



Suuntaus project

**CURRENT SITUATION OF SEXUAL AND GENDER MINORITIES IN RUSSIA**

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**Pakolaisrahasto**

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## 1. INTRODUCTION

This theme report is part of the ERF-funded Suuntaus project of the Country Information Service of the Finnish Immigration Service which aims to identify the most significant country information themes and anticipate future information needs better. The method was to review asylum interview protocols systematically by using a form designed for the purpose. The countries examined were Nigeria, Iran, Iraq and Russia, and another theme was stateless persons. On the basis of the analysis of the protocols, the theme of this report has been one of the most recurring grounds for seeking asylum. However, the report does not contain references to individual records; instead, all information is based on public sources.

### 1.1. Background

The status of sexual and gender minorities in Russia has never been good, although same-sex relationships were decriminalised in 1993, and since 1993 homosexuality was no longer classified as a disease.<sup>1</sup> Even before the most recent legislative amendments, in 2012, the sexual and gender minority organisation ILGA-Europe concluded that Russia was the worst country in Europe for sexual and gender minorities. The organisation estimated according to its measurements that only 7% of sexual minorities' rights were attained in Russia.<sup>2</sup>

The ILGA-Europe website has a detailed summary of Russia's LGBT rights, updated in summer 2014. In practice, the following rights are attained in Russia:

- same protective age limits for both homosexual and heterosexual relationships
- possibility to have one's gender changed in official documents; in practice, there are several restrictions that are not specified in legislation
- single individuals can obtain in-vitro fertilisation (but not same-sex couples)
- gender-reassigned persons may marry a person of the opposite gender<sup>3</sup>

The ILGA highlights several problems. Discrimination and hate speech based on sexual orientation or gender identity have not been prohibited, and no measures or public bodies exist to eradicate them. Sexual orientation or gender identity are not given as potential justifications for asylum. Events organised by sexual and gender minorities and the operations of their organisations are blocked and subjected to violence. Same-sex relationships have not been acknowledged in any way. Gender reassignment is legally possible, though, and according to the letter of the law there are no requirements for specific medical measures, for divorce or for remaining single. In practice, however, such measures are often required in order to have the gender reassignment entered in official documents.<sup>4</sup>

According to Human Rights Watch, the Russian people view sexual and gender minorities in an increasingly negative light, considering them abnormal and perverse. Anti-LGBT rhetoric is on the rise in Russia and may even be heard from government officials and the leadership of the Orthodox Church.<sup>5</sup>

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<sup>1</sup> HRW 12/2014, p. 12.

<sup>2</sup> ILGA-Europe 05/2013 (1).

<sup>3</sup> ILGA-Europe 06/2014.

<sup>4</sup> Ibid. 06/2014.

<sup>5</sup> HRW 12/2014, p. 12-13.

On 30 June 2013, Russia enacted the federal ‘gay propaganda law’. This law prohibits “propaganda concerning non-traditional sexual relationships aimed at minors”. According to the text of the law, such propaganda includes:

- describing homosexual relationships to minors in a positive or interesting light
- encouraging the conception that such relationships are equal to ‘traditional’, i.e. heterosexual relationships
- encouraging homosexual behaviour among minors

Violating this law is punishable by a fine, for private individuals RUB 4,000–5,000 (about EUR 56–60) and for organisations up to RUB 1,000,000 (about EUR 16,000). If the positive content about sexual minorities is distributed through the mass media, this is punishable by a fine of RUB 50,000–100,000 (EUR 800–1,600). Foreign nationals found guilty of such an offence may be deported. Similar laws were already in place in several regions in Russia, such as St Petersburg, where a similar law was enacted in 2012. In Kaliningrad, the distribution of ‘propaganda’ of same-sex relations is prohibited not only to minors but to the general public.<sup>6</sup>

According to the Constitutional Court of Russia, the law protects constitutional values such as family and childhood and protects children against damaging influences to their development. Human rights organisations condemn the law as discriminatory and unlawfully restrictive of the freedom of expression, the freedom of organisation and the freedom of assembly. It has a disproportionately restrictive impact on LGBT individuals and activists.<sup>7</sup> Although the ‘gay propaganda law’ and its regional variants are said to protect children, activists claim that they prevent children and adolescents belonging to sexual or gender minorities from obtaining the information and support that they need to grow up consistently with their true identity.<sup>8</sup> The law is also described as being so vaguely worded that it will inevitably lead to blackmail, corruption and selective application.<sup>9</sup> Many international bodies such as various organs of the UN and bodies of the Council of Europe have condemned the federal laws or its regional predecessors.<sup>10</sup>

The federal media monitoring service has published a memorandum to assist in interpreting the law. This memorandum lays down criteria for and examples of what is considered “propaganda for non-traditional sexual relationships”. The memorandum states that any material that directly or indirectly approves of individuals in non-traditional sexual relationships is illegal; according to ILGA-Europe, this includes the majority of neutral or positive mentions of any LGBT matters.<sup>11</sup>

Recently, moves against sexual and gender minorities have been made with legislation beyond the ‘gay propaganda law’. The adoption of Russian children to countries where same-sex marriages are legal is prohibited. Also, in 2013 a proposal was prepared that would have allowed children in the care of same-sex couples to be taken away from them.<sup>12</sup> This proposal was withdrawn from the Duma, but the proposer intends to re-introduce it after modification. Prior to the withdrawal of the proposal, Yelena Mizulina, Chairman of the Duma Committee on Family, Women and Children Affairs said that it is unlikely that such a law would enter into force, because it would be impossible to enforce considering how difficult it would be to identify the families to which it would apply.<sup>13</sup>

<sup>6</sup> World Organisation Against Torture 4.10.2013; HRW 12/2014, p. 14-21; The Moscow Times, 29.6.2014.

<sup>7</sup> HRW 12/2014, p. 15; Article 19, 3.7.2013.

<sup>8</sup> For example HS 20.1.2015 (1); Kochetgov / OpenDemocracy, 22.8.2012.

<sup>9</sup> Gessen / The Guardian, 11.8.2013.

<sup>10</sup> HRW 12/2014, s. 15-16; ILGA 5/2013; ILGA 5/2014, p. 142-143.

<sup>11</sup> USDOS 27.2.2014; ILGA 5/2014, p. 144.

<sup>12</sup> Gessen / The Guardian, 11.8.2013; RFE/RL 21.10.2013.

<sup>13</sup> RFE/RL 21.10.2013.

## 1.2. Terminology

The present report refers to sexual minorities and gender minorities: sexual minorities are those whose sexual orientation differs from the general conception of heterosexuality; this applies above all to male and female homosexuals and bisexuals. Female homosexuals are commonly referred to as lesbians. Gender minorities are transgender persons (transgender, transsexual, transvestite), intergender persons and other-gender persons.

Every effort is made in the report to use the terminology of the original source to avoid distorting the content. Where an original source only discusses homosexuals, sexual minorities or anti-gay / homophobic attitudes, these terms are retained if it is not clear from the source whether they are intended to subsume gender minorities and other sexual minorities besides homosexuals. However, it is always useful to remember that these terms may be used to denote all sexual and gender minorities. If, based on the events described in the source, it is apparent that the case or problem in question concerns sexual minorities in particular or even more specifically a sub-group (e.g. homosexual men), then that more precise term is used.

Because “sexual and gender minorities” is rather a long phrase, we use the acronym LGBT in the interests of readability and structure; this is the internationally accepted acronym for “lesbian, gay, bisexual and transgender”. SETA – LGBTI Rights in Finland uses the acronym HLBTIQ. The principal target group of this report comprises the employees of the asylum unit, who may need to consult international sources themselves to augment the information contained herein; it is to simplify such searches that we use the most common international acronym, LGBT.<sup>14</sup>

## 1.3. Special features in research on the topic

It is difficult to conduct research on the situation of sexual and gender minorities in Russia, because most of the publicly available information comes from the LGBT activists themselves: either directly from Russian LGBT organisations and activists or from international human rights organisations who have interviewed LGBT persons and activists. It is therefore not easy to estimate how objective and neutral the information available actually is. Our aim was to compile this report on the basis of a comprehensive selection of international sources: reports from human rights and LGBT organisations, reports from international organisations and governments, and articles in the Western and Russian press.

The lack of diversity in the sources is due to the simple fact that there is next to no information available from any other parties: the Russian government, for instance, publishes no statistics on LGBT persons and violence committed against them, and there is extremely little neutral reporting on LGBT matters in many Russian media. However, information can be extracted from the anti-LGBT statements issued by the government and by politicians and from the legislation restricting the rights of sexual and gender minorities. Information such as this and the lack of official information on violence against sexual and gender minorities serve to confirm what LGBT individuals and their organisations are reporting. We also aimed to list as many sources as possible to increase the likelihood of finding the deviating information. However, the reader should always remember that, in the absence of any other data, the views and information of the LGBT community receive considerable emphasis in the source material.

