

COMING OUT

LEBT GROUP



Report

**On Incidents of Discrimination
and Violence on Grounds
of Sexual Orientation and Gender Identity
in 2015 in Saint Petersburg, Russia**

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«ЛГБТ-группа “Выход”» признана Минюстом незарегистрированным общественным объединением, выполняющим функции иностранного агента

Coming Out LGBT Initiative Group

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Introduction

This report shows the results of the monitoring of discrimination against LGBTQI¹ persons in Saint Petersburg, Russia in 2015. The monitoring was carried out by Coming Out LGBT initiative group. Coming Out has been working in Saint Petersburg since 2008 towards the goal of recognition by the state and society of the human dignity and equal rights of each person regardless of their sexual orientation and gender identity. We run seminars and roundtables, issue brochures, offer free psychological and legal services for the LGBTQI community and those close to it. Our work includes strategic litigation and monitoring of discrimination of LGBTQI persons.

Methodology

The methodology of Coming Out's monitoring program is based on a standard guidance for the monitoring of human rights violations and discrimination on the grounds of sexual orientation and/or gender identity developed by Russian LGBT Network together with ILGA-Europe and HURIDOCS.

The situations of LGBTQI communities in Saint Petersburg on the one hand derives from vertical relations with government authorities and individuals who may cause "classical" violations of human rights (e.g. the restriction on freedom of expression

1 In this report with use abbreviations LGBT (lesbian, gay, bisexual and transgender persons) along with LGBTQI (lesbian, gay, bisexual, transgender, queer and intersex persons).

and freedom of association, illegal actions or inaction of law-enforcement agencies, violation of the right to a fair trial). On the other hand, many cases of discrimination against LGBTQI persons happen in everyday life: at the workplace, in healthcare facilities and educational institutions, in families and between individuals (e.g. physical assault, insults, harassment, denial of goods and services). In this report, we examine both types: “classical” human rights violations (where the state, represented by authorities and public officials, is the violator) as well as violations based on sexual orientation and/or gender identity where private actors (individuals, commercial organizations, healthcare facilities etc.) act as violators. Our analysis was largely based on violations of the second type.

In the course of the monitoring process, the program coordinator and a team of volunteers gather testimonials of discrimination and violence against LGBTQI persons. The monitoring relies on the following types of primary sources: 1) victims and witnesses of violations (testimonials gathered via online questionnaire²); 2) Media reports; 3) information gathered by governmental and non-governmental institutions; 4) observation at street actions and other public events; 5) appeals of victims to Coming Out’s Legal Assistance Program, and case materials of Coming Out’s Strategic Litigation Program; 6) messages in the Internet (blogs, online forums and websites). Since January 2016, we monitor incidents of discrimination specifically against transgender persons in Saint Petersburg in collaboration with the Transgender Legal Defense

2 Online questionnaire of Coming Out’s Monitoring Program: <http://comingoutspb.com/soobshchit-o-narushenii/>.

Project³; some of the information on cases of discrimination reported here was gathered together with Transgender Legal Defense Project or documented by volunteers of the Project. All cases are collected in a database; with that, the monitoring team contacts victims and witnesses to conduct interviews and confirm the information.

One of the goals of the program in 2015 was to expand the monitoring and gather data on discrimination from a maximum number of persons with diverse identities. Regrettably, the monitoring selection remains limited due to the feeling of vulnerability experienced by LGBTQI persons and their reluctance to share stories. Many victims do not consider discrimination as something worth of consideration and publicity, since they are used to such situations and perceive them as normal.

As a result, mainly LGBTQI activists and open members of LGBTQI communities are ready to report violations, while incidents of violence and discrimination against closeted people remain unknown. Thus, our selection is not representative enough for a relevant quantitative research. In this report, we describe cases of discrimination and present a qualitative analysis in terms of accordance with the Russian legal system and international human rights standards.

3 Monitoring of discrimination on grounds of discrepancy between appearance and identification documents data conducted by the Transgender Legal Defense Project: <http://pravo-trans.eu/discrimination-monitoring/>.

Summary of the Monitoring Results

Taking into account the aforementioned methodological restrictions, in 2015 we documented 122 incidents of human rights violations on the grounds of sexual orientation and/or gender identity.

The analysis of gathered data highlights the following major problems faced by LGBTQI persons and LGBTQI activist movement in Saint Petersburg in 2015.

Federal law banning “propaganda of non-traditional sexual relations among minors” (Article 6.21 of the Russian Administrative Code⁴) has not been applied in 2015 in Saint Petersburg to hold liable for relevant actions. However, the authorities used this law to abridge the constitutional rights to freedom of assembly and freedom of expression. Throughout the last year, several federal legislative initiatives were discussed and new bills were tabled. Their enactment would have drastically worsened the situation of the LGBTQI community. During the discussions, legislators, public officials and the Media used homophobic and insulting rhetoric, which inevitably supports aggression towards LGBTQI persons in the society.

Hate crimes remain a pressing and challenging issue. During 2015, lawyers of Coming Out and other advocacy groups tried unsuccessfully to achieve the classification of the motive of hatred in cases of assaults on LGBTQI persons and activists. In 2015,

⁴ The Administrative Offence Code of the Russian Federation as of December 30, 2001 № 195-FL

we documented a number of new homophobic assaults. Several incidents took place during public events related to LGBT rights issues. In other cases, violence was preceded by identification of a person as LGBT, on grounds of their appearance, by the assailants. In regards of such cases, either criminal proceedings are not initiated at all, or the motive of hatred is not taken into account; in most cases, assailants escape punishment. The activities of organized homophobic groups, which assault LGBTQI persons by luring them into private apartments for setup dates, continue to be a serious issue.

Homophobic and transphobic hate speech and insulting utterances, which justify violence and discrimination against LGBTQI persons and support the existing negative stereotypes, continue to be voiced by public figures of Saint Petersburg and remain to be another problem. In 2015, despite the efforts of Coming Out's team of lawyers and attorneys, we could not achieve the implementation of existing civil, administrative and criminal measures in cases regarding hate speech. Though the Russian Criminal Code provides for recognition of the motive of "hatred or hostility towards a given social group" as an aggravating circumstance, LGBTQI persons still are not legally recognized as a "social group" entitled to this protection against hate crimes and hate speech.

Despite several positive examples of interaction with the police regarding provision of security on public events, problems concerning freedom of assembly and safety of public events remain. The Monitoring Program has documented cases when city authorities refused, referring to the law on "propaganda", to approve street rallies in support of LGBT rights. In addition, we have documented cases of inaction of the police during

homophobic attacks on LGBT activists during street actions. Homophobic activists and, in some cases, government authorities have tried to prevent LGBTQI festivals through pressurizing the venue owners and managers so that they refused to hold events; in some cases homophobic activists come to the venue trying to disrupt the event.

Outing⁵ of LGBTQI persons and their allies remains a serious issue, especially for educational workers, when the goal of outing is the educational worker's dismissal. LGBTQI persons working in education face pressure on the workplace and employment denials due to their sexual orientation or gender identity. Workplace discrimination is one of the main issues for the transgender community, who are denied employment because of discrepancy between their appearance and identification documents.

The situation of transgender persons in Saint Petersburg deteriorated drastically in 2015, first and foremost regarding access to legal gender recognition: the quick procedure to change documents in Civil Registry Offices is no longer accessible, and transgender persons have to turn to court. Lack of access to a quick procedure increases the risk of discrimination against those transgender persons whose appearance has changed, but whose documents still hold the old name and gender marker⁶.

5 "Outing" refers to acts of deliberate revealing of person's sexual orientation or gender identity by other persons without his or her permission, generally to the purpose of ruining his or her reputation or causing problems in his or her professional or private life.

6 Refers to the "sex" information field in identification documents, also called "legal/passport sex".

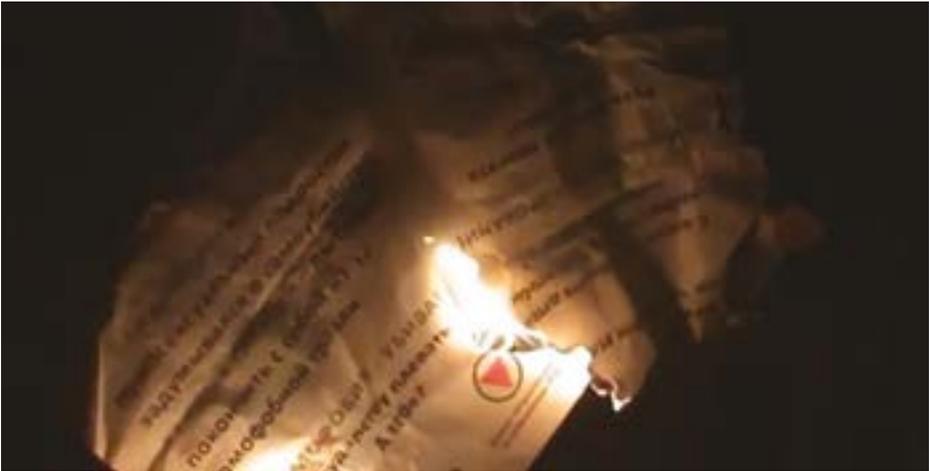
Cover image: counterprotester attacks a holder of a picket in support of LGBT teenagers. April 17, 2015. *Photo by Alek Naza.*



Alexey after the homophobic attack near the venue of Side by Side LGBT film festival. November 22, 2015. Personal photo.



Deputy Vitaly Milonov shouting insults at the participants of «Rainbow Column» at a May Day demonstration. May 1, 2015. *Photo by Alex Novikov.*



Anatoly Artyukh and his associates burn posters ripped from the hands of activists at Day of Silence pickets. «Children 404 group has no right to exist and will not exist. We are making our own flashmob which will clearly show what will happen to this group and to anyone who supports faggots». April 17, 2015. *Caption from the video uploaded to VKontakte network.*



Olga Panova holding a single person picket on Palace Square in protest against numerous bans of an LGBT Pride march and rally, several seconds before being detained. August 2, 2015. *Photo by David Frenkel.*



:Alexey Sergeev holding a single person picket on Palace Square in protest against numerous bans of an LGBT Pride march and rally, while another activist defends him from attacks. August 2, 2015. *Photo by David Frenkel.*



«Rainbow Flashmob» rally celebrating IDAHOT was peaceful: the police ensured the event's safety and repressed all homophobic provocations. Two ranges of metal fence and hardened police defense is up to date the only possibility to avoid violence on LGBT street rallies in Saint Petersburg. May 17, 2015. *Photo by David Frenkel.*



Diana, the first transgender individual to be refused changes to her identification documents because she has not undergone surgery. *Photo by Vincent Voignier.*



Kseniya and Elena, standing by the Saint Petersburg Center for Child and Family Support. Kseniya was denied the license to adopt a child, officially on the ground of her "psychological unpreparedness". Informally she was told that her sexual orientation was a real reason for denial. August 2015, *Family archive.*

The situation with access to healthcare, namely to quick and professional diagnostic and hormone therapy, has also worsened.

LGBTQI persons remain vulnerable in the field of family law. In Saint Petersburg, as anywhere else in Russia, same-sex couples cannot legitimize their relationship in any form and are thus denied the enjoyment of all rights resulting from marriage or recognized partnership. Beyond that, the Monitoring Program has also documented cases of refusal to grant permission for adoption on the grounds of sexual orientation, as well as a refusal to divorce and refusal to conduct a wedding ceremony for a couple of a cisgender⁷ woman and a transgender woman, regardless of a masculine gender marker in the documents of the latter.

The analysis of the documented violations of the rights of LGBTQI persons in Saint Petersburg allows us to say that this social group remains exceedingly unprotected in the existing legislation and law enforcement practice. In order to improve the situation of LGBTQI communities, we have developed recommendations to the local authorities, medical workers and non-governmental organizations of Saint Petersburg.

7 “Cisgender” refers to persons whose gender identity conforms with the gender assigned at birth (opposite to transgender).

Review of the Situation of LGBTQI Persons in Russia in 2015

The situation of the LGBTQI community in Russia remained negative in 2015.

In April and June 2015, Russian Public Opinion Research Center (VTsIOM) conducted a poll on public attitude towards “persons with non-traditional sexual orientation” and marriage equality in Russia. According to the research results, 41% of respondents agree that “the state must persecute people with homosexual orientation and this phenomenon must be eradicated”. 20% of respondents agree that homosexuals are dangerous and “must be isolated from the society”⁸. Levada Center research on attitude of Russians towards different groups with “deviant behavior”, including homosexual people, shows that 21% respondents agree that homosexuals must be “eliminated” and 37% think that they must be “isolated”; this data shows that homophobia hit record level since the first such poll in 1989⁹.

Regulations banning “propaganda of non-traditional sexual relations among minors” (Article 6.21 of Administrative Offences Code of Russian Federation) were not applied to prosecute for corresponding actions in Saint Petersburg in 2015. However, the negative effects of law on “propaganda” are noticeable: the

8 Same-Sex Marriage: Pro And Contra: VTsIOM. Press-release 2876: <http://wciom.ru/index.php?id=236&uid=115315>

9 Deviating Behavior. Levada Center. Press releases. 09.10.2015: <http://www.levada.ru/old/09-10-2015/otklonyayushcheesya-povedenie>

authorities use it to restrict the constitutional rights to freedom of assembly¹⁰ and freedom of expression¹¹, while homophobic activists and even policy-makers justify the harassment of LGBTQI persons by the necessity to protect children from “gay propaganda”. Often, reference to “propaganda” is used to pressurize LGBTQI persons and LGBTQI activists who work in educational institutions: homophobic activists strive for their dismissal, insisting that such teachers are dangerous for minors.

In 2015, several federal legislative initiatives were introduced.

10 In July 2015, Saint Petersburg city authorities repeatedly declined to approve a march and rally because they detected violation of the law on “propaganda” in the goals of the event mentioned in the notification. When the same organizers notified the authorities on their intention to hold a rally in the specially designated place for expression of public opinion, the authorities replied with a warning about the legal responsibility for propagating non-traditional sexual relations among minors. See chapter “Restricted Freedom of Assembly” section for more information on this case.

