

To the UN Committee on the Rights of the Child

Secretariat
NGO Group for the Convention on the Rights of the Child
1, rue de Varembé
CH-1202 Geneva
Switzerland



Dear Madams/ Sirs,

As stipulated in Article 45(a) of the Convention on the Rights of the Child, the 'Russian LGBT Network', a Russian non-governmental organization, acting in the interests of children, submit for consideration by the UN Committee on the Rights of the Child our Alternative report – Commentary to the fourth and fifth periodic reports by the Russian Federation CRC/C/RUS/4-5, which had been submitted to the Committee in 2012. The present alternative report, however, presents more than just commentaries to the state report that was prepared more than two years ago. Following the logic and structure of the third state report, the present alternative report attempts to provide an overview of the current situation in Russia, taking into account recent events and legislative initiatives.

In compliance with the recommendations offered in the Guide for Non-Governmental Organizations Reporting to the Committee on the Rights of the Child, we confirm that the present alternative report can be distributed and made accessible both electronically and in paper copies; the members of the Committee may refer to the source of the information during their discussions with the government of the Russian Federation. The alternative report for 2013 will be published on the official website of the Russian LGBT Network; we will work to inform the general public about the report and its content. We would also like to inform the Committee that a representative of the organization, the author of this report, would be willing to participate in the Working Meeting with the members of the Committee if they considered this to be helpful to the Committee's work. As recommended by the Committee, we tried to make the report as brief as possible and focused exclusively on issues related to LGBT children.

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NGO Alternative Report 2013
for the United Nations Committee on the Rights of the Child
Commentary to the Fourth and Fifth Periodic Report
by the Russian Federation CRC/C/RUS/4-5

Prepared by the Interregional Social Movement ‘Russian LGBT Network’

Commentary on Paragraph 20

The legislators of the Russian Federation have increased penalties for the crime of ‘sexual intercourse, sodomy and lesbianism’ with a person under the age of 16. Unfortunately, criminal liability connected with this crime is applied in a discriminatory manner. The harshest penalty for sexual intercourse with a person under 16 is a 4-year term of imprisonment. However, in cases where the assailant is of the same sex as the victim, the crime is punishable by a maximum of 6 years of imprisonment. The fact that an assailant and victim are members of the opposite sex should not be considered as a mitigating circumstance in cases of sexual violence against children. In our view, the perpetrators of these crimes must face equally harsh penalties, regardless of whether or not their victim was of the same or opposite sex.

The provision stipulating the penalty for sexual intercourse, sodomy, and lesbianism with a person under 16 years old is supplemented by a note stating that ‘a first-time offender [...] can be released from penalty by the court if it is established that this person and the crime committed by them are no longer socially dangerous due to marriage between the offender and the offended party.’ⁱ Given that same-sex marriage is not legal in the Russian Federation, the note in question distinguishes between homosexual and heterosexual relationships and provides release from criminal liability exclusively in cases where the offender and the victim are of the opposite sex.

Commentary on Paragraphs 66-88

Since 2006, regional laws banning the so-called ‘propaganda of homosexuality among minors’ have been adopted in 10 regions of Russia: Ryazan region (2006), Arkhangelsk region (2011), Kostroma region (2012), St Petersburg (2012), Novosibirsk region (2012), Samara region (2012), Krasnodar krai (2012), Republic of Bashkortostan (2012), Magadan region (2012), and Kaliningrad region (2012). These regional laws introduce amendments to regional laws “On fundamental guaranties of the rights of the child” or “On protection of morals of children”, suggesting that homosexuality is harmful to minors and something from which they must be protected. ‘

Judicial decisions in constitutional challenges to the laws enacted in the Ryazan region (issued by the Constitutional Court of the Russian Federation) state the official position of the Russian Federation with respect to homosexuality and deems homosexual propaganda as ‘information that might be harmful for moral, spiritual, and physical development, including forming a distorted perception of traditional and non-traditional marital relationships as of equal social value.’ⁱⁱ.

This position has been affirmed by the Supreme Court of the Russian Federation in similar cases challenging the laws on the propaganda of homosexuality in the Arkhangelskⁱⁱⁱ, Kostroma^{iv}, and Samara regions, as well as in St Petersburg^v.

Additionally, amendments to regional Codes of Administrative Offences have been made and establish administrative penalties for such actions in all of the above-mentioned regions with the exception of Magadan.