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<sup>14</sup> Definitions have been written partly using the help of the Finnish vocabulary section of the website of Seta – LGBTI Rights in Finland, a Finnish NGO. <http://seta.fi/hlbtqi/>

The reader should also note that the sources focus on problems experienced by LGBT persons in particular. Situations where problems do not arise do not usually make the news. Regarding statistics and, say, figures on violence against sexual minorities, we must remain content with estimates made by organisations and the findings of unofficial surveys, because for the most part there are no other data. This is because the public administration does not compile such data.

## 2. ATTITUDES TOWARDS SEXUAL AND GENDER MINORITIES IN RUSSIA

Human rights organisations report that public opinion in Russia has clearly become more conservative, and attitudes towards LGBT rights have become more negative. Kenneth Roth, executive director of Human Rights Watch, said in December 2014 that the human rights climate in Russia has changed almost beyond recognition from ten years ago. He specifically dates the change from the return of Vladimir Putin to the presidency in 2012. The 'gay propaganda laws' are the result of the Government aiming to appeal to its conservative base. The enactment of the federal propaganda law has resulted in an increase in violence against sexual and gender minorities.<sup>15</sup>

According to ILGA-Europe, which monitors the status of sexual and gender minorities in Europe, the drive towards curbing the rights of sexual and gender minorities was stronger than ever in 2013. ILGA noted that several social groups actually united in restricting the civic rights of these groups and turning them into social outcasts. The 'gay propaganda law' fostered further social polarisation and increased violence. This was part of a broader crackdown on human rights and the rule of law on the part of the government. As a result, human rights violations against sexual and gender minorities generally go unpunished.<sup>16</sup>

Negative views of and slander against sexual minorities are also frequently presented in the media.<sup>17</sup> A BBC report on homophobia in Russia notes that reporting on homosexuals for instance on the state-owned Rossiya 1 TV channel has increased hugely and that most of the items are highly negative in tone. Sexual minorities are depicted as aggressive minorities and bad parents of whose children 40% have sexually transmitted diseases. According to news anchor Dimitri Kiselyov, the hearts of homosexuals should be burned after death, because they are not fit for organ donation. Kiselyov was appointed to head the Russia Today TV channel, and thus the inference is that such statements will not get him into trouble. According to one TV journalist, Russia is in danger of drowning under a "sodomite tsunami". Not all state-owned TV channels are equally homophobic, but the BBC considers it clear that the homophobic material is aired with the blessing of the Kremlin. The media have even linked homosexuality with Islamic terrorism, one of the key threats in Russia in the 2000s. The Orthodox Church is also emphatically anti-gay.<sup>18</sup>

According to the Helsinki chapter of SETA – LGBTI Rights in Finland, many Russian gays prefer to lead a "restricted life" in order to avoid stigmatisation and persecution. They may for instance enter into a heterosexual marriage contrary to their orientation.<sup>19</sup> Branding a person as a homosexual has been used as a discrediting tool in political propaganda between supporters of the government and the opposition.<sup>20</sup> The Moscow Times notes that getting professional support

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<sup>15</sup> HRW 4.12.2014.

<sup>16</sup> ILGA-Europe, 5/2014.

<sup>17</sup> Ibid., 5/2014.

<sup>18</sup> BBC 17.1.2014.

<sup>19</sup> HS 20.1.2015 (1).

<sup>20</sup> BBC News 13.8.2013.

and help is complicated by the fact that many physicians consider sexual and gender minorities to be psychological aberrations that require treatment.<sup>21</sup>

According to a poll conducted by the Levada Center, the 'gay propaganda law' was supported by 76% of the Russian people when it was enacted.<sup>22</sup> According to a study published by the international Pew Research Center around the same time, in June 2013, only 16% of Russians considered that society should accept homosexuality; 74% were of the opinion that it should not.<sup>23</sup> The Levada Center also published other studies on attitudes to homosexuality in 2013, showing that 87% of Russians were opposed to gay marriage and 85% were opposed to homosexual events such as pride parades. Only 23% considered that homosexuals should be left alone; 16% were in favour of isolating homosexuals from society at large, 27% were in favour of involuntary treatment, and 5% were in favour of destroying homosexuals.<sup>24</sup> In another study conducted a couple of months later, 38% were in favour of involuntary treatment and 13% considered that homosexuality should be criminalised and declared a punishable offence. Only 21% believed that homosexuality is an innate characteristic, while 45% believed that it was the result of exposure to perversions or poor morals.<sup>25</sup>

Sociologist Alexander Kondakov, writing on the OpenDemocracy website, asserts that the image given of Russian attitudes is not unambiguous. Because homosexuality has very little visibility in Russia, most people probably have no information or opinion of their own at all about it; thus, when asked about the topic, they select the multiple-choice answer that they feel is closest to the commonly accepted view. The findings can thus be skewed by how the questions are framed and particularly by how negatively politicians and the media depict homosexuality. Kondakov notes that when the question specifically concerns the human rights of sexual minorities, the responses come out far more LGBT-favourable. In a survey conducted in 2012, 43% of the respondents were of the opinion that discrimination on the basis of sexual orientation should be prohibited, and somewhat fewer (37%) were opposed to such a prohibition. Most importantly, 51% of the respondents agreed that sexual minorities should have the same human rights as everyone else.<sup>26</sup>

LGBT activist Natalia Tsymbalova also stresses that the majority of Russians are very ignorant about homosexuality, which is why it is so easy to incite homophobia in society at large. Tsymbalova says that most members of sexual and gender minorities are afraid to be candid about their orientation, and as a result very few Russians are personally acquainted with any LGBT persons.<sup>27</sup>

There are also many liberal and LGBT-favourable bodies in Russia that do not condone the recent legislation. Many liberal periodicals, such as the popular arts magazine *Afisha*, protested against the 'gay propaganda law' for instance by publishing gay theme issues before the law was enacted.<sup>28</sup> The BBC notes that not even all the state-owned TV channels take a peremptorily negative view of sexual and gender minorities.<sup>29</sup> Also, for example the English-language newspaper *Moscow Times*, cited several times in the present report, reports matters related to LGBT in a neutral tone. There are several LGBT organisations operating in Russia, even though many of them have come under public or private intimidation. Among the best-known LGBT

<sup>21</sup> The Moscow Times, 18.6.2014.

<sup>22</sup> Russia Today 2.8.2013.

<sup>23</sup> Pew Research Center, 4.6.2013.

<sup>24</sup> Pink News 12.3.2013; Russia Today 12.3.2013; Russia Today 2.8.2013.

<sup>25</sup> Russia Today 2.8.2013.

<sup>26</sup> Kondakov 20.6.2013.

<sup>27</sup> IPS 18.9.2013.

<sup>28</sup> Ennis / BBC Blogs, 13.3.2013.

<sup>29</sup> BBC 17.1.2014.

organisations are St Petersburg's Vykход ( Coming Out) and the Russian LGBT Network. There is also a Russian culture festival for sexual and gender minorities, QueerFest, a film festival named Bok a Bok (Side by Side), regional LGBT organisations and periodicals and other media for sexual minorities.<sup>30</sup>

LGBT activist Natalia Tsymbalova says that sexual and gender minorities have become less prominent as a public enemy since the beginning of the war in Ukraine and are not featured in headlines nearly as often now. This has no impact on their situation, though: they still fall victim to violent offences that are investigated just as reluctantly as before. Tsymbalova says that hardly anyone in the LGBT community in Russia believes that the situation will improve in the near future, and many activists have emigrated or intend to.<sup>31</sup> Reports of LGBT activists seeking asylum in Western countries may be found in several other sources too.<sup>32</sup>

### 3. VIOLENCE COMMITTED BY PRIVATE INDIVIDUALS

#### 3.1. Violent offences by individuals

The Russian authorities do not compile data on violence against sexual and gender minorities and do not register the motives for violent assaults. Therefore there is no accurate or reliable information available on violence against sexual and gender minorities, and it is not possible to make reliable estimates of how widespread the phenomenon is and whether or how it has increased in scope. Russian LGBT organisations regularly monitoring the situation in society at large consider that there has been a clear increase in violence.<sup>33</sup>

Various organisations have unofficial data on the levels of violence and threats. According to a survey conducted by the Russian LGBT Network in the LGBT community in August 2013, 15.4% of the respondents said they had experienced physical violence at least once in the past year, while 3.3% had experienced violence two or more times in the past year.<sup>34</sup> There were more than 2,000 respondents in the survey. A full 50% of the respondents reported experiencing psychological abuse.<sup>35</sup> In June 2013, the France24 news website reported on an online survey where 10% out of 900 LGBT respondents said that they had been physically assaulted at least once in the past 10 months.<sup>36</sup> The SOVA Center, which principally monitors violence against immigrants, has also reported that the number of cases of LGBT violence coming to its attention has increased. In 2013, one person died and 25 were injured in assaults that came to the attention of the SOVA Center.<sup>37</sup>

ILGA-Europe publishes an annual report on the situation of LGBT rights and rights violations in various European countries. The 2013 and 2014 annual reports mention several violent attacks against representatives of sexual and gender minorities in Russia. In 2012, ILGA registered 14 hate crimes. In January 2012, for instance, a young trans person in a café in Omsk was first verbally abused and then threatened with violence, and finally assaulted so violently that a rib was broken. In 2013, attention was drawn to two brutal murders of homosexual men, in Volgograd in May and in the Kamchatka region in June. An LGBT activist was assaulted in the central

<sup>30</sup> Coming Out; Russian LGBT Network; Angloinfo.

