

# PERMIT DO NOT PROHIBIT

how laws on the prohibition  
of «gay propaganda» operate  
in the Russian Federation

Right to information | Freedom of speech | Freedom of association  
VS  
Laws «on the prohibition of propaganda  
of non-traditional sexual relations»

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The information presented in this document can be useful for non-governmental organizations, community activists, as well as government representatives in planning advocacy processes, promoting the rights of gay men, other MSM, and trans\* people, and in overcoming barriers to their access to services.

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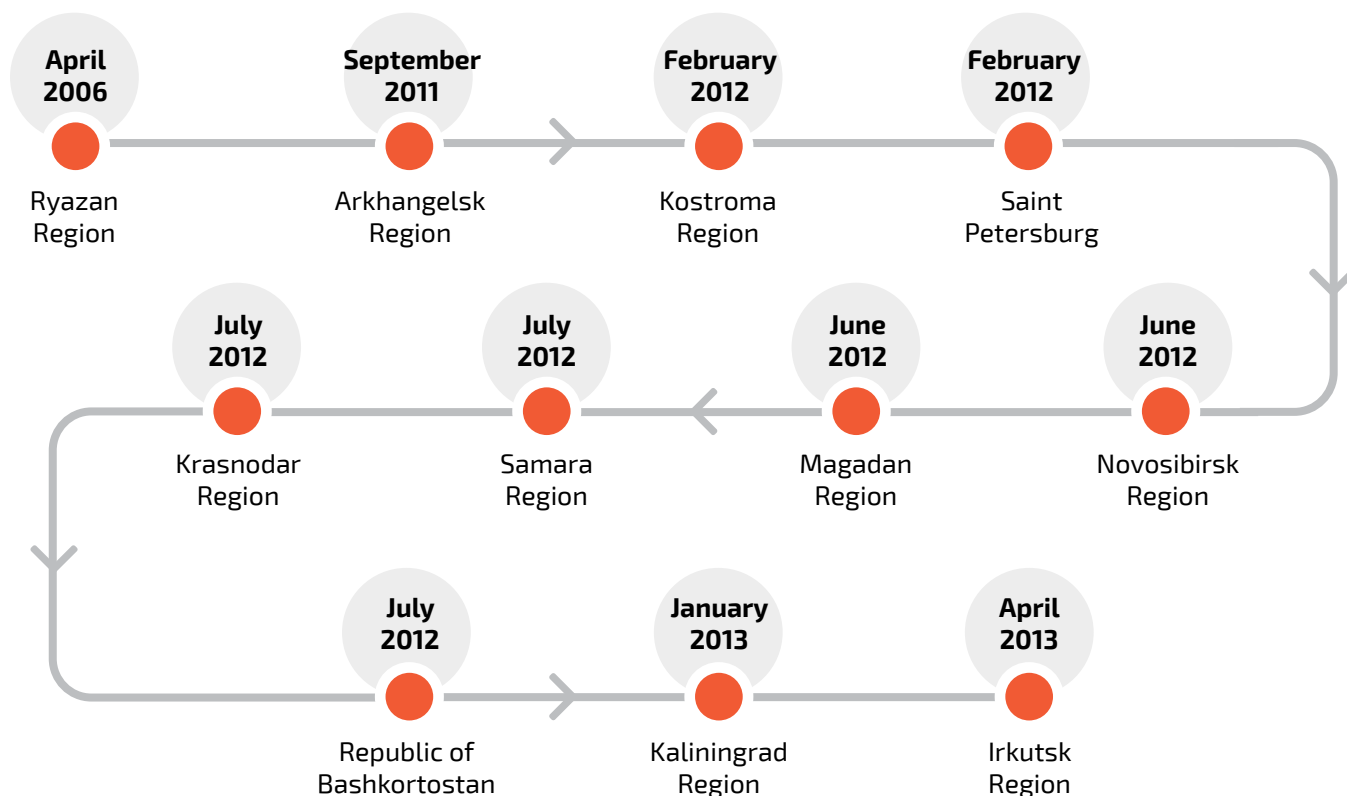


HISTORY OF «LAW ON GAY PROPAGANDA»  
IN THE RUSSIAN FEDERATION AND THEIR EFFECT  
ON THE COUNTRIES OF EASTERN EUROPE  
AND CENTRAL ASIA

01



## REGIONAL LAWS — FORERUNNER OF THE FEDERAL LAW<sup>1</sup>. HOW IT ALL BEGAN



**The first law, which set off a series of prohibitions at the regional level of Russia, was the law** of the Ryazan Region: a prohibition on «public actions aimed at promoting propaganda of homosexuality among minors» was adopted in 2006. After two years, in December 2008, a law was approved imposing liability for «public actions aimed at the promotion of propaganda of homosexuality (sodomy and lesbianism) among minors»<sup>2</sup>.

