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COMING OUT
LGBT GROUP



Alternative Report on Implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by the Russian Federation in Respect of Lesbian, Gay, Bisexual and Transgender Persons

Submitted for the consideration of the 6th periodic report by the
Russian Federation for the 64nd Session of the
Committee Against Torture by

*Stimul LGBT group
Coming Out LGBT Group
Transgender Legal Defense Project
with contributions from Russian LGBT Network*

23 June 2018

Introduction and summary

The present report was prepared by a coalition of three Russian Non-Governmental Organizations, namely “Stimul” LGBT Group, “Coming Out” LGBT Group, and Transgender Legal Defense Project, with contributions from Russian LGBT Network for the consideration of the UN Committee on Against Torture as an additional source of information to the sixth periodic report of the Russian Federation.¹

This report compiles data on the situation of LGBT people in Russia collected by the above organizations in course of their legal and monitoring activities in 2012-2018 and is aimed to illustrate the problems regarding implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in respect of lesbian, gay, bisexual and transgender persons.

The report examines four main problems, namely: (1) hate crimes committed on the basis of real or perceived sexual orientation, gender identity or gender expression and lack of effective investigation of such crimes, (2) cruel, inhuman or degrading treatment of LGBT people by law enforcement officials, (3) prosecution of LGBT human rights activists, and (4) forced psychiatric institutionalization of LGBT people.

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¹ CAT/C/RUS/6.

Section 1. Hate crimes based on sexual orientation, gender identity and gender expression

The Committee requested the Russian Federation to “provide information on the numbers and outcomes of investigations into allegation of acts of violence and discrimination against <...> LGBT persons, the number and outcome of any resulting prosecutions and what redress has been provided to the victim”.²

The State party replied that “there are no arrangements in the Russian Federation for the collection of statistics of offences committed against its citizens on the grounds of race, ethnic background, origin, attitude to religion, beliefs, or membership of public associations or any social group”.³

All the cases of hate crimes based on sexual orientation, gender identity and gender expression listed in this section were recorded by monitoring programs of *Coming Out* LGBT Group,⁴ *Russian LGBT Network*,⁵ *Transgender Legal Defense Project*,⁶ and *Stimul* LGBT group.⁷

a. Statistical data

During 2012-2018, the Russian Federation failed to undertake measures to implement the Committee’s recommendation “**to take effective measures to ensure the protection of all persons at risk, including <...> LGBT.**”⁸

From November 2012 to May 2018, at least **322 hate crimes** against LGBT people were committed in Russia (excluding the North Caucasus), affecting **351 people**. All these crimes included physical violence.

In the same period, there were at least **14 murders** of LGBT people motivated by homophobic or transphobic hatred, and **5 abductions** of LGBT people (all accompanied by homophobic/transphobic harassment and physical violence).

The most frequent type of such crimes is a physical assault against a LGBT person that takes place when the attacker(s) become(s) aware of the victim’s sexual orientation or transgender identity. Since 2012, we have documented **138 such assaults**.

Also in this period, there were at least **21 hate-motivated assaults against** LGBT people during human rights. cultural and educational events. This is often the result of actions pre-planned by homophobic groups, while the police do not interfere and do not take effective action to find and punish the attackers.

From November 2012 to May 2018, we recorded **32 cases of** violence against LGBT people by their family members, such as kidnapping, physical abuse, illegal restriction of freedom and even murder (2 cases).

In the same period, there were at least **13 cases** of sexual violence against LGBT people, including 4 cases of “corrective” rape of homosexual or bisexual women, 6 cases of sexual

² CAT/C/RUS/QPR/6, para. 26.

³ CAT/C/RUS/6, para. 267.

⁴ <http://comingoutspb.com/eng/> Accessed on 20 June 2018.

⁵ <https://lgbtnet.org/en> Accessed on 20 June 2018.

⁶ <http://pravo-trans.eu/about-us/> Accessed on 20 June 2018.

⁷ <https://www.msk-stimul.eu/> Accessed on 20 June 2018.

⁸ CAT/C/RUS/CO/5, para. 15.

violence against transgender women, and 3 cases of sexual violence against homosexual or bisexual men.

