

Introduction and executive summary

1. A significant concern in Belarus is the lack of progress in the implementation of recommendations made as part of Belarus' last UPR in relation to rights 29.1 Discrimination against women and 29.2 Gender-based violence. All 20 recommendations made to Belarus under these rights were supported, however, little progress has been achieved.
2. Law-enforcement and protection measures taken by the State (the Ministry of Internal Affairs, the Prosecutor General's Office and judiciary) are formal and ineffective, women find it extremely hard to protect their rights and punish the aggressor in cases of domestic violence. Belarus experiences a critical shortage of special shelters for women and children victims of domestic violence that can provide with the full range of necessary professional legal, social and psychological assistance.
3. A new pension reform introduced in 2017 put older women aged fifty-five and more in a more vulnerable position than before.
4. Gender stereotypes and patriarchal attitudes prevail among state officials.
5. Labour gender-based discrimination is a widespread phenomenon which takes place in form of a list of prohibited professions for women, gender wage gap, vertical and horizontal segregation, discriminatory conduct of job interviews etc.
6. Prior to submission of the 'Her Rights' considerations a consultation on the preparation of the alternative report has been held with Belarusian Helsinki Committee.

Domestic violence

1. Belarus does not have a specific law on the prevention of domestic violence. This is reinforced by the fact that there are very few other protection mechanisms. In 2017, the Ministry of Internal Affairs developed the concept of a draft law on combating domestic violence. At the end of September 2018, all further activities on finalising the draft law were discounted after a negative reaction of the President of the Republic of Belarus to the concept.
2. The majority of domestic crimes are committed by men, and their victims are generally women (79,2 %).
3. Family violence is a term introduced into the Law of the Republic of Belarus On the Basics of Crime Prevention Activities of 10 November 2008. On 4 January 2014, the Law of the Republic of Belarus On the Basics of Crime Prevention Activities № 122-3 was adopted where a new measure, a protective order, was introduced. Currently there are four measures of the prevention of family violence under the aforementioned law: preventive conversation, official warning, placing on a prevention list, and a protective order. Each of the four measures includes filing a mandatory complaint filed to the police (in fact, a separate case) of a private character. This means engagement of private prosecution, not public one, where the victim is obliged to argue and go through the whole procedure from beginning until the end. And it is only in case of success, victims may reach the fourth stage – an application of protective order.
4. The practice shows that women write a counter-statement for a number of objective reasons (threats, blackmail, depression, pressure, fraud), and the cases are thus failed. The maximum punishment that the aggressor receives after the victim writes a complaint is either a short administrative arrest or a fine, which is paid from the family budget and does not always change the situation. Because of this, the overwhelming majority of women in Belarus file a counter-statement or agree to a voluntary settlement in court. The aggressor thus escapes punishment. Current situation in Belarus can be

characterised as follows: if a victim files a complaint – there will be a trial, if she withdraws her claim – there is no trial and prosecution.

5. The victim has to experience several incidents of physical violence before the aggressor faces a serious punishment – eviction from a shared housing for up to 30 days in the case of applying a protective order.
6. Current legislation lacks the term ‘economic violence’. Protection against psychological violence is barely an effective norm in practice.
7. The problem of domestic violence is a complex one, and is closely connected to a number of other issues:
 - 1) the prospect of taking away children from the mother and (or) depriving her of parental rights. After a single call to the police by a woman in case of domestic violence, the school or other educational establishment is notified of what happened by the police. On one hand, the measure is dictated by the well-being of children. On the other hand, there are incidents of threatening to withdraw children from the family without explanation of the rights and obligations, which in fact deprives a woman of her ability to confront the aggressor. As a result, a woman chooses very often not to report repeated incidents to the police and therefore continues to live in the environment of violence. Thus, the State does not take into account the rights and legitimate interests of both victims of domestic violence and their children.
 - 2) economic insolvency of women victims. Due to the existing stereotypes in the society as well as existing legislation, the majority of women are financially dependent on their partners, which reinforces discrimination including on the ground of access to justice. To date, in order to divide the jointly acquired property (e.g. apartment) so as to isolate a woman and children from the aggressor, the victim must pay a state fee of 5% of the amount of the claim, which for many women constitutes an overwhelming amount. Apartments purchased under preferential loans, social housing which are a popular choice of acquiring family property are also not subject to division under the law. Free legal assistance to victims of domestic violence is not provided by the law. In this regard, the woman is forced to stay in the same living space with the aggressor.
8. The practice of the Public Association ‘Radislava’ includes very few successful cases after filing complaints to the police in the situations of domestic violence. During the operation of the Centre ‘Her Rights’ around 70% of the enquiries are connected to the violations in family and household spheres, where more than 67% concern the issue of domestic violence.
9. The Ministry of Internal Affairs does not keep statistics about the victims of domestic violence. According to the Public Security Director of the Ministry of Internal Affairs Oleg Karazey, the police receives 150,000 calls from the alleged victims of domestic abuse annually. However, in 2016 only 2,337 criminal cases were present in the domestic sphere. Same year 30,104 cases had administrative liability – causing administrative arrest or fine to the aggressors.
10. Despite civil society’s efforts aimed at cooperation with the State bodies (Ministry of Internal Affairs, Ministry of Labour and Social Security, Ministry of Health, Prosecutor General’s Office, etc.) productive interaction with the aforementioned agencies is not always possible due to their reluctance to collaborate.

