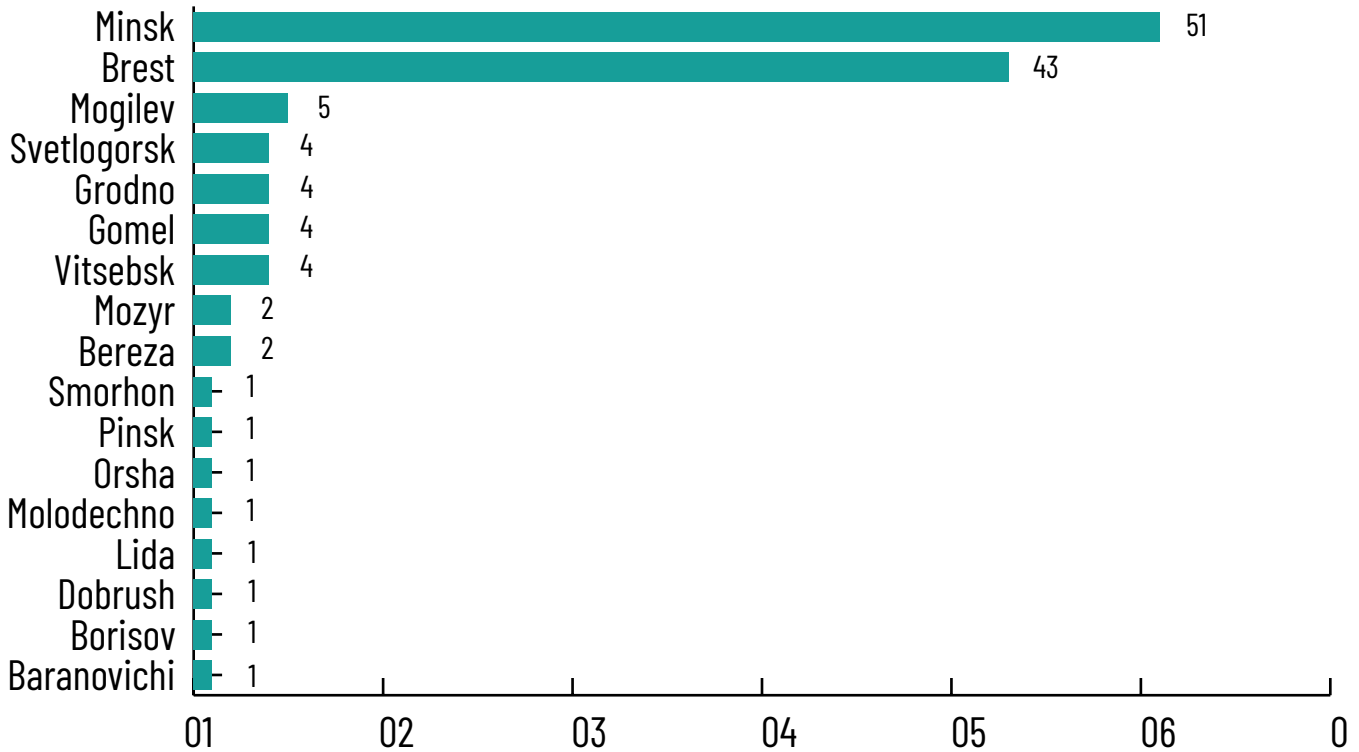


Figure 4: Location of mass events during 2019

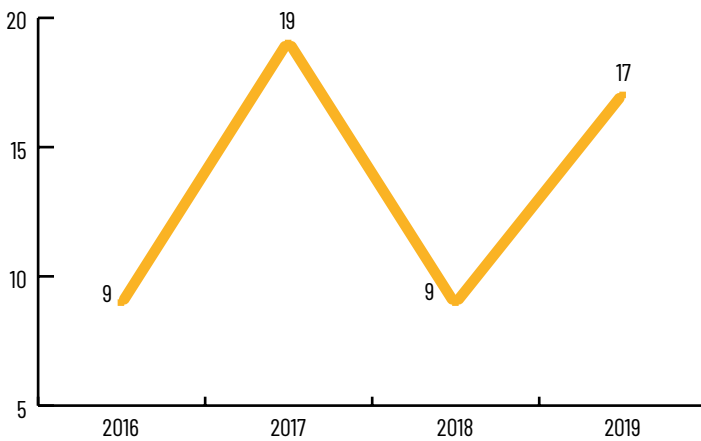


Figure 5: Number of cities hosting mass events from 2016 to 2019

In 2019 in Minsk there were 4 traditional annual marches with demonstrations (on Freedom Day, the “Chernobyl Way” and twice on the “Forefathers’ Eve”). Additionally, beginning on 10 February, every Sunday marches were held in Brest to protest against construction of the battery factory<sup>11</sup> (while before that there were primarily pickets held on the square).

