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Meeting: 1273 meeting (6-8 December 2016) (DH)

Communication from NGOs (Coming Out and ILGA-Europe) (18/11/2016) in the case of Alekseyev against Russian Federation (Application No. 4916/07).

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

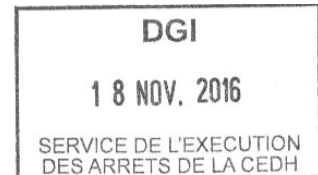
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Réunion : 1273 réunion (6-8 décembre 2016) (DH)

Communication d'ONG (Coming Out et ILGA-Europe) (18/11/2016) 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.



**Rule 9(2) submission to the Committee of Ministers of the Council of Europe
concerning implementation of the *Alekseyev v. Russia* case**

This submission is communicated by Coming Out¹ and ILGA-Europe² as non-governmental organisations under Rule 9(2) of the Rules of the Committee of Ministers (CM) for the supervision of the execution of judgments and friendly settlements for consideration at the meeting CM-DH 1273 (6 – 8 December 2016).

I Summary

1. The *Alekseyev v. Russia* cases³ address repeated bans on demonstrations promoting tolerance and respect for the human rights of LGBTI persons, and the absence of an effective remedy to challenge those bans. The European Court of Human Rights (the Court) found violations of Convention Articles 11 (right to freedom of assembly), 13 (right to an effective remedy), and 14 (prohibition of discrimination) taken in conjunction with Article 11.
2. The execution of judgments process in this case has now been proceeding for 5 ½ years. Regrettably, not only has there been no serious attempt to implement the judgment, but similar violations continue unabated. The Russian government's latest Communication reveals that of 48 notifications for public events between 1 October 2015 and 30 June 2016, 47 were blocked by the authorities. Almost all the refusals were challenged in the courts, 41 to appeal court level, and two to the Supreme Court. No challenge was successful.
3. Despite repeated expressions of concern by the CM in past Decisions on the use of the so-called "propaganda of homosexuality" laws to block events, and a ruling by the Constitutional Court in September 2014 that appeared to restrict the application of the federal law prohibiting "propaganda of non-traditional sexual relationships" (the Federal Propaganda Law)⁴ in the field of freedom of assembly, it was used to justify refusals in 24 of the 47 cases.
4. In its last Decision on the case, the CM noted a positive approach regarding an event in May 2015 in St Petersburg, and strongly encouraged the Russian authorities to promote this throughout the Russian Federation. 12 attempts to replicate this approach in 2016 were blocked systematically by the St Petersburg authorities.
5. The CM is respectfully asked to repeat its requests to the Russian authorities to adopt a comprehensive action plan to ensure execution of the *Alekseyev* judgment, and to continue to obtain information on the treatment of notifications to hold public events similar to those in that case.

¹ Coming Out is an initiative group based in St. Petersburg. It works for the 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, based on the principles of openness, visibility and non-violence.

² 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. Its membership consists of over 450 NGOs from across Europe, whose members are mainly lesbian, gay, bisexual, transgender or intersex individuals.

³ *Alexeyev v. Russia* (Application No. 4916/07).

⁴ Article 6.21 of the Code of Administrative Offences.