Cases of so-called **"fake date" robbery** became abundant in Moscow, St. Petersburg and other major cities in 2012-2018. The criminals arrange a 'date' to lure homosexual/bisexual men either into an apartment or a secluded place in the street, and then extort large sums of money threatening to disclose the victim's sexual orientation to relatives and acquaintances or promising to press criminal charges for a sexual intercourse with a minor (the person who acts as "bait" and usually is not a minor) and make the case public through the media. Physical violence is often involved. We know of at least two criminal gangs that have been using this modus operandi for several years in St. Petersburg and Moscow. Targeting members of vulnerable groups, the criminals expect that their victims will not turn to law enforcement agencies for protection out of fear of a homophobic reaction on the part of the police, and therefore the perpetrators' actions will go unpunished. This calculation usually proves to be justified. We know of **81 cases of "fake dates"** that have occurred in the last 6 years. We also know about **18 cases of blackmail and extortion** of large sums of money from homosexual and bisexual men by their acquaintances threatening to disclose their sexual orientation.

b. The law prohibiting "propaganda of non-traditional sexual relations" as a factor that fosters hatred against LGBT people

Since the adoption of the federal law on the prohibition of "propaganda of non-traditional sexual relations among minors"⁹ in 2013 there has been a significant growth in hate crimes against LGBT people. The "propaganda law" significantly increases the stigmatization of LGBT people and thus indirectly justifies and encourages violence against this group.¹⁰ In a large part of physical violence cases we have documented, attacks on LGBT people were accompanied by homophobic statements by the aggressors referring to the "propaganda law": "you are prohibited by law", "how dare you propagate", etc.

This report does not address the persecution of LGBT people in the Chechen Republic. However, it is important to note that the situation in Chechnya reflects the overall situation with respect to the rights of LGBT people in Russia. Homophobic propaganda which, in fact, has become part of the state official ideology "unties" the hands of law enforcement agencies and fosters systemic violence against LGBT people.

c. Lack of effective investigation of crimes motivated by homophobic and transphobic hatred

A key obstacle to qualification of crimes committed on the grounds of homophobia or transphobia as hate crimes is the state's refusal to recognize LGBT people as a social group. The current version of the Criminal Code of the Russian Federation¹¹ allows to account for hatred towards a social group as an aggravating circumstance (art. 63 paragraph 1 (e) of the Criminal Code) or a qualifying attribute (in particular, art. 105 paragraph 2 (l), art. 111

⁹ Article 6.21 of the Code of Administrative Offenses of the Russian Federation was introduced by Article 3 of Federal Law No. 135-FZ of June 29, 2013, "On Amending Article 5 of the Federal Law "On Protection of Children from Information Harmful to Their Health and Development" and Certain Legislative Acts of the Russian Federation in Order to Protect Children from Information That Promotes the Denial of Traditional Family Values".

¹⁰ Cf., for instance the Human Rights Watch Report "Licence to Harm", 2014: <https://www.hrw.org/report/2014/12/15/license-harm/violence-and-harassment-against-lgbt-people-and-activists-russia> Accessed on 20 June 2018.

¹¹ The Criminal Code of the Russian Federation No. 63-FZ of June 13, 1996 (hereinafter – the CC).

paragraph 2 (e), art. 112 paragraph 2 cl (e) of the Criminal Code). However, so far all attempts to initiate the application of relevant norms to homophobic and transphobic crimes have not been successful.

In 2014, the Constitutional Court of Russia ruled the federal law banning “propaganda of non-traditional sexual relations among minors” to be in accordance with the Constitution of the Russian Federation.¹² However, the Court noted: “...the state is called upon to take measures aimed at excluding possible infringement of rights and legitimate interests of individuals on the grounds of their sexual orientation and to provide effective measures for protection and restoration of their violated rights based on article 19(1) of the Constitution of the Russian Federation that declares the principle of equality of all before the law and the court. This constitutional principle implies inadmissibility of restriction in rights and freedoms or establishment of any advantages depending on an individual’s membership in certain *social groups, which may include groups of persons with a certain sexual orientation*, and is specified in the norms of sectoral legislation... State protection against discrimination, including on grounds of *belonging or not belonging to any social groups*, is also provided by the application of administrative (Article 5.62 of the Code of Administrative Offenses of the Russian Federation) and criminal (Article 63, part 1, clause ‘e’ of the Criminal Code of the RF) measures”.

In practice, Russian law enforcement authorities do not consider neither the Constitutional Court judgment, nor international standards and recommendations.¹³ The motive of hatred is not taken into account during investigations of homo- and transphobic assaults even if the circumstances point to it. On the one hand, this is due to the fact that law enforcement officers have common practicable algorithms for investigating criminal cases, and there is no willingness to create new ones. On the other hand, at the state level, there is no understanding of the importance and necessity of qualifying hate crimes as such.

As a result, most LGBT survivors of hate crimes are unwilling to contact law enforcement agencies because they do not believe that there will be any effect. **Out of the 322 cases of homophobic and transphobic violence documented over the past 6 years, there were 75 attempts to initiate a criminal case, 23 of which were successful, with none of the cases classified as a hate crime.**

Below, information on 3 such cases is given. They clearly illustrate the problems described above.