<sup>11</sup> <https://belaruspartisan.by/politic/454324/>

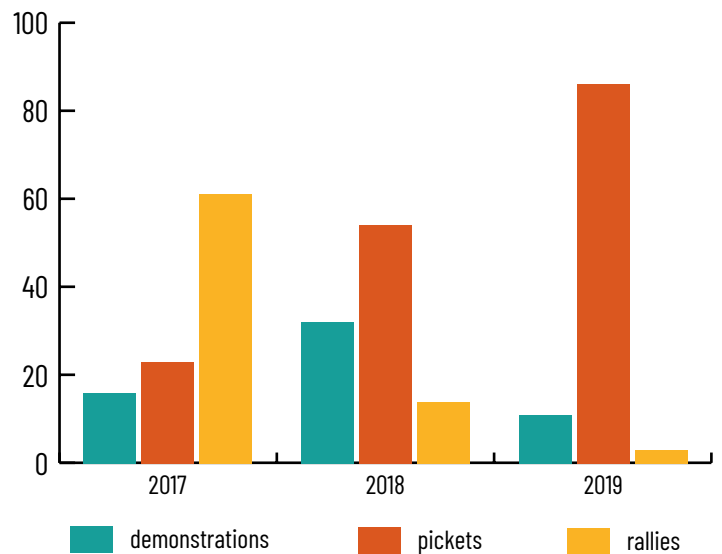


Figure 6: Comparative percentages of different types of assembly, 2017-2019

### Thematic Scope of Assemblies

One fundamental difference in the statistics for mass events in recent years has been the number of environmentally-motivated assemblies. In 2018 48 of the 81 recorded mass events, and in 2019 50 of

