



EQUAL RIGHTS TRUST

Suggestions for the List of Issues Prior to Reporting to be adopted by the Committee on Economic, Social and Cultural Rights at its 63rd session (PSWG) in relation to:

Belarus

17 September 2018

Statement of Interest

1. The Equal Rights Trust (the Trust) submits the following suggested questions for the list of issues prior to reporting to be adopted by the Committee on Economic, Social and Cultural Rights (the Committee) at its 63rd Session (Pre-Sessional Working Group) in relation to Belarus.
2. The Equal Rights Trust (the Trust) is an independent international organisation whose mission is to eliminate discrimination and ensure that everyone can participate in society on an equal basis. We work in partnership with equality defenders around the world to secure the adoption and implementation of equality laws. Over the last decade, we have worked in partnership with organisations in more than 45 countries to support equality defenders to press for the adoption and effective implementation of comprehensive anti-discrimination law.
3. We have been involved in efforts to combat discrimination in Belarus since 2010. In the projects *Empowering Civil Society in Belarus to Combat Discrimination and Promote Equality* and *Empowering Civil Society to Advocate Collaboratively the Adoption of Anti-discrimination Legislation*, the Trust worked in partnership with the Belarusian Helsinki Committee (BHC) and trained and consulted with many other civil society organisations from across the country. In the course of this project, the Trust and BHC undertook research on patterns of discrimination and inequality in Belarus, including discrimination in accessing the rights under the International Covenant on Economic, Social and Cultural Rights (the Covenant). This research culminated in the publication of the report *Half an Hour to Spring: Addressing Discrimination and Inequality in Belarus* (the Report) in 2013.¹ The report provides, for the first time, a comprehensive assessment of the lived experience of those exposed to discrimination on the basis of various grounds, with an analysis of the national legal framework on equality and non-discrimination in Belarus.

¹ Equal Rights Trust, *Half an Hour to Spring: Addressing Discrimination and Inequality in Belarus*, November 2013, ERT Country Report Series: 3, available at: <http://www.equalrightstrust.org/belarus-half-hour-spring>.

4. Based on the findings and recommendations in *Half an Hour to Spring*, in October 2013, we submitted a shadow report to the Committee during its review of Belarus' combined fourth to sixth periodic reports at its 51st Session.² Our suggestions for the list of issues to be adopted by the Committee at the 63rd Session (PSWG) consist of follow-up questions to our and the Committee's recommendations to Belarus during the last review.

Article 2(2): The Legal Framework Related to Equality

5. Under Article 2(2) of the Covenant, State Parties undertake to guarantee the rights in the Covenant "without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". As the Committee has noted, compliance with this obligation necessitates *inter alia* the adoption of specific, comprehensive non-discrimination legislation.³ In order to fulfil states' obligations under the Covenant, such legislation should define and prohibit direct and indirect discrimination, harassment and failure to make reasonable accommodation, on an extensive and open-ended list of characteristics, in respect of all rights protected by the Covenant.⁴
6. In the Trust's previous submission to the Committee, we expressed our concern that Belarus had not yet adopted a comprehensive anti-discrimination law and recommended that such law be adopted.⁵ This recommendation was echoed by the Committee in its Concluding Observations.⁶
7. In relation to this recommendation for the adoption of comprehensive anti-discrimination law, we also note the Committee's request in its Concluding Observations for the State Party to report on cases of discrimination decided by domestic courts.⁷ We also note from the Committee's last Concluding Observations on Belarus that the State Party was asked to compile a study on the nature and extent of indirect and systematic discrimination in the country and what measures have been taken to combat such discrimination.⁸

² Equal Rights Trust, *Parallel report submitted to the 51st session of the Committee on Economic, Social and Cultural Rights in relation to the combined fourth to sixth periodic reports submitted by: Belarus*, October 2013, available at: https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/BLR/INT_CESCR_NGO_BLR_15645_E.pdf.

³ Committee on Economic, Social and Cultural Rights, *General Comment No. 20: Non-discrimination in economic, social and cultural rights (Article 2, Para. 2, of the International Covenant on Economic, Social and Cultural Rights)*, UN Doc. E/C.12/GC/20, 2009, Para 37.

⁴ *Ibid.*, Paras 7-12, 15.

⁵ See above note 3, Para 39.

⁶ UN Committee on Economic, Social and Cultural Rights (CESCR), *UN Committee on Economic, Social and Cultural Rights: Concluding Observations on the fourth to sixth periodic reports of Belarus*, 13 December 2013, E/C.12/BLR/CO/4-6

⁷ *Ibid.*

⁸ *Ibid.*

Suggested Questions – Legal Framework

- What steps has the State Party taken since its last review to enact comprehensive anti-discrimination law which prohibits discrimination in the enjoyment of all economic, social and cultural rights protected under the Covenant?
- How many cases related to discrimination have been decided by domestic courts between 2013 and 2018? What were the forms and grounds of discrimination involved, and what remedies, if any, were obtained?
- Can the State Party present its study on indirect and systematic discrimination requested by the Committee during the last review in 2013, including what steps have been taken to combat such discrimination?