Shortage of shelters for victims of domestic violence

11. There are only 5 shelters in Belarus, all administered by organisations of the third sector and the church. Not all shelters accept women without children. The crisis rooms opened by the Ministry of Social Protection and Labour has proven to be ineffective as per requests of women victims of domestic violence. They fail to provide women with: a) safe accommodation and lack ability to solve the housing problem for a long period; b) psychological assistance, and c) legal support. In total, there are 154 ‘crisis’ rooms in Belarus. However, they do not amount to crisis centres for the victims of domestic violence. The target audience of such centres is not only victims of violence but also victims of trafficking, victims of terrorism, man-made and natural disasters, and persons left without parental care. They are provided only with sleeping accommodation, personal hygiene products and food.

Recommendations:

- Establish a working group on drafting a law on the prevention of domestic violence including the representatives from competent authorities and civil society organisations with a further adoption of the Law on Prevention of Domestic Violence.
- Sign and ratify the Istanbul Convention of the Council of Europe on preventing and combating violence against women and domestic violence.
- Provide obligatory trainings for the police and public officials on identification and reacting to the situations of domestic violence.
- Establish shelters for victims of domestic violence in every region of Belarus with the adequate free provision of psychological, legal and social support.

Sexism and gender stereotypes

12. Gender stereotypes and patriarchal attitudes as to the roles and responsibilities of women and men in society and the family prevail in the Republic of Belarus. In particular, this is reflected in the unequal distribution of household and child-rearing responsibilities between women and men. As of 2017, only 1 % of fathers took paternity leave. Stereotypes are one the main reasons for men’s reluctance to use this opportunity according to the Deputy Minister of Labour and Social Affairs.¹
13. Despite this fact, the government does not take any active steps in combating sexism and gender stereotypes. On the contrary, senior state officials of the Republic of Belarus promote their spread in Belarusian society. Namely, in 2018 the President of the Republic of Belarus in his public speech mentioned that “... the function of women is to beautify the world ... and keep the harmony in society irrespective of any social roles that they [men and women] have”.²
14. Yuri Verheychik, the then Secretary General of the Association “Belarusian Federation of Football” (ABFF), repeatedly stated that “Football is not women’s sport. The

¹ http://pravo.by/novosti/obshchestvenno-politicheskie-i-v-oblasti-prava/2018/may/28868/?fbclid=IwAR3I_gDUZitRLj1CxIusFMWNNosqarj7eZv5UJKodJAMFHGa1nEGgYyNADQ

² <https://naviny.by/article/20180308/1520486411-v-vas-nasha-sila-i-muzhestvo-cto-govoril-lukashenko-o-zhenshchinah>

function of women is to give birth”.³ Such public statements impede self-realisation and free choice of girls and women of their occupation.⁴

15. Depiction of women as sexualised commodities is frequent in advertisements of Belarusian state and private companies.⁵ It plays a great role in promoting sexism and maintenance of gender stereotypes. Domestic law of the Republic of Belarus contains neither a legal definition of ‘sexism’ nor ‘discrimination in advertisement’. In addition, authorities fail to react in due course on the prohibition of sexist advertisements. No effort is being taken to sensitise the media and advertising sector regarding the portrayal of women as active participants, not objects, in all spheres of life, including in media.

