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Réunion : 1193 réunion (4-6 mars 2014) (DH)

Référence du point : Communication d'ONG ("Coming Out", Russian LGBT Network, ILGA-Europe) (04/02/2014) dans l'affaire Alekseyev contre Fédération de Russie (Requête n° 4916/07) (**anglais uniquement**)

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



**Joint Submission by
"Coming Out", the Russian LGBT Network, and ILGA-Europe
to the Committee of Ministers of the Council of Europe
in the cases of *Alekseyev v. Russia*,
nos 4916/07, 25924/08 and 14599/09**

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to the Committee of Ministers of the Council of Europe
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EXECUTIVE SUMMARY

The *Alekseyev v. Russia* cases address repeated bans on marches promoting tolerance and respect for the human rights of LGBT persons. In its September 2013 Decision on these cases the Committee of Ministers regretted the new federal "propaganda" law, and *inter alia*, invited the Russian authorities to adopt specific measures raising awareness among the general public and the relevant authorities of the fundamental rights and freedoms of LGBT persons.

This submission presents evidence to the effect that the federal "propaganda" law is not an isolated aberration, but part of a wider campaign of stigmatisation supported at the highest levels of government; and that, far from responding constructively to the invitation of the Committee of Ministers, the Russian authorities are continuing with a course of action which, if not checked, could have grave consequences for a whole social group. Central to this campaign is the demonisation of all LGBT people as a danger to children. But LGBT people are also portrayed as the cause of Russia's demographic problems, while advocacy for their rights is presented as a foreign conspiracy to undermine the nation's fundamental moral and spiritual values.

This campaign is having a wide range of negative consequences. It is encouraging extremist organisations to intensify their violence and discrimination against LGBT people. It is making agents of the state, particularly local authorities and the police, ever less inclined to uphold the rights of LGBT people or to protect them. It is leading to continuing prohibitions on freedom of assembly, and to suppression of freedom of expression, to increased levels of hate crimes, and hate speech, and to campaigns for dismissal of LGBT teachers or those who support the rights of LGBT people. It is placing enormous stress on families, with same-sex couples and their children facing harassment, and the threat of separation. LGBT children face particular difficulties, with high levels of bullying and discrimination in schools. LGBT organisations are under severe

¹ "Coming Out" is a non-profit St. Petersburg organization. It works for the universal recognition of human dignity and equal rights of all regardless of sexual orientation or gender identity through advocacy, educational and cultural events, and providing psychological and legal services to LGBT persons. Its work is based on the principles of openness, visibility and non-violence.

² The Russian LGBT Network is an inter-regional non-governmental human rights organisation that promotes equal rights and respect for human dignity, regardless of sexual orientation and gender identity. It conducts advocacy and other initiatives at both national and regional levels, and provides social and legal services. It has member organisations in 16 regions of the Russian Federation.

³ ILGA-Europe is the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association. It advocates at European level for the human rights of those who face discrimination on the grounds of their sexual orientation, gender identity, gender expression or intersex status. It enjoys participative status with the Council of Europe and consultative status with the United Nations Economic and Social Council. Its membership consists of over 400 non-governmental organisations from across the Council of Europe countries, whose members are mainly lesbian, gay, bisexual, transgender or intersex individuals.

stress, with advocacy inhibited by the “propaganda” laws, employees and volunteers targeted by extremists, and with the threat of prosecution under the Foreign Agents Law.

The Venice Commission Opinion on “propaganda” laws concluded that *“the aim of these measures is not so much to advance and promote traditional values and attitudes towards family and sexuality but rather to curtail non-traditional ones by punishing their expression and promotion.”* The campaign of the Russian authorities goes beyond the punishment of the *expression and promotion* of certain values. It amounts to the punishment and suppression of a whole social group. As such, it represents a very serious attack not just on Articles 10, 11 and 14 of the European Convention, but on its underlying values.

The authors of this submission therefore respectfully request the Committee of Ministers to take a strong position, including calling on the Russian authorities to cease stigmatising LGBT people as a danger to children and as the cause of Russia’s demographic problems, to cease presenting advocacy for the rights of LGBT people as some kind of foreign conspiracy, to repeal the federal and regional “propaganda” laws, to ensure full access to the rights to freedom of assembly and expression, including protection from violent counterdemonstrators, to put in place large-scale awareness raising measures for both the general public and for state officials, and to protect LGBT children from violence and discrimination.

INTRODUCTION

1. This briefing is submitted in accordance with Rule 9(2) of the Rules of the Committee of Ministers for the supervision of the execution of judgments, for consideration at the meeting CM-DH 1193, 4-6 March 2014.
2. The *Alekseyev v. Russia* cases address repeated bans on marches promoting tolerance and respect for the human rights of LGBT persons, and the absence of an effective remedy to challenge those bans. The Court found violations of Convention Articles 11 (freedom of assembly), 13 (right to an effective remedy), and 14 (prohibition of discrimination) taken in conjunction with Article 11.
3. In its Decision of 26 September 2013, the Committee of Ministers strongly regretted that the new federal law prohibiting the so-called “propaganda” of non-traditional sexual relations amongst minors (“the federal “propaganda” law”) contained a number of provisions raising serious issues under the Convention. It invited the Russian authorities to adopt specific measures raising awareness among the general public and the relevant authorities of the fundamental rights and freedoms of LGBT persons, in order to avoid that the new law contributed to existing tensions, and to motivate further the refusal of public events for reasons of security and public order.
4. The Venice Commission, in its June 2013 Opinion on “so-called propaganda of homosexuality” laws,⁴ had concluded that:

⁴ Opinion on the issue of the prohibition of so-called “propaganda of homosexuality” in the light of recent legislation in some member states of the Council of Europe – CDL-AD(2013)022 – dated 18 June 2013. The Opinion addressed existing or proposed legislation in Moldova, Russia and Ukraine.

“On the whole, it seems that the aim of these measures is not so much to advance and promote traditional values and attitudes towards family and sexuality but rather to curtail non-traditional ones by punishing their expression and promotion. As such, the measures in question appear to be incompatible with “the underlying values of the ECHR”, in addition to their failure to meet the requirements for restrictions prescribed by Articles 10, 11 and 14 of the Convention.”⁵

5. This submission presents evidence to the effect that, far from initiating general measures to secure the right of LGBT people to freedom of assembly and expression, the Russian authorities are embarking on a campaign of stigmatisation which, if not checked, could have grave consequences for a whole social group.

A STATE-ORCHESTRATED CAMPAIGN OF STIGMATISATION

6. There is growing evidence that the federal “propaganda” law is not an isolated aberration, but part of a wider campaign supported at the highest levels of government and by Parliament. This campaign involves (in the language of the Venice Commission) the punishment not just of those who promote non-traditional values and attitudes towards family and sexuality, but of a whole social group whose relationships differ from those of the heterosexual, gender conforming majority. Central to this is the stigmatisation of all LGBT people as a danger to children. But LGBT people are also being portrayed as the cause of Russia’s demographic problems, and therefore as a direct threat to the future of the nation. Moreover advocacy for their rights is being presented as a Western conspiracy to undermine Russia’s fundamental moral and spiritual values.⁶
7. This is indeed a very serious situation. It goes far beyond violations of individual freedoms, such as assembly or expression, to a state-led attack on a vulnerable minority that is wholly incompatible with “the underlying values of the ECHR”. As this submission shows, there is already disturbing evidence that it is leading to increased levels of discrimination and violence against LGBT people, and to increased levels of fear across a whole social group.
8. Systematic homophobic behaviour by some politicians and agents of the state in Russia has been a fact for years. But it was essentially reactive, responding to advocacy initiatives by LGBT human rights defenders. Indeed, the enactment of homophobic laws was rejected. Thus, three attempts to introduce a federal law penalising “propaganda of homosexuality” in 2003, 2004 and 2006 were opposed by the Russian authorities. The official reason for rejecting the 2004 proposal was that it was inconsistent both with the freedom of expression provisions of the Federal Constitution and with articles 8, 10 and 14 of the European Convention on Human Rights.⁷ Despite the position of the federal

⁵ Ibid., paragraph 80

⁶ See paragraphs 12 and 13 below

⁷ “Convenient Targets – the Anti-“Propaganda” Law & the Threat to LGBT Rights in Russia” – human rights *first* – August 2013. The 2003 and 2006 proposals were rejected by the Prime Minister’s Office on a number of other grounds, including that they contradicted Russia’s criminal code and the use of inadequate definitions.

authorities, in 2006 the Ryazan region adopted such a law. However, it was not until late 2011 and the first half of 2012 that growing political support resulted in their adoption by a further 9 regional assemblies, and the tabling of a proposal in the Federal Duma.⁸ The latter was adopted unopposed in June 2013.

