

LGBT Human Rights Project "GayBelarus"

Human Rights of LGBT People in Belarus

Submission for the Universal Periodic Review



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беларускі праваабарончы праект

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2014

Minsk, Belarus

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Introduction

1. The report describes the situation with observance of HR of LGBT people and with cases of sexual orientation and gender identity discrimination. It also shows the observance of the rights of HR defenders who are involved in protection of LGBT and the conditions of functioning of LGBT organizations. Unfortunately we have to state that during the last 4,5 years the situation in this sphere has significantly worsened.
2. International Covenant on Civil and Political Rights¹ and the International Covenant on Economic, Social and Cultural Rights² contain the open-ended list of banned grounds for discrimination and sexual orientation and gender identity are among them.
3. Theoretically Belarus recognizes the priority of international law over the national. When filing appeals to court argumentation can be built on the basis of references to international commitments and precedent cases of UN Human Rights Committee. But in practice national courts do not consider that arguments on sexual orientation discrimination are based on the law.
4. National legislation lacks any laws protecting LGBT from discrimination. The Labour Code is the only document containing the list of banned grounds for direct discrimination but the list is closed and there are no sexual orientation and gender identity in it³.
5. The legislation provides for responsibility for violation of equality of citizens⁴. But sexual orientation and gender identity are not included to the list of possible grounds of violation of equality of citizens, the list is closed.
6. Belarusian legislation doesn't have any norms providing for responsibility for LGBT hate crimes. Militia unsatisfactorily reacts to the cases of violence against LGBT. Criminal proceedings are not opened even in cases with clear evidence. Victims can face humiliating treatment and insults by militia because of their sexual orientation.
7. There are cases of illegal dismissals based on involvement in promoting LGBT rights.
8. There are no registered LGBT organizations in Belarus. HR defenders from unregistered initiatives, which are involved in protecting LGBT rights, regularly face repressions, intimidation, persecution and threats of criminal prosecution for acting on behalf of an unregistered

¹ Art. 26

² Art. 2

³ Labour Code of the Republic of Belarus <http://www.pravo.by/main.aspx?guid=3871&p0=hk9900296&p2={NRPA}>

⁴ Criminal Code of the Republic of Belarus

<http://www.pravo.by/main.aspx?guid=3871&p0=hk9900275&p2={NRPA}>

organization. Activists of HR defense project “GayBelarus” filed documents for registration of organization twice under different names and twice they got the refuse on formal grounds.

Freedom of assembly

9. The first attempt to register LGBT organization took place in 2011. Activists of “GayBelarus” filed documents for registration of “HR defence center “Alternative plus”. In December 2011 officials from the Ministry of Justice said that in constituent document the date of birth of one of the 61 founders was written wrong and also there was a mistake in the name of another founder. These mistakes made registration not possible.
10. After the attempt to register, Gomel KGB department invited one of the founders of the organization, a 17 year old young man, for a conversation. He was asked about the private life of the heads and members of the organization, what happened inside the organization and told him about the criminal responsibility for the participation in unsanctioned events.
11. In December 2011 a founder from Vitebsk was called to the deputy dean of the university she studied at and was accused of undermining the foundations of state’s moral and of promoting unhealthy way of life. She warned LGBT activist about the criminal responsibility for organization of public actions and about possible conversations with KGB.
12. The second attempt to register LGBT organization (HR defence center “Lambda”) took place in December 2012. In January 2013 the founders got a refuse motivated by the fact that in the organization’s statute there are no indications that the organization’s activity will promote comprehensive development and social formation of young people. The Supreme Court found the refuse legal.
13. After the second refuse in registration 69 out of 72 founders faced persecution of different degrees of intensity by law-enforcement bodies. In January-March 2013 they were invited to so-called “preventive talks” to the Department of drug control and human counter trafficking of different regions. As the reason to summon these people militia mentioned the necessity to get testimonies about alleged sexual crimes. But the conversations were mainly about the attempt to register HR defence LGBT organization and the reasons of participation in it. Militia threatened to initiate criminal cases against activists for acting on behalf of an unregistered organization. Besides, activists were asked personal questions, asked about sexual orientation and relations with their partners. The founders of “Lambda” who belong to LGBT faced the most offending treatment: they were laughed at, humiliated, asked intimate details of their personal lives. Those who refused to come after a phone call and asked to send a properly written notice faced pressure at their working places or educational establishments. For example, the rector of BNTU received a letter from militia with a request to “exert an influence” at the student who refused to come to militia department without summons.
14. On August 16 2013 deputy head of “GayBelarus: Maksim Dmitriev was summoned for questioning as a witness to the Department of drug control and human counter trafficking of the MIA’s criminal militia. Mr. Dmitriev was warned about criminal responsibility for acting on behalf of an unregistered organization. Militiamen talked about making pornography and corrupting of minors connecting the growth of the amount of such crimes with public mentioning of LGBT.
15. On January 20 2014 two LGBT activists were summoned for the same “conversation”. Militiamen reminded about criminal responsibility for acting on behalf of an unregistered organization, asked about the initiative’s plans, threatened with negative consequences in cases

