



# **Violations of the Rights of Lesbian, Gay, Bisexual, And Transgender Persons in RUSSIA**

## **A Shadow Report**

### **ACKNOWLEDGEMENTS**

This shadow report on lesbian, gay, bisexual, and transgender rights in Russia was coordinated by Global Rights, ILGA-Europe and the International Human Rights Clinic at the Harvard Law School. In preparing this report, contributions were provided by:

**Global Rights**

**ILGA-Europe**

**Russian LGBT Network**

**FtM Phoenix Group**

**Russian Transgender Fund**

**October 2009**



## Executive Summary

Article 19 of the Russian Constitution states that all people are equal before the law and are subject to equal protection under the law.<sup>1</sup> It denounces discrimination based on “sex, race, nationality, language, origin, property or employment status, residence, attitude to religion, convictions, membership of public associations or any other circumstance.”<sup>2</sup> Though this non-discrimination clause includes denouncing discrimination based on sex, it does not prohibit discrimination based on gender identity or sexual orientation. Therefore, lesbian, gay, bisexual, and transgender (“LGBT”) individuals in Russia experiencing violations of their human rights due to their sexual orientation or gender identity do not find protection from authorities and are denied access to the Russian courts.

There are pervasive examples of the Russian culture of discrimination based on sexual orientation, gender identity and gender expression. The government run HIV/AIDS programs largely ignore the LGBT community. Russian faith and public officials regularly engage in intolerant language and the Russian media publishes hate speech, disseminates misleading information, and incites discrimination against the LGBT community. Individuals face regular discrimination in the work place and in education based on sexual orientation, gender identity and gender expression. Russian teachers are unequipped and uneducated in how to teach transgendered students. There are reports that LGBT individuals in Russia are victims of extra-judicial killings due to their sexual orientation. The police harassed and humiliated gay and lesbian individuals at the 2006 and 2007 Moscow Pride events by failing to protect them and possibly even colluding with the attackers. Russian state officials have continuously and systematically blocked every attempt by LGBT human rights defenders to exercise their right to freedom of assembly. Additionally, there have been multiple LGBT organizations that were refused official registration without a seemingly valid explanation. The lack of protection from authorities and refusal of the law-enforcement system to hear violations of rights based on sexual orientation and gender identity has resulted in many LGBT individuals choosing not to report serious violations. The purpose of this report is to provide an evaluation of Russia’s compliance with the International Covenant on Civil and Political Rights (“ICCPR”) and to assist in the advocacy of greater protection and promotion of LGBT persons by shedding light on violations of the ICCPR.

Russia has undertaken a number of related international commitments, including ICCPR, and is therefore bound to recognize the existence of the LGBT communities, the discrimination they face, and to make necessary steps to protect the rights of its citizens, regardless of their sexual orientation, gender identity and gender expression. There have been multiple instances of discrimination and violence towards LGBT individuals over past few years, including several killings and serious abuses by state authorities, some of which are documented below. Underlying all of the human rights violations outlined in this report is a generalized discriminatory culture with respect to LGBT individuals. Despite these problems, no mention of any of these negative incidents were made in Russia’s most recent state party report to the Human Rights Committee. It is our hope that the information in this report will aid the Human

---

<sup>1</sup> Konstitutsiia Rossiiskoi Federatsii [Konst. RF] [Constitution] art. 19.

<sup>2</sup> *Id.*

Rights Committee in its evaluation of Russia's adherence to the ICCPR and will lead to greater progress of the rights of the LGBT individuals in Russia.

## Substantive Violations of the Covenant

### Articles 2(1) and 26 (Non-discrimination)

Articles 2(1) and Article 26 of the ICCPR set out the non-discrimination standards to which signatories will be held. According to Article 2(1),

Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.<sup>3</sup>

Article 26 recognizes that “all persons are equal before the law and are entitled without any discrimination to the equal protection of the law.” Discrimination in the law “on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” is prohibited.<sup>4</sup>

In *Toonen v. Australia*, the Human Rights Committee determined that criminalization of consensual same-sex sexual behaviors constituted a violation of the ICCPR because the reference to sex in articles two, paragraph one, and twenty-six should be interpreted as including sexual orientation.<sup>5</sup> Therefore, persons of all sexual orientations are to be protected by the rights guaranteed by the Convention and may not be discriminated against.

Despite the non-discrimination standards above, Russia retains a culture of systematic discrimination against LGBT individuals. The absence of legislation that specifically prohibits discrimination on the basis of sexual orientation and gender identity only furthers the prevalent homophobic attitudes that lead to this discrimination. The Russian regional and local authorities have labeled any attempts at advocating on behalf of the LGBT community or providing information on gay and lesbian relationships as “propagandizing.” In a number of instances they have effectively prevented the dissemination of information by claiming that the LGBT “propaganda” is harmful both to the young people of Russia and the family and is, therefore, a threat to Russia’s future. In fact, one survey conducted in Russia found 47% of the respondents felt gays and lesbians should conceal their orientation altogether with only 28% saying they should not.<sup>6</sup>

Public opinion is shaped largely by the discriminatory attitudes of the government, religious leaders, and mass media. Government run HIV/AIDS programs largely ignore the LGBT community, despite recognition at UN level that men who have sex with men are among

---

<sup>3</sup> International Covenant on Civil and Political Rights, G.A. Res. 2200A, 999 U.N.T.S. 171, art. 2 (Dec. 16, 1966) [hereinafter ICCPR].

<sup>4</sup> *Id.* at art. 26.

<sup>5</sup> *Toonen v. Australia*, Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 (1994).

<sup>6</sup> *Discrimination based on sexual orientation and gender identity in Russia (2007)* -- page 1 -- quoting survey by FOM (Public Opinion Foundation).

those most at risk to HIV infection.<sup>7</sup> Despite the heightened vulnerability to infection, these HIV programs do not even mention men who have sex with men as a population.<sup>8</sup> There has been no indication that Russian authorities will do anything to address the discrimination faced by LGBT individuals. Instead the authorities excuse and even encourage the discriminatory behavior.

In its report following a mission to the Russian Federation in 2007, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance recommended, based on the its findings, “the establishment of an independent body at Federal level aiming at the promotion and protection of human rights and the combat against racism, xenophobia and discrimination in a holistic manner, including discrimination on grounds of race, religion, ethnicity, nationality, citizenship, residence, gender, age, disability, *sexual orientation and any other status*”<sup>9</sup> (italic added)

### Intolerant Language of Politicians

In particular, public officials have used intolerant language when opposing the right of LGBT individuals to exercise their freedom of assembly. The Mayor of Moscow used words such as "deviations," "provocation," "desecration of a sacred place," "contamination," "Satanic," "deadly moral poison for children," and the State Duma Committee for Public Associations and Religious Organizations asserted that gay parades would lead to the "destruction of families, atomization of society, breaking of normal and natural gender relations."<sup>10</sup> In 2007, President Putin was asked at his annual Kremlin press conference whether he agreed with the view of the Moscow Mayor that gay parades were “Satanic.” He responded, “I respect -- and will respect -- freedom of people in all their manifestations,” but concluded that "one of the main problems of the country is demographic," thus appearing to blame LGBT people for Russia's declining population.<sup>11</sup> This type of language constitutes incitation to hatred.