II Review of execution of judgments process to date

6. The execution of judgments process in this case has now been proceeding for 5 ½ years. Over that time, in a series of nine Decisions, most recently in March 2016, the CM has repeatedly expressed serious concern that the competent authorities have refused the majority of requests to hold public events similar to those in the *Alekseyev* judgment.⁵ It also made numerous warnings against the introduction of regional and federal laws prohibiting so-called “propaganda of non-traditional sexual relationships”.⁶ These were ignored, and despite an assurance by the Russian government to the contrary,⁷ these laws have been used on many occasions to refuse authorisation of public events in support of the rights of LGBTI persons. Calls by the CM for the adoption of general measures to implement the *Alekseyev* judgment have received a wholly inadequate response.
7. This gives rise to a situation in which, not only has there been no serious attempt to implement the *Alekseyev* judgment, but violations similar to those condemned in the *Alekseyev* judgment continue unabated. On 15 January 2016 the European Court of Human Rights communicated to the Russian authorities two groups of cases brought by Mr *Alekseyev* and others comprising a total of 88 separate alleged violations of the right to freedom of assembly.⁸
8. In September 2014, in responding to a case challenging the constitutionality of the Federal Propaganda Law, the Constitutional Court held that this law does not contradict the Federal Constitution because it has the aim of “protecting such constitutional values as family and childhood”, as well as the aim of “preventing harm to the health and moral and spiritual development of minors”. However, the Constitutional Court appeared to restrict the application of the law in the field of freedom of assembly, holding that it does not prevent “impartial public discussion of questions related to the legal status of sexual minorities or the use (...) of all lawful ways of expressing their position on such questions and protection of their rights and lawful interests, **including the organisation and holding of public assemblies**”.⁹ Despite this, the Federal Propaganda Law continues to be used as a reason for banning public assemblies in support of the rights of LGBTI people.

III Developments since the March 2016 Decision

III a. Findings from the latest Communication by the Russian Federation

9. The latest Communication presented by the Russian government (the Communication) demonstrates clearly that there has been no improvement since March 2016:
 - Of the 48 notifications for public events between 1 October 2015 and 30 June 2016 documented in the Communication, only one was agreed.

⁵ 1144th meeting – (4 – 6 June 2012) para 3, 1150th meeting – (24 – 26 September 2012) para 1, 1164th meeting – (5 – 7 March 2013) – para 2, 1172nd meeting – (4 – 6 June 2013) paras 1 & 3, 1208th meeting – (23 – 25 September 2014) – para 2, 1230th meeting – (11 June 2015) - para 3, 1250th meeting – (8 – 10 March 2016), para 1.

⁶ 1144th meeting – (4 – 6 June 2012) para 5; 1150th meeting – (24 – 26 September 2012) para 3; 1164th meeting – (5 – 7 March 2013) – paras 2, 3 & 4; 1179th meeting – (24 – 26 September 2013) paras 1 - 4; 1193rd meeting – (4 – 6 March 2014) – para 3.

⁷ 1179th meeting – (24 – 26 September 2013) – para 4.

⁸ *Alexeyev v. Russia* (Application no. 14988/09) and 50 other applications; and *Alexeyev and Others v. Russia* (Application No. 31782/15).

⁹ See "Justice or Complicity? LGBT rights and the Russian courts". Equal Rights Trust – September 2016 – p. 71.

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- The Federal Propaganda Law was used to justify 24 refusals. Of the remaining 23 refusals, 11 were on grounds of some kind of public works, and six on the basis that the location requested was already booked for another public event. Over the years the authorities have regularly resorted to blocking notifications using these pretexts.
- Of the 47 notifications where the local authorities refused to agree an event, 45 were challenged in the courts, 2 to the level of the Supreme Court, 41 to appeal courts, and 2 in first instance courts. All were rejected. The Supreme Court also considered 8 appeals relating to notifications made prior to 1 October 2015. All were rejected.

III b. St Petersburg – access to the “Hyde Park” freedom of expression locations

10. In its March 2016 Decision on the Alekseyev case the CM noted one positive development, namely that the authorities did not interfere with the organisers’ right to peaceful assembly during the May 2015 events in St Petersburg, and strongly encouraged the Russian authorities to promote this approach throughout the Russian Federation.¹⁰ The event in question was a flash mob to mark the International Day against Homophobia and Transphobia. It took place in the “Hyde Park”¹¹ area of Marsovo Pole with the acceptance of the St Petersburg authorities, and under the protection of the police.¹²

11. Regrettably, in 2016, far from promoting the St Petersburg approach throughout the Russian Federation, the authorities have blocked all attempts by the LGBTI community to hold such events. Appendix 1 provides a detailed account of attempts by individual activists to organise flash mobs in the “Hyde Park” area of Marsovo Pole in May and July, and by St Petersburg Pride to hold an event on July 30. 12 notifications in all were involved. Key points from this account are as follows:

12. The principal tactics used to block the 12 notifications were:

	Number of times used
Claiming that the location was already booked by another organisation	11
Claiming that construction or other works made the location unsafe	2
Failing to advise the next date on which the location was free	5
Advising a date when a location was free, only to then claim that it was not free.	3
Warning that the event violated certain prohibitions in the Federal Propaganda Law	11
Warning that the event violated certain provisions of the Federal Law “On protection of children from information harmful to their health and development”	5
Warning that the event violated certain provisions of the Federal Law “On basic guarantees of children’s rights in the Russian Federation”	5
Warning by the police that if the event went ahead, participants would be detained	2

13. The following casts further light on the behaviour of the authorities:

¹⁰ Decision on the Alekseyev case – 1250th meeting (8 – 10 March 2016) - para 7.

¹¹ Under a St Petersburg Government Decree five places, known as “Hyde Parks”, are designated as freedom of expression locations. These include Marsovo Pole, Polyustrovsky Park and Udelyny Park. Organisers are required to give prior notification, but authorisation is not required. Where a location is already booked the authorities are required to advise the applicant of the next date on which it is free.

¹² Submission to the Committee of Ministers of the Council of Europe in the case of Alexeyev v. Russia – Union of Independent LGBT activists of Russia – 24 February 2016 – para 39.

- On four occasions when the authorities claimed Marsovo Pole “Hyde Park” area was already booked for “mass events”, checks by the organisers on the day revealed that this was not the case.
- Four of the St Petersburg “Hyde Park” areas are remote from the city centre, and are rarely used because events there engage little or no public attention. Even so, events notified for two of these locations were blocked.
- In blocking notifications, the authorities made warnings concerning violation of the Federal Propaganda Law, even where the organisers were private individuals and where (as is permitted) the purpose of the event was not given.

14. On three separate occasions the event organisers challenged the behaviour of the authorities in the St Petersburg courts, in one case citing the decision of the Constitutional Court of 23 September 2014. All three cases were rejected.

15. The attempts of the individual activists and St Petersburg Pride to hold their events ended when the organisers ignored or circumvented the blocking tactics of the authorities:

- In the case of the individual activists, on 12 July, 2 individuals¹³ appeared on Marsovo Pole “Hyde Park” with a rainbow flag and posters demanding the right to freedom of assembly. They were detained, and charged with violating the relevant federal law on assemblies.¹⁴ In the subsequent District Court trial the charges were dismissed on technical grounds.¹⁵
- In the case of the St Petersburg Pride event, approximately 20 activists conducted individual pickets¹⁶ at another location. They suspended their actions after about 40 minutes when the police arrived. None were arrested.

III c. Three further examples of the suppression of freedom of assembly in St Petersburg

16. Appendix 2 documents three further examples of the suppression of freedom of assembly events involving LGBTI people in St Petersburg in 2016:

- The Day of Silence flash mob, where an unauthorised peaceful march, tolerated and indeed protected by the authorities in previous years, was suppressed by the police. Six participants were charged with violating the rules of public assemblies and fined.
- The May Day demonstration, where attempts to repeat the practice in previous years of including a “Rainbow Column” as part of the demonstration were frustrated by the enforced closure of the social website page used to organise the Rainbow Column two days before the event; and where at least 14 participants who took part in the march and unfurled rainbow flags were arrested.
- A Coming Out day street performance – which the police disrupted.

17. **In summary, to all intents and purposes, the blocking by competent authorities at all levels in the Russian Federation of public events in support of the rights of LGBTI persons has continued uninterrupted for the 11 years since the rejection of the first notification to hold a pride march in Moscow in 2005.** In St Petersburg the only events now permitted are so-called “single pickets” involving one individual at a time.

¹³ In 2015, when the authorities were supportive of the 17 May ‘Rainbow Flash Mob’, 300 people took part.

¹⁴ Article 20.2 of the Federal Law No. 54 “Assemblies, Meetings, Demonstrations, Marches and Pickets”.