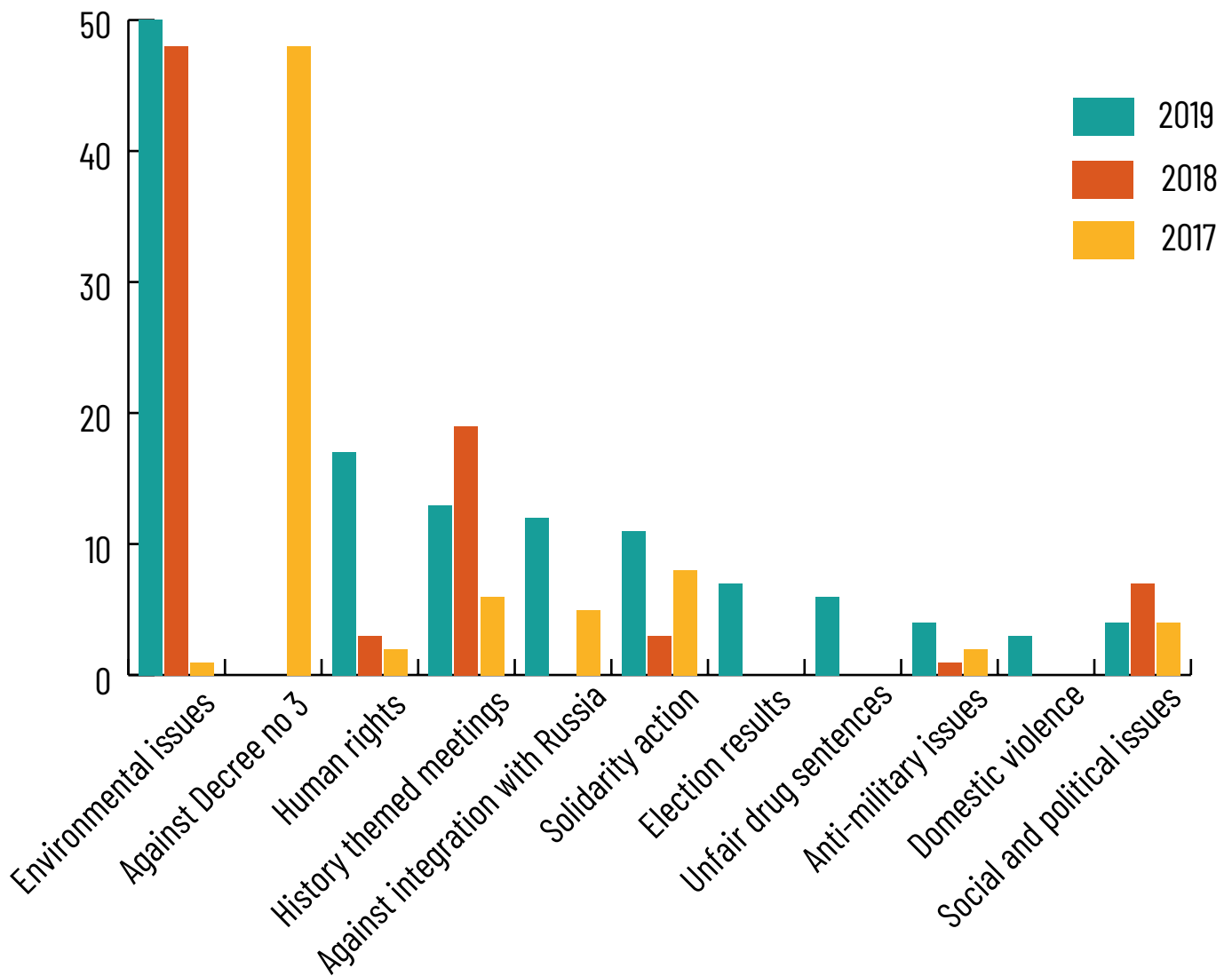


Figure 7: Thematic focus of mass events in 2017, 2018 and 2019

the total of mass 127 events were related to environmental issues, whereas in 2017 there was only 1 recorded assembly on environmental issues (Figure 7). The largest number of such events was linked to the construction of a battery factory in Brest. Significantly, such assemblies continued to be organized despite a promise by the municipal authorities not to open the factory.<sup>12</sup>

In addition, assemblies devoted to the environmental issues were also organized

<sup>12</sup> <http://greenbelarus.info/articles/11-06-2019/brestskiy-zavod-akb-snova-ne-prinyali-v-ekspuataciyu>

in Svetlogorsk<sup>13</sup> and Gomel<sup>14</sup> where 2 such events were organized in each location. In Minsk environmentally-oriented assemblies were organized in a form of pickets against building processes<sup>15</sup> or within the framework of ‘climate strikes’.<sup>16</sup>

The environmental protests only made an

<sup>13</sup> [https://www.facebook.com/permalink.php?story\\_fbid=788740748172900&id=100011109460468](https://www.facebook.com/permalink.php?story_fbid=788740748172900&id=100011109460468)

<sup>14</sup> <https://gomel.today/rus/news/gomel-11918/> and <https://news.tut.by/society/628439.html>

<sup>15</sup> <http://greenbelarus.info/articles/05-03-2019/fota-fakt-lyudzi-vyishli-z-piketam-suprac-budaunictva-bi-znas-centra-u-svaih?fbclid=IwAR2rpE77ljtMMi3dI6y-BI3PRyvwX0PZuqE5MfUoal3uYbty4uGI0OIGV6VA>

<sup>16</sup> <https://www.svaboda.org/a/30187272.html> and <https://www.svaboda.org/a/30187553.html>

impact on the authorities only in Brest. As a result of a big public campaign, which included assemblies in the city centre, the factory was not opened for operation as had been planned. Notably, the President claimed that he was ‘on the side of people’.<sup>17</sup> At the end of 2019, the authorities announced another environmental review of the factory.<sup>18</sup> In the other cities the environmental problems were not resolved.

Additionally in 2019, for the first time in many years, the annual march on 26 April dedicated to the commemoration of Chernobyl catastrophe was held as an unauthorised assembly, but with few participants. The organizers of the assembly did receive permission for holding the event, but withdrew their application a few days before the date of the planned march due to a lack of funding to cover the fees required for police, medical and communal services.<sup>19</sup>

The second largest number of assemblies in 2019 focused on the promotion of human rights, primarily through the distribution of newspapers on human rights issues by activists from the human rights centre ‘Viasna’ and which were held in different cities across Belarus.

In addition, human rights activists also organised 2 assemblies using the notification system in a form of ‘monstrations’. These events, held in in Minsk<sup>20</sup> and in Mogilev<sup>21</sup> used preposterous mottoes in order to attract the attention of both the authorities’ and the public to the problem of the realization of the

17 <https://brestcity.com/blog/lukashenko-ob-akkumulyator-nom-zavode-pod-brestom-ya-na-storone-lyudej#more-189054>

18 <https://brestcity.com/blog/ajpauer-soobshhaet-o-provede-nii-obshhestvennoj-ekologicheskoy-ekspertizy#more-201063>

19 <https://naviny.by/article/20190426/1556300808-nelzya-zapretit-byt-lyudmi-kak-proshel-chernobylskiy-shlyah-2019>

20 <https://naviny.by/article/20190306/1551881292-pravoza-shchitniki-proveli-v-minske-testovyy-piket>

21 <http://spring96.org/ru/news/93035>

right to freedom of assembly in Belarus.

Although the number of memorial assemblies including those held in *Kurapaty*, the Memorial complex for victims of repressions near Minsk, have declined in number, some new topics have emerged. For example, changes to the law on army service deferrals for students. In this case participants in the campaign organized four pickets using the newly introduced notification system of holding mass events in permitted locations.<sup>22</sup> Yet, due to the often unbearable costs of holding such assemblies the participants decided to register as ‘deputy candidates to the Parliament’, and as a result they have been able to organize mass events on these issues without being liable for charges.

Additionally, there were congoing assemblies against extremely strict prosecution for possession and dissemination of narcotic substances and in demand for a separate law on domestic violence. These assemblies were held in a number of cities, but most took place in Minsk.

## Size of Assemblies

In 57 of the assemblies the number of participants was limited to a maximum of 10 individuals. Among other reasons for this were limitations imposed by the authorities, for instance due to the extensively high costs of police, medical and communal services; and due to the threat of administrative liability for any non-compliance on the limits to the number of participants in an assembly.