11 Here we refer to the case of “Children 404” Project. “Children 404” is an Internet project aimed to support LGBT teenagers established in 2011 by activist Lena Klimova. The project publishes letters from LGBT minors in social networks. In these letters, teenagers share their problems of experiencing homophobia and transphobia from their relatives, teachers, classmates and acquaintances. Members of the project share their stories and support each other. The project also offers support from volunteer psychologists. On January 23, 2015 a court in Nizhny Tagil sentenced Klimova to a fine of 50,000 rubles (approximately 700 Euro) for violating the law on “propaganda”. Following this ruling, activists of “Young Guards of “United Russia” filed a petition to Prosecutor General’s Office with a demand to block “Children 404” page in Vkontakte social network. On March 25, 2015, Oktyabrsky District Court of Saint Petersburg sustained a motion made by Prosecutor General’s Office to add “Children 404 page to the list of websites banned on the territory of Russia. On October 1, Saint Petersburg City Court dismissed Oktyabrsky District Court ruling and stopped the proceedings because the decision of Barnaul Central District Court’s decision took legal effect and the proceeding where transferred to the city of Barnaul. After Barnaul Court ruling the group “Children 404” in Vkontakte network was added to Unified Register of Prohibited Information and banned. The other case when “propaganda law” was implemented was when activists were detained during single pickets on Dvortsovaya Square on August 2. See chapter “Restricted Freedom of Assembly” for more information on this case.

If passed, these laws would deteriorate the situation of the LGBTQI community dramatically. During the discussion of these proposals, legislators, public figures and the Media widely used homophobic and humiliating rhetoric.

In May 2015, a bill de facto banning marriage for transgender persons was introduced to the State Duma¹². This bill proposed to amend Article 14 of the Russian Family Code (“Circumstances preventing marriage”) with the following paragraph: “a marriage between two persons of the same sex (assigned at birth) is prohibited, including cases when one of the marrying persons has undergone a procedure of sex change before marriage or is undergoing the procedure of sex change as of the time of marriage registration”. In case this bill is passed, transgender persons will not be able to marry before, during or after transitioning. According to Transgender Legal Defense Project, this bill fails to meet rules of legal engineering, and is inconsistent with international law and the Russian Constitution; the proposed law cannot be applied without violating the rights and legally protected interests of the citizens¹³.

On October 29, 2015, a bill titled “On the amendments to the Administrative Offense Code of the Russian Federation (in part for public expression of non-traditional sexual relations)” was introduced to the State Duma. The bill intends to introduce penalty (fines from 4 to 5 thousand rubles (65 Euro) for public

12 Bill № 790069-6 “Concerning Amendments to Article 14 of Domestic Relations Code of Russian Federation (In Part Concerning Prohibition Of Marriage Between People Of Same Sex (Defined At Birth) Including Cases of Sex change by One of the Marrying Persons)”: [http://asozd2.duma.gov.ru/main.nsf/\(Spravka\)?OpenAgent&RN=790069-6](http://asozd2.duma.gov.ru/main.nsf/(Spravka)?OpenAgent&RN=790069-6).

13 Statement by lawyers of Transgender Legal Defense Project, May 15, 2015: <http://pravo-trans.eu/zayavlenie-yuristov-proekta-pravovoj-pomoshhi-transgendernym-lyudyam/>

demonstration of “perverted sexual attraction in public places”¹⁴. The same actions in educational and cultural institutions would be punishable by administrative arrest up to 15 days. The bill and explanatory note included numerous humiliating and unscientific remarks and positive references to the “Sodomy” article of the Criminal Code, which had been in force until 1993. On January 18, 2016, the State Duma Committee on Constitutional Legislation and State-Building recommended the lower house of Parliament to reject this bill. On February 19, 2016, the bill was rejected in the first reading.

On December 18, 2015, the State Duma Committee on Constitutional Legislation and State-Building introduced the revised version of Administrative Offense Code¹⁵, where the penalty amount for “propaganda of non-traditional sexual relationships” is hugely increased¹⁶.

The introductions of such bills and initiatives, as well as homophobic rhetoric used in debates and Media discussions, inevitably contribute to the increase of enmity towards LGBTQI persons in the general public.

In December 2014, a regulation of the Russian Government

14 Bill № 916716-6 “Concerning amendments to Administrative Offense Code of Russian (concerning determination of responsibility for public expression of non-traditional sexual relations)”: [http://asozd2c.duma.gov.ru/addwork/scans.nsf/8516e42dc998bfc343257ac60049e694/321a096da20917c043257eed00490c63/\\$FILE/916716-6.PDF](http://asozd2c.duma.gov.ru/addwork/scans.nsf/8516e42dc998bfc343257ac60049e694/321a096da20917c043257eed00490c63/$FILE/916716-6.PDF).

15 Bill № 957581-6 on Administrative Offense Code of the Russian Federation: [http://asozd2c.duma.gov.ru/addwork/scans.nsf/ID/361FFC984B318CA543257F1F004A10C2/\\$FILE/957581-6_18122015_957581-6.pdf](http://asozd2c.duma.gov.ru/addwork/scans.nsf/ID/361FFC984B318CA543257F1F004A10C2/$FILE/957581-6_18122015_957581-6.pdf).

16 State Duma may increase penalty for propaganda of homosexuality among minors: RIA News. 23.10.2015: <http://ria.ru/society/20151023/1307111005.html>.

approved of a list of medical contraindications for motor vehicle driving¹⁷, which lists a number of diagnoses of “mental and behavioral disorders” from ICD-10, including “transsexualism” (F64.0), a diagnosis which is necessary in Russia in order to access medical (surgical) and legal gender reassignment. It is likely that inclusion of this diagnosis into the list was accidental and was not purposively aimed at discriminating transgender persons. After a wave of negative Media reaction to the new regulations, in January 2015 a representative of the Ministry of Health made a statement that “mental or behavioral disorder per se cannot be considered a contraindication for motor vehicle driving”¹⁸ and consequently the new list will not become an obstacle for obtaining driving licenses for transgender persons. We have not heard of specific cases of discrimination against transgender persons in connection with the new regulations in Saint Petersburg. However, transgender persons still face the risk of being discriminated at the local level when specific psychiatrists interpret the list loosely.

The report by Russian LGBT Network on the results of monitoring of discrimination and violence against LGBT persons in Russia in 2015¹⁹ highlights the following tendencies and major types of violations faced by LGBT throughout the country: use of the “propaganda law” to limit the rights to freedom of assembly

17 Regulation of the Government of the Russian Federation № 1604, 29 December «Concerning list of medical counterindications, medical grounds and medical restrictions for motor, vehicle driving”: http://publication.pravo.gov.ru/Document/View/0001_201501040003?index=0&rangeSize=%29.

18 Ministry of Health disproved driving prohibition for LGBTs, Lenta.ru, 13 January 2015: <http://lenta.ru/news/2015/01/13/autolgbt>.

19 Report on Discrimination And Violence Against LGBT People in Russia in 2015: the Results of Monitoring: Russian LGBT Network: <http://www.lgbt.net.org/ru/content/diskriminaciya-i-nasilie-v-otnosheniilgbt-v-rossii-v-2015-rezultaty-monitoring>

and freedom of expression, as well as to violate the right to private and family life (e.g., restriction of parental rights of LGBT persons); disregard of the motive of hatred in investigations of physical violence incidents; persecution of LGBT educational workers; vulnerability of the transgender community, intersectional discrimination (increased vulnerability of people who are members of two or more minorities, for example LGBT persons with disabilities); unwillingness of victims to report violence and discrimination to law enforcement agencies and unwillingness of law enforcement agencies to start investigations in cases where LGBT persons were victims.

Almost all of these tendencies are relevant for Saint Petersburg, which can be seen in the cases described below.

Hate crimes

The term hate crime applies to prejudice-motivated criminal activity against a member of a certain group of people. Homophobic or transphobic hate crimes are crimes (often physical violence, attacks) ***motivated by hate or enmity towards LGBTQI persons.***

International human rights institutions have developed a series of standards for governmental authorities to prevent and investigate homophobic and transphobic hate crimes, as well as to punish such crimes and compensate the victims. Thus, the Recommendation of the Committee of Ministers of the Council of Europe proposes to member states to ensure effective, prompt and impartial investigation into alleged cases of crimes and other incidents, and to that when determining sanctions, a bias motive related to sexual orientation or gender identity may be taken into account as an aggravating circumstance²⁰. As of 2012, The Committee Against Torture has recommended to the Russian Federation to investigate all acts of violence and discrimination promptly, impartially and effectively, bring the perpetrators to justice, provide redress to the victims, to compile statistics regarding all crimes against LGBT and to publicly condemn attacks against LGBT persons and to conduct informational educational programs among police officers²¹.

20 Recommendation of the Committee Of Ministers of the Council of Europe, March 31, 2010 N° CM/ Rec(2010)5 to member states on measures to combat discrimination on grounds of sexual orientation and gender identity.: http://www.coe.int/t/dghl/standardsetting/hrpolicy/Publications/LGBT_en.pdf

21 Committee Against Torture. Concluding Observations: Russian Federation. CAT/C/ RUS/ CO/5 (2012). Para. 15.

Failure to Recognize LGBT as a Social Group

The current version of the Russian Criminal Code²² allows to consider the motive of hatred against a social group as an aggravating circumstance (para. “e” part 1 of Article 63 of the Russian Criminal Code) or defining indicia (in particular para. “i” part 2 of Article 105, para. “e” part 2 of Article 111, para. “e” part 2 of Article 112 of the Criminal Code). However, all attempts to apply those norms to homophobic and transphobic hate crimes have been futile. LGBTQI persons were not recognized as a social group even in cases where the police and courts were presented with expert opinions confirming the opposite.

In 2014, the Constitutional Court of Russia introduced a ruling on federal law on “propaganda of non-traditional sexual relations among minors”, stating: ‘The state should take measures aimed at eliminating possible infringements of the rights and legal interests of individuals based on their sexual orientation, and guarantee effective opportunities for the protection and restoration of their violated rights based on the principle of equal rights before the law and the court. The given constitutional principle, which assumes, inter alia, the inadmissibility of both restricting rights and freedoms and offering advantages based on belonging to one or another social group, under which can be understood groups of individuals of a particular sexual orientation, is concretely defined in the norms of the legislation regulated specific areas. State and legal protection from discrimination, including that motivated by belonging or non-belonging to a social group, is also ensured by the application of

²² Criminal Code of the Russian Federation as of June 13, 1996 № 63-FL.

administrative (article 5.62 of the Administrative Offence Code of the Russian Federation) and criminal (point e, part one, article 63 and article 136 of the Criminal Code of the Russian Federation) liability measures”²³. Lawyers and attorneys of Coming Out use this ruling in their cases; however investigators and judges do not take it into account.

In March 2015, reviewing the periodical report of the Russian Federation on implementation of provisions of the International Covenant on Civil and Political Rights, the United Nations Human Rights Committee indicated the necessity to apply the provisions of para. 1 of Article 63 of the Criminal Code in cases of crimes committed with the motive of hatred against LGBT persons, which means it recognized LGBT as a social group which must be protected from discrimination and crimes committed with the motive of hatred against a social group²⁴. In October 2015, during the review of Russia’s periodical report in the United Nations Committee on the Elimination of Discrimination against Women, the experts expressed their dismay at lack of implementation of the provisions of the Criminal Code concerning the hatred motive against the social group of LBT women²⁵.

23 Decision of 23 September 2014 No. 24-P of the Constitutional Court of the Russian Federation in its review of the constitutionality of part 1, article 6.21 of the Administrative Offence Code of the Russian Federation in connection with the petition of citizens N.A. Alekseyev, Y.N. Yevtushenko, and D.A. Isakov.

24 Human Rights Committee. Concluding observations: Russian Federation. CCPR/C/ RUS/CO/7 (2015). Paragraph 1.

25 Record of the meeting of the Committee on the Elimination of the Discrimination against Women on October 27, 2015: <http://www.treatybodywebcast.org/category/webcast-archives/>.

The data gathered by Monitoring Program of Coming Out group can be divided into three categories:

1. Physical assaults on LGBT activists during LGBTQI events (3 cases);
2. Physical assaults on LGBT persons unconnected to public events (4 cases);
3. Assaults through alluring the victim on a setup date (12 cases);

Physical Assaults on LGBT Activists during LGBTQI Public Events

- On April 17, 2015, a group of LGBT activists was holding pickets dedicated to the Day of Silence, a commemorative date when the LGBTQI community raises the issues of discrimination and the veil of silence over it. Several people were rotating in single pickets on Malaya Sadovaya street, protesting against the silencing of the situation of LGBTQI minors. Approximately six police officers and a group of journalists were present. Anatoly Artyukh, leader of the right-wing Narodny Sobor (“People’s Gathering” or “People’s Cathedral”) movement and renowned homophobe, also appeared on the venue. Artyukh and a group of aggressive people repeatedly insulted the participants of the picket, using humiliating expressions and trying to obstruct the event. At some point, the activists and their opponents started an intense argument, and a heavily built elderly man started to insult M., a transgender activist who was standing between the picketing activist and her opponents. While talking to M., this man said “you all must be killed” and physically assaulted M.: he grabbed M. by the throat and started to strangle him. Other activists pushed him aside. The police officers saw the incident but did not interfere and did not detain the perpetrator even after M. approached the officer, described the physical assault and

showed bruises on his throat. On April 20, M. documented the trauma in a first-aid station and on the same day filed a report to the police where he demanded to initiate criminal proceedings under Article 115 (Intended Infliction of Minor Harm to Health) and Article 116 (Battery)²⁶ of the Russian Criminal Code. The police refused to initiate a criminal investigation. They explained their refusal by the impossibility to identify the assailant and absence of the event of a crime²⁷.

- On April 17, 2015, an anti-discrimination was held on Nevsky Prospekt. The rally began at the square in front of the Galereya shopping mall. Some participants of the event had noticed a group of people in sports clothes standing nearby and watching the activists. The participants assumed that these people were homophobic provokers. They informed the police officers about a possible provocation, who in turn assured the LGBT activists that they were going to escort the march and would stop any provocation. When the rally started, the group of young people in sports clothes followed the participants. Some of them insulted the activists. The police asked the group to stop the provocations. However, when the participants were crossing Nevsky Prospekt, an unidentified young man from the group took out a bottle of beer and started to splutter the liquid on LGBT activists. The activists seized the provoker and handed him over to the police. The march resumed. However, after some time another provoker ripped the leaflets from the hands of one of the participants and threw them on the ground. The police detained him. After some time another man used a pepper spray on the participants of the rally. We know of at least two persons

26 Crime Notification Logbook 7538, April 20, 2015.

27 Order to dismiss criminal complaint, April 24, 2015 by the chief district police officer of the police office 78 of the Administration of the Russian Ministry of Internal Affairs in the Central District of Saint Petersburg.

who were hurt by the spray: they felt sick, experienced dizziness and throat irritation after the incident. However, they did not request medical assistance.