¹⁵ See Appendix 1, para 22.

¹⁶ Picketing by a single person requires neither official approval nor prior notification.

IV General measures taken so far by the Russian authorities

18. The CM has called repeatedly for general measures to implement the Alekseyev judgment, including a comprehensive action plan,¹⁷ training and awareness-raising of authorities responsible for handling the notifications for public events,¹⁸ and awareness-raising among the general public.¹⁹

19. No such comprehensive action plan has been forthcoming. In Communication after Communication, including that of November 2016, the Russian authorities have listed measures they have taken such as dissemination of case law and training of local government officials and judiciary. It is clear that these have had no effect whatever.

V Recommendations

20. We respectfully ask the CM to repeat its request to the Russian authorities to adopt a comprehensive action plan to ensure execution of the Alekseyev judgment. This request should, as a minimum, specify:

- (i) Revision of the Assemblies Act, with a view to ensuring that its provisions are consistent with the European Convention on Human Rights and its case law, and that current deficiencies facilitating arbitrary and discriminatory behaviour by officials are eliminated.²⁰
- (ii) Preparation of a code of conduct for municipal authorities responsible for handling notifications for public events, addressing *inter alia* their duty to conduct their office in accordance with the law, to behave fairly and impartially under all circumstances, and to reject arbitrary and discriminatory behaviour of any kind.
- (iii) Training for three categories of public servants: municipal authorities responsible for handling the notifications for holding public events, judges and other court staff, and the police.

The training for all three should include the relevant human rights principles, as elucidated by the Court, including freedom of assembly, expression and non-discrimination, and their application in the context of the rights of LGBTI persons.

The training for municipal authority officials should further include guidance to the effect that it is unacceptable to reject notifications for public events on the basis of the arbitrary and/or discriminatory use of procedural rules, including in relation to the location and timing of events. It should also include guidance on the proper assessment of security risk in relation to public events.

¹⁷ 1150th meeting – (24 – 26 September 2012) – para. 4; 1172nd meeting – (4 – 6 June 2013) – para 4; 1179th meeting – (24 – 26 September 2013) – para 6, 1230th meeting – (11 June 2015) - para 5, 1250th meeting – (8 – 10 March 2016), para 8.

¹⁸ 1150th meeting – (24 – 26 September 2012) – para 4, 1230th meeting – (11 June 2015) - para 5, 1250th meeting – (8 – 10 March 2016), para 5.

¹⁹ 1179th Meeting – (24 – 26 September 2013) – Para 5; 1208th Meeting – (23 – 25 September 2014) – Para 4.

²⁰ See Venice Commission Opinion no. 686/2012 on Federal Law No. 65-FZ 8 June 2012 of the Russian Federation, para 7; and the report of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe: Doc. 13018 14 September 2012 – The honouring of obligations and commitments by the Russian Federation, section 7.6.

The training for police should include the need to protect all persons involved in public demonstrations without discrimination, and to investigate all individuals and organisations engaged in threatened or actual violence against such events, with a view to prosecution.

Special public events guidelines for each of the three categories of state official should be developed, making use of the OSCE/ODIHR Guidelines on Freedom of Peaceful Assembly.²¹

- (iv) The materials for the above-mentioned code of conduct, training sessions and guidelines should be prepared with the assistance of Council of Europe experts, and the sessions conducted with their help.
- (v) The execution of a wide-scale and long-term programme of awareness raising among the general public, with a view to ensuring that public events in support of the rights of LGBTI people can proceed without serious risk of violent opposition.
- (vi) The repeal of the federal and regional legislation banning so-called “propaganda of homosexuality” or “propaganda of non-traditional sexual relations”.

21. We further respectfully ask that the CM continue its practice of requesting the Russian authorities to provide statistics on the treatment of notifications to hold public events similar to those in the Alekseyev case.

17 November 2016

²¹ Guidelines on Freedom of Peaceful Assembly: Second Edition - Organization for Security and Co-operation in Europe - 25 October 2010.