Discrimination Affecting the Enjoyment of Other Covenant Rights

8. The report *Half an Hour to Spring: Addressing Discrimination and Inequality in Belarus* presents evidence of discrimination and inequality on grounds of, *inter alia*, gender, health status and political opinion.⁹ The report found that discrimination is a major factor in limiting the enjoyment of Covenant rights on an equal basis with others. In this section of the submission we provide selected highlights of our finding, in order to illustrate the impact of discrimination on various grounds on the enjoyment of Covenant rights.

Articles 6 and 7: The Right to Work and the Right to Just and Favourable Conditions of Work

9. In our previous shadow submission, we presented evidence of discrimination in access to employment, particularly for women, LGBTI persons, persons with disabilities and political activists. For example, our research found that political activists are often refused renewal of contracts (after the end of a fixed-term contract) or have been dismissed in relation to their socio-political activity.¹⁰
10. In relation to women's labour rights, we noted that women in 2009 earned on average 74.6% of what men earned and are underrepresented in senior decision-making positions.¹¹ We noted that existing legislation set out to combat discrimination against women in the workplace was not implemented in practice. For example, despite the existence of legislation at the time which protected from discrimination on the basis of pregnancy or having children under the age of three, we found evidence that employers asked female candidates in job interviews about their marital status and plans of having children.¹²

⁹ See above note 1.

¹⁰ See above note 3, Paras 58-63..

¹¹ *Ibid.*, Paras 42, 44.

¹² *Ibid.*, Para 45.

11. For persons with disabilities, our previous submission noted the failure of the State Party to provide reasonable accommodation, despite a number of laws and policies enacted to promote labour rights of persons with disabilities.¹³ We also shared the Committee's concern in its Concluding Observations that the provision of reasonable accommodation was not, at the time, required except in relation to disabilities caused by occupational injury or illness.¹⁴ We expressed concern at 2010 statistics which indicated found that only 17.2% of persons with disabilities over 18 years old were employed.¹⁵
12. In our previous submission, we reported a high degree of stigma against the LGBTI community in Belarus which affects the enjoyment of the right to work for persons of the LGBTI community.¹⁶

Suggested Questions – Employment

- What concrete measures have the State Party taken to ensure the equal enjoyment of the right to work without discrimination on grounds including but not limited to gender, disability, political opinion and sexual orientation and gender identity?
- Has the State Party amended its legislation so that the provision of reasonable accommodation in the workplace is now required beyond reasonable accommodation for disabilities caused by occupational injury or illness?
- What measures have the State Party taken, if any, to combat stigma against the LGBTI community and stereotypes around gender roles which pose barriers to the equal enjoyment and access to employment for women and LGBTI persons?

Article 12: The Right to the Highest Attainable Standard of Physical and Mental Health

13. In our previous shadow report to the Committee, we reported widespread stigma and discrimination against persons living with HIV in the access to and enjoyment of healthcare. For example, we referred to a survey from 2009 which found that one in five respondents indicated that they had been denied healthcare due to their HIV status.¹⁷

Suggested Question – Healthcare

- What measures the State Party taken to ensure the equal enjoyment of the right to physical and mental health, without discrimination?

¹³ *Ibid.*, Paras 49-54.

¹⁴ See above note 7.

¹⁵ *Ibid.*, Para 54.

¹⁶ See above note 3, Para 64.

¹⁷ *Ibid.*, Para 67.

Article 13: The Right to Education

14. As set out in detail in the Trust's report *Learning InEquality: Using equality law to tackle barriers to primary education for out-of-school children*, discrimination can be a significant factor inhibiting access to and completion of education.¹⁸ In Belarus, our research found significant evidence of discrimination against various groups, including the Roma population, women, political activists and linguistic minorities.
15. For example, in our previous submission we noted data from the 2009 census which indicated that only 41% of the Roma population had primary education, and only 19% general education.¹⁹ Further, according to the 2009 census as little as 0.5% of those of the relevant age of the Roma population have higher education.²⁰ We also noted that subjects in schools often perpetuate gender stereotypes, with women being overrepresented in subjects such as social sciences. Statistics from 2009/2010 indicate that only 28% of students are women in engineering and technology.²¹
16. Furthermore, our research documented several cases of direct discrimination on the ground of political opinion where activists have been expelled from higher and secondary educational facilities.²²
17. Our previous shadow submission noted that despite legal provisions which provide for an option for linguistic minorities to access education in their native language, in practice the availability of instruction in a minority language is often left to the discretion of officials.²³ For example, we noted that only a very low percentage of education was conducted in Belarusian despite the fact that both Belarusian and Russian are official languages.²⁴

Suggested Question – Education

- What measures, if any, have the State Party taken to remove discriminatory barriers to education, including but not limited to access to and enjoyment of education for Roma learners, women, political activists and speakers of Belarusian and minority languages?

¹⁸ Equal Rights Trust: *Learning InEquality: Using equality law to tackle barriers to primary education for out-of-school children*, London, November 2017, available at:

http://www.equalrightstrust.org/ertdocumentbank/Learning%20InEquality_e-version_2.pdf.

¹⁹ See above note 3, Para 70.

²⁰ *Ibid.*

²¹ *Ibid.*, Para 74.

²² *Ibid.*, Para 78.

²³ *Ibid.*, Para 87.

²⁴ *Ibid.*, Para 80.