9. A second discriminatory federal law was also passed in June 2013, reportedly with the personal support of President Putin,⁹ prohibiting the adoption of children of the Russian Federation by parents in a recognised same-sex marriage and by single persons in states which permit same-sex marriages.¹⁰
10. With these developments discrimination against LGBT people has been emphatically endorsed as a matter of important public policy by both parliament and president. The policy appears to be very popular, with a recent opinion poll showing 68% approving of the federal "propaganda" law, and only 7% disapproving.¹¹
11. There is now discussion of a further federal law proposed by State Duma Deputy Aleksey Zhuravlev to permit the authorities to strip same-sex parents of their parental rights.¹² The explanatory memorandum to the bill states that "[homosexual] propaganda is banned not only in media, but also in the family."¹³ Other initiatives that have been suggested include making 'conversion therapy' available at no cost,¹⁴ and reinstating the ban on blood donations by gay men.¹⁵
12. In the months since the adoption of the federal "propaganda" law, the Russian authorities have repeatedly used homophobic rhetoric to underline the thinking behind the policy. In September President Putin said: "This model [same-sex partnerships] is aggressively trying to be imposed all over the world and I am convinced this is a direct path to degradation and... a profound demographic and moral crisis."¹⁶ On December 12,

⁸ "Propaganda" laws have been adopted in 10 regions: Ryazan (2009), Arkhangelsk (September 2011), Kostroma (February 2012), St Petersburg (March 2012), Magadan (June 2012), Krasnodar (July 2012), Samara (July 2012), Novosibirsk (July 2012), Bashkortostan (August 2012), and Kaliningrad (2013)

⁹ "Putin placed on a par gay marriages and "Satan worship" " – Rainbow News – Gay.ru - 19 Sep. 2013 <http://english.gay.ru/news/rainbow/2013/09/19-27098.htm> (accessed 3 January 2014); see also: "Putin has promised to sign a ban on adoptions by same-sex families" [Russian, translated] – Lenta.ru website – 4 June 2013; <http://lenta.ru/news/2013/06/04/adopt/> (accessed 21 January 2014)

¹⁰ Russia is seeking to ensure the effectiveness of this law by signing agreements with individual countries which permit same-sex marriages to ensure Russian children are not adopted by same-sex couples - see "Russia stops adoption to Sweden due to legal gay marriage" – Queer Russia website – 6 October 2013 - <http://queerrussia.info/2013/10/06/2170/> (accessed 3 January 2013)

¹¹ "Poll: vast majority of Russians support and aware of anti-gay law" – Queer Russia website – 25 November 2013 – <http://queerrussia.info/2013/11/25/2654/> (accessed 3 January 2014)

¹² "The law terminating parental rights of homosexuals will be reintroduced in the Duma" – RIA Novosti – 19 October 2013 According to this article, following reports that the bill had been withdrawn, Zhuravlev told Ria Novosti that it would be reintroduced after clarification of the legal language and "the removal of some points". The article is no longer available at the Ria Novosti website.

¹³ Available in Russian at: <http://asozd2.duma.gov.ru/main.nsf/%28SpravkaNew%29?OpenAgent&RN=338740-6&02> (accessed 31 January 2014).

¹⁴ "My Clash With Homophobes on Russian TV" – Michael Bohm – The Moscow Times – 22 November 2013 <http://www.themoscowtimes.com/opinion/article/my-clash-with-homophobes-on-russian-tv/490080.html> (accessed 3 January 2014)

¹⁵ "Russia may bring back gay blood donor ban" – RT – 26 August 2013

¹⁶ "Russia's Putin says could seek re-election in 2018" – Reuters – 19/9/2013 –

<http://www.reuters.com/article/2013/09/19/us-russia-putin-idUSBRE98112A20130919> (accessed 3 January 2014)

2013, on the occasion of the 20th anniversary of the Russian Constitution, in an address to both chambers of the Federal Duma, the President spoke out in favour of “the values of traditional families”, and attacked “so-called tolerance, neutered and barren”, complaining that society was being obliged “to accept without question the equality of good and evil..... This destruction of traditional values from above not only leads to negative consequences for society, but is also essentially anti-democratic, since it is carried out on the basis of abstract, speculative ideas, contrary to the will of the majority....”¹⁷

13. Other influential public figures have also spoken out:

- In September 2013 the Russian Foreign Ministry’s Special Representative for Human Rights, Democracy and the Rule of Law, Konstantin Dolgov, addressing the International Human Rights Forum in Beijing, complained of “Attempts having been made to enforce on other countries an alien view of homosexuality and same-sex marriages as a norm of life and some kind of a natural social phenomenon that deserves support at the state level”.¹⁸
- On 19 November 2013 the Ombudsman for children’s rights, addressing the “Holiness of Motherhood” Forum said “Politicians and state officials, who support the destruction of [traditional] family, should be outcasts, should be cursed in centuries to come as destroyers of the family and the human race. The so-called freedom of relations does not give a small minority the right to destroy humanity, to re-write history and to throw our children into chaos.”¹⁹ The purpose of the forum was to “facilitate the emergence of a state pro-family order for the media”. Participants included national law and policy makers.²⁰
- On 26 November 2013 the Chairman of the Constitutional Court spoke against “attempts to forcefully impose (by propaganda and regulations) on our society... some [unacceptable] psychological and legal novelties.... In particular, the requirements of tolerance to any sexual and gender ‘emancipation’ ”.²¹
- On 23 December 2013, the Head of the Russian State Duma International Affairs Committee, Alexeyev Pushkov, in an interview with Izvestia, complained that the West was now “openly imposing a new type of behaviour to other countries and societies” and dismissed the “so called oppression” of gays in Russia..... “It is pure politics, no relation to the actual situation.”²²
- In January 2014 the Russian Ministry of Foreign Affairs published a report on the human rights situation in the European Union. This argued that “the European Union and its Member States consider, as one of their priorities, the dissemination of their neo-liberal

¹⁷ “Putin slams Western “genderless tolerance”, praises conservatism” - Queer Russia website – 12 December 2013 <http://queerussia.info/2013/12/12/2980/> – (accessed 3 January 2014)

¹⁸ “Russian Foreign Office condemns the West for ‘aggressive promotion of sexual minorities’ rights” – Queer Russia website – 14 September 2013 – <http://queerussia.info/2013/09/14/1769/> (accessed 3 January 2014)

¹⁹ “Russian ombudsman calls for damnation of officials supporting “non-traditional” families” – Queer Russia website - 19 November 2013 - <http://queerussia.info/2013/11/19/2569/> – (accessed 3 January 2014); a translation of the report by Interfax – Religion, at: <http://www.interfax-religion.ru/?act=news&div=53488>

²⁰ For information on the Forum and its purposes, see: <http://www.rg.ru/2013/11/18/reg-pfo/svyatost-anons.html>, <http://www.rg.ru/2013/11/21/reg-cfo/itog-anons.html> (accessed on 25 November 2013).

²¹ “Russian Constitutional Court Chair: “nontraditional” novelties disintegrate Russian society and identity” – Queer Russia website – 27 November 2013 (accessed 3 January 2014)

²² “Duma Official: Hysteria on “Oppression” of Russian gays is pure politics, has nothing to do with reality” – Queer Russia website – 23 December 2013 – <http://queerussia.info/2013/12/23/3289/> (accessed 3 January 2014)

values as a universal lifestyle for all other members of the international community. This is particularly evident in their aggressive promotion of the sexual minorities' rights. Attempts have been made to enforce on other countries an alien view of homosexuality and same-sex marriages as a norm of life and some kind of a natural social phenomenon that deserves support at the state level."²³

14. Questioning of the "propaganda" laws has been relatively rare. In June 2013 the Ombudsman, Vladimir Lukin, warned that "Cruel and unwise administration could lead to human casualties and human tragedies."²⁴ In September 2013, the Vice-chairman of the Federation Council Constitutional Legislation Committee, Konstantin Dobrynin, commented that "this parliamentary obsession with anti-gay law-making" needed to be stopped, and attention paid to more important problems.²⁵
15. In January 2014 a group of members of the Federal Duma tabled amendments which would remove the term "non-traditional sexual relations" from the relevant legislation. The justification offered was that the prohibition of "propaganda to minors" should apply to all forms of sexual relations.²⁶ It is questionable whether the proposal would make any difference to the current situation, since the explanatory memorandum to the bill emphasises that "the provisions of the bill cover, inter alia, propaganda of non-traditional sexual relations among minors."²⁷
16. In November 2013 the Federal Media Monitoring Service (Roskomnadzor) issued for "public discussion" a concept note setting out proposed guidance on the implementation of the federal "propaganda" law.²⁸ This listed criteria for defining instances of "propaganda of non-traditional sexual relations", together with illustrative examples. These included:
 - "Discrediting the traditional family model" or "promoting alternative models of family relations"; e.g., quoting statistical data on the adoption of children by homosexual and heterosexual couples, which could mislead minors into thinking that a same-sex couple can be no worse at parenting than a heterosexual one;
 - "Using emotionally charged images for discrediting the traditional family model and promoting alternative family models"; e.g., presenting a non-traditional couple as bright and charming, or a heterosexual couple as rude and repulsive;

²³ "Report On The Human Rights Situation In The European Union" – Ministry of Foreign Affairs of the Russian Federation – unofficial translation available at the Ministry's website: <http://www.mid.ru/bdomp/ns-dgpch.nsf/03c344d01162d351442579510044415b/44257b100055de8444257c60004a6491!OpenDocument>.

²⁴ "Russia's human rights ombudsman warns against consequences of bill banning 'gay propaganda' " – Russia Beyond the Headlines – 11 June 2013; http://rbth.co.uk/news/2013/06/11/russias_human_rights_ombudsman_warns_against_consequences_of_bill_bannin_26956.html (accessed 21 January 2014)

²⁵ "Bill on seizing kids from Russian same-sex parents withdrawn" - Queer Russia website – 19 October 2013 – <http://queerrussia.info/2013/10/19/2342/> (accessed 3 January 2014)

²⁶ "Russian MPs propose to remove "gay" from propaganda ban law". Queer Russia website – 25 January 2014 <http://queerrussia.info/2014/01/25/3868/> (accessed 25 January 2014)

²⁷ Available in Russian at:

[http://asozd2c.duma.gov.ru/addwork/scans.nsf/ID/27CDE152C663040543257C6A005A5EAB/\\$FILE/436334-6.PDF?OpenElement](http://asozd2c.duma.gov.ru/addwork/scans.nsf/ID/27CDE152C663040543257C6A005A5EAB/$FILE/436334-6.PDF?OpenElement) (accessed 2 February 2014).