<sup>31</sup> IPS 15.3.2015.

<sup>32</sup> Gessen / The Guardian, 11.8.2013; RFE/RL, 26.11.2014; RFE/RL, 25.11.2014; RFE/RL, 4.9.2014.

<sup>33</sup> Human Rights Watch 12/2014, p. 13-14; Inter Press Service 18.9.2013; Moscow Times 29.6.2014; LGBT Organization "Coming Out" et al, 2.5.2014, p. 4.

<sup>34</sup> LGBT Organization "Coming Out" et al, 2.5.2014.

<sup>35</sup> Human Rights Watch, 12/2014, p. 13-14.

<sup>36</sup> France24, 12.6.2013.

<sup>37</sup> FCO, 21.1.2015.



park in Togliatti in August 2012, being abused with homophobic slurs and death threats.<sup>38</sup> In 2011, a group of men in Moscow beat a trans woman to death.<sup>39</sup>

An extensive report published by Human Rights Watch in December 2014 included interviews with 78 LGBT persons who had fallen victim to violence or intimidation because of being a member of a sexual or gender minority. Of these, 26 in eight cities had been assaulted by a private individual or a group of people because of being considered homosexuals or members of the LGBT community.<sup>40</sup> Members of sexual minorities and transgender people (particularly trans women, i.e. men who had undergone a gender reassignment or had a female gender identity) had been subjected to sometimes very brutal beatings. Many had also encountered anti-gay hate speech in public places, although it had not always led to violence. Assaults and intimidation had been encountered in the metro, on the street, in nightclubs and even at job interviews. Some of those assaulted apparently attracted the attention of the assailants because of how they were dressed or because their appearance deviated from gender norms. Some had told someone that they were a member of a sexual or gender minority or a LGBT activist. Some of the assaults took place in daytime, often in the presence of other people. In one case, passers-by started to intervene but stopped when the assailants told them that the victim was a homosexual.<sup>41</sup>

There are violent anti-gay groups operating in several Russian regions, known as Occupy Pedophilia and Occupy Gerontophilia. Although Occupy Pedophilia claims to oppose paedophilia of any kind, in practice it only focuses on men engaging in relationships with teenage boys. The groups lure gay men and boys to meetings using fake dating website profiles and then assault them violently. They often film these attacks and post them on the Vkontakte website or elsewhere online complete with the victim's personal details. The groups have posted more than 400 videos, mainly featuring gay or bisexual men. As far as is known, no videos with women victims have been posted. The groups focus on adult men who are prepared to date underage boys (aged about 15–17) and on teenage boys who are prepared to date adult men. Other nationalist groups use similar methods against sexual and gender minorities.<sup>42</sup>

Underage minors are also subjected to violence, threats or other abuse. The aforementioned Occupy Gerontophilia groups threaten teenage boys who are prepared to enter into relationships with adult men.<sup>43</sup> In a sexual and gender minority adolescents' support group named Deti-404 in the social media, teenagers report having been beaten by their peers on being outed as gay or bisexual. The founder of the group reports that parents may beat their children, throw them out of their home or commit them to a psychiatric institution if they learn that the children belong to a sexual or gender minority.<sup>44</sup>

### 3.2. Attacks against LGBT events and activists

According to most of the people interviewed by Human Rights Watch for its extensive report, anti-gay attacks against sexual minority events have increased over the past two years. In 2013, anti-gay activists attacked practically every event promoting LGBT rights that they were aware of.<sup>45</sup>

<sup>38</sup> ILGA-Europe 05/2013, p. 184-185. ILGA-Europe 05/2014, p. 139.

<sup>39</sup> LGBT Organization "Coming Out" et al, 2.5.2014, p. 38.

<sup>40</sup> Human Rights Watch, 12/2014 s. 11, 26.

<sup>41</sup> HRW 12/2014 p. 26, 36-40.

<sup>42</sup> Ibid. 12/2014, p. 26-36; ILGA-Europe 5/2014, p. 145; HRW 4.2.2014.

<sup>43</sup> HRW 12/2014 p. 36-40.

<sup>44</sup> Guardian, 10.8.2013.

<sup>45</sup> HRW 12/2014 p. 40.

Human Rights Watch interviewed LGBT activists, 22 of whom had been attacked at least once while participating in a peaceful event advocating LGBT rights. The violence has often been very brutal. Anti-gay activists also utter violent threats against LGBT activists at such events, disrupt them and use offensive anti-gay language. Event organisers have been threatened. The anti-LGBT activists represent a variety of informal religious and nationalist groups. Human Rights Watch notes that some of the views that they aggressively propound are consistent with the official policy of the Russian government whereby Russian traditional values must be protected against the corrupting influence of foreign, particularly Western cultures.<sup>46</sup>

Participants at many LGBT events have been threatened, shoved and assaulted by anti-LGBT counter-demonstrators. In Voronezh in January 2013, hundreds of anti-LGBT counter-demonstrators attacked a dozen LGBT activists and assaulted them for instance by kicking, beating and throwing a smoke bomb. Many LGBT activists were injured. The event organisers had received threats before the event. On 29 June 2013, a peaceful demonstration against the enactment of the 'gay propaganda law' became the target of a violent attack by anti-gay counter-demonstrators. Half a dozen LGBT demonstrators were hospitalised because of their injuries.<sup>47</sup> Assaults have also been carried out on one-person demonstrations, the Rainbow Flashmob event, the events of the international Coming Out Day in St Petersburg and Moscow in October 2014, and many other LGBT events.<sup>48</sup>

At the international LGBT film festival Side by Side, screenings were disrupted for instance with several bogus bomb threats, and one LGBT activist was assaulted just before the opening ceremony. The international LGBT cultural festival QueerFest held in St Petersburg in September 2014 was subjected to a many kinds of disruption and intimidation. Anti-LGBT demonstrators made threats against the opening ceremony, forcing it to be relocated to another venue, which was nevertheless discovered by the counter-demonstrators. They attempted to intrude violently on the opening ceremony and sprayed green antiseptic fluid over the audience. They also attacked attendees who attempted to leave and then threw stink bombs into the venue and locked the attendees in. Among the protesters were Vitaly Milonov, a notoriously anti-gay politician, his assistant Anatoly Artyukh and Orthodox activists. The festival was otherwise disrupted, and one of its events was cancelled because of a bogus bomb threat. Several events were relocated or cancelled because the owners of the original venues withdrew their consent at the last minute.<sup>49</sup>

LGBT organisations and their employees have received threats of violence. The operations of organisations and groups have been disrupted in various ways. Clients of the LaSky Center, which works to prevent HIV among sexual minorities in St Petersburg, were attacked violently with baseball bats in November 2013, and many were injured.<sup>50</sup> The Russian LGBT Network and its employees have received threats, but they have been too vague in nature to be reported to the police. The fear of violence has influenced the activities of the organisation.<sup>51</sup>

Russian LGBT organisations note that attempts by sexual and gender minorities to stand up for their rights lead to uncontrolled and unpunished aggression towards them. Anyone who is an interested party or witness in a trial in such a case are subjected to intimidation, violence, insults

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<sup>46</sup> Ibid. 12/2014 p. 41; 41-52.

<sup>47</sup> Article 19, 3.7.2013; HRW 12/2014, s. 40-52.

<sup>48</sup> HRW 12/2014, s. 49-52; Amnesty International, 11.10.2014; LGBT Organization "Coming Out" et al, 2.5.2014, p. 35-39.

<sup>49</sup> HRW 12/2014, p. 53-58; RFE/RL 19.9.2014.

