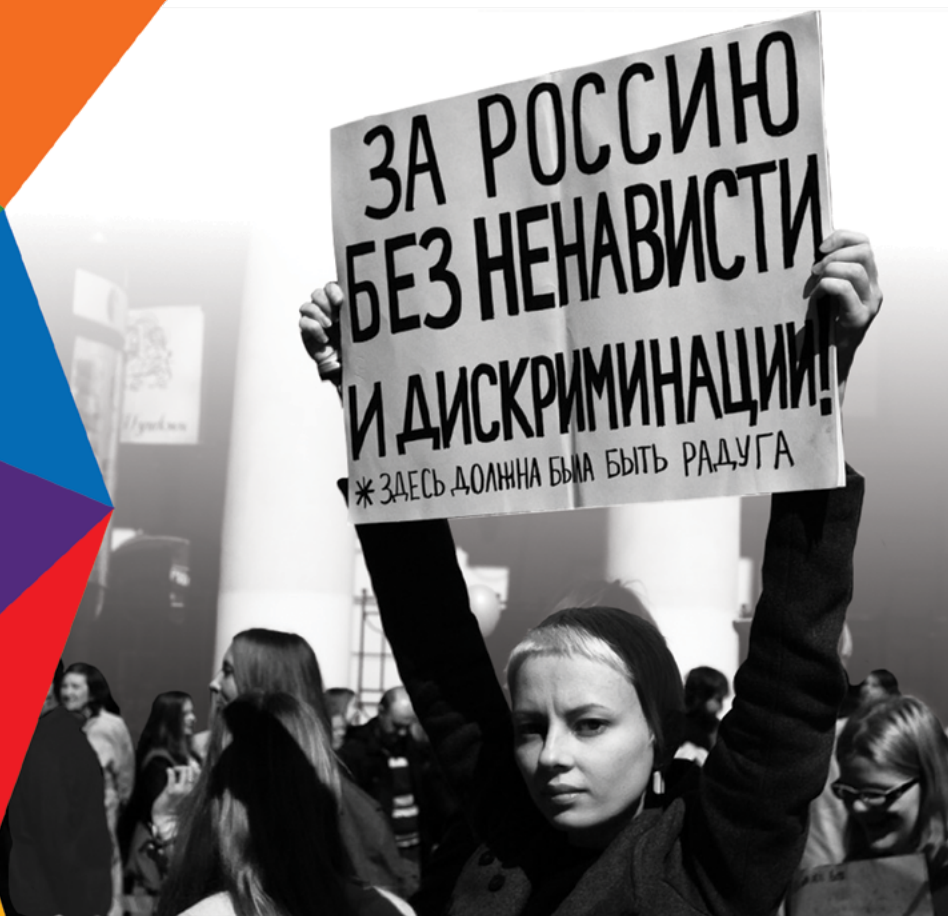


COMING OUT

LGBT GROUP



Report

On Incidents of Discrimination
and Violence on Grounds
of Sexual Orientation
and Gender Identity in 2016
in Saint Petersburg, Russia

REPORT
ON INCIDENTS OF DISCRIMINATION
AND VIOLENCE ON GROUNDS
OF SEXUAL ORIENTATION
AND GENDER IDENTITY IN 2016
IN SAINT PETERSBURG, RUSSIA

Coming Out LGBT Initiative Group

2017

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This report is based on the results of the discrimination monitoring research undertaken by Coming Out LGBT initiative group in 2016. The report covers main types of discrimination the LGBTIQ community of Saint Petersburg faced in 2016: hate crimes, violation of the right to freedom of assembly and its negative impact on the activities of LGBT initiatives, labor discrimination, public outings and other violations. This report features descriptions of specific cases of human rights abuses as well as an analysis of the situation with LGBTIQ rights in Saint Petersburg from the perspective of Russian legislation and international human rights standards.

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Introduction

This report has been prepared by Coming Out LGBT initiative group and is based on the research carried out in 2016 by the group's monitoring program. Coming Out has been striving since 2008 for the state and social recognition of the human dignity and equality for each person, regardless of their sexual orientation and/or gender identity. We hold seminars, round-tables, discussions and support groups, publish information booklets, offer free-of-charge psychological and legal assistance to LGBT people and their close ones, handle strategic legal cases, collect data on cases of discrimination of LGBTIQ people¹.

Methodology

The situation of LGBTIQ communities in Saint Petersburg on the one hand derives from the vertical interaction between the authorities and private individuals that may give rise to “classic” human rights violations (such as restriction on freedom of assembly or expression, unlawful acts or omissions by law enforcement authorities, violation of the right to an effective remedy). On the other hand, a considerable number of cases of discrimination and violence against LGBTIQ people take place in the everyday life rather than in the vertical relations with the authorities: at the workplace, in health facilities, in educational institutions, in the family and during interactions of private individuals with one another (for example, physical assaults, insults, harassment, denial of service). This report features “classic” cases of violation of human rights (the perpetrator being the state, represented by the authorities and their officials), as well as cases of discrimination on grounds of sexual orientation and/or gender identity, where the perpetrator is a non-state actor: private individuals and organizations (commercial and non-commercial, medical, educational and other).

In the course of the monitoring process, the program coordinator and a

¹ Abbreviations «LGBT» (lesbian, gay, bisexual and transgender people), as well as «LGBTIQ» (lesbian, gay, bisexual, transgender, intersex and queer people) are used in this report

team of volunteers collect testimonials of violence, discrimination and other violations against LGBTIQ people on the grounds of their sexual orientation and/or gender identity. The monitoring relies on the following primary sources:

1. Victims and witnesses of violations (stories collected via online survey²);
2. Media reports;
3. Data collected by other human rights initiatives and organizations;
4. Observation during street protests and other public events by the monitoring team;
5. Appeals of victims to Coming Out's legal assistance program, as well as facts of the cases handled as part of the strategic litigation program of Coming Out;
6. Internet messages (blogs, online forums, websites).

All cases are recorded in a database and then verified by the monitoring team through personal contact with the victims and interviewing. In cases when the victim of a violation is not available for personal interviewing, we attempt to verify the information by questioning witnesses and studying every available source on the matter. The degree of anonymity in case descriptions is defined by the survivor's wishes, as well as considerations of their safety.

The endeavor of the program in 2015 and 2016 was to broaden the scope of the monitoring and to gather as much violation-related data from people belonging to as many groups and identities within LGBTIQ communities as possible. Unfortunately, the monitoring sample is necessarily restricted, partly due to the fact that LGBTIQ people are cautious about sharing their own stories, partly because many of them do not see these incidents as worthy of attention or publicity, being used to their own vulnerability and perceiving violence and discrimination as normal. Consequently, the people willing to talk about violations they experienced are primarily

2 Monitoring data collection via online questionnaires on the website of Coming Out: <http://comingoutspb.com/soobshchit-o-narushenii>

those involved in LGBT activism and open about belonging to an LGBTIQ community in their daily life, while the stories of violations that haunt the lives of the “closeted” part of the community stay in the shadow. That being so, the following report does not claim to be an all-around study of the situation of the LGBTIQ population of Saint Petersburg, but rather aims to describe the main vulnerabilities and violations that LGBT people routinely encounter, as well as the risks and pressures that the LGBT activist community come up against, exemplified by specific cases. Currently, the monitoring program of Coming Out continues its efforts towards expanding the field of study. In particular, we examine the intersection of various types of discrimination, trying to cover more thoroughly the violation of the human rights of people belonging to vulnerable groups within LGBTIQ communities, such as transgender people³, HIV-positive LGBTIQ people, LGBTIQ parents and people, compelled to hide their sexual orientation and/or gender identity in their daily life. This is not an exhaustive list of vulnerable groups within LGBTIQ communities, and the program’s goal is to record all possible cases.

The restricted character of our sample prevents us from making a valid quantitative analysis of violations, the cases we have recorded not being representative enough. Our report offers therefore a qualitative description of the violation cases, as well as an analysis of the situation regarding respect of the rights of LGBTIQ people in Saint Petersburg from the point of view of Russian legislation and international human rights standards.

Summary of monitoring results

Considering the above-mentioned methodological restrictions, this report examines 109 incidents of human rights violations on the grounds of SOGI⁴.

³ Several cases of discrimination against transgender people in 2016 have been recorded in collaboration with the Transgender Legal Defense Project; these cases were described in TLDP report on the violation of the rights of transgender people in Russia. See: Saint Petersburg, Transgender Legal Defense Project, 2016: http://pravo-trans.eu/files/violation_of_the_rights_of_transgender_people_in_Russia.pdf

⁴ Sexual orientation and/or gender identity.

Analyzing the data acquired during the monitoring, we can point out the major issues that the LGBTIQ people and the LGBT activist movement of Saint Petersburg faced in 2016. The Federal law banning so-called “propaganda of non-traditional sexual relationships among minors” (Code of the Russian Federation on Administrative Offenses, Art. 6.21), was not applied for administrative prosecution in Saint Petersburg in 2016. However, the city authorities continued to use it for the purpose of restricting the constitutional rights to freedom of assembly and expression, invoking this law to motivate their refusals to authorize the holding of public events.

Hate crimes remain an acute and urgent concern. A series of bias-motivated crimes took place in 2016, including two murders⁵. Physical assaults motivated by homophobia usually happen as a result of LGBTIQ people being identified as such because of their appearance or presence of LGBT symbols on their clothing (9 cases); organized criminal groups who target LGBTIQ people by setting up fake dates in private apartments are still active (11 cases).

The situation regarding freedom of assembly for LGBT activists drastically worsened in 2016, compared to the previous period. Previously, the city authorities would not obstruct LGBT events, held for the purpose of collective discussion of matters of public interest and expression of public opinion in a specially designated area (“Hyde park”) on the Mars Field; mass arrests of LGBT activists during unauthorized street protests were likewise uncommon. In 2016, not a single public event was successfully carried out as planned, without impediment from the city authorities: to our knowledge, the latter refused to authorize the holding of public LGBT-related street events 13 times. During unauthorized events with an LGBT agenda, activists were arrested and in several cases, held administratively liable. We know of at least 28 cases of detentions of LGBT activists during street protests in 2016.

The activities of the city’s LGBT initiatives are being hampered in other

⁵ We cannot claim that homophobia- or transphobia-motivated murders have never happened in Saint Petersburg before, but neither the general public nor Coming Out’s monitoring program have any knowledge of such cases for at least two recent years.

ways: the monitoring program of Coming Out recorded cases of direct pressure on LGBT initiatives from the authorities (2 cases) as well as cases of homophobic activists attempting to interfere with the holding of LGBT-themed cultural and educational events (10 cases).

LGBTIQ people remain vulnerable to abuse in the labor sphere: in 2016, we recorded 11 cases of labor discrimination; in 5 cases, people lost their jobs because of their sexual orientation and/or gender identity. So-called “outing”⁶ of LGBTIQ people is another serious problem, often done with the purpose of causing their dismissal: we know of at least 5 outing campaigns against LGBTIQ people in Saint Petersburg. According to our sources, the number of people dismissed after being outed in Saint Petersburg decreased in 2016 (only 1 person lost their job following to being outed), but the dangers of this form of persecution remain: spreading of information related to private life can still harm a person’s reputation and may lead to an increase in ambient homophobia, jeopardizing the safety and well-being of a specific person as well as that of their family and LGBTIQ communities on the whole.

Another form of discrimination that LGBTIQ people face in their daily life is denial of various services. We recorded 2 such cases, both incidents happened to transgender people.

LGBTIQ people are also susceptible to violent treatment by the members of their families or other persons who share their domicile: in 2016 we recorded 8 such cases, in 5 of these the survivor was a minor.

Therefore, the monitoring and the analysis of collected data on the situation of LGBTIQ people in Saint Petersburg leads us to conclude that the members of this social group, the “closeted” part of the community as well as LGBT activists, lack protection from the point of view of the existing legislation and the law enforcement practice likewise. With the aim of improving the situation of LGBTIQ communities, we offer a set of recommendations to the authorities, non-governmental and private organizations of Saint Petersburg.

⁶ “Outing” refers to acts of deliberate disclosure of a person’s sexual orientation and/or gender identity by other people without this person’s consent, usually with the purpose of injuring their reputation and/or causing problems in their professional or personal life.

Hate crimes

Hate crimes are criminal acts motivated by prejudice or bias in relation to a specific group of people. Homophobic or transphobic hate crimes are crimes (usually, physical violence) chiefly motivated by hatred or enmity towards LGBTIQ people. The danger of hate crimes lies in the fact that perpetrators commit or advocate acts of violence solely because the victim (supposedly) belongs to an LGBTIQ community. Law is broken with the deliberate purpose to stop another person from exercising his or her freedom.

International human rights institutions have developed a set of standards for the use of state authorities concerning the prevention and investigation of homophobic and transphobic hate crimes, as well as standards for punishment for such crimes and reparation norms for their victims. Thus, the Committee of Ministers of the Council of Europe has recommended to all member states to ensure effective, prompt and impartial investigation into hate crimes, as well as to ensure that when determining sanctions, a bias motive related to sexual orientation or gender identity should be taken into account as an aggravating circumstance⁷.

In 2012, the Committee against Torture recommended that the Russian Federation ensure a prompt, impartial and effective investigation into all acts of violence against LGBT people, bringing those responsible to justice and providing reparation to victims, keep statistics on such crimes and investigation results, as well as publicly condemn violence against LGBT people and educate law enforcement officers⁸.

In 2015, the United Nations Human Rights Committee⁹ in Concluding Remarks to the Seventh periodic report of Russia expressed concern

⁷ Recommendation of the Committee of Ministers of the Council of Europe, 31 March 2010, # CM/Rec(2010)5 to member states on measures to combat discrimination on the grounds of sexual orientation or gender identity (Annex, pt. 1,2): <https://wcd.coe.int/ViewDoc.jsp?id=1606669>.

⁸ Committee Against Torture. Concluding remarks: Russian Federation CAT/C/RUS/ CO/5 (2012). Paragraph 15.

⁹ Concluding remarks on the 7th periodic report from the Russian Federation to the UN Human Rights Committee, 2015

about reports of discrimination, hate speech and violence against lesbian, gay, bisexual and transgender people (LGBT) and LGBT activists, as well as violation of their rights to freedom of assembly and expression, and also recommended that Russia make an official statement in clear terms that the Russian state will not condone social stigmatization of homosexuality, bisexuality or transgender identity in any form, as well as public hate speech, discrimination and violence on the grounds of sexual orientation and/or gender identity. The Committee recommended that Russia “take all necessary measures to ensure legal protection of LGBT against discrimination and violence, investigation into and sanction for any acts of violence motivated by sexual orientation and/or gender identity of the victim”.

However, as evident from this report, the recommendations of the UN Human Rights Committee have not made a difference in Russia.