Only 3 assemblies had had more than 1,000 participants: the Freedom Day assembly on 24 March in Minsk, which included 1,300 individuals, while in Grodno

22 <https://naviny.by/new/20190829/1567096082-iniciator-piketov-ob-otmene-otsrochek-ot-sluzhby-v-armii-cel-dostignuta>

at the same thematic event some 4,000 people participated,<sup>23</sup> in large part due to organisation of a big concert, which people from all over the country attended. The third event was a demonstration against integration with Russia, which was held on 20 December in Minsk and attracted 1,600 participants.<sup>24</sup>

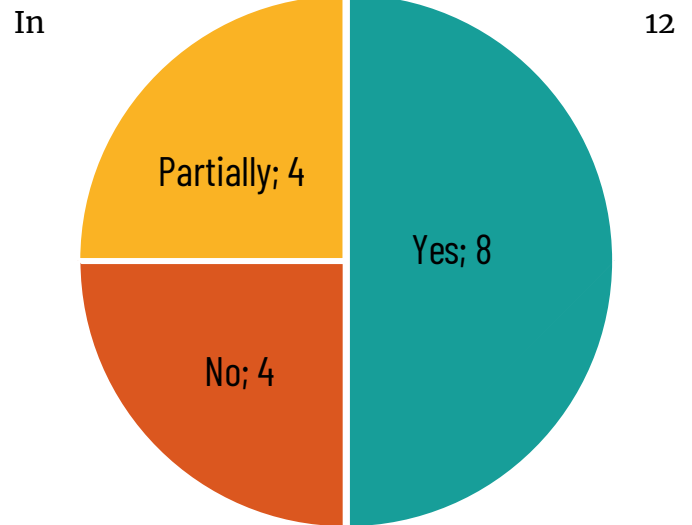
### Survey of Assembly Organisers

In order to get a fuller understanding of impact that the changes to the legislation have made on people’s ability to exercise the right to freedom of assembly, we carried out a survey among citizens who organised or attempted to organise a mass event in 2019. The questionnaire<sup>25</sup> was disseminated via mail-outs and personal messages. We received a total of 17 responses.

The responses describe people’s experiences both regarding events that were in the process of being organised and those that had already been held. Several of the responses describe assemblies that were held within the framework of election campaign, and thus by a simplified procedure.

16 of the 17 respondents have already had previous experience in organizing or trying to organise assemblies, 11 of them had organised activities in Minsk, the rest represent the experiences of people in cities as Mogilev, Mozyr, Svetlogorsk, Slutsk and Vitebs. However, only half of the 17 respondents had actually managed to organize a mass event, 4 said they had only been partially successful and 4 had not been successful on organising a mass event (Figure 8).

**Figure 8: Organisers success in holding an assembly**



cases the organizers said that they had sent a request to local executive committees: in 9 cases it involved using a notification procedure, in 3 cases it was using an authorization procedure. The ban on the demonstration was received in all instances.

In 10 cases the respondents stated that they did not feel there had been any real changes in the procedure of organization of public assemblies: some of them said the proposed assembly had been forbidden as it was before, while in other cases administrative measures had been taken against the participants.

At the same time the rest of the respondents stated that they believed it is more complicated to organise public assemblies now than before the law was amended. In 6 cases those organising an assembly had to ask for professional legal aid for preparation of the full package of documents.

<sup>23</sup> <https://kyky.org/news/kak-proshel-den-voli-2019-v-grodno>

<sup>24</sup> <https://www.svaboda.org/a/30336577.html>

<sup>25</sup> <https://docs.google.com/forms/d/e/1FAIpQLSe2zrgYz2sA-x9KIQ77a0143jZ22hrWrUO9fWlfCdMqSpC1ZUg/viewform>



The experiences and views of those who have organised or tried to organise an assembly can be illustrated by the following quotes, all of which are used with the permission of the respondents:

**«You can do absolutely nothing. You can just endlessly write requests to hold a demonstration. Places to hold (assemblies) are lifeless parks, there is nobody and you are standing at the picket in the mud (it is me who has participated in the demonstration in march with “Spring”), it is crazy expensive to hold a demonstration and what makes me totally angry is that Executive Committee refuses to negotiate and consult about holding a demonstration. They say that according to legislation they are not obliged to do that. You are not allowed to make an announcement of the event until there is a permit».**

**«Too complicated procedure of authorization. I strongly disagree with charging fees for such an event».**

**«They have directed their attention to public entertainment events, they always charge payment for police and ambulance services, it is crazy money for free of charge events».**

**«Head of District Internal Affairs Department doesn't know how to accept payment and how to enter into a contract for a picket or another public event with individuals».**

**«To hold an authorized demonstration is the same, complicated, almost impossible unless it is in the context of pre-electoral campaign».**

**«I don't see any real changes. I can say even that it has become worse because earlier there was an opportunity to hold some demonstrations (for example Chernobyl Way) without payment; the point was just in permission from Executive Committee. From time to time it was possible to get permission. But now when it is needed to pay for holding demonstrations, every case turns into a violation of the law. In this way, I think, authorities have truly worsened the possibility of implementing the rights of citizens to freedom of assembly».**

Only one person made a positive comment, but even that relates to other procedures for holding a public event: 'I felt that it is real to hold peaceful assembly in the period of "liberalization", when European Games or Elections take place in Belarus'.