<sup>50</sup> ILGA-Europe, p. 139; HRW 12/2014 p. 53.

<sup>51</sup> HRW 12/2014, p. 56.

and death threats, besides sometimes being physically prevented from entering the court house.<sup>52</sup>

#### 4. ATTITUDES OF THE AUTHORITIES

##### 4.1. Violence by the authorities

A report by Russian LGBT organisations notes that many are afraid to turn to the police for protection because they fear being subjected to violence and discrimination on part of the police as well because of being a member of a sexual or gender minority.<sup>53</sup> The sources focus specifically on violent attacks by private individuals and extremist groups. Public sources contain scarcely any indications of violence that may have been perpetrated by the authorities. The Human Rights Watch report, however, does describe a situation where a police officer intervening in an assault on a homosexual had said, having learned that the victim was homosexual, that he would have done the same himself.<sup>54</sup>

According to a survey conducted by the LGBT Network in August 2013, only 6% of the victims of violence filed a report of the offence with the police; 45% of the respondents did not trust the police to protect them because of their sexual orientation or gender identity.<sup>55</sup> Because comprehensive data on violence against sexual and gender minorities are unavailable, the lack of data on violence committed by the authorities must not be taken to prove that such violence does not occur in individual cases.

##### 4.2. Legislation curbing the rights of sexual and gender minorities

###### 4.2.1. Application and impact of the 'gay propaganda law'

The 'gay propaganda law' (for more information, see section 1.1) has had several impacts: charges against and convictions of private individuals and administrators of organisations; banning of events or other LGBT activities on the basis of the law; repercussions resulting from criticising or opposing the law; and the deterrent effect of the law and its influence on public opinion.

Russian LGBT organisations note that the regional laws demonstrate that the 'gay propaganda law' is scarcely ever applied exactly as written: to impose fines on the persons or organisations violating it.<sup>56</sup> By the end of 2014, there had been four cases where a private individual had been found guilty of violating the federal 'gay propaganda law'. A fifth person, Yelena Klimova, was sentenced in 2015. (There is more information on Klimova below in this section.) There have been other trials, though. People have been charged and convicted on the basis of the regional propaganda laws too. However, some charges have been dismissed or overturned on appeal.<sup>57</sup>

Several detainments have been made and criminal investigations begun pursuant to the law without these cases being brought to trial. Often LGBT activists have been detained with the detaining officers citing the 'gay propaganda law' but subsequently released without being charged or else charged under some other count, such as resisting a public official. ILGA contends that this shows that not even the police or the courts are entirely clear about how to apply

<sup>52</sup> LGBT Organization "Coming Out" et al, 2.5.2014, p. 4.

<sup>53</sup> Ibid.

<sup>54</sup> HRW 12/2014, s. 60-61.

<sup>55</sup> LGBT Organization "Coming Out" et al, 2.5.2014, p. 4.

<sup>56</sup> LGBT Organization "Coming Out" et al, 2.5.2014, p. 17.

<sup>57</sup> HRW 12/2014, p. 16-21; St Petersburg Times, 25.1.2015.

the law.<sup>58</sup> For instance, LGBT activist Kirill Kalugin was apprehended and taken to a police station after displaying a rainbow flag with the text “My freedom protects yours” on Paratroopers Day. The police filed a report on him for distributing gay propaganda, but he was later released without being charged.<sup>59</sup>

Permits for pride parades and other LGBT events and demonstrations have been denied on the basis of the ‘gay propaganda law’ and its regional variants. The law was cited in the administrative decisions denying the permits for the Pride rallies in Moscow on at least 70 occasions between October and December 2013. The authorities claimed that the propaganda law might be violated if there were any minors present. The courts upheld the denials. Small individual demonstrations have also been punished under the law, for instance in the case of two demonstrators displaying a sign criticising the concept of ‘gay propaganda’ outside the children’s library in Arkhangelsk.<sup>60</sup>

There have been repercussions for opposing the ‘gay propaganda law’. According to activist Igor Kochetkov, at the pro-democracy demonstration in St Petersburg in 2012, only demonstrators protesting against the St Petersburg gay propaganda law were detained.<sup>61</sup> LGBT and human rights organisations criticising the law have been accused of being political operators in the sense of the ‘foreign agents’ law.<sup>62</sup>

Reports like this indicate that the freedom of speech is being restricted on the basis of the ‘gay propaganda law’ or because of opposing it. Indeed, human rights organisations note that in practice the ‘gay propaganda law’ considerably restricts how sexual minorities and their rights can be discussed in public or how demonstrations or parades can be organised, because there is always a case to be made for minors being exposed to them.<sup>63</sup>

Even though the law is purported to protect children and adolescents, it actually causes problems for children and adolescents who belong to sexual and gender minorities, because by law they are not allowed to receive information on and support for their orientation or gender identity. Negative attitudes and discrimination against these children or their family members harm the children. The law makes it difficult to discuss sexual minorities at school, to provide advice and counselling for LGBT children and to organise tolerance campaigns among adolescents. It has also contributed to an increase in homophobic bullying and complicated the situation of LGBT children at school. A Russian LGBT activist says that Russia has the highest teenage suicide rate in Europe and that a considerable percentage of the teens committing suicide are LGBT children. Negative public opinion is a contributing factor.<sup>64</sup> In Bryansk, an LGBT minor who told her classmates that she was gay was charged with distributing gay propaganda. The decision was reversed because of negative publicity.<sup>65</sup>

The negative impact of the law on LGBT children is reflected in the fact that the online support group for LGBT adolescents, Deti-404, has also been the target of gay propaganda accusations. This group offers advice, support and counselling for LGBT children and adolescents who are harassed because of their sexual orientation or gender identity. LGBT adolescents are able to share their experiences with others in the group, and volunteer psychologists provide coun-

<sup>58</sup> ILGA 05/2013, p. 190; St. Petersburg Times 6.8.2014; Kochetkov / openDemocracy, 22.8.2012.

<sup>59</sup> St Petersburg Times 6.8.2014.

<sup>60</sup> ILGA 5/2014, p. 141; ILGA-Europe 05/2013, s. 187-188; LGBT Organization “Coming Out” et al, 2.5.2014, p. 17.

<sup>61</sup> Kochetkov / openDemocracy, 22.8.2012.

<sup>62</sup> ILGA-Europe 05/2014, p. 141.

<sup>63</sup> For example Freedom House 30.6.2014; Amnesty International 11.10.2014; World Organisation Against Torture 4.10.2013; Inter Press Service 18.9.2013.

<sup>64</sup> LGBT Organization “Coming Out” et al, 2.5.2014, p. 18; HRW 12/2014, p. 16; LGBT Network, 21.3.2015.

<sup>65</sup> RFE/RL 6.2.2014.

selling for those in the most difficult situations.<sup>66</sup> The premiere of a documentary about the group in 2014 was interrupted by an intrusion of anti-gay demonstrators but was allowed to continue once the authorities had ascertained that there were no minors in the audience. The director of the film was later brought in for questioning.<sup>67</sup>

In late 2014, the media oversight authority Roskomnadzor launched an investigation of the founder of the group, journalist Yelena Klimova. Roskomnadzor reported having received more than 150 complaints from citizens and organisations. It did not specify which parts of the website counted as propaganda. Klimova's competence in helping adolescents was questioned. She was told that it was not her business to do work like this, which is the province of trained psychologists, counsellors, physicians and lawyers. Klimova remarked in her blog that the authorities will not give adolescents the counselling they need, which means that more qualified help is not available.<sup>68</sup>

In January 2015, Klimova was found guilty of gay propaganda and sentenced to a fine of RUB 50,000 (about EUR 800). According to the Russian LGBT Network, Klimova's counsel had not been able to appear but the court session was nevertheless held, denying Klimova her right to legal representation. However, in March 2015 the court of appeal overturned the decision because of procedural errors in the trial. Yet another court is intended to weigh in on the Klimova case.<sup>69</sup> In February 2015, the media reported that Deti-404 had been blacklisted and would probably be blocked in Russia. A court is scheduled to rule in April 2015 whether the website violates Russian law. A French LGBT site reports Klimova as hoping that the group could continue its existence on Facebook, because Facebook is beyond Russian jurisdiction.<sup>70</sup>

Russian LGBT activists and international human rights organisations report that the impact of the law is worst beyond the convictions and other legal sanctions. Above everything else, the law has caused society at large to become increasingly homophobic, being seen as justifying violence against sexual and gender minorities. Activists and organisations report that the level of violence has escalated since the law entered into force.<sup>71</sup> The law brands homosexuals as unnatural and perverse and therefore condones violence and discrimination against them. There is no official definition of 'gay propaganda', so no one knows what might be considered propaganda. Even openly describing one's own sexual orientation may be construed as propaganda. As a result, many are afraid to talk about their sexual orientation or gender identity or to discuss LGBT matters. In a sort of informal enforcement of the law, private individuals use the law as justification for attacking LGBT persons and events.<sup>72</sup> Many LGBT people in St Petersburg felt that violence against sexual minorities already began to become more acceptable back when the regional 'gay propaganda law' there was enacted.<sup>73</sup>

Some LGBT people are afraid that their children will be taken away from them because of the 'gay propaganda law'. Amnesty International notes that there has been talk in Russia about taking the children of sexual minorities into custody because they expose their children to gay propaganda at home. Russian LGBT organisations report that LGBT parents are particularly

<sup>66</sup> Seddon / BuzzFeed 17.11.2014; RFE/RL 18.11.2014.

