



ECOM

COMING OUT



Discrimination and Violence Against Lesbian and Bisexual Women and Transgender Persons in the Russian Federation

For the adoption of List of Issues

The Convention on the Elimination of All Forms of Discrimination against Women
Submitted for the consideration of the 9th periodic report by the Russian Federation

**The 78th Pre-Sessional Working Group of the Committee on the Elimination of
Discrimination against Women (CEDAW)**

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Eurasian Coalition on Health, Rights, Gender and Sexual Diversity (ECOM) is an international non-governmental association established in 2011 and aimed at protecting the rights of men who have sex with men and transgender people to health, in the region of Eastern Europe and Central Asia. Currently, the network consists of 76 members from 19 countries, including Russia.

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“Coming Out” LGBT group is a regional LGBT initiative based in Saint Petersburg, Russia, which works since 2008 for the universal recognition of human dignity and equal rights of the LGBT community. An essential part of our work is legal assistance to survivors of violence and discrimination: we defend their interests in the police and the courts, conduct discrimination monitoring research, advocate the rights of LGBT-people locally and internationally, facilitate the implementation of recommendations of international bodies in Russia. Since 2012, “Coming Out” has submitted comments and reports to CEDAW, HRC, CESCR, CAT and CRC. Currently we are handling more than 40 strategic cases, including several cases in the ECtHR. Recently CEDAW, on the complaint of our lawyers, delivered a judgement on a case regarding violence against a lesbian couple¹.

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¹ CEDAW/C/75/D/119/2017

Summary

In this report we briefly mention the dialogue between CEDAW and the Russian Federation concerning the report CEDAW/C/RUS/Q/8 and the respective recommendations (CEDAW/C/RUS/CO/8); we also evaluate the 9th periodic report submitted by the Russian Federation (CEDAW/C/RUS/9). Next, we raise key issues of violence and discrimination against lesbian and bisexual women and transgender persons in the Russian Federation, such as: the “gay propaganda law”, hate crimes, online harassment, hate speech, persecution for spreading of SOGI-related information on the Internet, parental and labor rights of transgender people and other issues. After each section we suggest a list of questions to be posed to the Russian Federation.

Background

In 2015, CEDAW asked² Russia to provide information concerning the law on “propaganda of non-traditional sexual relations” and measures taken to protect lesbian, bisexual, transgender and intersex women against discrimination. CEDAW also drew attention to dismissals of teachers and requested information on measures taken to protect them from discrimination and violence, including hate speech and homophobic attacks.

In response³ Russia mainly referred to the fact that the law on “propaganda of non-traditional sexual relations” corresponds to the Constitution of Russia, as verified by the Constitutional Court in 2014⁴, based on the position that the law prohibits “public dissemination of information aimed at promoting non-traditional sexual relations among minors, or, depending on the circumstances, imposing them”. The state assumes that it is the influence of information on sexual orientation and gender identity⁵ that leads people, including children, to become non-heterosexual.

The state confirmed that in 2014 a music teacher was dismissed after the employer learned of her sexual orientation. At that time, the court of first instance had refused the teacher’s claim for reinstatement and compensation for forced absence; subsequent complaints had not yet been filed⁶. Russia otherwise denied the prevalence of discrimination against LGBT in Russia.

In its concluding observations on the eighth periodic report of the Russian Federation⁷, CEDAW called on Russia to provide necessary protection against discrimination and violence against lesbian, bisexual, transgender and intersex women, in particular through the adoption of anti-discrimination legislation and the revision of the existing discriminatory laws that prohibit intersecting forms of discrimination. The Committee recommended to provide training to the police and law enforcement officials, as well as awareness-raising campaigns aimed at the general public, and to ensure that lesbian, bisexual, transgender and intersex women do not face discrimination in their professional life (para 42).

In follow-up to the concluding observations⁸, Russia did not report any measures taken as part of the Committee’s recommendations regarding LGBTI-women. According to the 9th periodic report submitted by the Russian Federation⁹, Russia did not report any measures taken to implement the recommendations; in fact, the state had ignored the latter. In the report (para 179), the state focused on the fact that discrimination on any grounds and circumstances not related to the employee’s business qualities¹⁰ was already banned by the labor legislation. However, no proof of the practice of this norm being applied to protect LGBT people against workplace discrimination was given. The report included a controversial conclusion that Russian legislation did not contain any discriminatory norms against LGBT people, which is not true.

² CEDAW/C/RUS/Q/8, para 15

³ CEDAW/C/RUS/Q/8/Add.1, para 15

⁴ Decision of the Constitutional Court No. 24-P, adopted on 23.09.2014 “On the case regarding the constitutionality of pt. 1 art. 6.21 of the Code of the Russian Federation on Administrative Offenses in relation to the petition by citizens N.A. Alexeyev, Y.N.Yevtushenko and D.A.Isakov”: <http://doc.ksrf.ru/decision/KSRFDecision173469.pdf>

⁵ Hereinafter, SOGI

⁶ Krupnova v. Russia, ECtHR, applications nos. 49014/16. National courts dismissed the teacher’s lawsuit. Complaint No. 49014/16 was communicated by the European Court of Human Rights on October 27, 2017; the consideration of the case has not been completed: <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%2249014/16%22%5D,%22itemid%22:%5B%22001-178827%22%5D%7D>

⁷ CEDAW/C/RUS/CO/8

⁸ CEDAW/C/RUS/CO/8/Add.1

⁹ CEDAW/C/RUS/9, received September 26, 2019

¹⁰ Labor Code of the Russian Federation, Article 3

Prevailing problems

During the reporting period (2015-2019), the situation of lesbian and bisexual women and transgender persons in Russia deteriorated significantly. The main reason is the enforcement of the state-supported doctrine of "traditional values", said values being understood as conservative ideas about society, family and gender. The absence of effective and adequate measures against violence and discrimination on grounds of SOGI and the existence of the "propaganda law" can also be viewed as a part of this doctrine.