The findings from the survey means that in practice there have been no real positive changes in the procedure for organising public assemblies as a result of the amendments to the law.

Instead the organisers of public assemblies are faced with a number of challenges including the complexity and incomprehensibility of the legislation; the bureaucracy of the formal procedure; a lack of consistency in the interpretation of the legal requirements; pressure, including threats or intimidation, from the authorities during the organization of an assembly; and the high level of charges for services imposed on the organisers of an assembly.

When respondents were asked "Which real changes of the procedure of public events would you like to see?", almost all of them agreed that there was a need to repeal the requirement for payment for state services, and to enshrine the principle of notification for all types of public events. A number of the respondents also suggested that the Law on mass events should be repealed while others argued for the possibility of being able to negotiate with Executive Committee about such matters as the time and location of an assembly. Some people also raised issues about the policing of assemblies and in particular about the presence of officers in plain-clothes and who refused to provide any official identification when asked to do so.



## The right to freedom of assembly of children and adolescents

The right to freedom of peaceful assembly is guaranteed to children and young people under the age of 18, under Article 15 of the UN Convention of the Rights of the Child (1989),<sup>26</sup> of which Belarus is a signatory.

However, information on the civil and political rights of children in Belarus is poorly developed. For example, the children's legal website <http://mir.pravo.by/> does not contain information on the right to freedom of assembly or any practical recommendations. Furthermore, the text of the Law on mass events in the Republic of Belarus<sup>27</sup> is not freely publicly available.

Below we describe 2 recent cases that involve violations of the right to freedom of assembly and harassment by the authorities, of minors who were involved in exercising their right to peaceful assembly.

**1** On 16 October 2018, a minor activist of the opposition political party Arseniy Dziadok participated in a peaceful assembly

<sup>26</sup> <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>27</sup> <http://pravo.by/document/?guid=3961&p0=H19700114>

against bullying in the Belarusian army. The picket was stopped by law enforcement officers almost immediately after it began, and the participants were detained pending trial. Arseniy Dziadok, as a minor, was released the same day, while two other participants were fined the next day.<sup>28</sup>

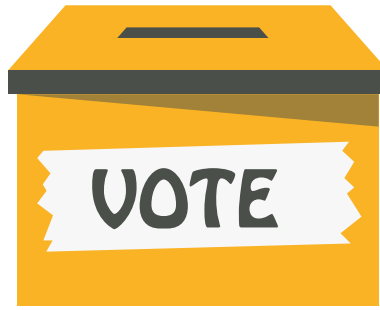
In November 2019, the same activist participated in election campaigning pickets, which were held in accordance with the Electoral Code. In January 2020, Arseniy, along with his father, was called to the Commission on Juvenile Affairs. Arseniy was given a warning in place of a formal administrative sanction. However, this still amounted to a violation of his rights.

**2** Ilaryion Trusau, a 15-year-old activist of the Malady Front (political opposition organization for youth) was an active participant in the protests in the Kurapaty tract near Minsk (the site of mass executions in the 1930s). On 7 March 2019 and 11 March 2019 he was detained by law enforcement officers using physical force, along with other

<sup>28</sup> <http://spring96.org/en/news/91127>.

protesters, for participating in a peaceful assembly. Ilaryion Trusau and his mother (as the legal representative of the child) have been constantly harassed for exercising his freedom of expression, including in the form of protocols on administrative offenses and threats of forced placement in a closed specialized educational institution.

Child participants of peaceful assemblies in Belarus are subject to additional pressure from the authorities in the exercise of their rights. This situation categorically does not comply with human rights standards and must be corrected at all levels. Rights holders should be informed of their rights, while legislation and practice should protect and enable people to exercise their freedom of assembly.



## Exercising the right to freedom of assembly during the election period

On 17 November 2019, elections were held for the 110 deputies to the House of Representatives of the National Assembly. During the two phases of the election campaign (collection of signatures for nomination and campaigning), a number of peaceful assemblies were held. The holding of such assemblies is regulated by the Electoral Code of the Republic of Belarus (Article 45), and not by the Law on mass events.

