

Right to equality and non-discrimination of ethnic minorities in Belarus

Analytical report

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The Republic of Belarus is a multi-national state; according to the 2009 census, representatives of more than 140 nationalities (ethnic groups) live in the country making about 16 % of the whole population. Representatives of 28 ethnic groups have created more than 180 national-cultural public associations (hereinafter — NCPA).

The need in sustainable and peaceful development of a multi-national Belarusian society stimulates the search for the most effective mechanisms of inter-ethnic communication, partnership in the system of national policy, guarantee of the right for equality and non-discrimination for all of the ethnic groups living in Belarus alongside with keeping their cultural identities.

The goal of the present analytical report is:

- Generalising the experience in law-making and of the law enforcement practice in relations with ethnic minorities in the Republic of Belarus from the point of view of the guarantee of their right for equality and non-discrimination;
- Designing a Road Map which would include a complex of measures of implementing international standards of providing equality and non-discrimination, concerning different subjects involved into the system of inter-ethnic relations and national policy.

The non-discrimination and equality before the law are the two basic principles of the international human rights law; its contents are explained in the International Convention on the Elimination of All Forms of Racial Discrimination. The non-discrimination principle prohibits any discrimination, exception, limitation or preference based on race, the colour of the skin, tribal or ethnic origin and aiming at or resulting in belittling the acknowledgement, use or equal guarantee of the human rights and civil liberties in political, economic, social, cultural and any other sphere of social life. States Parties of the International Convention on the Elimination of All Forms of Racial Discrimination (Article 5) undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law.

Review of the legislation and obligations under international law of the Republic of Belarus on defence of rights of the ethnic minorities

Modern Belarus lacks fully prepared effective mechanisms of the defence of rights of the ethnic minorities, of them using their native language in various important spheres of life, as well as their integration into social and political spheres.

A range of statements of the national legislation needs to be revised. Although the law ‘On Ethnic Minorities’ states some rights and guarantees for ethnic minorities, it only vaguely describes the mechanism for its realisation. The determination of an ethnic minority is undertaken based on citizenship.

The analysis of national legislation on languages and education shows that the right to be educated in a native language is actually not the right, but the possibility provided by the law,

which depends on 'the will of the citizens' and the decision of the authorities. At the same time the law does not set the rule for the officials to record 'the will of the citizens'.

Legislation of the Republic of Belarus has a range of norms providing liability for actions aimed at exasperating enmity or discord including ethnic ones. But the legislator does not name the very actions which 'provoke' and 'humiliate'.

The Republic of Belarus has to initiate the work on improving the legislation on ethnic minorities based on the pioneer international and European regional experience and involving the experts in this sphere.

Partnership in the system of inter-ethnic relations and national policy as the factor preventing discriminating actions

Partnership in the system of inter-ethnic relations and national policy is set as a sustainable system of interaction between the authorities, the society and national organisations on joint actions in the spheres of social life, protection of historical and cultural heritage, education, maintaining the language, etc.

The key instrument of partnership is consultative inter-ethnic councils. These councils are constantly operating advisory social formations bearing no legal status and acting pro bono. State bodies hosting these councils bear the legal and organisational liability for their creation and operating.

Decisions of public councils are recommendatory which directly influences the effectiveness of the State policy and the decisions of the State bodies.

Main problems in the activity of the inter-ethnic councils are:

- The lack of one general legal base of applying and setting the mechanisms for activity of the public councils;
- The lack of connections and coordination between regional councils and the republican ones;
- The lack of attention of local authorities to the potential of the councils.

On learning and using national languages in the Republic of Belarus

According to the incomplete data, no less than 6.450 people were learning national languages in 2014/2015 academic year; mainly in elective language courses, at public and Sunday schools.

Polish language turned out to be the most popular, mainly in Hrodna region; Ukrainian, Lithuanian, Hebrew, Korean and Turkish are studied locally.

Issues of newspapers and magazines of ethnic minorities in their native languages are insignificant due to the obstacles to their regular edition, as well as the lack of actual knowledge of their native (national) language by the representatives of ethnic minorities.

National languages are most widely used in cultural events: literary contests, singing in national languages during republican festivals of national cultures. The repertoire of the majority of creative groups is multi-lingual but they use their language skills only on the stage.

Belarus is language tolerant. The State makes certain efforts to cooperate in developing and distributing the languages of ethnic minorities (the opportunity to study them is provided and regulated in frames of actual legislation, including the syllabi for classes studying the language of an ethnic minority and for classes studying *in* the language of an ethnic minority, both approved by the Ministry of Education of the Republic of Belarus), although these efforts are not enough for its full development.

Hate speech, ethnic profiling and hate offences as the expression of discriminating attitude

Monitoring of printed and electronic mass media (2012–2015) has resulted in a list of objects of the hate speech and its most typical forms. The Roma and the Caucasians, among all ethnic groups, happen to be the most often objects of the hate speech.

Reports in mass media containing the expressions of hate speech include *humiliating characteristics, negative emotional expressions and negative attitude to several ethnic groups (the Roma,, the Ukrainians, the Tajiks) and pseudo-ethnic groups (the Caucasians, the Asians, the Russians) which is in fact the humiliation of their national dignity.*

Ethnic profiling in Belarus is rooted in the attitude of the employees of the Ministry of Internal Affairs to the Romany. Technically, the encouragement to ethnic profiling is in many information materials of subdivisions of the Ministry of Internal Affairs.

