

ANSWERS TO THE LIST OF ISSUES PRIOR TO SUBMISSION OF THE FIFTH PERIODIC REPORT OF BELARUS UNDER THE CONVENTION OF CIVIL AND POLITICAL RIGHTS

This report has been presented to the Committee on Civil and Political Rights (hereinafter – the Committee) for examination within the consideration of the fifth periodic report of Belarus on fulfilment of the Convention of Civil and Political Rights (hereinafter – the Convention). It contains selected answers to the List of issues prior to the submission of the fifth periodic report of Belarus.

Authors:

- 1) Initiative Group “Identity and Law” (Belarus). The group started its activities in 2016 with the aim to protect and promote human rights of LGBT people in Belarus. The main activities are: monitoring of discrimination and violence based on sexual orientation of gender identity (SOGI), legal and psychological help for victims of such incidents, national and international advocacy.

Web site – www.identitylaw.org,
e-mail – office@identitylaw.org

- 2) Eurasian Coalition on Male Health (ECOM) - is an international non-governmental association, located in Tallinn, Estonia. It is a membership-based association, open for non-profits and individuals working in the field of human immunodeficiency virus (HIV) prevention and treatment for gay men and other men who have sex with men, and transgender people, in the region of Eastern Europe and Central Asia (EECA). Currently, the network is made up of 53 members from 14 countries, ranging from Latvia, Belarus to Kyrgyzstan.

Web site – <https://ecom.ngo/>
e-mail - contact@ecom.ngo

The report covers the following issues from the List of issues prior to reporting for the State Party in the light of respect to rights of LGBT people:

- **Non-discrimination and prohibition of advocacy of national, racial or religious hatred (arts. 2, 3, 20 and 26)**
- **Prohibition of torture and other cruel, inhuman or degrading treatment or punishment (art. 7)**
- **Liberty and security of person and humane treatment of persons deprived of their liberty (arts. 9 and 10)**
- **Right to privacy and family life (art. 17)**
- **Freedom of expression, peaceful assembly, freedom of association, and the right to participate in public life (arts. 19, 21, 22 and 25)**

1. Non-discrimination and prohibition of advocacy of national, racial or religious hatred (arts. 2, 3, 20 and 26)

Information on question 5.

The State Party was asked to indicate whether steps have been or are being taken to adopt comprehensive anti-discrimination legislation that addresses discrimination, including in the private sphere, prohibits direct, indirect and multiple discrimination, contains a comprehensive list of grounds for discrimination, including sexual orientation and gender identity, and provides for effective remedies in judicial and administrative proceedings.

Belarus stated that the Constitution and other legislation sets up the principle of equality before the law and the prohibition on discrimination. It was noted that the existing system is effective and the lack of a single enactment on discrimination is due to the desire to avoid duplication of the legal rules of existing legislation on this issue.

The information we have is indicative of the ineffectiveness of the existing protection mechanisms against discrimination, especially when it comes to the rights of marginalized groups, in particular, LGBT people. Belarus doesn't have any system of collecting the statistics on cases of discrimination. There is no specific body that has the authority to deal with complaints of discrimination. Our respondents indicated¹ that they did not complain about discrimination that happened to them because of their absolute lack of faith in the fact that the state will protect the rights of the LGBT person.

Despite the principle of equality enshrined in the Constitution and some laws, the absence of specific protection mechanisms makes these provisions ineffective in practice. In the only case known to us when the applicant complained in court of discrimination on grounds of sexual orientation, the court decided that "the arguments about discrimination are not based on law"².

The special attention requires the situation with discrimination in the labour sphere. According to the State, the prohibition of discrimination in employment relations is established in article 14 of the Labour Code³. Persons who believe that they have been subjected to discrimination in employment relations have the right to apply to the courts to end the discrimination.

The absolute majority of people in Belarus are in labour relations on the basis of short-term/fixed-term employment contracts (from 1 to 5 years). The employer shouldn't specify the reason for not renewing the contract after its expiration.

In this respect, the Committee on Economic, Social and Cultural Rights recommended that the State party review the current regime of fixed-term/short-term contracts in order to limit the scale

¹ Information was collected by the initiative group "Identity and Law" during online survey conducted in June-July 2018 among Belarusian LGBT-community

² The decision was taken by the court of the Moscow District of Minsk on the appeal of Sergei Androsenko about prohibition the march against homophobia on May 17, 2010

³ Ibidem, para. 39

of their use and provide adequate safeguards against arbitrary non-renewal of fixed-term contracts⁴.