<sup>67</sup> Moscow Times 18.6.2014; Advocate 25.4.2014.

<sup>68</sup> Seddon / BuzzFeed 17.11.2014 ; RFE/RL 18.11.2014.

<sup>69</sup> Russian LGBT Network, 23.1.2015; Moscow Times 25.1.2015; Russian LGBT Network 25.3.2015.

<sup>70</sup> The Moscow Times 2.2.2015; Infos LGBT, 22.3.2015; 360, 21.3.2015.

<sup>71</sup> Freedom House 30.6.2014; Amnesty International, 11.10.2014; The Moscow Times, 29.6.2014; LGBT Organization "Coming Out" et al, 2.5.2014, p. 4, 18.

<sup>72</sup> Amnesty International, 11.10.2014; The Moscow Times, 29.6.2014; LGBT Organization "Coming Out" et al, 2.5.2014, p. 18.

<sup>73</sup> Kochetkov / openDemocracy, 22.8.2012; LGBT Organization "Coming Out" et al, 2.5.2014, p. 18.

afraid of losing their children.<sup>74</sup> Masha Gessen, a Russian journalist who is openly gay and who organised a campaign against the ‘gay propaganda law’, says that she and her family emigrated from Russia because of this fear. Gessen’s children could be taken away from her by the social services if she were convicted for gay propaganda. After she organised a campaign against the ‘gay propaganda law’, she began to attract negative attention among supporters of the law. At that point, her adoption attorney advised her to leave the country in order to avoid the risk of losing her adopted son.<sup>75</sup>

#### 4.2.2. Charges and restrictions pursuant to other legislation, and legislative initiatives

The sources indicate that the authorities have detained LGBT activists. At many demonstrations where rainbow symbols have been displayed or support for sexual minorities otherwise demonstrated, demonstrators have been detained only for that reason.<sup>76</sup>

Attempts have also been made to shut down or prevent sexual minority events on grounds other than the ‘gay propaganda law’. Reasons given include repairs, heavy traffic at the proposed site, the presence of children or tourists in the area, or sometimes even that the authorities cannot guarantee security at the event. It is difficult to get such denials reversed in court, and even when successful, the decision usually does not come until after the proposed event, which therefore does not get held anyway.<sup>77</sup> Organising LGBT events has been difficult. The Queer-Fest cultural festival in 2014 was subjected to disruption and sabotage attempts by private individuals (for further information, see section 3.2), and the police sought to pressure the festival to shut down an event because of public disorder.<sup>78</sup> A sports festival for sexual and gender minorities has also been subject to harassment. Police officers showed up at the events, and the organisers felt that they were leaned on in many ways. One event had to be cancelled because a smoke bomb was detonated at the venue. The person who detonated the bomb had claimed to be a security service official.<sup>79</sup> Private owners have in some cases revoked bookings for LGBT events for fear of violating local laws or official regulations; sometimes they say that the authorities have ordered them to do so.<sup>80</sup>

The ‘foreign agent law’ enacted in Russia in 2012 has also been employed against sexual minority organisations. This law requires all organisations engaged in political action and receiving foreign funding to register as ‘foreign agents’ and to display this description in all the materials produced by them. The expression is understood in Russia to be tantamount to ‘spy’ and is considered shameful. The Vykhod / Coming Out organisation and the Side by Side film festival have been ruled by courts to be foreign agents. For Vykhod, the decision was particularly motivated by the organisation’s criticism of the ‘gay propaganda law’. The above rulings were later reversed on procedural grounds. In 2014, the public prosecutor again brought charges against Vykhod, claiming that an undetermined group of people had been harmed by the fact that the organisation had not registered itself as a foreign agent. The idea is for the court to order the organisation to register as a foreign agent. The court cases have stripped the organisation of most of its operating potential, and it has been virtually unable to focus on the protection of

<sup>74</sup> Amnesty International, 11.10.2014; LGBT Organization “Coming Out” et al, 2.5.2014, p. 19.

<sup>75</sup> Gessen / The Guardian, 11.8.2013.

<sup>76</sup> FIDH/ADC 2/2014.

<sup>77</sup> LGBT Organization “Coming Out” et al, 2.5.2014, p. 11.

<sup>78</sup> Amnesty International, 11.10.2014; HRW 12/2014, p. 58.

<sup>79</sup> The Moscow Times, 29.6.2014.

<sup>80</sup> World Organisation Against Torture, 21.3.2014; The Moscow Times, 29.6.2014; HRW 12/2014, p. 58.

LGBT rights.<sup>81</sup> Human Rights Watch reports that the Side by Side film festival has announced that it would rather quit than being calling itself a foreign agent. The UK Foreign Office further specified this by noting that Side by Side has considered it better to convert itself from a civic organisation to a commercial operator. However, the film festival did win its case in the court of appeal concerning the fines imposed on it.<sup>82</sup>

Even before the entry of the propaganda law into force, sexual and gender minority events were banned for instance in the alleged interests of the participants' own safety or on the basis of a variety of excuses. Since the entry of the 'gay propaganda law' into force, the law has been used as the basis for such bans. Even an event whose declared purpose was to publicise Putin's own opinion that hatred should not be directed against sexual minorities was banned on the basis of the 'gay propaganda law'. The court justified banning the publicising of the President's opinion by stating that the organisers' desire to organise public events meant that they wished to propound gay culture to an unspecified number of individuals that might include minors who thus would unwittingly be exposed to their influence.<sup>83</sup>

#### 4.3. State protection and impunity

##### 4.3.1. Impunity for crimes against LGBT

According to human rights organisations and LGBT activists, the Russian government does not respond sufficiently or effectively to the violence and harassment perpetrated against LGBT persons. The sources indicate that the police and other authorities largely ignore violence, threats and harassment perpetrated against sexual and gender minorities. Often the police do not intervene in threats or violence against sexual and gender minorities or only intervene if the situation becomes life-threatening or if lawyers pressure them to do so, for instance.<sup>84</sup> The authorities also do not compile statistics on offences against sexual minorities. Because comprehensive data on the phenomenon are not available, it is problematic to estimate its extent and changes therein.<sup>85</sup>

In the several dozen cases documented by Human Rights Watch, the authorities seriously intervened in only a handful, and even fewer resulted in significant consequences for the perpetrators. Of the 78 victims of violence interviewed by Human Rights Watch, 44 reported the offence to the police, but nearly all felt that the police did not help them at all, or did not help enough. The exception to this rule was the Side by Side film festival, whose organisers stated that the police investigated the bomb threats properly and treated the festival participants with respect. All the other interviewees were displeased with how the police treated them and the offences.<sup>86</sup>

The police often belittled the seriousness of the incident or blamed the victims for flaunting their sexual orientation or otherwise themselves being responsible for instigating the incident. The police may imply that it is normal and understandable for homosexuals to be attacked and that they do not consider the incident to merit a report of an offence. Some police officers used anti-gay expressions. In one case, a police officer said after a violent anti-gay assault that he would have done the same. Even in cases where the police detain the perpetrator after an attack, the victims' rights were not effectively enforced. In many cases, the police collected no evidence;

<sup>81</sup> ILGA-Europe 5/2014, 141-142; LGBT Organization "Coming Out" et al, 2.5.2014, p. 30-31.

<sup>82</sup> HRW 18.1.2015.

<sup>83</sup> Amnesty 06/2014.

<sup>84</sup> HRW 12/2014; ILGA 05/2013; LGBT Organization "Coming Out" et al, 2.5.2014

<sup>85</sup> HRW 12/2014 p. 13.