The fact that LGBTIQ people have not been recognized as a social group remains an important obstacle. Though the current wording¹⁰ of the Criminal Code of the Russian Federation allows for the hate motive to be taken into account as an aggravating circumstance (“f” pt. 1 art. 63 of the Criminal Code of the Russian Federation) or a constituent element (“k”, pt. 3 art. 105, “f”, pt. 2, art. 111, “f”, pt. 2, art. 112 of the Criminal Code of the Russian Federation), all attempts to initiate the application of these provisions to homophobic and transphobic hate crimes have as yet failed. Law enforcement structures and courts have continually refused to recognize LGBTIQ people as a social group even on being presented expert statements claiming the opposite. In 2014, the Constitutional Court of Russia ruled, in relation to the federal ban on “propaganda of non-traditional sexual relationships among minors”, that “...the State is obligated to take measures aimed to prevent eventual violation of the rights and lawful interests of individuals on the basis of their sexual orientation, as well as to provide an effective remedy for the protection and restoration of their violated rights according to the principle of equality of all people before the law and court, enshrined in the article 19 (part 1) of the Constitution of the Russian Federation. The said Constitutional

10 The Criminal Code of the Russian Federation, 13 June 1006, № 63.10

principle, implying, inter alia, that the rights and freedoms of no-one may be restricted, and that no advantage may be introduced on the basis of belonging to any *social group*, a group of people of a certain sexual orientation may be understood as such, is defined concretely in sector-specific legislation (art. 3 of the Labor Code of the Russian Federation... and others). State legal protection against discrimination, including discrimination on the basis of belonging or not belonging to any social group, is also ensured by application of measures of administrative (art. 5.62 of the Code of the Russian Federation on Administrative Offenses) and criminal ("f", art. 63 and art. 136 of the Criminal code of the Russian Federation) liability" [emphasis added]¹¹.

In March 2015 the UN Human Rights Committee, during the review of the periodic International Covenant on Civil and Political Rights performance report, noted that hate crimes against LGBT warranted the application of "f", pt. 1 art. 63 of the Criminal Code of the Russian Federation (commission of a crime by reason of political, ideological, racial, national or religious hatred or enmity or by reason of hatred or enmity with respect to a social group), in other words, recognized LGBT people as a social group, eligible for protection against discrimination and hate crimes against LGBT as a social group¹². In October 2015, during the review of the periodic report of the Russian Federation before the UN Committee on the Elimination of Discrimination Against Women, the Committee experts expressed concern regarding the failure of the Russian Federation to apply the relevant provisions of the Criminal Code in cases of hate crimes against LBT women¹³.

Unfortunately, law enforcement authorities of Saint Petersburg are failing to consider both the decision of the Constitutional Court and the international standards, and consequently, the motive of hatred is not

11 Decision of the Constitutional Court of the Russian Federation of 23 September 2014 #Nº 24-П in a constitutional petition case regarding pt. 1 art 6.21 of the Code of the Russian Federation on Administrative Offenses.

12 Human rights committee; Concluding remarks: the Russian Federation. CCPR/C/ RUS/ CO/7 (2015). Paragraph 1

13 Recording of the session of the Committee on the Elimination of Discrimination Against Women on October 27 2015: <http://www.treatybodywebcast.org/category/webcast-archives/>

taken into account during investigation of homophobic and transphobic assaults. Quite often, the survivors' complaints are not followed up at all, or are not effectively investigated.

- Such was the case of Alexey, who tried to seek justice after being severely beaten by a group of homophobic activists on November 22, 2015. He was attacked on his way home from LGBT "Side by Side" ("Bok o bok") film festival screening in the center of Saint Petersburg. Walking down the street, he was assaulted by three male strangers, who knocked him down, beating and kicking him all over his body while shouting homophobic insults. When Alexey managed to escape, he saw his attackers join a larger group of no less than 10 people, making their way towards the hotel where the festival event was housed, shouting: "A good faggot is a dead faggot!" Following the assault, Alexey received facial injuries and a concussion, his nose was broken, a kidney injury was also diagnosed. These necessitated a two-day hospital stay and a week of bed rest.

On October 24, Alexey reported the incident to the 16th department of the Administration of the Ministry of Internal Affairs (MVD) for Vasileostrovsky District, demanding that criminal proceedings be initiated for an offense under "d", "e", "f", pt. 2, art. 112 (Intentional Infliction of Injury to Health of Average Gravity) and pt. 2 art. 213 (Hooliganism) of the Criminal Code of the Russian Federation. During the following investigation, the police questioned the witnesses cited by Alexey: according to the officer conducting the initial inquiry, the employees of the private security firm were questioned and the hotel surveillance footage was removed; Alexey's medical certificates were submitted for forensic assessment.

By the time the forensic report arrived, the investigation deadline had expired. Even though the witnesses had been questioned, the police refused to initiate criminal proceedings on the grounds of insufficient evidence of harm caused to the victim's health. However, since the refusal had been issued in the absence of the results of the forensic assessment, the public prosecutor's office returned the case for new investigation. Another forensic assessment was ordered, which once again failed to arrive in time, and the case materials were once again submitted to the public prosecutor's office.

The interrogating officer refused to request the victim's medical file from the

polyclinic on the grounds that the treatment had not been completed; later this officer had to stop handling the case due to illness. He suggested that Alexey's lawyer request the file herself. Personally the interrogating officer plainly stated to Alexey's lawyer that he had no intention of prosecuting this case because it was impossible to identify the perpetrator; lacking the results of the forensic assessment, proceedings could not be initiated because the article to be applied was not determined. In the course of the first half of 2016, several orders for dismissal of proceedings were issued, later revoked as unlawful. During the screening of the surveillance footage of the festival event made on the day of the assault, Alexey recognized the attacker in one of the visitors. Printouts from the surveillance footage and the social network profile of the person whom Alexey had recognized as the attacker, were admitted into evidence. During further investigation, Alexey's lawyer demanded that the interrogating officer investigate the person featured on the footage for participation in the crime. Several months later, she received another order for dismissal of proceedings, lacking the date of the document. The order stated that summons to appear for interrogation on the matter had been mailed to the suspect, but at the time of the issuing of the order for dismissal of proceedings, the suspect had failed to present himself. It also stated that based on the available documentary evidence, the degree of harm caused to the victim's health could not be estimated. The last order for dismissal of proceedings that we know of is dated August 25, 2016, and was revoked by the Public Prosecutor for Vasileostrovsky District; the case returned for further investigation. It is evident that the investigating authorities have not been taking appropriate action for the initiation of criminal proceedings, which may be and should have been initiated on the grounds of infliction of injury to health of any gravity by unidentified persons, regardless of the hate motive. In December 2016 Alexey filed a claim for compensation for the moral injury caused by an ineffective investigation.

The hate crime related data we have collected during the monitoring of Coming Out in 2016 can be separated into three categories: *murders*, *physical assaults* and acts of violence by means of setting up *fake dates*.

Murders

- In March, a well-known journalist Dmitry Tsilikin was murdered in a homophobia-motivated¹⁴ assault. He was found dead in his own apartment, with multiple stab wounds on his body; his telephone, laptop computer and wallet were missing. A week later Sergey Kosyrev, a 22 year old student, was detained on suspicion of having committed the crime. On the night of the murder, on 27 March, he had visited Tsilikin, whose acquaintance he had made on the Internet. According to the Investigative Committee, “following a sudden quarrel the accused caused the death of the victim, by inflicting no less than 30 wounds with a cutting or pointed instrument”, after which he stole the victim’s belongings and fled. On being detained, Kosyrev not only confessed, but during the interrogation he actually called himself “The Purifier”, referring to his own life as “a crusade against a certain social group”, described his feelings at the moment of the murder of Tsilikin as “not enmity as it goes on record, but hatred”, and explained the murder by “fulfilling a mission”¹⁵. Kosyrev is open about his right-wing views, as confirmed by his social network profile. He had brought a hunting knife and a non-lethal gun to his date with Tsilikin. Despite the fact that the perpetrator had openly confessed having murdered Tsilikin because of the latter’s sexual orientation, the hate motive was not taken into the account when initiating criminal proceedings: Kosyrev was prosecuted under pt. 1 art. 105 and “c” pt. 2, art. 158 of the Criminal Code of the Russian Federation (murder and theft). In September, when the case investigation was officially ended, a group of activists and journalists, including Tsilikin’s friends and colleagues, filed a petition for the charges to be reclassified and the hate motive to be taken into account as an aggravating circumstance (“k”, pt. 3 art. 105 of the Criminal Code of the Russian Federation – “murder, committed by reason of political, ideological, racial, national or religious hatred or enmity, or by reason of hatred or enmity with respect to a social group”)¹⁶.

In spite of the wide response in the Media and among the general public, the

¹⁴ Conclusion based on the Media reports of the crime circumstances

¹⁵ According to the Internet newspaper Fontanka, with reference to the investigation authorities: Tsilikin’s Supposed Murderer Called Himself «The Purifier», Fontanka, 07.04.2016, <http://www.fontanka.ru/2016/04/07/094>

¹⁶ Petition for the recognition of the murder of Tsilikin as a hate crime, Change.org: <https://www.change.org/tsilyikin>

petition was not successful. On 27 October, Kalininsky District court began hearing the case of the murder of Dmitry Tsilikin on the merits; the accused Sergey Kosyrev admitted partial guilt. The prosecutor filed a motion for camera trial, pleading the necessity of protection of the personal data of the accused, which was granted: the Media were not admitted into the courtroom. Kosyrev was represented by the lawyer Joseph Gabunia. According to the International Bar Association "Saint Petersburg", Gabunia has extensive experience in legal defense and is responsible for 15 acquittals, while in over 60 cases the proceedings were terminated during the investigation or the trial phase. According to "Fontanka", Gabunia confirmed the fact that Kosyrev had pleaded guilty to murder and partially guilty to theft. None of the five witnesses for the prosecution came to the hearing, the following session was scheduled for 14 November. However, the session on 14 November did not take place due to the illness of the counsel for the accused¹⁷.

- In January, a twenty-seven year old person was brutally murdered in Saint Petersburg – assuming by the victim's female appearance and male ID, she was supposedly a transgender woman. The victim's body with multiple stab wounds, dressed only in women's underwear, was found on 14 January in the bathroom of a hired apartment. According to the investigation, as reported by the Media, the perpetrator had met the victim on the Internet and later arrived in Saint Petersburg. The police found out that the assailant and the victim had agreed to meet on the evening of 13 January. The young man came to the victim's place of residence, had sexual intercourse with her, then stabbed her several times with a knife and fled. According to the Media, criminal proceedings were initiated under "murder"¹⁸. There is no other information on the investigation. We cannot be sure about the transphobic or homophobic hate motive for this murder, but considering the known facts, this is highly probable.

¹⁷ Other Media reports on the investigation: Accused of Tsilikin's Murder Pleads Guilty, Fontanka, 27.10.2016: <http://www.fontanka.ru/2016/10/27/088>; Murder of Journalist with Hitler's Portrait, 07.04.2016: <http://www.fontanka.ru/2016/04/07/042>; Murder of Tsilikin: Counsel for Defence Fails to Turn up for Trial, Lenizdat.ru, 14.11.2016: <https://lenizdat.ru/articles/1144127>.

¹⁸ Transvestite From Kazakhstan Found Stabbed To Death in Bathroom, Life78, 19.01.2016: <https://life.ru/t/life78/180632>

Physical assaults

LGBTIQ people and their allies are often exposed to homophobic physical violence or threats. Such attacks can happen spontaneously or as a result of the premeditated and coordinated actions of a group of people.

- In spring 2016, a series of attacks against people who had been expressing oppositional views on the social networks took place in Saint Petersburg: these people received Internet threats, were physically attacked and their cars were set on fire. According to the Internet newspaper *Meduza*, one of the survivors of these attacks was Alexander Markov, administrator of a protest group in the social network “VKontakte” who had previously worked as a DJ in a gay club. On the evening of 31 March, two male strangers rang his doorbell. When Markov opened the door, they hit him in the face, then knocked him down and began kicking him. The assaulters ran away when Markov called for help. After the assault, Markov reported the incident to the police, but a couple of days later the proceedings were dismissed on the basis of unavailability of assaulters or witnesses. Shortly thereafter, a close relative of Markov received a message on VKontakte from a user named Alexander Petrogradsky: *“Heard about Markov the other night. The one who used to be a DJ in a club for gays. Not so young now, gays don’t like him anymore <...> Sometimes gets beaten up. Can’t wait till proper guys get to see this “art”. I know these three guys, but they’re away now. They said they’re gonna get Markov and cut it off him, that which won’t grow back. So there’s less of this LGBT scum on the Internet”*¹⁹.

In some cases, homophobic assaults by people with aggressive sentiments towards LGBTIQ communities are triggered by the display of rainbow colors.

- In the evening of 5 August, Alexey was assaulted in a popular cafe in the center of Saint Petersburg. The laptop computer he was working at had a six-color rainbow sticker on the cover. A young man asked him whether the sticker had anything to do with LGBT, and whether Alexey himself belonged to the LGBT community. On receiving an affirmative answer, the man demanded

¹⁹ Description based on the reports from *Meduza*: Opposition supporters attacked in Saint Petersburg, 8.06.2016: https://meduza.io/feature/2016/06/08/napadeniya-na-oppozitsionerov-v-peterburge?utm_source=website&utm_medium=push&utm_campaign=breaking

aggressively that Alexey remove the sticker, then tried to convince Alexey of the sinfulness of his ways for an hour in insulting terms, after which he grabbed the laptop, attempting to remove the sticker and pushed Alexey; Alexey felt that the man was about to physically assault him. The man fled when Alexey called the café's security guard. The following day Alexey inquired at the café's security whether they had video footage of the incident, with the intention to report it to the police. The manager replied that there was no footage. Alexey did not go to the police.

- T., a young transgender man, relates that during 2016 he experienced five homophobic assaults by aggressive people who had spotted LGBT symbols (a rainbow ribbon) on his clothes. T. has an androgynous appearance, and is usually targeted by people who read him as a young gay man. In one of these incidents, T. was in the metro on his way home in the evening. A young man, looking like a member of a nationalist group approached T. and loudly insulted him: "You look like a fag, you're wearing a faggoty ribbon", and then suddenly dealt a violent blow to his face. On another occasion, a group of young men surrounded T. at a metro station and hit him several times in the face and head while shouting homophobic slurs. T. had to seek medical help twice following these assaults. He did not report the incidents to the police²⁰.

Not only activists, who are identifiable by the LGBTIQ symbols they wear publicly, may become the target for physical assaults. Those members of LGBTIQ communities who are neither involved in any political or social activist movements nor open about their LGBTIQ identities may attract the attention of homophobically-minded individuals because of certain traits of their appearance or behavior.

- On July 15, around 10 pm on Nevsky Prospekt near Mayakovskaya metro station A. and his male companion were approached by a group of about 10 people, aged approximately 20-23 and dressed in sportswear. They came up close and inquired aggressively how come A. and his friend "had the guts looking like this". Other comments included "We thought you two were faggots", "You look like a chick" (to A.). As a matter of fact, A. and his friend were dressed casually and looked inconspicuous. The group formed a semi-circle around A. and his friend, barring their way. They also spat in the direction of the two

20 Based on an interview with the victim.

young men and attempted, according to A., to “give him a fillip”, but he managed to avoid it. When A. looked around, he spotted a person with a professional camera and flash, who was filming the situation, and a second cameraperson a little further away. On seeing the cameras, A. and his friend quickly got moving in the opposite direction, the homophobic group and the camerapeople did not pursue them. On 9 September, A. saw an episode of the reality show “Tomboys” (“Patsanki”), featuring the female leader of the aggressive group he had met in July on Nevsky Prospekt as one of the main characters. Moreover, the character’s “story” included the video footage of the incident; A.’s face is recognizable. Right after the scene featuring A. and his friend, another scene followed, showing the same group beating a young man with a feminine appearance (probably, later that evening)²¹.