This has not been done so far, although there is a declaration of intent to oblige employers to renew contracts with bona fide workers⁵. More than 30% of such contracts are signed for 1 year at the moment⁶.

The above-mentioned practice noticeably worsens the situation of vulnerable groups on the labour market: elderly, women with small children, disabled, political activists and, in particular, LGBT. For example, when the employee's SOGI accidentally becomes known to the employer, this system makes it convenient to get rid of her/him when the contract term finishes. There is no legal possibility to appeal against it in the court. This problem is illustrated by the case.

Case 1. In February 2017, a state enterprise “Amkodor” did not extend a labor contract with a transgender woman from Minsk, 36 years old. At the same time, she worked there for several years and had no complaints. Problems arose when she started gender transition and her colleagues get know about that.

Information on question 9.

Belarus was asked to comment on reports of discrimination, harassment, widespread homophobic discourse and hate speech, including in the media and notably by the President, and violence against lesbian, gay, bisexual, transgender and intersex (LGBTI) individuals and activists, and report on measures taken to ensure protection of victims and address the prevalent impunity for such acts.

Belarus denied any kind of discrimination and harassment of LGBT people, as well as hate speech on the part of senior officials and stated that “Office of the Procurator General has not received any reports or information supported by factual evidence of the use of physical or psychological violence against or harassment of members of sexual minorities”.

At the same time cases of discrimination based on SOGI remain a widespread problem. There are no training programs on equal treatment of LGBT people for civil servants, health professionals, education and social protection personnel, law enforcement agencies, etc. It leads to conservation of stigma and discrimination forthcoming (please see below the **cases 2-4**).

We regret to state that position of Belarus reflects the complete absence of any statistics collection on homo- and transphobic incidents. According to the data collected by “Identity and Law”, there is information about more than 100 cases of incidents (discrimination, spontaneous and planned attacks, beatings, robberies, insults, humiliations, threats, domestic violence) motivated by hatred to LGBT people in Belarus in 2012-2018. This data is based on the online

⁴ CESCR, Concluding observations on the combined fourth to sixth periodic reports of Belarus, E/C.12/BLR/CO/4-6

⁵ Proposals on mandatory extension of contracts with bona fide employees are being prepared in Belarus, 06.07.2018, <http://www.belta.by/society/view/v-belarusi-gotovjatsja-predlozhenija-po-objazatelnomu-prodleniju-kontraktov-s-dobrosovestnymi-309451-2018/>

⁶ Ibidem

survey conducted in June-July 2018 by “Identity and Law”, information received from victims who turned to CSO’s and credible media sources.

As follows from the information received, there were at least 12 cases when victims reported about the incidents to the militia in this period.

Unfortunately, there is no information about special training programs designed to investigate hate crimes in Belarus. Criminal Code of the Republic of Belarus indicates among other aggravating circumstances "perpetration of a crime motivated by racial, national, religious enmity or discord, political or ideological hostility, as well as on grounds of enmity or discord against any social group". The practice of applying this provision to hate crimes based on SOGI is limited to one case known to us (please see the **case 5**). We welcome this approach, but we state that it has not yet become the beginning of a sustainable practice of persecution of LGBT-phobic violence.

Even if the victims turn to the police, they may face discouraging from persecuting the aggressors (please see below the **case 6**). A significant threat to the equality of LGBT people is inadequate investigation of hate crimes. The police often do not take seriously the statements about such crimes, the victims receive unreasonable refusals to initiate criminal cases. A typical formulation of the refusal is the "absence of corpus delicti", even in cases when the victim was attacked and beaten (please see below the **cases 7-9**).

Often victims face derogatory and insulting treatment in the police, and criminals even get sympathy from the officials (please see below the **case 10**).

For this reason, the victims do not want to tell anyone about what happened, and the aggressors remain unpunished. This entails both the latency of such crimes, and the growth of their number due to a sense of impunity and permissiveness.

Even when a criminal case is initiated and sent to court, the motive of homo- or transphobic hatred is not investigated and is not taken into account as an aggravating circumstance (please see below the **cases 11-12**).