During the 2007 election campaign, CP Central Committee member, Viktor Ilyuhin, declared that "homosexuality is a movement of sick people with serious health deviations and anomalies. Therefore advocating and constantly raising this issue destroys moral values of the Russian society, as homosexuals are dangerous for other people."<sup>12</sup> Subsequently, in March of 2007, the Saratov Regional Duma went so far as to create an amendment to the electoral code that required prospective candidates to reveal both their sexual orientation and whether they were transgender. One legislator attempted to legitimize this requirement by stating, “[w]hen they come to power, these pederasts don't work; they look for a partner.”<sup>13</sup>

---

<sup>7</sup> *Discrimination based on sexual orientation and gender identity in Russia (2007)* -- page 7.

<sup>8</sup> *Id.*

<sup>9</sup> Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, mission to The Russian Federation, A/HRC/4/19/Add.3, May 30, 2007.

<sup>10</sup> *Freedom of Assembly in Russia -- Diary of Events -- ILGA-Europe -- May 2009 - Summary -- Section 2.*

<sup>11</sup> GayRussia.ru -- February 2007: "Putin Speaks Publicly on Moscow Gay Pride".

<sup>12</sup> *Discrimination based on sexual orientation and gender identity in Russia (2007)* -- page 2.

<sup>13</sup> *We have the upper hand -- Freedom of assembly in Russia and the human rights of lesbian, gay, bisexual and transgender people* - Human Rights Watch and ILGA-Europe -- June 2007 - page 14; the amendment did not succeed.

Just over a year later, on May 16, 2008, the Governor of the Tambov region was asked his opinion about LGBT people and his views on tolerance towards them during an interview with the correspondent of Komsomolskaya Pravda. He responded: “[t]olerance?! Like hell! Faggots should be torn apart. And their pieces should be thrown in the wind”.<sup>14</sup> The head of the Moscow Police Department, Vladimir Pronin, stated his views on gay pride parades in a March 2009 interview with the news agency *Interfax*

It’s unacceptable – gay pride parades shouldn’t be allowed. No one will dare to do it, such “brave-heart” will be torn to shreds. The West can say we’re bad guys, but our people will see it is right. Our country is patriarchal, that’s sums it up. I positively agree with the Church, with the Patriarch, politicians, especially with [Mayor] Luzhkov, who are convinced that man and woman should love each other. It is established by God and nature.<sup>15</sup>

### Intolerant Language of Faith Leaders

Faith leaders have also contributed to the Russian culture of discrimination against LGBT individuals with their intolerant language. Talgat Tajuddin, the Chief Mufti of Russia's Central Spiritual Governance for Muslims, made a direct incitement to violence when he declared, apropos of the Gay Pride parade: “[t]he Parade should not be allowed and if they still come out into the streets, then they should be bashed.” Several leaders have also linked LGBT people to Russia’s demographic crisis. The late Patriarch Alexi II of Moscow and All Russia referred to it as “a vicious asocial phenomenon” and declared that he was “convinced that gays' desire to organize a parade in Moscow will not help strengthen the family as the foundation of a strong state.”

When discussing education, the deputy head of the Moscow Patriarchate Department for External Church Relations, Archpriest Vsevolod Chaplin, encouraged teachers to tell their students not to follow in the path of “homosexuals and prostitutes.” His recommendation was to “show them an unhappy homosexual in his 40s and an ageing prostitute” or he declared that in thirty years Russia would see its children “turn into animals influenced by the cult of glamour and debauchery.”<sup>16</sup> He also stated “such people [homosexuals] are deeply unhappy..... It's not by chance that they die earlier and there are more suicides, drug addicts and alcoholics among them” when answering questions of Komsomolskaya Pravda readers.<sup>17</sup> Additionally, in 2000 the Orthodox Church adopted a policy as part of its “Social Doctrine” that gays and lesbians should not be permitted to teach children or young people or take a position of power in either the army or the Russian prison system.<sup>18</sup>

---

<sup>14</sup> Lgbtrights.ru - 30 June 2008 -- "LGBT Rights Organisation sends a letter to the President of the Russian Federation" and GayRussia.ru - 29 July 2008 -- "Activists intend to take the case to courts up to Strasbourg".

<sup>15</sup> UKGayNews.org - 8 March 2009 -- "Moscow Police Chief Says Gay Pride Is "Unacceptable"".

<sup>16</sup> Associated Press/International Herald Tribune -- 8 August 2007 -- "Russian Orthodox Church calls for teaching of morals in school, deplors "ideology of science"".

<sup>17</sup> Interfax -- 7 June 2008 -- "Compassion to gays makes the Church condemn unisexual relations -- the Moscow Patriarchate".

<sup>18</sup> *Discrimination based on sexual orientation and gender identity in Russia (2007)* -- page 2; see also: Interfax, “Russian Orthodox Church takes official position on relation with state, society”- 5 August 2000, at <http://www.stetson.edu/~psteeves/relnews/0008f.html>, accessed 14 Oct 2008.

## Mass Media

Mass media has also affected public opinion and contributed to the widespread Russian discrimination against LGBT individuals. Leading Russian mass media channels, including *Moskovsky Novosti*, *Komsomolskaya Pravda*, *Literaturnaya Gazeta*, and the television channel *NTV*, engage in homophobic reporting. These channels publish “hate speech,” disseminate misleading information, and incite discrimination against LGBT people.<sup>19</sup> The state has failed to address this issue and is responsible for its failure to introduce legislation that prohibits incitation to hatred on the basis of sexual orientation and gender identity.

In a recent example, on January 18, 2009, a seminar was held in Moscow entitled “From Transsexualism to Transsexuality.”<sup>20</sup> Though members of the Russian newspaper *Moskovskiy Komsomolets* and the Russian television company *NTV* attended the seminar, subsequent reports by both companies contained significant inaccuracies. *Moskovskiy Komsomolets* published an article titled “In Moscow will Work a Public Trans” on February 5th that contained multiple inaccuracies, did not include the name of the group that produced the seminar, and contained no mention of the idea of the seminar that discussed why transsexualism should not be considered a mental disease. On February 10th, *NTV* broadcasted a program titled “Confrontation.” In that program, Ignat, a female-to-male transsexual was featured as suffering from the final stages of cancer despite the fact that he actually suffered from stage one cancer. Also, because *NTV* was not bound by a contract ensuring privacy, it broadcast photographs of Ignat and his wife. As a result, Ignat was recognized and subsequently fired from his job. There have also been reports that the Russian newspaper *Zhizn* fabricated a story about a man killing his wife when he discovered she was a male-to-female transsexual.<sup>21</sup> There is no record of the identity change of the transsexual wife as reported in the story and there does not appear to be any additional evidence that could support the newspaper’s report.