<sup>86</sup> HRW 12/2014, p. 60.

and in only three cases did the investigation lead to a trial. In two of these cases, the defendants were convicted, but their sentences were disproportionately mild considering the suffering of their victims. Sometimes the authorities would bring charges and then drop them. The authorities also do not register homophobic motives for offences, even though Russian legislation has separate provisions for hate crimes. Being a member of a sexual or gender minority is not specifically listed under motives for hate crimes in the legislation. While the description 'social group' listed as one of the motives for hate crime could be construed to apply to anti-LGBT offences, it is never thus evoked; offences against LGBT persons are investigated as normal offences even when there is evidence of a hate-crime motive.<sup>87</sup>

A document submitted by Russian LGBT organisations to the UN underlines that a violent offence against LGBT persons is not investigated as a hate crime even when the assailant openly declares the motive for the assault to have been the victim's sexual or gender identity or gay propaganda, etc. The police have no training for investigating anti-LGBT offences, and police officers often share the general public's negative attitudes towards sexual and gender minorities or may even be unaware of what being a member of such a minority even means.<sup>88</sup>

Similar information may be found in other sources. The FIDH cites a report from a Russian LGBT organisation noting that violence against sexual and gender minorities has increased. Of the 20 attacks that the organisation was aware of over a period of several months, only four resulted in a criminal investigation, and only one of those cases was ever brought to trial.<sup>89</sup> The authorities may avoid investigating an offence regardless of what the evidence is. Amnesty International reports the prominent killing of an openly lesbian dance instructor in autumn 2014. The police initially attempted to claim suicide, even though the victim had been found with her throat cut in a car whose engine was running. Amnesty notes that this case well illustrates just how difficult it is to get justice.<sup>90</sup>

In many of the violent offences referred to above,<sup>91</sup> the police did not address the matter or were reluctant to do so. When the HIV prevention centre LaSky was attacked, the police did respond to the emergency call but then left saying that they could find no evidence of an offence. A criminal investigation was eventually begun, but the offence cited was hooliganism, with no mention of a hate crime motive.<sup>92</sup> The police have failed to respond to many situations where LGBT persons have been prevented from attending trials.<sup>93</sup>

It is common for the police not to intervene in violent attacks against LGBT events. This was the case in many of the violent attacks against LGBT events referred to above.<sup>94</sup> Sometimes the police detain attendees who were targets of the attack. Sometimes attackers are also detained, sometimes not.<sup>95</sup>

In May 2013, there was an attack against an LGBT event in Moscow, but the police only detained LGBT demonstrators, not any of the attackers.<sup>96</sup> At the St Petersburg Pride event in June 2013, 200–300 nationalists assaulted 50–60 Pride attendees. There was a large number of riot police present, but they did not intervene. The police contended that an underage person far

<sup>87</sup> HRW 12/2014, p. 59-60, 63, 64-67; LGBT Organization "Coming Out" et al, 2.5.2014, p. 3.

<sup>88</sup> LGBT Organization "Coming Out" et al, 2.5.2014, p. 3.

<sup>89</sup> FIDH/ADC 2/2014.

<sup>90</sup> Amnesty 11.10.2014.

<sup>91</sup> See section 3.

<sup>92</sup> ILGA-Europe 05/2014, p. 139.

<sup>93</sup> LGBT Organization "Coming Out" et al, 2.5.2014, p. 4.

<sup>94</sup> HRW 12/2014, 40-52, 59-63; ILGA 5/2013; Amnesty International 11.10.2014.

<sup>95</sup> Amnesty International 11.10.2014; IPS 18.9.2013; ILGA 05/2014, p. 138.

<sup>96</sup> FIDH/ADC 2/2014.



away had seen a rainbow flag and that it was therefore a case of propaganda. Most of the attendees were detained and charged on flimsy pretexts. They were later released by the courts. Many activists were hospitalised for their injuries. As far as is known, no investigation of this incident has been launched.<sup>97</sup>

In 2012, a young trans person in Omsk was threatened and assaulted, and the police did not respond until 45 minutes after being called. The police officers did not intervene until the assailants began to hit the victim on the head. Up until then, the police officers looked on as the victim was threatened with violence. The victim sustained a serious injury from the assault before the intervention.<sup>98</sup> In Samara in March 2012, a gay man was violently assaulted by his friend after he had told him about his orientation and sustained a concussion, among other injuries. Having been released from hospital, the victim attempted to report the offence, but the police tried to talk him out of it and to convince him to settle the matter by discussion. The police refused to issue him a receipt for the report of an offence until they received a phone call from the attorney of the LGBT Network.<sup>99</sup>

Russian LGBT organisations note that the police often do not show up at the scene of a crime. They often also refuse to begin a criminal investigation process even if the attack is documented on video or otherwise proven by evidence. Reports of an offence are formally filed, but the criminal investigation or notification are delayed until the period for bringing charges expires and a charge can no longer be brought.<sup>100</sup>

Human Rights Watch notes that many victims do not report the offence because they do not trust the police, because they fear being subjected to more humiliation and violence, or because they simply do not consider it worthwhile, knowing from past experience that the police will not investigate the matter properly.<sup>101</sup>

Other offences such as hate speech by public figures are also ignored. An example is the case of a well-known celebrity, Ivan Okhlobystin, who said in an interview that homosexuals should be stuffed into an oven, that they are dangerous to children and that homosexuality is a sign of mental abnormality. The LGBT Network and a Russian activist both sued him. The suit brought by LGBT Network was not even heard, and procedural rules were violated. The activist lost the case and was obliged to pay Okhlobystin's legal costs. Also, no criminal investigation has been launched concerning the many rabidly anti-gay statements made by politician Vitaly Milonov.<sup>102</sup>

Because the source material contained no information on violence that may have been perpetrated by the police, it is difficult to estimate whether an LGBT person could receive protection against police violence. Considering that protection is only occasionally granted even in the case of violence perpetrated by private individuals, the situation of an LGBT person subjected to violence by the authorities cannot be considered good. Human rights commentators state that torture inflicted by the police is common in Russia and generally goes unpunished. Although this is in relation to the actions of the police in torturing prisoners in interrogations, for instance, it does not bode well for punishment of possible police violence against sexual and gender minorities, either.<sup>103</sup> The integrity of Russian courts is questionable. This is the most apparent in politi-

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<sup>97</sup> ILGA-Europe 05/2014, p. 138.

<sup>98</sup> ILGA-Europe, 05/2013, o. 184.

<sup>99</sup> *Ibid.*, p. 190.

<sup>100</sup> LGBT Organization "Coming Out" et al, 2.5.2014

<sup>101</sup> HRW 12/2014, 60.

<sup>102</sup> LGBT Organization "Coming Out" et al, 2.5.2014, p. 39-40.

<sup>103</sup> See for example OMCT 2.12.2012.

cal trials or in the protection afforded to high-ranking officials or their family members, and one cannot make direct comparisons with the situation of LGBT persons.<sup>104</sup>

#### 4.3.2. Cases where state protection was given

In Russian legislation, a hate-crime motivation is an aggravating circumstance in certain offences, including murder and assault. Sexual and gender minorities are not specifically mentioned in the provisions, but the designation “social group” could be construed to mean sexual and gender minorities. However, the authorities never apply this legislation to sexual and gender minorities. LGBT activists contend that that legislation is inadequate, because “social group” in this context is not defined so as to include sexual and gender minorities. The courts rely on various experts to determine whether LGBT persons constitute a “social group”, and the expert testimony is generally not in favour of sexual and gender minorities.<sup>105</sup> The Russian LGBT organisation Vykход / Coming Out knows of several cases where prosecutors have demanded punishment for extremism offences<sup>106</sup>, when anti-gay violence was in fact involved. Courts have dismissed charged because they do not consider sexual and gender minorities to constitute a “social group”. Sometimes attorneys have requested courts to rule on anti-gay violence as hate crime, but never successfully.<sup>107</sup>

There are cases where violence against sexual minorities has been punished. In the Kamchatka region, three men who had murdered another man whom they considered a homosexual were sentenced to long sentences in a penal colony (12.5 years, 10.5 years and 9 years, according to their roles in the offence). What was rare in this case was not only the severity of the sentences but the fact that the prosecutors declared publicly that the motive for the killing was the victim’s sexual orientation. Nevertheless, the defendants were sentenced for murder, not for hate crime. The victim was the deputy director of Ozyornaya airport. The sources do not indicate whether the victim’s prominent social position affected the severity of the sentencing and the declaration of the sexual-orientation motive. Well-known Russian LGBT activist Nikolai Alexeyev appeared in the media commenting on the murder soon afterwards, linking the case to the general homophobia in society at large.<sup>108</sup>

Violence against homosexuals by Occupy Pedophilia and other similar groups has only resulted in a few prosecutions. Human Rights Watch knows of only two cases where charges were brought and two others where a criminal investigation was begun. Hate against sexual minorities was not considered an aggravating circumstance in the charges, even though the video evidence clearly shows the assailants using anti-gay language. In August 2013, a surprise raid was conducted into the homes of some members of the particularly brutal branch of Occupy Pedophilia in Kamensk-Uralsky; weapons were found, and a criminal investigation was launched. According to the media, some of the suspects are under arrest and others under house arrest.<sup>109</sup>

In August 2014, the founder of Occupy Pedophilia, Maxim Martsinkevich, was sentenced to 5 years’ imprisonment in Moscow for anti-immigrant and xenophobic comments. His anti-gay vio-

<sup>104</sup> See for example USDOS 27.2.2014; Freedom House 12.6.2014; Freedom House 28.1.2015.