Key issues are described below. We urge CEDAW to inquire which actions has Russia undertaken to respond to the growing number of cases of violence and discrimination against lesbian and bisexual women and transgender persons. These problems are acute at present, which is confirmed by annual monitoring discrimination reports of federal and regional LGBT-rights groups in Russia¹¹. We proceed from the fact that the mandate of CEDAW may extend not only to the situation of women, but also to issues of gender identity and gender expression in general, including the situation of transgender people.

The spread of homophobia and transphobia in Russia in the context of the law "on the prohibition of propaganda of non-traditional sexual relations"

The ban on "propaganda of non-traditional sexual relationships among minors" (the so-called "propaganda law") officially entered into force on June 30, 2013¹². In 2017, the European Court of Human Rights¹³ declared the "propaganda law" to be inconsistent with Articles 10 and 14 of ECHR. In 2018, the Committee of Ministers of the Council of Europe¹⁴ called for the repeal of this law.

In practice, the law is used to justify discrimination against LGBT people. The law accounts for the growth of homophobia and transphobia in the Russian society, which, in turn, leads to the spread of hate crimes and hate speech, and creates risks and limitations for LB-women and transgender persons in public and private life.

According to the results of a sociological research conducted by Levada Center in February 2020, 50% of respondents in Russia support the "elimination or isolation" of lesbian and gay persons¹⁵. For comparison, in a corresponding survey conducted in May 2019, 43% respondents support the notion that LGBT people cannot enjoy rights equally with other people¹⁶. These numbers indicate growth of homophobic bias in Russian society.

The very existence of a law which represents LGBT as second-class people in Russia promotes patriarchal stereotypes and policies. This directly leads to the refusal of police and courts to effectively protect LGBT people from violence and discrimination, and the legislative authorities' neglect of the necessity to adopt anti-discrimination legislation.

In 2014 a music teacher from Saint Petersburg lost her job after being outed as a lesbian to the school headmaster by homophobic activist Timur Bulatov. This happened as a direct consequence of the "gay propaganda law". Russian courts failed to protect her labor rights, ruling her dismissal to be fair. Currently the teacher's appeal has been communicated by the European Court of Human Rights¹⁷.

¹¹ E.g., Reports on the Situation of the LGBT Community in Saint Petersburg (in English): 2015, <https://comingoutspb.com/upload/iblock/8f5/8f545ae75a5be7e9711e7fd617337199.pdf> ; 2016, <https://comingoutspb.com/upload/iblock/f61/f61fbb408e0522e7eea3deaa61383abb.pdf> ; 2017, <https://comingoutspb.com/upload/iblock/b6b/b6bce4dc015864a178ebc8394f2558d1.pdf> ; 2018, <https://comingoutspb.com/upload/iblock/39f/39faf24cb8574357bcdd6483c0a1ab79.pdf> ; 2019, <https://comingoutspb.com/upload/iblock/db9/db97bf44125c6c03c89db630a708ee56.pdf>

¹² Federal law No. 135-FZ "On amendments to article 5 of the Federal law "On Protection of Children against Information Detrimental to Their Health and Development" and certain legislative acts of the Russian Federation with the aim to protect children from information promoting denial of traditional family values", in force since 30.06.2013. This law, inter alia, introduces the article 6.21 "on the propaganda of non-traditional sexual relationships among minors" into the Code of Administrative Offenses.

¹³ Bayev and others v. Russia, ECtHR, applications nos. 67667/09, 44092/12 and 56717/12, 20 June 2017. <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22Bayev%20and%20Others%20v.%20Russia%22%22%7D%22itemid%22:%5B%22001-174422%22%7D%22%7D>

¹⁴ CM/Del/Dec(2018)1331/H46-24, para 7

¹⁵ Social Distance (Survey Results), - Levada-Center, 20.04.2020: <https://www.levada.ru/2020/04/20/sotsialnaya-distantsiya-2> (in Russian)

¹⁶ Almost Half of Russians Speak Out for Equal Rights for Gays, - Levada-Center, 23.05.2019: <https://www.levada.ru/2019/05/23/pochti-polovina-rossiyan-vystupila-za-ravnye-prava-dlya-geev> (in Russian)

¹⁷ Krupnova v. Russia, ECtHR, applications nos. 49014/16 <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%2249014/16%22%22%7D%22itemid%22:%5B%22001-178827%22%7D%22%7D>

In addition to that, educational LGBT-themed events were routinely disrupted in 2015-2019 by homophobic activists in the face of police inaction. In September 2018, international LGBT-culture festival "Queerfest" was twice interrupted due to false bomb reports¹⁸. Among the interrupted events was a discussion of gender variety in Islam and gender-stereotype-related barriers in sports. The organizers contacted the police but the perpetrators have not been found so far. In 2019 Russia's only International LGBT film festival "Side by Side" was interrupted for 5 consecutive days (14-18 November) by false bomb reports. Crimes were reported immediately, but the perpetrators have not been found.

The "gay propaganda law" is meant to enforce rigid gender norms, tying a person's qualities and behavior to their assigned gender. Any deviation from this "norm" entails a high risk of facing homophobia or transphobia, denial of state protection or even state persecution.

In February 2019, art festival "Saffron Colors" was banned for the first time by the authorities of Komsomolsk-on-Amur. Among the scheduled events was a children's play "Pinks and Blues"¹⁹ dedicated to gender stereotypes, directed by the artist and LGBT activist Yulia Tsvetkova and involving children actors (aged 6-17). The play did not deal with SOGI, but it drew the authorities' attention due to its theme rather than its contents. The actors' parents and Yulia herself were interrogated²⁰, as to whether the issues of LGBT, feminism and gender equality had been raised during rehearsals²¹.