Recently, the first reading of a proposed bill was passed by the State Duma of the Russian Federation, and, if adopted, will place a national ban on actions considered to be ‘propaganda of homosexuality among minors.’

In effect, these laws deprive persons under 18 of access to reliable and correct information regarding sexual orientation and gender identity, violating the right of access to information guaranteed by the Convention.

Because any reference to homosexuality might be qualified as a violation of these laws, non-governmental organizations working for the protection of the rights of LGBT people must mark their informational materials and publications with the ‘18+’ sign and must exclude minors from their target audiences and beneficiaries.^{vi}

Moreover, the laws banning so-called ‘homosexual propaganda’ negatively affect the policies of state schools. In 2013, the Russian LGBT Network received a request for legal assistance from two young men who reported cases of bullying against homosexual students in state schools. The young men, aged 16 and 17, were subjected to bullying and verbal abuse by their classmates at school no. 1849 in Moscow (right after the federal law on ‘homosexual propaganda’ was passed in the first reading) and in lyceum no. 22 in Sochi, Krasnodar region (after the law on ‘propaganda’ was adopted in the region). School administrations did not take any measures to protect these young men. In the Moscow case, school teachers have been openly accusing the young men of ‘propagating homosexuality,’ consequently encouraging an atmosphere of bullying and abuse. The teachers were also accused of lowering the students’ grades after the school administration made conclusions about the young man’s sexual orientation based on his social network profile. According to the young man, teachers openly state in the classroom that they are against same-sex marriage and homosexuals.^{vii}

In another case, two young women (aged 14 and 17) from Novosibirsk committed suicide by jumping off the balcony of the 14th floor of an apartment building on 2 February 2013 (by that time the law on propaganda had already been adopted in the Novosibirsk region and passed in the first reading by the State Duma).^{viii} According to young women’s friends, they belonged to the LGBT community.

The Russian Federation justifies such laws as necessary for the protection of children and claims they are in compliance with the Convention on the Rights of the Child. However the government neglects the existence of people under 18 years old who identify as LGBT. Thus, legislators reinforce and perhaps even encourage the atmosphere of bullying and intolerance. Given that there are no official, governmental programs aimed at promoting the acceptance of sexual and gender minorities, laws on the so-called ‘propaganda of homosexuality’ restrict access to the only remaining source of support on issues of sexual orientation and gender identity – namely, non-governmental organizations that now face fines for such activities. School psychologists and those

who provide counseling at support centers for adolescents openly admit that, due to the risks of administrative penalties, they are afraid to provide counseling on LGBT issues and to LGBT adolescents.

Commentary on Paragraphs 89-91

The Russian Federation does not acknowledge cases of degrading treatment of LGBT children. However, we would like to draw attention to cases described in our commentary to paragraphs 66-88. Moreover, apart from problems that LGBT adolescents face at school, there is a broad spectrum of other problems.

In November 2012, the Russian LGBT Network, in cooperation with two other LGBT organizations, presented a report to the United Nations Committee Against Torture, where we provided information on cases regarding the coercive medical treatment of transsexual and homosexual people. Cases included in that report may also be of interest to the Committee on the Rights of the Child.

Despite the fact that in 1999 the Russian Federation adopted the standards of the 10th revision of the International Statistical Classification of Diseases and Related Health Problems (ICD-10), attempts to 'cure' people of homosexuality and to diagnose transsexuals with a psychiatric disease remain a reality. This is particularly true in regards to persons under 18, who are often subjected to treatments to 'cure' their homosexuality or transsexuality by their parents or legal guardians.

For example, in spring 2012, 16-year-old Ivan Kharchenko was placed in the Marshak clinic in Moscow by his father, upon learning that Ivan was gay. The young man was forced to stay in the clinic for several days and was allegedly subjected to psychotropic medication in order to 'cure' his homosexuality. On the night of April 24-5, LGBT activists, journalists and a lawyer managed to get Ivan out of the clinic. Ivan reported to a representative of the Russian LGBT Network that he was put in the clinic by his father, who is a doctor himself and who has connections to the Marshak clinic, in an attempt to 'cure' his homosexuality. In the clinic he was given unknown drugs, which caused weakness and vertigo.^{ix} In the documents that the clinic presented to the police, Ivan was documented as a 19-year-old who had consented to treatment for his drug addiction. According to Ivan, he had not given permission for any such treatment.^x After Ivan was taken to his mother's place (his parents are divorced), Ivan ran away and stayed at his friend's home, because he was afraid of being placed in the hospital again by his father. As of today, government officials have failed to conduct any investigations into the case.