²⁸ Full text of the concept note in Russian: <http://rkn.gov.ru/mass-communications/p700/p701/> (accessed on 30 December 2013).

- “Personalised examples”; e.g., stories of people who deny family values, who are in non-traditional sexual relations, who show disrespect for parents;
- “Alternative models of behaviour”; e.g., a clear demonstration through images, photos or videos of non-traditional sexual relations;
- “Alternative standards for identification”; e.g., LGBT community websites containing lists of prominent people, past or present, in non-traditional sexual relations;
- “Social approval”; e.g., direct or indirect approval of people in non-traditional sexual relations;

The document’s glossary referred to homosexual people as a “social risk group”, defining this as *“A group that is exposed to dangerous negative influences and poses a threat to the life of society. Traditionally, risk groups are alcoholics, drug addicts, prostitutes, homosexuals, the homeless, whose lifestyle can be defined as a display of diseases of society.”*²⁹

17. Some elements of state-controlled media have also adopted an increasingly homophobic approach. Most notable is the Rossia 1 network, where Dimitri Kiselev, at that time anchor of the leading news programme in Russia, and deputy general director of the Russian State Television Company, argued in August that the hearts of homosexual persons killed in car crashes should be buried or burned as unsuitable for the continuation of life.³⁰

18. In November the same network broadcast a talk-show that sought to present advocacy for LGBT rights, in the words of the Opinion Editor of the Moscow Times, as “an insidious Western conspiracy to propagandise homosexuality and corrupt Russia’s fundamental moral and spiritual values”.³¹ The show opened with a “documentary” purporting to show foreign LGBT activists trying to persuade youngsters in Murmansk to take part in their “abnormal” lifestyle. In fact, the footage was part of a Dutch film about LGBT people in Murmansk, confiscated when the film makers were arrested for conducting homosexual “propaganda”.³² The “documentary” also contained unauthorised audio recordings of a private strategy meeting between Russian LGBT activists and 4 major international human rights organisations in October.³³ The television audience was warned that “the attack on Russia is already in full swing”. The programme host, Arkady Mamontov, referred throughout the programme to LGBT

²⁹ The glossary in Russian can be found here: http://rkn.gov.ru/docs/Prilozhenie_5_glossarij.pdf (accessed on 30 December 2013)

³⁰ “Dmitri Kiselev, Russian Official, Degrades Gays on National Television” – Tver Huffington Post – 12 August 2013; http://www.huffingtonpost.com/2013/08/12/dmitri-kusilev-degrades-lgbt-tv_n_3743414.html - (accessed on 3 January 2014); on 9 December 2013 the Kremlin announced the closure of RIA Novosti, and its replacement by a new agency, to be headed up by Kiselev.

³¹ “My Clash With Homophobes on Russian TV” – Michael Bohm – The Moscow Times – 22 November 2013 <http://www.themoscowtimes.com/opinion/article/my-clash-with-homophobes-on-russian-tv/490080.html> (accessed 3 January 2014)

³² “LGBT Murmansk turns to court to protest hate campaign on TV” – Barents Observer – 22 November 2013 <http://barentsobserver.com/en/politics/2013/11/lgbt-murmansk-turns-court-protest-hate-campaign-tv-22-11> (accessed 3 January 2014); for further details of this incident, see para. 37

³³ “Russian Government spies on LGBT activists to portray them as part of Western “homosexualist invasion” ” - BuzzFeed.com – 13 November 2013 - <http://www.buzzfeed.com/lesterfeder/russian-government-spies-on-lgbt-activists-to-portray-them-a> (accessed 3 January 2014)

people as “perverts” or “sodomites”, and accused the West of seeking to “destroy Russia”.³⁴

19. Some other public figures have used extreme language. In November 2013, after an attack on a social gathering in St. Petersburg (in which a gay man was blinded in one eye - see para. 48), Vitaly Milonov, author of the St Petersburg “propaganda” law, made a number of homophobic comments in a newspaper interview: “[LGBT rights are] not human rights, but the rights of the sick and perverted,” “[Homosexuality] is disgusting and detestable just like a murder.” He called LGBT people “perverts,” and the office where the social gathering took place “a den of homosexuals.”³⁵ Although requests have been made for the initiation of a criminal investigation against Mr Milonov for hate speech, as of the end of 2013 none had been started.
20. In December 2013 another well-known public figure, the former Orthodox priest, actor, screenwriter and would-be politician, Ivan Okhlobystin, told an audience in Novosibirsk: “I would put all the gays alive into an oven. This is Sodom and Gomorrah! As a religious person, I cannot be indifferent about it because it is a real threat to my children!”³⁶ In January he posted an open letter to President Putin asking him to re-criminalise homosexuality.³⁷
21. Some days later the head of the Russian Orthodox Church’s Department for relations with society said, in an official press comment, that the question of criminalising male homosexuality “deserves discussion in society without any doubt.” He explained that public attitudes to homosexuality have varied, but that the most widespread position was to treat such relations as a crime. He was convinced that homosexual relations must be completely ruled out by society, but also noted that it was better to achieve this through moral persuasion. “If we have to draw the law into this, let us ask the people if they are ready for this.”³⁸ In January 2014 President Putin failed to condemn the church’s position on re-criminalisation, limiting himself to underlining the separation of church and state.³⁹
22. Occasionally Russian authorities have adopted a more moderate tone. For example, on 20 November 2013 President Putin said “We must not create xenophobia in the society on any basis towards anyone, including people of non-traditional sexual orientation”.⁴⁰

³⁴ “Activist plans protest amid outrage over talk-show host's homophobic meteor comments” – The Moscow Times – 18 November 2013 – <http://www.themoscowtimes.com/news/article/activist-plans-protest-amid-outrage-over-talk-show-hosts-homophobic-meteor-comments/489681.html> (accessed 4 January 2014)

³⁵ <http://www.fontanka.ru/2013/11/06/163> (accessed 22 January 2014)

³⁶ “Russian actor wants to put all homosexuals 'in the oven' ” – The Guardian – 16 December 2013 <http://www.theguardian.com/film/2013/dec/16/russian-actor-ivan-okhlobystin-oven-homosexuals-burned-alive> (accessed 14 January 2014)

³⁷ <http://queerussia.info/2014/01/07/3555/> - Queer Russia website, 7 January 2014. <http://queerussia.info/2014/01/07/3555/> (accessed 14 January 2014)

³⁸ “Top Russian Cleric Seeks Nationwide Referendum on Criminalising Male Homosexuality” – Queer Russia website, 10 January 2014 – <http://queerussia.info/2014/01/10/3629/> (accessed 14 January 2014)

³⁹ “Sochi Olympics: Vladimir Putin's interview with world media in full” – Transcript of the interview of Vladimir Putin, President of the Russian Federation, to Channel One, Rossiya-1, ABC News, BBC, CCTV television channels and Around the Rings agency. 19 January 2014

⁴⁰ “Putin stands against xenophobia towards gays” – Queer Russia website – 20 November 2013 <http://queerussia.info/2013/11/20/2583/> (accessed 4 January 2014)

However, such expressions are at odds with the general tone of government statements, policies and actions and the related media coverage, and are therefore unlikely to have significant impact. Moreover, they are generally accompanied by comments which stigmatise LGBT people. For example, in an interview in January 2014, President Putin stressed that "In our country, all people are absolutely equal regardless of their religion, sex, ethnicity, or sexual orientation. Everybody is equal." But he then went on to link homosexuality and child abuse: "We have recently only passed a law prohibiting propaganda, and not of homosexuality only, but of homosexuality and child abuse, child sexual abuse."⁴¹ A couple of days earlier he told volunteers at the Sochi games: "We are not forbidding anything and nobody is being grabbed off the street, and there is no punishment for such kinds of relations. You can feel relaxed and calm [in Russia], but leave children alone please."⁴²

INCREASED LEVELS OF DISCRIMINATION AND VIOLENCE AGAINST LGBT PEOPLE

23. There is nothing new about high levels of discrimination and violence against LGBT people in Russia. For a number of years there has been evidence of systematic denial of the right to freedom of assembly, violations of such rights as freedom of association and expression, failure of law enforcement authorities to provide protection from discrimination and violence, together with significant levels of hate speech, hate crimes, and other forms of discrimination.⁴³ However, there is increasing evidence that, over the last two years, the introduction of the regional and national "propaganda" laws, and the accompanying homophobic rhetoric of the authorities and politicians, have led to a further deterioration. The paragraphs which follow document areas of particular concern. Many of the examples cited have arisen in the months since the adoption of the federal "propaganda" law, lending weight to concerns that the introduction of that legislation and related homophobic rhetoric have made matters still worse.

24. A concern illustrated in many of the examples cited is that extremist groups have become more active, targeted and coordinated, taking the government's homophobic rhetoric and the "propaganda" laws as *carte blanche* to attack and harass LGBT people. This is manifested in increases in violence against pro-LGBT demonstrators, in attacks or threats against places used by LGBT people, in disruption of LGBT organisations and cultural events, harassment of LGBT supporters attending court cases, the use of the Internet to entrap, humiliate and even torture individuals, and campaigns for the dismissal of teachers who are LGBT themselves, or who support the rights of LGBT people.