Recommendations:

- Take measures in raising public awareness in consultation with NGOs about the existence of sexism and gender stereotypes in Belarusian society.
- Introduce legal definition of discrimination in advertisement and ‘sexism’ into domestic legislation.
- Undertake efforts to educate public officials on the inappropriateness of display of sexism and gender stereotypes in their actions and statements as well as introduce measures to combat the manifestation of it.
- Ensure the effective application of the provision on the prohibition of unethical advertisements contained in domestic law and take timely measures to combat sexist advertisements.

Labour discrimination

Discriminatory and constructive dismissals

16. Despite the legally grounded existing prohibition of discrimination in labour sphere, the stipulated mechanism of protection through the judiciary is ambiguous. Whereas, according to international standards,⁶ the burden of proof in cases of gender discrimination lies on an employer, in reality in Belarus it is very high and is placed upon a woman. Hence, the outcome of a case depends on a collection of evidence by a woman, which she often chooses not to follow. In the majority of cases a woman therefore decides not to initiate a case against her employer either in fear of reprisal and further probability of constructive dismissal or because of disbelief in impartiality and effectiveness of Belarusian judicial system.⁷ This results in almost zero cases reported on gender discrimination, according to General Prosecutor Office and Special Rapporteur on the situation in Belarus.⁸
17. In 2017 during the state course on redundancy of civil servants, female civil servants were disproportionately affected by the discriminatory legislation which led to their illegal dismissals during their maternity leave.⁹

³ <https://naviny.by/new/20180704/1530715575-prednaznachenie-zhenshchin-rozhat-ne-futbol-gensek-bff>

⁴ <https://citydog.by/post/feministki-trebuyut-uvolit-sekretarya-futbolnoy-organizacii/>

⁵ <http://www.epravda.by/2016/12/sexistskaia-reklama-mark-formel/>

⁶ ILO Judgment 3649, consideration 14

⁷ https://www.genderperspectives.by/images/PolNePotolok/----_2019.pdf

⁸ <https://finance.tut.by/news527823.html>

⁹ <http://www.epravda.by/2017/08/optimization-of-women-on-social-leave/>

18. State officials and the judiciary are wary to refer to CEDAW or other international human rights agreements when substantiating their decisions and are reluctant to use and elaborate on the notion of discrimination contained in the national legislation.

Gender wage gap

19. Although gender wage gap has decreased from 33% in 2015 to 24% in 2019 it still represents a significant divide in the society and impedes access to equal pay for equal work for women.

Discriminatory conduct of job interviews

20. During the course of job interviews women are often asked about their marital status and their parenthood by the employer. Such questions are generally accepted and regarded as a norm by employers. Labour legislation does not contain any specific mechanism to combat this issue. It is almost impossible for a woman to provide proof of discrimination and seek redress in court (see para 16).

Vertical and horizontal segregation

21. Women's labour continues to prevail in traditionally low-paid areas – social care, culture, education, healthcare. Low wages in these areas make women work full time or at a double rate, which is not reflected in the official statistics, according to which the average salary is calculated as the actual income of the employee. At the same time high rates of education among women does not guarantee them upward mobility: in healthcare, where 85% are women workers, only 4% of women occupy chief positions, in education, from 82% working women, only 7% are in chief positions, respectively. Women are underrepresented at decision-making positions in the Government, with just one female minister, head of Administration of the President and head of Central Election Committee. Concurrently, 70% of civil servants are women.
22. During the state course on redundancy of civil servants in 2017 female civil servants were offered positions of 'technical workers' which did not adequately correspond to the level of their education, experience, and salary.¹⁰ Alternative option for these women was to agree to their dismissal (see para 17).