In November 2019 criminal proceedings against Yulia Tsvetkova were brought by the authorities²². She was charged with spreading allegedly pornographic abstract depictions of vaginas. She had thus protested against gender stereotypes, calling for female liberation and bodily autonomy. Criminal charges for the spreading of pornography²³ were pressed by the investigative committee. Yulia was placed under home arrest and is facing up to 6 years in prison. In December 2019 she was fined 50 thousand rubles (approx. 635 Euro) for violating the "propaganda law" by spreading neutral information about LGBT and feminism on social networks²⁴.

At the same time, in November 2019, Michelle, a transgender woman from Bryansk, was convicted of spreading anime-styled drawings²⁵. She was charged with spreading pornography, sentenced to 3 years of imprisonment and fined 100 thousand rubles (approx. 1270 Euro). Michelle still had male ID. She was taken into custody out of the courtroom and spent 2 months in prison. After a massive public campaign, her sentence was reversed in January 2020 by Bryansk regional court, the case was submitted for re-examination. In June 2020, Michelle was found guilty again, sentenced to 1,5 years of corrective labor and fined 50 thousand rubles (approx. 635 Euro)²⁶.

These instances showcase state persecution of LGBT people for body-positive images and public discussion of gender issues under the guise of war on pornography. The authorities expect "spreaders of pornography" to be condemned by the public opinion. Charges of pornography have been routinely used by the state to quell unwanted human rights activism²⁷.

The "propaganda law" has reinforced stigma against lesbian and bisexual women and transgender persons in Russia, while also being used by the state for discrimination and persecution.

¹⁸ Report On The Situation of the LGBT Community in Saint Petersburg in 2018 — St. Petersburg: Coming Out, 2019, p.115 <https://comingoutspb.com/upload/iblock/39f/39faf24cb8574357bcdd6483c0a1ab79.pdf> (in English)

¹⁹ Six Years in Prison for Vagina Drawings: What's Wrong With the Case of Yulia Tsvetkova. - The Village, 30.11.2019: <https://www.the-village.ru/village/city/comments/368385-monologi-tsvetkovoy> (in Russian)

²⁰ "Parallel worlds": Policemen Come to Schools of Activist Theatre Actors. - OVD-Info, 13.03.2019:

<https://ovdinfo.org/articles/2019/03/13/parallelnye-miry-policevskie-prishli-v-shkoly-k-akteram-aktivistskogo-teatra> (in Russian)

²¹ <https://www.sibreal.org/a/29817162.html>

²² A criminal case was instituted under part 3 of Article 242 of the Criminal Code: "Distribution of Pornographic Materials on the Internet"

²³ Russian Activist Faces Unfounded Pornography Charges. - Human Rights Watch, 3.12.2019:

<https://www.hrw.org/ru/news/2019/12/04/336264>

²⁴ Russian LGBT Activist Under House Arrest is Facing New Charges. - Human Rights Watch, 22.01.2020:

<https://www.hrw.org/ru/news/2020/01/23/338141>

²⁵ A Court in Bryansk Sentenced a Transgender Woman to Three Years in Prison in the Case of Pornography Dissemination. - Novaya Gazeta, 30.11.2019: <https://novayagazeta.ru/news/2019/11/30/157319-sud-v-bryanske-otpravil-transgendernuyu-zhenschinu-v-tyurmu-na-tri-goda-po-delu-o-rasprostraneni-pornografii> (in Russian)

²⁶ Bryansk Court Sentences Transgender Woman Michelle to 1.5 Years of Corrective Labor for Manga Drawings. - Novaya Gazeta, 3.06.2020: <https://novayagazeta.ru/news/2020/06/03/162016-bryanskiy-sud-prigovoril-zhenschinu-transgenera-mishel-k-1-5-godam-ispravitelnyh-rabot-za-risunki-manga> (in Russian)

²⁷ See Human Rights Watch World Report 2019: <https://www.hrw.org/world-report/2019/country-chapters/russia>

Therefore, we ask the Committee to inquire:

- what practical steps have been taken by Russia to combat stigma and stereotypes against lesbian and bisexual women and transgender persons;**
- whether Russia provides respective training for law enforcement officials;**
- whether Russia intends to repeal the "gay propaganda law";**
- what measures have been taken to effectively investigate false bomb report cases at LGBT-festivals in Saint Petersburg in 2018-2019; what information regarding the number of appeals, investigative measures, court examinations and decisions Russia can provide;**
- what measures are being taken to prevent criminal persecution of LGBT activists for body-positive images.**

Ineffective investigation of hate crimes

Hate crimes against lesbian and bisexual women and transgender persons in Russia are committed every year. The state routinely refuses to view them as such. In 2019 "Coming Out" LGBT group has documented 36 cases²⁸ of homophobic and transphobic violence against lesbian and bisexual women and transgender persons in Saint Petersburg. However, we understand that in the absence of official statistics the actual number of hate crimes is likely to be much larger.

Russian law criminalizes incitement to hatred and enmity towards a social group²⁹ or contains provisions for this motive to be included as a constituent element in specific crimes³⁰, and in cases when this motive is not contained in the crime description, the court may impose a stricter penalty by applying "f", pt. 1 art. 63 of the Criminal Code of the Russian Federation, according to which the motive of hatred against a social group is an aggravating circumstance.

However, we do not know of any cases when these provisions were applied to crimes against LB-women and transgender persons. This leads to such hate crimes going largely unpunished in Russia. It is of note that "women", but not "lesbian and bisexual women and transgender persons" are seen as a "social group" by the state.

