

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

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(Please use this reference in your reply)

4 December 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; Special Rapporteur on the situation of human rights defenders; Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 51/25, 52/4, 50/10, 49/10 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the recognition of the LGBT movement as "extremist" and the prohibition of its activities within the territory of the Russian Federation.**

The United Nations Special Procedures have been informed that on 17 November 2023, it was publicly announced that, as part of its administrative powers, the Ministry of Justice of the Russian Federation filed an administrative claim with the Supreme Court of the Russian Federation requesting the recognition of the "international LGBT movement" (международного общественного движения ЛГБТ) as "extremist" and the banning of its activities within the territory of the Russian Federation. The administrative hearing before the Supreme Court took place on 30 November 2023. The hearing was held behind closed doors and observers and journalists were allowed only at the announcement of the verdict.

This decision follows the adoption of a series of laws that seem to infringe on the rights of lesbian, gay, bisexual and transgender (LGBT) individuals, and that would further contribute to the already difficult environment and risks under which LGBT human rights defenders operate.

The first such law in relation to the so-called "propaganda of non-traditional sexual relations" in the Russian Federation entered into force in 2013. The Federal Law No.135-FZ, dated 29 June 2013, introduced amendments to the Code of Administrative Offences, making the "propaganda of non-traditional sexual relations among minors" punishable by administrative fine.

In 2020, same-sex marriage was explicitly banned by an amendment to the Russian Constitution, not allowing for the legal recognition of the same-sex unions under domestic law (see the case of *Fedotova v. Russia*). In 2021, 17 LGBT organisations including the umbrella NGO Russian LGBT Network were designated as "foreign agents," effectively curtailing their activities. In December 2022, the

President of the Russian Federation signed into law a complete ban on freedom of expression concerning “propaganda of non-traditional sexual relationships.” The Federal Law No.478-FZ, dated 5 December 2022, prohibits the dissemination of information regarding LGBT persons and their human rights and appears to have had a further restrictive effect on the activities of human rights defenders and organizations working to defend the rights of LGBT people.

In the latest legislative developments, on 24 July 2023, Federal Law No. 386-FZ “On Amendments to Certain Legislative Acts of the Russian Federation” entered into force, banning medical interventions integral to internationally recognized standards of care for trans persons, including gender-affirming medication and surgery. The law prohibits any person, including medical professionals, from carrying out any medical interventions related to gender-affirming care. The law also prohibits transgender people from changing the gender marker in their identity documents and prohibits trans persons from adopting children or becoming foster parents.

The ruling on the “extremism” designation would deprive LGBT organizations of the right to operate in Russia and could put human rights defenders at imminent risk of criminal prosecution and imprisonment on extremism-related charges. Under Russian law, the declaration of an organization as extremist entails its immediate dissolution. With regard to the individuals and human rights defenders involved in the operation of the organizations declared extremist, their leaders, if they continue their activity, may face charges under article 282.2(1) of the Criminal Code which punishes “organization of activities of an extremist organization” with 6 to 10 years of imprisonment. Ordinary members of such organization may be prosecuted under article 282.2(2) and may face up to 6 years of imprisonment.

The Special Rapporteur on the situation of human rights in the Russian Federation also expressed concern in her first report to the Human Rights Council of 15 September 2023 (A/HRC/54/54) about the use of anti-extremism legislation to limit freedom of expression:

- “64. Laws on anti-terrorism, anti-extremism and historical remembrance are also used to limit freedom of expression.
- “65. Federal Law No. 114-FZ of 25 July 2002 ‘on counteracting extremist activity’ is part of a very complex set of regulations used to prosecute extremism. The law’s definition of extremism consists of a long list of ‘extremist activities’ that has been progressively expanded. The broadness and vagueness of this definition has been criticized by the Human Rights Committee and the Venice Commission of the Council of Europe. A number of organizations have been banned as extremist, such as the Jehovah’s Witnesses and the Anti-Corruption Foundation.”

Since its passing in 2002, the Federal Law on Countering Extremist Activity has seen a multitude of amendments that broadened its application to vaguely defined acts and toughened the punishments. The law gives “too wide discretion in its interpretation and application, thus leading to arbitrariness” and carries “potential dangers to individuals and NGOs” of being “interpreted in harmful ways” (see the case of *Taganrog LRO and Others v. Russia*, paras.129-130).

We recall that "the term 'extremism' has no purchase in binding international legal standards and, when operative as a criminal legal category, is irreconcilable with the principle of legal certainty; it is therefore per se incompatible with the exercise of certain fundamental human rights" (A/HRC/43/46, para. 14). We recall that the principle of legal certainty under article 15(1) of the ICCPR, ratified by Russia on 16 October 1973, requires that criminal laws are sufficiently precise so it is clear in advance what types of behaviour and conduct constitute a criminal offence and what would be the consequence of committing such an offence. This principle recognizes that ill-defined and/or overly broad laws are inherently susceptible to arbitrary application and abuse, including discrimination; and cannot serve as a lawful basis for necessary or proportionate restrictions on rights or freedoms (A/HRC/43/46, para. 15).