Appendix 1

Attempts by LGBTI organisations and individuals to hold “public events” at “Hyde Park” locations in St Petersburg between May and July 2016

I Introduction

1. St Petersburg has five “Hyde Park” locations designated under regional law²² for the expression of public opinion in what are termed “public events”. Organisers are required to notify the city administration²³ a maximum of 15 days in advance, but authorisation is not required, nor is there a requirement to state the purpose of the event. Where a location is already booked the authorities are required to advise the applicants of the next date on which it is free. Thus, while the authorities do not have the power to overrule a notification, they can require that the event be held on a different day if the location is already booked.
2. Marsovo Pole (or rather, a part of it) is the most well-known and most used of the five, being located in the centre of St Petersburg. The other four specially designated places, located in Polyustrovsky Park, Udelny Park, Uzhno-Primorsky Park and Garden of the Thirtieth Anniversary of the October Revolution, are not in the centre of the city and are much less used because events staged there attract little if any public attention.
3. Other regional public order legislation recognises two further categories of public activity, “mass cultural” and “mass sport” events, for which notification (in this case up to 30 days before the event) is required. By custom, these events do not normally take place at the designated “Hyde Park” locations, which are reserved for the expression of public opinion. They would typically involve hundreds of people.
4. Picketing by a single person requires neither official approval nor prior notification.
5. Until 2016 LGBTI organisations were generally able to hold “public events” at Marsovo Pole. This appendix documents attempts by some individual activists, and the St Petersburg Pride organisers, to hold such events in 2016 and exposes the tactics used by the authorities to prevent them.

II Notifications by activists to hold flash mobs at Marsovo Pole in May and July 2016

6. In 2016 some activists decided – as in 2015 – to mark IDAHOT with a flash mob on Marsovo Pole. The efforts of the authorities to prevent this event taking place resulted in nine notifications for “public events” between May and July being blocked, and to the arrest by the police and subsequent acquittal by the district court of two activists who at the end of this period asserted their right to demonstrate.

²² Decree of the Government of St. Petersburg from 24.12.2012 № 1363 "On specially designated places for collective discussion of issues of public interest and expression of public opinion, as well as for mass presence of citizens for public expression of opinion on urgent socio-political issues in St. Petersburg" (as revised on 24.04.2014): <https://gov.spb.ru/law?d&nd=537928579&prevDoc=8423008>

²³ Notifications for “public events” are administered by the Committee on Legitimacy, Public Order and Security.

Notification for a “public event” on May 21

7. On 6 May the activists notified the authorities of an event to be held on 21 May, whose stated purpose was a “Call for tolerant attitude towards LGBT people; a demonstration of peaceful intentions and a positive attitude of the LGBT community towards the society”. The authorities rejected the notification on the basis that the location was already taken for the whole day by an anti-corruption demonstration, but failed in their duty to advise the next day on which the location was available. They also warned that the purpose of the event violated certain prohibitions in the federal laws “On protection of children from information harmful to their health and development”,²⁴ “On basic guarantees of children’s rights in the Russian Federation”,²⁵ and in the Federal Propaganda Law. They also received a phone call from a police officer warning that if the rally was to take place the participants would be detained.
8. On 11 May the organisers challenged the rejection of their event in the district court on the following grounds: that the authorities gave no evidence as to why their event could not take place; that they had failed to suggest alternatives; that the assertion that the event’s purposes were against the law contradicted a ruling of the Russian Constitutional Court since it was not about spreading information among minors;²⁶ and, since they had filed their notification at the earliest possible opportunity, they questioned whether the anti-corruption demonstration organisers had really lodged their notification before theirs, as stated by the authorities. On this last point, the authorities responded that the anti-corruption demonstration organisers had filed their notification one day earlier (i.e. 16 days before the event), and that this was valid, since the 15 days’ notice requirement ran not from the date of notification, but from the following day. This differed from established practice.
9. The District Court dismissed the case. However, it did acknowledge that the authorities could not refuse a “public event” in a designated location. On appeal, the City Court upheld the decision of the District Court.