- On November 22, a group of homophobes violently attacked Alexey, a guest of the Side by Side LGBT film festival. A festival screening took place in the hotel Sokos Hotel Palace Bridge on Birjevoy lane. Alexey had left the venue not long before the end of the film. In the street, he saw two men watching him intently while he passed them. Shortly after that, another unknown man walked toward him. The man said: “Hi, faggot!” and hit Alexey in the face with his fist. Alexey tried to run back to the hotel, but the two men who were watching him earlier ran toward him and cut him off. They assaulted him, beat him with their hands and feet and shouted insults: “Well, fag”, “Catch it, faggot”, “Jerk”. The attackers blocked Alexey from running back to the guarded hotel. Alexey tried to run away, but the attackers followed him, knocked him down and continued to hit him with their feet for another minute. When Alexey cried for help, they stopped their attack and Alexey managed to stand up and run away. Turning around, he saw that the attackers had joined a larger group of approximately 10 men. This group marched to the Sokos hotel shouting in unison “A good faggot is dead faggot!” When Alexey distanced himself from the venue, he called the ambulance and the police. His face was damaged, his nose was broken and he felt dizzy. Alexey was taken to the Mariinsky hospital; after some time he felt sharp pain in his side and breastbone. Alexey was provided with immediate medical assistance; he was diagnosed with concussion and nose fracture. Also, his kidneys were damaged. Alexey spent two days in the hospital and a week in strict bed confinement. Two other guests of the festival had witnessed the assault. They saw that after attacking Alexey, the assailants joined the group of other aggressive men, came up to the hotel entrance and tried to enter the building.

On November 24, Alexey filed a report to the police demanding to start criminal proceedings on the indicia of the crime under para. «g», «d», «e» part 2 of Article 112 of the Criminal Code (Intended Infliction of Medium Harm to Health) and part 2 of Article 213 of the Criminal Code (Hooliganism). The police carried out an inspection and interrogated witnesses; the investigator claimed to have interrogated a staff member of the private security firm and to have recovered security recordings from the hotel). Alexey's medical certificates were sent to a medical examination; investigation time limit has ended by the time the documents were examined. Despite of interrogating witnesses, the police refused to start criminal proceedings on the ground of lack of evidence of harm to health. However, the Prosecutor's Office returned the case for reinvestigation, because the proceedings were denied while the medical certificates were still being examined. Another medical examination was commissioned, but again it did not meet deadline and the case was transferred to the Prosecutor's Office for the second time. The investigator refused to recover medical certificates from the clinic since the medical treatment was not finished. After that, he did not work on the case due to illness. The investigator advised Alexey's representative to recover certificates herself. In face-to-face dialogue, the investigator clearly stated that he was not going to resume the investigations on this case because the attackers could not be identified; he could not start criminal proceeding because he did not receive the results of medical examination and was not sure which article of the Criminal Code he should use to start the proceedings. Thus, the inquiry bodies did not ensure the start of criminal proceedings. According the Alexey's representative, such proceedings must be initiated immediately due to the fact of harm to health, regardless of the perpetrators' motive²⁸.

28 The description is based on the interview with the survivor, the survivor's representative and a witness of the incident.

- In 2015, the lawyers of Coming Out continued their attempts to classify the motive of hatred in the case against Gleb Likhotkin. On May 17, 2012, during the annual LGBTQI “Rainbow Flashmob” rally Likhotkin, the leader of radical Orthodox “Warriors of Life” movement fired from a gas pistol at Boris Romanov, participant of the rally. Boris Romanov was talking to journalists and holding an air ball with an inscription “Christ loves both men and women” when the attack happened. Romanov suffered bruises to the face and a chemical burn to both eyes. Likhotkin was detained by the police immediately after the assault. While being detained, Likhotkin shouted “Sodomy is a mortal sin!” That day, criminal proceedings were initiated under para. «a», part 1 of Article 213 of the Criminal Code (Hooliganism). Romanov’s representative filed a petition to investigate the homophobic motive of the assault, which was dismissed. On November 11, 2013, Petrogradsky District Court found Likhotkin guilty of hooliganism but did not classify the crime as motivated by hatred or hostility against LGBT. The court fined Likhotkin with 10 thousand rubles (140 Euro) of compensation for moral harm. Romanov appealed the verdict to the City Court. However, in 2014 the appeal was dismissed due to amnesty. In 2014, the victim’s lawyer petitioned the European Court of Human Rights, claiming violation of several provisions of the European Convention: Article 3 (lack of proper investigation of incident involving minimal level of cruelty) in accordance with Article 14 (Prohibition of Discrimination); Article 11 (assault during peaceful event; violation of the obligation to investigate such crimes) also in accordance with Article 14 (Prohibition of Discrimination). In the beginning of 2015, Boris Romanov filed a report to Nevsky District Court with demand to recover compensation for moral harm²⁹. On May 26, 2015, the court satisfied his claims and recovered 50 thousand rubles

29 Nevsky District Court of Saint Petersburg, case № 2-2757/2015, the judge Ikonnikova N.G.

(700 Euro) as a compensation for moral injury. However, the motive of hatred again was not taken into account³⁰.

Physical Assaults on LGBT Persons Unconnected to Public Events

Homophobic and transphobic assaults happen not only during public events. Not only LGBT activists become the victims of such assaults, but members of LGBTQI community who are closeted and not involved in politics at all. However, homophobes identify them by their appearance or behavior.

- In 2015, the team of lawyers and attorneys of Coming Out continued their attempts to obtain justice in connection to the assault on a lesbian couple. On the night of October 19, 2014, two unidentified men assaulted two women who were returning home on the last subway train. The men saw the women hugging on the escalator and followed them; on the street, one of the men attacked the women, hitting them both in the face, head and body, while the other one recorded the attack on his phone camera. During the attack, the men were shouting homophobic insults (“Fucking lesbians!”, “I’ve seen you - you propagandize LGBT!”, “No to LGBT!”). Before running away, one of the men said he would kill the women if he ever saw them again. The survivors sustained bodily injuries and experienced deep stress. On October 21, they reported the attack to the police, who took virtually no steps to look into the facts they reported in their complaint. On October 28, they filed a report to the Prosecutor’s

30 The case is a part of Strategic Litigation Program of LGBT initiative group “Coming Out”.

Office on failure of the police to act. On October 30, the women received a refusal to initiate criminal proceedings on the grounds of unavailability of witnesses and inability to identify the suspect³¹. Following a series of refusals to initiate criminal proceedings, in May 2015 a criminal case was finally initiated. However, law enforcement authorities did not consider hatred as a motive for the crime: the proceedings began under Part 1 of Article 116 of the Criminal Code of Russian Federation (Violence “Occurring during a Conflict Resulting from Personal Hostilities”). The victims filed a petition asking to reclassify the case and take motive of hatred into account. In their statements, the women consistently referred to homophobic insults that accompanied the assault. On June 20, the investigator dismissed their petition, referring to the fact that the motive can be established only after the identification of the assailants and, since the men were not found, there was “no information on the motives of hatred to lesbian women and LGBT social group.”³²

Four similar attacks were documented in 2015.

- In February 2015, a group of men attempted to attack Ruslan Savolainen, a gay man, in the subway. Ruslan stepped out of a subway train on Pionerskaya station when he noticed a group of seven men. Due to their appearance, Ruslan suggested that they belong to a nationalist group. One of them noticed Ruslan and said loudly: “Look, a fag!” After that, the group turned and followed Ruslan; by their behavior and the fragments of conversation, Ruslan understood that they were going to attack

31 Order to dismiss criminal complaint, October 30, 2014, affirmed by the Police Station 29 Head Officer of the Administration of the Ministry of Internal Affairs of Russia in Moskovsky District of Saint Petersburg, major of the police R.A. Shadiev.

32 The case is a part of Strategic Litigation Program of Coming Out LGBT initiative group.

him. He ran up the escalator. They chased him upstairs and to the street. Ruslan took the first taxi he saw and left. Ruslan was not wearing any LGBT symbols and was dressed simply that day, his appearance and slim build was probably the only reason for the attack. Ruslan did not file a report to the police³³.

- On April 18, 2015, at about 2.30 p.m., a gay man and LGBT activist D. was attacked on Nevsky Prospect. D. was wearing rainbow badge and rainbow sunglasses. Two men were walking towards him. When they approached D., one of them punched him on the shoulder. D. asked the man what was going on. After that, the man approached D. and hit the bridge of his nose with his head. D. suffered a strong pain shock and his nose bridge started to bleed. To defend himself, D. used a pepper spray on the attackers, and they ran away. D. went to a first aid station (he received lacerate wound of the bridge of his nose). Later, D. filed a petition to the police, demanding to start investigation of the assault. The police refused to start proceedings because the first aid station did not provide it with data on D.'s trauma after the police requested it³⁴.

- On April 24, 2015, in Peterhof (the suburb of Saint Petersburg), Maria, a young lesbian woman and LGBT-activist, was waiting for transport on a bus stop. She had a rainbow badge pinned on her hat. A man approached her, hit her in the head and tore the hat off. The assailant shouted: "Dirty lesbian, burn you all!" and added: "Nobody wanted to fuck you, that's why you started on girls". A bus arrived, so Maria picked her hat up and hurried into the bus. The man hit the bus door when it started to move. Maria noticed that her earlobe was bleeding.

33 The description is based on an interview with the survivor.

34 The description is based on an interview with the survivor.

Maria suffered from headache for some time. She did not file a report to the police³⁵.

- In the beginning of September 2015, A., genderqueer³⁶, faced physical violence and attempt of sexual assault. He was walking one of the city's downtown streets in the evening. Two unknown men approached him and asked for directions. They considered A. to be male and talked to him using masculine gender. A. decided to help them. One of the men began to ask obtrusively: "So are you a guy or a lady?" A. considered the men safe and answered: "More of a guy, you are right". After that one of the men suddenly started to grab A.'s coat and then pressed him to the wall, saying: "No, let's check". A. managed to run away³⁷.

- In October 2015, LGBT and civil activist Dante Teodori was assaulted in the subway. He was headed to a meeting wearing a rainbow-colored scarf. Dante had noticed that one person in the train, a heavily built man in sports clothes, was looking at him aggressively. In some time, the man approached Dante and leaned over his seat. Using obscene language, the man aggressively threatened to beat Dante if he did not remove his scarf or left the car. Dante refused to either take off his scarf or leave, and the man hit him, splitting his lip. The attacker demanded that Dante remove the scarf or leave the train for a second time. Dante refused and the man hit him again. The second time he hit Dante on the head and split his brow. A passenger interfered and pushed the attacker away. Dante called an ambulance and came to the hospital where his brow was sutured. He also filed a

35 The description is based on an interview with the survivor.

36 Genderqueer refers to a person with a non-binary or nonconforming gender identity, other than male or female.

37 The description is based on an online interview with the survivor.

report to the police. In the Department of Initial Investigation of the Subway Police, he was recognized as a victim and criminal proceedings were initiated under Part 1 of Article 115 of the Criminal Code (Intended Minor Harm to Health)³⁸.

Assaults on Setup Dates

Hate crime also take form of so-called setup dates. This type of assault became publicly renowned in 2013-2014, when organized homophobic groups appeared throughout Russia, including Saint Petersburg. These groups were often formed by radical nationalists and became known on the Internet as the “Occupy-Pedophilia” movement. These groups used teenagers or young adults as bait to lure men on fake dates. On these “dates”, the victims were subjected to indignities and physical harm. These groups often record their assaults on video to blackmail the survivors with the threats of further violence and publishing these videos online. Survivors of such assaults fear further harassment; therefore, they rarely go to the police or request legal assistance. Compared to similar cases in the previous years, activities of these groups do not have an ideological background anymore. Only rarely attackers introduce themselves as “Occupy-Pedophilia” and they never post videos of the assaults in nationalistic groups online. Now they act like a gang and just use a good opportunity to blackmail vulnerable people and extort large sums of money.

We know for a fact of 12 cases of such assaults in 2015

38 The description is based on the survivor’s texts in social networks, interview to the media and an online interview.

(victims consulted Coming Out's Legal Assistance Program). In all 12 cases, the men did not reports the crimes to the police fearing harassment by the police officers. In two cases, gangsters persuaded the victims to give them 50,000 rubles (700 Euro), in one case – 30,000 (400 Euro), and in another case – 80,000 (1000 Euro). Below is a description of one of such cases:

- In the end of October, a young man contacted D. through dating web application. When D. agreed to meet him and the young man sent him his photos, D. and the young man made an appointment. When D. came to the appointed place, he saw that the man who came to meet him was not the one on the photos; the man who came looked much younger and when D. asked for his age, he said he was nineteen “but looks young”. D. did not guess to ask to show his documents. When they came to young man's apartment, D. noticed that it looked uninhabited. The young man started to instigate D. to sexual activity. However, D. became suspicious and did not reciprocate. Suddenly the young man left the room, saying he was going to drink some water, and at this moment 5 heavy built men aged 25-35 broke into the apartment. They demanded D. to lay out all his possessions, documents and money. The attackers acted as a team, each of them had his own role. The men threatened D. with physical violence, exerted moral coercion on him and demanded to confess of sexual abuse of children. They told him that a filming team will arrive shortly and demanded him to give them all his money. Finally D. gave them 50 000 rubles (700 Euro) and the criminals let him go. D. did not file a report to the police³⁹.

39 The description is based on an online interview with the survivor.

Hate Speech and Insults

Homophobic and transphobic hate speech refers to forms of expression which may be reasonably understood as likely to produce the effect of inciting, spreading, or promoting hatred or other forms of discrimination against LGBT persons⁴⁰.

International human rights standards require that governments prohibit and publicly condemn such pronouncements of hatred regardless of where they take place; also, to raise awareness of public authorities and institutions on all levels about their responsibility to refrain from using hate speech, especially in the Media⁴¹. In March 2015, the United Nations Human Rights Committee recommended the Russian government to “clearly and officially state that it does not tolerate ... hate speech ... against persons based on their sexual orientation or gender identity”⁴².