## Discrimination in the Workplace

The workplace is an area of substantial discrimination against LGBT individuals. Although there are no laws that allow employment discrimination on the basis of sexual orientation, there are no laws preventing such actions either. An online survey of more than 3000 people was conducted by the Russian LGBT Network and the internet portal *Qguys.Ru*. It revealed some of the effects of workplace discrimination on the lives of gay and lesbian individuals. To minimize discrimination against themselves, 54% of the respondents reported that they found it necessary to hide their sexual orientation.<sup>22</sup> Despite the fact that over half of the people questioned reported hiding their sexual orientation, over 90% of the survey respondents reported at least one

---

<sup>19</sup> *Discrimination based on sexual orientation and gender identity in Russia (2007)* -- page 2; *Discrimination based on sexual orientation and gender identity in Russia (2009)* provides numerous examples of homophobic reporting in the media – Section 3.8.

<sup>20</sup> FtM Phoenix Group, [http://aronbelkin.narod.ru/FtM\\_Phoenix.html](http://aronbelkin.narod.ru/FtM_Phoenix.html) (last visited Oct. 1, 2009).

<sup>21</sup> *Russie: L’histoire bidon de la trans’ assassinée par son mari à Volgograd*, July 29, 2009, available at <http://www.yagg.com/2009/07/29/lhistoire-bidon-de-la-trans-assassinee-par-son-mari-a-volgograd-987/>. See also *Mann tötet Freundin wegen Geschlechtsumwandlung*, SPIEGEL ONLINE, June 23, 2009, available at <http://www.spiegel.de/panorama/justiz/0,1518,632198,00.html>.

<sup>22</sup> *Discrimination based on sexual orientation and gender identity in Russia (2007)* -- page 2.

personal experience of discrimination because of their sexual orientation. The remaining 7% who did not experience discrimination credited the concealment of their sexual orientation.

Of the respondents, 4.4% reported that they had lost a job or not been employed because of their sexual orientation and an additional 6.4% reported trouble with getting a promotion because of their sexual orientation. This has perhaps led to the overwhelming 78.6% of respondents reporting that they conceal their sexual orientation at the workplace. The remaining 17% reported that they did not feel the need to conceal their sexual orientation and had experienced no problems because of that.

Although no specific statistics have been obtained, transsexuals also suffer discrimination in employment. For example, if a transsexual employee changes his or her name to correspond with their gender reassignment, that employee is often forced to break Russian labor law regulations to keep their gender reassignment private. According to the instructions for name changes provided in Enactment 69 of the Russian Ministry of Labour, "Instruction on Work Record Cards' Execution," if an employee changes his or her name, the previous name is crossed out with one line and the new name is written nearby.<sup>23</sup> This requirement makes a transsexual employee's gender reassignment obvious to a subsequent employer.

If an employer refuses to issue a duplicate copy of the work record card, which would display only the employee's new name, then an employee who wishes to keep his or her gender reassignment private has two options: either cross out the previous name such that it is unreadable or "misplace" their work record card. If the employee chooses to make their previous name unreadable, they create a defective work record card that does not comply with the name change requirements. If the employee chooses to "misplace" their work record card, the result is the loss of the previous record of their service. The loss of this record would make it very difficult to obtain a job. If the original work record card is not "found" until retirement, the employee's pension will be negatively affected.

Other discrimination against LGBT individuals in the workplace were documented by *Discrimination based on sexual orientation and gender identity in Russia (2009)*. It states

gays and lesbians who work (or would like to work) in state institutions and organisations, as well as in the education system, are most vulnerable. The respondents surveyed in the course of monitoring pointed out repeatedly that people who take state service undergo the procedure verification whether they are

---

<sup>23</sup> On Approval of the Instruction on Work Record Cards' Execution, Ministry of Labour and Social Development of the Russian Federation, Enactment 69, 2003, No. 5219, available at <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=44948>. The text translates to:

2.3. Changes of records in work record cards about surname, first and patronimic names and date of birth must be executed on the ground of the passport; birth, marriage, divorce, surname/first name/patronimic name change certificate, and other documents with a reference to their number and date. Stated changes must be made at the first (title) page of the work record card. Previous surname or first/patronimic name, or date of birth must be crossed with one line and new data must be put down. References to the relevant documents must be made on the internal side of the work record card's cover and certified with employer's signature or his specially authorized person and with a seal of the organisation (or with a seal of the human resources department).



"normal" in their private life. If company management learns that an employee is homosexual, they often take measures to get rid of such employee.<sup>24</sup>

The report also points to a case where a gay man was dismissed from his employment and attempted to bring a wrongful termination claim.<sup>25</sup> One court declined to hear his case altogether and another court dismissed it.<sup>26</sup>

### Discrimination in Educational Institutions

Despite the implementation of a gender policy in the Russian education system by the Ministry of Education, gender issues are still seen as male or female. There is no mention in the policy of gender variance. As a result, teachers are uneducated on sex reassignment and, more importantly, are uneducated on how to behave if they have a transsexual student. Student groups are also similarly educated. The lack of education regarding sex reassignment results in bullying and isolation that makes it unnecessarily difficult for a transsexual person to be successful in school.<sup>27</sup>

### **Article 6 (Right to Life)**

Article 6 of the ICCPR provides that every human being has an inherent right to life that should be protected by the law; therefore, "no one shall be arbitrarily deprived of his life."<sup>28</sup> Nonetheless, the Russian LGBT Network has documented specific hate crime cases and reports that individuals in Russia are victims of extra-judicial killings due to their sexual orientation.

In January of 2006 in Tyumen an openly gay man and his mother were beaten and then strangled with a guitar string in their apartment.

In October of the same year, a 28 year old man was beaten and severely injured by two soldiers in Omsk; he was left in the snow under the bridge over the Omi River and died after 24 hours.

In October of 2007 a Yekaterinburg man died near the gay night club "Moloko." The motivation of his attackers was evidenced by the word "pidor" ("faggot") that had been written on his chest with his own blood.

On February 28, 2008 in Sverdlovsk oblast another man died after sustaining injuries to his head and neck. The prosecutor's office revealed that the accused in the murder had considered the victim to be of "non-traditional sexual orientation."

