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Russia: First Convictions Under LGBT 'Extremist' Ruling

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Thousands More at Risk After Top Court's Decision

- Russian courts have issued the first known extremism convictions arising from the 2023 Supreme Court decision designating the "international LGBT movement" as extremist.
- The Supreme Court decision opened the floodgates to allow arbitrary prosecution of LGBT people and of anyone who defends their rights or expresses solidarity with them.
- The only way to remedy this travesty of justice is to vacate the recent convictions and reverse the absurd 'extremism' designation.

(Berlin, February 15, 2024) – [Russian](#) courts have issued the first known extremism convictions arising from the 2023 Supreme Court ruling designating the "international LGBT movement" as extremist, Human Rights Watch said today. The Supreme Court ruling, which was handed down on November 30 but became public only in mid-January 2024, indicates that many more convictions may follow.

The Supreme Court ruling also declared the rainbow flag a forbidden symbol of the "LGBT movement." Displaying the flag is the basis for administrative penalties in at least three cases that courts have tried in recent weeks. In late January, a court in Nizhny Novgorod [sentenced](#) a woman to five days detention for wearing rainbow-colored earrings after an individual [accosted](#) her and her friend in a cafe. Also in late January, a judge in Volgograd region [handed down a fine](#) over a rainbow flag

published on a social media page. In early February, a court in Saratov [fined](#) a woman for posting a rainbow flag on social media.

“The Supreme Court decision opened the floodgates to allow arbitrary prosecution of lesbian, gay, bisexual, transgender, and queer people, along with anyone who defends their rights or expresses solidarity with them,” said [Tanya Lokshina](#), associate Europe and Central Asia director at Human Rights Watch. “For years, Russian authorities tried to erase LGBT visibility, and now they have criminalized it.”

At least three groups supporting LGBT rights have shut down their operations for fear of prosecution. Other consequences of the ruling have included a series of police raids of gay clubs, incidents of self-censorship, and an uptick in requests for legal advice from remaining LGBT support groups, which have now turned to working clandestinely.

The Supreme Court ruling and prosecutions flowing from it are discriminatory, violate a wide range of rights, and should be overturned, Human Rights Watch said.

Under Russian criminal law, a person found guilty of [displaying extremist group symbols](#) faces up to 15 days in detention for the first offense and up to four years in prison [for a repeat offense](#). [Participating in](#) or [financing](#) an extremist organization is punishable by up to 12 years in prison. The authorities may include individuals suspected of involvement with an extremist organization in the countrywide “list of extremists” and freeze their bank accounts. People deemed to be involved with an extremist organization are barred from running for public office. Draft legislation further expanding the notion of [“justifying extremism”](#) has passed first reading in Russia’s parliament.

The Supreme Court’s perverse decision to accept the “international public LGBT movement” as a fictional defendant in this case was compounded by their [denial](#) of all requests by LGBT activists to participate, followed by [the claim](#) that “the defendant party failed to appear.” The court also refused [to consider numerous appeals](#) lodged by LGBT rights activists, saying that only the parties to the case had the right to appeal the ruling. By using the twisted legal fiction that there was an identifiable defendant called the “international LGBT movement” to contest the case, the Supreme Court denied all Russian LGBT persons and their allies directly impacted by the decision any due process rights, including by [refusing to disclose](#) the text of the judgment or reasons for the decision.

The text of the ruling, which was later seen by a regional media outlet in the course of a court case and [published](#) in January, states that the rainbow flag is the movement’s symbol. Because Russian law enforcement practice treats even old social media posts that are still available online as grounds for prosecution, thousands of people, and most likely more, who

have posted the rainbow flag over the years face the risk of prosecution. The ruling states that 281 “active participants” in the movement have been personally identified, but it does not clarify how or by whom.

The Supreme Court ruling is the most recent example of authorities’ long record of misusing Russia’s broad and vague anti-extremism legislation to prosecute peaceful critics and members of certain religious groups, Human Rights Watch said. Hundreds of people have been wrongfully prosecuted under criminal extremism legislation, according to the [SOVA Research Center](#) and the [list of political prisoners](#) released by prominent human rights group Memorial.