Theoretically, Russian legislation allows prosecution for homophobic and transphobic hate speech. Article 282 of the Criminal Code commissions a crime «actions aimed at incitement of hatred or enmity, as well as abasement of dignity of a person or a group of persons on the basis of ... as well as affiliation to any social group... committed in public or with the use of mass media». The Russian Administrative Offence Code

40 The definition can be found in the recommendation of the Committee of Ministers of the Council of Europe CM/Rec(2010)5 (app., part 6).

41 The recommendation of the Committee of Ministers of the Council of Europe CM/Rec(2010)5 (app., part 7).

42 Human Rights Committee. Concluding observations: Russian Federation. CCPR/C/RUS/CO/7 (2015). Paragraph 10.

provides punishment for insult (article 5.61) and discrimination (article 5.62). Finally, personal non-property rights and non-material values (e.g., the right to respect for private and family life and the right to dignity of the human person) are protected by the Civil Code (Art. 150-152.2)⁴³. In practice, politicians and journalists of Saint Petersburg use hate speech in their public statements. They have never been brought to justice; legal mechanisms provided by Criminal, Administrative and Civil Codes do not work.

- In 2015, Coming Out continued litigation on the case against deputy Vitaly Milonov (a member of the Saint Petersburg City Council and one of the authors of regional “propaganda law”) on a hate speech incident in his interview to The Fontanka newspaper, where the deputy made a series of homophobic statements justifying violence and the abuse of LGBT persons’ rights. In particular, Milonov had said that the attack on the office of the LaSky Project had been staged by LGBT activists themselves, and the survivor had been shot in the eye “accidentally”. Milonov compared LGBTQI persons to murderers and said that “These are not human rights, these are rights of sick people and perverts”. Sasha Krik, a survivor of the attack on LaSky, applied to the Investigative Committee with a demand to review the deputy’s statements and to initiate a criminal case on hate speech. The appeal was dismissed in 2014. In this period, the investigators commissioned several expert opinions, most of which confirmed that Vitaliy Milonov used “derogatory characterizations, negative emotional evaluations and negative attitudes toward members of a the social group (people with a homosexual sexual orientation)” and that “the

43 The Civil Code of the Russian Federation (part 1), November 30, 1994, № 51-FL.

interview contains information that incites the commission of action against this social group, as well as special linguistic forms meant to communicate a targeted, offensive portrayal of this social group”. However, another expert opinion showed that “people with homosexual orientation are a group, but they cannot be clearly defined as a social group”. On the grounds of the latter opinion report, and referring to the fact that there were no direct intentions in Vitaliy Milonov’s actions, the Investigative Committee refused to initiate a criminal case⁴⁴. Sasha Krik appealed the investigator’s decision to the court, but on June 26, 2015, Kuybyshevskiy District Court dismissed the appeal. An appeal to Saint Petersburg City Court was also dismissed. Simultaneously, the survivor also appealed to the Kirovskiy District Court with a civil suit for compensation of psychological damage caused by violation of moral rights and discrimination. However, on June 26, the district court dismissed it.

44 Provision of the incumbent investigator of the Investigation Department of the Central Investigation Department of the Investigative Committee of Russian Federation in Saint Petersburg, Lieutenant of Justice Stepanova E.A. on refusal to initiate criminal proceedings under 13.01.2014 based on materials of report of a crime verification № 1019.13; provision of the investigator of the Investigation Department of the Central Investigation Department of the Investigative Committee of Russian Federation in Saint Petersburg, Lieutenant of Justice Sedyshev S.I. on refusal to initiate criminal proceedings under 31.03.2014 based on materials of report of a crime verification № 1019.13; provision of the investigator of the Investigation Department of the Central Investigation Department of the Investigative Committee of Russian Federation in Saint Petersburg, Captain of Justice Yasman P.A. on refusal to initiate criminal proceedings under 12.05.2104 based on materials of report of a crime verification № 1019.13;

provision of the investigator of the Investigation Department of the Central Investigation Department of the Investigative Committee of Russian Federation in Saint Petersburg, Captain of Justice Yasman P.A. on refusal to initiate criminal proceedings under 07.18.2014 based on materials of report of a crime verification № 1019.13;

provision of the investigator of the Investigation Department of the Central Investigation Department of the Investigative Committee of Russian Federation in Saint Petersburg, Senior Lieutenant of Justice Vlasova V.V. on refusal to initiate criminal proceedings under 11.09.2014 based on materials of report of a crime verification № 1019.13.

On December 1. the City Court upheld the District Court ruling⁴⁵.

- On April 17, Anatoly Artyukh with a group of counterprotestors attempted to disrupt single-person pickets in support of LGBT rights dedicated to the Day of Silence on Malaya Sadovaya street. An unidentified man approached the activist who was holding the posters from behind and ripped out the posters from her hands. He threw the posters to Artyukh, who took and rumbled them. After that, Artyukh put the posters into a police car. In the evening of April 18, Artyukh published a video on Youtube and on his personal page in V Kontakte social network. The title of the video was “Cleansing by fire. Our answer to the sodomites...”, which in itself can be considered as inciting hatred against LGBT. The recording shows Anatoly Artyukh and his associates holding two posters taken earlier from the activists. Artyukh says: “Despite of faggots’ raids that came out to Nevsky Prospect, they did not ruin our celebrations. Here. They were looking bleak, so to say. As always, they were trying to propagandize their abomination to our children. They did not succeed. Here are our trophies. They had a flashmob; they wanted to prove that “Group 404” has a right to exist. We are saying - No, it does not, and it will not exist. In protest, we are making our own flashmob which will clearly show what will happen to this group and to anyone who supports faggots.” After that, Anatoly Artyukh burns the posters⁴⁶.

- On May 1, 2015 a May Day demonstration took place in downtown Saint Petersburg. A “Rainbow Column” of LGBTQI activists and their allies took part in the march. The protesters carried rainbow flags symbolizing equality, posters and banners

45 The case is a part of Coming Out’s Strategic Litigation Program.

46 Video: https://vk.com/artaa?w=wall68391434_2825, <http://www.youtube.com/watch?v=g3Vy1h0Jk8M>.

with signs in support of LGBT (e.g. “For a world without borders, hatred, discrimination and violence”, “Heterosexuals and LGBT unite for peace, freedom and equality”, “Friendship has no orientation”, “Homophobia leads to xenophobia”, “I love a person, not a gender”). While the participants were gathering, they noticed Anatoly Artyukh nearby. Several minutes after the column started to move, the participants saw deputy Milonov standing on a pedestrian walk, surrounded by the police. Milonov was shouting insults, some of which included prison jargon targeted toward LGBT. In addition, Milonov falsely accused participants of pedophilia. He stated: “If we become tolerant like in France, pedophiles will fuck our children”, “There are people with flags associated with pedophiles, homosexualists, lesbians”, “They all get to children, they defile our children. I know half of them, they are pedophiles”. Milonov made threats and statements which can be qualified as inciting enmity and violence against LGBT persons: “I will find you, fear me! Fear me!”, “You will swim in the Neva river, you fingerer!”, “They are nobody, they are animals”, “This is my country, we will gnaw on them”, “They must all be sent to GULAG”, “We must clean our city from this filth”, “They ought to be crushed by tanks, by tractors!”, “They should be put away for five years - all of them, leave no one”, “Liquidation! Liquidation awaits you!”, “No one of you will be left in our country! You are shameful fascists!” Milonov addressed his speech to all of the participants, but some words targeted individuals: “I will find you, fear me, fear me, you goat!”, “I will rip your head off, no more shouting from you, you understand? Fucking dyke!”, “Faggot, faggot, faggot, go away!”, “Fingerer, dyke!”, “Fuck off!” He addressed specifically one of the activists: “Catch that fag, you - faggot, I will find you! Arrest that faggot!”

Following the incident, a group of eight LGBT activists turned to law enforcement authorities and court with demands that the deputy be brought to criminal, administrative, and civil liability

for insults and hate speech⁴⁷.

The activists filed a report to the Investigative Committee with demands to start criminal proceedings on part 4 of Article 128.1,(Slander), article 136 (Violation of the Equality of Human and Civil Rights And Freedoms), part 1 of Article 280 (Public Appeals for the Performance of Extremist Activity) and part 2 of Article 282 (Incitement of Hatred and Enmity, As well As Abasement of Human Dignity) of the Criminal Code⁴⁸. On June 25, 2015 the Investigative Committee refused to register the report and gave a response stating that “the report does not contain information evidencing V.V. Milonov having committed any crime; his actions do not constitute a crime. The arguments [of LGBT activists] amount to a negative assessment of the actions of Milonov, who was expressing his personal opinion on the LGBT community.” The activists challenged the refusal in Smolninsky District Court but did not win the case⁴⁹.

The activists also filed a report to the Prosecutor’s Office of the Central District of Saint Petersburg to initiate administrative proceedings against Milonov on Articles 5.61 (Insult), 20.1 (Minor Hooliganism) and 5.62 (Discrimination) of the Administrative Code⁵⁰. The Prosecutor’s Office refused to start proceedings, claiming that “...it was established that the recording does not contain enough evidence on alleged offenses by V.V. Milonov that violate the rights, freedoms, and legal interests of any persons based on their gender; race; skin color; nationality; language; ancestry; material, familial, social, or occupational status; age;

47 The case is a part of the Strategic Litigation Program of Coming Out LGBTQI Initiative Group.

48 Application to the Investigative Committee was filed on May 27, 2015. Registration number 902-15.

49 The ruling of the Smolninsky District Court on November 23, 2015 № 3/10-390/15

50 Application filed on May 26, 2015, number 1997.2015.

place of residence; relationship to religion; convictions; or belonging or non-belonging to private associations or any social groups.’ The response from the Prosecutor’s Office was not sent to the applicants in any form required by law⁵¹. In October, the applicants filed a complaint on the Committee’s refusal to start administrative proceedings to court and a collective action to challenge the legitimacy of the agency’s inaction, to no effect.

Besides hate speech from homophobic activists, members of LGBTQI communities often come across homophobic insulting texts on the Internet and in Media.

- In #10 (October 2015) of the local journal *Cars and mechanics*, distributed free in universities, an article *Parasitonomics* was published by Kim Alexandrov. The article included the following text: ‘What is the ideological guilt of the USSR? ... In totalitarianism and oppression of dissent? If we consider “non-freedom” as following the norms of public morale, it is better to be an “oppressed individual” with sex determined by nature, than totally free transvestite dying of AIDS”.

Homophobic insults also appear in advertisement:

- In November 2015, a popular bar network “Killfish” sent out advertising SMS messages with the following text: “Melonoff day in all Killfishes of Saint Petersburg! ... Fags are prohibited! We wait for you, superstraight guy!”

The Monitoring Program has documented more than 20 cases of homophobic insults sent to LGBT activists in social networks.

51 Response from the deputy prosecutor of the Central District of Saint Petersburg on June 19, 2015 № 1997.2015.

Restricted Freedom of Assembly

Compared to other Russian regions, the situation with freedom of association for LGBTQI communities in Saint Petersburg is relatively good. Communication with the police may be efficient: for example, the police ensured the safety of “Rainbow Flashmob”, an IDAHOT rally on May 17, 2015, which was held in the specially designated place for expression of public opinion (“hyde-park”) on Mars Field. Police officers stopped all provocative actions of homophobic activists and counterprotestors. However, in a number of cases, the police had not ensured safety of the participants of LGBT events. In one case, the authorities banned a street rally.

In 2015, it became clear that the refusal to recognize LGBT as a social group is used both in criminal and administrative cases, when relevant government authorities refuse to initiate proceedings on the article 5.62 of Administrative Offense Code (Discrimination).

- On April 17, 2015, a group of LGBT activists held pickets devoted to the Day of Silence. Several persons rotated in single pickets on Malaya Sadovaya street protesting against the silencing of the problems of LGBT teenagers. Six police officers and a group of journalists were present. Anatoly Artyukh, the leader of Narodny Sobor movement known for his intolerance towards LGBTQI, arrived at the venue. Artyukh and a group of aggressive people had repeatedly insulted participants of the event, using humiliating expressions: “Here is one fag, there is another!”, “Arrest the fag!” (Artyukh to the police); “I’ll beat each

of you. All of you. You are nobody, God tramped you into shit”, “Shut your trashy mouth”, “Faggot snout” (elderly bypasser to activists). Artyukh ripped out a poster held by activist K. He tore the poster and K. could not continue her picket. The police officers did not stop him and ignored the activists’ requests to interfere. When the activists were taking out a new poster, an unknown man approached the activist holding posters from behind, ripped the posters out and threw them to Artyukh. Artyukh rumbled the posters and put them into a police car. The police officers refused to answer the activists’ questions about the reason why a hooligan was using a police vehicle. K. filed a report on Anatoly Artyukh to the police to initiate proceedings against him on administrative charges under Article 5.38 of the Administrative Offense Code (Violating the Laws on Meetings, Rallies, Demonstrations, Processions and Picketing). On May 28, K. received a letter signed by Deputy Chief of the police stating that K.’s report has been reviewed. K. was informed that she can pursue litigation in the general jurisdiction court. K. supposed that administrative proceedings against Anatoly Artyukh had not been initiated. She filed a complaint to Dzerzhinsky District Court challenging the refusal to initiate proceedings. Twice, Dzerzhinsky District Court transferred the complaint to a different court. On June 15, the court returned the complaint to K. and informed her that it would not be reviewed because the Court did not receive a copy of denial from the police office (the police had never provided K. with this document; however, the Court could have requested it in the police).

Concurrently with filing a report to the police, K. filed an application to the Prosecutor’s Office of Saint Petersburg Central District to initiate proceedings against Anatoly Artyukh under Article 5.62 of Administrative Offense Code (Discrimination). The Prosecutor’s Office refused to start proceedings, claiming that LGBT persons were not a social group and did not have protection under the Discrimination article. After several

requests, K. was given a letter where she was informed of the ruling (K. has requested the ruling itself but never received it). The Persecutor's Office ruling was based on an expert report of April 16, 2014 prepared by the specialists of Expertise Center of Saint Petersburg State University; this report stated that "definition of social group is not applicable to LGBT communities" and that "LGBT communities cannot be considered a social group but rather social-network communities which are weakly or moderately structured and include individuals and organizations with different tendencies". K. tried to challenge these decisions in courts of different instances but has not succeeded.

- In March 2015, organizers of Animate Library Project received threats and messages from homophobic activists who demanded cancellation of the event, due to the fact that one of the "books" of the project was a transgender person. Organizers of the event reported this to the police. According to the organizers, the police was outraged by their call and told them that they should be able to provide safety of the event themselves. However, during the event the police officers were present near the venue for safety. There were no assaults or any other attempts to disrupt the event⁵².

