

Russian Federation

PROTECTION AGAINST VIOLENCE AND DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY, IN RELATION TO THE HUMAN RIGHTS TO FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

Joint submission prepared by the Sphere Foundation,
Coming out and NC SOS for the UN Independent Expert
on protection against violence and discrimination based
on sexual orientation and gender identity



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INTRODUCTION

This report is prepared by the Sphere Foundation, Coming out and NC SOS in the framework of the call issued by the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity on the topic “Protection against violence and discrimination based on sexual orientation and gender identity, in relation to the human rights to freedom of expression, association and assembly”.

The Sphere Foundation (spherequeer.org) is a human rights organisation that has been advocating for the rights of the LGBT+ community in Russia since 2011. The Sphere Foundation possesses expertise in developing and coordinating programs for psychological, emergency, and legal assistance, as well as monitoring of discrimination and engaging in national and international advocacy. It actively assists and supports LGBT+ individuals and collaborate with other organisations that share similar objectives in various regions of Russia. Additionally, in response to Russia's full-scale invasion of Ukraine, the Sphere Foundation has taken an active stance against the war.

Coming out (comingoutspb.com) is a regional nonprofit initiative group founded in 2008 in St. Petersburg, Russia. It has been protecting the rights of the LGBTQ+ community and helping queer people live more peacefully in Russia. The main goal of the Coming Out LGBTQ+ group is to establish equal legal and social rights for everyone, regardless of their sexual orientation and/or gender identity. The group monitors discrimination to collect evidence of the experiences of LGBTQ+ people in Russia and works with the authorities on cases of discrimination and violence.

NC SOS — North Caucasus SOS Crisis Group (ncsos.io) is a Russian NGO founded in 2017, which works with LGBTQ+ individuals in the republics of the North Caucasus. NC SOS assists victims of SOGIE-informed torture and abuse in fleeing the region and provides them with legal and social support.

1. Context of LGBTQ+ human rights situation in Russia between 2012 - 2023: 3 waves of repressions

Between 2012 and 2023 Russian human rights organisations and initiatives, activists working for and with LGBTQ+ community faced several waves of repressions¹. Such waves of repressions have shaped today's landscape of human rights defenders's work, the conditions they work in and how they are integrated in regional and international human rights networks. Moreover, such repressive climate has impacted the realization of human rights defenders' human rights, in particular, freedom of expression, freedom of association, and peaceful assembly, which directly linked to the enjoyment of other human rights such as right to life, freedom of movement, right to work, right to private life and right to liberty and security of person together with enjoyment such rights without discrimination².

1.1 First wave – 2012 – 2021

The rhetoric on “traditional values” and the rise of nationalism together with the influence of the Orthodox Church started to escalate from 2010, in 2022 in time of war between Russia and Ukraine it is at its peak (see 1.2-1.3).

Before the invasion of Russia to Ukraine in 2022, the law “On combating extremism” that was introduced in 2002³ was not used massively towards LGBTQ+ NGOs and activists and **did not targeted** LGBTQ+ community as such.

Freedom of association

In July 2012 the law “On foreign agents”⁴ was introduced, which restricted the functionality of numerous Russian human rights initiatives and NGOs, swamping them with additional paperwork. In December 2012 – the law on “Undesirable organizations”⁵ was introduced as well, the law prohibited activity of foreign NGOs, an association with which for Russians and Russian resident organizations considered unlawful. Since 2015, it has been applied to NGOs and media outlets

¹ Since 2015, Sphere Foundation maintains the Monitoring of Discrimination Database (further referenced as “the Database”) based on multiple internal and external sources which currently includes more than fifteen hundreds of various cases of discrimination based on SOGI. Some of the cases we document had taken place before the work on the Database was initiated, thus it contains cases for the previous years as well. Coming Out launched a monitoring programme in the city of St Petersburg in 2011. The group has been working across Russia since 2022, and a discrimination database has been maintained since the same time.

² It is not an exhausting list of human rights that are limited or violated due to repressions of LGBTQ+ community in Russia, as all rights are interconnected.