Thus, in October 2018 a criminal case was brought against Vladislav Pozdnyakov by the Investigative Committee for incitement to hatred and enmity against the social group "women" through spreading insults against them on the social network VKontakte. He was subsequently convicted and later acquitted by the court of appeal due to the action being decriminalized³¹.

A notable example of a lack of effective investigation is a case examined by CEDAW. On October 20, 2014, a lesbian couple was attacked by two male strangers. The women had been showing mutual affection by kissing, hugging and holding hands. At the metro exit one of the pursuers assaulted one of the women, then made several blows to both women' heads, faces and torsos, shouting out homophobic slurs and threatening to kill them in case he ever saw them again. The survivors contacted the police the following day, but no criminal case was brought. 7 months later, after repeated complaints from lawyers a criminal case was finally initiated (the homophobic crime motive was not taken into account), then dismissed since the evidence (such as

²⁸ Report On The Situation of the LGBT Community in Saint Petersburg in 2018 — St. Petersburg: Coming Out, 2019, pp.102-103

²⁹ Art. 282 of the Criminal Code

³⁰ I.e., in case of murder, the "f", pt. 2, art. 105 of the Criminal Code

³¹ Court Overturns Sentence to the Creator "Men's State" in the Case of Inciting Hatred towards Women. - Novaya Gazeta, 21.03.2019: <https://novayagazeta.ru/news/2019/03/21/150217-sud-otmenil-prigovor-sozdatelyu-gruppy-muzhskoe-gosudarstvo-po-delu-o-vozbuzhdenii-nenavisti-k-zhenshinam> (in Russian)

surveillance camera footage) had not been collected in time. As of today, the perpetrators have not been found.

In 2017 the lesbians' lawyer submitted an individual communication to CEDAW. On 24 February 2020 CEDAW reached Views³² on the case of O.N ad D.P., observing a failure by the state authorities failed in their duty to uphold women's rights, particularly in the context of violence and discrimination against women on the basis of their sexual orientation, and allowed their actions to be influenced by negative stereotypes against lesbian women.

The Committee has acknowledged the existence of a systemic problem and recommended that the Russian Federation ensure timely gender-sensitive training for police and investigative authorities on the Convention, the Optional Protocol thereto and the Committee's general recommendations in order that crimes with homophobic undertones committed against lesbian women be understood as gender-based violence or hate crimes requiring active State intervention; Comply with its due diligence obligations to respect, protect and fulfil the human rights of women, including lesbians, and the right to be free from all forms of gender-based violence; investigate promptly, thoroughly, impartially and seriously all allegations of gender-based violence against women for which there are grounds to believe that such violence was motivated by hatred towards lesbians, fully taking into account the specific context of the offence, ensure that criminal proceedings are initiated in all such cases, bring the alleged perpetrators to trial in a fair, impartial, timely and expeditious manner and impose appropriate penalties; provide lesbians, who are victims of violence with safe and prompt access to justice, including free legal aid where necessary, in order to ensure that they have access to available, effective and sufficient remedies and rehabilitation in line with the guidance provided in the Committee's general recommendation No. 33.

Russia's failure to fulfill these recommendations has led to a lack of effective investigation of hate crimes against lesbian and bisexual women and transgender persons and to their perpetrators escaping penalty.

In August 2017, 5 transgender persons were assaulted by the members of the far-right group "Clear line" on their way to the metro after Saint Petersburg Pride rally. The survivors were pursued and had their faces sprayed with an unknown substance which led to burns. Only 4 of them were recognized as victims by the police, while the court on examining the cases recognized only one of the survivors as a victim³³. Even though the attackers had pursued the survivors after the Pride and made their hatred for transgender persons apparent, the police and the court refused to take the hate motive into account in accordance with pt. 2 art. 115 of the Criminal Code of the Russian Federation³⁴. In the end, only 1 attacker was fined 30 thousand rubles (approx. 380 Euro), while the rest escaped penalty.

In winter 2018 a gender non-conforming man (long-haired and wearing lipstick) was assaulted near a gay bar in Saint Petersburg. The attack had been motivated by the perpetrators' belief in rigid gender expression norms. The survivor was diagnosed with facial trauma but the police refused to start an investigation³⁵.

In January 2019 Yelena Grigoryeva came out as bisexual. In May 2019 she reported a biphobia-motivated rape by a former partner to the police. On July 1, 2019, the homophobic group "Pila" (Saw) published threats against a number of LGBT activists, including Yelena. 3 weeks later she was murdered near her home in Saint Petersburg³⁶. The Investigative Committee brought a criminal case but refused to investigate the motive of hatred against bisexual women. In February 2020, the court began to examine the case as domestic murder.

³² CEDAW/C/75/D/119/2017

³³ Case handled by Coming Out

³⁴ Report on Incidents of Discrimination and Violence on Grounds of Sexual Orientation, Gender Identity and Gender Expression in 2017 in Saint Petersburg, Russia. - St. Petersburg: Coming Out, 2018: <https://comingoutspb.com/upload/iblock/b6b/b6bce4dc015864a178ebc8394f2558d1.pdf> (pp. 18-20)

³⁵ Case handled by Coming Out

³⁶ Gay Activists Ask the Investigative Committee to Check the "Pila: Movement After the Murder of Grigorieva. She was on the list of potential victims. - Novaya Gazeta, 24.07.2019: <https://www.fontanka.ru/2019/07/24/018/>

On studying the case materials, the lawyer found out that none but the domestic murder scenario had been investigated³⁷. The case is currently being examined by the court.

Russia routinely fails to thoroughly and effectively investigate hate crimes against lesbian and bisexual women and transgender persons.