*Case 1.c.1.*¹⁴ On November 3, 2013 in St. Petersburg, the participants of the “Rainbow tea party” which had been openly announced in the Internet, were assaulted. Two men with covered faces entered the room with a bat and a gun in their hands. One of the participants in the event, S., was shot in the back from an air pistol. Another participant, Dmitry Chechetkin (also known under his pen-name Dmirty Chizhevsky), was shot in the eye and struck with the bat several times. During the attack, the perpetrators were shouting homophobic curses. Prior to this, the project had received numerous homophobic threats on the Internet, including on the eve of the attack. As a result of the attack, S. received minor injuries, while Dmitry, having undergone several operations, lost vision in one eye. Law enforcement agencies qualified the act of violence as hooliganism (Article 213 paragraph 1 (a) of the Criminal Code) and causing bodily harm motivated by hooliganism (Article 112

¹² Judgment of the Constitutional Court of the Russian Federation No. 24-P of 24 September 2014.

¹³ CAT/C/RUS/CO/5, para. 15; CCPR/C/ RUS/CO/7, para. 10; A/HRC/29/23, para. 22.

¹⁴ Case documented by “Coming out” LGBT group monitoring programme.

paragraph 2 (a) of the Criminal Code). The investigators denied the qualification of the crime as committed on the grounds of hatred against LGBT people (Article 213 paragraph 2 of the CC, and Article 112 paragraph 2 (e) of the CC). National courts dismissed the complaint concerning the refusal to investigate the hatred motive. S. filed an individual complaint to the UN Human Rights Committee.¹⁵ Dmitry lodged an application with the European Court of Human Rights.¹⁶ Both applications have been communicated.

*Case 1.c.2.*¹⁷ On September 14, 2017, three transgender people, Anton and his friends M. and S., were celebrating a birthday in “Killfish” bar. There were two more men in the room. They noticed a rainbow bracelet on M.’s arm, and one of them came up to Anton, M. and S. and started to insult M. shouting that he and his friends were “promoting their perversions”. After some time, the perpetrator picked up an iron chair and began to threaten Anton, aiming at his head, and then grabbed M. by the hair and tried to poke his eye with a fork. There was no security in the bar; the barman called the police. The perpetrator’s companion tried to intervene and distract the aggressor, but he continued with threats and homophobic insults. He punched Anton and S. in the head, tried to grab S. by the hair, and later struck Anton in the face and cut his lip. When one of the survivors showed that he was ready to defend himself, the attacker shouted: “Now you will die for sure!” Finally, the second man led the perpetrator away from the bar, telling the injured that they themselves were to blame for what happened, because they “publicly propagate their perversions” and that “you should do this at home”. As a result of the attack, Anton was hospitalized and was operated on the face, and the second survivor was diagnosed with an ear injury and concussion. That same evening, the two survivors applied to the police. In their statements, they emphasized the homophobic motive of the assault. However, a criminal case was not initiated, because, according to the police, the attacker’s actions should be qualified as an administrative offence under Article 6.1.1 of the Code of Administrative Offenses of the Russian Federation (“battery, if these actions do not constitute a criminal offense”). At present, the survivors are still seeking opening of a criminal case where the motive of hatred would be taken into account.

*Case 1.c.3.*¹⁸ In March 2016, a famous journalist Dmitry Tsilikin was found dead in his apartment in St. Petersburg. The murderer took his phone, a laptop and a purse with money. Sergei Kosyrev was detained as the suspect. On the night of the murder, he was visiting Tsilikin, whom he had met on the internet. Kosyrev confessed; during the interrogation, he called himself “The Cleaner” and said his life was “a crusade against a certain social group”. He claimed that the feeling with which he killed Tsilikin was “no ‘dislike’, as written in the protocol, but ‘hatred’”, and he explained the crime as

¹⁵ Individual complaint No. 2992/2017.

¹⁶ Chechetkin v. Russia. No. 42395/15. Communicated on 6 July 2017.

¹⁷ Case documented by “Coming out” LGBT group monitoring programme. For more information, see: Доклад по итогам мониторинга дискриминации и насилия по признакам сексуальной ориентации, гендерной идентичности и гендерного выражения в Санкт-Петербурге в 2017 году. - СПб.: Выход, 2018. Pp. 30-32. <http://comingoutspb.com/upload/iblock/60e/60e6425e4db0c241a2cb42af87cfe48e.pdf> Accessed on 20 June 2018.

