In the Republic of Belarus discrimination is not defined in the existing laws. There is no definition of discrimination and no list of protected grounds even in the Constitution, which is very concise when referring to this issue. The list of grounds protected from discrimination is set forth in the Labor Code\(^1\). However, it does not include such protected grounds as sexual orientation and gender identity. The Criminal Code also fails to mention SOGI. Thus, due to the restricted list of protected grounds and presence of such list only in the legislation, LGBT people are not able to fully use the existing anti-discrimination mechanisms. Presence of an open list of protected grounds allows using such provisions in case if the judicial system works properly. However, according to local activists, very few people were able to use this opportunity in practice.

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. Respondents from Belarus indicated 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”.

At the same time, cases of discrimination based on SOGI among public officials remain a widespread problem. There are no training programs on equal treatment of LGBT people for civil servants, health professionals, or law enforcement agencies. It leads to conservation of stigma and discrimination forthcoming.

On 20th of May, 2018 on the official website of Ministry of Foreign Affairs an article was published covering the IDAHO\(^2\) and placing the rainbow flag on the British Embassy's building in Minsk. Articles said: “Supporters of same-sex relationships furiously argue their position, despite the principles and traditions that have formed in our society. Doesn't matter from which side you'll look at 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 struggle for its rights, as well as this community's day, - are all just fake!”. 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 he\(^3\).

But, later Belarus denied any kind of discrimination and harassment of LGBT people, as well as hate speech on the part of senior officials and stated in its report to UN Human Rights Committee in 2018 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”.

The situation with the freedom of expression and the freedom of peaceful assembly is also critical. Although there are no separate legal barriers for LGBT, as the law on peaceful assembly does not set any specific rules for the LGBTQ community, generally there are certain issues with exercising the right to peaceful assembly and association for all citizens of the country irrespective of their SOGI.

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\(^1\) Discrimination, i.e. restriction of the labor rights or any benefits because of sex, race, national or social background, language, religious or political beliefs, participation or failure to participate in trade unions or other non-governmental associations, material status or rank, age, place of residence, physical or mental disabilities, not preventing individuals from performing their work duties, as well as other circumstances not related to their professional competences or specific work functions, is prohibited.

\(^2\) International Day against Homophobia, Biphobia and Transphobia, celebrated on 17th of May

\(^3\) “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?crnd=22350](https://news.tut.by/society/593788.html?crnd=22350)
There is a regulatory approval system applied to peaceful assemblies, with authorities giving permissions for conducting any mass events. LGBT community got such an approval once, in 2011. Since then, nobody submitted any applications for conducting Pride marches or other public events, taking into consideration lack of any regulatory changes and general prohibitions on peaceful assemblies for other groups.

While there are no current regulations banning the so called "gay propaganda", there is a regulation on protecting children from the information harmful to their health and development, which includes such as "promoting the habits not contributing to the healthy lifestyle formation; containing obscene words and phrases; discrediting the institution of family as well as marital and family relations". According to the local activists, this law may be used to restrict the freedom of expression for LGBT.

Gender confirmation procedure for trans* people is has less legal barriers. Since 2010, Resolution of the Ministry of Health of the Republic of Belarus "On certain matters of sex reassignment and correction", regulating the relevant procedure and further steps, has been in force. Married people do not have to get divorced. There is no mandatory sterilization requirement. Restrictions include age of majority and a number of health-related contraindications. However the law lacks a procedure to change digital identifier in individual tax codes: when someone changes one’s name and identification documents, the digital identifier remains unchanged and indicates that such person went through a gender confirmation procedure, i.e. discloses the status of such person to third parties, which violates rights for privacy.

We recommend Human Rights Council to provide the State of Belarus with the following recommendations:

- To adopt anti-discrimination laws with SOGI included in the list of protected grounds;
- To amend the Criminal Code so that the crimes against LGBT community members are investigated and qualified as hate crimes;
- Article 193-1 should be withdrawn from the Criminal Code, which stipulating responsibility for unlawful organization of a civil society association, a faith-based organization or a foundation or participation in their activities to guarantee to NGOs a possibility to get registered and perform activities to protect rights and freedoms of the LGBT community.
- To amend the legislation to envisage a change of the ID-number with the change of the gender marker and to 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".

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