Thus, we ask the Committee to suggest that the Russian Federation:

- **provide information regarding the number of appeals, investigations and convictions on cases involving lesbian and bisexual women and transgender persons as victims, being recognized as a social group during 2015-2019;**
- **provide information regarding practical measures taken to ensure an effective investigation of the hate motive of crimes committed against lesbian and bisexual women and transgender persons, as well as to indemnify and support the survivors of these crimes;**
- **specify whether the motive of hate against lesbian and bisexual women and transgender persons as a social group is being taken into account in accordance with "f", pt. 1 art. 63 of the Criminal Code of the Russian Federation ("an aggravating circumstance").**

We ask that the Russian Federation answer separately what measures have been taken to investigate the hate motive of the murder of Yelena Grigoryeva.

Online harassment, hate speech and the spreading of SOGI-related information on the Internet

The "propaganda law" creates additional barriers to the spreading of SOGI-related information online. In September 2019, blogger Viktoria Pitch was charged with "Violent actions of sexual character against minors" (pt. 4 art. 132 of the Criminal Code of the Russian Federation), facing up to 20 years in prison; the reason was her having invited the gay man Maxim Pankratov to her YouTube show "Real Talk", where children were allowed to ask him questions. Sexual matters had not been discussed during this episode of the show, and the children had been present with their parents' approval. The purpose of the show was to promote tolerance and respect for human diversity in children. In autumn 2019 the vice-speaker of the State Duma (the Russian Parliament chamber) Piotr Tolstoy demanded that the Federal Service for Supervision of Communications, Information Technology and Mass Media (Roskomnadzor) check this episode, claiming it was "ethically inappropriate and immoral". No violations were found by the Roskomnadzor. Piotr Tolstoy then appealed to the public prosecutor. Following this, the investigative committee brought a criminal case, charges for violating the "propaganda law" were also pressed against both Viktoria Pitch and Maxim Pankratov. Additionally, the show episode was recognized as inappropriate by the Roskomnadzor and prohibited. Conservative Media joined the campaign against Viktoria and Maxim. One of the authors of the "propaganda law", deputy Vitaly Milonov, declared his readiness to "punch this moron (i.e. Maxim Pankratov) in the jaw" on TV. Viktoria and Maxim had to seek political asylum abroad³⁸.

In 2019-2020 the homophobic movement "Pila" repeatedly threatened LGBT activists³⁹, including Yelena Grigoryeva (who was murdered following threats), Kristina Abramicheva (activist of "Straights and LGBT for Equality Alliance") and lesbian activist Yulia Tsvetkova. "Pila" published several lists of people whom it threatened with violence and murder. In July and August 2019 a woman from Pila's list reported threats to the police, demanding for the criminals to be identified and prosecuted. The authorities failed to properly respond

³⁷ The Murder of Elena Grigorieva, the First Victim on the "Pila" List, Has Not Been Disclosed: the Investigation Accuses a Person Without Significant Evidence. - Coming Out, 30.01.2020: https://comingoutspb.com/news/ubiystvo-eleny-grigorevoy-pervoy-zhertvy-v-spiske-pily-ne-raskryto-sledstvie-obvinyayet-cheloveka-bez/?sphrase_id=1448 (in Russian).

³⁸ Victoria Peach On the Run From Homophobia And Criminal Cases. - Coda, May 14.2020: <https://www.codastory.com/ru/disinfo/beautyblogger-ontherun/> (in Russian)

³⁹ "Saw against LGBT": What is Known About the Homophobic Movement that is Believed to B Involved in the Death of Elena Grigoryeva. - Sobaka: <http://www.sobaka.ru/city/society/94002> (in Russian)

to the report, no investigation was conducted and no criminals sentenced. The involvement of Pila in the murder of Yelena Grigoryeva is possible. No investigation of Pila's activities appears to have been conducted.

In 2015-2020, homophobic activist Timur Bulatov repeatedly outed lesbian and bisexual women and transgender persons, including minors, via the social network Vkontakte. The authorities, being perfectly aware of Bulatov's activity, do nothing to stop it. Thus, in 2015 Bulatov began persecuting an underage homosexual girl from Bryansk region, outing her to her school headmaster and parents. Following this, the girl was put on the record of the Commission for Minors, but was later removed from the record. She was also assaulted by her classmates. Bulatov never faced any legal repercussions for this. In 2018 he proudly announced that nearly 90 teachers in Saint Petersburg had lost their jobs after being outed by him⁴⁰. In 2019 he referred to the murder of Yelena Grigoryeva as "moral jihad" and admitted repeatedly insulting her online.

In spring 2020, Vladislav Pozdnyakov⁴¹, the founder of the group "Men's State" (160 thousand subscribers) began outing women, including lesbian and bisexual women and transgender persons, via his Telegram channel. "Men's State" subscribers, united by misogynistic ideas⁴², await every new post by Pozdnyakov to then start an online bullying campaign against the victim. In May 2020 Pozdnyakov mentioned a single mother from Krasnodar whose adopted son had dark skin, claiming that was her "illegitimate" child. The woman was doxxed and bullied on- and off-line. Pozdnyakov faced no legal repercussions for his actions. At the same time, Pozdnyakov outed the blogger Sofia Mellit as lesbian and posted links to her social media accounts. Mellit received thousands of homophobic messages from "Men's State" followers. Her profiles were hacked, she received phone calls from strangers for days. No-one was held accountable for this bullying campaign.

On May 23 and 24 homophobic activists published the names, home addresses and phone numbers of 23 LGBT activists, referring to this as "The List of LGBT activists, pedophiles and other LGBT perverts", on the social network VKontakte. The list included 10 homosexual, bisexual and heterosexual women. Considering the high level of homophobia, publication of personal home address leads to a high risk of violence. In May 2020 the crime was reported to the police, but official investigation has not begun so far⁴³.