- Late on the evening of 2 August, Artem and his boyfriend were on their way home after grocery shopping near Primorskaya metro station and decided to take a shortcut through the yards. Suddenly they were attacked by three young men who started beating them with their fists and feet. Artem’s partner had his eyebrow cut, and his phone was trampled down. From the very beginning the attack was accompanied by shouts of “Are you two fags?” and other insults. Profit and other motives for the attack were absent. The survivors believe that the attack might have been triggered by their briefly holding hands. They did not report the matter to the police since on a previous similar occasion the police had refused to take the homophobic hate motive into the account and their attitude had been negative. According to the survivors, they both suffered from a mild post traumatic stress disorder and anxiety several weeks following the incident. Artem sought the help of a clinical psychologist and had to take anxiolytic anti-depressants, while his partner had to seek medical help for physical trauma. Artem has been since avoiding courtyards after dark²².

Setup dates

Hate crime also take form of so-called setup dates. Several organized groups are active in Saint Petersburg; they use teenagers and young men as “bait” to lure men to fake dates for the purpose of humiliating or physically

²¹ Based on an interview with the victim.

²² Based on an interview with the victim.

assaulting them and subsequently extorting large sums of money from them under threats of further violence or spreading their personal information. Victims of crimes of this sort seldom report the matter to the police for fear of further persecution. Compared to the previous years, the attacks as described by victims in 2015 and 2016 lead to the conclusion that these groups have lost ideological undertones: the former nationalist movement “Occupy-Pedophilia” is inactive at present, and the current actors on this scene are regular criminal gangs blackmailing vulnerable individuals.

We know of at least 11 “setup date” cases that took place in 2016. They all run according to the same scenario: the victim meets a young man via an Internet application, they agree for a date, on meeting the “bait” takes the victim to an apartment. Then, a group of people enters (who might have been hiding in the next room). These people inform the victim that the young man who invited him happens to be a minor (even in cases when the victim has actually inquired whether the “bait” is over 18 and received an affirmative answer). The victim is held in the apartment by force, subjected to psychological pressure, threats of calling the police and pressing charges of pedophilia, filming, arrival of journalists (sometimes the scene is filmed from the start) and publicity, in some cases physical violence is also used. After that, a “settlement” is proposed and money extorted.

In January, with the assistance of the legal team of Coming Out, several criminals were brought to justice. One of the victims filed a police report²³, and criminal proceedings were initiated on 19 February 2016. In August 2016, criminal cases against three participants in the crime (Semkin Y.D., Vasilyev I.V. and Kulikov A.P.) were brought before the court. As a result, Semkin and Kulikov were sentenced to 2 years of probation, while Vasilyev was sentenced to 2 years and 3 months to be served in an ordinary-regime colony. Separate proceedings were initiated against unidentified participants in the crime²⁴. The case is currently under investigation.

23 A copy of the document is at the disposal of the monitoring program of Coming Out.

24 In-depth reports about fake-date schemes and the court case: «Goodness» Society: New Gay-hunters, *Meduza*, 25.04.2016: <https://meduza.io/feature/2016/04/25/obschestvo-dobrota-novye-ohotniki-na-geev>; “Goodness” is to Blame: Members of Band Attacking Gays from Saint Petersburg Convicted. Reporter: Daniil Turovsky, *Meduza*, 18.10, 2016: <https://meduza.io/feature/2016/10/18/vinovata-dobrota>

We have proof of at least two more victims of the same group and in similar circumstances.

According to the lawyer of Coming Out who is in charge of this case, police inaction is a serious problem. In the case in hand, the police took recourse to the bare minimum of investigative measures. It is apparent that the police are not interested in uncovering the entire gang, even though more people than the three convicted individuals are involved in this case. The police refuse to recognize the complexity of the problem: the gang is active all over the city and therefore, the Chief Directorate of Internal Affairs (GUVD) of Saint Petersburg should take charge of this problem. However, the police reduce the problem to separate cases and suggest that the victims address themselves to local police departments, while the local departments cannot ensure an effective investigation. This approach also discourages the victims, who often decide to drop the case on their own accord. This is a vicious circle that keeps parts of the gang in action and leads to new crimes.

Restricted freedom of assembly

The situation regarding access to freedom of assembly for LGBT activists deteriorated dramatically in Saint Petersburg in 2016. Previously, the city authorities would not impede LGBT events held for the purpose of collective discussion of matters of public interest and expression of public opinion, in a specially designated area (“Hyde park”) on the Field of Mars; mass arrests of LGBT activists during unauthorized public events were likewise uncommon. In 2016, not a single public event was successfully carried out as planned, without obstruction from the city authorities. During unauthorized events with an LGBT agenda, activists were detained and in several cases, held administratively liable.

The cases in this chapter are presented in a chronological order, rather than being grouped according to violation or event type, which serves as a clear illustration of the situation in relation to the right to freedom of assembly in Saint Petersburg in 2016.

- On 15 April, a flash mob in connection with the International Day of Silence, traditional for the LGBTIQ community of Saint Petersburg, was taking place. Approximately 50 activists met on the square in front of the “Galeria” shopping mall, planning to walk down Nevsky Prospekt with their mouths covered with tape, handing out leaflets about the discrimination of LGBTIQ people. In the previous years, even though this event had not been authorized, the police had been there for the protection of the participants, and nobody had been detained. Before the start of the flash mob, police officers warned the participants about the “consequences of the violation of the law”, but when the participants wanted to know what exactly they were not supposed to be doing, the police refused to answer. Homophobic activist Timur Bulatov was present at the meeting place of the flash mob participants; he had portable speakers with music playing and a broom with suspended rainbow mice (his symbol of struggle against LGBT activists). Bulatov was occasionally shouting homophobic slurs and calls for violence (“inhuman”, “drive you out of Russia”, “I’m going to cleanse Russia”, “time to cleanse Russia”, “I want to sweep this place clean”, “we must hunt down sodomite teachers and get ‘em sacked”), trying to turn the passers-by against the participants of the flash mob and laughing. The police officers ignored him, neither did they react to the participants’ requests to put

a stop to his provocations. When the activists started moving, Bulatov walked by their side, filming everyone with his camera. Shortly after the start of the movement, the police officers announced via a loudspeaker that “this event has not been authorised, avoid provocations”. Since no specific demands had been made, the participants had no way of knowing what exactly the police were demanding (moreover, due to the loud music from Bulatov’s speakers and the noise of the traffic, many participants could not make out the words of the police officer).

Since the group was walking down the sidewalk of Nevsky Prospekt, they had no possibility to quickly stop their progress and disperse. The participants asked the police which of their actions exactly constituted a violation of the law, but the police officers ignored the question. They were equally refusing to show their badges. Approximately two minutes after the warning, the riot police (OMON) arrived. About ten OMON officers broke the activist group into small groups and pressed them rudely against a building wall, including several journalists and chance passers-by. Some of the participants were slammed against the wall and pushed by the riot police quite brutally. This continued for about 15 minutes, all the while the OMON refused to answer any questions and did not inform them of their rights. Seven people were detained. The manner of detention was arbitrary, the riot police officers acted without identifying themselves or stating the grounds for detention, used force (pushing people in the backs) even though the detainees did not resist²⁵. Six detained people were taken to the police station in a van used for transportation of police dogs; it was dark inside and there was not enough room for everyone to sit. They were confined to the van for one hour and a half, the police officers refused to tell them where they were being conveyed and ignored the need of two of the detainees to use the bathroom; the treatment of the detainees by the police officers was rude and derogatory. At the police station, the detainees were not allowed to introduce any comments into the report, false information was being included, comments added by the detainees were crossed out, the detainees were not informed of their rights. On learning that the detainees were LGBT activists, the staff of the police station began treating them in an even more degrading manner. When one of the detainees requested to be allowed to make a comment in the report, he was threatened and shouted at by a police officer²⁶. The detainees spent over three

25 Based on the on-site observation and video footage by the monitoring team.

26 Based on an interview with the victims.

hours at the police station.

About ten of the participants had managed to escape when detentions began. They spent several hours in a cafe in a shopping center nearby. On exiting the cafe, T., a young transgender person, was stopped by a police officer with the words: "You took part in an unauthorized street event". He demonstrated T. a video recording of the event, where T.'s jacket and a fragment of his face were visible. T. was taken to the police station. On seeing his passport (T. was a minor), the police officers contacted his mother. According to T., the police officer had not identified himself during the detention, had not explained anything, had not informed T. of his rights, and T. was frightened by what was happening. Neither T. nor his mother were given any documents regarding the detention or the offense committed²⁷.

Five of those detained on Nevsky Prospekt were prosecuted under pt. 5 art. 20.2 of the Code on Administrative Offenses, and sentenced to a fine of 10 000 rubles each (approx. 160 Euro)²⁸. Proceedings against one of the detainees were dropped on the grounds of irregularities in the report. The convicted activists filed appeals against the decision of the first instance court, and the city court confirmed the decision²⁹.

- In 2016 the city authorities for the first time refused to grant the Democratic column that had traditionally included LGBT activists during the procession on May 1, authorization to march down Nevsky Prospekt. Two days prior to the march, the page "Rainbow May Day" on the social network "VKonakte" that LGBT activists had been using for discussing their plans for the march, was blocked "on the basis of the order issued by the Prosecutor-General of the Russian Federation". However, many LGBT activists joined ranks with the Green and Left columns. Before the start of the movement, a group of no less than 10 people in dark clothes was noticed watching the LGBT activists that had joined the column. Homophobic activist Timur Bulatov was likewise present. Some of the activists unfurled rainbow flags during the march. At least 14 of these were detained, of which two were manhandled during the detention.

²⁷ Based on an interview with the victims.

²⁸ Decision of Kuybyshev District court of Saint Petersburg on administrative offenses, 23 May 2016.

²⁹ Decision of the City court of Saint Petersburg, 18 July, 22 December 2016 and 17 January 2017. Copies of the documents are at the disposal of the monitoring program of Coming out.

The police refused to give any explanations or answer any questions during the detentions³⁰. Since the police reports of the incident contained mistakes in the name and rank of the officer who had drawn up the reports, the court returned the cases back to the police department. The police drew up the reports anew without summoning the individuals involved. The court returned the reports again on these grounds. The police did not submit these cases to the court again.

- In 2016 the team of Coming Out failed to receive authorization for the holding of the traditional Rainbow Flashmob in the “Hyde Park” on the Field of Mars for the first time in several years. According to the legislation of Saint Petersburg³¹, public events to be held in areas specially designated for collective discussion of matters of public interest and expression of public opinion (so-called “Hyde parks”) do not need to be authorized: for events with the number of participants under 200, just a written notification of the event must be submitted to the designated executive authority of Saint Petersburg. In 2013-2015 the traditional Rainbow Flashmob took place in the “Hyde park” on the Field of Mars. In 2016, however, the city authorities found a pretext and a means for preventing the event from taking place in its habitual form. In May and June 2016, the activists of Coming Out submitted a total of 12 notifications of a meeting in the “Hyde park”; every time the event organizers were notified by Saint Petersburg Governmental Committee for Legality, Law Enforcement and Security that the area was not available due to the holding of other public or mass cultural events.

On 6 May, 2016, a notification of the Rainbow Flashmob in the form of a rally to take place on 21 May, was submitted to Saint Petersburg Governmental Committee for Legality, Law Enforcement and Security³² by the activists of Coming Out. As in the previous years, the purpose of the event was described as “A call for public tolerance for LGBT, a demonstration of peaceful intentions

30 Based on the on-site observation and video footage by the monitoring team, as well as on personal interviews with several of the detainees. Video recordings showing LGBT activists being detained on 1 May can be viewed at https://vk.com/video-39456271_456239056; https://vk.com/video185902215_456239058; https://vk.com/video-91776157_456239017

31 Saint Petersburg law of 21 June 2011 # 390-70 «On Assemblies, Rallies, Demonstrations, Processions and Pickets in Saint Petersburg», the decree of the Government of Saint Petersburg of 20 April 2016 # 292 «On amendments to the decree of the Government of Saint Petersburg» of 24 December 2012 # 1371

32 Later – Committee.

and a positive message from LGBT to society". On 10 May, the Committee's reply arrived, stating that the area was not available: a rally organized by the political party "People Against Corruption" was supposedly to take place on that date from 9 am till 9 pm. The reply contained no information as to the next Prospektive date for the holding of the event. In the same time, the Committee claimed that the stated purpose of the event was against federal law ("the propaganda law")³³.

The following day the event organizers filed a claim with Sestroretsk district court of Saint Petersburg, requesting that the decision of the Committee be recognized unlawful. One of the organizers' arguments, included in the claim, went as follows: the reply of the Committee did not contain a proof that the notification of the anti-corruption event had been submitted earlier. Moreover, it could not have been submitted earlier: the organizers had submitted their notification in the morning of the first day when, according to the existing legislation, such a notification could be submitted for an event to be held on 21 May. Therefore, the reply of the Committee that the area was unavailable for the holding of the Rainbow Flashmob was against art. 9 of the Constitution of the Russian Federation, establishing the equality of all people before the law and court. The organizers also referred to the fact that the incompatibility of the event purpose with the existing legislation does not exclude the obligation of the executive authority to suggest an alternative area for the holding of the event as well as the way of eliminating such an incompatibility, which the Committee had not done.

On 18 May, the claim was rejected by the court. The court also ruled that the reply of the Committee did not constitute a "refusal to allow the event to be held", but merely informed the organizers of possible legal consequences. During the hearing, the Committee representative pleaded that the rally against

33 The stated purpose of the event violates the prohibitions, stipulated in subpar. 4 pt. 2 art. 5 of the Federal law of 29 December 2010 # 436-ФЗ «On Protection of Children against Information Detrimental to Their Health and Development», pt. 1 art. 14 of the Federal law of 24 June 1998 # 124-ФЗ «On Basic Guarantees of the Rights of the Child in the Russian Federation» and art. 6.21 of the Code of the Russian Federation on Administrative Offenses. Subpar. 1 Pt. 2 art. 14 of the Federal Law # 124-ФЗ «On Basic Guarantees of the Rights of the Child in the Russian Federation» stipulates that the state authorities of the Russian Federation take measures for the protection of children against information, propaganda and indoctrination, detrimental to the children's health, moral and spiritual development, including information, promoting non-traditional sexual orientation».

corruption was to be given priority over the LGBT-themed meeting, since the notification for the former had been submitted one day earlier. The Committee representative claimed that according to the procedure, the 15 day notification period does not include the notification day and the day of the event (i.e., it equals 17 calendar days). This interpretation of the procedure contradicts the practice of the application of the law regarding the calculation of the notification period. On the day the court of the first instance reached its decision, the organizers of Rainbow Flashmob filed an appeal against it before the City court. On 1 August, the City court of Saint Petersburg confirmed the decision of the first instance court.

Concurrently, the organizers carried on their efforts to obtain the possibility to hold the rally on the Field of Mars. On 13 May the activists filed a similar notification to the Committee for the holding of a rally on 28 May. The Committee replied that a mass cultural event in support of healthy lifestyle (organized by the “Young Guard” of the political party United Russia) would occupy the entire Field of Mars, including the “Hyde park” on the desired day. According to the established procedure, the notification period for mass cultural events is longer than for public events: the notification for the former may be submitted 30 days prior to the event (vs 15 days for the latter). Thus, the Committee may indeed have received notification of the planned mass cultural event earlier. Similarly to its previous reply, the Committee invoked the “propaganda law”.