<sup>105</sup> HRW 12/2014, 64–65.

<sup>106</sup> The anti-extremist legislation in Russia covers for example terrorism, violent hate crimes and hate speech.

<sup>107</sup> HRW 12/2014, p. 65–66.

<sup>108</sup> RFE/RL 3.2.2014; BBC 3.2.2014; Reuters 3.6.2013; Moscow Times 4.6.2013.

<sup>109</sup> HRW 12/2014, p. 66–68.

lence was not mentioned in the charges, however, even though there is plenty of evidence for it. In November 2014, his sentence was reduced by more than two years.<sup>110</sup>

In some cases where LGBT activists were detained, counter-protestors attacking them were also detained, albeit not until the violence had gone on for quite some time, and in any case fewer anti-LGBT counter-protestors were detained in comparison to the peaceful LGBT activists.<sup>111</sup> There have been LGBT events where the police have sufficiently protected the attendees against violence and threats from anti-LGBT activists. At events held in St Petersburg in September 2013 and July 2014, the police provided sufficient protection and prevented the counter-protestors from attacking the LGBT activists and disrupting the events.<sup>112</sup> On 17 May 2013, an approved LGBT parade was held in St Petersburg in the course of which a participant was shot and wounded. The shooter said that he had been offended as a religious person to have seen the slogan “Jesus loves men and women equally”. The offender was tried and convicted but only received a sentence of one year’s conditional imprisonment.<sup>113</sup>

The organisers of the Side by Side film festival have been satisfied with the actions of the police: the police investigated the bomb threats and other harassment of the festival diligently and treated the organisers and participants appropriately. It was thanks to the police that the festival could go on despite the harassment. One person was arrested and charged with making a bomb threat against the festival. As far as is known, no one else has been arrested or charged in connection with the disruptions at the festival.<sup>114</sup>

#### 4.4. Anti-LGBT statements and actions by government leadership and politicians

The sources also convey anti-gay attitudes on the part of government leadership. Many of the country’s political leaders have also spoken out against LGBT rights, from President Vladimir Putin down to the Foreign Ministry’s Special Representative Konstantin Dolgov and Pavel Astakhov, Presidential Commissioner for Children’s Rights. The Russian leadership depicts sexual minorities as a result of the corrupt influence of the West. Leaders, Putin included, also often link homosexuals to paedophiles, which according to human rights commentators encourages anti-gay attitudes and violence. Putin and others have refuted international criticism by claiming that sexual minorities have the same rights as everyone else and that they are not discriminated against in Russia.<sup>115</sup> On the other hand, Russia has called into question in international contexts whether human rights apply to sexual and gender minorities. Russia has profiled itself as an advocate for ‘traditional values’ for instance at the UN.<sup>116</sup>

One of the most prominent anti-LGBT politicians mentioned in numerous sources is Vitaly Milonov from St Petersburg, known for his strict anti-gay views. Milonov was the architect of the St Petersburg version of the ‘gay propaganda law’, and the Moscow Times for instance reported that Milonov claims that the law demonstrates what the Russian people value.<sup>117</sup> Other legislators are said to have claimed that homosexuals should be barred from government jobs, or forced into psychiatric treatment, or expelled from the country.<sup>118</sup> Milonov also disrupted the opening of the QueerFest LGBT cultural festival in 2013 together with a group of nationalist activists and used homophobic and nationalist terms of abuse against the festival participants and

<sup>110</sup> HRW 12/2014, 68; RFE/RL 11.11.2014.

<sup>111</sup> HRW 12/2014, 46-52.

<sup>112</sup> *Ibid.*, p. 50.

<sup>113</sup> FIDH/ADC 2/2014.

<sup>114</sup> HRW 12/2014, p. 55-56.

<sup>115</sup> ILGA-Europe, 5/2014; HRW 12/2014 s. 22-25; HRW 4.2.2014.

<sup>116</sup> Global Post / Lokshina, 26.4.2012; Article 19, 7.3.2013.

<sup>117</sup> The Moscow Times, 29.6.2014.

<sup>118</sup> France24, 12.6.2013.

volunteers. Milonov is also on record as stating that homosexuality is as despicable as murder. Activists have tried to get Milonov charged with hate speech, but without success.<sup>119</sup>

Scarcely any politicians are known to stand up for LGBT rights. For instance, the 'gay propaganda law' was adopted by the Duma without a single opposing vote, and only one abstention: Ilya Ponomaryev, who was strongly anti-government anyway and who was subsequently obliged to leave Russia after refusing to vote in favour of the annexation of the Crimea by Russia.<sup>120</sup>

From time to time, government leaders present tolerant views in public, particularly in international contexts, but it is likely that these are simply for foreign consumption, as they have not led to any change in policy. The English-language magazine *Russia Beyond the Headlines*, published by the state-owned *Rossiskaya Gazeta*, reported in February 2015 on a documentary where Vladimir Putin advocated tolerance towards sexual minorities. RBTH is regarded in the West as an organ for Russian propaganda designed to influence Western impressions of Russia. The article discussed Russia's LGBT legislation and public attitudes in sometimes critical tones. It included an interview with LGBT activist Nikolai Alexeyev, according to whom the Russian authorities should tone down their LGBT rhetoric. Russia will be hosting the football World Cup in 2018, and given how contentious the LGBT rights issue became during the Sochi Olympics, the Russian leadership seems determined to prevent this topic from dominating public debate at that time. Therefore Russia would have to change its official LGBT rhetoric to keep up appearances.<sup>121</sup>

What is interesting in this case is that a state-controlled periodical published a critical assessment of the country's LGBT policies and gave voice to an LGBT activist and treated him neutrally. However, the question remains of whether this article represents anything more than an attempt to stage-manage the conceptions that foreign nations have of Russia's attitude to LGBT matters. It is too early to tell whether this isolated statement by Putin will translate into actual impacts on the rights of sexual and gender minorities and the situation on the ground.

#### 4.5. Dismissals and pressuring of persons employed in education and training

Recently, various people in education and training jobs – teachers, municipal youth centre employees, university employees – who are LGBT persons or favourable to LGBT rights have lost their jobs because of their orientation or because of their opinions and activism. They have been dismissed, or they have resigned under pressure, or their employment has not been continued. The 'gay propaganda law' was invoked in almost all of these cases. The loss of position was usually preceded by a smear campaign against the person in question, instigated by private individuals. In some cases, the employer had previously been aware of the employee's LGBT activism, and before 2014 it had not been a problem. There have also been cases where pressure has not led to job loss or where a dismissal has been reversed in the appeal process.<sup>122</sup>

#### 4.6. Problems with the identification documents of trans persons

Trans persons (transgender and transvestite persons and others with non-standard gender identity) face particular problems with the authorities when attempting to change their identifica-

<sup>119</sup> ILGA-Europe, 05/2014.

<sup>120</sup> Business Insider, 11.3.2015.

<sup>121</sup> *Russia Beyond the Headlines*, 16.2.2015.

