



Equal Rights Trust

Submission to the Human Rights Council at the
22nd Session of the Universal Periodic Review

Belarus

1. The Equal Rights Trust (ERT) has been involved in promoting improved protection from discrimination in Belarus since 2010, working in partnership with the Belarusian Helsinki Committee (BHC). In November 2013 ERT published *Half an Hour to Spring: Addressing Discrimination and Inequality in Belarus* (the report) in partnership with BHC.
2. The report is the first ever comprehensive account of discrimination and inequalities in Belarus. It brings together evidence of the lived experience of discrimination and inequality in Belarus on a wide range of grounds with an analysis of the laws, policies and institutions established to address discrimination and inequality. It is the product of extensive research and consultation. This included gathering direct testimony through structured interviews, focus groups and roundtable discussions with both victims of discrimination and experts. ERT reviewed research conducted by others, including government agencies, non-governmental organisations and academics, together with statistical data compiled by government and international organisations. ERT also undertook a detailed analysis of laws and policies relevant to equality and non-discrimination, including the constitution, specific anti-discrimination laws and non-discrimination provisions in other areas of law.
3. This submission is based on the findings and recommendations of the report. In its interpretation of international standards on the rights to non-discrimination and equality, the submission relies upon the Declaration of Principles on Equality, a document of international best practice on equality.¹
4. Given that the Human Rights Council has stated that “[t]he second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the developments of the human rights situation in the State under review”,² this submission focuses in particular on areas where ERT’s report brings to light new evidence of discrimination, or provides information on the implementation of previous recommendations. However, ERT also encourages all states participating in the review of Belarus to consider endorsing all of the recommendations in the report.

¹ *Declaration of Principles on Equality*, The Equal Rights Trust, London, 2008.

² Human Rights Council, *Resolution 16/21: Review of the work and functioning of the Human Rights Council*, UN Doc. A/HRC/RES/16/21, April 2011, Annex 1, Para 6, available at: <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/G11/126/78/PDF/G1112678.pdf?OpenElement>.

Recommendations

5. Based on its comprehensive review of both the lived experience of discrimination and inequality and the legal and policy framework, ERT's report makes recommendations for reforms to laws, policies and practices to ensure Belarus can meet its obligations to respect, protect and fulfil the rights to non-discrimination and inequality.
6. Principal among the report's recommendations is that **Belarus adopts specific and comprehensive equality legislation**. Such legislation should *inter alia* prohibit direct and indirect discrimination, harassment and failure to make reasonable accommodation, on all grounds recognised by international law and in all areas of life governed by law. It should require positive action to address patterns of past disadvantage. It should contain the necessary provisions to ensure effective access to justice – including rules governing the transfer of the burden of proof – and provide for remedies and sanctions which are effective, proportionate and dissuasive.³ **ERT urges all states participating in the review of Belarus to endorse and adopt this and the other recommendations made in the report.**
7. In addition, in keeping with the express wishes of the Human Rights Council, below ERT highlights areas where its findings indicate that recommendations made at the last Universal Periodic Review have not been implemented:
8. **Ensure religious freedom for all religious groups.** Iran and Tajikistan recommended that Belarus continue its efforts to promote interreligious dialogue,⁴ a recommendation which was accepted by Belarus. ERT's research, however, shows that in addition to a need for interreligious dialogue, there remain serious obstacles to religious freedom. The attitude of the authorities towards "non-traditional" faiths is characterised by suspicion, resulting in various discriminatory restrictions on religious practice. Legislation creates inequalities between traditional denominations and small or newer religious movements. There are administrative obstacles to the registration of religious organisations. Unauthorised activities by religious organisations are prosecuted as administrative offences. Participation in the activities of an unregistered organisation is an offence punishable by a fine, arrest of up to 6 months, or imprisonment of up to 2 years; the Belarusian authorities have repeatedly issued so-called "official warnings" to the leaders of unregistered religious communities.
9. ERT urges states to recommend that Belarus:
 - a. audit and, where necessary, remove restrictions in legislation related to freedom of religion;
 - b. simplify the registration procedure for religious communities and associations;
 - c. remove prohibitions on the performance of religious activities outside religious buildings or outside the place of registration, and eliminate barriers to the work of foreign clerics;
 - d. provide public funding to alleviate the shortage of Jewish religious buildings and religious buildings for the use of new religious movements; and

³ For a more detailed elaboration of the principles which should be reflected in comprehensive equality legislation, see: *Declaration of Principles on Equality*, The Equal Rights Trust, London, 2008.