⁴¹ "Sochi Olympics: Vladimir Putin's interview with world media in full" – RT website – 19 January 2014 – <http://rt.com/politics/official-word/putin-interview-sochi-olympics-840/> (accessed 21 January 2014)

⁴² "Vladimir Putin: gay people at Winter Olympics must 'leave children alone' " – The Guardian – 17 January 2014 – <http://www.theguardian.com/world/2014/jan/17/vladimir-putin-gay-winter-olympics-children> (accessed 21 January 2014)

⁴³ See, for example: *Discrimination based on sexual orientation and gender identity in Russia (2009)* - a report by the Moscow Helsinki Group, in cooperation with the Russian LGBT Network; *Discrimination based on sexual orientation and gender identity in Russia (2007)* - a chapter of the Moscow Helsinki Group annual report.

THE USE OF THE “PROPAGANDA” LAWS TO RESTRICT FREEDOM OF EXPRESSION AND ASSEMBLY

25. The “propaganda” laws are restricting freedom of assembly and expression in many different ways.

They are being used to close down an internet support group for LGBT teenagers

26. On 31 January 2014 the founder and leader of the Russian LGBT teenagers support group, “Children 404”, Lena Klimova, was charged under the federal “propaganda” law for founding a social network group on the Vkontakte social media website. The group allows LGBT teenagers to publish their stories about the problems in their lives, the harassment by their peers and their problems with parents. To date more than 1000 letters have been published. Klimova commented that “if [the social network group] is closed, LGBT teens lose the only place where they can talk openly about themselves and get advice to help them live. It would be a disaster”⁴⁴

They have been used to warn an LGBT teenager against coming out and against discussing her sexual orientation with her peers

27. Under a decision dated 16 January 2014 a 14-year-old schoolgirl from Bryansk region received a warning from the local Commission on Affairs of Minors and Protection of their Rights. The Commission had established that since the summer of 2013 she had “systematically [promoted] non-traditional sexual relations among minors, expressed in openly admitting herself as a person of non-traditional sexual orientation, and disseminating information aimed at developing distorted notions of social equivalence of traditional and non-traditional sexual relations in minors.” She was warned, and “put under the control” of the local Commission.⁴⁵

They are being used as a grounds for prohibiting demonstrations.

28. Between October and December 2013 the organisers of the Moscow Pride applied to hold some 70 demonstrations. All were rejected by the city authorities, the federal “propaganda” law being one of the grounds used.⁴⁶ Thus, for example, rallies proposed under the heading “healthy gay – healthy mind” (for December 14, 2013), publicising the pride lesbians take in their sexual orientation (for December 11, 2013), and marking the anniversary of the Russian Constitution, on the basis that it guarantees the right to freedom of assembly to all (for December 12, 2013), were all rejected on the basis of this law.⁴⁷ On 31 October the Moscow authorities prohibited a public tribute to the LGBT victims of Nazi Germany, arguing that this could potentially “influence” children in respect of homosexuality.⁴⁸ Demonstrations to mark the third anniversary of the

⁴⁴ “LGBT teens Internet support group founder faces 'gay propaganda' charges” – Queer Russia website – 31 January 2014 – <http://queerrussia.info/2014/01/31/3973/> (accessed 31 January 2014)

⁴⁵ “First openly gay teenager warned for 'promoting homosexuality' to peers in Bryansk Region” – Queer Russia website – <http://queerrussia.info/2014/02/02/4017/> (accessed 3 February 2014). A copy of the Commission's decision is displayed at the website.

⁴⁶ “Tver District Court in Moscow has found the prohibition of seven rallies in support of the rights of sexual minorities legal” [translated] – 20 December 2013 – GayRussia website – www.gayrussia.eu/russia/8407/ (accessed 4 January 2014)

⁴⁷ “Moscow City Hall has banned three rallies in support of the rights of sexual minorities” – 8 December 2013 – GayRussia website – www.gayrussia.eu/russia/8337/ [translated] (accessed 4 January 2014)

⁴⁸ “Russia bans tribute to gay victims of Nazi Germany” – Gay Star News – 1 November 2013 <http://www.gaystarnews.com/article/russia-bans-tribute-gay-victims-nazi-germany011113> (accessed 4 January 2014)

Alekseyev v. Russia judgment,⁴⁹ and to publicise President Putin's statement regarding the impermissibility of xenophobia, including towards people of "the non-traditional sexual orientation" (see para. 22),⁵⁰ were also banned. Many of these decisions have been appealed to the district court, where they have been upheld. For example, on December 19 the Tver District Court upheld the ban on a demonstration against a presidential decree which prohibits all mass public actions in Sochi during the Winter Olympics. The main argument of the Moscow city authorities had been that the rally might lead to a breach of the federal "propaganda" law, in view of the possibility of minors being present.⁵¹

29. In May 2013 an appeal by LGBT activists against a refusal by the St Petersburg authorities to permit a demonstration against the federal "propaganda of homosexuality" law on 19 December 2012 was rejected by the St Petersburg City Court. It cited the definition of "propaganda" used in the regional law, commenting that "the attempt of the organisers [...] to distribute leaflets and other means of visual propaganda near the Theatre for Young Spectators, calling for tolerance towards gays and lesbians, other sexual minorities, and containing propaganda of raising children and same-sex couples, should be recognised as inadvisable because of its potential threat to the moral and spiritual development of children."⁵² The same happened with the ban of two pickets planned for the International Transgender Visibility Day on 31 March 2013.

They are being used as a basis for prosecuting individuals exercising the right to freedom of assembly or expression.

30. Regional "propaganda" laws were used on at least three occasions prior to 2013 to prosecute individuals exercising the right to freedom of assembly.⁵³
31. The first convictions under the federal "propaganda" law took place on 3 December 2013, when Nikolai Alekseyev and Yaroslav Yevtushenko were found guilty for holding banners that read "Gay propaganda doesn't exist. People don't become gay, people are born gay," outside a children's library in Arkhangelsk.⁵⁴
32. On 19 December 2013 a young activist in Kazan was found guilty of "propaganda" and fined. In June, after the authorities had refused him permission to organise a gay pride march, he was arrested twice for going out on his own with a placard reading "To be gay and to love gays is normal. To beat gays and kill gays is criminal." On the second occasion his parents are reported to have helped police arrest him. The basis for the

⁴⁹ "Tver District Court in Moscow has found the prohibition of seven rallies in support of the rights of sexual minorities legal" [translated] – 20 December 2013 – GayRussia website – www.gayrussia.eu/russia/8407/ (accessed 4 January 2014)

⁵⁰ <http://www.zaks.ru/new/archive/view/118772> - (accessed 31 January 2014)

⁵¹ "Tver District Court upheld the ban on gay rally at the Organising Committee of the Sochi Olympics" – 19 December 2013 – GayRussia website – www.gayrussia.eu/russia/8404/ [translated] (accessed 4 January 2014)

⁵² "Coming Out appeals to ECHR for freedom of assembly violation in connection with 'propaganda' law" – "Coming Out" media release – 3 December 2013 – http://comingoutspb.ru/en/en-news/Human_Rights_en (accessed 4 January 2014)

⁵³ Under the Ryazan law, in 2009, and under the St Petersburg and Arkhangelsk laws in 2012 – see "Tackling discrimination on the grounds of sexual orientation and gender identity" – Parliamentary Assembly – Report of the Committee on Equality and Non-Discrimination – paragraph 43 – 7 June 2013

⁵⁴ "LGBT activists fined for breaking 'Gay Propaganda' law" – The Moscow Times – 5 December 2013 – <http://www.themoscowtimes.com/news/article/lgbt-activist-fined-for-breaking-gay-propaganda-law/490844.html> (accessed 4 January 2014)

prosecution is reported to have been a complaint by a teenage resident of the Arkhangelsk region, 1000 miles away, who had read about his demonstration on the Internet.⁵⁵

They are being used as a pretext for arresting participants in demonstrations.

33. On 29 June 2013 the 50 to 60 participants in the St Petersburg pride demonstration (which was conducted in full conformity with the legislation)⁵⁶ faced violence by 200 to 300 followers of various nationalist groups, who beat some and pelted them with stones and smoke bombs. Despite the presence of large numbers of OMON riot police, the authorities failed to prevent the violence. Less than 15 minutes into the demonstration an official from City Hall gave a senior police officer several letters from the “public” (in fact prepared in advance by counter-protestors) complaining that the event violated the ban on “homosexual propaganda.” Immediately the police ordered the event to be stopped. The demonstrators refused to leave, at which riot police removed them from the site, forcing them into police buses. Counter-demonstrators threw stones at the buses, shattering windows and injuring people inside. Four demonstrators who were not detained were surrounded and beaten by 10 men. “Rescued” by the police, they were arrested and charged. At least seven of the demonstrators were later hospitalised by ambulance. Although the authorities used the local law forbidding “propaganda of homosexuality” to break up the rally, the demonstrators were actually charged with failure to obey police orders and holding an unauthorised rally. 50 were arrested. All were subsequently acquitted by the courts. Only 13 counter protesters were detained at the site. The attackers had planned and coordinated their actions in advance. They justified their actions as acceptable under the new laws banning homosexual “propaganda”.^{57 58}
34. On 25 September 2013 a group of 10 activists trying to hold a (banned) picket outside the Sochi Olympics Headquarters in Moscow against the presidential decree which prohibits all mass public actions in Sochi during the Winter Olympics were arrested. Two were carrying a banner with the words “Homophobia is a disgrace to Russia”. An activist stated that the authorities justified the arrests on the basis of the federal “propaganda” law.⁵⁹

⁵⁵ “Russian LGBT activists in Kazan found guilty of gay propaganda to a teenager 1000 miles away” – Queer Russia website, 20 December 2013. <http://queerrussia.info/2013/12/20/3251/> – (accessed 4 January 2014)

“Russia finds gay activist guilty after he was attacked, arrested by his own parents” Gay Star News – 19 December 2013. <http://www.gaystarnews.com/article/russia-finds-gay-activist-guilty-after-he-was-attacked-arrested-his-own-parents191213> (accessed 4 January 2014)

⁵⁶ The demonstration was held on “Marsovo pole”, a kind of “Speakers’ Corner,” where no authorisation is required. Organisers need only *inform* the authorities about their intention to hold an event. The authorities cannot ban it unless another event has been planned already by other people.