The Arkhangelsk Region was next: in September 2011, a regional law was adopted there banning «public actions aimed at promoting propaganda of homosexuality among minors», and in November of the same year, a law imposing liability for similar acts was adopted<sup>3</sup>.

<sup>1</sup> More details here: «Анализ правоприменительной практики законодательства о запрете пропаганды гомосексуализма среди несовершеннолетних» (Analysis of the law enforcement practice related to the prohibition of the propaganda of homosexuality among minors). The overview was prepared by the Moscow Helsinki Group as part of the project «Monitoring law enforcement practice in recent years in the field of civil rights protection», funded by the a state grant in accordance with the order of the President of the Russian Federation of 3 May 2012 216-пн. Overview prepared by Valery Sozaev.

<sup>2</sup> Law of the Ryazan Region of 03.04.2006 41-03 «On the protection of the morality and health of children in the Ryazan Region» and the Law of the Ryazan Region of 04.12.2008 N 182-03 «On administrative offenses»

<sup>3</sup> Law of the Arkhangelsk Region of 30.09.2011 336-24-03 «On amendments and additions to the regional law 'On certain measures to protect the morality and health of children in the Arkhangelsk Region» and the Law of the Arkhangelsk Region of 21.11.2011 N 386-26-03 «On amendments to the regional law 'On administrative offenses'».

In 2012, different regions began adopting similar laws one after another: first the Kostroma Region<sup>4</sup> and Saint Petersburg<sup>5</sup>; in February 2012; then the Novosibirsk<sup>6</sup> and Magadan<sup>7</sup> Region in June 2012; three regions in July 2012: Samara<sup>8</sup>, Krasnodar<sup>9</sup> and the Republic of Bashkortostan<sup>10</sup>; and the Kaliningrad Region in January 2013<sup>11</sup>. The regional barrage of laws “on the prohibition of gay propaganda” ends in April 2013 with the adoption of a law in the Irkutsk Region<sup>12</sup>.

Regional campaigns to develop and adopt regional laws did not end because lawmakers saw some problem with them or their destructive impact on human rights. The only reason for this rather was that discussions about the adoption of a unified federal law were returned to the agenda.

In June 2013, amendments were immediately made to three laws of the Russian Federation<sup>13</sup>, aimed at protecting children, as well as to the Code of Administrative Offenses, which was supplemented by Article 6.21, which provides for administrative liability for the so-called «propaganda of non-traditional sexual relations among minors»<sup>14</sup>.

The Russian Federation is not the only country where laws exist banning «the propaganda of non-traditional sexual relations»<sup>15</sup>, but it is the only one where the development of such laws and their incorporation into the system of legislation and jurisprudence has been consistent and irreversible for nearly 20 years: from the first discussions at the regional and federal levels on the need for developing such laws back in 2001-2014, to the first regional law adopted in the Ryazan Region in 2006, to the addition of the federal law in 2013, and to the de facto ban on the enjoyment of freedom of speech and freedom of association for all LGBT people today. In 2020, local authorities did not agree to any peaceful assemblies, and not one case challenging prohibitions on peaceful assemblies was won in Russian courts for 10 years.

<sup>4</sup> Law of the Kostroma Region of 15 February 2012 N 193-5-3K0 «On amendments to the law of the Kostroma Region 'On guarantees of the rights of the child in the Kostroma Region» and the Code of administrative offenses of the Kostroma Region.

<sup>5</sup> Law of Saint Petersburg of 29.02.2012 238 «On amendments to the Law of Saint Petersburg 'On administrative offenses in Saint Petersburg'».

