

Belarus

1. Discrimination in the family

a) Overarching legal framework for marriage

Women have equal rights as men to enter into marriage (Constitution of Belarus, Article 23). While there is not a specific legal provision which prohibits forced marriage, both parties must be consenting and have reached marriageable age to enter into marriage (Marriage and Family Code, Article 12). The law provides for official registration of civil marriages, but not customary, religious, or informal partnerships (Constitution of Belarus, Art. 23). The law does not regulate de-facto unions.

b) Child marriage

The Marriage and Family Code sets 18 years as the legal age of marriage for both men and women (Marriage and Family Code, Article 18), although this can be lowered by a maximum of three years in the case of pregnancy or if the person concerned has reached full legal capacity (US Department of State, 2016; MICS4, 2013, p.122).

Child marriage is relatively uncommon in Belarus. However, within the country's Roma minority it is not uncommon for girls and boys to marry in their teens; in some cases, permission is obtained for marriage, in others the marriage is not registered. In 2014-2015, reportedly under 50% of all Roma marriages (both registered at Civil Registry Offices and factual), the woman was under the age of 18. A recent study reports that the average age of marriage of Roma girls is 16 to 17 years old (Analytical Report, Roma Integration (2016); Glushkova, T., 2016, p.11).

c) Household responsibilities

Women have the same rights as men to be recognised as head of household and wives are not required to obey their husbands (The World Bank, 2016). Married and unmarried women also have equal rights to men to choose where to live (no restrictions found). The equality of spouses within marriage is protected by the Constitution (Constitution, Article 32; Amendments to the Marriage and Family Code by Act No. 164-3 of 20 June 2006. New article 20-1).

Both spouses exercise parental authority equally, and both parents have the same rights and responsibilities in relation to their children. Parents are jointly responsible for their children's physical, mental and moral development, their health, their upbringing and their preparation for independent life in society (Marriage and Family Code, Article 75). There is no legislation governing the rights of women or men in informal unions with regard to guardianship over their children. This also means that women in de facto unions and their children do not have legal protection on economic matters upon the termination of such a union (CEDAW, 2016c, p.11). Despite equality in legislation, traditional practices that see women as primarily responsible for care duties and household chores widely persist.

d) Divorce

Women have equal rights as men to initiate and the same requirements to finalise it (Marriage and Family Code, Article 34). The equality of spouses in regard to decision-making authority and responsibility over children also extends to divorced couples. Under the Marriage and Family Code, couples are encouraged to draw up a contract specifying what will happen with children's living arrangements in the event of divorce (Marriage and Family Code, Article 38). However, it is generally the mother who gets custody of the child. There are NGOs in Belarus that advocate for father's rights and fight gender stereotypes that lead to automatically giving custody of the child to the mother, for example the association "Protecting fathers and children" (Tut.by, 2013, p.17).

The CEDAW committee draws attention to one troubling reality of divorce in Belarus: in the event of divorce, marital property can only be sold if both spouses agree, which may force women to continue living with their violent partner if he refuses to agree to sell or to move out of the marital domicile (CEDAW, 2016c, p.11). The main reasons behind divorce have been cited as alcohol abuse, economic difficulties, and changing gender roles (Dvorak, 2013; CEDAW 2015).

e) Inheritance

Women and men have the same inheritance rights under civil law in Belarus, both as spouses and as descendants (Civil Code, Articles 1057, 1065). Customary and religious laws are not considered valid sources of law, in regard to inheritance or any other matters (Constitution of Belarus). Women have equal rights to men to make a will and the law does not prohibit disinheritance of a surviving spouse (Civil Code, Article 1041). Customary, religious, or traditional practices that discriminate against daughters or female surviving spouses do not seem to be an issue in Belarus in terms of the women's right to inherit.

2. Restricted Physical integrity

a) Violence against women

Belarus has not signed or ratified the Council of Europe's Convention on preventing and combating violence against women and domestic violence (Council of Europe, 2017), but in March of 2017 held an international workshop on the 'Istanbul Convention as an instrument for developing a set of measures for the prevention of violence against women at the national level'. Belarus is currently drafting a law on the prevention of violence in the family, which also takes into account the Istanbul Convention, but it has not yet been adopted.