⁵⁷ “Joint Statement on the Events of the St Petersburg LGBT Right Parade” – Russian LGBT Network, LGBT Organisation “Coming Out”, and the Alliance of Straights for LGBT Equality – 2 July 2013 <http://www.lgbtnet.ru/en/content/joint-statement-events-st-petersburg-lgbt-pride-parade> (accessed 4 January 2014). “Gays stoned, beaten and arrested” – the St Petersburg Times – 3 July 2013 - <http://sptimes.ru/story/37521> (accessed 5 December 2013); “Court declared the Gay Pride in St Petersburg was legal” – Russian LGBT Network and “Coming Out” media release – 11 July 2013 <http://queerrussia.info/2013/07/11/1355/> (accessed 4 January 2014)

⁵⁸ For video footage of counter-demonstrators referring to the “propaganda” laws, see: <http://www.youtube.com/watch?v=LB0xqytaBog>; <http://www.youtube.com/watch?v=JzcgV5Nkeaf>; <http://www.youtube.com/watch?v=Vl-LBzNzqs4> (accessed 21 January 2014)

⁵⁹ “Nikolai Alekseyev et al detained at Sochi Olympics Headquarters in Moscow” – Queer Russia website - 25 September 2013 - <http://queerrussia.info/2013/09/25/1955/> (accessed 4 January 2014)

They are having a chilling effect on freedom of expression, particularly in the media.

35. The first prosecution under this heading was that of the promoters of a Lady Gaga concert in St Petersburg in December 2012. The case was initiated by an activist of the Trade Union of Russian Citizens, an organization notorious for its extreme conservatism and public campaigning. Having taken her young daughter to the concert, she then complained that Lady Gaga's statements in support of LGBT people violated the St Petersburg "propaganda" law. A St Petersburg court found the promoters guilty and fined them 20,000 rubles (approximately US dollars 615) on 15 November 2013. The company is appealing the decision.⁶⁰
36. A second conviction under this heading took place in January 2014. In November 2013 a far-eastern newspaper *Molodoi Dalnevostochnik* had received a notice from the Federal Media Monitoring Service identifying an article about a gay geography teacher as in violation of the federal "propaganda" law. It reported an interview with the teacher about his dismissal, his attack by a youth group and his involvement in LGBT demonstrations. The state investigators' notice indicated that they particularly disliked the teacher's statement "my very existence is effective proof that homosexuality is normal." They considered that by offering it to under age readers, the author of the article was misleading them about the normality of homosexuality. The newspaper had carried an age warning of 16 rather than 18.⁶¹ In January 2014 the editor was fined 50,000 rubles.⁶²
37. Several other incidents demonstrate the danger to freedom of expression of the "propaganda" laws and the associated homophobic rhetoric:
- In July 2013 Dutch documentary maker Kris van der Veen and his film crew were arrested during a visit to Murmansk to make a documentary about the LGBT community. Accused of conducting "propaganda", they were interrogated for nine hours. The charges were dropped, but they were fined for violating visa regulations, on the basis that they should have applied for a political visa rather than a cultural one. Van der Veen was banned from entering Russia for three years.⁶³
 - US pop star Selena Gomez was forced to cancel two concerts in Russia. According to her tour organisers, she failed to secure a visa after the government tightened the

"10 Russian LGBT activists arrested at Sochi Olympics HQ" – Gaystarnews – 20 September 2013 –

<http://www.gaystarnews.com/article/10-russian-lgbt-activists-arrested-sochi-olympics-hq250913> (accessed 4 January 2014)

⁶⁰ <http://en.ria.ru/russia/20131115/184738439/Lady-Gaga-Tour-Promoters-Fined-Under-Gay-Propaganda-Law.html> (accessed 18 November 2013).

⁶¹ "Regional newspaper suspected of breaking 'gay propaganda' law" – The Moscow Times – 14 November 2013

<http://www.themoscowtimes.com/news/article/regional-newspaper-suspected-of-breaking-gay-propaganda-law/489518.html#ixzz2ng6CXgAV> (accessed 18 November 2013)

⁶² "First media outlet fined for 'gay propaganda' in Russia" – Ria Novosti – 30 January 2014;

<http://en.ria.ru/russia/20140130/187051137/First-Media-Outlet-Fined-for-Gay-Propaganda-in-Russia.html>

(accessed 31 January 2014); an account of the teacher's dismissal can be found at para. 55

⁶³ "LGBT Murmansk turns to court to protest hate campaign on TV" – Barents Observer – 22 November 2013

<http://barentsobserver.com/en/politics/2013/11/lgbt-murmansk-turns-court-protest-hate-campaign-tv-22-11> (accessed 4 January 2014)

visa regime for musicians in response to decisions by Madonna and Lady Gaga to openly support LGBT people during their shows in Russia.⁶⁴

- On September 12, 2013 the Federal Service for Supervision of Communications, Information Technology and Mass Media announced that it had issued a warning to the EvroKino television channel for broadcasting the 2007 French musical “Les Chansons d’Amour”, which it said contained “propaganda of non-traditional sexual relation among minors”. The channel was warned despite having broadcast the film with the “18+” sign. The film was nominated for the main competition at the 2007 Cannes International Film Festival.⁶⁵
- Two gay journalists have lost their jobs, after coming out. In early 2013 TV anchor Anton Krasovsky announced on the state-owned Kontr TV Channel that he is gay. Within hours he was fired. 10 months later he was still unemployed. ⁶⁶ Oleg Dusaev came out on Facebook on 30 August 2013. A few days later the state-owned Rossiya Kultura Channel refused to extend his contract. Dusaev had been chief of information and news analysis.⁶⁷
- In November 2013 the Swedish-based company IKEA withdrew an article featuring a lesbian couple from the December edition of their Russian customer magazine, saying it could potentially violate Russia’s new laws banning “homosexual propaganda”.⁶⁸

RESTRICTIONS ON FREEDOM OF ASSEMBLY NOT RELATED TO THE “PROPAGANDA” LAWS

38. The “propaganda” laws have not been the only means used by the authorities in recent months to frustrate attempts by supporters of the rights of LGBT people to exercise freedom of assembly.

39. On 11 June 2013, on the day of the voting in the Federal Duma on the law prohibiting “propaganda of non-traditional sexual relations”, LGBT demonstrators near the Parliament were attacked. Police were not present to protect them,⁶⁹ although later they detained several dozen LGBT activists, allegedly for “organizing or participating in an unsanctioned public event.” ⁷⁰

⁶⁴ “Anti-Gay Law Blamed on Visa Denial” – The Moscow Times – 20 September 2013 – <http://www.themoscowtimes.com/news/article/anti-gay-law-blamed-in-visa-denial/486323.html> (accessed 4 January 2014)

⁶⁵ “Russian art exhibitions and TV channel under pressure, accused of gay propaganda” – Queer Russia website – 16 September 2013 – <http://queerrussia.info/2013/09/16/1729/> (accessed 4 January 2014)

⁶⁶ “Russian TV presenter comes out on air, gets fired” – The Advocate – August 14, 2013 <http://www.advocate.com/politics/media/2013/08/14/russian-tv-presenter-comes-out-air-gets-fired> (accessed 4 January 2014)

⁶⁷ “TV journalist Oleg Dusaev fired from Kultura Channel after coming out” – Rainbow News – Gay.ru website – 20 September 2013; <http://english.gay.ru/news/rainbow/2013/09/20-27101.htm> (accessed 4 January 2014)

⁶⁸ “IKEA fears breaking Russia gag law, scraps lesbian catalogue article” – Gay Star News – 21 November 2013 – <http://www.gaystarnews.com/article/ikea-fears-breaking-russia-gag-law-scraps-lesbian-catalogue-article211113> (accessed 4 January 2014)

⁶⁹ “Russian Duma passes law banning ‘gay propaganda’” – BBC News – 11 June 2013 - <http://www.bbc.co.uk/news/world-europe-22862210> (accessed 4 January 2014)

⁷⁰ “Russia – Drop Homophobic Law” – Human Rights Watch – June 11, 2013 - <http://www.hrw.org/news/2013/06/10/russia-drop-homophobic-law> (accessed 4 January 2014)