According to Article 65 of the Electoral Code, one of the ways to nominate candidates for deputies is to collect signatures of voters, which takes place in the form of pickets and is carried out through an initiative group of at least 10 people. The places, where people may collect signatures are determined by the local executive authorities, or rather, the authorities determine those places where people are prohibited for holding pickets to collect signatures, and, accordingly, all other places are available for pickets. The number of prohibited places is small and these usually correspond to places where picketing was prohibited during previous election campaigns. Typically, pickets for collecting signatures during 2019 took place in a calm

environment, without any interference from the authorities.<sup>29</sup>

The locations where people may hold campaigning events are also decided by local executive committees. In the majority of constituencies, the executive committees allow campaigning events to be held in any place deemed suitable for these purposes, and with few restrictions. In some constituencies the number of places available for campaigning actually increased compared to the previous elections. However, in some large cities, including Minsk, the central squares were excluded from the places deemed suitable for mass events, although without any clear justification for such restrictions.<sup>30</sup>

To organize mass events during an election campaign, candidates for deputies and proxies of candidates must send a notification to the local executive and administrative body no later than two days before the planned date of the event. The procedure for conducting election campaigning is regulated by the Electoral Code and resolutions of the

<sup>29</sup> <http://elections2019.spring96.org/en/news/94570>

<sup>30</sup> <http://elections2019.spring96.org/en/news/95083>

Central Election Commission. Campaigning is prohibited if it involves the following:

- war propaganda,
- calls for violent constitutional change,
- insults and slander against officials of the Republic of Belarus, or candidates for deputies,
- appeals prompting or having for their purpose the incitement to disrupt or cancel, or postpone the election, appointed in accordance with the legislative acts of the Republic of Belarus.

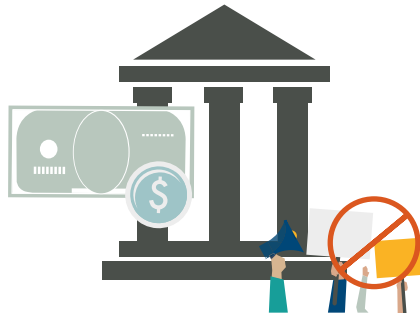
Opportunities for holding peaceful assemblies in a simplified manner were actively used by political forces and civic initiatives to advance their interests and among the interesting cases during the election campaign, the following should be noted:

On 16 September 16, a four-person picket to collect signatures for the nomination for candidates was held in the centre of Minsk. The main theme of the picket was the 20th anniversary of the disappearance of opposition politicians, and posters on this topic and portraits of the disappeared were displayed. As a result, the district election commission issued a warning to Nikolai Kazlou for violating the routine of campaigning.<sup>31</sup>

On 8 November 2019 at Svobody square in Minsk the largest peaceful assembly in the election period took place. According to observers, the meeting was attended by over 500 people. The event was announced by blogger NEXTA living in Poland. Police officers in civilian clothes did not allow the use of sound reinforcing equipment, and in the process damaged it. During the event, the crew of German journalists were detained, but after 2.5 hours were released from the Minsk Central Department of Internal Affairs.<sup>32</sup>

<sup>31</sup> <https://www.racyja.com/palityka/mikalayu-kazlovu-vynese-na-papyaredzhan/>

<sup>32</sup> <http://elections2019.spring96.org/en/news/94888>



## Administrative sanctions imposed for exercising the right to peaceful assembly

The main form of punishment for participating in an unauthorized peaceful assembly or for calls to participate in an unauthorized assembly is either a large monetary fine (about 550 euros) or an administrative detention of up to 15 days.<sup>33</sup>

In 2019, at least 162 court decisions were issued against 121 people under Article 23.34 of the Code of Administrative Offenses (violation of the Law on mass events). Of these, arrests were recorded in 13 recorded cases.

In addition, other articles of the Code of Administrative Offenses are used to punish participation in peaceful assemblies and for expressing opinions on street rallies. These include:

**Article 23.4 of the Code of Administrative Offenses - disobedience to the lawful demand of an official - 3 people have been held accountable;**

**Article 17.1 ("minor hooliganism"), 16 people were brought to justice (there were 25 recorded cases, most of which qualified simultaneously under Article 23.4 of the Code of Administrative Offenses).**

<sup>33</sup> Data on administrative prosecutions is taken from the administrative prosecution database of the Viasna Human Rights Center <https://spring96.org/persecution>

**In total 11 people (in 44 cases) were fined for violating traffic rules, all in cases connected with protests in the Kurapaty tract.**

Thus, there were at least 234 of people facing administrative offences related to assemblies in 2019 and at least 151 people were subjected to administrative penalties for exercising the right to peaceful assembly, freedom of opinion and expression in street rallies.

In previous years, the situation with administrative prosecution was as follows:

During 2017, there were more than 600 cases of bringing people to administrative responsibility in connection with exercising their right to freedom of peaceful assembly and expression. In more than 250 cases, the judge ordered an administrative arrest.

In 2017, there was a growing movement of opposition to the adoption of Decree No. 3 on social dependency and numerous protests took place early in the year. On 15 and 25 March 2017 the authorities violently dispersed peaceful assemblies and hundreds of people were detained in the centre of Minsk.