Notifications for “public events” on May 28 and 29

10. On 13 May some activists notified the authorities of their intention to hold a flash mob on Marsovo Pole on 28 May, with the same objectives as before. The notification was made 16 days before the event. However the authorities replied that the location was already booked for a “mass cultural event in support of healthy lifestyle”, organised by the youth branch of the United Russia party. They failed to advise the next day on which the location was available. They again warned that the event was a violation of the same three federal laws.²⁷
11. On 16 May, notifications identical with the previous two were made for flash mobs on 29 May, except that they were for two other “Hyde Park” locations, Polyustrovsky Park and Udelyny Park. The notifications were made because the activists wished to test whether the

²⁴ Federal Law of 29 December 2010 No 436 "On protection of children from information harmful to their health and development", Article 5, part 2.4.

²⁵ Federal Law of 24 July 1998, number 124 "Basic Guarantees of Children's Rights in the Russian Federation", Article 14.1.

²⁶ See para 8 of the main report.

²⁷ See para 7 of this Appendix.

authorities would even block flash mobs in places where almost no one would see them. Both were rejected. In the case of the Polyustrovsky Park notification, the authorities advised that a mass cultural event was already scheduled. In the case of the Udelyny Park notification the authorities did not claim that the site was already booked. In both cases, they failed to advise of an alternative date, and warned that the event was a violation of the same three federal laws.

12. On 24 May the activists challenged the rejection of their event notified for Marsovo Pole on 28 May in the District Court. In addition to the arguments used in the previous court case, they pointed out that the “Hyde Park” area of the Marsovo Pole was, according to the relevant government decree²⁸ designated specifically for “public events”, and not “mass cultural events”. The District Court, and, on appeal, the City Court, dismissed the case.

Notifications for “public events” on July 9, 10, 11 & 12

13. On 22nd, 23rd, 24th and 27th June, activists lodged notifications for an event in Marsovo Pole on 9th July. The four notifications were considered advisable because the period spanned a bank holiday. It was unclear how the authorities would interpret the notification rule in these circumstances, and there was concern that they would do so to the detriment of the activists. On this occasion the notifications did not set out the purpose of the event, this not being a requirement of the law. The first of these notifications was rejected by the authorities on the basis that it was lodged too early. The others were rejected on the basis that a “mass cultural event” organised by the “Petersburg Reserve” public organisation was already scheduled to take place, covering the entire area of Marsovo Pole, including the “Hyde Park” area, with an exhibition of military equipment. The reply also warned against violating the Federal Propaganda Law, even though no purpose for the event had been stated.
14. The authorities did however advise that the Marsovo Pole was available for a “public event” on 10th July. Accordingly, on 29th June the activists applied to hold an event on that day. The authorities rejected the notification, again on the basis that a “mass cultural event” organised by the “Petersburg Reserve” was already scheduled to take place that day. The activists were again warned against violating the Federal Propaganda Law, despite having not declared any purpose for the event.
15. The authorities did however advise them that the Marsovo Pole was available on the 11th July, so on 6th July the activists lodged notifications for events at two different times on that day. They were advised that the location was already booked for the whole day by a “mass cultural event” in support of “traditional families, moral values and President Putin”, and received the same warning concerning violating the Federal Propaganda Law.
16. The authorities did however advise them that the Marsovo Pole was available on 12th July, so on July 7 they applied to hold an event that day. On this occasion they were advised that the location was now booked for a “mass sports event “in support of healthy lifestyle and traditional family values”. They were again warned about violating the Federal Propaganda Law.

²⁸ The Decree of the Government of St. Petersburg from 24.12.2012 № 1363 (as revised on 24.04.2014).