40. On 12 October 2013 LGBT activists planned to hold a demonstration on International Coming Out Day in St Petersburg and informed the authorities of their intention.⁷¹ However, when about 40 to 50 activists arrived at the site, it was already occupied by violent counter-protesters. Despite timely notification of the event, the authorities had not set up the usual fences to stop counter-protesters gaining access to the site. A lawyer intending to participate in the event asked several police officers to take action and to ensure safety and the right to peaceful assembly. However, the police officers remained largely inactive. They did not respond, did not introduce themselves, contrary to the law, and did not advise who was the official responsible for the event's security. After 15-20 minutes they detained people regardless of whether they were participants of the legitimate action or violent counter protesters. 67 were detained in all, among them members of the Parents' Club of St Petersburg, an association for mothers of LGBT persons. 15 LGBT activists were falsely charged with "disorderly conduct", that is, a violation of public order in the form of open disrespect for the public accompanied by foul language and abusive pestering of people. Three of the detained LGBT activists, including one who attended as an observer from "Coming Out," were found guilty and sentenced to an administrative fine by the Dzerzhinsky District Court.⁷²

HATE CRIMES

41. Homophobic hate crimes have long been a concern in Russia.⁷³ However, there is disturbing evidence of the increasing and more coordinated use of violence by extremist groups. The examples which follow illustrate the differing ways in which this coordinated violence is now impacting the LGBT community. A common feature of these incidents is the reluctance of the authorities to take serious action against them. The Criminal Code of the Russian Federation does not mention a hate motive against LGBT individuals as an aggravating factor for sentencing. It does however contain the concept 'social group', a protected characteristic that can result in aggravating circumstances, and which could be interpreted to include LGBT persons. However, the Russian authorities have in general refused to interpret "social group" in this way.⁷⁴ Courts have not (with rare exceptions) classified homophobic hate crimes as motivated by *hatred against a social group of "homosexual people,"* and to date, so far as the authors of this submission are aware, there has been no such case where the victim of the crime was an activist advocating for the rights of LGBT people, despite the frequency of such crimes.

⁷¹ The demonstration was held on "Marsovo pole". See footnote 56 for background information.

⁷² "Over 60 detained at LGBT Rally in Russia's St Petersburg" – Ria Novosti – 12 October 2013 <http://en.ria.ru/russia/20131012/184091894.html>, (accessed 3 December 2013) with additional information provided by "Coming Out".

⁷³ See, for example: "Discrimination based on sexual orientation and gender identity in Russia (2009)" - a report by the Moscow Helsinki Group, in cooperation with the Russian LGBT Network (section 3.2. Offences against Life, Violence and Other Treatment that Abases Human Dignity)

⁷⁴ In April 2007, for example, the Tverskaya Inter-District Prosecutor's Office refused to initiate a criminal case under Article 282 of the Criminal Code (Incitement of Hatred or Enmity) against the President of Russia's Central Spiritual Government for Muslims for a statement inciting violence against a pride parade. The Prosecutor's Office supported its decision by reference to the opinion of the Chairman of the Family Sociology and Demography Dept of Lomonosov Moscow State University, Prof I Antonov, that "sexual minorities are not a social group..... They belong to a deviant social group that also includes criminals, drug addicts and other persons with deviations from socially accepted behaviour" - "Discrimination based on sexual orientation and gender identity in Russia (2007)" – a chapter of the Moscow Helsinki Group annual report.

42. Pre-announced public demonstrations in support of LGBT rights are now frequently met by large violent crowds, with news of the time and location of events publicised on extremist websites.
43. In January 2013 in Voronezh a group of LGBT activists began receiving death threats, after announcing a planned demonstration against the federal “propaganda” law. They called on the police and local authorities to protect them. Approximately 10 of them went ahead with the demonstration. A large crowd of counter-protesters (variously estimated at 150 to 300), some of them masked, blocked their way. Several were attacked and injured. Police at the scene did not intervene to stop the assaults.⁷⁵ A criminal case was initiated by the authorities, but only one perpetrator was charged, under the relatively minor offence of “hooliganism”, and sentenced to two months of community service.⁷⁶ LGBT activists brought a case against the police for failing to protect the demonstrators from violence, but in October 2013 their case was rejected by the Central District Court of Voronezh.⁷⁷
44. For further examples under this heading, see the St Petersburg demonstrations of 29 June 2013, and 12 October 2013, described in paragraphs 33 and 40 above.
45. LGBT activists are sometimes harassed by extremists when accessing court buildings in St Petersburg during trials related to the LGBT community. The authorities take inadequate measures to prevent this intimidation. LGBT supporters have sometimes been prevented from entering the court, and on occasion, LGBT organisations have had to make use of private security organisations to gain access to court buildings. There have been cases when LGBT activists who attended court hearings were attacked in front of the court building, with no immediate reaction from the police present there.⁷⁸

Entrapment by vigilante groups

46. Large numbers of videos have been published on the Internet showing persons, including under-age youths, being subjected to violence and humiliation. This was the work of two vigilante groups, “Occupy Paedophilia”, and “Occupy Gerontophilia”. They entrapped their victims using fake profiles on online dating websites – in the case of the first organisation, posing as teenagers seeking older men, in the case of the second organisation, posing as older men seeking teenagers, sometimes for money. Those who agreed to a meeting were met by a group of thugs who interrogated, insulted and

⁷⁵ “Russia: Reject Homophobic Bill – Investigate Threats, Attacks, on peaceful protests” - Human Rights Watch – 27 January 2013 - <http://www.hrw.org/news/2013/01/26/russia-reject-homophobic-bill> (accessed 18 October 2013).

⁷⁶ “Two months of community service for assault on LGBT activists” – Russian LGBT Network website – <http://lgbtnet.ru/ru/content/2-mesyaca-ispravitelnyh-rabot-za-napadenie-na-lgbt-aktivista> (accessed 16 November 2013).

⁷⁷ “LGBT Voronezh lost the trial on the claim of inaction of the police to disperse activists picket” - in Russian: <http://www.hro.org/node/17826> (accessed 2 January 2014)

⁷⁸ “Witness to beating of LGBT activist deceased, LGBT Network lawyer attacked at Court House” – Russian LGBT Network website – <http://lgbtnet.ru/en/content/Witness-beating-lgbt-activists-deceased-lgbt-network-lawyer-attacked-court-house> (accessed 16 November 2013).

“Director fined 300 000 rubles. Going to court is becoming dangerous.” - Media release by “Coming Out” – <http://www.comingoutspb.ru/en/en-news/300000> (accessed 21 January 2014)

See also: <http://www.gay.ru/news/rainbow/2013/06/12-26246.>; <http://www.nr2.ru/northwest/447326.html> <http://www.rosbalt.ru/piter/2013/06/25/1145223.html>; (accessed 21 January 2014)

sometimes tortured them, forcing them to admit homosexuality and/or paedophilia and/or engagement in commercial sex with men.⁷⁹ Approximately 200 videos were published online, identifying individuals to a wide audience, with tens of thousands of views. "Occupy Paedophilia" was reported to have groups in 21 cities and more than 300 groups on the Russian social network, VKontakte. "Occupy Gerontophilia" was reported to have 14 groups on VKontakte.⁸⁰

47. The founder of "Occupy Paedophilia", Maxim Martsinkevich, has appeared on federal TV and has been interviewed by mainstream media numerous times. The Russian authorities have not condemned him for his actions in relation to "Occupy Paedophilia", and there have been no prosecutions in relation to his "Occupy Paedophilia" projects. However, on October 31, 2013 Martsinkevich was charged with incitement of racial hatred.⁸¹ On 26 December 2013 the founder of "Occupy Gerontophilia", Philip Razinsky, was charged under Articles 116 (battery) and 282 (Incitement of national, racial or religious enmity) of the Russian Criminal Code. This followed complaints by the Russian LGBT Network to the police and a request by Konstantin Dobrynin, the Vice-Chairman of the Federation Council Constitutional Legislation Committee, to the Public Prosecutor.⁸²

Attacks on or harassment of LGBT community meeting places or events

48. On 3 November 2013, two masked men with an air gun and baseball bats attacked a regular social event for LGBT people in the St Petersburg office of an HIV/AIDS prevention organization. Two participants were injured. One was blinded in one eye. Following the filing of reports and complaints by the victims, an investigation has been launched. However at present the crime is classified as 'hooliganism', apparently with no intention of considering any hate motivation. The meeting was an unpublicised event - the first to be targeted by extremists in St Petersburg.⁸³
49. On 23 November 2013 unknown persons sprayed a harmful gas into the well-known Moscow gay club "Central Station", when about 500 persons were present. A number of people needed medical attention. It was the fourth recent attack on the club.⁸⁴
50. During November 2013 the Side by Side LGBT Film Festival was repeatedly disrupted, with five separate hoax bomb threats leading to evacuations of buildings, and changes of schedule.⁸⁵

⁷⁹ "Activists say legislation outlawing 'homosexual propaganda' has emboldened right-wing groups to step up attacks on gay people" – The Guardian – 1 September 2013 – <http://www.theguardian.com/world/2013/sep/01/russia-rise-homophobic-violence> (accessed 4 January 2014)

⁸⁰ "Truths behind the gay torture images from Russia" – a Paper Bird blog by Scott Long – 11 August 2013 – <http://paper-bird.net/2013/08/11/truths-behind-the-gay-torture-images-from-russia/> (accessed 4 January 2014)

⁸¹ In Russian: <http://top.oprf.ru/news/12682.html> (accessed 16 November 2013).

⁸² "Anti-gay group founder drops out of the criminal case opening" – Queer Russia website – 27 December 2013 – <http://queerrussia.info/2013/12/27/3370/> (4 January 2014). Complaints by the Russian LGBT Network have resulted in the police opening two further cases in Bryans and Nizhnevartovsk.

