

**Mandates of the Special Rapporteur on the situation of human rights in the Russian Federation;
the Independent Expert on protection against violence and discrimination based on sexual
orientation and gender identity and the Working Group on discrimination against women and
girls**

Ref.: OL RUS 20/2023
(Please use this reference in your reply)

16 August 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights in the Russian Federation; Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 51/25, 50/10 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **Federal Law No. 386 "On Amendments to Certain Legislative Acts of the Russian Federation"** (dated 24 July 2023).

The United Nations Special Procedures have been informed that on 30 May 2023, a new bill banning legal recognition of gender identity and gender-affirming health care was presented to the State Duma, the Russian Federation's lower house of the parliament. On 14 July 2023, the bill was adopted with the unanimous approval of the Deputies. On 19 July 2023, the bill was approved without any further revisions by the Federation Council. On 24 July 2023, the President of the Russian Federation signed the bill into law.

The measures adopted in this law do not appear to conform with Russian Federation's international human rights legal obligations, in particular those enshrined in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by the Russian Federation in 1973; the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified in 1981; the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified in 1987; and the Convention on the Rights of the Child (CRC), ratified in 1990.

It is our view, as independent human rights experts appointed by the Human Rights Council, that this law would be discriminatory and violate many human rights commitments of the Russian Federation and ought to be repealed. We offer in this regard our comments on the law in light of the Russian Federation's obligations under international human rights law, including the inalienable rights to dignity, equality under the law, physical integrity and privacy, the right to the highest attainable standard of physical and mental health, and the absolute prohibition of torture and other cruel, inhuman, or degrading treatment or punishment.

In this regard, before laying out our observations regarding the intent of the bill, its provisions and the broader context, we would like to respectfully recall the Universal Periodic Review recommendations that your Excellency's Government has accepted concerning the adoption and implementation of measures to effectively promote diversity and prevent violence and discrimination on grounds of sexual orientation and gender identity and foster an inclusive environment.

Observations regarding the intent of the bill

The bill was introduced before the State Duma by the State Duma's deputy chair, Mr. Pyotr Tolstoy, on behalf of a group of 400 Deputies who reportedly stated that their desired aim was to "preserve Russia for posterity, with its cultural and family values, traditional foundations, putting up a barrier to the penetration of Western anti-family ideology." During the bill's first reading, Mr. Pyotr Tolstoy reportedly announced his view that this was "yet another step to protect national interests" from "perversions."¹

We recall the General Comment No. 28 (2010) on core obligations of State parties, the UN Committee on the Elimination of Discrimination Against Women, supervisory and interpretative body of the International Convention on the Elimination of Discrimination Against Women, emphasized that States must eliminate intersectional forms of discrimination, including, explicitly, on the basis of gender identity (para. 18).

Moreover, in its concluding observations by the Committee on the Elimination of Discrimination against Women ([CEDAW/C/RUS/CO/9](#)) on the Russian Federation x report ([CEDAW/C/RUS/CO/9](#)) it urged the Russian Federation to address the use of misogynistic language and hate speech against lesbian, bisexual and transgender women and intersex persons in public discourse, the media and on the Internet. We also recall the concluding observations by the Human Rights Committee ([CCPR/C/RUS/CO/8](#)) that reiterate substantial concern about institutionalized discrimination and stigmatization of lesbian, gay, bisexual and transgender persons in the Russian Federation and the consequent failure to provide such persons with adequate protection against violence and attacks.

In addition, we refer to the thematic report of the Working Group on Discrimination against Women and Girls on discrimination in cultural and family life, which has similarly highlighted the dangers of leaving rights in relation to gender identity and diversity unprotected. The Working Group has observed that women who do not conform to gender stereotypes, including some who may identify as lesbians, bisexual and trans women, are particularly vulnerable to discrimination, violence and criminalization (A/HRC/29/40, para. 21).

We would like to draw your attention to the Rabat Plan of Action ([A/HRC/22/17/Add.4, appendix](#)) which sets the threshold for defining restrictions on freedom of expression, incitement to hatred, and for the application of article 20 of the

¹ The official transcript of the meeting is available at: <http://transcript.duma.gov.ru/node/6116/>.

