Republic of Belarus

**NGO report to UN Human Rights Committee**

**in connection with the adoption** **of the List of Issues prior to reporting**

**Submitted by Human Rights Project GayBelarus**

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**Introduction**

The report describes the situation with observance of HR of LGBT people and with cases of sexual orientation and gender identity discrimination in Belarus. 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.

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 it. In practice national courts do not consider that arguments on sexual orientation discrimination are based on the law.

The legislation provides for responsibility for violation of equality of citizens. 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.

Belarusian legislation doesn’t have any norms providing for responsibility for hate crimes against LGBT. Police 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.

There are cases of illegal dismissals based on involvement in promoting LGBT rights.

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 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**

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.

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 happenned inside the organization and told him about the criminal responsibility for the participation in unsanctioned events.

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.

The second attempt to register LGBT organization (HR 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.

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 police mentioned the necessity to get testimonies about alleged sexual crimes. But the conversations were mainly about the attempt to register HR LGBT organization and the reasons of participation in it. Police 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 police with a request to “exert an influence” at the student who refused to come to militia department without summons.

On August 16 2013 deputy head of “GayBelarus: Maxim Dmitriev was summoned for questioning as a witness to the Department of drug control and human counter trafficking of the MIA’s criminal police. Mr. Dmitriev was warned about criminal responsibility for acting on behalf of an unregistered organization. Policmen talked about making pornography and corrupting of minors connecting the growth of the amount of such crimes with public mentioning of LGBT.

On January 20 2014 two LGBT activists were summoned for the same “conversation”. Policeman 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**

On January 2011 Belarusian LGBT activist Sergei Praded was preventively detained in street in Minsk before Lukashenko’s inauguration.

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.

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**

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 assambleys were not satisfied on formal grounds. Attempts to hold unsanctioned assambleys very often led to detentions. In some cases the detained faced cruel and inhuman treatment.

On May 2010 in Minsk police dispersed peaceful march of LGBT rights protection activists. Police 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 police. The detained spent two days under arrest. They all were fined to 17500 roubles (6 USD) A day before the planned meeting Police’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-ownednewspaper “Respublika” published an article full of homophobic insults devoted to the coming Gay Pride6.

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 Okrestina 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.

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”. Police forced them to give fingerprints and made pictures of them.

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.

Special Forces police 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 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**

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 police he provoked the assault by molesting those who beat him.

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 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.

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. Police 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**

Police 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

A group of drunken people tried to attack club “Kasta Diva” in Minsk popular among LGBT community on August 13 2011. Police who came to the place didn’t do anything and later just left.

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

Igor Tikhonuk was among the founders of “Lambda” who were questioned by militia in February 2013. He spent an hour in police department, there he was beaten, insulted and threatened for being gay. Mr. Tikhonuk wrote a complaint to prosecutor’s office but none of the policemen was punished.

**Discrimination at labour market**

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.

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.

Rights of transgender people to privacy and non-discrimination

Transexuality is considered to be a psychiatric disorder. Besides that, Belarusian legislation has several provisions that gravely violate the rights of transgender people to personal privacy and non-discrimination.

Thus, in accordance with new amendments that were enacted in 2012, passport identity numbers are generated gender neutrally whilst before identity number was with reference to gender. Those transgender people who changed their legal gender after 2012 not able to change their passport identity number for a gender neutral one. Consequently, having undergone a gender change becomes obvious every time a transgender person shows their passport, which violates the right to personal privacy and entails discrimination (during employment, obtaining banking services etc.).

Transgender female-to-male people are registered for military service and given military ID where it is mentioned that they have severe personality disorder. Notably, transgender people are stigmatized based on their gender change without consideration of their actual state of well-being. Military ID is a compulsory document for job application. In practice people with stated personalities disorders are given fewer jobs, except for low-skilled ones.

**The proposed list of issues for Belarus before the reporting:**

1. Please describe what measures are being taken and planned to be taken by the State party for the detection, investigation, prevention of hate crimes in general, and on the basis of hatred because of the real or perceived sexual orientation and/or gender identity. Do the trainings for law enforcement officers, judges, prosecutors, lawyers in hate crimes take place during the refresher course?

2. Please describe legislative and other measures that are going to be taken by the State in order to protect the rights of transgender people from disclosure of personal information about the fact of gender change and for protection from discrimination, including on the labor market.

3. Please describe what measures will be taken to ensure that human rights defenders working with LGBT people fully enjoy their rights to freedom of association, assembly and expression.

4. Please describe what measures are being taken and planned to be taken to prevent hate speech against LGBT people, in particular from representatives of the state.

5. Please describe the legislative and other measures that have been taken and\or planned to be taken to prevent discrimination, including on grounds of sexual orientation and gender identity, and to restore the rights of people affected by it.

6. Please describe what measures are being taken and planned to be taken to reduce homophobia and transphobia in society and promote tolerance to LGBT.

7. Were the police repressions against LGBT people and LGBT human rights defenders (dispersals of peaceful assemblies, raids on clubs, persecution of the founders of the LGBT organization) a manifestation of the State party's official position with regard to LGBT or a personal initiative of police officials? If the latter is true, what measures have been taken against the police officers violated the basic rights and freedoms in these cases?

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