In contrast 2018 was characterized by a calmer environment and a lower level of

repression, and as a result, fewer cases were recorded compared to 2017 and 2019. During 2018, 184 cases against 144 people were recorded of bringing people to administrative responsibility for participating in unauthorized peaceful meetings. Arrests were imposed 21 times, while fines were imposed in 163 cases for a total of about 45,000 euros.

In December 2019, repression against participants in peaceful assemblies intensified significantly, and included crack-down against assemblies held during the parliamentary elections and towards participants in a series of peaceful protests against the signing of agreements on deeper integration between Belarus and Russia. In December, at least 70 administrative fines were imposed for participating in a peaceful protest or for calls for participation, while 12 people were subjected to administrative arrest for a period of 5 to 15 days.

It should be noted that the unauthorized rallies in support of independence on 7 and 8 December 2019 were not forcibly stopped by the police, nor were participants detained during the rallies themselves, or immediately after their completion. Rather, the first arrests of participants were recorded on 18 December, while the first court cases heard on 26 December with heavy fines being imposed.<sup>34</sup>

The current situation clearly demonstrates the lack of systemic changes, both in general with human rights and specifically in the field of freedom of assembly. The possibilities for suppressing protests by the authorities are very wide and are regularly used by the authorities when necessary.

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<sup>34</sup> <https://spring96.org/en/news/95530>



## Monitoring Peaceful Assemblies

Since 2012, the Belarusian Helsinki Committee and the Human Rights Center “Viasna” have systematically monitored peaceful assemblies in Belarus. In 2019, 21 peaceful assemblies were monitored; most of these were in Minsk, while two assemblies were monitored in Brest.<sup>35</sup> The monitoring is based on a methodology that includes:

- recruitment and training of observers in the principles of public control, international standards for peaceful assemblies and observation methodology;
- filling out an observation questionnaire during in-person monitoring; and
- processing questionnaires and writing a monitoring report.

Questionnaires for monitoring peaceful assemblies were developed jointly by the human rights organizations and include questions about the possibility of observers and journalists fulfilling their functions, the behaviour of the organizers and participants of a peaceful assembly, law enforcement officials, as well as the availability of ambulance and medical workers at a peaceful

assembly. Observers are allowed to observe only if they agree to follow the rules of team work and the principles of observation, which are set out in the Code of Conduct and include the following points:

- independence and political neutrality;
- a description of facts, not opinions;
- non-interference in an observed event;
- adherence to principles of law;
- refusal of all forms of violence and discriminatory practices;
- correct behaviour.

During the performance of their duties, observers remain separate from the participants and are identifiable by the identification cards they carry and by wearing blue vests with the inscription “#ControlBY”.

Independent monitoring of public assemblies is an important source of independent information about the behaviour of the organizers and participants of the assemblies, and of law enforcement officials, which may inform public debate and serve as the basis for dialogue between the government, local authorities, law enforcement agencies and civil society.<sup>36</sup> The monitoring aims to

<sup>35</sup> Monitoring reports are freely available at: <https://spring96.org/be/civilian-control> and <https://spring96.org/en/civilian-control>

<sup>36</sup> See paragraph 5.9 of the *Guidelines on the Freedom of*



provide interested state bodies and the public with an objective assessment of the progress of peaceful assemblies in order to improve practice on the part of the organizers and participants, as well as by law enforcement agencies.

The monitoring undertaken by the Belarusian Helsinki Committee and the Human Rights Center “Viasna” has resulted in a number of recommendations being made to improve respect for the right to peaceful assembly the situation. These include:

That law enforcement officials should:

**“carry out the protection of public order during peaceful gatherings in uniform, as well as be marked with individual identification means (for example, or badges)”.**

This recommendation is based on paragraph 153 of the Guidelines on Freedom of Peaceful Assembly according to which

**“It is necessary that police officers were easy to distinguish (including personal identification marks).”**

The uniform of police officers is extremely important if participants are to have an understanding of the functions police perform, and the ability to freely contact the officers when the need arises so that the officers do not merge with the crowd and are easy to identify. It is also important for observers to be able to distinguish police officers in order to fulfil the function of mediators if necessary. The presence of police officers in branded clothing creates a sense of security, respect for police officers, an understanding of their authority, and contributes to lawful behaviour among

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*Peaceful Assembly*: 2nd edition, 2010, prepared by the ODIHR expert council OSCE on Freedom of Assembly and the European Commission for Democracy).

participants and others. When conducting observations, it was noted that administrative and regulatory functions are often performed by employees in civilian clothes. For example, they issue instructions using walkie-talkies and direct the actions of police officers in special uniforms and civilian clothes.

The existing national legislation allows the wearing of civilian clothes during office hours by persons who are authorized in the established manner, according to paragraph 30 of Order of the Ministry of Internal Affairs of the Republic of Belarus dated 4 March 2013 No. 67 ‘On the Approval of the Rules of Professional Ethics for Employees of the Internal Affairs Bodies of the Republic of Belarus.’ Based on our observations, this rule is regularly violated. We recorded completely unacceptable cases where this rule was ignored, for example: three law enforcement officers were at the venue for a peaceful meeting in Minsk, on 8 November 2019, while wearing jackets with the logo of the Belarusian Republican Youth Union.