No specific legislation aimed at protecting lesbian and bisexual women and transgender persons against hate-motivated online bullying and harassment exists in Russia. The current provisions are of little use since they do not allow for prompt blocking of the data sources used by the perpetrators, while the state is reluctant to conduct a quick and effective investigation and to hold the criminals accountable. Additionally, the existing societal stereotypes against lesbian and bisexual women and transgender persons contribute to the law enforcement authorities' failure to prevent such crimes and protect the victims.

A consensus regarding the Istanbul Convention exists in Europe, with Russia and Azerbaijan being the only Council of Europe member states who have not signed it, thereby depriving their own citizens of effective defense against violence.

Therefore, we suggest that the Russian Federation be inquired as to what effective and urgent measures are being taken:

- to prevent and stop online bullying against lesbian and bisexual women and transgender persons;**
- to prevent officials from contributing to anti-LGBT prejudice and stereotypes by their statements;**
- to enable Victoria Pitch to freely create YouTube content in Russia without fear of legal persecution;**

⁴⁰ "I Am a Wolf in the Forest: I Destroy Trash": Muslim Declares a War on Gays. He Has Dismissed a Hundred Teachers. - Lenta, 12.11.2018: <https://lenta.ru/articles/2018/11/12/uvelir> (in Russian)

⁴¹ Patriarchal Provocateur: The "Men's State" And Its King. - Radio Freedom, 6.06.2020: <https://www.svoboda.org/a/30654316.html> (in Russian)

⁴² Single Mother Bullied Because of the Colour of Her Son's Skin, - Lenta.ru, 13.05.2020: https://lenta.ru/news/2020/05/13/mg_again/ (in Russian)

⁴³ LGBT Activists Complain About Disclosure of Information to the Investigative Committee, - Kommersant, 25.05.2020: <https://www.kommersant.ru/doc/4356341?query=%D0%9B%D0%93%D0%91%D0%A2> (in Russian)

Additionally, we demand that the Russian Federation answer what measures are being taken to evaluate the activity of Timur Bulatov and Vladislav Pozdnyakov and to hold them accountable for insults and online bullying.

We also suggest that Russia be asked to provide exhaustive information regarding the investigation of the activity of the homophobic movement "Pila", the number of criminal cases and convictions.

We suggest that the Russia be asked separately whether it intends to sign and ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence.

The situation of transgender people: access to legal gender recognition and parental rights

A quick and accessible legal gender recognition procedure⁴⁴ exists in Russia since February 2018. In order to change one's gender marker one has to undergo evaluation by a psychiatrist and later, by a medical commission which then issues a standard certificate 087/y, required to change one's legal gender. On receiving this certificate one has a year to apply to a Civil Registry office to obtain an amended certificate of birth.

Russia consists of 85 regions. Medical commissions licensed to issue the 087/y certificate exist in only 10 regions as well as in certain major cities (Moscow, Saint Petersburg, Samara, Novosibirsk and others). Large intercity distances are characteristic of Russia's geography. In certain cases transgender people have to travel over 8 thousand kilometers in order to undergo the medical evaluation. A lack of accessible medical commissions for transgender people prevent many of the latter from obtaining legal gender recognition despite the new procedure, due to low income and the prohibitive cost of travel⁴⁵.

If a transgender person has had children pre-transition, they have no means of changing their legal gender on their children's birth certificates. Thus, according to one's own (amended) birth certificate, one's legal gender may be female, but according to their child's birth certificate they are still the child's father. Transgender persons are compelled to reveal their transgender status every time when showing their transition-related papers in addition to their child's ID. In 2020 a Saint Petersburg notary refused to issue a POA to L.R. as her child's parent since, despite her legal gender being female, her son's birth certificate claimed that she was the father⁴⁶. In cases like this transgender persons, unable to prove their relation to their children, are prevented from defending their underage children's interests. Establishing a simple and accessible civil registry office procedure for changing the parent's legal gender on their child's birth certificate would solve this problem.

In 2014 Francis Savinovskikh, being then married, obtained custody of a two boys aged 1 and 3. At the time, Francis's passport name was Yulia Savinovskikh, his legal gender being female. In 2017 Francis underwent a double mastectomy and started an anonymous Instagram blog as a transgender person. In August 2017 he lost custody of his children due to suspicions of being transgender. On 21 September 2017 the Ordzhonikidze court of Ekaterinburg rejected his claim for custody of the children. In its decision the court cited the official list of diseases rendering a person ineligible as an adoptive parent, legal guardian or foster parent, while its paragraph 469 states that one is ineligible to be a legal guardian of a child while being under psychiatric observation or in case one is diagnosed with a "mental or behavioral disorder". Since Francis had been diagnosed with "transsexualism" (F64.0), in the court's opinion, he may not have the custody of a child and children must be removed from him. Despite "transsexualism" (F64.0) being classified under F, "Mental and Behavioral Disorders", it does not require being placed under psychiatric observation. Besides, ICD-11 where "transsexualism" is removed from the list of mental and behavioral disorders, will be used from 2022 on by WHO member states.

The court also observed that "as was revealed during the examination of the case, Y.V.Savinovskikh has been married to E.V.Sokov since 11.11.2011 (vol.2, page 147). However, according to the provisions of art. 12 of

⁴⁴ Order of the Ministry of Health of 10.23.2017 N 850H "On Approval of the Form And Procedure for the Issuance by a Medical Organization of a Document on Change of Sex"

⁴⁵ Report On The Situation of the LGBT* Community of Saint Petersburg in 2019 — St. Petersburg: Coming Out, 2020 (in English): <https://comingoutspb.com/upload/iblock/db9/db97bf44125c6c03c89db630a708ee56.pdf>

⁴⁶ Case documented by "Coming Out"

the Family Code of the Russian Federation, marriage is only possible between a man and a woman, same-sex marriage being against the Russian legislation. Since Y.V.Savinovskikh identifies as male, her being married to a man while also aspiring to fulfill the social role of a man, in its essence contradicts the provisions of our country's family legislation as well as its traditions and social mentality". Thus, even though Francis Savinovskikh was at the time legally female and married to a man, the court saw this marriage as same-sex and removed the children from the family. This situation raised many questions among the lesbian and bisexual women and transgender persons of Russia.