- On May 29, anti-racist "Open Your Eyes" international film festival screened *Call me Kuchu*, a film telling the story of Ugandan LGBT activists. The screening was co-organized with Side by Side LGBT film festival. A few days before the screening, the managers of the venue (SkyPoint at Bolshaya Konyushennaya street, 12) had received threats from homophobic activists. Persons calling themselves "Deputy Milonov's assistants" recommended to the managers to cancel

52 The description is based on the interview with the organizers.

the screening of this particular film. Other screenings within the festival did not bother them. They threatened them with “a police inspection” in case the event took place. Soon after the call, a police inspector visited the venue and told the administration that he keeps track of the situation and that the venue must not screen the film, otherwise the police will “close down everything” and will call the economic crime department. After these threats, the managers of SkyPoint refused to screen the film, and organizers were forced to search for another venue.

Homophobic activists attempted to disrupt the screening of the film at the new venue. An hour before the start of the event, the organizers came to the venue and noticed a group of homophobic activists standing nearby, Anatoly Artyukh among them. The venue’s security group managed to stop homophobic activists from entering the building during the beginning of the event, but after some time a group of approximately six people, including deputy Vitaly Milonov, entered the building. They tried to break into the venue, concurrently insulting security officers and participants of the event. The organizers called the police; it arrived in 25 minutes. The police officers required that the organizers show them the documents confirming the lease of the venue. After that, they behaved neutrally and did not support homophobic activists. Neither did they arrest them nor did they do anything to secure the safety of the festival. When the door to the venue opened, homophobic activists tried to break through it. During the film screening (an hour and a half), Vitaly Milonov was standing on the staircase near the venue and insulting the organizers and guests of the festival. He also tried to break the organizers’ camera. Vitaly Milonov insulted and threatened participants and organizers of the event with the following words: “A normal person cannot watch such movies. Only dragsters and faggots...”; “On the floor, face down! You must be laid face down and checked for drugs!”; “Faggots’ organization Coming Out ...”; “If I were not a deputy, I’d beat you up, is that

clear?” (addressing the organizer); “How many children have you raped?”; “Pedophiles and sodomites are almost the same thing, they are perverts”; “Minorities have no rights. If they are people, they must behave like people, if they need additional rights they can go fuck themselves”; “Clear your ears from semen!”; “This is not a dialogue, this is your verdict, I will talk to you in Criminal Intelligence like with dangerous criminal”. Organizers of the festival filed a report to the police on the disturbance of public peace by Vitaly Milonov; the fate of this report is unknown. Not long before the end of the screening, the homophobes left the venue⁵³.

- On July 25, a group of LGBT activists planned to hold a rally dedicated to Saint Petersburg LGBT Pride, which has been held annually for 5 years.

Yuri Gavrikov, organizer of the event, notified the city authorities twice on his intentions to hold a march around Mars Field territory and a rally on Mars Field. He offered two variants of time and route for the demonstration. The organizers listed the goals of the event: demand to adherence to freedom of assembly for LGBT, development of legislation against workplace discrimination, ban of hate crimes against LGBT as a social group; demand of development of state programs for HIV treatment and prevention for LGBT and guarantee equal access to medical treatment; expansion of marital law on LGBT persons in the light of the tendencies to marriage equality in developed states. The organizers expressed their willingness to alter the time and route of the demonstration at the demand of authorities in all their notifications. Both time the authorities did not approve the activist’s notification for march and the

53 The description is based on the monitoring of the event and on the interview with the organizers.

rally: they considered goals of the event to violate the law banning “propaganda of non-traditional sexual relationships”⁵⁴. The authorities did not suggest alternative routes of the demonstration. Both times the organizer resent the notification, editing the text and slightly altering the goals, with human rights of LGBTQI persons remaining the central topic. In one of the notifications, the organizers suggested two alternative routes in Polustrovsky park of Krasnogvardeyski district (far from the city centre). The authorities replied again that the goals of the event contradicted the “propaganda law”, with no suggestions of alternative routes or time⁵⁵.

Besides the attempts to receive approvals for the march and rally, the organizers also tried to receive approval for holding these events in specially designated place for the expression of public opinion (the so-called “hyde park” on Mars Field). Between 13th and 30th of July, they submitted 5 notifications to the authorities on their intention to hold a rally (on July 25, and August 1, 2, 9 and 10). The organizers did not mention the goal of the event in the notifications (which is allowed in the case of the specially designated area). In all five cases, the authorities responded with denials, specifying that the area would be occupied by other events for the whole day⁵⁶ (allegedly a mass cultural event, a rally devoted to Paratrooper Day, an anti-corruption efforts demonstration; demonstrations “supporting President Putin’s efforts against «fifth column»”). On July 29, after receiving the third notification, the authorities informed the organizer that the earliest date when the designated area would

54 Responses from Committee on Legitimacy, Public Order and Security on July 16, 2015 №19.7-4517/15 and 23 July 2015 № 19.7-4863/15.

55 Responses from Committee on Legitimacy, Public Order and Security on July 21, 2015 №19.7-4517/15 and 29 July 2015 № 19.7-4862/15-2.

56 Responses from Committee on Legitimacy, Public Order and Security on July 16, 2015 № 19.7-4516/15, 23 July 2015 № 19.7-49.7-4862/15, July 21, 2015 № 19.7-4955/15, July 29, 2015 № 19.7-4954/15, and August 3, 2015 № 19.7-5020/15.

be free was August 9. However, when the organizer informed the authorities of his intention to hold the event on August 9, he was answered that the designated area would be occupied again for the whole day by an anti-corruption demonstration. The organizer did not mention LGBT rights as the agenda of the event. However, in all responses the authorities notified him of responsibility for the violation of the “propaganda law”.

- To protest against numerous bans of Saint Petersburg LGBT Pride rallies, Yuri Gavrikov publicly promised to hold a single-person picket on August 2 on Palace Square to inform the general public and the authorities of all his demands concerning LGBT rights. On August 2, two hours before the scheduled picket, Yuri Gavrikov was detained after a conflict, which he describes as a planned provocation. He had spent the night at his friends’ apartment, fearing possible provocations to prevent him from protesting. According to Gavrikov, when he was leaving his friends’ house, a bypasser deliberately ran into his bicycle, shouting. “You hit me!” A second man approached and also imitated the collision with the activist’s bicycle. According to Gavrikov, 20 seconds after the incident, a patrol bus drove over and police officers came out of it. Yuri Gavrikov apologized for accidentally running into the bypasser; the supposed provokers had told the police officers that Gavrikov had sworn at them using obscenities. A video recording of the incident confirms that Gavrikov did not hit the men and did not use foul language⁵⁷. Gavrikov also claims that the two supposed provokers are members of nationalistic organization “Narodny Sobor”. All three men were detained. Yuri Gavrikov was taken to police office and detained for the whole day and night. He was charged with administrative offense under Article 20.1 of the Administrative Offense Code (disorderly conduct). On August 31,

57 Video: <http://www.fontanka.ru/2015/08/02/017/big.1.html>

after four court hearings, the case was dismissed⁵⁸.

- On July 2, 2015 several activists held single-person pickets on Palace Square to protest numerous rally bans and to support the detained activist Yuri Gavrikov. Single-person picket is the only form of public protest which does not require preliminary approval from the authorities. On July 2, Paratrooper Day was celebrated in the city and many people in military uniform were gathered on Palace Square along with journalists, tourists and the police. Some activists mention seeing men in civilian clothing whom they had seen before giving orders to the police on LGBT events. Two activists (Olga Panova and Mikhail Gerasimov), who attempted to hold pickets and raised rainbow flags, were soon detained by the police without any explanation. They were taken to a police office along with the third activist, who was not picketing, but just holding a folded rainbow flag, which Olga Panova gave to him when she was being detained. According to one of the detained activists, the police officers were trying to discuss “ideological issues” with them: they asked why the activists needed this, what they wanted to achieve by protesting and “propagandizing”. The activists were charged with administrative offence under Article 6.21 part 1 of the Administrative Code (Propaganda of Non-traditional Sexual Relations among Minors) on the grounds of a complaint from a woman who was allegedly passing by with a child and saw the picket. All charges were soon dismissed; activists were freed several hours of detention⁵⁹. They are planning to challenge the detention in court⁶⁰.

58 Petrogradsky District Court acquitted LGBT activist Yuri Gavrikov: “Saint Petersburg” Channel, 31.08.2015: <http://topspb.tv/news/news83084/>

59 Copies of the records and rulings on the termination of administrative proceedings against Valery Ugarov and Mikhail Gerasimov online: http://vk.com/wall-32875578?day=02082015&w=wall44991606_27946.

60 The description is based on interviews with the victims.

- Activists Alexey Sergeev and photographer Alexey Nazarov, who were also holding single-person pickets on August 2 on Palace Square, were not detained. They were sequentially holding posters: first in support of the Article 31 of the Russian Constitution (Freedom of Assembly), second in support of the detained Yuri Gavrikov. The third poster was quoting Charlie Chaplin's movie *The Great Dictator*, calling for a fight against injustice, intolerance, nationalism, for freedom and dignity. The police officers did not act when aggressive men had started to tear out the posters from the activists' hands and shouting homophobic insults ("Faggots!", "Go away to the USA!", "Fucked up faggots are standing on Palace Square!", "Get out or you will be arrested!"). One of the provokers tore out one of the activist's poster; he crumpled it, ripped and returned it to Alexey saying: "Stick it into your ass, fag!" The police officers were standing ten meters away from the activists and the aggressive mob. They ignored the violence; the officer who was standing near the activists was talking on his phone and did not react on activists' requests to stop the provocateurs. The police also did not act when an aggressive man in military uniform approached the activists, shouting "Too many fags in Russia! Give me your banner, bitch!" Alexey Sergeev had to raise the poster above his head; the other activist stood close to protect him from attacks. Once, the police officers tried to calm the attackers and said that they were interrupting a picket. However, the police made no attempts to stop or detain the assailants⁶¹.

- From 17th to 27th of September, LGBT Culture Festival Queerfest took place in Saint Petersburg. On September 3, the administration of the festival's venue received a phone

61 The description is based on interviews with the victims.

call: unknown men threatened to “tear down the venue” if they cooperated with Queerfest. After receiving more threats on the first day of the festival, they refused to host other events of Queerfest, forcing the organizers to urgently move all events to a new venue.

- From 19th to 28th of November, Side by Side LGBT film festival took place in Saint Petersburg. Organizers of the festival faced pressure, venue cancellations and attempts to disrupt the screenings.

3 days before the festival commenced, the organizers received a call from “Center E” (Department for Countering Extremism) and were proposed to discuss the safety of the festival. “Center E” officers told the organizers that homophobic activist Timur Bulatov had filed complaints to the police in different districts against the venues on violation of “propaganda law”.

On the same day, November 16, Vitaly Milonov spoke to the press against the festival and sent a press release to several local Media, stating his intention to come to the opening of the festival with a group of activists and children and disrupt the event.

The deputy arrived at the venue (a cinema hall in Varshavsky Express shopping mall) with a group of approximately six homophobic activists half an hour before the beginning of the event. They attempted to enter the venue, insulting the organizers, guests, venue administration and police officers. To ensure safety of the ceremony, private security officers and the police surrounded Milonov and stopped him. However, there were episodes of physical violence: Milonov grabbed the police officer, tore out his badge and threw it on the floor; one of the homophobic activists who came with Milonov hit one of

the festival's guests in the face. According to the organizers, Milonov started to act even more violently when he noticed that his actions were being recorded. After that, the police warned him that they would detain him for the disturbance of public peace. When the screening started, Milonov left. However, about six people remained seated on the sofas near the entrance. They were watching the organizers and humming aggressively.

On November 22, during one of the screenings, Alexey, a guest of the festival, was attacked and beaten by homophobic group on the street near the festival's venue (See chapter "Hate crimes"). After the assault, the attackers (an aggressive group of more than 10 people) tried to break into the venue. On that day, despite of the agreement, the police was not present.

On November 23, managers of the venue for three of the festival's events contacted the organizers. They said that representatives of the Prosecutor's Office visited the venue owner and "prohibited" to host the events. The owner, in turn, brought pressure on the managers and, despite of rental contract, they refused to host the festival. The organizers were forced to search for a new venue.

On the same day, there was another attempt to disrupt a Side by Side screening. Three minutes before the event, there was an electricity blackout in half of the building, including the venue. Managers of the venue could not explain what happened and told organizers they had never faced such a problem before. The festival's guests went to check breaker boxes, which turned out to function normally. The organizers and managers tried to talk to the building's electrician, who could not explain clearly what had happened. By his behavior, the festival's organizers concluded that the electrician was somehow involved in the power cut. The electrician claimed that the repair service could arrive not earlier than in half an hour, and that the only way

to discover the reason of the blackout was to get the building's owner to file a special request with electricity distribution company. The organizers made a decision to continue the event despite the blackout. A team of volunteers bought an extension cord to wire the equipment. However, 15 minutes after the screening resumed, the power was cut again. The organizers went to check the wires and saw the electrician standing with extension cord turned off. His responsibility became obvious. The police detained the electrician. The next day, the event was held on the same venue without interruptions. The organizers assume that the electrician was paid to disrupt the event by homophobic activists. However, they did not file any complaints and did not initiate investigation⁶².

- In 2015, the litigation process on the case of mass detention and compensations for moral harm on an LGBT rally on Mars Field on October 12, 2013 continued⁶³. In four cases, the courts of the first, appellate and cassation instances dismissed activists' claims⁶⁴. In three cases, Petrogradsky District Court partially satisfied the activists' claim and partially charged in the plaintiffs' favor two (in two cases) or three (in one case) thousand rubles as a compensation for moral harm. The City Court upheld

62 The description is based on an interview with the festival organizers.

63 The case is part of the Coming Out Strategic Litigation Program.

64 1) The decision of Kuybyshevsky District Court under 26 February 2015, case № 2-284/2015 и № 2-391/2015; appellate ruling of the Saint Petersburg City Court under 12 August 2015, case № 33-13290/2015; judicial decision of Saint Petersburg City Court under 30 November 2015, case № 4Ga-4474/2015; 2) judicial decision of Saint Petersburg City Court under 06 February 2015, case № 4G-426/2015; 3) appellate ruling of the Saint Petersburg City Court under 11 March 2015 года, case № 33-3383/2015; 4) judicial decision of Saint Petersburg City Court under 25 September 2015, case № 4G-3661/2015.

the ruling⁶⁵. The amount of compensation was almost a hundred times less than the affected activists demanded⁶⁶.

