

# 28.02

## 2023

# LAWTRENDMONITOR



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**Dear readers,**

The February *LawtrendMonitor* contains a lot of useful information. The issue traditionally presents reviews of the situation with freedom of association and the situation of civil society organizations in February 2023 and for 2022. The newsletter also contains new normative legal acts adopted in the Republic of Belarus and related to non-profit organizations, in particular, a new law on the essentials of civil society and amendments to the laws on public associations and political parties. The readers can get acquainted with the results of a survey conducted among Belarusian civil society organizations regarding their positioning, needs, and prospects. The newsletter reminds public associations and foundations of their need to submit and publish reports and activists of the deadlines for filing tax returns.

### **Situation of civil society organizations**

1. As of 28 February 2023, 1463 people were recognized as political prisoners in Belarus. Belarusian human rights organizations in February 2023 adopted the following statements on recognition as political prisoners:

<https://spring96.org/en/news/110915>

<https://spring96.org/en/news/110909>

<https://spring96.org/en/news/110886>

<https://spring96.org/ru/news/110797>

<https://spring96.org/en/news/110676>

2. A review of the situation with freedom of association and legal environment for civil society organizations in Belarus in February 2023 is [available](#) on the *Lawtrend* website.

### **Legislative news**

3. The Law of the Republic of Belarus No. 248-3 “On the All-Belarusian People’s Assembly” (ABPA) dated 7 February 2023 defines the procedure for the formation of the All-Belarusian People’s Assembly, its competence, forms of activity, decision-making procedure, and the legal status of an ABPA delegate.

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is a group of professionals who work together using legal research and educational methods for the realization and effective protection of human rights and freedoms.



Decisions of the ABPA are binding and can cancel legal acts, other decisions of state bodies and officials that are contrary to the interests of national security, with the exception of acts of the judiciary.

The law, in particular, establishes that ABPA delegates from civil society are to be representatives of civil society entities entitled to elect ABPA delegates.

The conditions and procedure for civil society entities participating in the election of delegates to the ABPA are determined by this Law, the Electoral Code, the Law on the Essentials of Civil Society, and other laws.

The maximum number of civil society delegates to the All-Belarusian People's Assembly is 400 people.

Five associations correspond to the criteria established by the law for participating in the work of the ABPA: the Federation of Trade Unions of Belarus, the Belarusian Republican Youth Union (BRSM), the Belarusian Women's Union, *Belaya Rus*, and associations of veterans.

The general provisions of the law (articles 1-11) is to come into force on 1 January 2024, and most of the other provisions from the date of the formation of the APBA in the prescribed manner.

4. On 14 February, the Law of the Republic of Belarus "On the Essentials of Civil Society" No. 250-3 was adopted.

The law does not change in general the legal status of NGOs existing in Belarus, however, it establishes special forms of interaction with the state within the framework of the All-Belarusian People's Assembly for a narrow circle of republican public associations. The law content as a whole has not revised compared to its published draft, and you can find its correct [article-by-article commentary](#) on the *Lawtrend* website.

The law will come into force on 19 May 2023.

5. On 16 February 2023, the Law of the Republic of Belarus No. 252-3 was adopted to amend the provisions of the Electoral Code.

The document, in addition to other changes in the electoral process, provides for the introduction of additional requirements for candidates for deputies (lack of citizenship (nationality) of another state and documents from foreign states providing rights to benefits).



It is established that civil society entities independently elect delegates of the ABPA from among their members at meetings of their higher bodies. Nomination of candidates is carried out by regional and Minsk city organizational structures.

The main provisions of the Law is to come into force ten days after its official publication (it was published on 21 February).

6. The Edict of the President of the Republic of Belarus dated 6 February 2023 No. 25 “On Consideration of Appeals of Citizens of the Republic of Belarus Being Abroad Regarding Offenses Committed by Them” established a Commission for Considering Appeals of Citizens of the Republic of Belarus Being Abroad Regarding Offenses Committed by Them.

The edict establishes that foreign-located Belarusian citizens who wish to return to Belarus are entitled to apply to the Commission until 31 December 2023, if they:

- in the period from 1 January 2020 to 8 February 2023 committed administrative offenses or crimes related to significant social and political events in Belarus;
- are afraid of returning to Belarus in connection with their possible involvement in the commission of such offenses.

The appeal, among other things, should state the reasons why the person left the country and the circumstances due to which he or she believes that he may be brought to criminal or administrative liability, his or her desire to return to Belarus and readiness, after return, to abide by the Constitution, the law, to respect state symbols and traditions, and to consciously perform civic duty.

The edict entered into force on 8 February 2023.

7. The Resolution of the Council of Ministers dated 31 January 2023 No. 87 approved the Regulations on the procedure for formation, financing, and implementation of youth initiatives.

According to this Resolution, the main area for implementation of youth initiatives is creating conditions for supporting active participation of young citizens in socio-economic and socio-political processes, forming and implementing the state youth policy.



The document fixes the procedure for selecting youth initiatives to receive funding. Youth initiatives are selected on a competitive basis. The organizer of such a competition is the Ministry of Education; the public association Belarusian Republican Youth Union is vested with authority to conduct it and to coordinate implementation of youth initiatives.