---

<sup>24</sup> *Discrimination based on sexual orientation and gender identity in Russia (2009)* - section 3.4.

<sup>25</sup> *Discrimination based on sexual orientation and gender identity in Russia (2009)* -- section 3.6.

<sup>26</sup> *Id.*

<sup>27</sup> KALINCHENKO S. YU., TRANSSEXUALISM. POSSIBILITIES OF HORMONAL THERAPY. –M.: PRACTICAL MEDICINE 158 (2006), available at <http://www.centerphoenix.ru/content/files/buxao001.doc>.

<sup>28</sup> ICCPR, *supra* note 1, art. 6.

## Article 7 (Freedom from Torture and Cruel, Inhuman, or Degrading Treatment or Punishment)

In 2001, the UN Special Rapporteur on the Question of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment issued a report that examined the issue of torture of LGBT individuals.<sup>29</sup> According to the report, LGBT individuals worldwide are disproportionately subjected to harassment, humiliation and other violations that affect their basic human dignity; this is a violation of Article 7 of the ICCPR.<sup>30</sup> The Moscow 2006 and 2007 Pride events show the police engaging in this harassment and humiliation by failing to protect LGBT individuals and human rights defenders and possibly even colluding with the attackers.

At the 2006 march, a Human Rights Watch researcher noted that at the sites where the human rights defenders were attempting to give speeches the “police at first seemed to allow the skinheads and others free rein to assault lesbians and gays ..... When police finally intervened, they forced the two groups closer together, aggravating the violence. They failed totally to protect people peacefully trying to exercise their rights.”<sup>31</sup> A similar account was given of the incident when a German Member of Parliament, Volker Beck, was assaulted:

Meanwhile, in the square, a few LGBT people began arriving. Volker Beck, an openly gay member of the German Bundestag, and a few others stood near the statue and opened rainbow flags. Immediately, some twenty people, including skinheads, surrounded them and ripped the flags from their hands. A Human Rights Watch representative was shoved to the ground. He witnessed Volker Beck being struck with a rock, then a fist, in his right eye: Beck’s partner was also struck in the face. At this point several dozen police intervened. However, instead of trying to separate the two groups they encircled all of them, crushing them tightly together and forming a close cordon within which the violence continued.<sup>32</sup>

The police then arrested both the attackers and the human rights defenders. There was one account of the mistreatment of a LGBT human rights defender who reported that the police punched him in the stomach and then smashed his hand against the wall. The defender also reported being threatened by the police who said “[w]e can beat you up, we can break your head on the toilets. We’ll beat you with the legal code till you realize what an unsanctioned demonstration is.”<sup>33</sup>

The Human Rights Watch/ILGA-Europe report, *We Have The Upper Hand* reported similar behavior at the 2007 Pride March. Reports of police either ignoring or further inciting the violence against the human rights defenders were rampant. One witness reported that “rather than making any effort to separate the two sides, OMON forces drove both back towards one

---

<sup>29</sup> Report of the UN Special Rapporteur on the Question of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Nigel Rodley, p. 6-7 (UN Doc. A/56/156, July 3, 2001).

<sup>30</sup> *Id.*, p. 6, para. 19.

<sup>31</sup> Russia: Investigate attacks on Gay Pride March -- Freedom of Assembly and Expression Must Be Protected -- 2 June 2006 -- Human Rights Watch.

<sup>32</sup> Pride and Violence: A Chronicle of the Events of May 27, 2006 in Moscow - Human Rights Watch.

<sup>33</sup> Pride and Violence: A Chronicle of the Events of May 27, 2006 in Moscow - Human Rights Watch.

another. Skinheads and nationalists intensified attacks on people they believed to be lesbian, gay, bisexual, or transgender as the police advanced.”<sup>34</sup> Another witness reported that he asked five policemen to arrest a person who was attacking a LGBT human rights defender to no avail. The witness reported that an OMON officer said “I have orders to stand here. If he attacks somebody here, I will arrest him,” but when the witness was kicked by the same attacker, the OMON officer did nothing.<sup>35</sup> Another witness observed that “OMON appeared to be colluding actively with the violent nationalist demonstrators.”<sup>36</sup> According to that witness, “[o]ne of the nationalists approached an OMON officer and pointed out a Human Rights Watch representative; the officer immediately seized the representative and took him to the OMON truck.”<sup>37</sup> Additionally, an ILGA-Europe representative reportedly heard OMON officers shouting “[d]o this in your own country, faggot!” at Ottavio Marzocchi, a staff member at the European Parliament, as he was arrested and forced into a police truck.<sup>38</sup>

Police malpractice in relation to LGBT individuals is evident in more than freedom of assembly events. On August 30<sup>th</sup> or 31<sup>st</sup> of 2008, police officers raided a gay club in Krasnoyarsk, Siberia called the “Hunter.”<sup>39</sup> They rushed into the club shouting obscene language, breaking crockery, overturning furniture and shooting into the air.<sup>40</sup> The men at the club were beaten and kicked after being ordered to the floor, face down, with their hands over their head.<sup>41</sup> The beatings continued as the men were forced to a bus, and did not stop once the men were at the detention center.<sup>42</sup> Once there, the police forced the detainees to do squats, sit-ups and push-ups before taking their personal information.<sup>43</sup> The police took photos and the addresses of the men, searched the men’s wallets, and searched for sms messages and video files on the men’s phones.<sup>44</sup> The men were again identified and had fingerprints taken after being transferred to the Zheleznodorozhnyi District Police Department at around two in the morning.<sup>45</sup> Some of the men were physically abused again at this location. No one was permitted to use the toilet facilities for a total of three hours.<sup>46</sup> A statement was put out by the Department of Internal Affairs of Krasnoyarsk region on September 8, 2008 confirming that 31 people had been detained but insisted that the police had acted strictly within the confines of the law, had not used physical force, and that none of the men needed medical assistance.<sup>47</sup> The Department explained

---

<sup>34</sup> *We have the upper hand -- Freedom of assembly in Russia and the human rights of lesbian, gay, bisexual and transgender people* - Human Rights Watch and ILGA-Europe -- June 2007 -- page 5.

<sup>35</sup> *We have the upper hand -- Freedom of assembly in Russia and the human rights of lesbian, gay, bisexual and transgender people* - Human Rights Watch and ILGA-Europe -- June 2007 -- page 6.

<sup>36</sup> *We have the upper hand -- Freedom of assembly in Russia and the human rights of lesbian, gay, bisexual and transgender people* - Human Rights Watch and ILGA-Europe -- June 2007 -- page 7.

<sup>37</sup> *Id.*

<sup>38</sup> *We have the upper hand -- Freedom of assembly in Russia and the human rights of lesbian, gay, bisexual and transgender people* - Human Rights Watch and ILGA-Europe -- June 2007 -- page 5.