⁸³ "Russian LGBT activists prepare for new wave of violence following brutal attack" – BuzzFeed - 5/11/2013 <http://www.buzzfeed.com/lesterfeder/russian-lgbt-activists-prepare-for-new-wave-of-violence-foll> - (accessed 7/11/2013).

⁸⁴ "Moscow gay club under gas attack" – Queer Russia website – 23 November 2013 – <http://queerrussia.info/2013/11/23/2610/> (accessed 4 January 2014); some accounts suggest that the attacks are business-related, but even if so, they suggest that the current homophobic climate in Russia makes businesses serving the LGBT community particularly vulnerable to criminal tactics.

Other examples of hate crimes where the bias motive was not recognised

51. On November 11, 2013 a St Petersburg court handed down a one-year suspended sentence to an Orthodox Christian activist who fired eye irritant at an LGBT rights campaigner during a rally in May 2012. According to the attacker he “took personal offence” at a pro-homosexuality slogan written on a balloon being carried by the activist. The attacker was convicted of hooliganism.⁸⁶
52. On 25 December 2013 a St Petersburg magistrates court found nationalist Dmitry Deineko guilty of beating an LGBT activist, but ruled that he was motivated by ‘hooliganism’, rather than hatred, and sentenced him to 5 months correctional labour. He had been among 10 attackers who assaulted nine LGBT activists after an opposition rally called “Russia Day Without Putin” on 12 June 2012. His victim received an eye injury during the attack. None of the other attackers was punished.⁸⁷

CAMPAIGNS FOR DISMISSAL OF LGBT TEACHERS OR TEACHERS ADVOCATING FOR THE RIGHTS OF LGBT PEOPLE

53. LGBT teachers and those advocating for the rights of LGBT people are becoming targets of concerted public campaigns calling for their dismissal. An online group called “Parents of Russia” is the driving force behind some of these campaigns. It claims to have 1500 activists searching the Internet for LGBT or LGBT-friendly teachers.⁸⁸ In December 2013 the moderators of the group launched a new online campaign, in which they offered the equivalent of \$150 for “confirmed” information on LGBT schoolteachers. The group claimed to have connections with the Russian authorities in order to perform dismissals “without any bullying, homophobia or calls to violence”, but still enforcing the “gay propaganda to minors law”. An update on 5 December 2013 claimed that during the first 24 hours of operation it had received six “worthwhile” reports on LGBT teachers.⁸⁹
54. In May 2013 Olga Bakhaeva, a schoolteacher in Magnitogorsk, left a supportive comment at a website article about the persecution of an LGBT teacher, saying that she was also LGBT and a teacher. Almost immediately her details and photographs appeared on the “Parents of Russia” website, and she received messages saying that if she resigned they would not publicise this information further. She refused. Soon there were articles in the media and a story on local TV. She was summoned to the Education Department, where she presented a statement explaining that she did not refer to her views on LGBT issues in front of the children. Her head teacher told her that if she wanted to work as a teacher, she must stop putting political comments (whether about LGBT issues or

⁸⁵ “Side by Side LGBT Film Festival: Closing Ceremony Proceedings Not Marred by Fifth Hoax Bomb Call.” – Side by Side LGBT Film Festival media release – 2 December 2013 – <http://queerussia.info/2013/12/02/2815/> (accessed 4 January 2014)

⁸⁶ “Orthodox Activist Convicted for Attack on Gay Rights Campaigner” – RIA Novosti – 11 November 2013 (accessed 4 December 2013)

⁸⁷ Case documented by the Russian LGBT Network

⁸⁸ “Russia’s Gay-Friendly Schoolteachers in the Crosshairs” – Radio Free Europe – 11 November 2013 – <http://www.rferl.org/content/russia-gay-teachers-pressure/25164580.html> (accessed 4 January 2014)

⁸⁹ “Anti-gay social network group offers money for delating Russian LGBT schoolteachers” – Queer Russia website, 5 December 2013 - <http://queerussia.info/2013/12/05/2863/> (accessed 4 January 2014). As of 24 December 2013 the group’s Vkontakte page had been suspended “due to calls to violent action”.

otherwise) on her "Vkontakte" webpage. She was unwilling, and was demoted to working as a cleaner. The "Parents of Russia" campaign against her continued. In August a local mother (whose child was not at the school) complained that her son had "accidentally" visited her webpage and had been subjected to "propaganda". Ms Bakhaeva was advised that the prosecutor's office had begun an investigation. She resigned. But the "Parents of Russia" continued to harass her. She was unable to find another job in Magnitogorsk, and in September 2013, was considering moving elsewhere.⁹⁰

55. Alexander Yermoshkin was a geography teacher in Khabarovsk. For a number of years he had been involved in LGBT activism, something he had not concealed. His head-teacher, whom he consulted about this, advised that she considered his employment and his private affairs as a citizen to be two separate things. Public meetings supporting LGBT rights in Khabarovsk did not attract hostility. But with the adoption of the "propaganda" law, everything changed. Pro-LGBT events began to be attacked. In August 2013 Yermoshkin was physically assaulted while going home from work. Then a local organisation, "Green House", began collecting signatures supporting his dismissal. At the end of August his head teacher was telephoned by the Education Department, threatening her if she did not dismiss him. She gave in. "The most terrible thing is that I have actually been banned from my profession Now there's no school anywhere that will take me". Soon afterwards, he was also dismissed from a position he held at the Far East State University for the Humanities.⁹¹

56. In November 2013 a teacher of Spanish, Ekaterina Bogach, who is also an active member of the Straight Alliance for LGBT Equality (and who identifies as heterosexual), was denounced to the St Petersburg Government's Education Committee for "promoting homosexuality among minors". Her head teacher was also accused of employing "collaborators of perverts whose public demonstrations spit onto the psyches of children and trample on the morally ethical values of the majority of citizens of the Russian Federation".⁹² The "Parents of Russia" group appeared to be the driving force behind the campaign against her.⁹³ An investigation by the Department of Education concluded that Ms Bogach did not promote homosexuality in the classroom, and she retained her job.⁹⁴

57. At the start of the new academic year, in September 2013, all teachers at a private Orthodox school for orphaned boys near Sergiev Posad, Moscow region, were required to complete a questionnaire, while undergoing lie detector testing. One of the questions

⁹⁰ "Russian teachers laid off for their sexual orientation" – Straight Alliance for LGBT equality – press release, 18 September 2013; <https://www.facebook.com/straights.for.equality/posts/411838162251096> (accessed 4 January 2014)

⁹¹ "Russian teachers laid off for their sexual orientation" – Straight Alliance for LGBT equality – press release, 18 September 2013;

⁹² "Russia: persecuted for her beliefs – one of our activists targeted" – Straight Alliance for LGBT Equality, 2/11/2013 – <https://www.facebook.com/straights.for.equality/posts/427412864026959> - accessed 7/11/2013.

⁹³ "Russia's Gay-Friendly Schoolteachers in the Crosshairs" – Radio Free Europe – 11 November 2013 <http://www.rferl.org/content/russia-gay-teachers-pressure/25164580.html> (accessed 4 January 2014)

⁹⁴ "Schoolteacher does not promote homosexuality to minors, St Petersburg officials confirmed" – Queer Russia website – 17 November 2013; <http://queerussia.info/2013/11/17/2540/> (accessed 4 January 2014)

concerned the teacher's sexual orientation. The local education authority admitted to being disturbed by the testing, but could not prevent it.⁹⁵

PRESSURES ON SAME-SEX COUPLES WITH CHILDREN

58. The recent developments have put enormous pressures on same-sex couples with children. A lesbian journalist, Masha Gessen, has talked about the consequences for her family. It started in 2012 with the regional "propaganda" law, under which it seemed that any information about, or expression of, their relationship to their children could count as "propaganda", and be subject to prosecution. Gessen commented, "Whatever they meant by "homosexual propaganda", I probably did it. I had two kids and a third on the way (my girlfriend was pregnant), which would mean I probably did it in front of minors. And this, in turn, meant the laws could in fact apply to me."⁹⁶
59. Then came the prohibition on foreign adoptions by LGBT persons from countries permitting same-sex marriages. Gessen's eldest son is adopted. "In June [2013] the Russian parliament banned adoption by same-sex couples. It was a fair assumption that the law could be used to annul the adoption of our eldest son, so we made the decision to send our eldest son out of the country immediately."⁹⁷
60. Finally, came the most distressing development of all, the proposal for a federal law creating a mechanism for removing children from same-sex parents. Gessen described the reaction of her 11-year-old daughter to this news: "She sat there thinking. After about 15 minutes she said, 'Can I stay with my other mom if they take me away from you?' She can't grasp this, that they're trying to outlaw our whole family, that there isn't the option of going with one or the other." Gessen, who was beaten up during a demonstration in June 2013 in front of the federal parliament, decided with her partner that they and their children should leave Russia.⁹⁸
61. Same-sex parents with children across Russia are undoubtedly feeling similar distress. The demonisation of LGBT parents strikes at the very heart of their family relationships, causing acute anxiety to their children and to themselves. Even if they are not public about their sexuality, it is inevitable that some people around them – whether paediatricians, teachers, neighbours, family members, co-workers – will know about them. As Gessen says, "There [is] no closet in which to hide from this law."⁹⁹ Aleksey Zhuravlev, the proposer of this draft law, when asked how same-sex couples with children would be identified, replied chillingly: "As for identifying such people, we have

⁹⁵ "Moscow region orphan boys school forced teachers to test sexual orientation on lie detector" – Queer Russia website – 13 October 2013 – <http://queerrussia.info/2013/10/13/2260/> (accessed 4 January 2014)

⁹⁶ "As a gay parent I must flee Russia or lose my children" – The Observer – 11 August 2013 – <http://www.theguardian.com/commentisfree/2013/aug/11/anti-gay-laws-russia> (accessed 4 January 2014)

⁹⁷ Gessen is a US citizen of Russian origin. Her partner is Russian.