In cases where a peaceful assembly involves a procession, observers record that they were stopped at traffic lights and pedestrian crossings, usually by traffic police officers. The recommendation is to “ensure the unimpeded movement of the column at pedestrian crossings, organize the movement of the column taking into account the principle of inclusiveness (if possible, exclude stairs, underground passages, raising borders). If necessary, set aside a lane on the carriageway for passage of the column”. If the traffic police do not provide unimpeded movement through intersections it causes the procession to break and slow down. Often the police use sound amplifying equipment to demand that people return to the sidewalk and follow the rules of the road. However, international human rights standards permit

the use of the carriageway for exercising freedom of assembly.

Observers also recommend that law enforcement agencies

**“appoint a contact person from among police officers to communicate with observers, the media, organizers and participants / participants of a peaceful assembly”.**

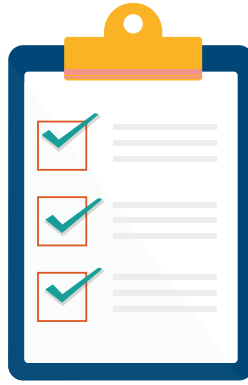
The presence of a police contact person should facilitate more open communication between the police, observers, the media, organizers and participants of peaceful assemblies. The BHC welcomes as a positive development the practice of police officers wearing identification vests with the words “Information Group”. However, all police officers, whether part of the information group, or ordinary police officers in uniform, or in civilian clothes refuse to answer questions, citing the fact that they do not have authority, and instead suggest people apply to the press service of the Central Internal Affairs Directorate of the Minsk City Executive Committee. According to Article 6 of the Law of the Republic of Belarus dated 17 July 2007 No. 263-3 On Internal Affairs Bodies of the Republic of Belarus,

**“The activities of the internal affairs bodies are public, open to citizens and the media to the extent that this does not contradict the requirements of the legislation of the Republic Belarus on the protection of state secrets and other secrets protected by law. The internal affairs bodies shall inform state bodies, public associations, mass media, and citizens of the state of public order and measures to ensure it in the manner and within the limits determined by the legislation of the Republic of Belarus.”**

Monitors also recommend that law enforcement agencies:

**“do not charge for law enforcement services when people exercise the right to peaceful assembly and the right to express an opinion”.**

In accordance with paragraph 5.2 of the ODIHR Guidelines, “Public authorities should bear all costs associated with ensuring an adequate level of security (including the management of traffic and crowds). The state shall not charge any additional fees for the proper provision of order during the assembly.” The cost of police services to protect the order is given above and is a real limitation for holding peaceful meetings. For example, in 2019, the organizers of 3 traditional protests faced financial difficulties: 25 March, 26 April and 1 May. Unfortunately, most of the recommendations of the observations have been ignored and there remains an absence of effective dialogue between human rights defenders and government officials.



## Recommendations

### To the Government of Belarus:

- 1** In close consultation with civil society and other concerned parties, develop and adopt national legislation on peaceful assemblies that meets international standards;
- 2** Repeal the obligation on organizers to pay for ambulance assistance, policing and ground maintenance after meetings, as this is a State responsibility;
- 3** Abandon the practice of persecution of activists for participation in peaceful assemblies simply for the absence of a permit to hold the meeting;
- 4** Abandon the practice of detaining and persecuting monitors and journalists carrying out their legitimate activities in covering peaceful assemblies;
- 5** Invite the UN Special Rapporteur on the rights to freedom peaceful assembly and of association to Belarus for an objective assessment of the situation.

### To the local authorities:

- 1** Before adopting new legislation on peaceful assemblies in Belarus, change the practice for approval of peaceful assemblies, so that assemblies are prohibited only in exceptional instances, and after a thorough analysis of all potential and substantial consequences;
- 2** Assemblies should not be prohibited simply due to failure or inability to pay for public services and amenities and so on;
- 3** Provide assistance in the organization of peaceful assemblies through consultations with the organizers.

## To law enforcement agencies:

- 1** Police officers should wear official uniform while enforcing public order during public assemblies. Officers should also wear a means of individual identification (for example, name tags or badges), to help build trust in the police and so that participants can address police officers without obstruction.
- 2** Extend the practice of having representatives of the informational service of internal affairs present during a mass event;
- 3** Ensure effective security for participants of peaceful assemblies, as well as for monitors and journalists, including against aggressive actions of third party;
- 4** Be more open with monitors during peaceful assemblies and provide them with cooperation if needed.

## To the international community:

- 1** Continue to monitor adherence to international standards in the Republic of Belarus, particularly in relation to the right to peaceful assembly;
- 2** Provide assistance to Belarusian authorities in reforming the legislation on peaceful assemblies as well as its implementation and usage;
- 3** Provide assistance in the education and training of police officers in best practice in facilitating and enabling peaceful assemblies.

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