The document sets forth that an organizer from among state organizations subordinate to the Ministry of Education determines the organizations responsible for the implementation of a youth initiative (recipients of the state budget funds for the implementation of such initiatives). To finance the implementation of youth initiatives, responsible organizations, in accordance with the law on public procurement, select performers and conclude an appropriate contract with them.

The Resolution will enter into force on 8 April 2023.

### **Legislative drafting news**

8. The draft Law of the Republic of Belarus “On Amending Laws Regarding Social Services” was adopted in the first reading.

It, in particular, provides for creation of a Register of Social Service Providers to form a system of organizations and individual entrepreneurs operating in the field of social services (state-run and non-state) and to organize records of them. Providing social services without being included in the register is not allowed.

9. The draft law "On Amending the Codes on Criminal Responsibility" amended the Criminal Code of the Republic of Belarus and the Code of Criminal Procedure of the Republic of Belarus was adopted in the second reading.

In particular, it provides for:

Use of the death penalty to state officials and military servicemen who committed a crime under Article 356 of the Criminal Code (treason against the State);

Punishment by fine for committing crimes against the peace and security of mankind, public safety, traffic safety, public health, and the state; an increase in the fine for committing these crimes from five thousand to fifty thousand basic units;

Added to the Criminal Code article 289-1 (propaganda of terrorism);



Increased to ten days term for detention of a person on immediate suspicion of committing the following crimes: “treason against the state”, “conspiring or other activities committed to seize state power”, “espionage activities”, “undercover activities”, “act of terrorism against a statesman or a public figure”, “sabotage” (articles 356-360 of the Criminal Code), and increased to twenty days term for charge for this person.

## **Amendments to laws on public associations and political parties**

10. On 14 February, the Law of the Republic of Belarus No. 251-3 “On Amending Laws on the Activities of Political Parties and Other Public Associations” was adopted. It is important to note that the law does not change either the procedure for registration or the procedure for activities of public associations. It was developed in line with the usual amending the law on public associations over the past decade: without changing the system as a whole, some positive technical regulations and some ones aimed at restricting the activities of associations are introduced.

*Lawtrend* experts have prepared an [analytical note](#) on key amendments to this law.

## **Freedom of Association and Legal Environment for Civil Society Organizations in Belarus: 2022 Review**

11. A [review of the situation](#) with freedom of association and legal environment for civil society organizations in 2022 was prepared by *Lawtrend* experts.

The review presents the basic trends in the field of freedom of association, information on new regulations and rule-making initiatives, administrative and criminal prosecution of members of civil society organizations (CSOs), other forms of pressure on CSOs, in particular on trade unions.

## **Filing of tax returns by individuals for the past year**

12. The deadline for tax filing by individuals to the tax authorities of the Republic of Belarus is coming in March.

We remind you that, even living abroad, you can be a tax resident of the Republic of Belarus and, accordingly, be obliged to file a tax return.

*Lawtrend* experts have prepared [instructions](#) on declaration of tax on income from abroad and foreign income by individuals.

## **Reporting of public associations and foundations to the registration body**



13. We remind you that 1 March is the deadline by which public associations and foundations must publish reports on their activities, as well as provide the information required by law to the registration body.

The information on continuation of activities, as well as receipt and expenditure of funds and other property should be provided in one of three ways:

publishing in the media;

posting on official websites (if any)

submitting to the place of state registration - to the Ministry of Justice or the main departments of justice of the regional (Minsk city) local governments for subsequent posting on their official websites.

Public associations and foundations are also required to submit annual reports to the registration bodies by 1 March under the Law “On Public Associations” and the Decree “On Certain Measures for Regulating Activities of Foundations” (to a large extent, this information is the same like one for publication, but there are some important differences).

*Lawtrend* experts have prepared a [detailed guide](#), with practical recommendations, on the annual reporting of public associations and foundations, taking into account the amendments to the law on public associations that come into force on 3 March 2023.

### **Results of a survey of Belarusian civil society organizations**

14. We invite readers of the newsletter to take a look at the summarized [results of an anonymous survey](#) among the leadership of civil society organizations conducted in December 2022 by the human rights organization *Lawtrend* in cooperation with partner organizations. The survey was aimed at clarifying the prospects, planning horizons, and forecasts for CSO activities. We have paid special attention to sources for tracking the current state of the public sector.

### **Social Protection Fund (FSZN)`s mobile application**

15. From 1 February, the Ministry of Labor and Social Protection launched the ‘FSZN’ mobile application giving an opportunity to control payment of contributions and duration of the insurance period. The application allows access to the information contained on an individual personal account (ILS)



of a user: on social insurance certificate data, periods of employment and employers, including periods of work under civil contracts.

### **Other useful information for NPOs**

16. We remind you that no later than 20 February 2023 organizations, which have notified the tax authority before 31 December 2022 of their transition to the simplified taxation system, have the right to refuse to apply it for the entire tax period (para 5 of article 327 of the Tax Code).