Widespread negative stereotypes in society towards LGBT people⁷ are not a matter of concern for the State party, but are also reinforced by the state officials. The majority of homophobic hate speech statements were produced by the President Lukashenko in 2011-2013^{8,9,10,11}. Some of the statements referring homosexuality were: “it’s better to be a dictator than a gay”, “[I perceive this] extremely negatively, it is extremely abnormal”, “it is alien to us”, “a normal way of life must be led, we do not accept it”.

⁷ Poll: 70% of Belarusians do not want to live next door to LGBT representatives, 34% - with immigrants,

<https://news.tut.by/society/531879.html>

⁸ <https://www.youtube.com/watch?v=bFq-SlWKulc>

⁹ <https://www.youtube.com/watch?v=ACwOpB6fOSQ>

¹⁰ <https://www.youtube.com/watch?v=35QxJh23AfA>

¹¹ <https://www.youtube.com/watch?v=utlHCiAbBbQ>

This discourse got a new development after the break. On 20th of May, 2018 on the official MIA's website an article was published covering the IDAHO¹² and placing the rainbow flag on the British Embassy's building in Minsk. "Supporters of same-sex relationships furiously argue their position, despite the principles and traditions that have formed in society. But however you spin it, same-sex relationships are fake. And the essence of a fake is always the same, to devalue the truth. The LGBT community and the whole struggle for its rights and this community's day itself are all just fake!" – stated the article. Later the Minister of Internal Affairs Mr Shunevich confirmed that he agreed with the stated point of view. "I call it propaganda of a way of life that is unacceptable to us", – stated he¹³.

Case 2. In September 2015, transgender man turned to the ambulance service because of severe abdominal pain. A medical team came to him, but the ambulance driver refused to take him to the hospital and insulted him. The patient remained without medical assistance.

Case 3. In January 2016 transgender man was treated in the Minsk Regional Hospital. After carrying out the diagnostic procedures his doctor informed about the need for the operation. However, the head of the department in a rough form advised him to undergo psychiatric treatment ("go and heal your head") and "then maybe we will heal you". The operation was never carried out.

Case 4. In September 2017, a transgender man turned to a gynecologist at a polyclinic in the Minsk region maternity hospital. The doctor conducted an examination and found the presence of a disease requiring surgical treatment in a clinic. To resolve the issue of hospitalization, the doctor called the gynecological ward of the hospital and asked if it was possible to accept the woman who is "a little out of her mind". The conversation took place directly in the patient's presence. As a result, the hospitalization was denied, the patient was offered to register for the operation in a few months.

Case 5. The incident took place in Minsk in November 2015 - the victim and offender had been talking online and agreed to meet. The latter had originally intended to beat the victim and that's why suggested to have a date (so called "dummy date"). During the meeting perpetrator began punching the other man while shouting homophobic insults and filmed the assault with his phone. The attack lasted approximately ten minutes and the victim's wallet was also stolen. Offender was arrested shortly after the attack and was later charged with robbery and hooliganism to two years of limited freedom (without a prison term) and fined him. Hatred towards a particular social group was also taken into account (alongside intoxication) as an aggravating circumstance.

Case 6. October 2016, Minsk - a dummy date with a gay guy. Five students of the local gymnasium insulted him, beat him in the face, cut his hair, filming the bullying on the mobile phone. The victim appealed to law enforcement agencies, a criminal case was

¹² International Day against Homophobia, Biphobia and Transphobia, celebrated on 17th of May

¹³"Did not have the right to not react." Shunevich - about the Ministry of Internal Affairs commentary on the LGBT flag at the embassy, <https://news.tut.by/society/593788.html?cmd=22350>

opened. He faced severe moral pressure from the accused and their parents as well as investigator. All of them tried to force him to refuse to continue prosecution. Victim and his mother were harassed by constant calls and visits, until the guy agreed to write a petition for reconciliation. The case was stopped.

Case 7. 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 cases). He became the subject of humiliation and insults, these people filmed everything and posted it on the Internet with personal data of the victim. Police refused to open criminal case "for lack of corpus delicti". Later three of them were prosecuted but as the result of private accusation.

Case 8. In May 2016 in Minsk spontaneous attack on a couple of gay men happened. The victims appealed to the police. Police refused to start the criminal case "for lack of corpus delicti".