In 2022, in its Concluding Observations on the eighth periodic report of the Russian Federation on the observance of the International Covenant on Civil and Political Rights (CCPR/C/RUS/8/CO) the Human Rights Committee raised its concerns about "the vague, open-ended and regularly modified definition of 'extremist activity' in the federal law on combating extremist activity, which does not comply with the principles of legality, legal certainty and proportionality required for such legislation under article 19 of the Covenant. The Committee is concerned about the frequent use of the law to target political opponents, human rights defenders, journalists, religious communities, artists and lawyers in order to limit civic space, including freedom of expression, for example through extrajudicial blocking of Internet sites or censorship of books, songs and other artistic expression" (at para. 30).

It is our view, as independent human rights experts appointed by the Human Rights Council, that the decision to declare the LGBT movement as "extremist" would violate a range of human rights obligations binding on the Russian Federation and must be repealed to prevent and/or remedy violations of international human rights law. The UN High Commissioner for Human Rights also deplored the decision by Russia's Supreme Court to label what it termed "the international LGBT movement" as "extremist". We offer in this regard our comments on this decision in light of the Russian Federation's obligations under international human rights law.

Any restrictions to the right to freedom of expression, association and peaceful assembly must meet the criteria established by international human rights standards, such as article 19 (3), 21 and 22(2) of the International Covenant on Civil and Political Rights, ratified by the Russian Federation on 16 October 1973. Under these standards, restrictions must be provided for by law and conform to the strict tests of necessity, proportionality and non-discrimination. Such restrictions may never be invoked to justify the muzzling of any advocacy of human rights (see Human Rights Committee, General Comment No. 34 [2011], para. 23) or applied in a discriminatory manner.

We would like to recall that sexual orientation and gender identity are prohibited grounds of discrimination under international law, including under articles 2(1) and 26 of the International Covenant on Civil and Political Rights, which is not meant to be exhaustive in its enumeration of status and is covered by "other status." The Human Rights Committee defines discrimination as "any distinction, exclusion, restriction or preference that is based on the status covered by article 26, "which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, or equal footing, of all rights and freedoms" (see Human Rights Committee, General Comment No. 18, para. 7). The Supreme Court ruling of

30 November 2023 unfortunately failed to uphold the binding international legal standards of equality and non-discrimination, and the recognition under international human rights law that peaceful conduct and advocacy, including by human rights defenders, cannot be considered as “extremist”. Peaceful expression of sexual orientation and gender identity and advocacy for the equal protection of LGBT persons’ human rights, cannot be legitimate grounds for administrative and criminal prosecution (see *Irina Fedotova v. Russian Federation*, CCPR/C/106/D/1932/2010).

We would also like to draw the attention of your Excellency’s Government on the report of the Working Group on discrimination against women and girls on discrimination in cultural and family life (A/HRC/29/40), which noted that women who do not conform to predominant gender stereotypes, including lesbians, bisexual and transgender women, are particularly vulnerable to discrimination, violence and criminalization. In addition, as highlighted in the Working Group’s report on political and public life (A/HRC/23/50), lesbian, bisexual and transgender women who defend their human rights are vulnerable to attacks on their civil rights and personhood where there is a climate of intolerance arising from their perceived challenge to established norms of gender identity, gender roles and sexuality. Moreover, in its report on girls’ and young women’s activism (A/HRC/50/25), the Working Group underscored that in the context of backlashes against gender equality, girls and young women face increased risks of harassment and violence when engaging on themes related to gender equality, particularly sexual and reproductive rights, equality in marriage and lesbian, gay, bisexual, transgender, intersex and queer+ issues. Laws criminalizing lesbian, gay, bisexual, transgender, intersex and queer+ persons, pose formidable threats to the activism of girls and young women belonging to that community, forcing many of them to remain silent or impeding them from creating their own organizations and movements.

In this regard, we draw attention to 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 to foster an inclusive environment. 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 LGBT persons, without exception. As noted by the Special Rapporteur on the situation of human rights defenders in her report to the Human Rights Council on 15 March 2023, LGBT rights defenders often face attacks not only for their work in defence of human rights, but their identity as members of the LGBT community (A/HRC/52/29, para. 16) and this designation could put them and their work at further risk.

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.

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 decision of the Supreme Court.
2. Please explain how the measures introduced by this decision are compatible with Russian Federation's obligations under international human rights law and standards. In particular, please indicate the legal and factual basis for recognising the LGBTIQ+ movement as "extremist"; the process required and undertaken to support such a determination; and how these measures are compatible with the Russian Federation's international human rights obligations regarding the principles of legality, necessity, proportionality, non-discrimination, due process, and judicial protection. Furthermore, please indicate the available domestic remedies to challenge such a designation and the subsequent dissolution of the organisation.
3. Please indicate what measures are available to prevent, remedy and redress any human rights violations on grounds of sexual orientation and gender identity in the Russian Federation.

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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