The organizers applied to the court again, pleading that the authorities’ reply was unlawful because in the sense of the law, the specially designated area on the Field of Mars was dedicated for the holding of public rather than mass cultural events. According to pt. 1.2, art. 8 of the law³⁴, the use of specially designated areas may only be prioritized in cases when several notifications of public events to be held at the same time are filed, and thus, in the opinion of the organizers of the event, giving the priority for the use of the “Hyde Park” to a mass cultural event was unlawful. The organizers of the event also contested the claim of the Committee regarding the contradiction between the purpose of the event and the “propaganda law”.

34 Saint Petersburg law of 21 June 2011 # 390-70 “On Assemblies, Rallies, Demonstrations, Processions and Pickets in Saint Petersburg”.

According to the legal position of the Constitutional Court of Russia,³⁵ “citizens, including those whose sexual orientation differs from the one generally accepted, may not be deprived of the possibility, for the purpose of defending their rights and lawful interests as well as the rights and lawful interests of other individuals (or social groups), of using all legal methods of calling the public attention to the fact of their violation, including by means of organizing public events or via the Media”. The stated purpose of the event - a call for social tolerance in respect of LGBT, demonstration of peaceful intent and a positive message from LGBT to the society - are not intended for minors and, therefore, may not be understood as propaganda of any kind of views regarding the questions of sexual orientation. On 26 May, Smolninsky District court rejected the application and recognized the Committee’s reply within law. The organizers filed an appeal, and on 12 October the City court confirmed the decision of the first instance court.

On receiving a second refusal from the city authorities, the organizers of the Rainbow Flashmob decided to file a notification for another date. The activists also decided to notify the Committee of an event to be held in other “Hyde parks” of Saint Petersburg in order to understand the Committee policy: whether the Committee will find a pretext for a refusal (considering the fact that the other city “Hyde parks” are seldom if ever used for the holding of public or mass cultural events). Thus, notifications of public events to be held on 29 May in specially designated areas in Polyustrovsky park and Udelny park were filed; the stated purpose of the event and the organizers were the same as in the previous notifications. Regarding the possibility of holding the event in Polyustrovsky park the Committee replied that another meeting was planned to be held on that day (the Committee also invoked the “propaganda law”). Regarding the possibility of holding the event in Udelny park, the Committee’s reply contained no information of other planned events: the “propaganda law” was the only official motive for the refusal. None of the replies contained any information as to other available dates for the holding of the meeting. 8 other notifications for the holding of the Rainbow Flashmob in the “Hyde park” on the Field of Mars were filed consecutively by the organizers for 9, 10, 11 and 12 July. The notifications were submitted in the first few minutes since the legal beginning

35 Decision of the Constitutional Court of the Russian Federation of 23 September 2014 # 24 “On the constitutional petition case regarding pt. 1 art. 6.21 of the Code of the Russian Federation on Administrative Offenses in relation to the appeal of the citizens N.A.Alexeev, Y.N Yevtushenko and D.A.Isakov: <http://www.garant.ru/products/ipo/prime/doc/70647124/#ixzz4cJ5xfBlS>

of the notification period to prevent the Committee from alleging that the area would be unavailable due to the planned holding of another public event. However, all notifications were rejected on the formal grounds that other mass cultural events, authorized according to a different notification procedure, were to be held there.

The scheme went thus: the organizers of the Rainbow Flashmob were informed that a mass cultural event featuring a military equipment exhibition, organized by “Petersburg Reserve” would be held on the entire territory of the Field of Mars, including the “Hyde park”. The Committee suggested an alternative date, namely July 10. The organizers agreed and filed a new notification of a public event. The next day, the organizers received a phone call from the Committee representative Sergey Kryukov. He informed the organizers that the “Hyde park” would be unavailable on 10 July due to the holding of another event and suggested that the meeting be held on July 11. The official reply of the Committee referred to the unavailability of the entire territory of the Field of Mars due to another military equipment exhibition. The activists filed a notification for 11 July, but this date turned out to be unavailable as well: a notification of a mass cultural event “with the purpose of promoting traditional moral and family values and in support of the President V.V.Putin...” to be held on the territory of the “Hyde park” from 11 am till 9 pm on 11 July had already been filed by another party. The organizers filed a notification for the event to be held on 12 July, which was once again rejected: from 11 am till 4 pm on 12 July, a mass cultural event “with the purpose of promoting a healthy lifestyle and traditional family values” was planned to be held.

The Committee had suggested an alternative date in every one of its replies to the notifications for 9, 10, 11 and 12 July, but every time the suggested dates turned out to be unavailable as well. Considering that the notification period for mass cultural events is 30 to 15 days prior to the event date, the Committee and the city Government must have already been notified of mass cultural events (planned for 10, 11 and 12 July) prior to receiving notifications for the Rainbow Flashmob and consequently, known that the area would be unavailable. We believe that the authorities were deliberately giving the organizers of the Rainbow Flashmob false information regarding the availability of the “Hyde parks” for the holding of the event.

It is important to note that the notifications for the event to be held on 9, 10, 11

and 12 July contained no information regarding the purpose of the event and thus, LGBTIQ issues were not mentioned³⁶ in the documentation at all. However, every time the Committee's replies referred to the liability "under art. 6.21 of the Code of the Russian Federation on Administrative Offenses for propaganda of non-traditional sexual relationships among minors". The Committee's replies to the event notifications for 21, 28 and 29 May did not suggest an alternative event date. The monitoring team of Coming Out was present on the Field of Mars on 9, 10 and 11 July to check whether any mass cultural event was actually held on those days. The military equipment exhibition the Committee had referred to did not take place: the event consisted of three men dressed in mock military uniforms and a banner bearing the organization name "Petersburg Reserve", who were present on the Field of Mars for the maximum length of 3 hours (coinciding with the time when the "Rainbow Flash Mob" was supposed to take place). No event took place on the Field of Mars on 10 July. On the evening of 11 July, a NLM (National Liberation Movement, "NOD") picket³⁷ with the stated purpose of "promotion and revival of traditional moral and family values and in support of the President V.V.Putin and the initiatives of the Investigative Committee of the Russian Federation chairperson A.Bastrykin..." took place. Thus, an event, fully qualifying as "public" was allowed to be held by Tsenstralny District authorities under the disguise of a "mass cultural" event.

Following multiple refusals, the organizers of Rainbow Flashmob made the decision to hold the event on 12 July. According to the court decision of 19 May on another but similar case, the Committee's reply did not constitute a refusal to allow the event to be held, and the applicants, according to the position of the court, had the right to hold the event even though another event was going to be held in the same area. The activists notified the police of their intention to hold the event. The police replied that in case the rally took place, its participants would be detained.

36 The law allows for omission of information regarding the theme and purpose of the event to be held in a specially designated area. The organisers decided not to inform the Committee of the purpose to find out whether they would still "refuse" if the connection of the planned meeting with LGBT was not stated in the notification.

37 The National Liberation Movement (NLM, "NOD" in Russian) is a Russian political movement positioned by its activists as an organization without legal personality, declaring "the restoration of the sovereignty of Russia" and "the national course and the territorial integrity of the state" as its purpose (Wikipedia). NLM activists often use homophobic rhetoric, engage in counter-protests during LGBT-themed public events and take an active part in the attempts to disrupt LGBT-themed events.

On 12 July at noon, two Coming Out activists picketed in the “Hyde park” on the Field of Mars. They held a rainbow flag and banners: “Coming Out for freedom of assembly” and “11 notifications from an LGBTIQ movement – 11 brush-offs from the city authorities. We have a right to be here!” 10 minutes later they were detained by the police. The activists were held liable under pt. 5 art 20.2 of the Code of the Russian Federation on Administrative Offenses³⁸ while the report on administrative offense stated that “the public event was not authorized by the executive authorities and was held in breach of law”. The hearings took place on 23 and 30 August and the court ruled in favor of the activists. According to the court, the event took place in a specially designated area and therefore, the detention on the grounds of failure to obtain authorization for the event was unlawful. The court also noted that the only legal limit for the holding of a public event in a specially designated area on the Field of Mars was the number of participants (which may not exceed 200 people).

The activists who were detained on 12 July filed a complaint of unlawful police detention with the department of the Administration of the Ministry of Internal Affairs for Tsentralny District of Saint Petersburg. The complaint contained a detailed description of the incident on the Field of Mars and the actions of the police relating to the interruption of the public event. The activists requested that those responsible be identified and brought to justice, as well as that measures be taken for the prevention of the violation of the right to freedom of assembly in areas dedicated for the holding of public events, including “by means of informing the police officers responsible for public order, of the existing legislation including the decision of the Constitutional court of the Russian Federation of 07.07.2016 # 1428-O/2016”. In December 2016, the activists received a letter from the department of the Administration of the Ministry of Internal Affairs for Tsentralny District of Saint Petersburg, informing them that their complaint had been upheld and that the police would ensure the prevention of similar violations in future. At the same time the organizers filed a claim contesting the actions of the Committee and the Government of Tsenstralny District of Saint Petersburg, requesting that the Committee’s replies in relation to event notifications for 9, 10, 11 and 12 July as well as the authorization of a mass cultural event by the Government of Tsenstralny District be recognized unlawful. On 29 August, Vyborgsky district court rejected the claim. The appeal was

38 “Violating the Established Procedure for Arranging or Conducting a Meeting, Rally, Demonstration, Procession or Picket”.

equally unsuccessful: the City court confirmed the decision of the first instance court. The appeal proceedings continue.

The city authorities likewise obstructed other public events in the form of rallies devoted to the rights of LGBTIQ people.

- On 30 July Saint Petersburg LGBT Pride had been planned to take place in the form of a march and a rally. On 15 July, the Pride organizers filed a notification to the Committee for Legality, Law Enforcement and Security of a public event to be held in a specially designated area (the “Hyde park”) on the Field of Mars on 30 July from 1:30 pm till 4 pm, without mentioning the purpose and theme. The Committee’s official reply stated that an already authorized mass cultural event with the purpose of providing military and patriotic education to the city population, organized by “Petersburg Reserve” would be taking place on 30 July from 11 am till 6 pm. It is important to note that even though LGBTIQ was not mentioned in the notification, the Committee warned the organizers about the “liability under art. 6.21 of the Code of the Russian Federation on Administrative Offenses for propaganda of non-traditional sexual relationships among minors”. A similar wording had been used by the Committee a month earlier in reply to the event notification by the organizers of the Rainbow Flashmob. The Committee suggested 31 July as the nearest available date for the holding of the Pride³⁹.

However, it was important for the activists that the event take place on 30 July. The Pride organizers had submitted the notification of the march and rally to be held on the Field of Mars (outside the “Hyde park”) on 30 July, suggesting three route/venue options. The purpose of the event was stated as follows: “Calling the public and state attention to the problems of lesbian, gay, bisexual and transgender people (LGBT), promotion of tolerance and equal rights for LGBT as a social group; a call for compliance with the laws that guarantee freedom of expression and the right to hold peaceful marches and rallies to members of all social groups, including LGBT; expansion of the legislation against labor discrimination, a ban on hate crimes against LGBT and a demand for their effective investigation; extension of the state programs for the prevention and treatment of HIV for LGBT citizens; a call for equal marriage rights for all social groups, including LGBT; a call for social support and for the development of

³⁹ Copies of the notification and the reply of the Committee are at the disposal of the monitoring team of Coming Out.

social adaptation programs for LGBT persons with disabilities”.

The Committee refused to authorize the march and rally, once more referring to a planned mass cultural event, organized by “Petersburg Reserve” to be held on the Field of Mars. The reply also referred to maintenance works in progress on the Field of Mars territory, involving the use of construction equipment; legislation prohibiting the holding of public events on areas adjacent to hazardous production facilities, subject to occupational safety procedures is indeed in existence (subpar. 1 pt. 2 art. 8 Federal Law “On assemblies, rallies, demonstrations, marches and picketing”, 19.06.2004 #54-Φ3). In addition to this, the Committee referred to the fact that the stated purpose of the event was in contradiction with the Federal Laws “On Protection of Children against Information Detrimental to Their Health and Development”, 29.12.2010 N 436-Φ3 and “On basic guarantees of the rights of the child in the Russian Federation”, 24.07.1998 N 124-Φ3 and art. 6.21 of the Code of the Russian Federation on Administrative Offenses (“propaganda law”).

On 26 July the organizers submitted a supplement to the notification. In this document, they invoked the above-mentioned decision of the Constitutional Court of 23.09.2014, # 24-П, in which the highest court of the country had made it clear that LGBT activists had a right to hold public events. In relation to the other motives for the refusal of event authorization (the supposed holding of a mass cultural event and the maintenance works), the organizers suggested five alternative venue options for the holding of the march and meeting (a location in Petrogradsky District, other locations in Tsentralny District and in Polyustrovsky park). They received a refusal of event authorization at all suggested locations on the same day. The Committee’s reply contained no information regarding alternative routes or timing of the public event⁴⁰.

The Pride organizers had no choice but to cancel the march and rally. However, the organizers and a group of about 20 activists held single-person pickets on 30 July on Palace Square. They held rainbow flags and banners with mottoes related to LGBT rights, in particular, the right to freedom of assembly. The police arrived on Palace Square approximately 40 minutes after the pickets began and the activists left in order to avoid detention.

Banned by the city authorities from holding public events, the LGBTIQ

⁴⁰ Copies of the notification and the reply of the Committee are at the disposal of the monitoring team of Coming Out.

community exercised their civic engagement by taking part in public events that are not directly dedicated to LGBTIQ agenda but organized with the collaboration of LGBT activists or by LGBTIQ-friendly civic movements and initiatives. In 2016, it became evident that the right to freedom of assembly would be violated in relation to any event dedicated to issues the authorities were not comfortable with, or organized by opposition groups.

- The city authorities refused to authorize the holding of “The Constitutional Procession” on Nevsky Prospekt on 12 June, organized by the civil rights project “Constitution’s Witnesses”. The formal grounds for the refusal was not related to LGBT issues, but one of the project initiators and organizers of the event, being also a LGBT activist, was informally notified by the city authorities that the event had not been authorized on suspicion of “attempts to organize an LGBT march, disguised as the Procession”. Police representatives, who had contacted the organizer shortly prior to the event, directly inquired whether the Constitutional Procession was in fact an LGBT event in disguise, and advised that he should “avoid LGBT-related provocations”⁴¹.

- The authorities refused to authorize a march and rally as part of the “March Against Hatred” on 29 October, an annual anti-fascist event traditionally organized with the participation of LGBT activists, referring primarily to maintenance works in progress. An LGBT fraction was supposed to take part in the event, which was being actively discussed on LGBT social media platforms. LGBT activists were planning to participate with rainbow flags. The organizers of the public event had submitted a notification for a rally and march, with several route options. The purpose of the event was as follows: “To honor the memory of the murdered scientist and anti-fascist Nikolay Girenko, to express support for art. 19 of the Constitution of the Russian Federation, to raise voices against discrimination, incitement to hatred and xenophobia in society”. After the Committee refused to authorize the event under the pretext of road works in the chosen location (invoking the Federal law of 25.07.2002 N 114-Φ3 “On Combating Extremist Activities”), the organizers consequently filed three notifications with an alternative route and timing, and in all three cases the city

41 Description based on the correspondence with the event organiser.

authorities refused to authorize the event⁴². As a result, instead of the public event the activists held an unauthorized “walk”.