³ Federal Law “On countering extremist activities”, No. 114-FZ, July 25, 2002, <http://www.kremlin.ru/acts/bank/18939>

⁴ Federal Law "On Amendments to Legislative Acts of the Russian Federation Regarding the Regulation of the Activities of Non-Profit Organizations Performing the Functions of a Foreign Agent" dated July 20, 2012 N 121-FZ (latest edition), https://www.consultant.ru/document/cons_doc_LAW_132900/

⁵ Federal Law No. 129-FZ of 23 May 2015 “On amendments of some legislative acts of the Russian Federation”, https://www.consultant.ru/document/cons_doc_LAW_179979/

whose activities, according to the Russian authorities, threaten the foundations of the constitutional system of the Russian Federation, the defence capability of the country or the security of the state. Participation in an "undesirable organisation" is punishable by a fine of up to 100,000 roubles. If a person has previously been held administratively liable, participation in an "undesirable organisation" becomes a criminal offense and can be punished by up to 5 years' imprisonment.

Those 2 acts made it almost impossible for civil society to work with the topic of LGBTQ+ in legal terms as the regime made it clear that support of LGBTQ+ community goes against traditional values and demolish Russian society. It was possible to work with LGBTQ+ rights, assist with legal and psychological help to the members of LGBTQ+ community, but such activities were loaded with additional paperwork due to the "foreign agent" status. Yet there was no association between LGBTQ+ organization and extremism.

In the end of 2020 - beginning of 2021, the "foreign agents" legislation as well as the law on "undesirable organisations" were significantly expanded, providing the authorities with additional monitoring measures and prolonging the list of prohibited activities for those designated as "foreign agents". Not only legal entities, but also non-registered groups and individuals were subjected to the label.

Freedom of expression and assembly

In 2013 there was a shift towards limitations of LGBTQ+ rights. Article 6.21 was introduced into the Code of Administrative Offences of the Russian Federation⁶, which established administrative liability for "propaganda of same-sex relations among minors". In 2013-2021, Article 6.21 was applied very selectively. While before 2021 it was mainly used as a basis for banning or dispersing public LGBTQ+ events or protests, the situation has significantly worsened since 2021. The number of administrative sanctions in the form of a fine (which for individuals was 5,000 roubles) did not exceed 6-8 cases per year. **Not only public actions**, but also any demonstration of LGBTQ+ symbols became subject to the ban. For example, in St Petersburg in 2021, a group of minors were detained by the police for taking pictures of themselves next to a rainbow flag.

In 2014, Article 212.1 of the Russian Criminal Code⁷, the so-called "Dadin's article", was adopted establishing criminal responsibility for repeated violation of the established procedure for organizing or holding a meeting, rally, demonstration, procession or picket. If a person is brought to administrative responsibility for participating in an unauthorized assembly 3 times in 180 days, they may be sentenced to up to 5 years in prison.

⁶ Code of Administrative Offences of the Russian Federation, https://www.consultant.ru/document/cons_doc_LAW_34661/

⁷ Criminal Code of the Russian Federation, https://www.consultant.ru/document/cons_doc_LAW_10699/

In 2020 the COVID restrictions on mass events were introduced.

Between 2015 and 2023, 42 cases were documented by Sphere Foundation covering the incidents of disruptions **to the private gatherings**, such as film screenings, festivals, sport events, LGBT+ rights initiatives' events, including conferences and seminars, parties, and even meetings with an LGBT+ friendly priest.

1.2 Second wave – 2022 Russian invasion

Traditional values and extremism, the link defined

The invasion of Russia to Ukraine in 2022 and the Decree of the President of the Russian Federation dated November 9, 2022 No. 809 "On approval of the Fundamentals of State Policy for Maintaining and Strengthening of Traditional Russian Spiritually-Moral Values"⁸ escalated situation with LGBTQ+ human rights and the position of human rights organisations, initiatives and activists. The signal was that LGBTQ+ people and those who protect their rights are in danger and could be considered as extremists. Many human rights activists were forced to leave Russia and have faced [problems](#) with getting visas, [crossing borders](#).