Case 9. On November 18, 2017 in Homel gay guy faced violence on the basis of homophobia. This was another case of a dummy date. The victim was beaten and his nose was broken. In the police station, officers grinned during his story, then began to ask the victim about his sexual orientation and whether parents know about it. After a negative answer, one of police officers said that he can tell the parents of the victim about this. This policeman wrote in the protocol that the victim himself started the fight. Criminal case was not started "because of the absence of corpus delicti".

Case 10. On 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 police 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 policemen was prosecuted for insults in spite of his numerous complaints.

Case 11. On May 2015, an attack on one of the visitors occurred near the gay club. The victim, Mikhail Pishchevsky, fell into a coma and was in hospital for a year and a half. In October 2016 he died as a result of injuries sustained. The criminal was convicted at first for "causing serious bodily harm through negligence". After the death of Pishchevsky, the court reviewed the case and sentenced him for "causing death by negligence" to three years of imprisonment. Despite the obvious signs of committing a crime motivated by homophobia, neither the investigator nor the court examined this motive and did not consider it an aggravating circumstance.

Case 12. On June 2016 in Grodno robbery and severe beating of a gay man happened at his house. The criminal case was started, perpetrators were sentenced to 5 years of restriction of liberty. Given the circumstances and severity of the attack, it can be said that this is a fairly mild punishment, the prosecutor asked for 5 years of real imprisonment. The motive of hatred was not seen as an aggravating circumstance.

2. Prohibition of torture and other cruel, inhuman or degrading treatment or punishment (art. 7)

Case 13. Respondent of the online-survey¹⁴ reported anonymously about the case of militia violence happened to his boyfriend in Minsk in 2017. He was detained by militiamen (OMON forces) for appearing in a public place drunk. They brought him into the police car and there began to mock and insult him. The victim has a high voice like a girl, his ear was pierced with earring in it, probably on this basis militiamen made the assumption that he is gay, although he didn't tell them about it. The victim was forced to undress, kicked him and violated him with a rubber truncheon into the anus. After about 40-50 minutes the guy was released at an unknown street. The victim did not apply for medical help, although respondent saw a few bruises.

3. Liberty and security of person and humane treatment of persons deprived of their liberty (arts. 9 and 10)

There is a serious concern about the facts of arbitrary detentions of LGBT-events visitors as well as indications on profiling on the basis of sexual orientation. There is also information about degrading treatment with regard to transgender people during detention.

Case 14. In January-February 2013 there were not less than 10 militia raids to LGBT parties. Militiamen 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 unit in June 2014 he became a subject of moral pressure, officials were trying to make him to confess in rape, they took his biological samples without him being a suspect or charged with a crime.

Case 15. There were at least 4 militia raids on LGBT parties in Minsk from May, 2017 to July 2018. Law enforcers recorded the passport data of those present and sometimes also demanded information about the place of work or study. Some were asked questions about their sexual orientation. Those who refused to provide personal information were detained and taken to the militia department. At least 13 people were detained. Some of them were drafted protocols for disobedience and petty hooliganism. There is no information about the purpose of collecting personal data of this parties' visitors.

Case 16. A homosexual man reported in an anonymous interview: "In June 2015, on one of the web-sites, an acquaintance offered me sex for a reward. I agreed and came to the apartment. It turned out that they were police officers. They behaved rather rudely, expressed an obvious disgust. They took out the contents of my bag and carefully studied, one of them took my phone and began to view contacts, messages. At the same time, I was asked if I knew some gay people from authorities, the executive committee, etc. I

¹⁴ Conducted by Identity and Law in June-July 2018

said that I do not communicate with anyone. Then they warned me that I would need to come to the police station tomorrow and tell something, maybe I'll remember someone. It sounded like a threat: if I do not come, they will do outing for me at work (it was veiled, but understandable).

Soon a sexual assault was committed by unknown man in a children's camp near our city. And police started calling all the gays for interrogation (you can guess how they found out some of them although sometimes it was rather strange). Personally I was called to go to the police department, but I refused. Then the police officer himself arrived to me. He took a sample of my saliva, showed an identikit. And there were a lot of such cases".

