



The Equal Rights Trust

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Parallel report submitted to the 48th session of the Committee on the Elimination of All
Forms of Discrimination Against Women (CEDAW) in relation to the seventh periodic
report submitted by:

The Republic of Belarus

January 2011

Statement of Interest

1. The Equal Rights Trust (ERT) submits this parallel report to the United Nations Committee on the Elimination of Discrimination Against Women (the Committee) commenting on the Seventh Periodic Report of the Republic of Belarus, submitted under Article 18 of the United Nations Convention on the Elimination of All Forms of Discrimination against Women (the Convention).
2. ERT is an independent international organisation whose purpose is to combat discrimination and promote equality as a fundamental human right and a basic principle of social justice. Established as an advocacy organisation, resource centre and a think tank, it focuses on the complex and complementary relationship between different types of discrimination, developing strategies for translating the principles of equality into practice.
3. ERT is currently implementing the project "*Empowering civil society in Belarus to combat discrimination and promote equality*" in partnership with the Belarus Helsinki Committee, a Belarusian Non-Governmental Organisation. Through this project, ERT has developed a strong understanding of the patterns of discrimination, including those based on gender, which prevail in Belarus and the adequacy of the Belarusian legal and policy framework to address these patterns.

Executive Summary

4. The present shadow report assesses the adequacy and effectiveness of legal provisions designed to protect women in Belarus from discrimination in light of Belarus' obligations under the Convention.
5. ERT welcomes the progress made by the Belarusian authorities in addressing some of the most pressing causes of discrimination and inequality affecting women in the country. However, ERT expresses concern about the adequacy of the government's legislative response on a number of important issues.
6. ERT believes that anti-discrimination legislation in Belarus is inadequate in addressing the discrimination and disadvantages faced by women. Despite significant positive developments in the law – particularly as a result of the adoption of a number of new Acts - legislative protections are still weak and inconsistent. In some fields the discriminatory application of laws is not effectively prohibited. There is no specific anti-discrimination law providing legal definitions of key concepts, general standards of protection or effective remedies and sanctions.

Articles 1 and 2 – Definition of Discrimination and Policy Measures to Eliminate Discrimination against Women

7. Women in Belarus enjoy general constitutional protection of their equal rights: the **Constitution of Belarus** provides for equality before the law and entitlement to equal protection without discrimination (Article 22 of the Constitution).¹
8. However, Belarus legislation fails to provide a definition of either discrimination generally or discrimination on grounds of sex or gender. Nor does the Constitution provide a list of prohibited grounds of discrimination, which makes it difficult for women to ensure protection against some forms of multiple discrimination, where one of the protected characteristics is sex or gender.
9. ERT is concerned that no comprehensive law on gender equality exists in Belarus. A draft gender equality law, which would include a definition of gender discrimination as well as definitions of direct and indirect discrimination, was elaborated in 2000 but has not yet been introduced in the National Assembly.
10. The Equal Rights Trust urges the Committee to recommend that Belarus adopts comprehensive anti-discrimination legislation prohibiting, inter alia, all forms of gender-based discrimination and which: a) includes a comprehensive legal definition of discrimination, including a non-exhaustive (“open”) list of prohibited grounds of discrimination; and b) covers direct and indirect discrimination, multiple discrimination, discrimination by association or perception, segregation and harassment; c) creates protection against victimisation, and d) provides a basis for applying temporary special measures.
11. The Equal Rights Trust welcomes the ratification by Belarus of the **Optional Protocol to the Convention** in February 2004. However no individual complaints have so far been submitted.
12. To date, no court cases challenging discrimination on grounds of gender have been successfully brought in Belarus. Belarusian courts have refused to accept discrimination as the subject of a claim and in hearing suits claiming civil damages caused by discrimination, courts have found that the Civil Code contains an exhaustive list of grounds on which one can be responsible for causing pain and suffering and

¹ Constitution of the Republic of Belarus, 1994, available at: <http://www.law.by/work/EnglPortal.nsf/6e1a652fbefce34ac2256d910056d559/d93bc51590cf7f49c2256dc0004601db?OpenDocument> [article 22].

that discrimination is not on that list.²

13. The Equal Rights Trust urges the Committee to recommend that Belarus takes steps, including through well-resourced judicial training, to improve understanding by the judiciary and other stakeholders of the concept of discrimination and the legal remedies that should be available to victims of discrimination. The government should further take steps to strengthen the capacity of the judiciary in the area of equality through encouraging international cooperation to allow judges and other stakeholders to learn from international best practice.

Articles 3 and 4 – Guarantee of Basic Human Rights and Fundamental Freedoms and Temporary Special Measures

14. ERT welcomes the range of measures which the government has taken to promote the advancement of women in Belarus. In particular, it is commendable that according to Article 32 of the **Constitution**, "*Women shall be guaranteed equal rights with men in their opportunities to receive education and vocational training, promotion in labour, socio-political, cultural and other spheres of activity, as well as in creating conditions safeguarding their labour and health*".³ However, Belarus has very seriously failed to respect, protect and fulfil basic human rights and fundamental freedoms, including freedom of expression, association, and assembly without any discrimination, and the country's poor general human rights record means that women, too, have been exposed to serious violations of their rights, along with men. Credible progress in fulfilling the state's commitments under the Convention is not compatible with maintaining a poor human rights record in violation of other major human rights treaties, including the International Covenant on Civil and Political Rights.