<sup>39</sup> GayNews.ru –“Gay-party visitors "rendered harmless" by the SOBR police unit in Krasnoyarsk (Siberia) - In Krasnoyarsk the local authorities once again have executed tyranny towards homosexuals” - 5 September 2008.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> Article at website [www.lgbtrights.ru](http://www.lgbtrights.ru) - "The Municipal Department of Internal Affairs of Krasnoyarsk region has decided to hush up" -- 8 September 2008.

that on August 30<sup>th</sup> a person “in one of the clubs of Krasnoyarsk” had been involved in serious crimes of a sexual nature so the men at “Hunter” had been detained to allow the police to determine if any of the men had been involved in the crimes.<sup>48</sup>

One month later two other gay clubs in St. Petersburg were raided by the police. The owner of the club the “Bunker” reportedly made a complaint to the St. Petersburg public prosecutor’s office after a raid on September 8th by the officers of the Moscow District Directorate for Combating Organized Crime. The club owner complained that the officers exceeded their powers by breaking into the club, causing excessive and unnecessary damage, using offensive language and insulting both the employees of “Bunker” and its customers, and then forcing everyone at the club to go to the district police station. On September 17<sup>th</sup>, witnesses reported another raid at the St. Petersburg club “Central Station.” The co-owner of the club was told that the raid was ordered by the prosecutor’s office as part of an investigation into the death of a Ukrainian citizen. The victim allegedly had a map of the city that had the address of the “Bunker” written on it.<sup>49</sup> However, witnesses reported that the police spent little time on this and instead focused on humiliating and intimidating the people detained in the club. According to reports, dozens of customers were humiliated with homophobic threats and then around 60 customers were put into a dangerously overcrowded bus and transported to the police station. The detainees were questioned by “abusive and threatening,” officers. They were then photographed and required to sign a document agreeing to assist the police with any further investigation. Some police also allegedly attempted to blackmail the detainees with the threat of telling their employers and families that they had been in attendance at a gay club.

According to the report *Discrimination based on sexual orientation and gender identity in Russia (2009)*, police in Moscow, Novosibirsk and Omsk committed other abuses of power. The authors conclude that "non-traditional sexual orientation" is considered a sufficient justification for the police to investigate, temporarily deprive someone of freedom, and apply of coercive measures.<sup>50</sup>

## **Article 9 (Right to Liberty and Security of Person)**

Article 9 of the ICCPR protects the rights of individuals to be secure in their persons and to be free from arbitrary detention. Many of the human rights abuses discussed under Article 7 in this report are also violations of the right to liberty and security of person, as the right to liberty under the ICCPR prohibits arbitrary and unlawful arrests and unjustified detentions, that occurred in the cases described above, particularly in the case of the raid to the gay club in Krasnoyarsk, Siberia, and in the raid to the “Bunker” club of St. Petersburg. Thus, instances of police violence against detained members of the LGBT community can also be construed as violations of Article 9. Additionally, the instances of arbitrary detention described in the raids on gay Russian clubs is a violation of the same provision.

## **Article 14 (Right to a Fair Trial)**

---

<sup>48</sup> *Id.*

<sup>49</sup> *St. Petersburg Times* - "Police raid nightclub, detain dozens, no reasons given" -- September 19, 2008.

<sup>50</sup> *Discrimination based on sexual orientation and gender identity in Russia (2009)* -- page 26.

Article 14 of the ICCPR declares that, “[a]ll people shall be equal before the courts.”<sup>51</sup> However, it is clear that Russia’s courts are not impartial with respect to LGBT persons. Article 282 of the Criminal Code of the Russian Federation penalizes actions aimed, *inter alia*, at the incitement of hatred or enmity on the basis of affiliation to any social group.<sup>52</sup> This Article has been selectively applied by the public prosecutors. There are at least three instances where the public prosecutors chose not to bring an action under Article 282 because it involved public incitement to violence against LGBT people.

The first of these incidents occurred in September of 2006 after the attack of German parliamentarian Volker Beck during the 2006 Moscow Pride. The Tverskoi District Prosecution Department asserted that the attacker was not motivated by hatred toward a particular social group and so elected not to prosecute the German Member of Parliament’s attacker under Article 282. The Department did not recognize the "Russian Newsweek" interview with the attacker where he admitted hitting the Volker Beck and declared that he had no regrets for his actions.<sup>53</sup>

The Tverskaya Inter-District Prosecutor's Office also refused to hold Mufti Talgat Tajuddin accountable under Article 282 for his statement "[t]he Parade should not be allowed and if they still come out into the streets, then they should be bashed." The rationale of the Prosecutor's Office derived from an opinion of A. I. Antonov, the Chairman of the Family Sociology and Demography Department of Lomonosov Moscow State University. According to the Professor's opinion, "sexual minorities are not a social group, and also they are not a social group by gender; they belong to a deviant social group that also includes criminals, drug addicts and other persons with deviations from the socially accepted behaviour." Based on this idea, the Prosecutor's Office concluded that Mufti Talgat Tajuddin's statement was not an incitement to violence; it was merely a "hyperbole" and "concerned lawful prevention of illicit hooliganism, such as organisation of mass public propaganda of homosexual ideology and way of life to minors."<sup>54</sup>

The third incident occurred on July 28, 2008. The Prosecution Department of Tambov region also refused to prosecute Oleg Betin under Article 282 for his statement "[t]olerance?! Like hell! Faggots should be torn apart. And their pieces should be thrown in the wind." According to a newspaper article, the Department found nothing criminal about the words of Oleg Betin because they were not offensive.<sup>55</sup> The Department was also quoted as saying that

---

<sup>51</sup> ICCPR, *supra* note 1, art. 14.

<sup>52</sup> Article 282 states:

1. Actions aimed at the incitement of hatred or enmity, as well as abasement of dignity of a person or a group of persons on the basis of sex, race, nationality, language, origin, attitude to religion, as well as affiliation to any social group, if these acts have been committed in public or with the use of mass media, shall be punishable .....
2. The same deeds committed:

- a) with the use of violence or with the threat of its use;
- b) by a person through his official position;
- c) by an organized group,

shall be punishable ....

Article 282. Incitement of Hatred or Enmity, as Well as Abasement of Human Dignity, *available at* <http://www.legislationline.org/legislations.php?jid=42&ltid=15>.