Since a court [banned](#) three organizations affiliated with political opposition leader Aleksey Navalny as “extremist” in 2021, Navalny and five of his supporters have been sentenced to prison on a range of extremism charges for legitimate activism, while dozens more have received [fines and short-term jail sentences](#). Six members of Vesna, a democratic youth movement, have been in [pretrial custody](#) since June 2023 on various spurious charges, including extremism. Hundreds of Jehovah’s Witnesses have been jailed since the organization [was banned as “extremist”](#) in 2017.

The Supreme Court ruling has drawn strong criticism internationally. The United Nations High Commissioner for Human Rights [deplored](#) the ruling, stating that “the law must never be used to perpetuate inequality and discrimination,” and saying that Russia should repeal laws that discriminate against LGBT people.

Five UN human rights experts [reminded Russian authorities](#) that under international human rights law, peaceful advocacy and expression of sexual orientation and gender identity can neither be considered “extremist” nor legitimate grounds for administrative and criminal prosecution.

“The ruling has no basis in reality; it is filled with conspiracy theories, false and unsubstantiated claims, and hateful stereotypes; and it seeks to impose ‘traditional values’ ideology through repressive criminal law,” Lokshina said. “The only way to remedy this travesty of justice is to vacate the recent convictions and reverse the absurd ‘extremism’ designation.”

For more details, please see below.

Prosecutions

On January 25, a court in Volzhskiy, Volgograd region, [handed down the first known conviction](#) following the Supreme Court ruling, punishing a man for posting the rainbow flag on social media. In an administrative

case against Artyom Pogrebnyak, the prosecution alleged that he published the “flag of the international public LGBT movement” on his social media page, where he “stored it with the intent of mass distribution.” The judge found him guilty of displaying extremist symbols and fined him 1,000 rubles (about US\$11).

On January 31, a court in Nizhny Novgorod [sentenced](#) Anastasia Ershova to five days in detention for allegedly “displaying extremist symbols” by wearing rainbow-colored earrings. On February 13, a judge in Nizhny Novgorod [upheld](#) her conviction. Egida, a group providing emergency assistance on issues related to sexual orientation and gender identity that is representing Ershova, said they would continue [fighting](#) the decision.

[Ershova’s lawyer](#) said that on January 29, a man had aggressively approached her and a friend in a cafe in Nizhny Novgorod and demanded that they take down “illegal symbols,” referring to a blue and yellow pin—the colors of the Ukrainian flag—from the sweater that her friend was wearing. The video of the incident circulated online shows the assailant physically and verbally attacking the two young people using homophobic slurs, ripping the pin, and threatening to send the video to the anti-extremism police. The text of the court [decision](#) notes that law enforcement officers examined the video the same day.

Instead of investigating the assault, the police identified Ershova and arrested her for wearing rainbow-colored earrings the next day.

On January 18, First Department, a human rights project specializing in treason and high-profile extremism cases, [said](#) the police in Saratov had charged a photographer, Inna Mosina, with publishing an “extremist” rainbow flag on her Instagram account. Mosina had [deleted](#) her social media accounts after getting a call from the police in January and told the court that one of the posts in question was three years old. On February 5, a court in Saratov found her guilty and fined her 1,500 rubles (about \$16.50). Her lawyer [said](#) he would appeal the decision.

Other Consequences

On November 30, just after the Supreme Court decision, Delo LGBT+, a legal collective established in 2022 to defend pro bono the rights of LGBT people, [announced](#) its dissolution. It had handled more than 200 legal cases, including successfully representing trans people in [lawsuits seeking changes to the gender markers](#) in their identity documents and winning [acquittals](#) for people accused of spreading “propaganda” for “non-traditional sexual relations.”

At least two queer community centers also shut down following the decision. QDeer, a center in Nizhny Novgorod, [said](#) that continuing to operate would jeopardize their team and visitors. Rainbow World

(Radyzhniy Mir), an LGBT group based in Perm, [said](#) they also made the “difficult” decision to shut down operations.

Days after the Supreme Court’s ruling, the police raided gay clubs in [Moscow](#), [Yekaterinburg](#), and [Krasnoyarsk](#), where they shut down events, recorded visitors’ personal data, and photographed their passports. In one of the raids, police [arrested](#) more than 20 guests, later releasing them. St. Petersburg’s oldest gay club [said](#) they were forced to shut down after the owners of the building canceled the lease in light of the “extremism” decision. People detained during these raids, whose data the police recorded, remain at risk of multiple forms of targeted discrimination from both private parties and the police under broad “extremism” legislation and data leaks.