⁴ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Belarus*, UN Doc. A/HRC/15/16, 21 June 2010, Para 97.38.

- e. provide for the possibility of alternatives to military service for conscientious objectors and decriminalise the refusal to serve in the armed forces on religious grounds.
10. **Take appropriate measures against discrimination against persons belonging to ethnic minorities and the Roma.** Austria recommended that Belarus take appropriate measures against discrimination against persons belonging to ethnic minorities, in particular measures against harassment by police, and allow equal access to education for all persons belonging to minorities.⁵ Finland recommended that Belarus strengthen its effort to combat and prevent discrimination faced by the Roma and ensure their full participation in the creation of mechanisms and adoption of measures to this end.⁶
 11. Belarus considered that these recommendations had already been implemented and that there was no information on any acts of discrimination against ethnic minorities or the Roma.⁷ ERT's research, however, shows that as a result of the politicisation of issues related to the Polish minority (the second largest minority after ethnic Russians), ethnic Poles face discriminatory treatment by the authorities in the exercise of their right to freedom of association while the system of Polish-language schools remains undeveloped. The Belarusian authorities have shown a commitment to combating anti-Semitism though problems with respect for Jewish cultural heritage remain. The state has not restored the ownership of religious buildings which were nationalised under Communism. There is evidence that the Roma face systemic discrimination and racial profiling by law enforcement agencies.
 12. ERT urges states to recommend that Belarus:
 - a. delete the criterion of citizenship from the official definition of "national minority";
 - b. ensure non-interference of the state in the internal affairs of civil society associations of national minorities;
 - c. prioritise the fight against anti-Semitism, xenophobia and intolerance;
 - d. take decisive steps to eradicate systemic disadvantage against the Roma, ensuring equality for the Roma in the enjoyment of human rights in all areas of life, including through the adoption of measures aimed at eliminating negative stereotypes;
 - e. prohibit the practice of ethnic profiling of visible minorities and provide suitable training for law enforcement agencies; take targeted measures towards the integration of the Roma in Belarusian society, especially in the areas of education and employment, while paying particular attention to the preservation of their cultural identity;
 - f. continue supporting civil society associations of national minorities and providing education in national minority and foreign languages in different forms; and
 - g. guarantee the right to education in minority languages at all levels, where requested by representatives of national minorities.
 13. **Tackle inequalities based on use of the Belarusian language.** Whilst no states made recommendations relating to disadvantages faced by persons using the Belarusian language, ERT's research found that Belarusian speakers face difficulties in many areas of life, despite constitutional and legislative guarantees of equality for both the Russian and

⁵ *Ibid.*, Para 98.14.

⁶ *Ibid.*

⁷ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Belarus: Addendum*, UN Doc. A/HRC/15/16/Add.1, 15 September 2010, Paras 35, 38 and 39.

Belarusian languages. For historical reasons, Belarusian is not the dominant language in urban areas in Belarus, with Russian and a Russian-Belarusian hybrid more widely used. The Russian language is favoured in education, particular in higher education and in the provision of goods and services. This results in limited opportunities for ethnic Belarusians who prefer to use the Belarusian language in public. Moreover, a preference for the Belarusian language can be associated with support for the political opposition, putting individuals at risk of discrimination on the basis of actual or perceived political opinion.

14. ERT urges states to recommend that Belarus:

- a. ensure substantive equality of Belarusian- and Russian-speakers through legislation and practice, especially in the field of education and in access to goods and services;
- b. provide comprehensive support to the use of the Belarusian language and the languages of national minorities in public;
- c. provide opportunities for the use of minority languages in contacts with the authorities in areas where there is a concentration of people speaking such languages; and
- d. provide a right to public signage and information in minority languages.