<sup>53</sup> *Freedom of Assembly in Russia -- Diary of Events -- ILGA-Europe -- May 2009 - Summary -- Section 9.*

<sup>54</sup> *Discrimination based on sexual orientation and gender identity in Russia (2007) -- page 4/5.*

<sup>55</sup> *GayRussia.ru - 29 July 2008 -- "Activists intend to take the case to courts up to Strasbourg".*

homosexuals could not even have hatred incited against them because they were not members of a particular social group.<sup>56</sup> The decision of the Department to not prosecute Mr. Betin was appealed to the Lenin District Court of Tambov but was rejected on November 13, 2008.<sup>57</sup>

Based on the information in this report, the Russian courts harbor discriminatory attitudes against LGBT people. As discussed, the courts have failed to provide protection from hate speech and have failed to provide justice to a gay man dismissed from his employment.

## **Articles 16 (Recognition as person before the law) and 17 (Freedom from Arbitrary Interference with Privacy, Family, Home)**

Although the state legally recognizes gender reassignment for transsexuals, and Russian legislation provides for transgender persons to gain legal recognition in their preferred gender, there are shortcomings. The recognition is not legally guaranteed and can depend largely on specific circumstances such as the particular Registry Office or judge being asked to acknowledge the gender reassignment. Article 70 of the Federal Law “On Acts of Civil Status” provides for the documentation by health authorities confirming gender reassignment; however, registry offices will sometimes refuse to recognize these documents.<sup>58</sup> Additionally, Article 70 requires completion of standard form that still has not been approved.<sup>59</sup> Therefore, transgender people may be forced to resort to the uncertain process of applying for a court judgment addressing their gender reassignment.<sup>60</sup>

Such situation not only violates articles 16 and 17 of the Covenant, but it is contrary to the provisions of the European Court of Human Rights, of which Russia is state party, as established by the European Court of Human Rights in its decisions. According to *Goodwin v. United Kingdom*<sup>61</sup> the failure of the state to give legal recognition to the gender of a post-operative transsexual individual violates article 8 of the European Convention, protecting the right to private life, asserting that “the unsatisfactory situation in which post-operative transsexuals live in an intermediate zone as not quite one gender or the other is no longer sustainable”<sup>62</sup>.

Additionally, transgender people face numerous difficulties in undergoing gender reassignment. The medical profession in Russia is reportedly poorly educated regarding the health issues facing transgender people. There is no “Gender Variance Center” in Russia. As a result, transgendered individuals with no permit for surgery are forced to use surgeons who are incompetent in sex reassignment. These surgeons may use outdated treatment methods from the 70s and 80s instead of more recent and less risky methods. This may be in part because gender reassignment treatment costs are not covered by social medical insurance, another major obstacle for the transgendered community. The lack of coverage of costs related to gender reassignment

---

<sup>56</sup> *Id.*

<sup>57</sup> *Discrimination based on sexual orientation and gender identity in Russia (2009)* -- page 29.

<sup>58</sup> Report to ILGA-Europe by the Transgender Foundation - 31 May 2007; *Discrimination based on sexual orientation and gender identity in Russia (2009)* - page 7/8.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> Application no. 28957/95, 11 July 2002.

<sup>62</sup> *Goodwin*, para. 90.

violates the right to private life as established by article 8 of the European Convention, and therefore article 17 of the Covenant, as indicated by the European Court in its judgment in *Van Kück v. Germany*, where the judges found that the lack of judicial remedy against the refusal by the medical insurance to cover gender reassignment costs constituted violation of the right to privacy.<sup>63</sup> The lack of legislative measures to enable in practice transgender individuals to undergo and complete gender reassignment has been judged by the European Court in violation of article 8 of the European Convention in the case of *L. v. Lithuania*<sup>64</sup>

The discrimination that transsexuals suffer in the workplace following gender reassignment is also a violation of their right to private life. This is particularly true of the employer's refusal to issue a duplicate copy of the employee's work record card. The employer's refusal forces the transgendered employee to choose between complying with Enactment 69 of the Ministry of Labour and leaving their prior name, and name change, obvious to all subsequent employers.

### **Article 19 (Freedom of Expression)**

Article 19 of the ICCPR guarantees the right to freedom of expression through "any . . . media of. . . choice."<sup>65</sup> Russia has violated the right of LGTB people to freedom of expression, under the guise of preventing the "propagandising" of homosexuality. The Rostov Regional Public Prosecution Office issued a warning note in March of 2006 insisting that ExpoVIM and the Pulse Television and Radio Company end all transmissions of gay contact advertisements.<sup>66</sup> The Office's justification for the demand was that the advertisements propagandized "non-traditional forms of sexual orientation and unnatural sexual behavior," and that the companies had therefore "committed the most serious violations against the current laws."<sup>67</sup> Specifically, the companies were accused of introducing "the cult of sexual dissoluteness and anti-social behaviour to the mind of minor children."<sup>68</sup>

The Ryazan Regional Duma adopted an amendment entitled "Public actions oriented to propaganda of homosexuality (male and female) among minor children" in May of 2006.<sup>69</sup> Under this amendment to the Ryazan Regional Administrative Offences Act, any such public actions by individuals or organizations would be punished by fines.<sup>70</sup>

In June 2008, three committees of the State Duma of the Russian Federation published a "concept paper" discussing the Russian policy regarding the "spiritual-moral education of

---

<sup>63</sup> Application no. 35968/97, 12 June 2003.

<sup>64</sup> Application no. 27527/03, 11 September 2007.

<sup>65</sup> ICCPR, *supra* note 1, art. 19.

<sup>66</sup> *Declaration on the violation of the right to freedom of expression in Russia* - published by a group of human rights defender organizations - Supporting Document 1.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Declaration on the violation of the right to freedom of expression in Russia* - published by a group of human rights defender organizations - Supporting Document 3.

<sup>70</sup> *Id.*

children."<sup>71</sup> They intended to create sixteen draft laws, including one that would create criminal liability for the "propaganda of homosexuality" and "other forms of sexual deviations" among Russia's youth.<sup>72</sup> Another proposed provision would prohibit the dissemination of the idea that "unisexual family unions" are "a normal, socially acceptable or permissible form of the family."<sup>73</sup> In the words of the concept paper's authors, the purpose of this policy is:

[p]rohibition by law of propaganda of homosexuality among children, including of presentation of homosexuality as a socially or morally acceptable, approvable or normal form of sexual relations. The establishment by the law of criminal liability for propaganda of homosexuality and other forms of sexual perversions (deviations) among children below 16.<sup>74</sup>

## **Article 21 (Freedom of Assembly)**

Russian state officials have continuously and systematically blocked every attempt by LGBT human rights defenders to exercise their right to freedom of assembly. Since 2006, LGBT organizations and supporters have been denied 171 applications to hold public events. Of the 171 denied applications, 154 were submitted in May of 2008 after the refusal to permit the 2008 Moscow pride event.<sup>75</sup> The refusals have been adamantly enforced through police action and on at least eight occasions the police have broken up an event when human rights defenders proceeded with a public demonstration despite the application refusal.<sup>76</sup> The Russian courts have upheld the suppression of LGBT's right to freedom of assembly on at least 20 separate occasions, despite the fact that 16 of the appeals post-date the May 2007 judgment of the European Court of Human Rights regarding the banning of Warsaw Pride.<sup>77</sup>