In late February 2017, Belarus approved its fifth national action plan on gender equality for 2017-2020 among whose goals is to combat domestic violence. In addition, the Labour and Social Security Ministry and National Council are tasked with monitoring the implementation of the national plan. The events of the national plan are to be financed from national and local budgets and also non-budgetary and other sources allowed by the law (Belta, 2017). The action plan foresees awareness-raising and education campaigns, similar to that seen in the project 'Developing national capacity to counteract domestic violence in the Republic of Belarus' implemented jointly by the Ministry of Labour and Social Protection of the Republic of Belarus and the United Nations Population Fund in 2015. The

fourth action plan (recently concluded), included ‘16 Days of Activism against Gender Violence’ during which Belarus launched the nationwide public awareness and educational campaign ‘A house without violence’, aimed at preventing domestic violence. The first stage of this campaign was aimed at promoting the recently launched toll-free hotline for victims of domestic violence.

b) Domestic violence

Generally, the legal situation regarding domestic violence cases in Belarus remains unclear. Domestic violence is not included as a specific crime under the country’s Criminal Code (CEDAW 2016c, p.5) although the Code on Administrative Offenses, amended in 2013, prescribes a large fine or detention for up to 15 days for battery, intended infliction of pain, and psychological or physical suffering committed against a close family member. In addition, a new law ‘On Basic Activities Aimed at Offence Prevention’ entered into force on 16 April 2014. The law defines domestic violence as “intentional physical, psychological, sexual acts by a family member against another family member which violate the latter’s rights, freedoms and legitimate interests and cause physical and (or) mental suffering” (Article 1) and identifies individual and general measures to prevent and combat offenses of this type. The law covers family members and other individuals sharing a common apartment or household. However, close relatives, residing at different places, including ex-spouses, are not covered by the legislation (UNFPA, 2015). A key innovation of the law is the introduction of restraining orders for the protection of victims of domestic violence and requires the development of regional programmes on the prevention of domestic violence and other measures (CEDAW, 2015, p.3). The law has, however, been criticised for failing to enact a holistic approach to the issue of domestic violence and poorly addressing inter-sectoral cooperation and coordination (*idem*).

The CEDAW committee has also raised concern over the requirement, according to the Crime Prevention Act of 2014, of obtaining the victim’s written consent for issuing restraining orders evicting an abusive partner or family member from the residence of a victim of domestic violence (CEDAW, 2016c, p.5). Additional attention has been drawn to the lack of support available for women fleeing domestic violence, indicating that the legal protection that does exist is not effectively implemented.

A shadow reports to the CEDAW committee notes that domestic violence is widely underreported (CEDAW Shadow Report, 2016). Domestic violence is seen as a private matter, and rather than seeking help, women often try and resolve the problem themselves, or seek to divorce their husbands (domestic violence is frequently cited in divorce cases). The US State Department observes that women remained reluctant to report domestic violence due to fear of escalating the violence, reprisal, social stigma, and a lack of confidence they will receive appropriate and timely assistance (US State Department, 2016; CEDAW 2016, p.11). Women also worry of being deprived of their parental rights, as their family might be perceived as a “family at social risk” with their children being institutionalized (CEDAW, 2016b, p.11)

There are a number of shelter-type ‘crisis rooms’ in Belarus that offer temporary shelter for victims of domestic violence (CEDAW, 2015). As of 2016, the state operated 109 of these, with NGOs operating at least three more shelters specifically for domestic violence victims (CEDAW, 2016a, p.13). There is, however, a lack of adequately equipped crisis rooms offering long-term shelter and specific functional shelters for victims of domestic violence (CEDAW, 2016, p.5 and 11); the shelters also have limited

working hours and are sometimes in unsafe locations (US State Department 2016). At present, efforts to combat gender-based violence are geared more towards prevention as opposed to protecting or assisting victims (US State Department 2016).