65 1) appellate ruling of the Saint Petersburg City Court under 29 September 2015, case № 33-159992015; 2) appellate ruling of the Saint Petersburg City Court under 20 May 2015, case № 33-7607/2015;) judicial decision of Saint Petersburg City Court under 08 December 2015 года, case № 4G-4475/2015; 3) The decision of Petrogradsky District Court under 10 February 2015, case № 2-176/2015; appellate ruling of the Saint Petersburg City Court under 09 June 2015, case № 33-9247/2015;) judicial decision of Saint Petersburg City Court under 19 November 2015, case № 4Ga-4478/2015.

66 The activists demanded compensation of 225 000 rubles in correspondence with the amount of compensation awarded in the similar cases by ECtHR (e.g. “Brega vs. Moldova).

Workplace Discrimination in Education

Harassment and Dismissals of Educational Workers as a Result of Homophobic Persecution

In 2015, homophobic groups in Saint Petersburg continued to collect information on the private lives and political positions of LGBTQI persons and allies using social Media, websites and online forums). This information is compiled into a file with commentaries from homophobic activists and then posted in online homophobic groups and/or forwarded to the persons' employers. This type of persecution is most often used against LGBT individuals who work in schools and universities. Homophobic activists send the compiled "profiles" to school administrations and educational authorities with demands that teachers who 'promote perversion' be dismissed. When faced with such demands, school administrations prefer to force these teachers to resign, fearing pressure from homophobic activists and authorities. When a person resigns of their own accord, he or she cannot challenge this decision in a court (we documented two cases of voluntary resignation in 2014, and one case in 2015). In 2014, a teacher was dismissed for "immoral act". Attempts to challenge this decision in 2015 remained unsuccessful.

This type of homophobic activity is associated with the name of Timur Bulatov (also known as "Timur Isaev"). In 2005, Timur Bulatov was charged guilty of embezzlement and sentenced for two and a half years in penal colony (he had been on "wanted"

list for nine years). He was arrested in December 2014 and spent six months in a detention facility, but was granted amnesty in August 2015. While Timur Bulatov was under arrest, other activists continued his outing campaign. Once freed, Bulatov resumed his activities.

Vulnerability of LGBTQI persons and their supporters who are outed by homophobic activists, especially educational workers, is aggravated by the lack of effective mechanisms to protect personal data, including information on sexual orientation and/or gender identity, in Russian legislation.

In October 2015, during the review of Russian Federation's Periodic Report in the UN Committee on the Elimination of Discrimination against Women, Committee experts expressed dismay at cases of lesbian, bisexual and transgender school teachers' dismissals and raised a question whether images in social networks could become a reason for dismissal, as in the case of music teacher Alevtina (see below). Referring to the case of the music teacher, the Russian delegation answered that at the moment the woman was challenging the dismissal in court and in case she did not win, she would still be able to continue litigation. The Russian delegation informed the Committee that there was no such ground for dismissal as "if a person considers himself or herself LGBT»⁶⁷. In November 2015, in its Concluding Observations on Russia's periodic report, the Committee recommended, inter alia, to "ensure that LGBTI women are not

⁶⁷ Committee on the Elimination of Discrimination against Women reviews the report of the Russian Federation, pn October 27, 2015: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16662&LangID=E>

facing discrimination in their professional life.”⁶⁸

- In 2015, the lawyers and attorneys of Coming Out continued litigation in case of discriminational dismissal of schoolteacher Alevtina.

For several years, Alevtina had worked as a music teacher in St. Petersburg Special School N 565 (a school for children with special needs). Timur Bulatov assembled her “profile”, including photos from Alevtina’s page in VKontakte social network, which depicts her kissing a woman in a club. Timur Bulatov sent this information to the school administration along with demands to dismiss Alevtina: “A lesbian teacher, unhealthy and with psychiatric deviances, is working at your school”; “This teacher shows herself in social networks as an immoral lesbian person and lives or cohabits, due to social networks data, with a similarly unhealthy lady”; “We highly recommend to fire her for incompetence”. Timur Bulatov also sent the “profile” and complaint on Alevtina to the Educational Committee and to the Kirovskiy District Administration. Deputy Head of the Administration pressurized the school, demanding Alevtina’s dismissal. The school director informed Alevtina that her sexual orientation was incompatible with work in the school and gave her a choice: to resign voluntarily or to be fired for “immoral act”. The woman refused to resign voluntarily, and the director dismissed her under para. 8 of Article 81 of the Russian Labor Code (which makes it legal to dismiss “an employee performing educational functions if they commit an immoral act incompatible with continuing this type of work”). In firing the teacher, the director emphasized on many occasions that he had

68 Committee on the Elimination of Discrimination against Women. Concluding observations: Russian Federation .CEDAW/C/RUS/CO/8 (2015). Paragraph 42(c): http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fRUS%2fCO%2f8&Lang=en.

no problems with Alevtina's professional performance and that her sexual orientation was the real reason for dismissal.

It is almost impossible to find a job in the educational sphere having a record of dismissal on the ground of immoral deed: such record becomes a reason for prepossession against the teacher's qualification and personality. In the beginning of 2015, with the help of Coming Out's lawyers and attorneys, Alevtina filed a suit to Kirovskiy District Court where she stated the inconsistency and illegality of her dismissal along with moral harm due to discrimination. Alevtina's attorneys demanded to reinstate her in position, to enforce salary payment for the term of involuntary absence and to compensate moral harm. During the court proceedings, representatives of the school were proving that the reason for dismissal was not Alevtina's sexual orientation but "immoral and unethical behavior, inappropriate for an educational worker, which can be seen on obscene photos where she publicly demonstrates inappropriate gestures, poses and an unethically close same-sex relationship". Remarkably, the interests of the school were represented in court by lawyer Vladislav Nechunaev, member of the Narodny Sobor movement, who was present on the rally on the May Day demonstration where he, together with deputy Milonov, insulted the participants and demonstrated inappropriate and insulting gestures in public himself. On April 21, 2015, the court of the first instance dismissed Alevtina's claim and on May 21, her attorneys appealed to the Saint Petersburg City Court. On September 3, the City Court heard the appeal. The hearings continued for approximately 10 minutes. Timur Bulatov came to the hearing and was making insulting comments on the attorney's statement. He made rude gestures, argued with the court and tried to make nonauthorized audio recording and photos. The appellate complaint was dismissed. Alevtina's attorneys filed a cassational appeal

to Saint Petersburg City Court Presidium⁶⁹.

- In summer 2015 Dmitry Isayev, MD, head of Clinical Psychology Department of Saint Petersburg State Medical Pediatric University, lost his job after being persecuted by homophobic activists. Dmitry Isayev is a psychiatrist and psychotherapist, specialist in gender and sexual psychology. For many years, Isayev has been working in the field of transgender health. He had been the head of diagnostic commission on the basis of Saint Petersburg State Medical Pediatric University since 2006; in this commission, transgender persons could undergo medical examination and be diagnosed with “transsexualism”, a diagnosis which is necessary to undergo medical and legal gender reassignment. Transgender persons valued Isayev’s professionalism; examination in his commission was far more accessible than in other specialized institutions, and transgender persons from across the country came to Saint Petersburg for Isayev’s help. Also, Isayev repeatedly spoke up against homophobia and transphobia, supported the LGBTQI community and held lectures for LGBTQI persons. In May 2015, he delivered an online lecture for the Children 404 project. After that, an online transphobic and homophobic campaign against Doctor Isayev began. Timur Bulatov played the leading role in this harassment campaign. Homophobic activists had gathered a “profile” on Isayev where, inter alia, they catalogued all Isayev’s public presentations on LGBTQI issues, his statements in support or LGBT minors, criticism of homophobia and the “propaganda law”. The “profile” also included a list of Isayev’s online “friends” in VKontakte social network, including members of the transgender community and LGBT-activists. According to the document, Doctor Isayev “actively promoted destructive ideas of genderism and sodomy in the country”. Timur Bulatov

69 The case is a part of Coming Out’s Strategic Litigation Program.

publicly stated his intention to achieve doctor Isayev's dismissal and started to call for filing complaints against Isayev to the University and to the Prosecutor's Office. Homophobic activists filed numerous complaints where they demanded to verify whether it was legitimate for Isayev to be the Head of the Department of clinical psychology, to verify the legitimacy of his licenses for medical gender reassignment, and to investigate supposed violations of the "propaganda law". All complaints were filed through the Internet in a unified form created on one of the homophobic websites.

In the end of June, representatives of the Prosecutor's Office carried out an investigation in the University and pressed the Principal to dismiss Isayev. The next day, the Principal summoned Isayev and presented him with a choice: either to write an application for voluntary withdrawal or to be fired on the ground of "immoral act". The Principal also required to write an explanatory report where Isayev was to explain that he "did not propagandize non-traditional relations". On the same day, Isayev was dismissed retroactively. On July 10, Isayev was summoned to the Prosecutor's Office⁷⁰ where he was demanded to write another explanatory report. After that, representatives of the agency informed Isayev that they had no claims against him. Thus, Doctor Isayev was forced to withdraw voluntarily. The medical commission for transgender persons was dissolved.

In December 2015, Timur Bulatov resumed the distribution of Isayev's "profile" and to call for complaints against him, this time to the medical clinic where D.D. Isayev works currently, and to the Ministry of Health⁷¹.

70 Letter from the Prosecution Office of Vyborgsky District on June 30, 2015 № 2306/2015

71 The description is based on the online interview with the victim.

Sometimes, homophobic activists persecute educational workers for months: they trace their career development and as soon as they learn of the new workplace of their victims, they start to file complaints to the administration of the educational institutions. In most cases, their victims lose jobs; sometimes the administration chooses to stand up for its employees and ignores the complaints. In 2015, we documented two cases of persecution of educational workers, which did not result in their dismissal thanks to the school's support.

- R., a gay man, is a teacher who works in several educational institutions for children; he had also worked in a children's shelter. He also acts in performances for children. R. is not out at work. On June 2, 2015, he received a message in VKontakte network from unknown user (whose account was subscribed to several homophobic groups): "So... I received some information that you're a fag working with children. There are grounds for believing that you are a pedophile. To avoid scandal and rampage we advice you to quit your job at the shelter and never again approach a child. Otherwise we will be forced to send a group to deactivate you. When you make a decision, inform us. Your silence means refusal to cooperate..." At that time, R. had already quit his job in the shelter, which led him to a conclusion that homophobic activists had been gathering information about him for a long time. He did not answer, and after some time he received the threats again. R. ignored them. In summer, after taking part in organizing an educational summer camp for children, R. received a job offer in a new educational project from A., one of the camp organizers. For two months, they discussed the proposal and planned the project. In August, A. suddenly wrote to R. that if R. was gay, they could not allow him to work with children. R. asked how they came to know of his sexuality, and whether they had issues with him as a teacher. A. did not

answer. R. supposes that his potential employer had received a “profile” from Timur Bulatov. While working on different project, R. consulted A. on some issues, but A. accused him of “propagandizing homosexuality” and refused to talk to him. In the middle of September, a manager of the child center where a performance with R. was to be shown received a phone call from Timur Bulatov. Bulatov demanded to prohibit the performance because R. was gay and allegedly a pedophile. Bulatov sent R.’s “profile” to the director of the center. It also came to R.’s knowledge that Bulatov had been making calls to his friends, fishing out for information on R.’s current employment and place of residence. R. had talked to the administration of the child center and to the principal of the school where he currently works; they supported him and R. kept his job. At the same time, Timur Bulatov mentioned on his personal page that he had gained R.’s dismissal.⁷².

- A., a gay man, works in one of Saint Petersburg’s schools as vice principal for information system development. He works with computers and documents; he is not a teacher. Not long before the start of the school year, Timur Bulatov assembled a 129-page “profile” on A. and sent it to the school administration and to the chief manager of the local Educational Department, along with letters with demands of A.’s dismissal. Timur Bulatov disseminated the “profile” in the Internet and called to write complaints against A. to the school. A.’s “profile” mainly consisted of the content of A.’s Vkontakte personal page; it did not include sensitive or LGBT-related content, only a sarcastic image of Vitaly Milonov and some photos taken during the flashmob “People under 18 are not allowed to see me”. On September 1, when A. came to the celebratory school assembly, he noticed a police squad in the schoolyard. The principal approached A.

72 The description is based on an interview with the victim.

and asked him “to keep it low”. After the end of the celebrations, the principal told A. that she had received letters from an “NGO Action”⁷³ and showed him the letters. The school principal and some of A.’s colleagues know of his sexual orientation, but A. is not an activist and has never come out publicly. It remains unknown where Timur Bulatov had gathered the information. A. suspects that the information could come from several of the students, whom he had noticed visiting both gay and nationalistic groups on the Internet. The principal supported A. and visited the District Administration (they had also received the letters; presence of the police squad was on the Administration’s instruction). The Principal talked to the Head of the Educational Department and they agreed that Bulatov’s letters were not credible, and A. was a good employee with no reasons to be fired. The Head of the Department acknowledged that “sexual orientation cannot be considered as a ground for impossibility of work at school”. The principal asked A. to work from home for some days for reasons of safety. The Principal and A. agreed to ignore any further letters from Bulatov⁷⁴.

Harassment and Workplace Discrimination in Education Based on Sexual Orientation as a Result of Prejudice

Some LGBTQI persons working in education face pressure and workplace discrimination based on their sexual orientation because of the employers’ prejudice and discriminatory policies.

73 Timur Bulatov calls himself leader of this organization. Upon open sources of information, this organization is not officially registered, does not have the status of NGO and is actually only a group in V Kontakte social network (https://vk.com/deystvie_islam).

74 The description is based on the interview with the victim.

- D. is a University professor. In spring 2015, he married a man in a European country. On May 18, a University security officer summoned D. and insisted that he must delete all the information about his personal life from the Internet, including photos of the wedding. D. refused and explained that there was nothing illegitimate in the information. The security officer toned down but continued to put pressure on D., explaining that “it would be less dangerous” for him. They also mentioned that the Prosecutor’s Office had warned them that D. might “cause problems” for the University. Again, D. said that he would not delete the information and the officers stopped pushing.