The Decree proclaims that

“A threat to traditional values is posed by the activities of extremist and terrorist organizations, certain media and mass communications, the actions of the United States of America and other unfriendly foreign states, a number of transnational corporations and foreign non-profit organizations, as well as the activities of some organizations and individuals on the territory of Russia.”⁹

Thus, protection of traditional values viewed by the State **as protection of national security**. Moreover, the Decree introduced the notion **“destructive ideology”**, however this notion is vague and is not incorporated in the law so far (but the discussion of the substance is an ongoing process in 2023). On the other hand, **“destruction of the traditional family through the promotion of non-traditional sexual relationships”** is explicitly mentioned in the Decree and targets any individual, legal entity or NGO working with SOGI¹⁰. Those who produce such **“destructive ideology”** **“pose an objective threat to the national interests of the Russian Federation”**¹¹.

⁸ Decree of the President of the Russian Federation dated November 9, 2022 No. 809 "On approval of the Fundamentals of State Policy for Maintaining and Strengthening of Traditional Russian Spiritually-Moral Values, <http://actual.pravo.gov.ru/text.html#pnun=0001202211090019>

⁹ Ibid, para.13

¹⁰ Ibid, para.14

¹¹ Ibid, para. 16

Thus, **the Decree links threat to traditional values** (i.e. any destructive ideology, which is not clearly defined under Russian law) **with extremism** and criminal liability for such activities. Under the Decree, development and implementation of laws, plans, strategies, etc. is proclaimed¹².

There is general fear that as soon as legislators pass the law and approve the notion of “*destructive ideology*”, where include the list of such ideologies or make it as vague as possible, any ideology that goes against to the dominant ideology of “traditional values” will be recognized as extremist and people who share it or belong to certain group could be accused of extremism and covered up by the national safety reason, safety of children in the internet or protection of morals in the society. Thus, human rights of certain vulnerable groups could be violated or limited for the protection of others.

Freedom of association

While in 2012 the law on foreign agents applied to NGOs receiving funds and grants from abroad, in 2022 - the new “foreign agents” law was [tightened](#) to include people or organisations as “foreign agents” if they are “under foreign influence”, without clarifying what exactly that means. Foreign funding is not the only reason to be included in the register of foreign agents. The list of foreign agents is regularly updated and includes journalists, researchers, human rights activists, NGOs, media, etc. The law also bans 'foreign agents' from educational and pedagogical activities, participation in election commissions, public service and Russian state funding. “LGBT propaganda” (or 'propaganda of non-traditional relationships') is one of the regular grounds for a declaration by a 'foreign agent'. The main Russian federal and region LGBTQ+ and feminist organisations and some LGBTQ+ and feminist activists personally are included in the Registry of Foreign Agents.

In February 2022, the Ministry of Justice filed a lawsuit against the Sphere Foundation which was supporting LGBT+ persons in Russia.¹³ According to the state position, the constitution of the country enshrines **'basic traditional family values'**, and the foundation's work is aimed at 'changing the legislation and moral foundations in the Russian Federation'. **As of July 2023**, over 740 entities, including key Russian federal and regional LGBT+ organisations like Coming Out, Sphere Foundation, Russian LGBT Network, Moscow Community Center, Action, T*-Action, Irida, Revers, Majak, Resource LGBT Center, Federation of LGBT Sport, T9 NSK, Parni Plus, Alliance of Straights and LGBT for Equality, Community Center "Action," and NC SOS, have been designated as "foreign agents." This designation also extends to activists, such as Igor Kochetkov,

¹² Decree of the President of the Russian Federation dated November 9, 2022 No. 809, paras.25-26

¹³ The Kuibyshevsky District Court of St. Petersburg Liquidates Charitable Foundation Sphere // Sphere. 21 April 2022. <https://spherequeer.org/2022/04/21/liquidation-sphere-2/>.

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Freedom of expression and assembly

The Decree was followed by **expansion of the ban on “gay propaganda” law** in November 2022¹⁴, which prohibited any gay propaganda offline and online to anyone, not only minors, and imposed high administrative fines for breaking the law. The legislation prohibiting "propaganda of non-traditional sexual relations" was applied not only in the sphere of public actions (protests, rallies, pickets, websites of LGBTQ+ organisations), but also in the **private sphere** (in detail - below). The grounds for initiating administrative proceedings under the article on propaganda are now images, videos or texts posted on social networks, sometimes even on private accounts, [denounced](#) by members of the law enforcement agencies. In 2022 according to the Database of Sphere Foundation there were **around 11** cases on LGBT propaganda, but 2023 became a year of massive application of the amended law(see statistics below, 1.3).