The National Action Plan for Gender Equality 2017-2020 includes provisions for awareness-raising and education campaigns to fight domestic violence. It is reported that police attitudes towards victims of domestic violence have improved in recent years, thanks to targeted training and the appointment of community support officers in police stations, and those cases that do make it to court usually result in a conviction (CEDAW, 2015). In addition, training centres run by the Ministry of Internal Affairs provided special courses and further training on gender issues and on preventing domestic violence for law enforcement officials and other personnel (CEDAW, 2016b, p.11). A toll-free nationwide hotline was also recently created and is in operation for victims of domestic violence, but does not operate 24 hours a day (CEDAW, 2016a, p.15).

c) Rape

There is no law addressing sexual violence but rape is a criminal offence listed under the country's Criminal Code (Criminal Code, Article 166). The penalties for rape are between 3 and 15 years of imprisonment, and can be increased for aggravated forms of rape and sexual violence. The law does not explicitly criminalise marital rape, although a wife can file a complaint (Article 166). There are no legal provisions relative to reduced sentences or escaping punishment if the perpetrator marries the victim. However, the CEDAW Committee has expressed its concern that rape is subject to private rather than ex officio prosecution (CEDAW, 2016c). The US Department of State reports that cases of rape are rarely reported, due to shame or because victims do not believe that they will be treated sympathetically by police (US Department of State, 2016).

d) Sexual harassment

There is no law in place in Belarus that specifically addresses sexual harassment, either in the Criminal Code or the Labour Code. The Criminal Code does include one article on coercion to perform sexual acts through threat, blackmail, or exploitation of economic dependency (Criminal Code, Article 170). The penalties under Article 170 are up to three years' imprisonment (*idem*). However, in its Concluding Observations, the CEDAW Committee notes that the burden of proof in such cases falls on the victim, and it is very difficult to secure a conviction (CEDAW, 2015, p.5). The Committee furthermore has noted concern that sexual harassment in the workplace is under-reported due to women's fear of stigmatization and dismissal, citing reports that a relatively high number of victims of sexual harassment in the workplace have been let go or pushed to resign following such harassment (CEDAW 2016c, p.8). Furthermore, Belarus currently lacks any judicial practice with these kinds of cases (CEDAW Alternative Report, 2016, p.9)

e) Female genital mutilation

There is no evidence that female genital mutilation is practised in Belarus. There is no law addressing female genital mutilation as a harmful practice and no customary, traditional or religious practices that encourage this practice.

f) Abortion

Abortion is available on demand up until 12 weeks and has been legal since 1955 (Law on Health Care, Article 27). A licensed physician in a hospital or other approved establishment must perform the abortion. Women may also get an abortion, under certain conditions, until 22 weeks of pregnancy, and at any point during the pregnancy when there is risk to the woman's physical health. Women under the age of 18 can access an abortion with permission from the parent or guardian. Women do not require the approval of the father to seek a legal abortion (Sexual Rights Initiative (SRI), 2015, p.3).

However, a bylaw of the Council of Ministers (No. 23), which came into effect on January 11, 2013, removes eight out of the ten social conditions for which a woman can get an abortion after 12 weeks of pregnancy. These include: if she or her husband is in prison; if she has a disabled husband or a child; in case of death of her husband or divorce during a pregnancy; if she already has three or more children; if she or her husband is recognized as unemployed during a woman's pregnancy; if she has a refugee status (*idem*). The two conditions that remain are: rape, and a court decision on deprivation of parental rights (meaning that if women already had a child or children but she was deprived of parental rights toward these child or children, she is granted a right to get an abortion in case of new pregnancy).

Abortion services are not free unless the woman is under the age of 18, or meets the legal medical or social conditions. Along with the reduction of social indications for free abortion, and inclusion in the list of paid services, since 2014, an amendment to the Healthcare Law allows doctors to abstain from performing an abortion, when abstention does not endanger the life or health of a woman. The head of the healthcare institution must arrange an abortion by another doctor. Such changes have increased stigma associated with women's access to and use of abortion services and some women may feel shame and guilt because they perceive themselves to be defying familial expectations, cultural norms or ideas of motherhood (SRI, 2015, p.5). The CEDAW committee has also expressed concern over the increasingly strong anti-abortion movement in Belarus, coupled with the high cost of hormonal contraceptives (CEDAW, 2016c, p.9)

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

Belarusian legislation does not discriminate against married or unmarried women in relation to rights of ownership, use, decision-making power, or use as collateral of land and non-land assets (Civil Code, Article 210; Marriage and Family Code, Articles 20 and 23).

The default marital property regime is partial community of property (Civil Code, Article 259; Marriage and Family Code, Articles 23 and 26) and both couples must agree on the administration of property (Civil Code, Article 256; Marriage and Family Code, Articles 23). All property bought before a marriage remains the sole property of the partner who purchased it, while property that is bought by either party during a marriage is considered to be joint property, and cannot be sold without the permission of both spouses (CEDAW, 2016a, p.31).