<sup>6</sup> Law of the Novosibirsk Region of 14.06.2012 N 226-03 «On amendments to certain laws of the Novosibirsk Region»

<sup>7</sup> Law of the Magadan Region of 9 June 201 N 1507-03 «On amendments to certain laws of the Magadan Region with regard to the protection of minors from factors adversely affecting their physical, intellectual, mental, spiritual and moral development»

<sup>8</sup> Law of the Samara Region of 10 July 2012 N 75-ГД «On amendments to the law of the Samara Region 'On administrative offenses in the territory of the Samara Region».

<sup>9</sup> Law of the Krasnodar Region of 3 July 2012 N 2535-K3 «On amendments to certain legislative acts of the Krasnodar Region with regard to strengthening the protection of the health and spiritual and moral development of children».

<sup>10</sup> Law of the Republic of Bashkortostan of 23 July 2012 581-з «On amendments to the Law of the Republic of Bashkortostan 'On basic guarantees of the rights of the child in the Republic of Bashkortostan».

<sup>11</sup> Law of the Kaliningrad Region of 30 January 2013 N 199 «On amendments and additions to the Law of the Kaliningrad Region 'On the protection of the population of the Kaliningrad Region from information harmful to spiritual and moral development'» and the Law of the Kaliningrad Region of 30 January 2013 N 196 «On additions to the Law of the Kaliningrad Region 'Code of Administrative Offenses of the Kaliningrad Region».

<sup>12</sup> Law of the Irkutsk Region of 24 April 2013 29-03 «On amendments to the Law of the Irkutsk Region 'On certain measures to protect children from factors adversely affecting their physical, intellectual, mental, spiritual, and moral development in the Irkutsk Region».

<sup>13</sup> Federal Law of 29 June 2013, 135-ФЗ; Federal Law «On basic guarantees of the rights of the child in the Russian Federation», 24 July 1998 124-ФЗ, article 14 (1) (Federal Law of 24 July 1998, 124-ФЗ); and Federal Law of 29 December 2010, 436-ФЗ, Article 5(2)(4).

<sup>14</sup> Code of Administrative Offenses of the Russian Federation, Article 6.21.

<sup>15</sup> Currently, clause 4, part 2, of article 5 is used for prosecution and punishment for «propaganda»; Federal Law of 29.12.2010 436-ФЗ «On the protection of children from information harmful to their health and development» regarding the prohibition on the dissemination of information promoting non-traditional sexual relations among children and Article 6.21 of the Code of Administrative Offenses—the Propaganda of non-traditional sexual relations among minors.

The Supreme Court of the Russian Federation attempted to interpret the meaning and content of the phrase «propaganda of non-traditional sexual relations» even at the stage of the development of the law enforcement practices in relation to the regional laws as defined on October 3, 2012<sup>16</sup> (even before the adoption of the Federal Law on the «prohibition of gay propaganda», interpreting the regional law that was already in force in Saint Petersburg at that moment):

“

*The argument of the complaint about the vagueness of the concept of “propaganda” in the contested act does not indicate the illegality of the court decision.*

*According to Article 3 of the Model Law on the protection of children from information harmful to their health and development, adopted at the 33<sup>rd</sup> plenary meeting of the Inter-Parliamentary Assembly of CIS Member States (Decree No. 33-15 of 3 December 2009), propaganda is understood as «activities of individuals and (or) legal entities related to the dissemination of information aimed at the formation in the mind of attitudes or stereotypes of behavior, or having the goal of influencing, or influencing the persons to whom it is addressed, to commit or refrain from committing certain actions.»*

*In addition, the named term is found in legislative acts in force in the Russian Federation, in particular, in Article 6.13 of the Code of Administrative Offenses of the Russian Federation, which imposes liability for the promotion of narcotic drugs, as well as in Article 20.3 of the Code of Administrative Offenses of the Russian Federation, which contains norms related to liability for promoting Nazi attributes and symbols.*

*In this regard, the Judicial Chamber does not judge that there is any uncertainty in the legal regulation of the challenged norm, since the propaganda of non-traditional sexual relations among minors involves active public actions with the aims indicated above related to the formation of an attractive image of non-traditional sexual orientation, and a distorted idea of the social equivalence of traditional and non-traditional marriages<sup>17</sup>.*

”

The Constitutional Court also relies on a similar definition of «propaganda» later in its decision:

“

*... activities for the purposeful and uncontrolled dissemination of information that could harm the health moral and spiritual development, including the formation of distorted ideas about the social equivalence of traditional and non-traditional sexual relations, among minors, who, due to age, cannot independently critically evaluate the information received, does not exclude the transmission of relevant information in a neutral (educational, artistic, historical) context<sup>18</sup>.*

”

<sup>16</sup> Decision of the Supreme Court of the Russian Federation of 3 October 2012. Substance of the dispute: challenging the legality of Article 7.1 and Comments to it of the Law of Saint Petersburg of 12 May 2010 273-70 «On administrative offenses», as amended by the Law of Saint Petersburg of 7 March 2012 108-18 «On amendments to the Law of Saint Petersburg 'On administrative offenses in Saint Petersburg'». Available at <https://sudact.ru/vsrf/doc/i0d108mp3T5n/>.

<sup>17</sup> Ibid.






<sup>18</sup> Decision of the Constitutional Court of the Russian Federation of 23 September 2014 N 24-П city of Saint Petersburg “in the case of the constitutionality of part 1 of article 6.21 of the Code of Administrative Offenses of the Russian Federation in connection with the complaint of citizens N. A. Alekseev, Y. N. Yevtushenko, and D. A. Isakov”, available at <http://www.szrf.ru/szrf/doc.phtml?n=100&issid=1002014040030&docid=180>.

At the same time, the Constitutional Court makes another separate, but important point significantly strengthening the already restrictive interpretation of the «ban on gay-propaganda»:

“  
*The Constitutional Court of the Russian Federation proceeds from the fact that indirect objects of its protection include the social links of each individual, since the imposition on minors of social attitudes different from those generally accepted in Russian society, including those not shared, and in some cases, perceived as unacceptable by parents, who, as a matter of priority, are responsible for the upbringing and development of their children, and obliged to look after their health, and physical, mental, spiritual and moral development (Article 38, Section 2, Constitution of the Russian Federation; Paragraph 1 Article 63 Family Code of the Russian Federation), may provoke the social exclusion of the child and hinder successful development in the family environment, particularly if we bear in mind that constitutional equality, which implies equality of rights regardless of sexual orientation, does not yet predetermine the presence of a virtually equivalent assessment in public opinion of people with different sexual orientations, which may be linked to objective difficulties in trying to avoid the negative attitudes of individual representatives of society towards relevant persons in their daily life. This also applies to cases when the information itself, which is prohibited from being distributed among minors, may be aimed at, from the point of view of the person distributing it, overcoming such negative attitudes towards these people<sup>19</sup>.*  
”

Together with other laws limiting the possibility to exercise one's human rights and freedoms, both the earlier regional prohibitions and now the federal «prohibition of gay-propaganda» exclusively lead to violations of the rights of members of the LGBT community.