¹⁸ Case documented by “Coming out” LGBT group monitoring programme. For more information, see: Report on Incidents of Discrimination and Violence on Grounds of Sexual Orientation and Gender Identity in 2016 in Saint Petersburg, Russia. - St. Petersburg: Coming Out, 2017. Pp. 14-15. <http://comingoutspb.com/upload/iblock/f61/f61fbb408e0522e7eea3deaa61383abb.pdf> Accessed on 20 June 2018.

carrying out a “mission”¹⁹. Despite all this, the motive of hatred was not taken into account. After the investigation was over, a group of activists, journalists, Tsilikin’s colleagues and friends filed a petition with the prosecutor’s office and the Investigation Committee to consider the hate motive as an aggravating circumstance.²⁰ Despite the resonance in the media and among the public, the petition was not successful. Kosyrev was sentenced to 8 years and 6 month of imprisonment. The murder was qualified in accordance with Article 105 paragraph 1 of the Criminal Code (6 to 15 years in prison), whereas if the motive of hatred had been taken into account, the punishment would have been 8 to 20 years in prison.

d. Absence of preventive measures against crimes motivated by homophobic and transphobic hatred

Despite the Committee’s recommendations,²¹ the authorities do not collect statistical information on crimes committed on the grounds of homophobia and transphobia; they do not provide trainings on discrimination issues for law enforcement officials; they do not carry out awareness-raising activities for prevention of hate crimes against vulnerable groups such as LGBT people. Often police actions in cases when a homophobic or transphobic crime is committed before their eyes can be characterized “consent or acquiescence of” such crime, which in turn qualifies as torture in accordance with Article 1 of the Convention (see cases 1.d.1., 1.d.2).

Police inactivity constitutes a particularly serious threat in the case of violent actions against LGBT people by members of their families. It is not uncommon for police officers to refuse to interfere in a “family conflict”, so the perpetrators feel unchallenged, which can trigger increased violence (see case 1.d.3).

*Case 1.d.1.*²² On June 29, 2013 the annual LGBT Pride rally took place in St. Petersburg in the “Hyde Park” (free speech zone) on the Mars Field. Approximately 200 aggressive counterprotestors gathered on the spot. Homophobic activists threw eggs, stones, and smoke bombs at rally participants while screaming hateful and homophobic slogans. Several opponents broke through the fence and began to strike the protesters tearing banners and flags out of their hands. The police did not take any action to prevent and stop the violence. Instead of detaining the attackers, the police pushed LGBT activists aside and forced them to leave the venue. Four participants were on their way to the bus when they were beaten by homophobic men. The police intervened only after a few minutes, however, instead of the attackers they arrested the survivors and took them to the police station. The survivors pressed charges and demanded the initiation of a criminal investigation of the attack motivated by hatred against LGBT people. However, the police, even without questioning the survivors, refused to open a criminal investigation, having come to the conclusion that these were battery cases where “private prosecution” applies (the facts must be proven in court by the victims, without the involvement of a state prosecutor and without investigation). The assaults were classified as not motivated by hatred, quote, “considering the persistent hostile attitudes in people with traditional sexual orientation towards the participants of the St. Petersburg

¹⁹ The web-based newspaper *Fontanka* quotes the investigators, “Tsilikin’s alleged murdered calls himself the Cleaner”, *Fontanka*, 07.04.2016: <http://www.fontanka.ru/2016/04/07/094/> Accessed on 20 June 2018.

²⁰ Petition “Recognise Tsilikin’s murder as a hate crime”, Change. org: <https://www.change.org/tsylikin> Accessed on 20 June 2018.

²¹ CAT/C/RUS/CO/5, para. 15.

²² Case documented by “Coming out” LGBT group monitoring programme.

LGBT Pride and the individuals supporting them". The attackers were not brought to justice.

*Case 1.d.2.*²³ On April 17, 2015, in St. Petersburg, a group of LGBT activists held pickets to protest the silencing of issues faced by LGBT teenagers. Six police officers and a group of journalists were present at the site, as well as Anatoly Artyukh, a prominent homophobic activist and the leader of the Orthodox movement "Narodny Sobor". Artyukh and other aggressively minded people repeatedly insulted the protesters. One of them, with the words "all of you should be killed", assaulted a participant named M. and began to strangle him. Police officers refused to detain the attacker. After the event, M. turned to the police. The police refused to open a criminal case on grounds of failure to identify the attacker and the lack of evidence (despite the presence of video and photos of the assault).