A report by the United Nations Food and Agriculture notes that women's equal right to own and manage property is generally respected in Belarus (FAO, 2016). The CEDAW committee has, however, noted the persistent wage gap prevailing in the agricultural sector (and the labour force more generally), and women's low participation in decision-making in collective/state-owned farms (CEDAW, 2016c, p.9). Furthermore, the committee has highlighted that access to preschool education continues to be relatively limited in rural areas, with a particularly negative effect on women (CEDAW, 2016c, p.9). There is generally a lack of information on rural women's access to property such as land and means of production.

b) Secure access to formal financial resources

There is no legal discrimination against married or unmarried women in regard to access to formal financial services, including opening a bank account and obtaining credit (no restrictions found). There are, however, no laws that prohibit discrimination by creditors on the basis of gender or marital status in access to credit.

A study by the Eastern Europe Studies Centre notes that women may lack the necessary corporate contacts necessary for receiving credit or funding for business activities. Furthermore, women are often seen as incompetent and untrustworthy due to their lack of affiliation with proven businessmen. Furthermore, self-discrimination among women themselves may hinder access to credit, where the 'aggressive' realm of business is seen as something that 'should be left to men' (EESC, 2014, p.25). In 2016, Belarus became one of the first eastern European countries to launch the Women in Business programme implemented by the European Bank for Reconstruction and Development (EBRD). The programme promotes women's entrepreneurship and supports small and medium-sized enterprises (SMEs) led by women through access to finance and know-how solutions necessary for business growth.

c) Workplace rights

Belarus has ratified ILO Conventions 100, 111, and 183, but not 156 or 189.

Under the Labour Code, women are protected from discrimination on the basis of sex in employment (Labour Code, Article 14). While the Constitution guarantees women and men equal opportunities in vocational training and promotion at work (Article 32), the law does specifically cover job advertisements, selection criteria, recruitment, hiring, terms and conditions, assignments, or termination. The Constitution mandates equal remuneration for work of equal value (Constitution, Article 42). It is not prohibited for prospective employers to ask about family status, and a CEDAW shadow report notes that according to a recent survey, in over 90% of interviews, female candidates were asked questions about their marital status, whether or not they have children, the frequency of their children's illnesses, availability of a nanny, and so forth (CEDAW Alternative Report, 2016, p.5; CEDAW 2016c, p.8). After the interview, preference is frequently given to male candidates even when female candidates have the same level of education, skills, and experience (CEDAW Alternative Report, 2016, p.5; CEDAW 2016c, p.8). Belarus lacks legal mechanisms to prove discrimination and to hold employers accountable (CEDAW Alternative Report, 2016, p.5).

The Labour Code does prohibit the dismissal of pregnant women (Labour Code, Article 268) and mothers are guaranteed an equivalent position after maternity leave (Labour Code, Articles 150 and 183). The Labour Code mandates paid maternity leave of 126 days, financed entirely by the government's State Social Insurance scheme (Labour Code, Article 184, Law No. 7 of 29 December 2012, Art. 4). Further, the Labour Code no longer distinguishes between prenatal and postnatal maternity leave, which gives mothers more flexibility about how to take their leave. However, in 2015, Belarus introduced a national tax via presidential decree No. 3 'On the Prevention of Social Parasitism', which is payable by persons who are unemployed in order to refund government expenditures, and imposed on parents outside the labour market taking care of children above the age of seven, which disproportionately affects women, as they are disproportionately involved in childrearing and household responsibilities (CEDAW, 2016c, p.8)

While the law also mandates paid parental leave, also financed entirely by the government for a period of up to 1095 days (Labour Code, Articles 185 and 271; Labour Code, Article 184, Law No. 7 of 29 December 2012, Art. 4), there is no specific legislation on paid or unpaid paternity leave (The World Bank, 2016). Parental leave can be taken fully or partially by the father, the grandparents, or other relative of the child up until the child reaches the age of three (Labour Code, Article 271). However, according to the National Statistics Committee (2016), only one per cent of Belarusian men take advantage of paternity leave (CEDAW Alternative Report, 2016, p.7). There are no laws that require women to have the permission of their husband or legal guardian to choose a profession or register a business.