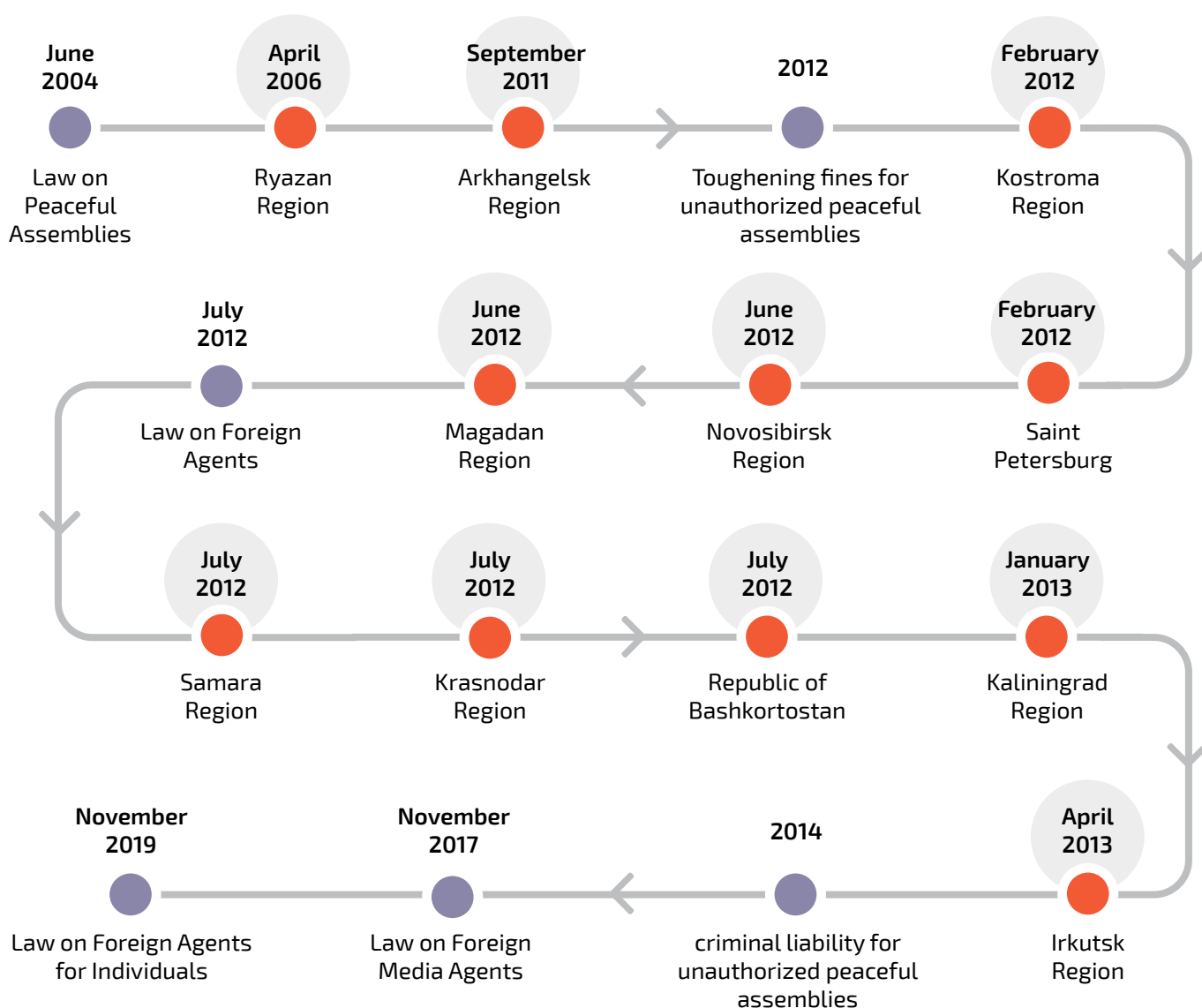
**Based on the analysis of jurisprudence carried out below, such rights include:**

-  Right to freedom of speech
-  Right to freedom of association and peaceful assembly
-  Right to information
-  Right to a fair trial
-  Right to an effective remedy


<sup>19</sup> Ibid.





## HOW OTHER LAWS LIMITING THE RIGHTS OF LGBT PEOPLE OPERATE «TOGETHER»





Law on Peaceful Assemblies — Federal Law «On assemblies, meetings, demonstrations, processions, and pickets» of **19 June 2004** N 54-ΦЗ, strict rules about «notification», while in practice, holding peaceful assemblies is allowed by permission only, and administrative liability is imposed for violating the process for holding peaceful assemblies;

 Law «on foreign agents» — **3 July 2012**. The State Duma adopted amendments (Ф3 N 121-Ф3 of 20.07.2012) to the law «on non-profit organizations». In accordance with this law, the status of foreign agent is given to Russian non-profit organizations, which: are engaged in «political activities» in Russian (theoretically activities in the field of science, culture, art, healthcare, and prevention and the protection of the health of citizens, social support and protection for citizens (not a full list) should be excluded from this list); which receive «money and other property from foreign governments, international and foreign organizations, foreign citizens and stateless people»;

 Toughening of fines for violating the procedure for holding peaceful assemblies in **2012**, and the introduction of criminal liability for «repeated violations of the procedure for holding peaceful assemblies» in 2014<sup>20</sup>.