of holding mass events. Their interest in activities of LGBT initiative they explained by the fact, that according to their opinion, a lot of homosexuals are involved in making and distributing porn.

Right to liberty and security of person

16. On January 2011 Belarusian LGBT activist Sergei Praded was preventively detained in street in Minsk before Lukashenko's inauguration.
17. During 2013-2014 there were 6 cases of body searches of founders at the moment of their return to Belarus. Sergey Androsenko and Natallia Mankouskaya faced it twice and Alexei Kulik and Maksim Dmitriev once.
18. Border services twice confiscated passport from the head of the unregistered organization Sergei Androsenko because it was allegedly invalid and kept it about two months. Later he was told that his document got to the database of invalid documents because of a "computer failure".

Freedom of peaceful assemblies and opinion

19. Authorities allowed to hold only one picket in support of LGBT rights in the history of Belarus on February 2011. At the same time not less than 120 similar requests to hold peaceful gatherings were not satisfied on formal grounds. Attempts to hold unsanctioned gatherings very often led to detentions. In some cases the detained faced cruel and inhuman treatment.
20. On May 2010 in Minsk militiamen dispersed peaceful procession of LGBT rights protection activists. Militia acted very cruelly, some of the participants were dragged over the ground and two were beaten. 8 persons were detained. They all faced humiliating treatment, harassment and homophobic insults by militiamen. The detained spent two days under arrest. They all were fined to 17500 roubles (6 USD) A day before the planned meeting Militia's twitter threatened: "*I have to admit... OMON (riot police squad) are furious and are ready to aggressively beat gays. That is why you should keep away.*"⁵ It should be mentioned that in April 2010 state-owned newspaper "Respublika" published an article full of homophobic insults devoted to the coming Gay Pride⁶.
21. Peaceful informational action devoted to the international coming out day took place on October 2010 in Minsk. Minsk city executive committee refused to sanction the event. LGBT activist Sergei Praded was detained he spent the night in detention center in Okrestino street. The next day he was sentenced to 700 000 BYR fine (about 230 USD) for organization of unsanctioned event for the second time during a year.
22. On May 17 2011 it was planned to hold an action dedicated to the International day against Homophobia and Transphobia. It was held by LGBT activists and representatives of NGO "Young social democrats – Molodaya Gromada". All the 15 members and a journalist were detained for "identification purposes". Militia forced them to give fingerprints and made pictures of them.
23. Two events which had to take place in the frames of the forum "Minsk Gay Pride" were foiled: a concert against violence against LGBT youth and a pride-party.
24. Special Forces militia squad officers forcedly entered the apartment rented by participants of the pride from other towns. They wrote down passport data of all the present persons among

⁵ http://gaybelarus.by/naviny/slavic-pride/guvd_minsk-kropli-kryvi-zapyrskayuc-focik.html

⁶ <http://respublika.sb.by/po-zhivomu/article/golubaya-luna-s-rozovym-otlivom-.html>

which there was a Sweden citizen. After it, threatening to arrest them, they demanded to leave the apartment although they had all the papers confirming the fact of rent.