Although Belarus has reduced the number of professions in which female work is prohibited from 252 to 70, there remain many jobs women are prohibited from doing (Labour Code of the Republic of Belarus, Art. 262; Resolution No. 35 of 12 June 2014; CEDAW 2016c, p8). Although there are no restrictions on women working the same night hours as men, pregnant women and minors cannot be employed during the night (from 10 pm to 6 am). In addition, persons with disabilities and women with children under the age of three can be employed at night only with their consent (Labour Code, Article 263). Although the state views these bans as a way of showing special concern for women as individuals in need of increased social and legal protection (CEDAW 2016b, p.2), such legislation may also mean employers see women as 'unsuitable' workers due to guarantees envisaged by the law which are not beneficial from their standpoint (CEDAW Alternative Report, 2016, p.7)

4. Restricted Civil liberties

a) Citizenship rights

Married and unmarried women have the same rights as men to acquire, change, and retain their nationality (no restrictions found). They also have equal rights to men to confer nationality to their children (Law on Citizenship, Article 13). Birth registration rates are high in Belarus (100% as of the last UNICEF Report, 2013) and generally births are registered immediately (US State Department, 2016). There are no discriminatory practices in relation to acquiring, changing, or retaining nationality, nor to conferring nationality, or registering the birth of a child.

Married and unmarried women also have equal rights as men to apply for passports (passport application procedures). Belarus has combined the international passport and the internal passport into one document. Law and regulations on passports and other travel documents do not discriminate against women with respect to their minor children. Women and men have the same rights to freedom of movement, including travelling outside the country. Women do not need permission to leave the house, and can choose where they want to live. However, all citizens in Belarus are required by law to register their place of permanent residence (CEDAW, 2015)

b) Voting

The Constitution and Electoral Code of Belarus both provide women with equality with men in voting, irrespective of marital status. There are, however, no specific measures to ensure that women understand the right to vote and how to exercise it. In addition, the president of Belarus, ministers, and other senior Belarusian officials have repeatedly conveyed the idea that ‘women are not interested in politics, they are apolitical by nature’ (Lidia Ermoshina, chair of the Central Election Committee), indicating the place of women is in the home, as mothers and wives (CEDAW Alternative Report, 2016, p.2).

c) Political voice

Women and men enjoy equal rights to hold public and political office in legislature, executive and judiciary (Constitution of Belarus, Article 66), but there are no legal quotas or special measures to promote women’s political participation (CEDAW, 2016a, p.19). At present, female candidates are not provided with specific fund for their election campaigns, nor are there any training for parliamentarians and decision-makers on the importance of women’s full and equal participation in political and public life or an informal group of female members of the Parliament (CEDAW, 2016c, p.7). Women do make up 70% of civil servants and 54% of the executive heads of organisations and their deputies (CEDAW, 2016a, p.4).

In addition, violence against socially or politically active women is an issue of concern in Belarus. State violence - beatings, sexual assault, involuntary termination of women’s parental rights, illegal and forced placement in mental institutions, indirect pushing to suicide, and deportation from Belarus – were used to punish to reduce women’s social activity to prevent them from political participation. (The United Nations Office at Geneva, 2016; CEDAW 2016c, pgs. 3 and 5). There is no legislation or measures in place to protect women from violence in political and public life.

d) Access to justice

In terms of access to justice, married and unmarried women have equal capacity as men to sue and be sued. In addition, married and unmarried women’s testimony carries the same evidentiary weight in a court as a men’s (no restrictions found).

However, many women and the public at large, including relevant professionals, are unaware of their rights, remedies available to claim violations, information on their eligibility for legal aid and support services (CEDAW, 2016c, p.2; CEDAW, 2016b, p.4)

There is no specific law governing the production or dissemination of gender statistics, but in conjunction with the fifth National Action Plan for Gender Equality 2017-2020, the National Statistics Committee of Belarus is developing gender statistics, and is introducing gender-relevant indicators into its statistical practices. Several issues of the statistical handbook “Women and Men in the Republic of Belarus” have been published.

More broadly, the responsibility for coordination of the activities under the National Action Plans for Gender Equality rests on the National Council on Gender Policies under the Council of Ministers of the Republic of Belarus (National Council). The council consists of the representatives of legislative and executive authorities and non-governmental organizations (Economic Commission for Europe, 2016). The status of the implementation of the national plan is reviewed annually and covers both local and national levels. However, while the National Council on Gender Policy can make recommendations and have its views taken into account, its powers are limited (CEDAW, 2016b, pgs. 8-10).

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