In December, a Russian rock band [censored](#) a mention of the rainbow flag in one of their songs on streaming platforms. A philologist in Moscow [said](#) in January that she was specifically asked not to talk about feminine forms of certain nouns at her book presentation in a government-owned bookstore “due to the recent events and to avoid unpleasant incidents.” Russian nouns are gendered, and many professions, for example, are “masculine”; to support gender equality, some people have started using “feminine” versions of such nouns. Students in a St. Petersburg university have also [faced pressure](#) not to use such feminized nouns from university administrators.

Supreme Court Decision

The Supreme Court ruling stemmed from a lawsuit that the Russian Justice Ministry filed on November 2. While the ruling was handed down on November 30, its text became public only after the police submitted it into evidence in the prosecution of Mosina, the photographer. In mid-January, *Svobodnye Novosti* (Free News), a Saratov-based outlet, published it in full.

The ruling, along with the manner in which the court reached it, violates multiple rights guaranteed by the International Covenant on Civil and Political Rights (ICCPR), to which Russia is a party, including the rights to freedom of expression, opinion, association and assembly, privacy, due process, remedy, equality, and nondiscrimination. The authorities’ actions, described above, to sanction individuals based on the ruling, which was not made publicly available, additionally violate the prohibitions on arbitrary detention, arbitrary application of criminal law due to a lack of a sound legal basis, and retroactive application of criminal law. The ruling also threatens other fundamental rights, such as the rights to health and education protected by the International Covenant on Economic, Social and Cultural Rights (ICESCR), another treaty to which Russia is a party.

False Claims and Conspiracy Theories

The ruling contains false claims that non-heterosexual relations are “unnatural,” that the LGBT movement appeared in the US as part of population control policy, and that the LGBT community and their supporters resort to oppression, violence, and discrimination.

The judgment contends that people within the movement are united by specific morals, customs, lifestyle, common interests and needs, including as an example the use of gender-inclusive language for words such as “manager.”

It calls the LGBT movement an “inherently destructive ideological mechanism of influence,” which facilitates the “self-destruction of society, weakens family ties, harms moral health, and imposes ideas that imply the denial of human dignity and the value of human life.”

The court also baselessly attacks the LGBT movement’s advocacy for equality regardless of sexual orientation or gender identity as promoting their “superiority.”

Suppressing LGBT Rights Under the Guise of Child Protection

The Supreme Court’s ruling also brings together arguments previously used by government officials and politicians seeking to rationalize repression against LGBT people, including claiming the ruling will protect the rights of children and counter the “demographic” threat ostensibly posed by LGBT relationships.

The ruling is premised on the notion that educating children on sexuality and demonstrating points of view different than those generally accepted in Russian society can provoke children’s “social alienation” and hinder their development. The best available evidence and applicable international standards do not support such a finding.

Reinforcing the Prohibition of Dissent

The decision also reinforces Russian authorities’ practice of classifying peaceful opposition as a form of “extremism” by identifying criticism of the government’s repressive policies and practices as “the most striking manifestation of the Movement’s extremist activities.”

It accuses Russian LGBT rights groups of smearing Russia’s international reputation by submitting “distorted information about the rights of people who identify themselves as LGBT” to UN treaty bodies, urging Russia to repeal its “gay propaganda” legislation, and promoting children’s unhindered access to information about sexual orientation and gender identity.

Opening the Floodgates

In light of the ruling, people who have posted rainbow flags on their social media accounts now face the risk of administrative prosecution and, if they are found to be repeat offenders, criminal prosecution.

The Supreme Court ruling also stated that authorities had identified 281 “active participants in the movement.” These as yet publicly unnamed individuals could be at risk of criminal prosecution under Criminal Code article 282.2, which punishes participation in an extremist organization with up to 6 years in prison, with up to 10 years for organizers of such communities.

Igor Galushkin, media coordinator for the emergency assistance group Egida, said that they saw a sharp increase in requests for legal advice and help with emigration after the court announced on November 17 that it would hear the case, with requests through the end of December amounting to 30 percent of all requests in 2023. He said that many LGBT organizations either shut down or now work clandestinely, and the ruling is a significant blow to their ability to raise funds in Russia. The organizations Sphere, Queer Svit, and Coming Out [said](#) they also experienced an increase in requests for emergency emigration.