The systematic violation of the Russian LGBT community's right to freedom of assembly is especially clear in the denial of applications to hold pride events in 2006, 2007 and 2008. In May of 2005, Russian gay and lesbian activists first announced that they would apply for a permit to conduct pride celebrations in Moscow and were quickly met with opposition from the Mayor and other public officials.<sup>78</sup> N.V. Kulikov, the head of the Moscow government department responsible for work with the authorities providing security, announced that the application for a pride march was rejected. He cited "the protection of health and morality or protection of the rights and freedoms of other people" and security reasons for the denial.<sup>79</sup> A Moscow City Court upheld the ban on the march with the support of the Moscow Mayor, Yury

---

<sup>71</sup> *Discrimination based on sexual orientation and gender identity in Russia (2009)* – page 36.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Freedom of Assembly in Russia -- Diary of Events -- ILGA-Europe -- May 2009 - Summary -- Section 1.*

<sup>76</sup> *Freedom of Assembly in Russia -- Diary of Events -- ILGA-Europe -- May 2009 - Summary -- Section 7.*

<sup>77</sup> The European Court of Human Rights held that the banning of a LGBT parade in Warsaw violated Articles 11, 13, and 14 of the European Convention on Human Rights. The ban was a violation of the right to freedom of assembly under Article 11, a violation of the right to an effective remedy under Article 13, and a violation of the prohibition of discrimination under Article 14. *Bączkowski and Others v. Poland - (Application No. 1543/06).*

<sup>78</sup> MosNews.com - 30 July 2005 -- "Gays to sue "homophobic" Moscow mayor Luzhkov for banning Gay pride".

<sup>79</sup> Interfax – November 14 2006 – "Gay-pride parade organizers appeal ban in Moscow".



Luzhkov, who stated “[w]e will not even consider this matter. We will not give our consent. At least as long as I am mayor, we will not permit such parades.”<sup>80</sup> He later justified the ban on the march saying, “[i]f one has any deviations from normal principles in organizing one's sexual life, these deviations should not be exhibited for all to see and those who may turn out unsteady should not be invited.”<sup>81</sup> An appeal to the Moscow City Court was dismissed based on the fact that a “security risk” is an acceptable reason to ban a public event.<sup>82</sup> In January of 2007, the Mayor reiterated that gay pride events would be prohibited and referred to them as “Satanic.”<sup>83</sup>

On May 14, 2007, official notification was given for the second proposed LGBT march and President Putin was asked to permit an additional small event in the Alexandrovsky Garden.<sup>84</sup> The next day, *Pravda* reported that the Moscow government had rejected the gay pride parade application.<sup>85</sup> On the day the banned parade was to take place, a pride demonstration took place. As the Pride leaders approached City Hall they were attacked by homophobic nationalists and several of the Pride participants were arrested.<sup>86</sup> At the same time, OMON riot police incited further violence by pushing peaceful and violent demonstrators together and then refusing to stop the attacks on the LGBT activists.<sup>87</sup> At the end of the day 30 Russians had been arrested, 18 of whom were gay rights activists.<sup>88</sup> The violence was used to justify banning the Pride events; as the Mayor stated, “[a]ttempted attacks against gay rights activists prove yet again the just position of the Moscow government, which does not allow holding such manifestations, so that they do not end with serious conflicts between antagonists.”<sup>89</sup> On June 22, 2007, the Russian Supreme Court upheld the ban on the 2006 gay pride parade saying that “there was no opportunity to secure safety for the parade participants and to prevent mass disorders.”<sup>90</sup>

On April 23, 2008, the Moscow city authorities banned the proposed Pride March for the third year in a row. According to the Mayor’s spokesman, Sergei Tsoi, “[t]he council will act decisively and uncompromisingly to prevent attempts to hold such events because society is overwhelmingly opposed to the gay lifestyle and philosophy.”<sup>91</sup> Moscow pride organizer Alexeyev announced his intention to hold five marches a day throughout the month of May in response but the Russian authorities quickly banned all 155 planned marches.<sup>92</sup> The year of 2009 has not seen improvement. For example, in April, authorities in St. Petersburg strategically

---

<sup>80</sup> Interfax – 26 May 2006.

<sup>81</sup> *Id.*

<sup>82</sup> GayRussia.ru - April 2 2007 -- "Court Head Confirms Moscow Gay Pride Ban Lawful".

<sup>83</sup> RIA Novosti -- January 29, 2007: "Moscow mayor dead set against gay parade, calling it "Satanic".

<sup>84</sup> GayRussia.ru - 14 May 2007 -- "Moscow Gay Pride Officially Notifies Mayor and Russian President of May 27 March.

<sup>85</sup> Pravda -- 15 May 2007 -- "Moscow bans gay pride parade for the second time".

<sup>86</sup> RIA Novosti - 17 May 2007 -- "St Petersburg authorities block gay parade again".

<sup>87</sup> Interfax -- 23 May 2007 -- "Stop gay propaganda in Russia -- Moscow Patriarchate".

<sup>88</sup> Kommersant - 20 June 2007 -- "Supreme Court Changes Gay Orientation -- from Russian to European justice".

<sup>89</sup> GayRussia.ru - 16 June 2008 -- " Moscow Gay Pride Organisers Appeal Anti-Luzhkov Picket Ban to European Court of Human Rights ".

<sup>90</sup> Kommersant - 20 June 2007 -- "Supreme Court Changes Gay Orientation -- from Russian to European justice".

<sup>91</sup> AFP 23 April 2008 -- "Moscow Mayor outlaws May Day gay events ".

<sup>92</sup> GayRussia.ru - 18 June 2008 -- "Moscow Court: Third Gay Pride Ban "lawful"" and 2 December 2008 -- "Moscow Court Rules 145 Gay Right Marches Lawfully Banned"; RIA Novosti - 1 October 2008 -- "Russian gay community to contest Moscow in Strasbourg."

denied an LGBT application for a demonstration on the day that it was requested but offered to approve the event if it was held the following day, April 26<sup>th</sup>. However, when the application was entered to hold a demonstration on the 26<sup>th</sup> the authorities rejected it saying that another event was already scheduled to take place at the location of the demonstration on that date.<sup>93</sup>

On this purpose, in 2006 the Special Representative of the Secretary General on the situation of human rights defenders sent an urgent appeal to the Russian authorities to request that the Government of the Russian Federation ensured “its positive obligations to support, facilitate and protect human rights defenders”.<sup>94</sup>

## **Article 22 (Freedom of Association)**

The ICCPR, Article 22, provides that “everyone shall have the right to freedom of association with others.”<sup>95</sup> The only available restrictions on this right are those that are absolutely necessary for national security and public order as required for a functioning democracy. Therefore, the denial or holding up of official registration of LGBT organizations appears to raise issues under Article 22.