17. On 9th July, the activists monitored the Marsovo Pole to check whether a mass cultural event was really taking place. The “event” consisted of just three men in Soviet style costumes with a poster about their organisation, who were present for two to three hours. There was no exhibition of military equipment.
18. On 10th July the activists monitored the Marsovo Pole to see whether the “Petersburg Reserve” was holding a “mass cultural event”. No such event took place.
19. On 11th July, the activists again monitored the Marsovo Pole. There was no sign of the “mass cultural event” in support of “traditional families, moral values and President Putin”, although there was a “public event” by a nationalist organisation, the National Freedom movement, for several hours, but outside the “Hyde Park” area. Not more than 10 people were involved.
20. On 12 July, the activists decided to go ahead with a “public event”. They notified the police of their intention, reminding them of the District Court’s ruling of May 19 that the authorities could not ban a “public event” at a designated “Hyde Park” location,²⁹ and pointing out that they would therefore be acting within the law. The police responded that if they held their event, they would be detained.
21. Two activists went to Marsovo Pole “Hyde Park” and unfurled a rainbow flag. There was no “mass sport event” taking place. However, the “Hyde Park” area was occupied by a group of about 20 persons, including young children, with a tent. The activists were asked by the leader of this group to leave, since they were holding an event with children. When asked to show the authorisation from the authorities for the event, she refused. 10 thuggish-looking young men were also present. They spoke aggressively, and drew the attention of the police to the activists.
22. The two activists held up posters with the word “COMING OUT for Freedom of Assembly” and “11 applications for LGBT movement, 11 excuses from the administration. We have the right to be here.” They were detained and charged with violating Article 20.2 of the Federal Law No 54 “Assemblies, Meetings, Demonstrations, Marches and Pickets.”³⁰ Subsequently, in District Court hearings on August 23 and 30th the charges were dropped. The Court noted that the action took place in the specially designated place, and therefore the persons involved could not be detained for lack of notification of the event.
23. On 27 July the organisers of the flash mob filed a complaint against the Committee on Legitimacy, Public Order and Security of St Petersburg in respect of these notifications in the District Court, on the basis *inter alia* that their refusals were contrary to the law, violated the organisers’ right to freedom of assembly, and knowingly provided false information. The District Court dismissed the complaint.

²⁹ Decision of Sestroretsky District Court of 18 May, 2016 (case № 2a-925/2016).

³⁰ “... Participated in action without receiving approval, impeded carrying out of a sports event, and refused to comply with the police directive to stop the action.” The fines are up to 30,000 rubles (€425) each.

III St Petersburg Pride – 30 July

24. In 2016 St Petersburg Pride decided to hold a “public event” on 30th July to mark Pride. The efforts of the authorities to prevent this event taking place resulted in three notifications being blocked. In the end approximately 20 activists held “individual pickets” at another location, but suspending their action after about 40 minutes when the police arrived. None was arrested. In more detail, the events were as follows.
25. On 15 July the organisers of St Petersburg Pride gave notification of a rally on the Marsovo Pole “Hyde Park” location on 30 July. No purpose was stated. The authorities refused on the basis that “a mass cultural event with the aim of military-patriotic education of the younger generation and the city residents” was scheduled to take place that day. They also warned the organisers concerning violation of the Federal Propaganda Law, even though the notification made no reference to LGBTI issues.
26. On 18 July the organisers again gave notification of a march and rally on Marsovo Pole on 30 July, offering three variants of the route/venue and timing. The purpose of the event was to raise awareness of the problems faced by LGBT people, and of the need for equality and tolerance. In rejecting the notification, the authorities referred to the same “mass cultural event” as in their previous reply, but also stated that repair works to the ventilation shaft of the metro were in progress on the eastern side of the Marsovo Pole, with the use of heavy and dangerous machinery. They also advised that the purposes of the event violated prohibitions in the same three federal laws as cited in previous refusals by the authorities.
27. On 26 July the organisers made a further notification. They referred to the ruling of the Constitutional Court of 23 September 2014, which states that “citizens, including those whose sexual orientation is different from the standard, cannot be deprived of the opportunity to protect their legitimate rights and interests (...)” and argued that the event’s purposes did not violate the Federal Propaganda Law. Taking account of the other reasons for the refusal (the allegedly scheduled mass cultural event and repair operations), the organisers proposed five new alternative variants of route/venue. Later the same day they received a refusal for all proposed alternative routes under different pretexts: repair operations, restrictions in respect of private property on the route, or previously scheduled events. The authorities again referred to the prohibitions under the same three federal laws.
28. The march and rally did not take place. However the organisers of St Petersburg pride, with a group of approximately 20 activists, held “individual pickets” in Dvortsovaya (Palace Square). When the police arrived after about 40 minutes the activists stopped their pickets. No one was detained.