In 2014–2015, the cases of vandalism in Jewish and Judaist places were noted. In all cases vandal actions were interpreted as disorderly conduct; the motive was not discovered, the guilty were not found.

The system of mediation for social integration of the vulnerable groups of ethnic minorities (on example of the project ‘Social Integration of Roma in Belarus’)

The Romani population of Belarus is one of the most vulnerable ethnic groups with many problems in the sphere of social maintenance, education, employment.

In frames of the project ‘Social Integration of Roma in Belarus’ from June till October 2015 six leaders and activists of the Romani communities from six regions of Belarus have studied and received certificates of public mediators. They act as mediators solving employment problems, controlling attendance of schools by the Roma children, organising humanitarian help for the low-income families, helping the Romany population acquire passports, etc.

The effectiveness is proved by the examples of successful communication of the Roma mediators with the authority bodies in solving problems of the Romany population; although, this mechanism hasn’t been used for a long time yet. Belarus, unlike the EU countries and the Ukraine, doesn’t yet have the experience of using public mediation as a system; however, its successful development depends on legislative consolidation as a mechanism for providing equal rights and at the same time as a partnership mechanism.

Road map ‘Providing ethnic minorities in Belarus the right for equality and non-discrimination’

Realisation of the proposed steps is possible in close cooperation of the organisations and communities of ethnic minorities and of the State bodies. These steps are articulated according to the actual state of guarantee of the right for equality and non-discrimination of ethnic minorities in Belarus.

Monitoring, enlightenment work and education

1. Create the system of monitoring the status of the right for equality and non-discrimination of ethnic minorities in Belarus with participation of organisations and communities of ethnic minorities, State bodies and expert communities.
2. Create the network of information and consultation centres and an electronic resource for providing legal and expert help to the representatives of organisations and communities of ethnic minorities.
3. Create and introduce into the system of education, professional advancement, training and retraining the employees of State bodies, law enforcement agencies, judiciary, journalists, the courses dedicated to the rights of ethnic minorities in the context of human rights.

Non-discrimination and tolerance

4. Promote the idea of tolerance: publications and programmes in mass media involving the representatives of various ethnic groups; creating and distributing educational and enlightenment materials in educational establishments and state agencies.
5. Encourage mass media to show positive sides of life of ethnic minorities preventing formation of stereotype images and provoking enmity in the inter-ethnic relations.
6. Contribute to drawing attention of the journalists’ trade unions to the ethical ways of fighting the language of enmity.

Partnership in the system of inter-ethnic relations and national policy of the Republic of Belarus

7. Build a well-coordinated system of work of the republican and local inter-ethnic councils united by information in planning their work and at the stage of considering and accepting profile decisions.
8. Distribute the practice of consulting state bodies by the inter-ethnic public councils at the stage of planning a managerial decision, including provision of statistical and other information.
9. Widen the practice of realisation of sectoral programmes and projects on behalf of national public councils, including state financial support of the projects by organisations of ethno-cultural minorities in frames of state social order.
10. Inform the population more widely through the media about cooperation of ethno-cultural communities and State bodies in frames of inter-ethnic councils.

Law-making and enforcement

11. Adopt a complex law on protection of the rights of ethnic minorities based on pioneer international experience including, in particular, the mechanisms of protecting the rights of

ethnic minorities in all the spheres of social and political life and excluding discriminating determination of an ethnic minority through the criterion of citizenship.

12. Based on a new law 'On Ethnic Minorities in the Republic of Belarus' make amendments to the existing legislation concerning the rights of ethnic minorities — the right to use native language and to receive education in native language, in particular.

13. Take measures on effective investigation of all hate offences according to the principle of unavoidable responsibility.

14. Take measures on implementation of the statements of Durban Declaration and Programme of Action aimed at eliminating all forms of racial discrimination: 'design, implement and enforce effective measures to eliminate the phenomenon popularly known as "racial profiling" and comprising the practice of police and other law enforcement officers relying, to any degree, on race, colour, descent or national or ethnic origin as the basis for subjecting persons to investigatory activities or for determining whether an individual is engaged in criminal activity'.

15. Legally consolidate the term 'inter-ethnic council' functionally separating it from other similar forms of collegial work of consulting structures at State bodies.

16. To the State bodies with cooperation of the interested non-commercial organisations: design the generally applicable legal act setting:

- The procedure of election and rotation of candidates to the public councils from the organisations of ethnic minorities;
- The degree of involvement of an inter-ethnic council into the elaboration of state projects of legal acts, as well as of the projects of programmes and other documents of a State body hosting the council;
- Separate rights and obligations for the inter-ethnic councils and the State bodies;
- The procedure of controlling decisions by the inter-ethnic councils and State bodies hosting them.

17. Recognize in the competence of the inter-ethnic councils the right to initiate and hold public hearings on problems included in the field of a certain public council; oblige State bodies to contribute in information and organisationally to holding such events, including the presence of their official representatives.

18. Grant the inter-ethnic public councils the right to design and propose to the State bodies changes to the actual legislation and State policy in the profile sphere in order to improve it.

19. Study the possibility of legislative consolidation of mediation as an instrument of partnership in integration of the socially vulnerable ethnic groups.