Article 7- Political and Public Life.

15. Article 24 of the Act "**On Public Service in the Republic of Belarus**" provides that no restrictions shall be placed on public service owing to gender, race, nationality, social origin, property, religion, belief or membership of political parties and other public associations.⁴ The third **National Plan of Action** is being realised to promote gender equality (2008-2010). However, it is a cause for concern that the two prior National Plans (1996–2000 and 2001–2005) have failed to make significant changes to perceptions of traditional gender roles in Belarus.

16. ERT commends the measures which Belarus has taken to increase women's participation in political and public life. In particular, it is notable that the numbers of women who have been elected to representational bodies at all levels have increased over the reporting period. In 2004, there were more than 20 national women's organisations registered with the Ministry of Justice and several dozens of local women's NGOs registered with regional and district centres; as of July 1, 2009, there were 32 women's organisations registered at various territorial levels in Belarus.

² [Joint Submission by International Federation for Human Rights \(FIDH\), Belarusian Helsinki Committee \(BHC\), Belarusian Association of Journalists \(BAJ\), "Viasna" Human Rights Centre, Assembly of Democratic Non-Governmental Organizations of Belarus and Congress of Independent Unions, Belarus to the Universal Periodic Review of Belarus \(UPR\), 2009 \(available at: \[http://lib.ohchr.org/HRBodies/UPR/Documents/Session8/BY/IS2_UPR_BLR_S08_2010_JointSubmission2.pdf\]\(http://lib.ohchr.org/HRBodies/UPR/Documents/Session8/BY/IS2_UPR_BLR_S08_2010_JointSubmission2.pdf\)\) \[12\]](http://lib.ohchr.org/HRBodies/UPR/Documents/Session8/BY/IS2_UPR_BLR_S08_2010_JointSubmission2.pdf)

³ Constitution of the Republic of Belarus, 1994, available at: <http://www.law.by/work/EnglPortal.nsf/6e1a652fbefce34ac2256d910056d559/d93bc51590cf7f49c2256dc0004601db?OpenDocument> [article 32]

⁴ Act "On Public Service in the Republic of Belarus", 2003, available at: <http://pravo.by/webnpa/text.asp?RN=H10300204> (in Russian) [article 24]

17. However, ERT is concerned that women are underrepresented at the highest levels of political and public life. Few women work in executive bodies in Belarus, including the Council of Ministers, and only one ministry out of twenty four is headed by a woman.⁵ Despite a significant increase in the diplomatic representation of the Republic of Belarus abroad, only four women represent Belarus as Ambassadors.⁶

18. The Equal Rights Trust urges the Committee to recommend that Belarus implements policy and resource mechanisms to ensure the equal engagement of women in all areas of political and public life, and adopts measures to ensure the equal participation of women at the highest levels of government.

Article 10 – Education

19. The commitment of the Belarusian government to increasing access to education for all is made clear by the range of legislative and policy measures which are outlined in paragraphs 238 - 287 of the government's report. ERT commends the exceptionally high literacy rate (99.7%)⁷ achieved in Belarus, and the provision of universal free education at primary and secondary levels, and access to free state tertiary education on the basis of competition, which has resulted in female representation of 58% at the tertiary level in 2006-2007.⁸

20. However, gendered inequality of access to and outcomes of education remains a serious problem. Some minority girls such as Roma face difficulties in enrolling in school. Educational standards vary widely between urban and rural areas, putting rural women at a specific disadvantage.

21. The Equal Rights Trust urges the Committee to recommend that Belarus adopts measures promoting equality between women and men in the area of education and takes steps to support women facing multiple barriers to educational attainment.

Article 11 – Employment

22. ERT welcomes the adoption of measures to increase women's employment under the “**State Programme to Promote Employment**”.⁹ ERT also welcomes the recent amendments to the **Law on Employment**,¹⁰ which extends the protection from discrimination to the protected grounds of age and residence. The enacting of this amendment will help to reduce the discrimination experienced by older women in employment.