*Case 1.d.3.*²⁴ X., a young woman from a conservative family, came to a big city in Central Russia to study in 2015. She began to live with Y., also a young woman, together with Y.'s nine-year-old daughter and her elderly mother. In the spring of 2017, X. told her parents that she was living with a woman. In March 2017, X.'s parents, sister and brother came to the city where X. resided. They rang the bell of the apartment where the women lived, tried to force the door and demanded to let them in for a "talk". Frightened by possible violence, X. and Y. called the police, but the police called back and said that they would not interfere with family affairs. After a while, X.'s mother and brother started to behave more kindly, and X. decided to let them in. The meeting went fine. A couple of days later, X.'s brother, father, mother and sister came to X. and Y. to say goodbye before leaving. Upon entering the apartment, they threw X. on the floor and began to threaten Y. with murder. They put a knife to Y.'s and her mother's throats, beat them and locked them both in the bathroom. All of this was seen by Y.'s daughter. The relatives led X. away by force and took her to Moscow, where they kept her confined for two months, subjected her to physical and psychological violence (beat, threatened, conducted rites), took away her phone and passport. In June 2017, X. ran away and returned to the city where Y. resided. Fearing persecution on the part of X.'s relatives, X., Y., the latter's daughter and mother left their apartment. The next day, Y. began to receive messages and calls from X.'s relatives. Following X., her relatives came to the city. Trying to find X., her relatives exerted pressure on her former neighbours and landlords. X.'s mother also called Y.'s daughter and tried to lure her out of the house "to go for a walk", while X.'s father threatened Y. on the phone, citing his "connections to the Ministry of Internal Affairs". Y.'s mother and daughter were forced to stay inside a rented apartment for several days, and the women themselves found shelter for several days in another area. Due to the fact that the women had to hide and constantly move, they were unable to work and found themselves financially distressed. They did not apply to the police again.

²³ Case documented by "Coming out" LGBT group monitoring programme. For more information, see: On Incidents of Discrimination and Violence on Grounds of Sexual Orientation and Gender Identity in 2015 in Saint Petersburg, Russia. - St. Petersburg: Coming Out, 2016. Pp. 24-25. <http://comingoutspb.com/upload/iblock/8f5/8f545ae75a5be7e9711e7fd617337199.pdf> Accessed on 20 June 2018.

²⁴ Case documented by "Coming out" LGBT group monitoring programme. For more information, see: Доклад по итогам мониторинга дискриминации и насилия по признакам сексуальной ориентации, гендерной идентичности и гендерного выражения в Санкт-Петербурге в 2017 году. - СПб.: Выход, 2018. Pp. 41-42. <http://comingoutspb.com/upload/iblock/60e/60e6425e4db0c241a2cb42af87cfe48e.pdf> Accessed on 20 June 2018.

Suggested recommendations:

- 1.1. *Repeal the Federal law No. 135-FZ of 29 June 2013 banning “propaganda of non-traditional sexual relations among minors”.*
- 1.2. *Ensure that all crimes on the basis of sexual orientation, gender identity or gender expression are investigated with the aim of prosecuting and punishing the perpetrators of such acts. Ensure that hate motive of such crimes is investigated and taken into account while classification of the crime. In particular, carry out effective investigations and bring charges against all those responsible for violent attacks on the participants of the “Rainbow tea party” and on transgender persons in “Killfish” bar in Saint Petersburg. Undertake measures to prevent violent attacks against LGBT-rights demonstrations.*
- 1.3. *Collect disaggregated statistical data on hate crimes against vulnerable groups, including LGBT people. Ensure that this data includes information about the group against which the crime was directed (the specific motive).*
- 1.4. *Carry out awareness-raising activities for the general public in order to combat the social stigmatization of lesbian, gay, bisexual and transgender persons.*

Section 2. Cruel, inhuman or degrading treatment of LGBT people by law enforcement officials

The unwillingness of LGBT survivors of hate crimes to seek help from law enforcement agencies is triggered not only by the fact that the crime will likely remain un-investigated, but also by fears of being subjected to homophobic and transphobic abuse up to physical violence by law enforcement officers (see case 2.1).

LGBT people are also at a higher risk of degrading treatment and even violence by police officers in cases of detention on motives unrelated to their sexual orientation or gender identity (see case 2.2).

Case 2.1.²⁵ Alexandra, a transgender woman, was repeatedly battered by homophobic and transphobic persons before her legal gender marker was changed. She applied to the police for help several times. However, all her complaints led to no outcome. Moreover, in some cases, upon learning about the inconsistency of her legal gender marker with her gender identity, the police officers insulted her and threatened her with violence, “if she demands too much.”

Case 2.2.²⁶ In December 13, 2017, Francis, a transgender man (his legal gender marker had not yet been changed to male), left his apartment. On the landing, an unknown man stopped him. The man said that he was from the police, and requested

²⁵ Case documented by Transgender Legal Defense Project monitoring programme. For more information, see: Violation of transgender people’s rights in Russia: research results. – Saint Petersburg.: Transgender Legal Defense Project, 2016. Pp. 37-38. http://pravo-trans.eu/files/violation_of_the_rights_of_transgender_people_in_Russia-en.pdf Accessed on 20 June 2018.