Case 17. A transgender man, detained during protests against the Decree on "social parasitism" in March 2017 in Minsk, said in an anonymous interview: "I was told at the time of the arrest that my passport (with female data) is not mine. Jokes of discriminatory nature began after police officers looked at the photo on the visa. In the Center for Isolation of Offenders, after the trial, they did not know where to settle me - in a male or female cell. They called me "strange thing." Then they said - let's check that between the legs and determine. They asked me what was between my legs. I did not answer. As a result, they decided to settle my according with my documents despite I asked to send me to the male cell. A personal inspection was conducted by a woman, although I asked the man to do this. When me and my cellmates were taken out to walk, the guard on duty pushed me back and did not let me into the courtyard. The shower was taken only once, on the 10th day, just because one of the girls agreed to go with me. Employees refused me to go to the shower alone."

4. Right to privacy and family life (art. 17)

The Committee asked to respond to concerns that personal data is not adequately protected in law and in practice and, in this respect, provide information on legislation on protection of personal data and on legal safeguards in place against arbitrary interference with the privacy of individuals, including with regard to protection of their personal data, and their observance in practice.

The legislation of Belarus has a number of drawbacks which often lead to an undesirable disclosure of gender transition and, as a consequence, to discrimination and violence.

The State party has quite clear procedure of legal gender recognition: transgender people may change their names and gender markers as written in their passports. If necessary, they also have access to hormonal therapy and surgical operations. A permit to change the gender marker is issued by a special commission after a lengthy medical monitoring and establishment of the diagnosis of "transsexualism".

a. Gender digital codes

The main threat to the privacy of transgender people is in the rules of awarding a personal ID-number.¹⁵ According to the legislation in force,¹⁶ this number cannot be changed. It creates the following problems:

- 1) The numbers generated before 2013 (most of adults have these numbers) have a clear gender indicator: the first digit is odd in men and even in women. Thus, even a superficial look at the passport of a transgender person discloses to any person the fact that she/he earlier had a different gender marker. Given that this old numbers can't be changed, transgender people are doomed to face such disclosure for all the rest of their life.
- 2) The numbers awarded after 2013 have no gender identifiers; however, databases of many institutions (banks, social protection fund, etc.) contain information about ID-numbers, correlated with other passport data. Thus, when addressing this information, employees see at once that, for example, a woman who has turned to the bank was figuring earlier in the database under a male name and surname.

See below excerpts from interviews¹⁷ with anonymous transgender respondents, illustrating the above-noted problem.

Case 18. "For a long time after receiving a new passport, I couldn't find a job. I was refused employment under any pretext; often I was not even invited for an interview to the office. I think it was because I had to indicate in the questionnaire for the personnel service the ID-number of my passport."

Case 19. "I addressed the Fund of Social Protection of Population, intending to receive a new Insurance Certificate; and as soon I stated my ID-number to the employee, he immediately told me that it was a male number. I had to explain that I'm a transsexual and was changing my sex. A lot of uneasy questions followed, not related to the situation, and by the end of the conversation I wanted only one thing – to get out of there as quickly as possible and never appear there again."

Case 20. "An awful story happened to me when I got employed to earn additional money at one trade centre in Minsk. I worked there for almost two months, my work satisfied the employer, and I had good relations with my colleagues. But one day, the hostess of the trading office where I worked called me and ordered me not to appear at work any longer, because I had deceived her, and in fact I was not a woman, but nobody knows what! She said that I had defamed her in the eyes of the whole shopping centre; and now all the people were mocking her and asking uneasy questions! She reacted negatively to all my attempts to explain the case, and said that her acquaintance, a former militiaman, saw a copy of my passport, 'explained to her, thank God, what a person I was!' Of course, I never go to that trading centre, as my appearance there may end in a scandal; however, I'd like to have a chance to come there from time to time and buy clothes and other

¹⁵ When describing the problems faced by transgender people because of non-compliance of documents with their appearance or identity, the international organization "Transgender Europe" notes: "For many trans people, the gendered information in these documents, including such data as name, gender marker **or a gendered digital code**, is a constant source of discomfort and trouble. Whenever having to show ID, presenting these documents means having to come out as transgender, even in very inappropriate situations, which can spark humiliation, discrimination and violence." See Legal Gender Recognition in Europe: A Toolkit, p. 8. Available at: http://www.tgeu.org/sites/default/files/Toolkit_web.pdf.