<sup>122</sup> HRW 12/2014, p. 71-75.

tion documents and legal identity to correspond to their gender. Although the right of transgender persons to change their name and identification documents to be consistent with their perceived gender identity is guaranteed by law, no procedure or standard document format is provided for. Therefore local register offices often refuse to change a person's gender in official registers, or they may require a standardised medical certificate even though none has been defined, or they may require more medical evidence or gender reassignment surgery, none of which are actually required by law. Surgical operations are not always possible for health reasons or financial reasons, or they may involve unreasonable difficulties, and in any case they are not required by law. Yet courts and local register offices often demand such operations, and applications may be denied on that basis. Without identification documents indicating their true gender identity, trans persons face discrimination for instance in access to health care and training and in finding housing or employment, because their gender is inconsistent with what is entered in their identification documents.<sup>123</sup>

## 5. REGIONAL DIFFERENCES

Public sources do not say a great deal about regional differences in attitudes to sexual and gender minorities. There are some indications that the situation is more difficult in small towns and generally outside St Petersburg and Moscow. An activist interviewed by the Inter Press Service in 2013 reported that even in the large cities LGBT persons are afraid to kiss or hold hands with a same-sex partner in a public place. In a small town or in the country, LGBT persons must keep their orientation completely secret or risk even being killed.<sup>124</sup> Aija Salo, chairman of SETA – LGBTI Rights in Finland, says that there is a lot of hinterland in Russia where no support at all is available for sexual and gender minorities. There are many international organisations and embassies in St Petersburg and Moscow, and finding support there is much easier.<sup>125</sup>

The sources indicate that violence against sexual minorities has been perpetrated in many regions. Violence has occurred in large cities like St Petersburg and Moscow and in smaller and more remote communities alike. The most brutal murders of recent times, in Volgograd and the Kamchatka region in 2013, were committed in conservative regions in Caucasia and the Far East. Most organisations and significant LGBT events are located in the large cities, particularly St Petersburg and Moscow.<sup>126</sup>

Alexander Kondakov, a sociologist studying sexuality-related topics, reports that opinion polls show that the north-western corner of Russia where St Petersburg is appears to be more tolerant than other regions in Russia. In a survey conducted in 2007, this region showed the largest percentage of people who thought that sexual minorities should be left alone (46%). The central region, where Moscow is, came out as the most negative region; Kondakov's analysis does not explain why, even though surveys conducted in the 2000s have shown that the large cities are generally more tolerant of sexual minorities. The southern region and the Siberian region were the most conservative in addition to the central region. In both large cities and small villages, opinions are sharply divided: in both, the largest percentages were recorded for both the most liberal option (leaving the homosexuals alone) and the most conservative option (criminalising homosexuality).<sup>127</sup>

<sup>123</sup> USDOS 27.2.2014; LGBT Organization "Coming Out" et al, 2.5.2014, p. 23-26.

<sup>124</sup> IPS 18.9.2013.

<sup>125</sup> HS 20.1.2015 (2).

<sup>126</sup> ILGA-Europe 05/2014, p. 139.

<sup>127</sup> Kondakov, 20.6.2013.

## 6. AT-RISK GROUPS: WHO ARE THE TARGETS OF THE PROBLEMS?

The sources indicate that the following persons have been targeted by violence, discrimination or other persecution on the basis of sexual orientation or gender identity:

- LGBT activists
- obviously homosexual or transgender persons, particularly trans women (born as men but perceiving themselves as women), the latter encountering particularly serious problems
- men and boys responding to bogus dating ads
- persons who have told someone about their sexual orientation<sup>128</sup>

Although LGBT activists seem to be singled out for particular attention, the sources also reported on several cases where the persons targeted were not known in any way or were not LGBT activists. Just about the only common factor in falling victim to persecution is that the person's sexual orientation somehow or other becomes apparent to another person who has a hostile attitude to it. This may require as little as an unusual appearance or unusual clothes associated with sexual or gender minorities, or indeed telling someone of one's sexual orientation or gender identity. The Human Rights Watch report cites several cases where men dressed in typically gay fashion or trans women have become victims of violence. Russian LGBT organisations reported the case of a lesbian couple who were assaulted by an unknown man on the metro. The man accused them of not looking feminine enough, e.g. not wearing skirts.<sup>129</sup>

Other kinds of problems, such as banning demonstrations and otherwise curbing the freedom of expression, apply particularly to LGBT activists who seek to exercise these freedoms.<sup>130</sup> Persons who are otherwise politically active may be targeted by the authorities both because of their activism and because of their homosexuality. For instance, blogger Andrei Marchenko, who supports the rights of sexual minorities and made comments favourable to Ukraine on the Ukrainian war, was raided and interrogated by the FSB. He told the media that even before this the FSB had accused him in an interrogation of trying to create "a gay terrorist underworld".<sup>131</sup>

One analysis suggests that LGBT persons who are also members of ethnic minorities may have an even harder time; this is in reference to Marchenko's Ukrainian background and the Jewish journalist Masha Gessen.<sup>132</sup> However, this analysis remains an isolated case among the sources used in the present report, so the importance of ethnic background is difficult to evaluate. It should be noted, though, that the groups opposed to sexual and gender minorities are generally also firmly nationalist.

It would therefore seem that just about anyone can be subjected to violence if their sexual orientation or gender identity becomes apparent to an anti-LGBT person or group. Another question is whether there is any difference in who is more likely to receive protection from the authorities. As noted above, the protection provided by the authorities is very occasional and often insufficient. The authorities often do not address violence and discrimination against LGBT persons at

<sup>128</sup> For cases see e.g. HRW 12/2014, LGBT Network et al. 07/2014; FIDH/ADC 2/2014.

<sup>129</sup> LGBT Organization "Coming Out" et al, 2.5.2014, p. 38.

<sup>130</sup> Amnesty International, 25.2.2015.

<sup>131</sup> The Moscow Times, 29.8.2014; Pink News, 5.9.2014.

<sup>132</sup> dot429, 2.9.2014.

all, or investigate cases in a lacklustre way, and in any case even if the perpetrators are charged, tried and convicted, their sentences are mild.

When the authorities do provide protection, it is often in connection with a particularly prominent event or a well-known person or because of public pressure.<sup>133</sup> This suggests that unknown persons are worse off as regards receiving protection from the authorities, even though it is also true that well-known persons may attract more negative attention in the first place. It is difficult to evaluate, however, whether there is simply more information available on cases involving public figures and the protection given to them.

It is not possible to estimate with any accuracy on the basis of currently available information how well sexual and gender minorities receive protection from the authorities and whether some groups are more likely to be protected than others. Because there are no statistics available on these offences, and this motive is generally not mentioned in the charges or the sentences, no comprehensive data are available; analyses must necessarily be based on individual cases quoted in the media and in the reports of LGBT and human rights organisations, and it is difficult to ascertain how generally applicable those cases may be. In any case, it seems evident that problems are faced by well-known and less known people alike: simply anyone whose sexual orientation, gender identity or LGBT activism becomes apparent to any anti-LGBT person(s) may be subjected to violence, discrimination or abuse. Information gained from organisations and media indicate that the protection offered by the authorities is mostly insufficient. It is not possible to identify any specific at-risk groups among sexual and gender minorities on the basis of these sources; basically, everyone is equally at risk if information about them reaches the wrong people. However, activism and the kind of appearance, behaviour and clothing commonly associated with sexual and gender minorities would seem to be at-risk factors.

## 7. SUMMARY AND CONCLUSIONS

The sources reviewed indicate that violence, hate speech and discrimination against sexual and gender minorities on the part of private individuals is relatively common and that the authorities rarely offer effective protection against it. No official data on violence or threats against sexual and gender minorities are available, and it is thus impossible to gauge the scope of this phenomenon with any accuracy. According to the LGBT and human rights organisations monitoring the situation, the violence and negative attitudes towards sexual and gender minorities have grown in recent years, especially with the entry into force of the federal 'gay propaganda law' enacted in 2013.

According to LGBT organisations and other human rights organisations, the authorities do not protect sexual and gender minorities sufficiently or effectively, and many do not even dare turn to the police to report an offence or consider doing so a pointless exercise. The individuals and extremist groups committing the violent acts are generally not investigated or convicted, and in the rare cases that they are, they receive disproportionately mild sentence. Protection has been available in certain individual cases, and some perpetrators have received severe punishments, but judging by the sources these are isolated cases. Cases where protection is unavailable or insufficient are much more common. LGBT events are also not sufficiently protected against the violence of extremist groups, although there have been individual events where the authorities have provided appropriate protection and enabled the events to proceed as planned.

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<sup>133</sup> These cases have been described in section 4.3; sources include especially HRW 12/2014.

The most significant impact of the 'gay propaganda law' has been to make public opinion and attitudes more negative and more violent. It also complicates the organising of LGBT events, as the authorities often ban events on the basis of that law. Applying the law to convict and fine the individuals or organisations violating it is much rarer, and indeed the principal significance of the law would seem to be in its deterrent effect and in fostering growing anti-LGBT feeling in society at large. The law also affects the children and adolescents that it purports to protect, since counselling and support services for LGBT adolescents may be construed as illegal under the law.

Activists report that there has been no improvement in the situation of sexual and gender minorities. Recent cases such as the closing down of the Deti-404 website and the fining of its founder demonstrate that the 'gay propaganda law' continues to complicate the providing of protection and assistance to sexual and gender minorities, and the attitudes of the authorities do not seem to have changed.

Finland and other Western countries can therefore expect a continuing influx of LGBT asylum seekers from Russia. If the current situation continues, their number may even increase. The country information on sexual and gender minorities in Russia should be kept comprehensive and up-to-date so that the applications of these asylum seekers may be processed with as much expertise as possible.

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