- In July 2015, Denis Oleynik was denied employment based on his sexual orientation. In search for a job, Denis had posted his CV on recruitment websites. On July 6, he received a letter from a representative of *The Captains* Foundation, coordinator of the educational program *The Captains of Russia*, where she offered him a job interview for vacant position of training manager. Denis confirmed his interest in the job, and agreed for a skype interview. During the interview, the representative of The Captains Foundation explained him in detail the work features of the educational program and the functions of a training manager. After the interview, Denis was offered the job. The organization is situated in Moscow and the representative of the Foundation told Denis that they were ready to cover the expenses for the tickets to Moscow and accommodation fee during the probationary period, and after the end of the period, he would receive financial help to pay rent. After that, the representative offered Denis to add her to his “friends” list in VKontakte network for “faster communication”. Denis did so. In the evening, Denis received a message in VKontakte from the representative where she asked him to “clarify his orientation”. Denis answered that he was in a stable relationship with a man. The representative of the Foundation told him that “the ideology

and management of our program are such that we adhere to a traditional point of view on many questions”. She also told about some “strict criteria” for employees one of which was, implicitly, heterosexual orientation. Consequently, during this communication, Denis was refused the job. Later that day, Denis received an email from the representative, where she wrote that the Foundation cannot work with Denis. Denis’ qualification level met the organization’s criteria; Denis received an official job proposal from the Foundation. Homosexual orientation was the only reason for employment denial.

On the 5th of October, Denis pursued litigation and filed a claim to Nagatinsky District Court of Moscow to declare illegal the discriminational denial of employment and to charge The Captains Foundation with 75 000 rubles (1000 Euro) as compensation for moral harm. On November 25th, the court dismissed the claim due to lack of evidence of connection between the person communicating with Denis and and The Captains Foundation⁷⁵. Denis’ lawyers are going to appeal against this decision⁷⁶.

75 The decision of the Nagatinsky District Court of Moscow under 25 November 2015, case № 2-11405/2015.

76 The case is a part of Coming Out’s Strategic Litigation Program.

Discrimination and Violence against Transgender Persons

Many cases of human rights abuses documented by Coming Out's Monitoring Program in 2015 are related to violence and discrimination against transgender persons based on their gender identity, documents status or appearance. We documented seven cases of denial of legal gender reassignment by Civil Registry Offices, 19 cases of service denial, 13 cases of workplace discrimination, 2 cases of harassment in educational institutions, 4 cases of physical violence (including 2 cases of physical assault by law enforcement officers).

In 2015, the situation with transgender rights in Saint Petersburg deteriorated dramatically due to the changes in practice of legal gender reassignment.

The procedure of legal gender reassignment in Russia is poorly regulated in law. The possibility to change one's gender marker in identification documents is stated in the Article 70 of the Federal Law "Concerning Acts of Civil Status": "A decision on the making of corrections or changes of an act of civil status is to be made by the Civil Registry Office provided that ... documents on change of sex delivered by a medical organization in the proper form and by the proper procedure established by the Ministry of Health"⁷⁷. The law refers to a document "of a proper form and procedure", which implies the existence of supplemental regulatory legislation. However, such regulations were never

77 Federal Law as of 25.11.2013 N 317-FL.

introduced. In 1998, a Government Regulation delegated the development of the form in question to the Ministry of Health. However, this form has still not been adopted. In 2005, a special working group in the Ministry of Health was assembled to develop the form⁷⁸; however, in 2007 the body was disseminated without achieving any significant results⁷⁹. In a vast majority of cases, Civil Registry Offices in Russia deny legal gender reassignment for transgender persons referring to the lack of the proper form, and transgender individuals are forced to go to court in order to have their documents changed. The insufficiency of the legal framework regulating terms and procedures of legal gender reassignment leads to disunity of legal practice: the access to right to civil gender reassignment de facto depends on how a Civil Registry Officer or judge interprets the situation.

Until recently, the practice specifically in Saint Petersburg adhered to international standards. The procedure was quick, transparent and accessible: transgender individuals were able to change documents via administrative procedure in Civil Registry Offices; a certificate confirming surgery was not required. In 2011, the Civil Registry Office Committee of Saint Petersburg formulated a policy, stating that Civil Registry Offices are to change documents for transgender individuals without legal proceedings and without a requirement of surgery and

78 Order of the Ministry of Health and Social Development of the Russian Federation of April 25, 2005: "On the creation of working group for preparation of regulatory legal enactment and guidelines concerning issues of diagnostics, treatment and rehabilitation for people diagnosed with transsexualism and other gender identity disorders": <http://rudoctor.net/medicine/bz-rw/med-umnuz.htm>.

79 Order of Ministry of Healthcare and Social Development of Russian Federation under 12 December 2007 г. "Concerning orders of Healthcare and Social Development of Russian Federation declared to be no longer in force": assistance system "Consultant Plus".

hormonal replacement therapy⁸⁰.

Since the summer 2015, transgender persons started to get refusals from Civil Registry Offices to their applications for document change. Now, the procedure can be obtained only through court proceedings. Moreover, in a majority of cases surgery certificates are now required. The Monitoring Program has documented six cases of such refusals in 2015.

- Diana Yashenkova is a transgender woman. She has been undergoing hormonal treatment for several years and is socialized as a woman. On June 11, 2015 Diana filed a petition to the Civil Registry Office of the Vyborgsky District of Saint Petersburg to make changes to the birth certificate⁸¹. She attached four medical certificates: confirming her diagnosis of “Transsexualism” by a psychiatrist, indicating that she had undergone irreversible hormonal gender reassignment, and a recommendation to change her legal gender. After the Registry Office received the petition, they called Diana and asked her if she was planning to undergo surgery and informed her that the duration of the review of her petition was prolonged for three months “due to the necessity of surgery”. In August, Diana and her representative visited the Civil Registry Office to discuss the possibility to change the documents. They submitted a legal opinion on the possibility of legal gender reassignment without surgery along with examples of positive court decisions on document change for transgender persons without surgical interventions and an answer of the Civil Registry Office Committee dated 2011, where it was stated that surgery is not

80 A Letter from Civil Registry Office Committee of Saint-Petersburg Government under 18 March 2011 № 5.03-6-126/11-01.

81 The case is part of Coming Out’s Strategic Litigation Program and Transgender Legal Defense Project.

required for the procedure. Immediately after that, Diana and her representative visited the Legal Affairs Office of the Civil Registry Office Committee. They showed Diana's documents to the office's representative and enquired of the possibility to make changes to Diana's birth record. A representative of the agency answered that the practice in Saint Petersburg had changed, and now the procedure could be done either with a surgery certificate or in the court. On September 15, 2015, the Civil Registry Office refused to make changes to the Diana's birth certificate due to absence of surgery⁸². On October 19, 2015, Diana petitioned Vyborgsky district court with administrative appeal challenging the Civil Registry Office's decision.

- D. is a transgender man who has undergone mastectomy and has been on hormonal treatment for several years. On September 24, 2015, D. filed a petition to the Civil Registry Office according to place of residence to make changes to his documents. He attached a certificate with a diagnosis of "Transsexualism" and certificates confirming hormonal and surgical gender reassignment along with a certificate on the necessity to change the legal gender marker. The Civil Registry Officer studied the documents and made a phone call. During the phone conversation, she loudly discussed D.'s situation with a Civil Registry Office associate of a different district. After that, she explained to D. that according to new instructions from the Office of Legal Affairs, all Civil Registry Offices must now change documents for transgender individuals only after a court decision. She was constantly referring to "orders from above" but did not show any official document and did not explain when and why such a decision was made. On September 29, D. received an

82 Letter of Civil Registry Office of Vyborgsky District of Saint-Petersburg on making amendments to the the act of civil status on September 11, 2015 (case N 61), notification on September 12, 2015.

official refusal to change his gender marker “due to lack of the proper form”. After receiving the refusal, D. made an appeal to the Primorskiy District Court⁸³.

Some transgender persons, lacking the opportunity to undergo all medical treatment required for legal gender reassignment, decide to change their name and keep the previous gender marker. However, in Saint Petersburg they are not able to do even that.

- Anna, a transgender woman, filed an appeal to the Civil Registry Office of Frunzensky District to change her name from traditionally male to traditionally female one, without the change of gender marker⁸⁴. Anna has been living as a woman for many years and has often faced problems when using documents (which hold a male name): representatives of government agencies and organizations do not identify her as male. Anna had also informed the Civil Registry Office of her decision to eliminate the patronymic in her documents. However, the Chief Officer informed her that this procedure is impossible, so Anna decided to change her patronymic from masculine to feminine and included it in her appeal. Before applying personally, Anna filed an appeal for change of a name via an online application system, leaving the “patronymic” field blank.

On February 9, the Civil Registry Office refused the name change, citing the fact that official records must be kept in Russian, and the rules of the Russian language dictate that a man must have a male name, and a woman must have a female name. Anna

83 The case is conducted under Coming Out’s Strategic Litigation Program with support of Transgender Legal Defense Project.

84 The case is part of Coming Out’s Strategic Litigation Program with the support of Transgender Legal Defense Project.

challenged the refusal in court but on July 16, her appeal was dismissed⁸⁵. The court's refusal was motivated by the argument that a citizen's name change affects public interest, meaning that the absence of a ban on name choice cannot be interpreted as the right to use any name. Therefore, an individual with a gender marker of male does not have the right to use a female name. The court also indicated that in order to change her name to a female name, the petitioner must present the court with evidence of gender reassignment. The City Court upheld this ruling⁸⁶.

The prolonged legal gender reassignment procedure through court significantly complicates the life of transgender persons: they have to use their old documents in this period and are thus exposed to discrimination and forced to reveal their gender status in everyday life. Transgender persons who had not changed their documents risk facing service denials and humiliating treatment every time they have to use their passport. In 2015, we documented 19 cases of service denial to transgender persons based on the mismatch between their appearance and passport data: 1 case of bank services denial, 1 denial of medical services, 3 denials of transport services, 14 cases of goods denials in shops.

We have also documented 13 cases of workplace discrimination of transgender persons based on the mismatch between documents and appearance/identity.

85 Letter from the Civil Registry Office of Frunzensky District of Civil Registry Office Committee of the Saint-Petersburg government under 03 February 2015 N 654, signed by the chief officer E.E. Veselova

86 Appellate ruling of Saint-Petersburg City Court. November 26, 2015, case № 33-19742/2015.

- E., a transgender man, was fired after a horizontal promotion without any explanations. E. supposed that the reason of the dismissal was the female gender marker in his documents.
- In August 2015, Irina, a transgender woman, was denied employment because her appearance did not match her documents. She was interviewed in a renowned IT company. The interview had gone well and Irina understood that the company was ready to hire her. In the end of the interview, Irina came out as trans and explained that she still had male documents. A company representative called back and to tell Irina that she was eligible for the vacancy and they would have definitely employed her, but could not do this because of her documents.
- Diana, a transgender woman, was denied employment 4 times in 2015. In two cases, the employers told her that the discrepancy between appearance and documents was the reason of denial, and in two other cases, the employers gave no explanation (however, Diana suspects the same reason).
- Natalya, a transgender woman, faced an attempt to fire her and six employment denials in one year. She got humiliating comments and faced an incident of physical assault from the manager of a florist shop where she used to work (she had been employed with male documents). After Natalya came out as a trans, she was forced to resign. At a job interview in a *Lush* retail chain store, the managers refused to hire Natalya and said that they “would be sent to prison if we hired someone with such a passport”. During a job interview for the position of a call-center operator in *Rostelekom* company, Natalya explained her situation and said that she was going to undergo a diagnostic commission for gender reassignment. She was told to return after changing her documents. On another job interview, the

woman was told that she was qualified for the position and document discrepancy would not be a problem, but soon after that she was denied employment. During a job interview in the *Pyaterochka* chain store, Natalya was told that she was eligible for the position; after she explained her situation, the interviewers gathered HR specialists to discuss “where to place her so that people would not kill her”. Later she was denied employment. She was dismissed from *Floral Fantasy* store after the first day of probation period. In August 2015, Natalya tried to get a job as a waitress in a coffee-bar. During the interview she was told that her appearance was not fit for the position (“large hands, male nose - we need employees to look perfectly ordinary!”) and that coffee-bar will have problems in case of inspection. The coffee-bar owner offered Natalya a plongeur position. When she refused, the owner rudely advised her to “find a job in a thematic club or a transvestite show”.

In 2015 we documented two cases of harassment of transgender persons from professors or administration of educational institutions based on the mismatch between their appearance and documents.

- Egor, a transgender man, studied a Masters of Psychology program in one of the higher education institutions of Saint Petersburg. When he entered the program, he had been undergoing hormonal treatment for 10 months, his appearance was masculine but he still had old documents. Egor explained his situation to the administration and told them that he would change documents in approximately half a year. He asked the Office of Dean to list him as Egor in all academic records but was denied and told that “we will write your passport name everywhere until you change your documents”. As a result,

many professors reacted harshly on the discrepancy. When Egor declared his intention to focus his MA thesis research on counseling services for transgender persons, he was repeatedly asked to change the topic and not to mention transgender issues in the title. During such dialogues, the University staff addressed Egor with his passport name and referred to in feminine pronouns, which caused great stress to him. Egor's legal gender reassignment procedure was delayed; in March 2015 the University's Vice-Principal started to threaten to ban him from exams because he promised to change documents but had not done it. Egor brought a certificate from the Civil Registry Office, which confirmed that his documents were in the process of change. However, he was prohibited from taking exams with explanation that he neglected to pay for the studies (however, the Accounting Department confirmed that he had done the payment). The Dean Office explained that the Vice-Principal personally prohibited Egor from taking exams. Egor came to the Principal to discuss the situation (during the conversation the Principal told Egor that "the government does not approve of transgenerness") and after that he summoned the Vice-Principal, who gave Egor a resignation notice with a demand to sign it. This case came public in the University and Egor gained support from other students. It helped, and Egor was allowed to take exams in an additional period, but he did not receive any apologies from the University staff⁸⁷.

- In the autumn of 2015, K., a 19-year-old transwoman, faced bullying in the higher school of Saint Petersburg State University of Aerospace Engineering and had to leave the school. Several months earlier K. had started hormone replacement therapy, and soon the changes became noticeable. When K. started to socialize in female gender in everyday life, her groupmates began

87 The description is based on an interview with the victim.

harassing her. The professors often laughed at her and never tried to stop or punish the bullies. After a week of humiliation, K. quit her studies⁸⁸.