²⁶ Case documented by “Coming out” LGBT group monitoring programme. For more information, see: Доклад по итогам мониторинга дискриминации и насилия по признакам сексуальной ориентации, гендерной идентичности и гендерного выражения в Санкт-Петербурге в 2017 году. - СПб.: Выход, 2018. Pp. 79-83. <http://comingoutspb.com/upload/iblock/60e/60e6425e4db0c241a2cb42af87cfe48e.pdf> Accessed on 20 June 2018.

Francis's documents. He himself did not show any proof that he was a policeman. Francis showed his passport. After that, the policeman phoned his colleague. Francis was told that he was being accused of incitement to suicide, and the man demanded to be admitted inside the apartment. When Francis tried to record the conversation, the policemen threatened him with physical violence. In the apartment, the police officers did not show a search warrant, wreaked havoc in the room, and demanded to give them all digital devices and injectable hormonal medications. All this time the police insulted Francis with obscenities, talked about him in the neuter gender, and said that he was "not human". When Francis tried to contact a lawyer, his phone was taken away. One of the policemen demanded that Francis take off his pants, as "I do not even know what cell to put you into". He asked personal, irrelevant questions: how does Francis have sex, how did he "grow a penis", "so do you have a hole and a prick, or what?" In addition to the phone, Francis's two laptops were seized. All objections were met with threats and sexual overtones. The officers said that they would take him to prison, where "they will put you into the cell naked, check all the holes and make you bend down". After that, Francis was taken to the police station. On the way he was again insulted and offered to perform oral sex. At the station, transphobic insults continued. Francis was forced to provide passwords from his laptops, phones, and accounts in social networks. Subsequently, from the conversations of the police, Francis realized that an unknown woman had filed a statement claiming that he had allegedly written to her about ways to commit suicide. Francis did not do any such thing, as he informed the investigator. A few hours later he was released from the police station. No documents concerning his detention, search and interrogation were given to him. Francis still has not received the confiscated items.

Suggested recommendations:

- 2.1. *Provide training to the police and law enforcement officials promoting respect for human rights and tolerance for diversity.*
- 2.2. *Ensure that all acts of violence and ill-treatment of lesbian, gay, bisexual and transgender persons by police officers are investigated and prosecuted, and that all persons under investigation are immediately suspended from their duties and remain so throughout the investigation.*

Section 3. Prosecution of LGBT human rights activists

In the List of issues prior to the submission of the sixth periodic report of the Russian Federation, the Committee asked the Russian Federation to provide information on the measures taken to ensure that no individual or human rights group to which he/she belongs is subjected to reprisals or prosecution for monitoring incidents and, among other things, to clarify the status of the administrative case brought against Lena Klimova. The Committee further requested to provide information on the steps taken by the State party to amend its legislation requiring human rights organizations that receive foreign funding to register as "foreign agents".²⁷

²⁷ CAT/C/RUS/QPR/6, paras. 23, 25.

The Russian Federation did not answer these questions claiming that “these matters do not fall within the mandate entrusted to the Committee by the Convention”.²⁸

This section of the report examines cases of prosecution of LGBT human rights activists and LGBT organisations by the authorities.

a. Persecution of “Children-404” and its founder Lena Klimova

Lena Klimova is a journalist and the founder of an online support project for LGBT teenagers “Children-404”. She is the administrator of the “Children-404” website and a dedicated online group on the Russian social network VKontakte. The online community offers psychological assistance to LGBT teenagers and provides them a space to discuss LGBT issues and support each other. She has also written several books about LGBT teenagers.

On August 3, 2015, Lena Klimova was found guilty of the administrative offence of “public activities aimed at propaganda of homosexuality among minors” and sentenced to a fine of 50,000 Russian roubles (approx. 700 euros). The “propaganda of non-traditional sexual relations”, according to Russian courts, was contained in the letters of adolescents who addressed the “Children-404” community to obtain peer support and psychological help, as well as in the comments to these letters left by community members.

Since 2015, prosecutors of various Russian cities have regularly applied to courts inviting them to confirm that the web resources of “Children-404” project promote non-traditional sexual relations. District courts of Barnaul, Kaluga and Bryansk have ruled that web pages of the VKontakte groups “Children-404” contain “propaganda of non-traditional sexual relations”. According to the courts, the “propaganda” was contained in either in LGBT adolescents’ letters, or even in the very group description informing that the group was created to provide assistance to them.

Based on these court decisions, access to the “Children-404” project groups was blocked by Roskomnadzor.²⁹ Two of the three judgments were later quashed by higher courts, but the access was not restored, because, according to Roskomnadzor, Russian legislation does not contain the procedure for unblocking Internet resources. After each blocking, Lena Klimova creates a new project group on VKontakte social network.