Hate crimes

25. In April 2010 in Gomel a young man was beaten because of his homosexuality. In June 2010 he got a refuse in opening the criminal case. According to militiamen he provoked the assault by molesting those who beat him.
26. In May 2012 in Bobruisk a man became a victim of a planned assault by homophobic group of people and was beaten. He was invited to a meeting by one of those people with the help of a dating website. In militia he faced insults and threats when he said that the reason of the assault was a hate crime because he was a gay. He was refused in opening a criminal case. None of the militiamen was prosecuted for insults in spite of his numerous complaints.
27. In June 2012 in Minsk there was an accident when a group of homophobic youth invited a gay to a meeting (as in the abovementioned case). He became the subject of humiliation and insults, these people filmed everything and posted it on the Internet with personal data of the victim. Militia refused to open criminal case and only one of the aggressors was fined. Later three of them were prosecuted but as the result of private accusation.

Discrimination by law-enforcement bodies

28. Militiamen use the LGBT topic for defamation of people they dislike, for example, participants of silent actions of protest in summer 2011. Interview with the head of Mozyr District department of internal affairs was published in June 2011 in newspaper "Zhizn Polesia". The main goal of the interview was to compromise participants of silent action by their alleged participation in LGBT community. For example "We got letters from people who live in our city that the situation is used by representatives of sexual minorities. That is why I want to make the following statement: this category of people, who have psychic deviations, shouldn't gather at the central square of the city..."⁷
29. A group of drunken people tried to attack club "Kasta Diva" in Minsk popular among LGBT community on August 13 2011. Militiamen who came to the place didn't do anything and later just left.
30. In January-February 2013 there were not less than 10 militia raids to LGBT parties. Militia wrote down passport data of all the participants, sometimes they recorded everything on video. At least 47 people were detained. At least one person became a subject of violence. We know at least about five cases when visitors of these parties were later summoned to local militia departments. One of these persons was summoned three times during a year and a half. The last time he came to militia district in June 2014 he became a subject of moral pressure, militia was trying to make him to confess in rape, they took his biological samples without him being a suspect or charged with a crime.
31. Igor Tikhonuk was among the founders of "Lambda" who were questioned by militia in February 2013. He spent an hour in militia department, there he was beaten, insulted and threatened for being gay. Mr. Tikhonuk wrote a complaint to prosecutor's office but none of the militiamen was punished.

⁷ http://naviny.by/rubrics/society/2011/07/18/ic_articles_116_174419/

Discrimination at labour market

32. Alexander Poluian, an open gay and LGBT activist had been working in “British-American Tobacco Trading Company” since August 2011. In October the head of department asked him to write a notice of resignation. Before it he had no problems at work. According to Alexander his firing was connected with the fact that he is a gay and is an LGBT activist and his boss got this information. This supposition was confirmed in private conversations with other employees.
33. In 2011 LGBT activist Varvara Krasutskaya lost her job after she had taken part in Slavic gay-pride in Saint-Petersburg on June 25 2011. The owner of Minsk café popular among LGBT community fired Varvara because he was afraid that the authorities would close the café.

Recommendations

34. To adopt a special universal law on problems of equality and nondiscrimination including the ban on sexual orientation and gender identity discrimination in all the spheres of public life.
35. Make the motive of sexual orientation and gender identity hate in criminal and administrative crimes as an aggravating circumstance. To organize for representatives of law enforcement bodies special programs and trainings on work with LGBT and investigating of hate crimes against LGBT.
36. To hold information campaigns among population aimed at raising the level of knowledge about LGBT rights.
37. Observe rights of HR defenders who deal with cases of sexual orientation and gender identity discrimination. To support NGOs working to promote the rights of LGBT community.