Since 2022, LGBTQ+ resources including sites of LGBTQ+ organisations, LGBTQ+ podcasts on Russian streaming services, LGBTQ+ online communities on VKontakte (the Russian social networking site), and many others have also begun to be [blocked](#) en masse for containing information "aimed at propagating non-traditional sexual relations". In 2022 and 2023, TV channels and streaming platforms were [fined](#) for “propaganda of non-traditional relations”. In 2022, a Moscow court [fined](#) Meta and [Tiktok](#) tens of thousands of euro for refusing to take down what the authorities considered “LGBT propaganda”. [Cinema screenings](#), theater plays, [books](#) and bookstores were also targeted.

Maintained in 2020, COVID-19's [restrictions](#) on holding mass events, including protests and even individual pickets, [remained](#) in force in 2024 despite the lifting of all other pandemic regulations. In December 2022, gatherings near public state buildings, churches, schools and railway stations were [banned](#). Such Covid restrictions were used to limit anti-war and anti-LGBT peaceful protests and actions.

Between 24 February 2022 and 22 June 2023, a record [19,735](#) people were arrested for their anti-war stance. Demonstrations became more dangerous. In 2022, several people were also [arrested](#) for protesting against the new 'propaganda' law. In 2023, the police [detained](#) several people who protested against the ban on trans healthcare and legal gender recognition.

¹⁴ <https://sozd.duma.gov.ru/bill/217472-8>

According to the Database, 114 cases of violations of the LGBT+ people and initiatives' right to freedom of peaceful assembly were documented, taken place since 2014. The documented violations consider both the cases when the perpetrators were homophobic groups of different kind and the cases when violations were committed by the representatives of the state.

1.3 Third wave – 2023 - the decision of the Supreme Court on "International Public LGBT movement"

In 2023 according to the Database of Sphere Foundation there were **at least 110** cases on "LGBT propaganda", which is a signal of mass violations of freedom of expression and the signal of escalating repression.

The **anti-transgender law** was introduced in July 2023, which banned transgender people from accessing gender affirming health services – including voluntary surgeries, the law also prohibited people from changing their name and legal gender.¹⁵ Such law places trans people outside the legal system, further marginalizing the group without a possibility to protest discriminatory law as the judicial system in Russia works in line with the regime.

Since 2022, the repressions against the LGBT+ community in the context of the **freedom of assembly** tend to expand from public and semi-public events to private meetings as well. Since the first edition of the "propaganda" law came into force in 2013, participation in public political life became extremely challenging for the LGBT+ community. Participation in "authorized" mass gatherings with the symbols of the community became nearly impossible, single picketing has been regularly disrupted, as well as the private events, including the cultural ones, which do not fall under the Federal Law "On Mass Gatherings..." regulations.

In 2023, while most of the initiatives and activists remaining in Russia had to go **underground**, 4 of 9 documented cases considered the police raids on private parties. One of the parties in question became widely known as **"the naked party"** due to the fact that it was attended by dozens of Russian celebrities and led to an unprecedented wave of repressions against the people who were previously seen as "untouchable" and did not seem to have any connection to the LGBTQ+ community. One of the multiple charges against a participant was under the "propaganda" law, others considered tax and other "violations" committed by the participants. All the attendees had to post penance [videos of themselves](#) begging "the Russian people" for forgiveness — a degrading practice adopted from the Chechnya Republic and transferred across Russia since 24 February 2022. As of January 2024, the case keeps unfolding, as the participants are being "canceled" in their industries and the authorities keep making statements on their immoral behavior. Thus, **private life became public**, which causes multiple risks and

¹⁵ <https://sozd.duma.gov.ru/bill/369814-8>

frustration about personal safety for every member of the society.

On 30th of November 2023 the decision of Russia's Supreme Court constituting the "International Public LGBT movement" as an "extremist organization" [was held](#) (looking back, we could see the connection between the Decree and the Russian Supreme Court's decision). The decision of the Supreme Court equates any activities associated with LGBTQ+ movement as extremism under the Federal Law "On countering extremist activities"¹⁶.