Short-term employment contracts (STEC)

23. STEC put women in vulnerable position. Under the STEC conditions an employer may initially consider a female candidate to be disadvantageous since the labour legislation provides for a number of guarantees for women that do not constitute an obligation for the employer and are not beneficial from an economic point of view. As a result, women may consciously choose not to use guarantees under STEC because of fear or threats from an employer either that a new contract will not be concluded with her, or she will not get promotion, or she will not receive wage bonus etc.¹¹

¹⁰ Ibid

¹¹ <http://www.eeprava.by/document/ogranicheniya-na-rabotu-dlya-zhenshin-v-belarusi/>

List of prohibited professions for women

24. 181 professions are still unavailable for women in Belarus. Prohibition of work for women at specific professions does not have a scientific ground and is not evidence-based.¹² Having a ten-years difference between male and female lifespan, Belarus faces serious problems with preservation of male health, in particular reproductive health, which makes the state's emphasis on protection of exclusively women's health to be unviable. Such a broad measure is a direct discrimination based on sex.
25. The background to the existence of the list of prohibited professions for women is used as the main argument in favour of restricting the right to work for all women, including those who are not pregnant, do not breast-feed, cannot or do not want to have children, as well as transgender persons. It is a right of any woman to decide on whether she wants to become a mother or to choose a profession from the list.
26. The list is a means to limit women's access to high-paying jobs. There is a number of low-paid professions that are not prohibited for women where women are predominantly employed. For example, professions like nurse, cook, sanitary nurse, janitor, storekeeper, etc. are not prohibited to women but they suggest lifting weights higher than the professions from the list.¹³

Recommendations:

- Make the necessary legal amendments to prohibit questions about marital status and parenthood during job interviews.
- Introduce legal amendments to place the burden of proof in cases of discrimination onto the employer.
- Make in place obligatory training programmes for state officials and the judiciary on implementation of international human rights agreements.
- Increase the participation of women in top senior level professions at the government apparatus, on management boards.
- Introduce changes to labour legislation so that STEC conditions do not discriminate women.
- Abolish the list of prohibited professions for women and ensure safe and healthy working conditions in all sectors for men and women without discrimination.

Feminisation of poverty in Belarus among women

27. Employers are reluctant to maintain a pensioner on their staff. Therefore, it is difficult for female pensioners to find work in Belarus. This cuts down the opportunities to gain extra labour years for female pensioners, because many lose their retirement pension because of the new reform. In this context they can't get enough labour length of services.
28. Total labour length of service is important for the size of the pension. The qualifying period affects the right to access a retirement pension which is a period of work during which the employer paid contributions to the social security fund for an employee. In order to obtain a retirement pension upon reaching retirement age, a woman must either have 16 years of qualifying period, which does not include the period of maternity

¹² <http://www.eeprava.by/document/validity-of-the-list-of-prohibited-professions/>

¹³ https://adcmemorial.org/wp-content/uploads/BelW_ruWWW.pdf

leave, or have 10 years of qualifying period with periods of maternity leave included etc and 35 years of labour length of service.

29. The law of Belarus does not provide for dismissal at pre-retirement age (2 years before retirement), therefore, there have been cases when employers dismiss women several months before reaching pre-retirement age (i.e. up to 58 years) in order to be able to hire younger employees. As for the retirement pension itself - on average, it is higher for men because of their wages are 24% higher than for women (see para).
30. Mothers having three children and more also fall into the group of risk. A mother of four has the right to count on the inclusion of only 75% of maternity leave in the labour length of services. At the moment maternity leave is included in the total labour length of service in the amount of not more than 9 years. Given that maternity leave is not included in the qualifying period, a period of 3 to 12 years spent on maternity leave does not count. Together with the extended labour length of services up to 35 years, the above situation, even considering the fact that maternity leave is included in the labour length of service, is discriminatory against women.¹⁴
31. Every year there will be more and more women falling under the new pension reform, which means that there will be more and more women aged fifty-five and more without sufficient livelihoods and the opportunity to live in dignity. The number of women aged sixty and more financially dependent on other persons will also increase, and this will have impact on the risks for such women to face situations of domestic violence.
32. Therefore, current pension legislation contributes to the feminisation of poverty of older women, depriving them of financial security and making them dependent in cases of aggression in where both spouses and children can act as perpetrators.

Recommendations:

- To amend the current legislation taking into account the difference in the retirement age for men and women and their execution of socially important functions, such as inclusion of periods of maternity leave as well as a period of caring for a person with a disability or person over 80 years of age, into the qualifying period or reduce the required qualifying period for persons who executed these socially important functions.

¹⁴ <http://www.eeprava.by/2019/05/pensii-dlya-materey-s-4-detmi/>
<http://www.eeprava.by/2017/04/ne-hvataet-staja-do-pensii/>