Thus, the authorities of Saint Petersburg are consistently violating the citizens’ right to freedom of assembly in relation to LGBTIQ issues. In spite of this, LGBT activists refuse to comply with the ban on street events and raising questions of equality publicly. Since authorized public events have become an impossibility, activists are now taking recourse to other forms of street activism, such as unauthorized “walks” or brief creative performances and flash mobs. In the majority of cases, however, such events are interrupted by the police officers and their participants are detained.

- On 11 October, the activists of the «Alliance of LGBT and Straights for Equality» carried out a brief unauthorized performance-type event devoted to the International Coming out Day. The police officers attempted to interrupt the event and one of the participants, Alexey Nazarov, was detained when on checking his ID the police discovered that he lacked registration in Saint Petersburg. Alexey believes that his detention was, obviously, a means to stop the event: the police officers must have been sure that the performance would not continue without the organizer. However, the remaining activists successfully completed the performance. At the police station the officers addressed several homophobic remarks to Alexey, but became more polite on realizing that the activist had in fact been detained for violating the migration law.

Occasionally unauthorized “walk”-type events proceed without police interference, in cases when no police officers happen to be nearby and the police have no prior knowledge of the event. However, the participants are sometimes detained after the event and attempts to initiate an administrative case for participation in an unauthorized public event are made. Such detentions, in the opinion of the authors of this report, are unlawful, since the participants of such events receive no explicit warning of the event being against the law and of possible detention.

- On 11 December several activists organized an unauthorized “LGBT March in Support of Social and Labor Protests” in the center of Saint Petersburg.

⁴² Copies of the notification and the reply of the Committee are at the disposal of the monitoring team of Coming Out.

Approximately 10 people walked carrying banners and rainbow flags a short way down Nevsky Prospekt from Sadovaya str. to Ekaterininsky park, where they took photographs with their flags and banners. An NLM ("NOD") group picket was being held on Malaya Sadovaya str. at the same time. According to one of the LGBT activists, an NLM picketer came up to them and followed them for a while, shouting "Motherland, Freedom, Putin!", apparently, in the hope of drawing the attention of the police. However, no police officers were in the vicinity, and none of the event participants were detained.

On the following day, 12 December, another event, namely a public rally on Senate Square, organized by civic activists in honor of Constitution Day, was held. Three activists who had taken part in the "March" the day before, were also present and were detained for their participation in the previous event. The activists were merely present on Senate Square, talking to each other (they were not picketing or otherwise trying to attract attention), which in itself did not constitute their participation in the event. The police checked the activists' IDs and demanded that they proceed to the police station. The police officers acted on the pretext of having been informed by the law enforcement authorities that the activists "resembled the participants of the unauthorized event on Nevsky Prospekt on 11 December". The police had recognized the activists from a video news report of the event.

According to German, one of the detainees, the police officers' behavior was rather rude and they had not informed the detainees of their rights: "I said I couldn't sign the "Explanation" because it said on the form that I'd been informed of my rights, while the police officer hadn't actually informed me of anything. Then this policeman slammed his fist into the desk, ran out of the room and crumpled up the form. Then he came back, told me all about my rights and duties, filled in the form again – it matched everything I had said, so I signed it. They didn't give me any copy and I didn't know if I had a right to ask for one, so I didn't. Then they filled in the detention report, I signed it. Didn't get a copy, didn't know if I could ask for one. In the report on administrative offense, I wrote that I didn't agree with the charges and would provide explanations in court..."

Georgy, another detained activist, shared this: "During the interrogation, the police officer was all the time trying to make it out as if I was the one who had

organized the event"⁴³.

All three activists were held administratively liable under art. 20.2 of the Code of the Russian Federation on Administrative Offenses ("Violating the Established Procedure for Arranging or Conducting a Meeting, Rally, Demonstration, Procession or Picket").

⁴³ Based on an interview with the victims. Video recording of the detention of the activists 1:38): https://vk.com/svidkon?z=video-111317151_456239066%2F62163842b4bcc5a7fe%2Fpl_wall_-111317151

Obstructions to LGBT activism

In addition to the violation of the right to freedom of assembly, LGBT activists of Saint Petersburg face other forms of obstruction to their activities: direct pressure exerted on LGBTIQ initiatives by the authorities as well as police inaction in the face of homophobic individuals attempting to interfere with LGBT-related cultural or educational events.

- On 1 March 2016, the Charitable Fund for social and legal aid “Sfera”, an organization of high significance to the LGBTIQ communities of Saint Petersburg as well as the whole of Russia, was included on the official register of “non-commercial organizations performing functions of foreign agents” by the Ministry of Justice. Since 2012, “Sfera” had been supporting activist initiatives and providing social and legal aid to LGBTIQ communities. The Fund became the 121st organization on the register of “foreign agents”. On 13 July, the Charitable Fund “Sfera” was found guilty of violating the “foreign agents” law by Kuybyshev district court and fined 300,000 rubles (approx. 4,700 Euro). However, in August, the case against “Sfera” was terminated by the City court due to a statutory limitation on prosecution of administrative offenses, and the fine was dismissed. The Ministry of Justice filed an appeal against the decision to terminate the case, but on 4 October the City court of Saint Petersburg rejected the appeal, citing multiple procedural irregularities committed by the Ministry of Justice due to which the appeal could not be allowed.

The law on “foreign agents” entered into force on 21 November 2012⁴⁴. It resulted in the inclusion of over 150 NGOs into the official register of “non-commercial organizations performing functions of foreign agents”. This act is believed to be unlawful by many human rights advocates, while the members of the NGO Lawyer’s Club claim that the application of the “foreign agents law” will lead to the near demise of Russian civil society.

According to this law, any non-governmental non-profit organization having received funding from abroad since 21 November 2012 (regardless of the amount of funding) and engaged into what the State believes to be political activity, is functioning as a “foreign agent”. According to the

⁴⁴ Here and later, based on the report of the NGO Lawyers Club “Civic activism, development despite: Russian NGOs after the foreign agents law”, Saint Petersburg, 2016.

enforcement practice, any public activity of an NGO (dealing with the authorities, publication of reports, handling legal cases, spreading of literature, holding discussions, etc.) is political activity in the opinion of the State. In 2014, the Constitutional Court of Russia⁴⁵ ruled that the legislation on NGOs “functioning as foreign agents” was on the whole not in contradiction with the Constitution. In 2015 and 2016 the pressure on independent non-profit organizations increased in Russia: the operating conditions for NGOs deteriorated due to the passing of new legislation; new limitations on the operation of NGOs were added; possibilities for administrative accountability for NGOs were extended.

In contempt of the law, organizations which work in the field of ecology, prevention of violence against women, science as well as charitable organizations, were labeled as “foreign agents”. Any organization figuring on this register has heightened chances of being held administratively liable: it may be fined 300,000-500,000 rubles (approx. 4,700-7,800 Euro) in case of failure to submit deliberately and in advance a notification for inclusion on the register of “foreign agents”, while the head of the organization may be fined 100,000-300,000 rubles (approx. 1,600-4,700 Euro) at the same time⁴⁶. Similar fines are imposed on both the organization and its head in case of failure to mention the fact of inclusion of the NGO on the “foreign agents” register in any literature it publishes⁴⁷. In addition to this, such an organization is obligated to carry out annual audits and submit the results to the state authorities, as well as to submit quarterly reports of over 70 pages to the Ministry of Justice. Failure to submit an audit report or a quarterly report is punishable by a fine of 10,000-30,000 rubles (approx. 160-480 Euro) for the head of the organization and 100,000-300,000 rubles (approx. 1,600-4,700 Euro) for

45 The Decision of the Constitutional Court of the Russian Federation in relation to the constitutionality of the pt.6 art. 2 and pt. 7 art. 32 of the Federal law “On Non-Commercial Organizations”, pt. 6 art. 29 of the Federal law “On Public Associations” and pt. 1 art. 19.34 of the Code of the Russian Federation on Administrative Offenses on the basis of the constitutional petition of the Human Rights Ombudsperson in the Russian Federation, the “Kostroma Fund in Support of Public Associations” and citizens L.G.Kuzjmina, S.M.Smirensky and V.P.Yuktchev”.

46 Pt. 1 art 19.34 of the Code of the Russian Federation on Administrative Offenses

47 Pt. 2 art 19.34 of the Code of the Russian Federation on Administrative Offenses

the organization⁴⁸. Many organizations included on the register of “foreign agents” were imposed such fines, while a third of NGOs announced their liquidation and termination of activities. Thus, the situation of NGOs has significantly deteriorated in Russia, while the “foreign agents” legislation has created new serious obstacles in the activities of any non-commercial organization.

In some cases, pressure on the part of the authorities may assume the form of a complex of simultaneous violations: unlawful inspections, intimidation and arbitrary detentions of activists.

- As a result of pressure from the law enforcement authorities, the activity centre “Zdes Khorosho” (“It feels good here”) in downtown Saint Petersburg which had existed for over 1,5 years and often housed LGBT-related events, was forced to close down while the organizer (the tenant) and his activist friend were unlawfully detained. The location had been housing weekly discussion meetings of a youth recreation club. The location was not publicly announced for safety reasons, there were no signs or signposts. Several days prior to the incident, unknown ill-wishers had set a sticker with the words “gay club: ring here” onto the doorbell, which was however soon removed. An activist meeting had taken place in the club several days before the incident; a flip chart, several LGBT-related books and banners which the activists had prepared for a rally, were left inside. On the evening of 23 October during another meeting (counting approximately 10 people) two police officers found their way inside the club. They gave no grounds for the inspection and were asking questions: “What is going on here?” “Are you sure the meeting doesn’t have to do with LGBT propaganda?”. Then the police officers left.

However, an hour later nine police officers came to the club (none of their badges were visible, they refused to explain on what grounds they were inside the location and what they were doing; they did not show an inspection order but only said that they were “following up the complaint from a neighbor”). The police officers were hindering people from leaving the location. Soon 5 more police officers and 2 investigators came in, some of them lacking uniform and badge; they did not give grounds for their actions and showed no ID. The police inspected the location and seized the books, the flip chart, the banners, as well

48 Art 19.7.5.2 of the Code of the Russian Federation on Administrative Offenses

as the tenant's video camera and computer. One hour later a juvenile inspector arrived.

There was no mobile phone network coverage inside the club. While the police were inspecting the location, P., one of the activists, asked to be let outside so he may call his lawyer, but the police refused. After P. insisted on his right to leave the building, the investigator demanded that one of the police officers detain him "in the interests of the investigation". P. was convoyed to the police car against his will, where the police officers insulted him: "Faggots should be killed", "Stalin would have his way with you". P. was taken to the police station, and after he refused to give any explanation, the police threatened to keep him at the station all night. Then they suddenly let him go without drawing up a report.

M., the tenant, did not have the lease papers with him and was taken to the police station for interrogation, while the club location was locked up. Lawyer Ksenia Mikhailova arrived at the police station on M.'s request. M. has a severe medical condition and under stress his condition was aggravated. The police called an ambulance and were polite, but did not let M. have a copy of the detention and seizure reports. On the day following the detention, the lawyer came to the police office to collect the seizure report since the police had refused to return the seized objects (their fate is still unknown) on the grounds that it was impossible to prove that they belonged to M. Originally the police had told the lawyer that the case file had been submitted to the Economic Crime Department, but later claimed that the investigators of the Administration for Internal Affairs (MVD) had the papers. In the lawyer's opinion, the police were either confused themselves, or else they were trying to misinform her. The lawyer also describes the treatment of M. by the police officers as intimidation and arbitrary detention. Several days after the detention M. was hospitalized due to a worsening of his condition, and stayed in the hospital for a week. Following the incident, "Zdes Khorosho" was forced to relocate and change its mode of operation.

The most frequent form of pressure experienced by the LGBT activist community is not direct pressure on the part of the authorities, but individual homophobic activists (including homophobic public figures) causing disturbance or disrupting events.

- On 17 February deputy Vitaly Milonov, member of the city Legislative Assembly, with a group of homophobic activists attempted to disrupt a screening

held by “Side by Side” (“Bok o Bok”) LGBT film festival. Milonov, accompanied by approximately 10 aggressive men, attempted to get inside the festival venue, but on failing that he blocked the building entrance and refused to let the guests in, insulting them. 8 police officers were present near the entrance, but did not interfere. The guests who had not been able to access the venue as a result of Milonov’s actions, left. About 20 minutes later, Milonov and his activists also went away, and after them, the police. Some of the guests returned later and finally reached the screening location.

- On 13 and 14 February, homophobic activists attempted to disrupt a theater performance about a gay youth “All Shades of Blue” at Baltic House Festival Theater. The performances were interrupted by anonymous phone calls claiming that there was a bomb inside the building, but no bomb was found. In addition to that, activists of the right-wing movement “Narodny Sobor” (“People’s Gathering” or “People’s Cathedral”) attempted to disrupt the premiere: they stood in front of the theater, handing out leaflets describing “the dangers of homosexuality”, inviting the people “not to give in to the propaganda of noxious tolerance through culture”. Vitaly Milonov spoke negatively about the performance in the press and mentioned his intention to apply to the Prosecutor General of Russia requesting that the show be inspected for compliance with the existing legislation.

- In March 2016 an LGBT sports festival “Paint the Winter with Colors” was held in the Leningrad region. The event was not entirely public: a holiday base was to be rented, and the venue and timing of the festival was not given to the Media for the reasons of the participants’ safety. Deputy Vitaly Milonov gave a public promise to stop the festival from taking place. Milonov had earlier contacted regional authorities, demanding that the festival be prohibited. The government of the region refused to prohibit the festival since an LGBT sports festival was a sports event to take place at a closed holiday base rather than at a public location. Leningrad region government found no grounds for inspection. Ill-wishers then started a social media campaign against the festival, trying to intimidate the participants. Homophobic activists found out the festival venue by following the festival organizers via the Internet, as a result of which the organizers were forced to relocate the festival. However, the ill-wishers once again discovered the new venue and leaked this information to homophobic

online groups.⁴⁹

On 6 March, a phone call informing of a bomb in the sanatorium “Vostok-6”, housing that day’s festival event, was received. The inspection found this information to be false. However the festival was canceled. On 12 March the organizer of the festival filed a police report⁵⁰ demanding that criminal proceedings be initiated for intentional supplying of false information about a terrorist act, committed by reason of enmity or hatred with respect to the social group LGBT, and that Timur Bulatov be inspected for possible involvement in this crime (he had been responsible for spreading information about the festival and had posted calls to its disruption). As of now, the applicant has not been informed of the result of his application. In November, with the support of the LGBT initiative group Coming Out he filed a complaint to the public prosecutor’s office of Kurortny District of Saint Petersburg against the inaction of the police officers. His complaint was upheld, but further information regarding the investigation of his case was not forthcoming.

- In September, the educational project “Trava” (“Grass”) conducted a series of street lectures dedicated to the issues of homophobia and discrimination. On 10 September homophobic activist Timur Bulatov arrived at the venue and attempted to disrupt the lecture by repeatedly starting his motorcycle within several meters from the lecturers and attracting the attention of the police. The police were also present. The lecture audience demanded that the police officers interfere and make Bulatov leave, but the police would not interfere – however, they did not interfere with the lecture either.