The Court ruling proclaimed that:

- **"Propaganda of destruction of the ideology of traditional family values"** and **"inciting social discord by criticizing anti-LGBT laws in Russia"** are several reasons to acknowledge the movement as extremist. Thus, anyone either not fitting the "ideology of traditional family values" (still undefined within Russian legislature) or criticizing passed legislature going against human rights standards might be persecuted as "extremist" on this basis.
- The court **decision referred to 40 organizations and 281 people belonging to "the movement"**, - their identities are unknown and will probably be revealed only through cases being launched against any particular person or organization (and this could happen in a randomized order and time frame across different Russian regions or simultaneously, we cannot make such assumptions).
- Among the attributes of "the movement's participants" were listed: "presence of certain mores, customs, traditions (e.g., gay pride parades), similar lifestyle (in particular, **the specifics of choosing sexual partners**), common interests and needs, specific language (**use of potential feminities**)". Firstly, such a statement negates the supposition that the decision on "extremism" would only concern activists and those who've been public – this could potentially be harmful for any queer person in Russia. Secondly, bringing feminities into this is an alarming development for feminist movement, on par with close ties of this court decision to "traditional family values".

Under the ruling the following activities considered as "extremist":

- the abbreviation "LGBT".
- "rainbow" flag and its variations, black and pink triangle, lambda, etc.; images of them on clothing, toys, accessories, etc.
- the words "lesbian", "gay", "bisexual", "transgender", "transsexual", "crossdresser", "drag queen", "drag king", "genderqueer", "asexual", "pansexual".

¹⁶ Federal Law "On countering extremist activities", No. 114-FZ, July 25, 2002, <http://www.kremlin.ru/acts/bank/18939>

- calls for recognition of LGBT rights, same-sex marriage, allowing same-sex families to adopt and raise children, and anti-discrimination laws.
- LGBT literature.
- conducting events (i.e. that could be seen as LGBT-related).
- **submitting alternative reports to international organizations.**
- **calls for protests and negative evaluations of laws.**

The notion of extremism is vague and arbitrary applicable, there is no clear practice yet. Moreover, the extremist law is applicable for the past activities, before the movement was proclaimed as extremist. Thus, it places anyone who was active as an activist for LGBTQ+ rights or was an open queer person at risk of being prosecuted for extremism. As of now, we registered [1 case](#) before the court dealing with LGBTQ+ extremism.

The decision of the Supreme Court is discriminatory in its nature. Moreover, such a decision grants permission for social hatred towards the minority. Placing LGBTQ+ movement in line with extremism, the Supreme Court opened up a repressive mechanism for limiting freedom of opinion and expression of any group or “destructive ideology” that constitutes “a threat to national interests” and goes against the “traditional values”. Moreover, after the Supreme Court’s decision the ‘witch hunt’ is officially started, any NGO, initiative or activist, any open queer person is in danger under the jurisdiction of its own State.

A ruling on recognizing [“international public LGBT+ movement” as extremist](#) has **no similar precedent worldwide**, and might result in some dire consequences: firstly, in further persecution of LGBTQ+ people by the Russian authorities, and, secondly, might become something that could be used as a positive example by the **anti-gender movement** and by far-rights parties as a tool for undermining democratic trends.

2. Legislative initiatives in the last years introduced to limit LGBTQ+ rights and more

In September 2021, Andrei Tsyganov, chairman of a commission for the protection of children at the Roskomnadzor communications regulator, [suggested](#) recognizing Russia’s LGBT, radical feminist and child-free groups as “extremist”. In November 2023, the Russian State Duma [drafted](#) a bill banning adopting children from countries that allow "gender reassignment". On December 11th 2023 public hearings on the implementation of the provisions of the "*Fundamentals of State Policy for Maintaining and Strengthening of Traditional Russian Spiritually-Moral Values,*" approved by Presidential Decree No. 809 dated November 9, 2022, regarding the integration of the concept of "destructive ideology" into Russian legislation "*Family-hating and human-hating ideology*" was held at Civic

Chamber of the Russian Federation¹⁷. State's officials, pro-government academics and members of pro-government NGOs participated at the hearings and some of them delivered their reports. Thus, propagandist and Orthodox activist Andrey Afanasyev proposed to define “destructive ideology” and include in the list such ideologies as feminist movement, child-free ideology. When it comes to feminist movement, he said, it would be easy to declare it as extremism¹⁸. In January 2024, Duma deputy Vitaly Milonov [called](#) for the use of feminitives in texts to be recognised as extremism.