On November 29, prior to the Supreme Court ruling but after the court had denied his request to participate in the case as someone affected by the proceedings, a prominent Russian LGBT rights defender, Igor Kochetkov, joined by four others, [announced](#) the creation of an organization called “the international public LGBT movement,” the same name as the ostensible defendant in the case before the court. The activists said they had to create an actual organization of that name because otherwise the case was solely against an entity whose “existence is nothing more than make-believe of proponents of everything patriarchal and traditional.” The Supreme Court denied the newly created organization’s request to participate in the proceedings.

The ruling said that the individuals and organizations who had sent the court “procedural statements” asking to be included in the proceedings and “identifying themselves as members of the LGBT community” had explicitly expressed full support for the movement’s “extremist activities.” Therefore, these individuals, whose names are not in the public domain, now also appear to be at risk of criminal prosecution.

Such threatening language could also have implications for Memorial Human Rights Defence Centre, the 2023 Nobel Peace Prize co-laureate; Coming Out, an LGBTQ+ initiative; and six other human rights organizations that jointly submitted a [third-party intervention](#) to the Supreme Court on November 28 urging the court reject the Justice Ministry’s lawsuit.

The groups said that the “movement,” as defined by Russian law, does not exist as an organized association, further evidenced by the fact that the Justice Ministry could not identify a defendant to take part in the proceedings. In essence, they said, a decision to ban a non-existent group following a closed hearing would criminalize activism and human rights work in support of LGBT people and lead to completely arbitrary application and legal uncertainty.

They said that the lawsuit violated a litany of rights, including the rights to free expression, association, and nondiscrimination. The submission referred to a Constitutional Court [ruling](#) stating that the constitution does not allow banning public discussion of sexual relations, including non-traditional relations, or public discussion of the rights, freedoms, and interests of sexual minorities.

Finally, they said that a ruling against the LGBT movement and enforcement of “traditional values” through criminal law would violate the constitutional ban on establishing a state ideology, have a chilling effect on speech, and fuel further discrimination, including violent hate crimes.

The Supreme Court refused to accept the submission and failed to consider any of its arguments.

In a statement following the Supreme Court judgment, Memorial [said](#) that “the case combines the worst of practices created and developed by the Russian authorities in recent years,” affecting all LGBT people, organizations, activists, and allies, aiming to erase them from public space.

Other Laws and Repressive Measures

Russia has long used other tools in its repressive arsenal to crack down on LGBT activism and queer people. Key among them was the [2013 “gay propaganda” ban](#), which purported to [protect children](#) from “propaganda,” broadly defined to mean any positive or neutral depiction or discussion of non-heterosexual relations.

A December 2022 law [extended](#) this to a blanket ban, covering all public information or pro-LGBT activities for people of all ages, while maintaining aggravated penalties when children are involved. The legislation aimed to further isolate children from any information on sexual orientation and gender identity, including gender transition. It introduced fines up to the equivalent of US\$6,500 for individuals and \$81,000 for legal entities, such as nongovernmental groups, for disseminating such information.

The legislation classified displays of non-heterosexual relations or orientations as “information harmful to children’s health and development” and envisaged blocking websites and other online sources

hosting information about LGBT people. It did not provide any exclusions for art, scientific studies, or education.

Russian authorities have opened dozens of prosecutions against companies for running movies, shows, and music clips featuring non-heterosexual relations or queer people. The authorities also used the “propaganda” law to [prosecute](#) people for protesting anti-LGBT laws or having profiles in [gay dating apps](#), as well as to [fine and deport transgender sex workers](#). Russia’s media and communications watchdog [blocked](#) the websites of LGBT [rights groups](#) and [dating services](#).

Foreign Agents

Since 2013, the Justice Ministry has designated at least 22 groups supporting LGBT people as “foreign agents,” including 17 in the past three years. This has prompted several groups [to shut down](#).

The foreign agents’ register also includes at least 18 prominent artists, journalists, and LGBT activists. The Justice Ministry said 12 of those on the list were there for promoting LGBT relations and claimed that their actions “contradic[t] the state policy of safeguarding and strengthening traditional Russian moral and spiritual values and constitutional priorities in protecting family, motherhood and childhood.”

When one blogger [appealed the designation](#), the ministry argued in court that he had spoken on his YouTube channel about homophobia and called for tolerance toward members of the LGBT community. Over the past three years, the authorities have imposed at least three dozen administrative fines on these groups and individuals for alleged failures to comply with labelling and reporting requirements. Some are now facing prison sentences for repeat violations.

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