ICCPR.. At the same time, rhetoric by a public authority stigmatizing and labelling trans and other gender diverse persons as unwanted members of the society, promotes harmful stereotypes about gender and sexuality, which risk creating much wider repercussions such as persecution, violence and discrimination against all persons who are or are perceived to be trans or gender diverse. The aforementioned conduct may amount to public incitement to discrimination, hostility or violence, prohibited under article 20, paragraph 2 of the ICCPR.

Observations regarding the bill as adopted by the State Duma

Through this law a new article is introduced into the Law “On the Fundamentals of Protecting the Health of Citizens in the Russian Federation” banning medical interventions² which are integral to internationally recognized standards of care for trans persons. This includes gender-affirming medication and surgery. Such a ban may entail interruption in receiving hormone therapy for trans persons in the Russian Federation, which may cause irreversible changes in their body. The law also prohibits any person, including medical professionals, from carrying out any medical interventions related to gender-affirming care.

In connection to this, we would like to recall that the autonomy of the individual, including control of what happens to one’s own body, is an element of the right to life with dignity. Furthermore, access to gender-affirming medical care is part of the measures ensuring bodily autonomy for trans persons. Bodily integrity is fundamental to the rights to security of the person, freedom from torture and other cruel, inhuman and degrading treatment or punishment, privacy, and the highest attainable standard of health, among others. Efforts to prohibit or restrict such access represent an imminent threat to article 12 ICESCR which obliges States to recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and to take steps towards this end, and article 7 ICCPR banning torture.

We note that the Deputies who voted for the adoption of this legislation reportedly discarded advice from the Ministry of Health of the Russian Federation and the scientific community that the adoption of the law would lead to ethical, medical, and social problems, including an anticipated increase in suicides.³ For more information on the applicable human rights standards in this connection, we would like to refer your Excellency’s government to the most recent general comment No. 36 of the Human Rights Committee on the right to life as guaranteed by article 6 ICCPR ([CCPR/C/GC/36](https://www.unhcr.org/refugees/article/43c9c9c9.html)).

² Article 451. Prohibition of changing the gender of a person, para. 1 “It is prohibited to carry out medical interventions, including the use of medicine aimed at changing gender, including the formation in a person of primary and (or) secondary gender characteristics of the other gender.”

³ The official transcript of the meeting is available at: <http://transcript.duma.gov.ru/node/6116/>. During the bill’s consideration the Health Ministry raised concerns that the adoption of the law would lead to ethical, medical, and social problems, including an increase in suicides. Vyacheslav Volodin, the Chairperson of the Duma told the Health Ministry “not to invent any amendments arguing they are due to some concern about people.” Source: <https://www.ecoi.net/en/document/2095069.html>. According to Vyacheslav Volodin, the Ministry of Health should realize that it “made mistakes by allowing gender changes.” Source: <https://www.pnp.ru/news/gosduma-prinyala-zakon-o-zaprete-smeny-pola.html>

The law in question also prohibits transgender people from changing the gender marker in their identity documents, except for the situations in which they underwent gender-affirming surgery prior to the bill's adoption. The bill eliminates the previous procedure for changes to documents put in place in first 1997⁴, and was considerably improved in 2017 by the Ministry of Health of the Russian Federation⁵. While not aligned with international best practice, this previous procedure offered a clear pathway to legal recognition of gender identity, and access to gender-affirming care.

We note that international best practice in relation to the gender identity recognition is a simple administrative process based on self-determination by the applicant, which does not require that individual to fulfil abusive requirements, such as medical certification, surgery, treatment, sterilization or divorce. Such processes should acknowledge and recognize non-binary identities, and ensure that minors have access to recognition of their gender identity. (See [OHCHR publication Born Free and Equal](#) and IE SOGI report on legal recognition of gender identity and depathologization, [A/73/152](#).)

In addition to prohibiting trans persons from changing a gender marker in identity documents, this law introduced amendments into the Family Code of the Russian Federation, prohibiting trans persons from adopting children or becoming foster parents. Furthermore, this law provides for the automatic termination of existing marriages when a spouse requests a change of the gender marker in their official identity documents.