3. Chechnya: Regional context and interchangeable discriminatory trends

The traditional societal norms in North Caucasus republics, including Chechnya, sanction violence against LGBTQ+ individuals, encompassing torture and murder, both by security force personnel and victims' relatives. Although the LGBTQ+ rights abuses in Chechnya are beyond the scope of this report due to the near absence of civil society actors in the region, it seems essential to briefly underscore the situation. The de-facto approach of criminalizing same-sex relationships in Chechnya, coupled with Russia's federal authorities choosing not to intervene, provides context for the overall policies of the Russian government regarding the LGBTQ+ community. The non-intervention principle is seen as a monopoly for violence towards queer people and those who protect their rights in the region. The scenario is the following: what degrading treatment or torture is used in Chechnya after some time could be practices in the whole state.

Thus, from 2020 year we see the trend on penitential videos of those who were kidnapped by the police or persecuted for fabricated cases based on sexual orientation. [Such videos](#) are considered as degrading treatment. The practice became widespread around Russia after the invasion of Russia to Ukraine, it is used not only against LGBTQ+ community, but for anyone who is not loyal to the regime and made it public (see the example above with the “naked party”).

When it comes to human rights organisations and activists who worked in the region with LGBTQ+ agenda, 2023 year became the most difficult one, as there is almost no access to the region and after the Supreme Court's decision on the extremist status of international LGBT movement human rights organisations, activists as well as queer people are at the highest risk. Such decision could potentially reshape the persecution landscape in the region. If the current practice involves security forces fabricating criminal cases against victims using unrelated fictitious reasons, the future may see the opportunity to file charges for continuing the activities of an extremist organization under Article 282.2 of the Russian

¹⁷ Record of the whole hearings could be found here: https://vk.com/video-93005764_456244421

¹⁸ Ibid, starting from 15.00 min.

Criminal Code, prescribing prison terms of up to 10 years for organizers and up to six years for ordinary participants.

Conclusions

Thus, nowadays, Russia is a **“trendsetter”** when it comes to limitations of human rights of LGBTQ+ community and direct or indirect discrimination stated in legislation. The invasion of Russia to Ukraine in 2022 became the new era of anti-LGBT legislation and rhetoric within the state, as the regime decided to use “the other” and hatred towards “the other”, in our case LGBTQ+ people and human rights defenders working with LGBTQ+ people, to switch the focus from the war, political and economic isolation to the hatred towards minority.

It is the only country that proclaimed "International Public LGBT movement" as “extremist organization” and denied its activities in its territory on 30th November 2023 by Supreme Court decision. Such legislation constitutes a part of a broader trend or ideology called “traditional values”, which is a far-right ideology in the center with nationalism, Christianity, patriarchy with a central figure of Putin as a “father of the nation” of Russia and denial of those views, ideas and ideologies together with its representatives that goes against such values, for instance, feminism, child free, LGBTQ+ people.

Moreover, Russia is a trendsetter when it comes to the proclamation of LGBTQ+ human rights defenders **as extremists**. Right now, we could see the scenario where far-right governments around the world, first of all, in the post-Soviet countries, could be influenced by such anti-LGBTQ+ ideology and translate such laws and use the Supreme Court’s decision **as a precedent** for its own domestic law. It is already happening, we could see the trend in the post-Soviet countries to limit freedom of expression and access to information about LGBTQ+ people and SOGI. In August 2023 [Kyrgyzstan](#) passed such anti-LGBTQ+ propaganda law among minors, in October 2023 a draft amendment to the Code of Administrative Offenses has been prepared to ban “LGBT propaganda, pedophilia and gender reassignment” in [Belarus](#).