15. **Take measures to ensure substantive gender equality.** Recommendations that Belarus take steps to ensure gender equality were made by Tunisia, Lithuania, Palestine, Bolivia and China.⁸ Canada and Brazil recommended that Belarus enact legislation on gender equality.⁹ Whilst Belarus accepted the first set of recommendations, it considered that the second set of recommendations had already been implemented.¹⁰

16. ERT's research, however, shows a continued need for Belarus to take further steps to realise genuine gender equality. Traditionalist attitudes continue to affect the status of women in Belarus in various areas of life. Women earn less than men on average, are under-represented in senior positions in most professions, except in the public sector, and are over-represented in the least prestigious sectors of the economy. Belarusian women are generally well-educated but the current imbalances in employment reflect the imbalances of the education system. Women's opportunities are limited by the unequal distribution of domestic work. Domestic violence remains a significant concern.

17. ERT urges states to recommend that Belarus:

- a. adopt a law on prevention of domestic violence, which should provide the rights of victims to assistance, protection and remedies;
- b. organise compulsory training for judges, prosecutors and police officers on issues of law enforcement related to violence and discrimination against women, and train police officers in standard procedures for handling cases of violence against women;
- c. increase the availability of shelters for victims of violence;
- d. expand cooperation between the state and civil society organisations that provide shelter and rehabilitation services for victims;

⁸ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Belarus*, UN Doc. A/HRC/15/16, 21 June 2010, Para 97.20.

⁹ *Ibid.*, Para 98.15.

¹⁰ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Belarus: Addendum*, UN Doc. A/HRC/15/16/Add.1, 15 September 2010, Paras 41-43.

- e. abolish any discrimination against women in access to educational institutions;
- f. intensify efforts to diversify the choice of education and training for men and women and take additional measures to promote equal choice of non-traditional subjects, disciplines and professions for men and women;
- g. identify the causes of, and take appropriate steps to eliminate, the difference in pay for equal work between men and women;
- h. take targeted measures to achieve adequate representation of women in senior positions in all areas of employment;
- i. actively counteract social stereotypes regarding the distribution of household responsibilities between family members.

18. **Ratify the Convention on the Rights of Persons with Disabilities and take steps to ensure persons with disabilities and persons living with HIV/AIDS are not discriminated against.** Algeria, Brazil and Spain recommended that Belarus ratify the Convention on the Rights of Persons with Disabilities.¹¹ Whilst Belarus agreed to ratify the Convention, as of September 2014, it still has yet to sign it. ERT's research shows that persons with disabilities continue to face disadvantage, despite a number of programmes and other measures taken by the state. Public infrastructure remains inaccessible in many instances. In employment, there are difficulties in respect of reasonable accommodation in the workplace. People living with HIV/AIDS face stigmatisation and discrimination, sometimes due to low levels of public awareness; the Law on the Prevention of Spread of Diseases that Pose a Risk to Public Health and of the Human Immunodeficiency Virus contains discriminatory provisions.

19. ERT urges states to recommend that Belarus:

- a. ratify the Convention on the Rights of Persons with Disabilities;
- b. continue efforts to create a barrier-free environment for persons living with disabilities;
- c. achieve greater participation of persons with disabilities in employment and eliminate existing barriers to participation in the labour market;
- d. abolish discriminatory provisions contained in the Law on the Prevention of Spread of Diseases that Pose a Risk to Public Health and of the Human Immunodeficiency Virus, and ensure personal data protection for people living with HIV/AIDS; and
- e. provide education for government officials and health, social services and education professionals who come into contact with people living with HIV or members of their families, and raise awareness of these groups on human rights.

20. **Tackle discrimination against lesbian, gay, bisexual and transgender (LGBT) people.** No states made recommendations to Belarus on the rights of LGBT people. However, ERT's research shows that these people face stigma and discrimination. There are examples of physical and psychological violence against people because of their sexual orientation or gender identity, and evidence that they may also experience additional difficulties in accessing goods and services. There are difficulties concerning equal enjoyment of the rights to freedom of assembly and association.