These restrictions would contravene a number of the provisions of the ICCPR and ICESCR norms, to which the Russian Federation is bound. In particular, article 2 ICESCR and article 2 ICCPR oblige the State to respect and ensure all individuals within its territory and subject to its jurisdiction all human rights without distinction of any kind. Article 17 ICCPR guarantees freedom from arbitrary or unlawful interference with his privacy or family life. In addition, article 23 ICCPR guarantees the right to marry and found a family. Article 24 ICCPR specifically addresses the protection of the rights of the child, as such or as a member of a family, as well as their protection against discrimination. Furthermore, article 26 ICCPR guarantees to all persons equal and effective protection against discrimination on any ground and establishes the right to equality before the law. Similar guarantees are enshrined in article 10 ICESCR on the rights of families, mothers and children which establishes autonomous rights and at the same time, it crosses over into some other rights, namely rights to the enjoyment of the highest attainable standard of physical and mental health.

In light of the standards outlined above, we respectfully reiterate the Committee on Social Economic and Cultural Rights recommendations to the Russian Federation ([E/C.12/RUS/CO/6, para.23](#)) to take steps to adopt comprehensive anti-discrimination legislation, encompassing all grounds of discrimination, including

⁴ Federal Law of 15.11.1997 N 143-FZ "On Acts of Civil Status", Chapter IX. Making corrections and amendments to civil status records, Articles 69-73. The law entered into force on 20.11.1997.

⁵ Order of the Ministry of Health of the Russian Federation No. 850n dated 23.10.2017, entered into force on 02.02.2018.

sexual orientation and gender identity, taking into account the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights. We also recall that the Committee recommended to the State party:

- (a) Recognize that individuals in same-sex relationships are entitled to equal enjoyment of Covenant rights, including by extending to them benefits reserved to married couples, and repeal or amend all legislation, including Federal Law No. 135, that could result in discrimination, prosecution and punishment of people because of their sexual orientation or gender identity;
- (b) Put in place a quick, transparent and accessible procedure for legal gender recognition, to facilitate the enjoyment of Covenant rights by transgender persons;
- (c) Take all the necessary steps to prevent and combat societal discrimination against lesbian, gay, bisexual and transgender persons.

While the law bars consenting transgender adults from seeking medical care to affirm their gender identity, it would allow for forced or coercive medical interventions on intersex children under the guise of correcting "anomalies in children". We would like to draw attention to the serious damaging effects of such non-consensual, medically unnecessary and high-risk interventions that have been condemned as harmful practices by a wide range of United Nations human rights mechanisms including the Committee on the Rights of the Child, Committee against Torture, Committee on the Rights of People with Disabilities, Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and other regional human rights bodies (see 2016 [joint statement](#) on the intersex awareness day). Those harmful practices in some cases result in suffering that could constitute torture or other cruel, inhuman or degrading treatment. Article 7 ICCPR enshrines the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment, also prohibited by the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. In addition, article 19 CRC offers protection from violence; article 24 CRC guarantees protection from harmful practices; and article 5 CEDAW provides for the elimination of harmful practices.

We would also like to mention CESCR, general comment No. 22 on the right to sexual and reproductive health ([E/C.12/GC/22](#)), which clarifies at para. 59 that violations of the obligation to protect occur when a State fails to take effective steps to prevent third parties from undermining the enjoyment of the right to sexual and reproductive health. This includes the failure to prohibit and take measures to prevent all forms of violence and coercion committed by private individuals and entities, including, "violence targeting lesbian, gay, bisexual, transgender and intersex persons or women seeking abortion or post-abortion care; harmful practices such as female genital mutilation, child and forced marriage, forced sterilization, forced abortion and forced pregnancy; and medically unnecessary, irreversible and involuntary surgery and treatment performed on intersex infants or children." Also, CRC general comment

No. 20 on the implementation of the rights of the child during adolescence ([CRC/C/GC/20](#)) emphasizes in para. 34 the rights of all adolescents to freedom of expression and respect for their physical and psychological integrity, gender identity and emerging autonomy. It condemns the imposition of so-called “treatments” to try to change sexual orientation and forced surgeries or treatments on intersex adolescents.

We recall that the Committee on the Rights of the Child has cautioned that the requirement to give priority to the “best interests of the child” may be open to manipulation and should not be abused to justify discriminatory policies (CRC/C/GC/14). The Committee has stated that assessments of a child’s best interests must encompass the views of the child, and interpretations of a child’s best interests cannot be used to justify practices that conflict with human dignity and the right to physical integrity (CRC/C/GC/13).