¹⁶ Law of the Republic of Belarus "On Population Register" of 28 July 2008, No. 418-Z

¹⁷ The data was obtained by the Initiative Group "Identity and Law" in May 2015 in the city of Minsk.

things, but not to be the hero of a show, like a monkey in the zoo. I didn't try to get employed at some other centre, since the hostess has a wide business and trading network in other places."

b. Indication of the "correction, change of sexual identity" in databases

In the database "Passport", run by the MIA, "correction, change of sexual identity" is indicated as the ground for issuing a new passport after changing the gender marker¹⁸. This information is accessible to any militiaman who addresses the database, for example during a routine personal identity check. This, in its turn, may result in a discriminatory refusal to help and further dissemination of information about the gender transition fact. See below an excerpt from an anonymous interview,¹⁹ illustrating the problem.

Case 21. "In late July 2014, I call a militia unit because my drunken father was making a scandal. When the militiamen arrived, and I signed the protocol, I accidentally saw a printout of my personal data; the number of my old birth certificate was indicated there, as well as the fact of change in the name, and added in big letters: CHANGE OF SEX. Ten days later, I went to the militia station to sign again the protocol on this case, as they told me. As a result, I got into a terrible situation: I was sitting in the room and all employees were coming in to look at me, as at an exotic animal. I felt just awful!"

c. Inefficiency of the existing protection mechanisms against undesirable disclosure of information about the transgender status

Article 179 of the Criminal Code of the Republic of Belarus envisions responsibility for any illegal collection and dissemination of data about a person's private life which makes his/her personal or family secret, without his/her permit, which has caused any damage to the victim's rights, freedoms and legitimate interests. This article may be used to protect the privacy of transgender women. However, Part 1 of Article 179 (dissemination of data about a person's private life without using someone's official position or special means) is a case for private prosecution, which means that a victim should themselves act at court as a prosecutor and collect proof of the infringer's guilt. However, for a person who is not a lawyer this is a practically impossible task, which leaves transgender person in fact defenceless against a possibility of dissemination of information about their transition.

Case 22.²⁰ In May 2016, a transgender woman who worked at a store was noticed by one of her former colleagues who had known her earlier as a man. This former colleague then, secretly from the victim, reported the information about her transition to her new

¹⁸ Art. 74 of the Decree of the Ministry of Internal Affairs of the Republic of Belarus from June 28, 2010 № 200

"On approval of the Instruction on the procedure for organizing the work of divisions on citizenship and migration of internal affairs bodies for the issue, accounting, exchange, recognition of invalid, seizure, storage and destruction of the passport of a citizen of the Republic of Belarus", <http://pravo.by/document/?guid=3871&p0=W21022721>

¹⁹ The data was obtained by the Initiative Group "Identity and Law" in May 2015 in the city of Minsk.

²⁰ The data was obtained by the Initiative Group "Identity and Law" in June 2016 in the city of Minsk.

colleagues. This led to a conflict as a result of which the transgender woman was transferred to another job with a lower salary. Then, she turned to the militia, but the superficial inquiry failed to identify the person who had disclosed the data.

5. Freedom of expression, peaceful assembly, freedom of association, and the right to participate in public life (arts. 19, 21, 22 and 25)

Belarus was asked to provide information on measures taken to guarantee, both in law and in practice, the free exercise of freedom of association, including on measures to address: (a) the restrictive rules on registration of public associations, reports of widespread denial of registration on politically motivated or discriminatory grounds, including to LGBT organizations and the Human Rights Center “Viasna”.

Belarus reported that on 5 May 2013, the Ministry of Justice was obliged to reject the application for State registration submitted by the Lambda Human Rights Centre, a nationwide youth association. The application was rejected on the grounds that the founders had violated the procedure for the association’s establishment by failing to comply with the requisite conditions. Furthermore, the association’s charter did not provide for activities aimed at the socialization and all-round development of young people.

It should be noted that the mentioned by the Ministry of Justice reasons for refusal in registration appear to be either insignificant errors (for example, an error in spelling the founder's personal data) or subjective judgments.

It’s also important that after this rejection 69 out of 72 Lambda 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 police mentioned the necessity to get testimonies about alleged sexual crimes. But the conversations were mainly about the attempt to register LGBT organization and the reasons of participation in it. Militiamen threatened to initiate criminal cases against activists for acting on behalf of an unregistered organization. Besides, activists were asked personal questions about sexual orientation and relations with their partners.