We suggest the Committee to ask the Russian Federation to:

- provide statistics on functioning medical commissions licensed to issue 087/y certificates in Russia, including their locations as well as the total number of 087/y certificates issued by these commissions as of today;**
- provide information regarding the measures to be taken to ensure access to the services of medical commissions, licensed to issue 087/y certificates to transgender persons in their regions of residence, as well as the time frame for the undertaking of these measures;**
- provide statistics on the number of children's birth certificates reissued due to the change of a parent's legal gender during 2015-2019; provide information as to what measures the Russian Federation intends to undertake in order to establish a simple and accessible civil registry office procedure for changing a parent's legal gender on their children's birth certificates, as well as the time frame for the undertaking of these measures;**
- provide information regarding measures the Russian Federation intends to undertake to restore the parental (custody) rights of Francis Savinovskikh; answer whether the decision of the Ordzhonikidze court of Ekaterinburg issued on 5 February 2018 was a single miscarriage of justice or part of a practice of depriving parents of custody rights; answer whether being diagnosed with "transsexualism" F64.0 constitutes grounds for removal of custody, reversal of adoption or removal of parental rights;**
- answer how the fact of being in a same-sex marriage or civil union is established in the Russian Federation and whether Russia intends to legalize such marriages or unions.**

Labor rights of transgender people and the list of professions prohibited for women

A.V. had been working as a gravure printer in the Leningrad region since 2008, while being legally male. On informing her employer of the legal gender change in July 2017, A.V. was immediately dismissed due to her job being on the list of heavy labor jobs and jobs with toxic or dangerous working conditions for which the use of women's labor is prohibited (established by the Decree of the Government of the Russian Federation, issued on 25 February 2000 #162, containing 456 professions).

In February 2013 CEDAW issued Views (CEDAW/C/63/D/60/2013, para 13, b, i), with recommendations that Russia periodically revise and amend the list of restricted occupations and sectors established under Regulation #162 in order to ensure that restrictions applying to women are strictly limited to those aimed at protecting maternity in the strict sense and those providing special conditions for pregnant women and breastfeeding mothers and do not hinder the access of women to employment and their remuneration on the basis of gender stereotypes.

In 2017 and 2018 the courts of two instances rejected A.V.'s claim for her dismissal to be recognized unlawful and discriminatory. In December 2018 the cassation court upheld A.V.'s appeal and returned her case for re-examination. On examining A.V.'s case in 2017 and 2018, courts published the full texts of their decision, including A.V.'s pre-transition and post-transition legal names. Thus, an unlimited number of people may have access to her personal data. In April 2019 the first instance court, on re-examining the case, upheld the claim but refused to recognize the fact of discrimination. On April 9, 2019, the press office of Saint Petersburg City Court published A.V.'s full pre-transition and post-transition names in its newsletter (7 440 subscribers, including Media), thereby practically violating her right to respect for private life. Currently, her case is being

examined by the court of appeal. We view this case as intersectional discrimination on two grounds, that of gender and that of transgender status⁴⁷.

On January 1, 2021, an updated List of heavy labor professions and professions with toxic or dangerous working conditions for which the use of women's labor is prohibited (Decree of the Ministry of Labor and Social Protection of the Russian Federation, issued on 18 July 2019 #512n) enters into force⁴⁸. This decree contains 100 types of industry and labor, each numbering 1-14 jobs.

We suggest the Committee to ask the Russian Federation on what measures are being taken:

- to ensure that the recommendations of CEDAW (CEDAW/C/63/D/60/2013, para 13, b, I) are completely fulfilled;**
- to ensure that courts, including their press services, do not disclose transgender persons' pre- and post-transition names to third parties;**
- to ensure that the fact of intersectional discrimination is recognized in the case of A.V. and all her personal data disclosed by the courts via the Internet are removed;**

Lack of gender recognition in closed institutions

Transgender people often face discrimination in closed institutions.

In July 2019 K., a transgender man with male ID, was undergoing treatment in the men's ward of the inpatient psychiatric hospital in Saint Petersburg. He faced bullying and transphobic insults from other patients. It must be noted that K. had not revealed his transgender status to the staff or fellow patients. The hospital management failed to address K.'s complaints. It even ignored the attempted rape of K. by a fellow patient; it took no special measures to ensure the safety of K. who had no means of protecting himself, being dependent on the hospital management and lacking contact with the outside world⁴⁹. Such treatment may only be explained by the fact that K. looked feminine to the staff and his fellow patients, which led to discrimination.

Nika, a transgender woman with male ID, was undergoing treatment at a psychiatric hospital between February and June 2020, following a suicide attempt. The psychiatrists denied Nika being transgender though she repeatedly told them so. She had been placed in the men's ward which she shared with 8 male patients⁵⁰.

In November 2019 Michelle, a transgender woman from Bryansk, was sentenced to 3 years of imprisonment. While her case was being examined in the court of appeal between November 2019 and late January 2020 she was held in a detention facility without access to hormone replacement therapy, being forbidden to receive any medication from visitors⁵¹.