⁹⁸ "Russian Gay Activist's Plea: 'Get us the hell out of here' " – HuffPost Gay Voices – 6 September 2013 – http://www.huffingtonpost.com/michelangelo-signorile/russian-gay-activists-plea-get-us-the-hell-out-of-here_b_3881059.html (accessed 4 January 2014)

⁹⁹ "In Russia, even good news is bad" – New York Times – 21 October 2013 – http://latitude.blogs.nytimes.com/2013/10/21/in-russia-even-good-news-is-bad/?_r=0 (accessed 4 January 2014)

schools in which children study, there are various groups and clubs, so sooner or later it will become obvious anyway.”¹⁰⁰

62. A recent submission to the UN Committee on the Rights of the Child¹⁰¹ cites examples which illustrate intensifying pressures on same-sex families and their children following the introduction of the “propaganda” laws:

- In 2013, a family of two women and a school-aged child was forced to leave their apartment and transfer the child to another school. When the family had tried to recover the rental deposit on their apartment, the owner had threatened to report the women to the child protection services and to talk to the headmaster of the school where their child was studying. Now the women do not go to their child’s new school together, and they tell neighbours that they are cousins.¹⁰²
- A lesbian family from St. Petersburg began experiencing hostility from neighbours after their daughter reached the age of four, including a threat of a complaint to the child protection service. The “propaganda” law intensified their worries. “Since the time when we learned about the law we have had no good sleep. There were situations at the playground when [our daughter] cried ‘mom’ to me and [my partner] while other parents took [their] child and walked away [from the playground]. It was after the adoption of the law on gay propaganda. I would say to my [daughter] to avoid calling both of us ‘mom’ in public. But she could not understand me! She would say that mom [name of the partner] is her natural mom, why couldn’t she call her that way?”¹⁰³

63. Against this background, it is hardly surprising that many same-sex couples with children are fearful of staying in Russia. A survey of such families by “Coming Out” in autumn 2013 found that nearly 58% had already begun researching ways of leaving the country.

HARASSMENT AND PSYCHOLOGICAL VIOLENCE AGAINST LGBT CHILDREN

64. The above-mentioned submission to the UN Committee on the Rights of the Child cites the findings of a survey in August 2013 documenting the experiences of LGBT adolescents under the age of 18. Of the 267 polled, 63.3% had faced psychological violence. One third had faced it many times. Some comments by adolescents quoted in the submission illustrate their experiences:

- “Bullying at school, hacking of their VK pages. Teachers tried to persuade me that I have to change my orientation”

¹⁰⁰ “A homosexual should not raise a child” – interview with sion.ru - 5 September 2013 (translated)

¹⁰¹ Implementation of the UN Convention on the Rights of the Child and Problem of Children from Vulnerable Groups (Russia): Additional and updated information concerning the combined third and fourth periodic reports of the Russian Federation, December 2013. Anti-discrimination Centre Memorial, regional St. Petersburg organization ‘Coming Out’ and Russian LGBT Network.

¹⁰² idem, page 26

¹⁰³ idem, page 27

- “I am very often debased at school. They would beat me, throw things. Many times they poured various rubbish into the pockets of my jacket, spoiling my clothes”
- “I will have to endure attacks on the part of my classmates: their stupid hateful jokes about gays and so on up until I leave for the university”
- “My best friend decided to ‘change’ me, ‘drive me to the way of the truth’ by forcing me. (I was forced to go with him for a ‘walk’ where I was forced to endure vilification). After that I decided to go into hiding. They drilled the information into me that all gays are future pedophiliacs. (Following the video “Homosexuality is not a standard...”). I wished to take my own life, but one thing stopped me: I thought about my mom, I knew she would not bear it (as I am the only child in the family).”
- “Guys from my school began feeling that I had different orientation. Perhaps, some of them didn’t care about it, but they started abusing me. They said painful things only when they were in the company of two or three of them. After that they several times instigated other schoolboys to take part in beating me”
- “There is not a single day without flaks at school. Generally, they said just rude words, but at times they go far beyond and beat me”
- “Constant psychological pressure on the part of the classmates sometimes turning into the physical violence”
- “They were about to exclude me from school when the teacher had suspicions that I liked girls”
- “I talked about it to my friend, but she appeared to be a homophobe. She chattered about it in my class. Any respect to me was lost at once. They could even hit me, abuse or take my things. No one noticed that. I am afraid to tell about it to anyone at school and to my parents too. I have heard many times how they insulted people of unconventional orientation. I have no one to go to.”¹⁰⁴

HOUSING

65. It is reported that in several cities of Russia signs have been posted on the entrances to apartment buildings calling on residents to report to the police any neighbours “promoting homosexuality”. All these notices have the same text, claiming that a certain number of people of “non-traditional sexual orientation” have been identified in the building and requesting that residents are particularly alert. The notice goes on to say that “propaganda” can be disseminated not only “directly” through “descriptions of the advantages of homosexual lifestyle” or “invitations to you and your family to have sexual intercourse”, and “not only through bright outfits or unusual behavior, but also gradually, secretly, by working to promote homosexualism in the building throughout many years.”¹⁰⁵

¹⁰⁴ idem, pages 18 – 19

¹⁰⁵ Example of a sign in Rostov: <http://www.novayagazeta.ru/news/91270.html> (accessed 20 November 2013).

LGBT ORGANISATIONS UNDER SEVERE STRESS

66. Intensified and often violent opposition has greatly increased danger to staff and volunteers. The “propaganda” laws have had a chilling effect on advocacy. All constructive dialogue with the authorities has ceased. A high proportion of time and organisational resources are now devoted to crisis management, addressing safety concerns, responding to court cases, and developing strategies for surviving in the new climate. Additional specific concerns include:

- LGBT organisations have had their operations seriously affected by the Foreign Agents Law, with two convicted so far at first instance (“Coming Out” and the Side by Side Film Festival). Although both appealed successfully, only procedural errors were recognised by the court, so that both remain vulnerable to further prosecution. Indeed “Coming Out” already faces new charges.
- Activists with LGBT organisations are facing targeted threats to their physical safety: a number of extremist groups are publishing their personal data (including photos) online, with calls for violence.¹⁰⁶
- LGBT organisations receive regular threats to their offices. For example, in November 2013, the Russian LGBT network received two hoax bomb calls at their St Petersburg office.
- LGBT organisations also face discrimination in the provision of services: for example, the QueerFest, an annual cultural festival organised by “Coming Out”, was refused the rental of premises by all but one of the 50 or so venues they contacted in the period up to September 2013.

CONCLUSION AND RECOMMENDATIONS

67. In its Decision of 26 September 2013, the Committee of Ministers invited the Russian government “to adopt specific measures raising awareness among the general public and, in particular, the relevant authorities of the fundamental rights and freedoms of LGBT persons, without discrimination, in order to avoid that the new law contributed to existing tensions” This submission has demonstrated that not only has the new law contributed to increasing levels of discrimination and violence against LGBT people, but that continuing homophobic rhetoric by the authorities suggest a deliberate campaign to denigrate and stigmatise a vulnerable minority. Far from starting on the adoption of the positive measures proposed by the Committee of Ministers, the Russian authorities appear to have done the exact opposite.

68. The aforementioned Decision also refers to assurances given by the Russian authorities that the new law itself would not interfere with holding public events similar to those described in the Alekseyev judgment. Paragraph 28 of this submission demonstrates that these assurances have proven invalid.

¹⁰⁶ One of the largest and most active ones is a community called ‘Volk-gomofob’ (Homophobe Wolf) http://vk.com/public.priroda_ne_terpit_greha. (Accessed 4 January 2014)

69. We are concerned that the course of action chosen by the Russian authorities, will, if pursued in the current manner, in the words of the Russian Ombudsman, result in a “high price to be paid” and in “human tragedies”¹⁰⁷ affecting an entire social group. We respectfully ask therefore that the Committee of Ministers support the finding of the Venice Commission that the policy adopted by the Russian authorities goes far beyond the violation of a particular article of the Convention. We also ask that the Committee acknowledge concern that this policy is leading not just to the punishment of the expression and promotion of certain non-traditional values and attitudes towards family and sexuality (as identified by the Venice Commission), but to the punishment of a whole social group merely because their relationships differ from those of the majority.
70. We respectfully request that the Committee of Ministers call upon the Russian authorities to:
- a. cease stigmatising LGBT people as a danger to children and as the cause of Russia’s demographic problems;
 - b. cease presenting advocacy for the rights of LGBT people as some kind of foreign conspiracy;
 - c. on the contrary, recognise that advocacy for such rights is consistent with international human rights law, and work towards full enjoyment of these rights by LGBT people in the Russian Federation;
 - d. repeal the federal and regional “propaganda” laws;
 - e. ensure full access to the right to freedom of assembly, including effective protection from violent counter-demonstrators;
 - f. put in place large-scale awareness raising measures both for the general public and for state officials;
 - g. put in place measures to protect LGBT children from violence and discrimination.

3 February 2014

¹⁰⁷ see para. 14