Transgender persons are especially exposed to violence. Because of the mismatch between their appearance and documents and fear of further harassment, transgender individuals often choose not to report crimes to law enforcement agencies. Incidents of transphobic violence and humiliating treatment from police officers are a challenging issue.

- In July 2015, D., a transgender woman and sex worker was detained by the police while she was at a client's house. She was beaten at the police station; the officers appropriated her personal belongings. As far as we know, D. did not appeal against their actions in fear of further violence and harassment⁸⁹.
- In October 2015, K., transgender woman, was stopped inside the "Moskovskaya" subway station for documents inspection; the officers did not explain the reason for the check. When the officers saw K.'s documents, they started to laugh, and then one of them grabbed K. by the hand and led her somewhere by force, without any explanations. It continued for about ten minutes. K. was frightened; she started to cry and asked to let her go. Police officers laughed at her, shouted "Piss off, fag!" and let her go⁹⁰.

Transgender persons are often subjected to discrimination,

88 The description is based on an interview with the victim.

89 The description is based on an interview with the victim.

90 The description is based on an interview with the victim.

humiliating treatment, service denial and violation of their rights in healthcare facilities:

- Kira, a young transwoman, faced de-facto involuntarily hospitalization, along with abuses and humiliating treatment in the hospital. On December 29, Kira was stressed after a quarrel, and took high but not dangerous dose of sedatives (4 pills of phenazepam). She felt sick from the pills, and Kira's neighbor called an ambulance. Seeing an empty box of sedative drugs, the doctors made a conclusion that Kira committed a suicide attempt. They started medical procedures necessary in such cases (e.g. gastric lavage) without listening to her explanations and refusals to undergo the procedure. Kira was taken to toxicology ward of I.I. Djanelidze's Scientific Research Institute of First Aid. The hospital staff spoke to her rudely; they did not ask for her consent to medical procedures, addressed her in masculine gender and by passport name, the doctors rudely discussed Kira's gender status ("What is this creature? Should we put it with men or with women?"). They did not believe that Kira had not attempted suicide. Kira's friends brought her hormone and antidepressant pills, but the hospital staff refused to give her the medicine (Kira must take the pills every day; even the short interruption is dangerous for her health). Kira began to suffer from withdrawal: she was nauseating and was experiencing vertigo. When Kira informed the doctors, they did not give her necessary medicine and injected her with droperidol, a strong anti-psychotic with numerous dangerous side effects. They also took away Kira's cell phone. Next morning, a lawyer from an human rights organization came to the hospital, but was refused to visit Kira. The next day Kira was transferred to the psychosomatics ward for women (as she asked). The doctors continued to treat her rudely, repeatedly commented on her male documents; when Kira complained that she was cold, the doctors threatened her ("Shut up, or I'll send you to the men,

they will have fun with you”). According to Kira, she cried every day in the hospital: she was scared since the doctors would not tell her anything of her medical treatment and of what will happen to her. Soon she was told that if she refused to transfer to a psychiatric hospital, she would be transferred involuntarily, because the doctors suspect her of suicidal behavior. On the same day, a board of doctors discussed her future treatment. She was present on the concilium; the doctors addressed Kira by her passport name, and when she asked to name her by her chosen female name, the doctors stopped to address her at all. It was so humiliating that Kira left the room. After that, a hospital psychologist advised Kira to write an application of voluntary transferal to a psychiatric hospital. Kira agreed; at the new hospital, she was treated professionally and politely⁹¹.

- Irina, a transgender woman, was refused medical service in one of Saint Petersburg’s medical centers: the doctors did not believe that the documents were hers. When Irina explained that she was a transwoman, she was told to “Piss off, freak”⁹².

The situation of the transgender community in Saint Petersburg was strongly aggravated by the dissemination of the dismissed Doctor Isayev’s diagnostic commission on the basis of Saint Petersburg State Medical University. Now, transgender persons do not have access to quick and professional diagnostics and are forced to delay their transition or travel to other cities to be diagnosed. The Monitoring Program has also documented a case when a surgeon, in fear of persecution, refused to conduct surgery (mastectomy) and to give a surgery

91 The description is based on an interview with the victim, the witness of the incident and the victim’s lawyer.

92 The description is based on an interview with the victim.

certificate to transgender man who had been diagnosed with “Transsexualism” by Isayev’s commission.

Access to hormonal treatment for transmasculine individuals has also been compromised. In autumn 2015, all steroid healthcare products were included to the List of Regulated Medications. Legal regulations concerning pharmaceutical business were altered and became more complicated. Consequently, many pharmacies stopped the distribution of medications containing testosterone. As a result, few pharmacies selling testosterone medications are left in the city. In the end of 2015, the average price of «Omnadren», the most accessible androgen medication popular among transmasculine persons undergoing hormonal treatment, increased greatly⁹³. The change of dosage form, along with the introduction of new proscriptioin regulations, has led to a situation when transgender persons have to obtain a new proscriptioin for every ampoule (which implies a visit to an endocrinologist every two or three weeks, most often in commercial medical centers). Taking into account that transgender persons undergoing hormone replacement therapy are assigned to the medicine for a lifetime and a pause in the therapy may cause damage to their health, this situation is alarming.

93 Compared to the situation in the beginning of 2015 (when a package of 5 ampoules had cost 500 rubles / 7 Euro at an average), in the end of 2015 the medication has risen 8 times (the new dosage form, where the package contains a single ampoule, costs 800 rubles / 11 Euro at an average).

Limited Family Rights

LGBTQI persons remain vulnerable in the field of family rights. In Saint Petersburg, as in other regions of Russia, same-sex couples cannot legitimize their relationship through marriage or civil partnership, and thus lack access to family rights. Also, the Monitoring Program has documented cases of denial to license child adoption on the grounds of sexual orientation, as well as denials by Civil Registry Offices to register divorce and carry out a wedding ceremony for a couple of a cisgender woman and a transgender woman, regardless of a masculine gender marker in transwoman's documents.

- In autumn 2015, Kseniya was denied the license to adopt a child; informally the authorities acknowledged that her sexual orientation was the reason of refusal. For years, Kseniya had been in stable partnership with Elena, and the women made a decision to bring up the child together. Kseniya went through all the procedures necessary for adoption: a medical commission, psychological evaluation, a series of several months' training at a foster parent school and inspection by state guardianship and custodianship authorities. Throughout the process, Kseniya was often asked inappropriate questions about her health and marital status. The doctors and psychologists consistently asked Kseniya why she did not want to give birth herself, where her male partner was and why he did not participate in the adoption process. Kseniya understood that revealing her sexuality might become an obstacle for obtaining the adoption license. She decided to use a legend: for the authorities, she was in a partnership with a man who often traveled and could not

participate in the process; therefore Kseniya gained qualification for adoption as a single mother. Kseniya had an impression that throughout the consultations in the foster parent school and during the inspection, she was being forced to confess her sexual orientation. In particular, the psychologist asked her questions about her hairstyle and clothes. She also demanded for a photo and contacts of Kseniya's alleged male partner. Kseniya refused, and after some the time the guardianship and custodianship agency denied her the license to adopt, officially on the ground of her "psychological unpreparedness". When Kseniya asked about the reasons of this decision, the agency's representative told her: "There is a nuance - we think that you have a non-traditional sexual orientation". Kseniya is going to appeal to the court⁹⁴.

- Irina, a transgender woman, was denied the right to divorce by a Civil Registry Office. In 2014, Irina had married another woman, which was legally possible since Irina, despite of her female appearance and gender identity, still had her old documents with the male gender marker. The de facto same-sex marriage received broad Media coverage as "two brides' wedding" and induced aggressive reaction from homophobic policymakers, including deputy Milonov. In March 2015, Irina and her wife broke up. When they arrived to the Admiralteysky District Civil Registry Office to hand in the divorce application, the officers recognized them and said: "This famous couple has already come to divorce". However, they refused to divorce the women, claiming that Irina's passport did not correspond with her appearance and therefore the document was not hers. She was forced to go to a different Civil Registry Office, dressed as a man and concealing her transgender status.

94 The description is based on an interview with the victim.

- In November 2015, Irina faced problems with the Civil Registry Office again, when she decided to marry for a second time. When Irina and her fiancée applied for marriage, the Wedding Palace staff made transphobic comments and demanded that Irina “wear clothes appropriate for this venue”. Irina had an impression that the staff was reluctant to accept her application: the couple was repeatedly transferred to different staff members who were consulting each other on whether or not to accept the marriage application. The process took longer than an hour, but the application was finally accepted. When Irina, dressed in formal suit, her bride and their guests arrived to the marriage ceremony, they were repeatedly transferred to different staff members again and the wedding was delayed. When the time for the ceremony came, the women were asked to enter the hall, but instead of conducting the ceremony, staff members just asked the brides to sign necessary papers. The women were not declared spouses and were not offered to exchange rings. When Irina asked why there was no ceremony, the Palace representative answered: “We decided it would be better for us and for you” and added rudely: “You have already had your ceremony”. Staff member also threatened Irina to call the police if she and her wife did not leave because they were supposedly disturbing public peace. Irina asked for an official written denial, but was rudely refused⁹⁵.

95 The description is based on an interview with the victim.

Recommendations

To the Saint Petersburg Human Rights Ombudsman

1. To promote effective investigation, prosecution and punishment of all act of violence based on the sexual orientation and/or gender identity of the victim, and actions intended to incite hatred or enmity, or to humiliate a person or a group of people on the grounds of their relation to LGBTQI community, with qualification of the motive of hatred in such crimes. In particular, to promote recognition of LGBTQI persons as a social group protected under the Criminal Code in order to gain the qualification of the motive of hatred as an aggravating circumstance or characterizing indicia;

2. To continue to promote and support dialogue between the representatives of the LGBTQI communities of the region and the city authorities (including law enforcement agencies), for example, through joining round tables or trilateral meetings;

3. To promote dialogue between representatives of transgender communities and Civil Registry Offices (first and foremost, the Civil Registry Office Committee of Saint Petersburg Government) to ensure the establishment of legal gender recognition procedure adhering to international standards;

4. To continue to include data on discrimination on grounds of sexual orientation and/or gender identity as well as other human rights abuses against members of LGBTQI communities and their allies in the Ombudsman's annual report.

To the Committee on Legality, Public Order and Safety of the Saint Petersburg Government

1. To ensure the possibility to hold peaceful public events in support of the human rights of LGBTQI persons;

2. To refrain from groundless refusals (including refusals on grounds of the "propaganda law") to approve the holding of such public events, to refrain from creating other administrative barriers for holding peaceful public events in support of LGBTQI.

To law enforcement agencies

1. To ensure the investigation, prosecution and punishment of all acts of violence motivated by sexual orientation and/or gender identity of the victim, as well as acts aimed at inciting hatred or enmity, as well as humiliation of a person or a group of people on the grounds of their relation to the LGBTQI community;

2. To use, in classification and determination of punishment for such acts, provisions of the Criminal Code of Russia on the motive of hatred or hostility toward a social group;

3. To ensure the safety and possibility for assemblies that relate to issues of sexual orientation and/or gender identity, including festivals, rallies and pickets;

4. To instruct law enforcement officers, with the help of LGBTQI communities, on respectful behavior towards LGBTQI persons to prevent violent and humiliating behavior of the police officers towards LGBTQI persons and transgender persons in particular.

To the courts

1. To consider, in resolving specific cases on LGBTQI issues:

a) The decision of the Constitutional Court of Russia of September 23, 2014 # 24-p (in particular, “sexual orientation as such cannot be a valid criterion for establishing differences in the legal status of a person and a citizen”; “LGBTQI persons can be viewed as a social group protected from hatred and discrimination by legislative provisions, including the Administrative Offence Code of Russia and the Criminal Code of Russia”);

b) Recommendations on the rights of LGBTQI (hate crimes and hate speech, freedom of assembly and freedom of expression,

application of the “propaganda law” etc.) made by the United Nations treaty bodies established in accordance with the international treaties ratified by the Russian Federation, including recommendations of the UN Committee on the Rights of the Child, the UN Committee on the Elimination of Discrimination Against Women, the UN Human Rights Committee (in particular, the need for recognition of LGBTQI as a social group protected by the Criminal Code).

2. In resolving cases on legal gender recognition:

a) To refrain from stipulation of one or more surgical interventions as a necessary requirement for legal gender reassignment, taking into consideration relevant court decisions in other regions of Russia and international human rights standards;

b) To put into practice Article 8 of the European Convention of Human Rights and Fundamental Freedoms, which states, in correspondence with the practice of the European Court of Human Rights, the need for protection of the right to legal gender reassignment as a part of the right to respect for private life, and the necessity of the change of identification documents if there are medical evidences of gender reassignment;

c) To ensure the existence of a quick and accessible procedure of legal gender recognition through the court, which includes qualified and full preparation of the case and refraining from excessive procedural actions such as medical examination when the person in question has medical certificates of gender reassignment, and to ensure prompt execution of court rulings.

To educational institutions

1. To provide measures for the protection of the labor rights of educational workers who are members of LGBTQI communities, or their supporters;

2. To disallow persecution, harassment and dismissal of educational workers who are members of LGBTQI communities, or their supporters, in particular through prohibition of usage of para. 8 of Article 81 of the Labor Code of Russia in cases of the employee's dismissal on the ground of his or her sexual orientation and/or gender identity.

To the Civil Registry Office Committee

1. To ensure prompt, accessible and transparent legal gender recognition procedure for transgender individuals by administrative means;

2. To ensure the access of transgender individuals to marriage and divorce procedures in accordance with their legal gender without discrimination on the ground of their gender identity, gender expression or appearance.

To medical specialists working with transgender persons

1. To ensure access of transgender individuals to medical services through training of specialists, both in private and governmental medical institutions, on the specific needs transgender people, and through the facilitation of appointments with private doctors when hormonal medication proscriptions are needed;

2. To prevent involuntary hospitalization and other unnecessary measures towards transgender individuals and to prevent denial of medical services on the ground of a person's gender identity or discrepancy between their appearance and documents.

To state guardianship and custodianship authorities

To prevent denials to grant licenses for adoption, guardianship and foster parenting on the ground of sexual orientation or gender identity.

To Non-Government Organizations

To include aspects related to sexual orientation and gender identity in their programs, projects and events, with the participation of members of LGBTQI communities or LGBTQI organizations of the city.

To the Trade Unions

To include aspects related to sexual orientation and gender identity in their programs, projects and events, with the participation of members of LGBTQI communities or LGBTQI organizations of the city and to take measures to protect LGBTQI persons from workplace discrimination.

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