In 2016, one of Barnaul district courts, ruled the “Children-404” website as promoting “non-traditional sexual relations”, and the website was blocked. This decision was upheld by the courts of appeal and cassation.

Currently, in Bryansk, the court is examining another case related to blocking a Vkontakte “Children-404” group.

In none of the court procedures concerning the blockings did the court examine the information on the web page itself there was no attempt to estimate whether it could indeed “promote non-traditional sexual relations”. At the same time, expert opinions presented by Lena Klimova’s lawyer were not accepted by the courts.

The facts described above served as the basis for an application with the ECtHR, which has been currently communicated to the Russian Federation.³⁰

²⁸ CAT/C/RUS/6, para. 265.

²⁹ Federal organ monitoring compliance with the Russian legislation in communications, IT and mass media.

³⁰ Klimova v. Russia, no. 33421/16, communicated on 26 October 2017.

In addition, at least from the autumn of 2017 to the spring of 2018, a pre-investigation check was conducted against Lena Klimova on suspicion of “inciting hatred and enmity towards people of heterosexual orientation and representatives of state power in modern Russia”. According to an expert from the Federal Security Service criminal laboratory, such feelings are excited by Lena Klimova’s 2014 book, “Children-404. In the walls of silence”. The Investigation Committee has repeatedly refused to initiate criminal proceedings, but this decision was each time quashed by the prosecutor who returned the case-file to the investigator for additional verification. According to the information available to date, no criminal case has been instituted against Lena Klimova. At the same time, it cannot be verified reliably whether the pre-investigation check is still under way, as the law does not oblige investigators to notify the suspect on this matter.

b. Blocking of information resources devoted to LGBT issues under the law on the prohibition of "propaganda of non-traditional sexual relations"

Information resources of "Children-404" are not the only web resources that have been blocked under the federal law that prohibits “propaganda of non-traditional sexual relations among minors”.

In the spring of 2018, it became known that in November 2017 and in January 2018, two district courts of the Altai Region had ruled the information posted on gay.ru and parniplus.com websites respectively as “propagating non-traditional sexual relations”.

The former website is the oldest Russian-language Internet portal that publishes information concerning the life of the LGBT community in Russia and the world. The latter website focuses on health issues in the LGBT community and publishes up-to-date and scientifically valid information on HIV.

Both sites had a visible "18+" marking on each page, as required by the Federal Law “On Protecting Children from Information Harmful to Their Health and Development”.³¹

Website administrators were not notified of the lawsuits and learned about the judgments only upon receiving blocking notifications. Currently, the administrators are attempting to appeal these decisions in Russian courts.

c. Persecution of LGBT human rights organizations under the “foreign agents” law

Contrary to the recommendations of the Committee³² as well as other UN Treaty Bodies,³³ the “foreign agents” law was not amended in such a way as to exclude the obligation for organizations receiving financial assistance from foreign sources to register as “foreign agents” and to be publicly named as such. Moreover, during 2014, this law was amended in a way that allowed the Ministry of Justice to add NGOs to the register of “NGOs performing the functions of a foreign agent” at its discretion (none of the NGOs that challenged such an entry in the register was successful), and in 2017, the definition of “political activity” was changed in such a way that it began to include any NGO activity including website publications, calls to authorities to amend legislation, etc. Currently, any activity led by an NGO that receives funding from foreign sources may entail its inclusion in the register of “foreign agents”, which in turn will oblige it to submit additional reports and label its publications accordingly.

³¹ Federal Law “On Protecting Children from Information Harmful to Their Health and Development” No. 436-FZ of 29 December 2010.

³² CAT/C/RUS/CO/5, 11 December 2012, para. 12.

³³ CCPR/C/ RUS/CO/7, para. 22; CEDAW/C/RUS/CO/8, paras. 15-16; E/C.12/RUS/CO/6, paras. 7-8.

Five LGBT organizations have been persecuted under the “foreign agents” law. These are virtually all officially registered Russian LGBT organizations. Four of them were forced to close down – either to avoid criminal prosecution of their leaders for “malicious evasion of inclusion in the register of NGOs performing the functions of a foreign agent”, or because the organizations were unwilling to continue working while marking all their publications with the “foreign agent” label.

Three of the LGBT NGOs that were prosecuted under the law “on foreign agents” lodged applications with the ECtHR. In 2017, their complaints were communicated.³⁴

Suggested recommendations:

*3.1 End persecution of “Chil*dren-404” project and its founder Lena Klimova. In particular, review the judgment convicting Lena Klimova of “propaganda of homosexuality among minors”; unblock “Children-404” website and Vkontakte groups; abstain from any further persecution of Lena Klimova or other persons supporting LGBT adolescents.*

3.2 Unblock gay.ru and parniplus.com websites. Abstain from any further blocking of websites disseminating information on LGBT issues.