- The organizers of the LGBT film festival “Side by Side” also faced habitual⁵¹ threats and attempts to disrupt screenings. Three days before the opening of the festival, representatives of NLM (National Liberation Movement, “NOD”) visited several festival venues (hotels of “Sokos” hotel chain), filming the employees, demanding to “talk” to the management, making phone calls to

⁴⁹ Posts of the homophobic activists: https://vk.com/wall-54214311_284917, https://vk.com/wall232914747_6588, https://vk.com/wall232914747_6625, https://vk.com/wall232914747_6595.

⁵⁰ A copy of the report is at the disposal of the monitoring program of Coming Out

⁵¹ On pressure on the festival and disruption attempts in 2015, see the Report for 2015, p. 48-51 <http://comingoutspb.com/upload/iblock/8ab/8ab4975b7c17329fa4f08d2fbec3e7b4.pdf>

other hotels⁵². Another festival venue received similar calls, this time the callers identified themselves as football fans, two NLM activists came to the hotel club with a camera. The men who called demanded that the venue management refuse to house the festival. 2 days prior to the opening of the festival Timur Bulatov gathered a protest group in front of “Sokos” hotel. 3 days before the opening the festival organizing committee and their partners received a letter from the movement “Strategy” (“Movement for the promotion of the implementation of the national security strategy of the Russian Federation «the President’s Strategy»”). According to the movement’s website, it is headed, among others, by Anatoly Artyukh, the leader of the movement “Narodny Sobor” and known for his homophobic attitude). The letter contained demands that the venue management refuse to house the festival since it “contradicts the national security strategy”, as well as threats⁵³.

On 17 November, several hours before the festival opening, Timur Bulatov, accompanied by a group of homophobic activists, picketed the hotel, handing out leaflets against the festival. Shortly before the opening, Anatoly Artyukh, Vasily Kukhar and five other people arrived at the hotel carrying icons, they were followed by approximately 20 young men aged 16-20 (according to the organizers, the young men come from Gatchina patriotic club), dressed in sportswear. While Artyukh was giving instructions to the young men in front of the hotel, Kukhar and another activist were filming the scene. The festival

52 A recording of one of these telephone conversations may be heard at <http://katyusha.org/view?id=3100>.

53 The contents of the letter included: “The central council of our Movement received over 300 complaints from indignant citizens, demanding to prevent the LGBT festival “Side by side” from taking place (...) Considering the character and the extent of this event, the massive Media support and the blatant violation of the decrees of the President, we are talking about a well-thought-out large-scale culturally destructive project for legalising sexual perversions, which, according to the provisions of the Constitution of the Russian Federation, “The Military Doctrine of the Russian Federation” and “the National Security Strategy of the Russian Federation” may lead to unpredictable social events, even military conflicts, “Collapse of social morality surely leads to downfall of the state, as history shows”, “With your support for the community of sexual perverts your activity must be viewed as severe violation of the fundamental moral norms of our country by western structures, as well as an attempt to influence the political situation in Russia through the workings of foreign agents, setting the population against the powers that be”, “In order to avoid social condemnation and damage to the reputation of Sokos hotel chain, we ask you to not allow the events of the festival “Side by side” to be held on your premises. Otherwise, we will demand that your anti-Russian activities be blocked on the territory of our country”.

and hotel security forced them to leave the hotel territory. When one of the festival volunteers together with two friends arrived some time later, the three got accosted by Artyukh's company who pushed one of them, shouting homophobic insults. Later the group followed them all the way from the metro station to the hotel. One of the festival organizers called the police, referring to earlier requests from the festival guests, and pointed out that attacks on guests had already begun. The police arrived about 20 minutes later and soon settled the conflict, pushing Artyukh and his comrades away from the hotel entrance. The police also started patrolling the territory between the metro station and the festival venue. According to the festival organizers, the police detained three of the young men, and a conflict between the police officers and the young men in sportswear took place. Soon the homophobic activists dispersed. Also, at 6 pm Life News channel reporters, who a week earlier had been denied accreditation by the festival organizers, arrived at the location. They were not allowed into the hotel but stayed outside, filming all they could (including the fight between the police and the young men), but no report came out on Life News.

Homophobic attacks stopped after the police took charge; the opening of the festival, the discussion and the following buffet reception went smoothly and peacefully. On 18 November, the second day of the festival, 2 hours before the event 2 young men carrying perfume flasks were noticed in front of the hotel. The organizers immediately recognized the smell of "stink bombs", familiar since homophobic attacks during other events in the past. The men were driven off by the security while thanks to the hotel management's prompt reaction the location was aired and the smell did not spread. On the festival's third day around 4 pm three grim-looking burly men in black came to the venue and expressed interest in the festival. The security watched them closely. The men stayed near the venue entrance for approximately 5 minutes until the security checked their ID and made them leave. On 24 and 25 November, 3 hours before the event beginning (the organizers had not arrived yet), a police officer came to the venue, inquiring about the event in an unfriendly tone and claiming that the venue had a fire safety issue (not enough fire extinguishers). The festival security and the organizers were immediately informed of this and two more fire extinguishers were brought from the office. The same police officer, while leaving, told them to expect a fire inspection shortly thereafter, but it never turned up. One hour before the screening the police officer returned (accompanied by 5-6 others) and began questioning the organizer about the event and the fire safety measures that had

been taken, hinting that he might have the screening canceled. He attempted to make her sign a certain “Warning”, stating that the organizers were responsible for the audience’s safety. The organizer’s lawyer found out that the document contained irregularities, was absolutely meaningless and was in no way a threat to the festival. Following the lawyer’s advice, the organizer signed the paper, to the police officer’s great enjoyment, after which he left. Initially he had seemed quite eager to stop the screening, but as the interaction went on, according to the organizers, he “mellowed up”. He came back to the festival the next day with the warning prepared beforehand, and the organizers agreed to sign it once again. On both days, police officers were present at the venue entrance and the events proceeded without incidents.

Another form of interference that LGBT activists face are discriminatory denials of service.

- Activists of the “Alliance of LGBT and Straights for Equality” could not get flags for their initiative group printed. For several years they had used the services of the company “Heraldica” for this purpose. The company had never had any issues with the flags being LGBT-themed before. In June 2016 “Alliance” activist Alexey Sergeev mailed an order for several “Alliance” flags to the company’s official email address, but was denied service: “The management refuses to accept the order on moral grounds”. The activists requested a signed and stamped letter of refusal (only a formal refusal may be challenged in court), but the management of “Heraldica” refused to provide it⁵⁴.

54 Description based on a letter from the victim, copies of the correspondence with the company are at the disposal of Coming Out.

Vulnerability and discrimination of LGBTIQ people in everyday life

Workplace discrimination against LGBTIQ people

The Labor Code of the Russian Federation prohibits labor discrimination: labor rights and freedoms of no one may be limited, and no advantage may be given to anyone on the grounds of their gender, race, skin color, nationality, language, origin, economic, family and social status, official position, age, place or residence, attitude towards religion, beliefs, membership or non-membership in public associations or social groups or any other circumstances that are not related to professional qualification⁵⁵. Belonging to a so-called “social group” as basis for prohibiting discrimination was introduced by the Federal law of 2 July 2013 # 162 “On amendments to the Law of the Russian Federation «On employment in the Russian Federation» and certain legislative acts of the Russian Federation”⁵⁶. Even though it has been established by the Constitutional Court that “people of a certain sexual orientation may be understood as a social group”⁵⁷, the concept of a “social group” is not applied in cases related to abuses against LGBTIQ people, not only in the application of criminal legislation but also when it comes to workplace discrimination.

LGBTIQ people as well as those associated with them (active supporters of equality who are not LGBTIQ themselves) are vulnerable to abuse in labor relationships by employers as well as colleagues and clients. The majority of LGBTIQ people, whether or not they are open about their sexual orientation and/or gender identity, face the risk of homophobic or transphobic discrimination to a certain extent. The risk of “outing” - disclosure of a person’s sexual orientation and/or gender identity without

⁵⁵ Art. 3 of the Labor Code of the Russian Federation.

⁵⁶ Art. 2 of the Federal law of 2 July 2013 # 162-ФЗ “On Amendments to the Federal law “On Employment in the Russian Federation” and certain legislative acts of the Russian Federation”.

⁵⁷ Decision of the Constitutional Court of the Russian Federation of 23 September 2014, # 24-П.

this their consent, usually with the purpose of injuring their reputation and/or causing other harm – is always present for LGBTIQ people.

In October 2015 during the review of the Eighth Periodic Report of the Russian Federation before the UN Committee on the Elimination of Discrimination Against Women, the Committee pointed out that LBT women employed in the educational sector were especially vulnerable to labor discrimination. The Committee representatives expressed concern about the cases of ungrounded dismissal of LBT school teachers and asked the Russian delegation whether social media photographs could become grounds for dismissal (as it actually happened in the case of the music teacher Alevtina in December 2014 – see below)⁵⁸. In its concluding remarks regarding Russia the Committee recommended that the Russian authorities take measures to ensure that such women face no discrimination in their professional activities⁵⁹.

In 2016, homophobic groups who collect information on LGBTIQ people on the Internet in order to cause their dismissal, are still active in Russia and in particular, in Saint Petersburg. In the past years, schoolteachers were especially targeted by this sort of harassment: information about them was mailed to the heads of educational institutions where they were employed, government officials would receive letters demanding the dismissal of teachers who “promote perversions”. In several cases outings were followed by dismissals: the heads of educational institutions, on receiving information regarding the sexual orientation of their staff or their support of LGBTIQ, for fear of pressure, would demand that these employees resign from their jobs (in which case the dismissal cannot be challenged in court). Dismissals of LGBTIQ people can be masqueraded as a legal way of terminating the labor relationship. The existing legislation does not allow for employees who were dismissed in compliance with all the procedures, specified in the Labor Code of the Russian Federation (for

58 Committee on the Elimination of Discrimination against Women reviews the report of the Russian Federation, 27 October 2015: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16662&LangID=E#sthash.cUQCq1rq.dpuf>.

59 Committee on the Elimination of Discrimination against Women. Concluding remarks: the 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.

example, staff reduction) to obtain re-employment in court, even in cases when the true reason for the dismissal was the sexual orientation and/or gender identity of the employee.

The law prohibiting “propaganda of non-traditional sexual relationships”⁶⁰ which came into force in 2013, apart from introducing a ban on such “propaganda” and a punishment for its violation⁶¹, established that “information promoting non-traditional sexual relationships” was not to be accessed by minors. By this law, the state authorities of Russia are obliged to take measures for the protection of children against information promoting “non-traditional sexual relationships”. From this moment on, the homophobic rhetoric that had been developed in society, received legal status, which made discrimination of LGBTIQ people on the basis of sexual orientation and/or gender identity practically legal as well. In Russia we are therefore witnessing a situation when a ban on “propaganda of non-traditional sexual relationships” (the exact contents of which are apparently unknown to the authors of the law themselves), stipulated by law, gives homophobically-minded employers a license to arbitrarily use labor legislation when employing or dismissing LGBTIQ people. The latter often leads to the violation of their labor rights. In addition to this, the difficulty in establishing the fact of discrimination makes redress of the victim’s violated rights impossible⁶².

- In 2016, Coming Out’s legal team continued the attempts to challenge the dismissal of the school music teacher Alevtina Krupnova in 2014 because of her sexual orientation (officially on the grounds of “commitment of an immoral act by an educator, incompatible with their continued employment”)⁶³.

60 Federal law of 29 June 2013 # 135-Φ3 “On Amendments to article 5 of the Federal law «On Protection of Children against Information Detrimental to Their Health and Development» and certain legislative acts of the Russian Federation with the aim to protect children from information promoting denial of traditional family values”. In force since June 30 2013.

61 Art. 6.21 of the Code of the Russian Federation on Administrative Offenses.

62 Olenichev M.V. “Discrimination of LGBT in the exercise of the right to labor in Russia: differences in law enforcement” // Collected reports and theses of the conference “Protection of vulnerable groups in labor relationships”, 2016, p. 40-48.

63 See a detailed description of the case of Alevtina Krupnova in the Report of “Comingout” for 2015, p. 53-54: <http://comingoutspb.com/upload/iblock/8ab/8ab4975b7c17329fa4f08d2fbec3e7b4.pdf>

The lawyers' efforts were not successful: all domestic remedies were exhausted. In March and April 2016, cassation appeals were rejected by the presidents of the City Court of Saint Petersburg and the Supreme Court of Russia. The teacher who lost her job resolved to file a claim with the European Court of Human Rights.

To our knowledge, only one case of public outing by homophobic activist Timur Bulatov in 2016 in Saint Petersburg lead to the dismissal of the victim (see next chapter).

LGBTIQ people may be subjected to pressure, compulsion to resign and workplace violation of their rights because of their appearance, presence of LGBTIQ symbols or being open about their identity. The cases we documented in 2016 show that the disclosure of a person's sexual orientation, gender identity or activist stance becomes a cause for conflict and harassment, leading to dismissal. In some cases, rather than being dismissed, LGBTIQ people choose to resign from their jobs deliberately because of the psychological discomfort resulting from conflicts, provoked by the management or colleagues who are not accepting of the person's sexual orientation, gender identity or activism.

- Alexey Zalensky, a gay man and LGBT activist, was working in a restaurant of the McDonald's chain. Alexey wears LGBT symbols and, while working for McDonald's, had several times heard homophobic insults from his colleagues. On 19 November, an hour before the end of Alexey's shift, the director summoned him to her office and questioned him about his relationship with his colleagues. Alexey confessed that he was not exactly on friendly terms with them and the director wondered what the reason of that might have been. Alexey speculated that there might have been two reasons, the first being that he was very meticulous about following all the working standards, which might have caused conflicts with his colleagues, the other being that Alexey was openly gay. The director replied that this was exactly the topic she wanted to discuss, since several of his colleagues had recently filed written complaints, claiming that he was "imposing" his sexual orientation onto them and was constantly talking about it. Alexey had actually not discussed his sexual orientation with any of his colleagues for at least two months. The director asked Alexey whether he actually "behaved like that", and he replied that when asked directly about his sexual orientation, he would give an honest

answer. As an example, he cited a situation when one of the colleagues, having spotted a rainbow badge, asked whether Alexey was “one of those”, Alexey had answered in the affirmative. The director explained to Alexey that “other colleagues had a hard time dealing with this”, and “older employees didn’t like having to face such information” and inquired what solutions to this problem Alexey could possibly suggest. When Alexey suggested adding an LGBTIQ-friendly paragraph to the “Standards of Business Conduct” (a document describing the ethics and code of conduct in the restaurant chain, stipulating that all guests must be treated with respect), especially considering that this coincided with McDonald’s international corporate ethics, the director claimed that she was not familiar with this document. Then Alexey suggested that the colleagues be made to understand that homophobic slurs were not acceptable, to which the director replied that she found it difficult, especially since some of the staff were minors. After a long debate, she demanded that Alexey provide “a written explanation of his behavior”. Alexey confesses that in a situation like that, he found it humiliating to comply with this demand. The very evening, Alexey called the “business integrity line” of McDonald’s (a telephone line reserved specifically for employee calls on ethics and compliance issues) and described the situation as a violation of corporate ethics. Alexey feels that the pressure he encountered might have been connected with an earlier conflict in McDonald’s: approximately two months earlier, Alexey had noticed numerous violations of food preparation standards and refused to do as many of his colleagues did, which caused an instant conflict with his co-workers and supervisors. Alexey had reported the violations he had noticed to the management of the Russian branch of the company and to the international management of McDonald’s. The international management had taken his report seriously, which might have led to sanctions for the restaurant’s management, and the homophobic pressure might have been “revenge” of sorts. Alexey found it hard to continue working in this atmosphere and soon left McDonald’s⁶⁴.