There have been multiple LGBT organizations that were refused official registration without a seemingly valid explanation. The refusal to register the organization "Commonwealth of Homosexual Youth ‘Gayzer,’” was appealed to the Constitutional Court of the Russian Federation. The Court refused to hear the appeal. It cited its views that the Federal Law "On Public Associations" was consistent with the Constitution and that the Court was not in charge of verifying the legality of actions taken by the authorities or officials in question as justifications for the refusal.<sup>96</sup> In 2007 the LGBT organization Rainbow House, Tyumen, was also refused official registration. The rationale for the denial was that

The organisation's goals are aimed at protecting the rights and freedoms of people of non-traditional sexual orientation. The objectives set in the Statute contribute to the achievement of the organisation's goals; therefore, their fulfilment leads to propaganda of non-traditional sexual orientation. The organisation's activity related to propaganda of non-traditional sexual orientation may undermine the security of the Russian society and state due to the following circumstances: disruption of the society's spiritual values; disruption of sovereignty and territorial integrity of the Russian Federation due to the decreasing number of its population.”<sup>97</sup>

---

<sup>93</sup> Russian LGBT Network media release -- 3 May 2009 -- "Events dedicated to the International Day of Silence took place in St Petersburg".

<sup>94</sup> Report of the Special Representative of the Secretary-General on the situation of human rights defenders, A/HRC/4/37/Add.1, March 27, 2007.

<sup>95</sup> ICCPR, *supra* note 1, art. 22.

<sup>96</sup> The Decision of the Constitutional Court of RF of 15 February 2005 No.49-O “to refuse admitting the complaint of the citizens Bogdanov Andrei Yevgenyevich, Maltsev Dmitrii Sergeyevich, and Syromolotov Mihail Yevgenyevich about violation of their constitutional rights by art.23 of the Federal Law ‘On Public Associations’ to examination,” available at [http://ksportal.garant.ru:8081/SESSION/S\\_\\_3ND6vsSK/PILOT/main.html](http://ksportal.garant.ru:8081/SESSION/S__3ND6vsSK/PILOT/main.html).

<sup>97</sup> *Declaration on the violation of the right to freedom of expression in Russia* - published by a group of human rights defender organizations - Supporting Document 2; and *Discrimination based on sexual orientation and gender identity in Russia (2007)* – pages 9/10.

Rainbow House appealed the refusal to register the organization to the Tagansky Court of Moscow, the Tyumen Central district court and Tyumen oblast court but every appeal was rejected. After appealing through the Russian national system, Rainbow House then initiated proceedings against the Russian Federation under the European Convention on Human Rights. Two months after the proceedings were initiated, in May of 2008, the leader and founders of Rainbow House were investigated by the department of public morals and intellectual property of the Municipal Department of Internal Affairs of the Tyumen region for signs of "extremism." Rainbow House's legal advisers view this investigation as pressure associated with the application to the European Court of Human Rights. They have since applied for their case to have priority before the Court.<sup>98</sup>

In a positive move, the St. Petersburg authorities recently registered an organization titled "Coming Out" that included "LGBT" in its title and clearly stated in its articles of association that it was created to fight discrimination on the basis of sexual orientation. This is the first openly LGBT human rights defender organization to be immediately registered without any intervention from the Russian courts.<sup>99</sup>

---

<sup>98</sup> Statement by the Department of Information of the Inter-regional Human Rights Association "AGORA", "Human rights activists ask the European Court to look upon the complaint of the Tyumen gay activists" - 8 September 2008

<sup>99</sup> Media release by Russian LGBT Network -- 16 February 2009 -- "Important victory for the Russian LGBT activists"; according to an e-mail report by Ruslan Porshnev dated 3 March 2009, registration officials telephoned the organization to check that "LGBT" meant "lesbian, gay, bisexual and transgender".

## Concluding Notes

- A climate of intolerance that prevails in Russia. LGBT organizations are stigmatized by religious organizations and politicians who consider them a danger to society and ignore their valuable contribution to human rights work. This hostile environment also creates a permissive social framework within which human rights abuses are tolerated if not actually encouraged by local officials.
- The official recognition of “Coming Out” as an association is encouraging, however the rights of LGBT people to assemble and associate have been systematically violated. Furthermore, requests to hold peaceful demonstrations are regularly denied.
- Russian authorities should recognize the existence of the LGBT communities in the country and the problems that they face through public statements of relevant bodies. This is the first step towards improving the situation
- Laws prohibiting discrimination on the basis of sexual orientation and gender identity should be enacted.
- HIV prevention programs should be specifically targeted at the LGBT community, in particular at men who have sex with other men.
- Enhanced legal and medical sex reassignment procedures should be created in cooperation with representatives of transsexual community to improve the treatment of transgender individuals.
- The repeated human rights violations of members of the LGBT community by the Russian police is alarming. Police officers regularly target LGBT individuals for arrest and abuse. Codes of conduct should be created, and training programs should be implemented, that will ensure that the police end all discrimination against individuals because of their sexual orientation and/or gender identity.
- Mechanisms should be put in place to ensure that public prosecutors initiate prosecutions against the people who incite and/or carry out violence against LGBT people in violation of Article 282 of the Criminal Code of the Russian Federation.

## **Proposed Questions for the Government Delegation**

- What measures will the government take to ensure the exercise of freedom of assembly, expression and association?
- How will the government improve the shortcomings in the procedures for legal recognition of a person's gender reassignment, including provision of the form required by Article 70 of the law "On Acts of Civil Status?"
- What measures will the government take to ensure that transgender persons have effective access to appropriate gender reassignment services, and that these be provided under health insurance on the same basis as other medically necessary treatment?
- How does the government intend to address the problem of inadequate investigations by police into the murders and other crimes of LGBT persons?
- How does the government intend to address the problem of the violent acts of the police toward LGBT persons?
- What measures will the government take to ensure adequate redress for individuals who have suffered discrimination on the basis of sexual orientation or gender identity in the education and healthcare systems, as well as at the workplace?
- What steps is the government taking to ensure that LGBT communities are included in HIV/AIDS prevention and treatment campaigns?
- How does the government intend to address speech and actions aimed at public incitement to violence against LGBT people? How will the government insure that public prosecutors initiate prosecutions against the people who violate Article 282 of the Criminal Code of the Russian Federation?