We would also like to refer here to numerous cases of pressure on LGBT activists from the State party authorities in 2011-2014 that are described in the NGO submission for LoIPR²¹.

Unfortunately, we should state that there is no progress in respect of the rights of LGBT activists to freedom of expression, peaceful assembly, freedom of association, and the right to participate in public life. Cases mentioned below illustrate this.

Case 23. In the period from August to December 2016 Natallia Mankouskaya 5 times tried to agree the name for the establishment for the protection of LGBT rights in the Main Department of Justice of the Minsk City Executive Committee (a total of 18

²¹ Submitted by Human Rights Project GayBelarus, INT_CCPR_ICS_BLR_20224_E

variants of names were submitted). The justice department refused all applications. In the case of variants with the mention of LGBT, the reason for the refusal was "a contradiction to the public interests, the principles of humanity and morality", but if there was no such mention, then the basis was "no indication of the nature of the activity". With this approach, of course, the requirements of the registration authority are mutually exclusive and impossible.

Case 24. On December 15, 2017 in Minsk, a presentation of the paper version of the magazine "MAKEOUT" which cover the life of LGBT people in Belarus took place. During the presentation, militiamen came. They told about received complaints that "videos with perversions would be shown here to young people".

Officers were interested in what would happen here, on what grounds people are present in the room. "What if you're here to engage in propaganda of homosexuality!?"

Militiamen began to ask whether there were any documents for printing the magazine, whether there was a contract with the printing house and they demanded a license for publishing. During the event they filmed slides of the presentation and participants of the event, and then took a copy of the magazine with the words: "for expertise"²².

Case 25. The events of International Festival of Queer Culture Dotyk, were planned for April 6-8, 2018. Shortly before the event, a complaint was sent to the authorities asking not to allow the festival to be held, because Orthodox Easter was celebrated on these dates. As a result, pressure was put on the the premise owner, which took the form of numerous and sudden inspections of the premise. As a result, the festival was prohibited in the planned location, despite the fact that the violations were insignificant and could be immediately eliminated. Later, the premise owner refused to let Dotyk's team even to enter the rented premises²³.

Case 26. On July 31, 2018, Alok Vade-Menon was not allowed to enter Belarus by the Border Service without any explanation. They are transgender activist and came to Belarus from the United States with the invitation of the MAKEOUT team for the cultural event.

²² Presentation of the magazine "MAKEOUT" - under the close attention of the militia
<http://spring96.org/ru/news/88625>

²³ Official Statement of the IV International Queer Festival DOTYK 2018
<http://dotyk.by/%D0%B0%D1%84%D1%96%D1%86%D1%8B%D0%B9%D0%BD%D0%B0%D1%8F-%D0%B7%D0%B0%D1%8F%D0%B2%D0%B0-%D0%BF%D0%B0-%D0%B2%D1%8B%D0%BD%D1%96%D0%BA%D0%B0%D0%BC-iv-%D0%BC%D1%96%D0%B6%D0%BD%D0%B0%D1%80%D0%BE%D0%B4%D0%BD/>

Recommendations:

- Adopt comprehensive anti-discrimination legislation that addresses discrimination, including in the private sphere, prohibits direct, indirect and multiple discrimination, contains a comprehensive list of grounds for discrimination, including sexual orientation and gender identity, and provides for effective remedies in judicial and administrative proceedings.
- Amend the legislation to envisage a change of the ID-number with the change of the gender marker.
- Exclude from the list of grounds for changing a passport of a citizen of Belarus such grounds as "Change of surname, name or patronymic" and "Change of sexual identity", by replacing them by one single ground "Change of personal data".
- Change the prosecution of cases under Part 1, Article 179, of the Criminal Code to private-public prosecution. Create an efficient system of prevention and treatment of consequences of unwanted disclosure of information on the transgender status by state agents as well as by non-state agents.
- Include compulsory course in the program for all MIA personnel and law enforcement on permanent basis on the issues relating to SOGI, including inadmissibility of discrimination on such grounds and the need for correct treatment of LGBT people.
- Adopt effective legislative, administrative, budgetary, judicial, and other measures that promote the right to health of trans people.
- Establish cooperation with civil society when organizing activities aimed at reducing stigma and discrimination against LGBT people