Three further examples of suppression of freedom of assembly events in St Petersburg in 2016

I Day of Silence - 15 April

On April 15 a group of LGBTI activists held a flash mob dedicated to the International Day of Silence. The event was not approved by the city authorities (the organizers did not attempt to get approval). About fifty activists gathered with taped mouths to walk along Nevsky Prospect, the central street of the city. **In past years, although this action had never been approved by authorities, the participants were accompanied and protected by police officers and never detained.**

Before the beginning of the flash mob police officers warned the participants about “the consequences of violations of the law” - but when the activists asked them what specifically they were forbidden to do, the officers refused to answer.

Homophobic activist Timur Bulatov came to the place where the participants were gathered; he carried an acoustic system and a broom on which rainbow-colored toy mice were hanging (his symbol of the fight against LGBTI activists). Bulatov shouted homophobic insults and hate speech (“we will clean you out of Russia”, “I will cleanse Russia”, “it is time to clean up”, “I want to sweep the rubbish” etc.) and set up passers-by against the protesters. Police officers ignored him and did not respond to the activists’ requests to prevent his provocations. When the activists began moving, Bulatov went with them and recorded everyone on his video camera.

Shortly after the activists began to move along Nevsky Prospect, the police made an announcement in a megaphone: “the event is held with violations of law, avoid provocations.” Since no specific requirements were announced, the participants of the flash mob did not understand what to do (besides, not all participants heard the police announcement: loud music from Bulatov’s system hindered the sound). The participants asked the police officers what specifically in their actions violated the law, but the police ignored the question.

About two minutes after the warning, approximately a dozen riot police ran up and forcefully pinned the activists to the wall, breaking them into small groups. Several journalists and bystanders were also seized by the police. For about fifteen minutes the riot police pressed the people roughly against the building wall, refusing to answer their questions and explain their actions.

Seven were then forcefully pushed into a police dog van, without naming the grounds for their detention, and taken to a police station. They were forced to spend 1.5 hours inside the van, which was dark and with insufficient seating. The police refused to say where they were taken and ignored the need for two detainees to go to the toilet. The police dealt with them in a mocking and rude manner. One of the activists was threatened in the police station.

The seven detainees were charged with violating Art. 20.2 Part 5 of the Administrative Code (violating the rules of public assemblies). They were found guilty in the District Court, and fined 10000 rubles (approx. 140 Euro). They appealed to the City Court. In one case, the Court upheld the judgment. The remaining five hearings have yet to take place.

II May Day

Traditionally, a “Rainbow Column” has marched in the May Day demonstration as part of the “Democratic Column”. This year, the Democratic Column’s notification was rejected (for the first time). Two days before the march, the page “Rainbow Mayday” in the social network “VKontakte”, where participants of the Rainbow Column were discussing their plans, was blocked “on the basis of the requirements of the Russian Federation Prosecutor General's Office”, and so no “Rainbow Column” was organised. Nevertheless, many LGBTI activists took part in the demonstration as part of the “Green” and “Left” columns. During the march, several activists unfurled rainbow flags. At least 14 people were detained for displaying rainbow flags. During their detention, police officers refused to give explanations or answer questions. No charges were brought against them.

III Coming Out Day - 11 October

On October 11, a group of LGBT activists carried out a short (unauthorized) street performance dedicated to the International Day of Coming Out. The police disrupted the action, surrounding the performers, demanding their IDs, asking questions and quoting the propaganda law. They detained one of the organizers when they checked his ID and noticed that he was not registered in St. Petersburg.