The CRC also explicitly refers to the child’s best interests in respect of adoption. Article 21 provides that the best interest of the child is not simply to be “a primary consideration” but “the paramount consideration”. We want to recall the Committee on the Rights of the Child decision of 4 February 2021 ([CRC/C/86/D/51/2018](#)), in which it found that Finland failed to consider the best interests of the child of a lesbian couple when rejecting his asylum request, and to protect him against a real risk of irreparable harm when the family had no other choice but to return to the Russian Federation. Concerns about the law adopted in 2013 are explained in the section below.

The Convention on the Elimination of All Forms of Discrimination against Women guarantees women and girls’ right to access specific educational information to help to ensure the health and well-being of families, including information and advice on family planning (article 10 (h)). The Committee on the Elimination of Discrimination against Women recommended States to develop and introduce age-appropriate, evidence-based, scientifically accurate mandatory curricula at all levels of education covering comprehensive information on sexual and reproductive health and rights in order to curtail violence against girls and women associated with educational institutions and schooling thereby protecting their right to be treated with respect and dignity (General Comment No. 36 on The right of girls and women to education, para. 69 (i)).

Observations regarding the broader context in which the law was adopted

The UN High Commissioner for Human Rights has expressed deep concern⁶ regarding legislative developments in the Russian Federation, which infringe even further on the rights of lesbian, gay, bisexual and transgender people.

In December 2022, the legal amendments introducing a blanket ban on the freedom of expression regarding sexual orientation and gender identity came into force. This law restricts, among others, open discussion about transgender health-

⁶ <https://www.ohchr.org/en/press-briefing-notes/2022/10/turk-calls-russian-legislators-repeal-not-expand-anti-lgbt-bill>

related and other topics. The original law banning the dissemination of “propaganda on non-traditional sexual relations among minors”, which dates to 2013, has been extensively examined and condemned by UN human rights experts as discriminatory, violating fundamental rights to freedom of expression, and leading to an increase in hate speech, hate crimes, and abuse, including against children. More specifically, it was the subject of the joint communication (RUS 8/2012) sent to your Excellency’s Government on 12 December 2012, by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Special Rapporteur on the situation of human rights defenders. On 1 February 2013, these experts issued a public statement calling on the State Duma to scrap the aforementioned bill.⁷

In light of the arguments provided above, we respectfully call for the repeal of Federal Law No. 386 “On Amendments to Certain Legislative Acts of the Russian Federation”, and the repeal of the 2013 law banning the dissemination of “propaganda” on non-traditional sexual relations, as well as the amendment thereto. Instead, we plead for urgent measures to prohibit and actively combat stigmatization, discrimination, hate-speech and violence based on sexual orientation and gender identity. Every person in the Russian Federation has the right to equal treatment and protection against discrimination, including all transgender persons, without exception.

As such, we reiterate the legal obligation of your Excellency’s Government to ensure cases of discrimination and violence against lesbian, gay, bisexual and transgender persons are promptly and thoroughly investigated, that perpetrators are prosecuted, and, if convicted, punished with commensurate sanctions, and that victims are provided with effective remedies.

We remain at your disposal to provide any technical assistance to the authorities upon request.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all matters brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned assessment of the Federal Law No. 386 “On Amendments to Certain Legislative Acts of the Russian Federation”.
2. Please explain how the measures introduced by this law are compatible with Russian Federation’s obligations under international human rights law and standards detailed above and please share any plans to remediate the inconsistencies with international human rights standards identified in the Federal Law No. 386 “On Amendments to Certain Legislative Acts of the Russian Federation”.

⁷ <https://www.ohchr.org/en/press-releases/2013/02/un-rights-experts-advise-russian-duma-scrap-bill-homosexuality-propaganda>

3. Please indicate what measures are available to prevent, remedy and redress any human rights violations that could result from the implementation of the Federal Law No. 386 “On Amendments to Certain Legislative Acts of the Russian Federation”, including measures to redress possible violations of the right to dignity, equality under the law, physical integrity and privacy, the right to the highest attainable standard of health and the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency’s Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

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