21. ERT urges states to recommend that Belarus:

- a. prohibit discrimination based on sexual orientation and gender identity in all areas of life, including, in particular, employment and access to goods and services;

¹¹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Belarus*, UN Doc. A/HRC/15/16, 21 June 2010, Paras 97.2, 98.2 and 98.3.

- b. ensure that motivation of hate based on sexual orientation or gender identity is an aggravating circumstance in the commission of criminal or administrative offences;
 - c. provide training for law enforcement bodies on working with LGBT persons and the investigation of crimes and offences motivated by hatred of the LGBT community;
 - d. respect the right of LGBT persons to freedom of assembly and freedom of association;
 - e. implement programmes to assist LGBT persons in the defence of their rights and provide psychological support to them, their families, their friends and colleagues; and
 - f. support non-governmental organisations involved in promotion of the rights of LGBT persons.
22. **Tackle discrimination against persons on the basis of their political opinions or activities.** While no state made a recommendation specifically related to discrimination on the basis of their political opinions or activities, Spain, Switzerland, Poland and Canada all made recommendations relating to the difficulties and harassment faced by members of opposition parties and non-governmental organisations.¹² All of these recommendations were rejected by Belarus.
23. ERT's research shows that, as a result of their political opinions, political and social activists in Belarus are exposed to disadvantages when participating in employment, business and education (especially higher education). Given the relatively high levels of popular support for the Belarusian regime, ordinary citizens may also discriminate against actual or perceived opponents of the regime.
24. ERT urges states to recommend that Belarus:
- a. prohibit discrimination on the basis of political opinion in other areas of life, especially in access to goods and services, including public services, to complement provisions in the Criminal Code and the Labour Code; and
 - b. monitor the effectiveness of the provisions on non-discrimination on the basis of political opinion in employment and education, and take such measures as are necessary to eliminate discriminatory practices.
25. In addition to these specific recommendations, ERT urges states to make recommendations to Belarus to protect and ensure the rights to equality and non-discrimination more broadly. In particular, ERT urges states to recommend that Belarus:
- a. adopt a specific and comprehensive equality law. Such a law should *inter alia* prohibit direct and indirect discrimination, harassment and failure to make reasonable accommodation, on all grounds recognised by international law and in all areas of life governed by law. It should require positive action to address patterns of past disadvantage. It should contain the necessary provisions to ensure effective access to justice – including rules governing the transfer of the burden of proof – and provide for remedies and sanctions which are effective, proportionate and dissuasive.¹³

¹² Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Belarus*, UN Doc. A/HRC/15/16, 21 June 2010, Paras 98.23, 98.30 and 98.38.

¹³ See above, note 6.

- b. promote the application of international agreements, including those that contain non-discrimination provisions and standards, in judicial, administrative and law enforcement practice;
- c. provide specialised training for judges, other representatives of the legal profession and civil servants to improve their competence in the application of the rights to equality and non-discrimination;
- d. audit, and where necessary remove, restrictions in legislation related to freedom of religion, association, expression and assembly;
- e. remove the prohibition on the activities of unregistered civil society organisations and religious organisations and decriminalise activities undertaken on behalf of unregistered organisations;
- f. promote education on equality and non-discrimination for politicians, journalists and the executive authorities. This education should be based on the notion that equal, free and democratic participation of disadvantaged groups in political and public life is one of the necessary conditions for the full implementation of the international obligations of Belarus;
- g. mainstream gender equality in state policy in Belarus;
- h. include education on the principles of equality and non-discrimination on different grounds in the higher and secondary education curriculum;
- i. implement a targeted policy to increase public tolerance towards social groups which are particularly exposed to discrimination and disadvantage;
- j. ensure equal access of citizens and non-citizens of the Republic of Belarus to civil, economic, social and cultural rights, particularly in the area of employment, social security and access to public service; and
- k. continue efforts to eliminate poverty, paying particular attention to the situation of children, single parents and the rural population.