3.3 Ensure that all human rights defenders, including lesbian, gay, bisexual, and transgender activists, are protected from harassment, intimidation and violence, particularly by public officials, as a result of their activities.

3.4 Repeal the legislation requiring non-commercial organizations that receive foreign funding to register as “foreign agents”.

Section 4. Violations of human rights of LGBT people in psychiatric institutions

The Committee requested the Russian Federation to provide information on the measures taken to ensure effective safeguards for medical staff in such psychiatric institutions on how to administer non-violent and non-coercive care to individuals in such institutions. The Committee also asked to provide information regarding the training given to all personnel in such institutions.³⁵

In the reply to this question, the Russian Federation emphasized, among other things, that “article 5 of the act on psychiatric care establishes an array of rights enjoyed by all persons suffering from mental disorders when receiving psychiatric care. These rights include the right to respectful and humane treatment, to be given information about their rights, to receive psychiatric care in conditions which involve the least possible restraint, to be admitted to medical facilities, <...>, to the invitation, at their request, of any specialist administering psychiatric treatment, and to the assistance of a lawyer, legal representative or other person. The rights and freedoms of persons with psychiatric disorders may not be restricted merely on the basis of a psychiatric diagnosis, or the fact that they are under clinical observation or have been admitted to a medical facility providing inpatient psychiatric care, or a residential home for persons with psychiatric disorders”.³⁶

³⁴ Ecodefence and others against Russia and 48 other applications. No. 9988/13. Communicated on 22 March 2017.

³⁵ CAT/C/RUS/QPR/6, para. 34.

³⁶ CAT/C/RUS/6, paras. 404-405.

However, from 2012 to 2018, we recorded 5 cases when the only reason for an involuntary placement of a person in a psychiatric institution was their sexual orientation or gender identity. The reason for such act, as a rule, is a submission by relatives who have a deeply negative attitude towards the sexual orientation and/or gender identity of the individual.

Since homosexuality was excluded from the International Classification of Diseases in 1990, and since January 1, 1999, the 10th Revision of the International Classification of Diseases has been used in Russia as the single international normative document for health accounting and reporting,³⁷ any “treatment” of homosexuality in Russia is illegal.

As for transgenerness, although formally the discrepancy between the person’s gender identity and assigned sex is considered a mental illness (“Transsexualism”, code F64.0 for ICD-10), it does not imply treatment with psychotropic drugs, much less involuntary admission.

*Case 4.1.*³⁸ In March 2017, Ilya, a transgender man, told his mother about his gender identity and that he had a girlfriend. The same night, the mother called a psychiatric team. He was taken to a psychoneurological hospital, where he was immediately put into a restricted women’s ward. The nurse asked him to strip down, and gave him a hospital gown and an injection without explaining what drug he was given. The next morning, he was called to see the doctor. The doctor began to question him about his life, plans, etc. Ilya also talked about his gender identity. After the conversation, he was again placed in a restricted access ward and given more injections, after which he was in a foggy state and always wanted to sleep. A week later, his sister found out that Ilya had been diagnosed with schizophrenia – this was the way the doctor qualified his desire to transition and his sexual attraction to women. He was meant to be treated for a long time, and the treatment methods were not disclosed to his sister. To get a chance to leave the hospital, Ilya began to tell the doctor what she wanted to hear: that he feels like a woman and he likes men. His sister, in turn, gave the doctor a bribe of 50 thousand rubles (about 700 euros). After that they dispatched Ilya. Ilya continues to be under psychiatric supervision, and the diagnosis of “schizophrenia” has not been withdrawn.

Suggested recommendations:

4. Undertake measures to ensure that one’s sexual orientation, gender identity or gender expression can under no circumstances be the reason for an involuntary placement of a person in a psychiatric institution. Ensure that one’s sexual orientation, gender identity or gender expression is not taken into account when determining whether a person is legally capable.

³⁷ Order of the Ministry of Health of the Russian Federation No. 170 of 27 May 1997 “On Transition of Organs and Institutions of Public Health Services of the Russian Federation to the 10th revision of the International Statistical Classification of Diseases and Health Problems”.

³⁸ Case documented by Transgender Legal Defense Project monitoring programme. For more information, see: Transgender People in Russian Society. Transgender Legal Defense Project. 2018. pp.24-26. <http://pravo-trans.eu/wp-content/uploads/2018/06/monitoring-2017-eng.pdf> Accessed on 20 June 2018.