Transsexuality is now recognized as a diagnosis according to the ICD-10. In order to ensure the social inclusion of transsexual persons, such persons, upon their decision, have the right to hormone therapy or surgery aimed at conforming their physical characteristics to their gender identity. They are also guaranteed the right to make necessary amendments to their official documents (sex and name). Despite these protections, parents and guardians of people under 18 often attempt to 'cure' transsexuality in other ways, often by bringing their child to psychiatrists who will diagnose the child as mentally ill.

For example, in May 2012, in St Petersburg, a 17-year-old transgender man requested support from the LGBT organization 'Coming Out'. The young man moved to St Petersburg with his mother from another city and lived with her and several other relatives. They once had an argument about his gender identity at home, during which the man was verbally abused by his relatives. His mother

repeatedly bit and hit him and locked him in his room. She had previously taken him to a psychiatrist hoping the doctor would diagnose her son as mentally ill. This time he escaped through a window, and refused to return home, for fear of being placed in a psychiatric clinic.^{xi}

In practice, it is nearly impossible for transsexual persons under 18 to amend their official documents. Consequently, there are numerous reported cases of degrading treatment of transsexual students at schools.

For instance, in 2012 in Perm, a transsexual man (aged 17) was prevented from entering a Unified State Exam by the staff of a state school, because the person checking documents at the entrance doubted that his passport, with a female name and sex, was really his.

As a result, the young man had to undergo the degrading process of having his biological sex checked and was forced to undress to his underwear in the presence of a female staff member. Only then was the young man allowed to enter the class to take the exam.^{xii}

Suggested recommendations for the Russian Federation:

1. To repeal regional laws banning the so-called ‘propaganda of homosexuality’ and to prevent their adoption in other regions of Russia and on the federal level, because such laws limit the rights of children to information and encourage intolerance and discrimination that may lead to the suicide of such children and adolescents.
2. To provide actual and unlimited access for children to credible and reliable information on sexual orientation and gender identity; and to allow non-governmental organizations to disseminate such information without the risk of administrative penalties.
3. To establish that homosexuality is not a disease, pathology, or abnormality, particularly in regards to children, in order to prevent coercive ‘treatments’ of homosexual adolescents by their parents or legal guardians.
4. To conduct a comprehensive, independent and unbiased investigation into the case of Ivan Kharchenko and to take offenders to court.
5. To establish that transsexuality is wrongly classified as a mental illness or pathology, thus preventing cases of coercive ‘treatments’ of transsexual and transgender children by their parents and legal guardians.

ⁱ Criminal Code of the Russian Federation, <http://www.consultant.ru/popular/ukrf/> (accessed on 28 February 2013).

ⁱⁱ Definition by the Constitutional Court of the Russian Federation of 19 January 2012.

ⁱⁱⁱ Definition by the Supreme Court of the Russian Federation of 15 August 2012, http://www.supcourt.ru/stor_pdf.php?id=501100 (accessed on 28 February 2013).

^{iv} Definition by the Supreme Court of the Russian Federation of 7 November 2012, http://www.supcourt.ru/stor_pdf.php?id=512110 (accessed on 28 February 2013).

^v Definition by the Supreme Court of the Russian Federation of 3 October 2012, http://www.supcourt.ru/stor_pdf.php?id=508846 (accessed on 28 February 2013).

^{vi} See website of the Arkhangelsk regional LGBT organization Rakurs’, <http://rakurs.ucoz.com/>

^{vii} Data collected within the program ‘Monitoring of discrimination’ of the Russian LGBT Network.

^{viii} Newspaper ‘Komsomolskaya Pravda’, ‘Novosibirsk school girls who committed suicide belonged to a subculture’ <http://www.kp.ru/online/news/1357248/> (accessed on 27 February 2013).

^{ix} Cases documented within the program ‘Monitoring of discrimination’ of the Russian LGBT Network.

^x ‘Novaya Gazeta’ newspaper, ‘A school student who came out as gay held for almost two weeks in a drug rehabilitation clinic, <http://www.novayagazeta.ru/news/56317.html> (accessed on 27 February 2013).

^{xi} Case documented within the program ‘Monitoring of discrimination and violation of rights’ that is carried out by LGBT organization ‘Coming Out’ in cooperation with the Russian LGBT Network.

^{xii} Case documented within the program ‘Monitoring of discrimination’ of the Russian LGBT Network.