Discriminatory pressure, leading to loss of employment may even take place in non-commercial organizations working in the field of human rights.

- A. was working at a crisis center for survivors of violence against women. She lost her job as a result of homophobic pressure from the

64 Based on an interview with the victim.

management and colleagues. This organization had always positioned itself as opposing discrimination and promoting human rights, and the organization's mission included words about elimination of all forms of gender-based discrimination. A. had been employed in this organization for nearly 10 years, holding various posts. She was a member of the coordinating council and had for 6 years been responsible for the organization's public policy: it included managing relationships with donor organizations, other charities and the Media, organizing public events, talking on the radio and television and managing the organization's profiles in the social networks. A. was an experienced employee and seldom needed to consult her management about the details, when speaking on the part of the organization: all she had to do was follow the mission stipulated in the organization charter. In autumn 2015, A. had publicly come out as lesbian. Since then, she had regularly faced minor but obvious pressure and limitations of her public activities from the management. In September 2016, A. received an urgent invitation to speak at a public event on the matters of gender-based discrimination. During this short lecture (it was a street lecture before an audience of 10-12 people), A. discussed labor discrimination of women and the use of discriminatory ideas in advertisement – her speech contained nothing contradictory to the organization's policy or mission. Two days after this event, A. received a phone call from her boss, who aggressively told her off for “advertising herself doing public lectures at a difficult time for the organization” and made it clear that she was going to make sure that A. was dismissed. When A. arrived at the coordinating council's meeting, she discovered that an extended session had been convoked by her boss. Nearly all her colleagues demanded, many aggressively so, that A. explain herself: why she had participated in an event featuring “gay lecturers and LGBT activists”, “what was she thinking engaging into all this activism” (similar activities on her part had not raised any brows before and had even been approved of by the organization). She was accused of making sure, by giving this lecture, that “the organization would be labeled as a foreign agent and extremist and would be associated with gays and pedophiles”. A. describes that session as “public whipping”, with all colleagues speaking against her. The next week, another session took place that A. had not been invited to. The council resolved to dismiss her from the post of project manager and from the coordinating council. The formal grounds for A.'s dismissal was that she had allegedly been missing work and had been repeatedly AWOL from her workplace (A.'s boss had actually suggested that she work on a time/location independent basis, and they had agreed on a flexible schedule).

All the projects A. had been working on for months were canceled unilaterally. Both the management and the colleagues “treated her hostilely, letting her understand that she had caused them a lot of trouble, though there was no information about any actual problems”, she was not invited to take part in any new projects and after a while nobody would contact her anymore. Thus, her public coming-out and her participation in an event in collaboration with LGBT activists caused her to lose her source of income and the work to which she had dedicated many years⁶⁵.

As we can see from the cases described here, responsible and dedicated employees may lose their jobs because of their sexual orientation and/or gender identity or activist stance not as a result of direct homophobia, but because of the management’s fear of pressure from society or the authorities. Undoubtedly, this fear is to a considerable extent caused by an increased level of social homophobia following the adoption of the “propaganda” law and a high level of pressure on organizations exerted by the authorities.

Sometimes, LGBTIQ people, especially those who are open about their sexual orientation and/or gender identity and well-known activists, face repeated denials of employment for long time periods.

- From December 2015 and throughout 2016 Alexey, an LGBT activist, was denied employment several times in the field of film-making, where he had been employed previously for over 6 years. Several film studios of Saint Petersburg refused to employ Alexey regardless of his professional experience. 5 times the explicit cause of employment denial was his sexual orientation, as stated by the film crew directors and the head of a film studio. In two other cases, the ostensible reason for employment denial was lack of vacancy, but Alexey learned the real reason through the grapevine: “We don’t need faggots on the crew”, “Alexey, you work with famous actors, and they’ll be worried to be around you if you’re gay”. Alexey did not seek justice and legal protection of his rights for the reason that, since this is a limited sector, he is afraid of losing every chance of ever working in the film industry in Saint Petersburg or Moscow.

Transgender people are especially vulnerable to labor discrimination.

⁶⁵ Based on an interview with the victim.

- Nika, a young transgender woman (she has “male” ID, but looks and sounds feminine) works as a waitress in a popular cafe branch. The guests always treat her like a girl. Though her co-workers know her passport name and gender, they do likewise. One of the company managers, also familiar with Nika’s passport name, informed the head of the staff department that Nika, having a male ID, wore a skirt to work. On 16 December, the head of the staff department during a meeting mentioned “being informed of this situation” and required that Nika avoid wearing skirts to work, “this sort of behavior” being in contradiction with the company’s internal regulations that require men to wear pants to work. Nika, being clearly “read” as female, felt that this pressure was coming from the management because of her being transgender, though she had active support from her colleagues. Nika kept wearing the clothes that she was comfortable with and there were no threats of dismissal.

In some cases, pressure from the management and the colleagues following the disclosure of an employee’s transgender status may lead not only to “deliberate” resignation, but to multiple other violations, including those on the part of the state authorities.

- Alexandra, a transgender woman, was working for the JSK “Navigator Tools” (“Shturmanskije Pribory”). Alexandra has a feminine appearance and female ID, nobody at work knew of her transgender status. In February 2016, a routine medical examination of the staff by visiting specialists took place. During the examination by the physician, Alexandra was forced to undress and thereby reveal her transgender status, which she demanded to be kept secret. Following this, another specialist (a psychiatrist) offered to examine her - Alexandra had no idea why the offer had been made, and refused. The following day Alexandra’s supervisor summoned her to his office and inquired why she had never mentioned that she was transgender. Alexandra speculates that the medical specialists who had conducted the examination must have revealed her transgender status to the management in breach of medical secrecy. After this the supervisor insulted Alexandra and threatened to get her dismissed. Pressure from the management continued for a long time. Alexandra asked her colleagues for help and support and the latter tried to intercede with the management on her behalf. Also, an inspection of the facility was carried out following a complaint made by Alexandra.

On 12 July 2016, Alexandra and one of her colleagues were detained by the

police. The detention happened as a result of a statement made by another staff member in which he alleged that Alexandra and the other colleague had threatened him with physical violence. Alexandra believes this incident to be part of the management's intimidation campaign against her. After her detention Alexandra spent about 9 hours at the police station. The police officers offered no explanations for the detention. Alexandra was not carrying any other ID than a photocopy of her passport. When the police identified her through the database they also learned about her transgender status. Following this the majority of the police present at the station began asking Alexandra improper questions about her private life, loudly discussing her appearance and openly showing their dislike of her. The day following her police detention Alexandra resigned from her job. According to Alexandra, so did the colleague that had been detained with her. The staff members from other departments that had taken Alexandra's side were also forced to resign⁶⁶.

Outing campaigns

The above-mentioned outing campaigns, carried out by homophobic activists that spread information about LGBTIQ people with the purpose of injuring their reputation and causing their dismissal, continue in Saint Petersburg. This form of persecution of LGBTIQ people and LGBT activists is connected with the name of Timur Bulatov. Bulatov and his accomplices search the social networks, websites and forums for information on LGBT individuals – mostly those whose professional activities involve dealing with minors. They collect this information, provide comments and post it in homophobic Internet groups and also mail it to victims' employers and to the authorities, demanding that these individuals be inspected for suitability for their jobs or dismissed.

We have reliable information about at least 5 cases of such "disclosures" that happened in Saint Petersburg in 2016 – one of them lead to a person losing their job. Our information on Timur Bulatov's activity leads us to conclude that, fortunately, the number of dismissals following his actions

⁶⁶ Case recorded by the monitoring program of the Transgender Legal Defense Project, see the report "Violation of the rights of transgender people in Russia: research results", Saint Petersburg, Transgender Legal Defense Project, 2016, p. 29-31: http://pravo-trans.eu/files/violation_of_the_rights_of_transgender_people_in_Russia.pdf

in Saint Petersburg has decreased: the reactions of organizations and educational authorities to the information related to employees spread by Bulatov or his demands for inspections or dismissals of LGBTIQ people have been increasingly reluctant. However, this kind of persecution has not lost all its dangers: the disclosure of personal information may still harm a person's reputation, negatively affect the attitude of their colleagues and other people. Internet outing, usually involving the use of homophobic or transphobic insults, increases the level of homophobia and transphobia in society and creates a threatening atmosphere that may negatively impact the well-being of the victim, their family and LGBTIQ communities at large.

- E. is one of those outed by Timur Bulatov, a school computer science teacher. Bulatov mailed letters, disclosing E.'s sexual orientation, to the school where E. was working as well as to the district authorities, the political party "United Russia" (where E. had worked before) and to the television. In the letters Bulatov, speaking on the part of the association "Russian Parents"⁶⁷ and other organizations, expressed indignation and concern regarding the fact that a "dangerous gay man" was working at a school and probably seducing children. None of the addressees reacted to Bulatov's letter. After some time, he mailed several more letters with photographs of E. These emails had been sent from a foreign server. E. himself received several emails from Bulatov or his accomplices, meant to show that he was being watched. Some time later, Bulatov filed a request to one of the members of the Legislative Assembly of Saint Petersburg, demanding that E. be inspected for suitability for his job and for whether he was not a "foreign agent". Some time following the incident, E. resigned from his job, but according to him, this decision was made for other reasons and not related to Bulatov's actions: the school's reaction to the situation had been calm⁶⁸.

The monitoring program of Coming Out has concluded that at present Timur Bulatov prefers to target transgender rather than homosexual people. In 2016, no less than 4 transgender people were outed by Bulatov, whereof three were medical doctors, working with children. These

⁶⁷ According to the Uniform State Register of Legal Entities, an organisation with this name is not registered in Russia.

⁶⁸ Based on an interview with the victim.

latter are not involved in activism and are not publicly open about their transgender status. One of these outing campaigns led to a person losing his job.

- Loren, a transgender man, lost his job as otolaryngologist in two commercial clinics as a result of Bulatov's actions. Loren had finished his transition a long time ago and has male ID; the management of either clinic did not know about his transgender status. In February 2016, Bulatov made a post in the social network "VKontakte" and in several Internet groups, describing Loren in a denigrating and insulting manner ("a mentally ill female employee", "a female-to-kind-male transformer", "creature"), revealed his transgender status and his place of work and provided links to the websites of the clinics where Loren was employed. Bulatov also posted several photographs of Loren and his wife, supplementing them with threats to "destroy their marriage", since they were "two women in an illegal same-sex marriage". The head of the clinic where Loren was employed asked him whether something was the matter and told him that there had been several phone calls from a man (supposedly, Bulatov), informing the clinic about Loren's transgender status. The head of the clinic also reassured Loren that the latter was a good professional and there was not going to be any problem on the part of the employer.

Loren's spouse Nadezhda received messages in the social media from strangers, inquiring whether he had been fired yet; she also received several insulting messages. Bulatov kept calling the clinic and demanding that Loren be dismissed – apparently, he threatened the head of the clinic with ruining the clinic's reputation and complaints to the authorities. Even though the head of the clinic had originally supported Loren, after some time the latter was told not to receive patients in the clinic and to avoid the premises, but to only make house calls. Since this was not a safe approach (any person may call a doctor, including people with malicious intents, the clinic not being responsible for the doctor's safety), Loren had to stop seeing patients altogether. Loren is still formally employed in this clinic, but it is impossible to make an appointment with him, if such an attempt is made, the receptionist replies that this doctor no longer receives patients.

Loren had no more patient appointments in the other commercial clinic where he was working as well. Unexpectedly, on 6 May 2016, he received a phone call

from the clinic, accusing him of “being out of reach” while not appearing at work either, and on the pretext that “it was unprofitable for the clinic to pay tax for an employee who had no patients”, they suggested that he resign. Being severely stressed, Loren agreed to write the letter of resignation, but mentioned in the letter that the actions of Timur Bulatov rather than the lack of patients, were the real reason for his resignation. On seeing no reaction from the clinic employees at the mention of Bulatov’s name, Loren concluded that the suggestion that he resign had been indeed caused by the outing. Around that time, Bulatov posted a message in the social networks that Loren had been fired from the clinic, and deleted the information about the clinic from his initial post.

Several minutes after handing in his resignation, Loren realized that he was not ready to resign, and decided to call it back. When he returned to the staff department, they refused to give him back his letter, claiming that the driver had already left for the head office (Loren had not seen the car leave the clinic). He decided to go to the head office in person, but soon received a call from there, informing him that he could not have his letter back on that day because “it hadn’t arrived yet and no one knew when it would”. Loren wrote a revocation of his resignation, but the administrator refused to register this document. The following working day after the weekend Loren came to the clinic and had a conversation with his boss. She claimed having no intention of dismissing him. When he inquired whether this meant that his resignation had been annulled and he could continue working, she answered in the affirmative. At the same time, Loren neither got back his letter of resignation nor his copy of the labor contract. Since then he has not had a single patient appointment and, consequently, has no work. Even though Loren regularly informs the clinic of his schedule and his readiness to work, no patient is allowed to make an appointment with him. He has not been paid the minimum wages due to employees who are out of work through the fault of the employer. Thus, a doctor lost his jobs in both clinics, apparently following the actions of Bulatov. Loren and his wife were severely stressed and for a long time afraid to leave their apartment, Nadezhda even stopped coming to her classes⁶⁹.

Thus, transgender people who are not publicly open about their gender identity and/or transition are still vulnerable to labor discrimination as a result of outing. Transgender activists whose transgender status is

69 Based on an interview with the victim.

publicly known, however, are not exempt from this risk either.

- In September, Ekaterina (Kate) Messorosh, a transgender woman, an LGBT- and civic activist and parent of two children, faced pressure and persecution as a result of outing. Ekaterina was working as a member of a district electoral commission during the elections in September 2016. On 9 September, Dmitry Krasnyansky, a member of the City Electoral Commission, disclosed Ekaterina's transgender status in the Media.⁷⁰ Soon after this publication Timur Bulatov began a transphobic intimidation campaign against Ekaterina in the social media and by filing complaints to the authorities. During the time of Ekaterina's work in the commission, which was located in a school, Bulatov made repeated visits to the school, picketing, calling the police and trying to set the students' parents and passers-by against Ekaterina, telling them that a "dangerous pervert" was on the school territory. In addition to that, Bulatov complained to the Education Committee of Saint Petersburg, demanding that she be removed from her post in the commission located on school grounds, as well as to the police, the City Electoral Committee and the political party "A Just Russia", he also posted all these complaints on the Internet.

Certain Media, including the TV channels Life78 and the Fifth Channel, published video reports and articles about this situation, featuring transphobic statements by politicians about Ekaterina. Among those quoted were the Legislative Assembly members Vitaly Milonov (*"Today, you got a man who says he's a woman talking to you. What's next? Next he brings his girlfriend the chimp"*) and Irina Ivanova (*"He'd better give up his powers and go take care of his health, instead of doing politics. General anesthesia is very bad for the brain"*). The authors of all these publications referred to Ekaterina using the masculine as well as her passport name – even though Ekaterina does not conceal this information, it is at best impolite to publish a transgender person's personal data, and, considering how stigmatized transgender people are in Russian society, it may mean real danger for this person and even put their life at risk. Many incorrect terms were also used in these publications: Ekaterina and transgender people in general, as well as those who speak in their defense, were depicted as marginalized individuals, and the policy of the political party Ekaterina was representing in the electoral

70 Artyom Becomes Katya: an Electoral Commission Member Changed Sex before Elections, Life78, 9 September 2016: https://life.ru/t/life78/901324/byl_artiomom_a_stal_katiei_chlien_izbirkoma_pietierburgha_smienil_pol_pieried_vyborami

commission, was also described in the negative⁷¹.