We suggest the Committee to inquire:

- what measures are being undertaken to ensure the safety of transgender persons in closed institutions when they face discriminatory treatment and violence on the part of the staff and fellow inmates; whether there are any provisions for transgender persons to be separated from other inmates on their own request to prevent violence against them;**
- whether psychiatrists and other staff of closed mental health institutions receive mandatory training regarding the treatment of transgender patients; whether any legal**

⁴⁷ More details on this case in Report On The Situation of the LGBT* Community of Saint Petersburg in 2019 — St. Petersburg: Coming Out, 2020: <https://comingoutspb.com/upload/iblock/db9/db97bf44125c6c03c89db630a708ee56.pdf> (pp. 47-49)

⁴⁸ <https://cdnimg.rq.ru/pril/173/29/05/55594.pdf>

⁴⁹ *Report on the Situation of the LGBT Community in Saint Petersburg* (in English), 2019, p.84-85
<https://comingoutspb.com/upload/iblock/39f/39faf24cb8574357bcdd6483c0a1ab79.pdf>

⁵⁰ Case documented by "Coming Out" and ECOM in 2020.

⁵¹ Case documented by "Coming Out".

provisions exist in this regard; whether any statistics are available as to the number of the medical staff of closed institutions who have received such training;

- whether hormone replacement therapy is accessible to transgender persons in closed institutions, including prisons; how many convicts having served prison terms between 2015 and 2019 have received hormone replacement therapy; what legal provisions exist in the Russian Federation to ensure access to hormone replacement therapy to transgender inmates of closed institutions, including prisons.

Transgender migrants who are involved in sex work

Labor immigration is widespread in Russia. According to official figures⁵², the largest number of migrants come from Uzbekistan (918 thousand people in 2019). Prostitution is also widespread, however neither the state nor civil society organisations have official statistics on how many migrants are involved in it.

According to the Ministry of Foreign Affairs, as of February 20, 2020, migrants from Uzbekistan and Tajikistan can enter Russia with passports without a visa for up to 90 days in a period of 180 days⁵³. After this period, they are obliged to leave the country⁵⁴ under threat administrative responsibility⁵⁵ and forced deportation to the state of citizenship⁵⁶ with a ban on entry into the Russian Federation for a period of 5 years⁵⁷.

The income level in Uzbekistan is much lower than in Russia, which is the main reason for labor migration. Besides, the law of Uzbekistan does not provide a procedure for legal gender reassignment. Transgender persons face the risk of prosecution and up to 3 years in prison "for homosexuality". For safety, many transgender women come to Russia, where they still face a high level of transphobia, but not nearly as high as in Uzbekistan.

With no possibilities of legal employment and no possibility to change their documents in Russia, some of them provide sex services for a living. After 90 days of visa-free stay in the Russian Federation, they do not leave Russia for Uzbekistan due to the risks of prosecution at home, and continue to live in Russia undocumented, facing risks of administrative liability and deportation.

Despite the fact that Russia acceded to the 1951 Convention Relating to the Status of Refugees, it has not provided asylum to any citizen of Uzbekistan on the grounds of persecution based on sexual orientation and (or) gender identity.

We are aware of the situation of transgender woman S. in Saint Petersburg, a citizen of Uzbekistan, who has been living in Russia for more than a year as an undocumented migrant and is engaged in sex work for a living. She fears returning to Uzbekistan due to risks of criminal prosecution on grounds of her transgender status, and lives a closed life to avoid the risk of deportation.

The stigmatization of transgender sex workers is enhanced by administrative liability for prostitution⁵⁸: each act in provision of sex services can entail administrative responsibility, while any chance of being noticed by a law enforcement officer can immediately lead to deportation. As a result of stigma, transgender sex workers have limited access to health services, including HIV prevention and treatment.

⁵² For the first time in 20 years, the FSB revealed the number of foreigners who came to work. - RBC: <https://www.rbc.ru/economics/16/08/2019/5d5560979a7947af4fa8a883> (in Russian)

⁵³ Clause 1, Article 5 of the Federal Law of July 25, 2002 No. 115-FZ "On the Legal Status of Foreign Citizens in the Russian Federation"

⁵⁴ Clause 2 of Article 5 of the Federal Law of July 25, 2002 No. 115-FZ "On the Legal Status of Foreign Citizens in the Russian Federation"

⁵⁵ Article 18.8 of the Code of Administrative Offenses of the Russian Federation

⁵⁶ Article 31 of the Federal Law of July 25, 2002 No. 115-FZ "On the Legal Status of Foreign Citizens in the Russian Federation"

⁵⁷ Clause 2 of Article 27 of the Federal Law of 08.15.1996 N 114-ФЗ "On the Procedure for Departure from the Russian Federation and Entry into the Russian Federation"

⁵⁸ Статья 6.11 Кодекса Российской Федерации об административных правонарушениях.

In its concluding observations⁵⁹, CEDAW recommended that Russia annul the discriminatory article 6.11 of the Administrative Code and establish a supervisory mechanism to track cases of violence against women who are involved in prostitution, including police violence. However, the state's report⁶⁰ does not contain any information on the implementation of this recommendation.

Therefore, we recommend to ask the Russian Federation the following questions:

- **How many people applied for asylum in Russia on grounds of their sexual orientation and/or gender identity in 2015-2019? How many of these people were recognized by the state as refugees? How many of them are citizens of Uzbekistan?**
- **What actions is Russia taking to ensure that transgender sex workers have access to HIV prevention, voluntary HIV testing and treatment?**
- **What actions has Russia taken to implement the recommendation to repeal article 6.11 of the Administrative Code and establish a monitoring mechanism to track cases of violence against women involved in prostitution, including police violence?**

⁵⁹ CEDAW/C/RUS/CO/8, para. 26 (c)

⁶⁰ CEDAW/C/RUS/9