



Discrimination in the Republic of Belarus

Prepared by LGBT Human Rights Project "GayBelarus" (gaybelarus.org) and the Office for the rights of persons with disabilities (disright.org)

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General provisions on discrimination in the national legislation and international commitments of Belarus. Mechanisms of protection against discrimination.

1. The country ratified or joined the following international treaties providing the ban of discrimination: International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the International Convention on the Elimination of All Forms of Racial Discrimination (1966), the Convention on the Elimination of All Forms of Discrimination against Women (1979), the Convention on the Rights of the Child (1989), the UNESCO Convention against Discrimination in Education (1960), the Convention number 111 concerning Discrimination in Respect of Employment and Occupation (1958).

2. Theoretically Belarus recognizes the priority of international law over the national. While filing an appeal to court the argumentation can be based on references to international commitments of Belarus and precedent cases of UN Committee on Human Rights. But in practice national courts when considering an appeal do not find complaints against discrimination to be based on the law.

3. There is no special anti-discriminative legislation in the Belarus. Labour Code is the only document containing the list of prohibited grounds for discrimination but this list is a closed one and the definition of the discrimination is very simplified and is not covering even the most widespread types of discrimination.

Discrimination based on sexual orientation and gender identity.

4. There are no regulations in the national legislation directly prohibiting discrimination based on sexual orientation and gender identity.

5. Militia doesn't properly react to the cases of hate crimes against LGBT individuals. Criminal proceedings are not initiated even in cases with clear evidence of a crime. Crime victims often face neglectful treatment and insults by militia because of their sexual orientation.

6. There are cases of illegal dismissals based on involvement in promoting LGBT rights. There are no registered LGBT organizations in Belarus. Numerous attempts to register were unsuccessful on formal grounds. HR defenders from unregistered initiatives, which are involved in protection LGBT rights, regularly face repressions, intimidation and persecution.

7. During the reporting period the authorities approved holding of only one picket in support of LGBT rights in February 2011. At the same time about 120 requests for holding peaceful assemblies of the same character were not authorized on different formal grounds. The attempts to hold unsanctioned assemblies very often led to detentions. In some cases the detained faced cruel and inhuman treatment.

Discrimination on the basis of disability

8. There is no prohibition of discrimination or antidiscrimination legislation regarding persons with disabilities in the Republic of Belarus.

9. There is no institute of a commissioner for human rights (ombudsman) in Belarus, and in particular for human rights of people with disabilities and there is also no authorized body on discrimination issues.

10. Analysis of appeals by PWD to the Office for the rights of persons with disabilities shows numerous cases of direct, indirect, multiple discrimination, refuse in reasonable accommodation, victimization and harassment.

11. Refuse in reasonable accommodation. In spite of the presence of a rule in the law “About social protection of disabled people in the Republic of Belarus”, which prohibits putting into operation new and reconstructed sites without ensuring their accessibility for disabled persons, since 1991, although the legislation is sufficiently supplemented by special building norms regulating the ensuring of accessibility of building sites (whereby the first normative has been brought into effect in 1991 and others – more than 30 in total – in the following years) that meet European and international standards, the general accessibility of the infrastructure does not exceed 30 percent. The accessibility of housing is even lower.

12. The lack of the antidiscrimination legislation permits the existence of discriminatory restrictions in the access of disabled persons to some services and facilities. In particular, this concerns insurance. For example, the ban for 1st and 2nd groups disabled to adopt children what is the direct discrimination of these categories of citizens in the sphere of family relations. The right of some categories of disabled to drive a car is discriminatory limited.

13. There are certain difficulties in the access of disabled people to justice. This is expressed both in the absence of special equipment for persons with hearing and speech impairments in the judicial rooms and in the lack of possibility to move in the buildings of court, as well as procedural barriers.

14. The existing regulation of the conditions in places of imprisonment without taking into account special needs of persons with disabilities who are serving sentences leads to discrimination and abuse.

15. The limited education for some groups of children with disabilities is caused by physical inaccessibility of educational institutions (schools). Common schools have no textbooks in their libraries developed in accessible formats for different kinds of disability. There is no high school in the country prepared for teaching people with various types of disabilities.

16. There is a set practice of indirect discrimination during employment by employers, including state ones, and there are also cases of direct discrimination.

17. Researches show that the share of working persons with disabilities makes up about 14 percent, what characterizes a low efficiency of the state policy in the field of ensuring the right to work.

18. Although guaranteeing equal rights in political life, the state, nevertheless, takes no measures on creating equal possibilities to exercise them. Thus, when holding elections at all the levels and referendums, the ensuring of accessibility of the information materials (in accessible languages), including that of ballots, is not legally guaranteed. The physical accessibility of polling stations is neither guaranteed nor abided. The state makes no efforts to create equal possibilities for competition of candidates with disabilities against those without them.

19. Belarusian law defines sign language as an official one. But at the same time its share at state TV channels is less than 1 percent.

20. According to the public inquiry of PWD in the frames of the joint project by the Ministry of labour and social protection and UNDP in Belarus every respondent told that at least one time he was a subject to disability discrimination.

Recommendation

21. To introduce a special universal law on fight against discrimination which would be based on international standards and which would introduce the ban on discrimination in accordance with the open list of grounds including: race, colour, ethnic origin, sex, language, marital status, religion and beliefs, political and other views, national and social origin, citizenship, sexual orientation, gender identity, age, disability and health conditions.

22. To create a special independent body authorized to solve discrimination issues.

23. To reinstate in action the norm of imperative ban on disability discrimination and to introduce legal punishment for it in a special law "On social protection of disabled in the Republic of Belarus".

24. To exclude discriminative norms from the legislation, particularly discrimination on the way of getting disability.