23. ERT is concerned, however, that little progress has been made in narrowing the gender pay gap in Belarus during the reporting period; in 2004 the gender pay gap stood at 18.8%, however as of 2009 it had risen to 21.6%, indicating that women still received on average only 78% of the salaries of their male

⁵ Council of Ministers of the Republic of Belarus, available at: <http://www.government.by/en/main.html>

⁶ Diplomatic Representations of the Republic of Belarus, available at: http://www.belembassy.org/index_eng.html

⁷ United Nations Development Programme, *Human Development Report 2010*, 2010, p. 193 (available at: http://hdr.undp.org/en/media/HDR_2010_EN_Complete_reprint.pdf)

⁸ United Nations Economic Commission for Europe, *UNECE Countries in Figures 2009*, 2009, available at: <http://www.unece.org/stats/profiles2009/belarus.pdf>

⁹ State Program Promoting Employment in the Republic of Belarus for 2009-2010, 2008, available at: <http://pravo.by/webnpa/text.asp?RN=C20801640> (in Russian)

¹⁰ Act “On Amending the Law of the Republic of Belarus ‘Employment in the Republic of Belarus’”, 2009, available at: <http://pravo.by/webnpa/text.asp?RN=H10900094> (in Russian) [provision 4]

colleagues for work of equal value.¹¹ In addition, women tend to be concentrated in traditionally gendered employment sectors with lower wages than more traditionally male-dominated sectors.

24. The Equal Rights Trust urges the Committee to recommend policy responses designed to reduce the gender pay gap and to enforce the principle of equal remuneration for work of equal value. Further, the Committee should also recommend that Belarus adopt measures to overcome gender stereotyping with regard to employment.

25. The Equal Rights Trust urges the Committee to recommend that Belarus ratifies the International Labour Organisation Convention concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities” (ILO Convention 156). In this regard, it is also recommended that civil and family status as well as carer responsibilities be included in the list of grounds on which discrimination in all aspects of employment is prohibited.

26. In addition, as noted in the government’s own report, whilst the state provides pensions to women at a younger age and requiring less qualifying years than for men, women on average receive 10% less income from pensions than men. The explanation offered by the state party, that this due to the fact that women have lower final salaries as compared to men due to their traditional employment in sectors with lower salaries, is inadequate as it does not seek to offer remedy for the income discrepancy.

27. The Equal Rights Trust urges the Committee to recommend that Belarus adopts measures to overcome the differences in pension entitlement between men and women.

Article 16 – Family Life and Marriage

28. ERT is concerned at the extremely high prevalence of domestic and gender-based violence in Belarus. According to research conducted by the Belarusian State University Centre for Sociological and Political Research in cooperation with the United Nations Representative in the Republic of Belarus, four out of five women in Belarus aged 18 to 60 are subject to psychological violence in the family, one in four are subject to physical violence, 22.4% of women experience economic violence, and 13.1% experience sexual violence from their husband or permanent partner.¹²

29. Belarus lacks specific legislation criminalising domestic violence. The CEDAW Concluding Observations on Belarus, 2004 provide the following: “*The Committee calls upon the State party to enact the draft law on the prevention and suppression of domestic violence and to ensure that violence against women is prosecuted and punished with the required seriousness and speed.*”¹³ A Draft law on the prevention and elimination of domestic violence was drawn up in 2002, discussed in the National Assembly and approved by the Ministry of Internal Affairs. However, to date it has not yet been passed by the National Assembly.

¹¹ United Nations Economic Commission for Europe, *UNECE Countries in Figures 2009*, 2009, available at: <http://www.unece.org/stats/profiles2009/belarus.pdf>

¹² Belarusian State University Centre for Sociological and Political Research, *Research Study on Domestic Violence*, 2008 (summary of results available at: <http://webapps01.un.org/vawdatabase/searchDetail.action?measureId=25127&baseHREF=country&baseHREFId=206>)

¹³ Committee on the Elimination of Discrimination Against Women, *Concluding comments of the Committee: Belarus*, 18 March 2004 (available at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/A.59.38.para.325-364.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/A.59.38.para.325-364.En?Opendocument)), Paragraph 348

30. The Equal Rights Trust urges the Committee to recommend that Belarus take immediate legislative action to protect women from domestic, sexual and gender-based violence.

Concluding Recommendations

31. In the preceding sections, ERT has sought to assess the adequacy of Belarus' legal and policy framework to address the discrimination faced by Belarusian women, in line with the Articles of the Convention, and has made specific legislative or policy recommendations. However, ERT believes that in order to effectively meet its obligations under the Convention the state party must adopt comprehensive anti-discrimination legislation providing protection for women and other vulnerable groups from all forms of discrimination in all areas of life governed by law. In so doing, the state would meet its obligations under the Convention and act in accordance with the Committee's request in its Concluding Comments of 2004, as quoted below:

*"The Committee recommends that the State party ensure a holistic approach to all policies and programmes devoted to achieving equality between women and men. The Committee recommends that gender-mainstreaming in all public institutions, policies and programmes be introduced through gender training and the creation of focal points. The Committee requests the State party to include in its next periodic report sex-disaggregated data in all areas of the Convention."*¹⁴

32. The Equal Rights Trust urges the Committee to recommend that the government adopt comprehensive anti-discrimination law, in line with international norms and the State's obligations under the international conventions to which it is party, which includes, inter alia, effective protection for women and girls against discrimination and promotes gender equality.

¹⁴ Committee on the Elimination of Discrimination Against Women, *Concluding comments of the Committee: Belarus*, 18 March 2004 (available at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/A.59.38.paras.325-364.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/A.59.38.paras.325-364.En?Opendocument)), Paragraph 338