After the Media publications Vitaly Milonov and 28 other members of the Legislative Assembly of Saint Petersburg filed an application to the president of the Central Electoral Commission, demanding that Ekaterina's legal capacity be evaluated by means of a medical and psychiatric examination, and also that she be recognized as incapable of fulfilling the duties of a member of the electoral commission. False information and unscientific arguments, expressed in insulting terms, were cited in the application as grounds for the dismissal of Ekaterina from her post: *"Transgender people suffer from a severe form of mental disorder, this is a serious perversion, i.e. there is every reason to doubt the sanity and the legal capacity of this person," "the surgical operation of sex change, involving powerful anesthesia and following hormonal and psychotropic therapy casts serious doubt onto the professional qualification of this member of the electoral commission and his ability to adequately fulfill the duties of a member of an electoral commission"*⁷². Fortunately, Ekaterina was able to continue her work in the electoral commission and did not face any serious pressure or persecution. She was only once summoned to the district police department to meet the juvenile inspector: as it turned out, the inspector had been notified of the situation by the Investigative Committee, the public prosecutor's office, the Chief Directorate of Internal Affairs of Saint Petersburg, and the district police department and summoned her "to be questioned regarding the situation"⁷³.

In this case, the outing that was meant to cause Ekaterina's dismissal from the electoral commission and her persecution by the authorities, failed to reach its goal. Nevertheless, it had dangerous consequences: the ill-wishers' actions attracted the attention of the Media, which portrayed the situation in the spirit of sensational journalism with disclosure of private information. Such publications not only create a dangerous situation for the person involved and their family, but also show the entire transgender community in a negative light, which might increase the level of transphobia in society.

71 See: Milonov Demands Dismissal of Electoral Commission Member Who Changed Sex, Life78, September 9: https://life.ru/t/life78/901501/milonov_tribuiet_otstranit_ot_vyborov_priedstavitielia_izbirkoma_smienivshiegho_pol;

72 Ekaterina's Facebook post on 17 September, including a photo of the application of the Legislative Assembly members: <https://www.facebook.com/kate.messorosh/posts/2120197338204880>

73 Based on an online interview with the victim.

Discrimination in the service sector

LGBTIQ people face discrimination in the service sector rather often, since the “propaganda law” has led to a heightened level of homophobia in society. Cases of this sort are especially difficult to document since many LGBTIQ people whose rights have been violated do not seek legal protection, not knowing how such situations should be addressed. In 2016, LGBTIQ people faced discrimination in the government service as well as in the commercial service sector.

Transgender people often face discrimination because of the mismatch between their ID (for example, their passport) and their actual appearance. This situation is first and foremost due to the complexity, opacity and length of the procedure of legal gender recognition in Russia: it is now impossible to obtain legal gender recognition out of court through Civil Registry Offices in Saint Petersburg even after undergoing sex reassignment surgery. An unspoken rule is being now applied throughout the city: Civil Registry Offices refuse to introduce amendments into the act of birth, the transgender person has to apply to the court, which considers the case and only after the court rules in favor of the transgender person, Civil Registry Offices introduce all the necessary amendments and issue a new birth certificate. This process may last up to several months. We know of no less than four cases of Civil Registry Offices of Saint Petersburg refusing to issue new documents to transgender people who had undergone surgery, all these people had to obtain legal gender recognition in a lengthy court process this year.

- Ekaterina, a transgender woman, had her passport photo replaced so that her ID better match her appearance, but the name and gender in her official documents remained the same. In summer 2016, Ekaterina came to the blood transfusion department of the First I.P. Pavlov Saint-Petersburg State Medical University clinic to become a blood donor. On seeing her passport and the marriage stamp inside it, the clinic staff refused to let Ekaterina become a donor, however they mentioned that she would have this possibility once she had legally changed her name. When Ekaterina protested that this approach was both illogical and illegal, the physician motivated her refusal by the fact that Ekaterina as a trans woman married to another woman, was in a same-sex

marriage and therefore at a high risk for HIV.

Ekaterina confesses being shocked by the blatant unprofessionality of these arguments offered by the department physician, and finding speculations about her private life to be inappropriate. The department staff also claimed that Ekaterina was not eligible for blood donorship because of the presence of Kell antigens in her blood, discovered in an express test. Later Ekaterina had her blood tested again in a commercial clinic and the presence of Kell antigens was not confirmed. There is reason to assume that the original test result was falsely interpreted by the transfusion department staff in order to provide formal grounds for rejecting Ekaterina as a blood donor.

After the incident became publicly known, Saint Petersburg Internet newspapers collected anonymous comments from Saint-Petersburg transfusion specialists. These comments were unscientific and transphobic: *“Undergoing hormonal therapy already constitutes a counterindication to blood donorship. But even if such a person wasn’t taking hormones, I would find a pretext for rejecting them. Because any person suspected of sexual deviation belongs to the high hemotransmissible (passed on through blood) infection risk group”, “Doctors refer to the presence of a disease named “Ego-dystonic sexual orientation” in the Chapter V (Mental and behavioral disorders) of the International Statistical Classification of Diseases and Related Health Problems (ICD-10), which replaced “homosexuality”. Therefore, in their opinion, transgender people can be considered to have a mental disorder. When asked: “Why can’t someone with a mental disorder be a donor?” doctors have an answer ready: “Who knows how they will behave at the sight of a needle and blood?” Another interviewee confessed that even if blood of a rare type was necessary in order to save a patient’s life, and if the only donor available was transgender, such a person would be barred from donorship*⁷⁴.

At the same time, this year the strategic litigation program of Coming Out has successfully defended the rights of a transgender person who had encountered discrimination in the service sector. The fact of discrimination was established by the court which ordered that its manifestations be entirely eliminated in relation to the claimant.

⁷⁴ Case recorded by the monitoring program of the Transgender Legal Defense Project, see the report “Violation of the rights of transgender people in Russia: research results”, Saint Petersburg, Transgender Legal Defense Project, 2016, p. 40: http://pravo-trans.eu/files/violation_of_the_rights_of_transgender_people_in_Russia.pdf

- A., a transgender woman, was the member of a sports club, where she was using the women's locker room and shower in accordance with her identity and her new passport. When A. applied for the renewal of her yearly membership, the club refused, referring to complaints from other members. When A. came back with a witness, the club agreed to renew her membership but only on condition that she use the men's locker room. A., with the help of the legal team of Coming Out, filed a discrimination complaint to the public prosecutor's office and received a formal refusal in June. In June, she filed a claim with the court, requesting coercive contract conclusion, recognition of discrimination and compensation for moral injury. In December, the court upheld her claim, recognized the fact of violation of the right to equal treatment and non-discrimination, to respect for private life and of the right not to be subjected to humiliating treatment, and obliged the defendant to conclude a contract with the claimant for a term of one year, and to pay 10,000 rubles to the claimant in compensation for moral injury. In March 2017 Saint Petersburg City Court confirmed the decision of the first instance court, and it entered into force. This case is of special significance for transgender people, proving that legal protection of their rights in Saint Petersburg is possible⁷⁵.

Other types of discrimination

Young and especially minor LGBTIQ people are particularly vulnerable to pressure and abuse in everyday life. We have information about at least 5 cases of physical and/or psychological abuse of LGBTIQ adolescents on the part of family members (beating, insults, threats, forced confinement at home, forced observation by a psychiatrist; in one case involving a transgender adolescent, forced psychiatric hospitalization, in 2 cases, eviction of adolescents from home, following which, one of them had to live in the streets for several weeks).

Adult LGBTIQ people also face abuse and pressure from their family members, neighbors and cohabitants. At least 3 people having faced serious conflicts of this sort (in the form of threats, physical abuse, eviction), sought help in Coming Out.

⁷⁵ Case handled as part of the strategic legal practice program of the LGBT initiative group Coming Out.

- Sergey, a homosexual man, living in a communal apartment, constantly faces the aggressive attempts of his neighbor to prevent Sergey from seeing guests in his own room. Using indecent language and homophobic insults, he demands that Sergey stop bringing people into the apartment, threatening to beat him and his guests.

At least three people sought our help in relation to repeated telephone calls from strangers, insulting them on the grounds of their sexual orientation and threatening them with physical violence and even murder.

Recommendations

To the Human Rights Ombudsperson in Saint Petersburg:

1. To promote effective investigation, prosecution and punishment of all acts of violence motivated by sexual orientation and/or gender identity of the victims, as well as actions, aiming to incite to hatred or enmity or humiliation of the human dignity of individuals or groups of people on the basis of membership in an LGBTIQ community, taking the motives of these actions into account. In particular, to promote recognition of LGBTIQ as a social group, the motive of hatred against which is recognized by the Criminal Code of the Russian Federation as an aggravating circumstance or constituent element;
2. To continue facilitating the dialogue between the members of the regional LGBTIQ communities and the city authorities (including the law enforcement structures), for example, by organizing round-tables or three-sided conferences;
3. To facilitate the dialogue between the members of the transgender communities and their activists and the Civil Registry Offices of the city (primarily, with Saint Petersburg Governmental Committee for Civil Registry) in order to ensure that the legal gender recognition procedure in the city complies as closely as possible with the international human rights standards;
4. To continue including data related to discrimination on the grounds of sexual orientation and/or gender identity as well as other violations of the rights of LGBTIQ people and supporters of LGBTIQ equality in the annual report.

To the Legislative Assembly of Saint Petersburg:

1. To organize education for the members on the issues of hate and enmity speech, with the emphasis on eliminating homophobic and transphobic rhetoric; to initiate federal legislation aiming to abolish the art. 6.21 of the Code of the Russian Federation

on Administrative Offenses “propaganda of non-traditional sexual relationships among minors”⁷⁶.

**To Saint Petersburg Governmental Committee
for Legality, Law Enforcement and Security :**

1. To ensure the possibility for the holding of peaceful public events in support of the rights of LGBTIQ people;
2. To avoid ungrounded refusals of authorization (including those invoking the law prohibiting “propaganda of homosexuality”) and other administrative impediments to the holding of peaceful public events in support of the rights of LGBTIQ people.

To law enforcement authorities:

1. To ensure investigation, prosecution and punishment of all acts of violence motivated by the sexual orientation and/or gender identity of the victims, as well as actions, aiming to incite to hatred or enmity or humiliation of the human dignity of individuals or groups of people on the basis of membership in LGBTIQ communities;
2. When classifying the crime and defining the punishment for such acts, to apply the provisions of the Criminal Code of the Russian Federation on the motive of hatred or enmity in relation to a certain social group;
3. To ensure the safety and the possibility of holding peaceful public events, dedicated to the issues of sexual orientation and/or gender identity, including festivals, meetings and pickets;
4. To organize, in collaboration with members of LGBTIQ communities, education for the employees of the law enforcement structures on the issue of respectful treatment of LGBTIQ people with the aim to avoid police violence and insulting behavior in relation to LGBTIQ people in general and transgender people whose documents do not match their appearance, in particular.

⁷⁶ Concluding remarks of the UN Human Rights Committee on the Seventh Periodic Report of the Russian Federation. 2015. CCPR/C/RUS/CO/7.

To the Courts:

1. In the consideration and resolution of cases, related to LGBTIQ issues, to take into account:

a) Decision of the Constitutional Court of the Russian Federation of 23 September 2014, # 24 (according to which, “sexual orientation as such may not be a legitimate criterion for establishing a difference in the legal status of an individual and a citizen”; LGBTIQ people may be understood as a social group, protected from hatred and discrimination by the Russian legislation, including the Code of the Russian Federation on Administrative Offenses and the Criminal Code of the Russian Federation);

b) Recommendations, elaborated in relation to LGBTIQ rights (hate crimes and speech, freedom of assembly and expression, the application of the “propaganda law”, etc) by UN treaty bodies, established according to international treaties that have been ratified by the Russian Federation, including 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 necessity of recognizing LGBTIQ as a social group, hatred or enmity against which is considered to be an aggravating circumstance);

2. To meticulously inspect cases for motives of discrimination and violence on the basis of sexual orientation and/or gender identity, if mentioned by the victim in their appeal, and to indicate these motives in court decisions;

3. To ensure uniformity of practice in cases related to legal gender recognition and to organize education for the judges of the district courts of Saint Petersburg.

To educational authorities:

1. To ensure means for the protection of the labor rights of educators belonging to LGBTIQ communities or supporting equality;

2. To prevent persecution, intimidation and dismissal of educators

belonging to LGBTIQ communities or supporting equality – in particular, by ensuring that pt. 8 art. 81 of the Labor Code isn't applied in cases of dismissal of employees on the grounds of sexual orientation and/or gender identity.

**To Saint Petersburg Governmental Committee
for Civil Registry:**

1. To ensure a prompt, accessible and transparent administrative procedure of legal gender recognition for transgender people out of court.

To non-governmental organizations:

1. To include aspects related to sexual orientation and gender identity into programs, projects and events in collaboration with representatives of the local LGBTIQ organizations and initiatives.

To trade unions:

1. To include aspects related to sexual orientation and gender identity into programs, projects and events in collaboration with representatives of the local LGBTIQ organizations and to take measures for the protection of LGBTIQ from labor discrimination.

To private/commercial organizations:

1. To prevent refusal of employment, dismissal and violation of other labor rights of LGBTIQ people on the basis of sexual orientation and/or gender identity;
2. To provide service on equal terms regardless of the sexual orientation and gender identity of the client.

Acknowledgements

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Coming Out LGBT initiative group

Coming Out has been working since 2008 for the support of LGBTIQ communities and the development of the equality and human rights movement in Saint Petersburg. Our initiative group includes several programs. We offer free-of-charge psychological and legal assistance to LGBT people and their families, hold diverse support groups, provide education through lectures, seminars and round-tables, publish educational materials on LGBTIQ issues and other related topics, monitor discrimination on the grounds of sexual orientation and gender identity, initiate cultural events in Saint Petersburg to provide space for dialogue between diverse parts of society.

If you have faced discrimination (violence, insults, threats, denial of service or other violation of your rights) on the grounds of sexual orientation and/or gender identity, please inform the discrimination monitoring program using the form on the website (<http://comingoutspb.com/soobshchit-o-narushenii/>) or via email **monitoring@comingoutspb.ru**

If you need legal assistance in questions related to violation of rights on the grounds of sexual orientation and/or gender identity, please sign up using the form on the website (<http://comingoutspb.com/poluchit-konsultatsiyu>), or via email **pravo@comingoutspb.ru**, or call +7 (812) 242 54 69 and +7 (950) 020 39 60

**You can learn more about other programs of
Coming Out and our activities here:**

comingoutspb.com

<https://vk.com/comingoutspb>

<https://www.facebook.com/comingoutspb>



COMING OUT LGBT INITIATIVE GROUP

Saint Petersburg, 2017

WWW.COMINGOUTSPB.COM