Anti-Propaganda of Homosexuality Laws:

10 Russian regions have laws in force that prohibit the “propaganda of homosexuality” among minors under vague claims that the existence of or availability of information about homosexuality is damaging to minors and society at large. A similar law is being considered on the national level by Russia’s parliament, where it has passed the first of three readings. Laws banning “propaganda of homosexuality” are discriminatory and violate international human rights law and the Russian constitution. Lawmakers and Russia’s Constitutional Court cite the protection of children’s rights as requiring such laws, the latter noting that traditional understandings of family, motherhood, and childhood are values that require special protection from the government. This analysis clearly contradicts the Human Rights Committee’s 2012 decision in Fedotova vs. Russian Federation (CCPR/C/106/D/1932/2010) which found that the law banning “propaganda of homosexuality” in one Russian region violated the right to freedom of expression and was discriminatory. The laws are vague and do not clearly define key terms like “propaganda,” making them vulnerable to arbitrary interpretation and implementation and making it difficult for citizens to know what actions will be found to violate their provisions. For example, four LGBT rights activists were detained for violating the law banning “propaganda of homosexuality” in May 2012 during their participation in a Democratic March, apparently because they were holding rainbow flags. Thirteen other LGBT rights activists were detained at the same time without official justification. Regional authorities routinely prohibit demonstrations touching on LGBT rights on the basis that they “might” violate laws outlawing the “propaganda of homosexuality.”

Hate Crimes and Violence

In a recent survey of Russian LGBT people, 15.3% reported they were victims of violence because of their sexual orientation over a 9-month period. In 2012, the Committee Against Torture noted “reports that police have failed to promptly react to, or to carry out effective investigations and bring charges against all those responsible for violent attacks” against LGBT people. The Russian Criminal Code does not include crimes motivated by hatred of LGBT people as an aggravating factor in criminal sentences as it does for crimes against other distinct social groups. In fact, not a single hate crime against LGBT people has been investigated as a hate crime and no individuals have been convicted of a crime motivated by hatred of LGBT people. In two typical cases in May and June 2012, numerous LGBT rights advocates were violently attacked, apparently based on their sexual orientation and following their participation in a public demonstration in support of LGBT rights; police are however investigating the attacks as crimes of hooliganism rather than crimes against LGBT people as a social group. In many cases, crimes against LGBT people based on their sexual orientation are not investigated at all, or are investigated as lesser crimes such as hooliganism.
Violations of the Rights to Freedom of Assembly

Under Russian law, organizers of demonstrations and rallies must notify the authorities several days prior to the event and the authorities can suggest alternative locations or times based on certain considerations. This authorities’ ability to suggest changes has de facto led to prohibitions on gatherings or their marginalization. Indeed, Russian authorities have fully sanctioned only one demonstration in support of LGBT rights despite dozens of applications over the past few years in numerous cities. In all other cases, authorities have either completely banned the demonstrations or required that they be held in isolated locations where there is little hope of raising public awareness of LGBT rights issues. The authorities justify their prohibitions of the demonstrations on strictly technical questions, or with vague justifications such as the demonstration will offend traditional values or violate other citizens’ rights, alleged disruption to public transport and movement, and planned removal of snow. Following passage of the laws prohibiting “propaganda of homosexualism,” the authorities began citing these prohibitions in their denials. Moreover, in 10 cases of demonstrations in support of LGBT rights, the authorities did not provide sufficient security for participants, resulting in their being attacked by opponents of LGBT rights.

Key Recommendations for the Russian Federation

- Abolish all prohibitions on “propaganda of homosexualism” and refrain from passing similar prohibitions, including on the national level.
- Include the motivation of homophobic and transphobic hatred into the Criminal Code of the Russian Federation as an aggravating factor for sentencing.
- Provide appropriate and adequate protection to participants of all peaceful demonstrations without discrimination, including those defending the human rights of LGBT individuals, and protect participants in demonstrations against any attempts to unlawfully obstruct assemblies or to impede the actual enjoyment of the right to freedom of expression and peaceful assembly.
- Take appropriate and concrete measures to prevent unlawful obstacles to the enjoyment of the freedoms of expression and peaceful assembly erected by the imposition of arbitrary legal or administrative barriers and vaguely justified by public health, morality, or public policy.
- Implement the Committee Against Torture’s recommendations15 (a) and (b) from its Concluding observations on the fifth periodic report of the Russian Federation (CAT/C/RUS/CO/5), including by encouraging appropriate investigation of hate-based crimes against LGBT people and raising awareness among law enforcement authorities, prosecutors, judges, and other civil servants by including information about sexual orientation and gender identity within the framework of human rights into their training programs.

This information is presented by the Russian LGBT Network and the Youth Human Rights Movement. Please contact Maria Kozlovskaya (maria.k@lgbtnet.ru) for more information, or read a report on the situation of LGBT people in Russia (http://bit.ly/167ZS4o).