 Law «on foreign media agents»: amendments to the law on mass media that allow for the designation of media outlets as foreign agents were adopted on **25 November 2017**;

 Law «on foreign agents for individuals»: corresponding amendments to the law on mass media were voted upon on 21 November 2019, now the Ministry of Justice and the Ministry of Internal Affairs of the Russian Federation may selectively identify people to be included in the list of «agents», including not only journalists working for «foreign agent» media outlets, but also scientists and/or researchers who have received

 foreign grants;

After the adoption of the federal law in 2013, most of the regional prohibitions were lifted, as they were unnecessary. However, in the Kaliningrad Region<sup>21</sup> the regional prohibition remained, which, unlike its other regional counterparts, contains not only a prohibition on «gay propaganda» in relation to minors, but also a broader interpretation to include the prohibition of «gay propaganda» in relation to all members of society:

“

*Article 8. Prohibition of public actions aimed at the propaganda of pedophilia, sexual relations with minors, sodomy, lesbianism, bisexuality (introduced by the Law of the Kaliningrad Region of 30.01.2013 N 199):*

*3Public actions aimed at the promotion of pedophilia, sexual relations with minors, sodomy, lesbianism, and bisexuality are prohibited<sup>22</sup>.*

”

<sup>20</sup> Overview of the development of prohibitions on peaceful assembly in the Russian Federation from the «Public Verdict» Foundation, available at: <https://police-barometer.ru/freedom>.

<sup>21</sup> Law of the Kaliningrad Region of 30 January 2013 N 199 «On amendments and additions to the Law of the Kaliningrad Region 'On the protection of the population of the Kaliningrad Region from information harmful to spiritual and moral development'» and the Law of the Kaliningrad Region of 30 January 2013 N 196 «On additions to the Law of the Kaliningrad Region 'Code of Administrative Offenses of the Kaliningrad Region'».

<sup>22</sup> Available at: <http://docs.cntd.ru/document/819035453>.

## KALININGRAD REGION

The regional prohibition in the Kaliningrad Region, adopted in January 2013, and subsequent amendments to the Kaliningrad Region Code of Administrative Offenses were significantly different from other regional laws.

In other regions, and subsequently in the federal law, the prohibition was introduced into the Law «On the protection of children from information harmful to their health and development», and accordingly was formulated as relating directly to minors.

“*State authorities of the Russian Federation take measures to protect children from information, propaganda, and agitation harmful to their health, and moral and spiritual development, including from national, classist, or social intolerance, from the advertisement of alcoholic beverages and tobacco products, from the promotion of social, racial, national and religious inequality, **from pornographic information, from information promoting non-traditional sexual relations**, as well as from the distribution of printed, audio, and video materials that promote violence and cruelty, drug and substance abuse, and antisocial behavior<sup>23</sup>.*”

Meanwhile, the regional law in the Kaliningrad Region, adopted just 6 months before this, contains a prohibition on «gay propaganda» in relation to the entire population:

“*Public actions aimed at the propaganda of pedophilia, sexual relations with minors, activities for the purposeful and uncontrolled distribution of information in a generally accessible way, carried out in order to form distorted ideas in society about the conformity to social norms of sexual relations between adults and minors.*”

Given that these changes, unlike other regions, were introduced not in the regional law on the protection of children, but in the regional Law «On the protection of the population of the Kaliningrad Region from information harmful to spiritual and moral development», means that this prohibition applies to the entire population, which potentially makes it much stricter than other regional laws, the majority of which were repealed as being unnecessary after the adoption of the federal law in June 2013.

<sup>23</sup> Article 14. Protection of the child from information, propaganda, and agitation harmful to his health, moral and spiritual development. Federal Law of the Russian Federation of 24 July 1998 124-ΦЗ «On basic guarantees of the rights of the child in the Russian Federation».

The Kaliningrad regional law has not be repealed and remains in force. It is interesting here that in their jurisprudence, local courts of first instance and appeal do not apply regional, but rather federal law. In the jurisprudence of the Kaliningrad Region, there was a small number of (identical) cases in 2018 (no cases were found for other years). All cases related to the so-called lawsuits and the ban on peaceful assembly initiated by the activist Nikolai Alekseev; there was a total of 10 such cases in 2018.

Local authorities decided to refuse to allow three announced public events (Letter 647/ИИ), citing legislation prohibiting the propaganda of non-traditional sexual relations among minors, and, in particular, Federal Law of 29.12.2010 436-ФЗ «On the protection of children from information harmful to their health and development», the Federal Law of 24.07.1998 124-ФЗ «On basic guarantees of the rights of the child in the Russian Federation», as well as Article 6.21 of the Code of Administrative Offenses of the Russian Federation, which establishes liability for the propaganda of non-traditional sexual relations among minors. Local authorities state that «the information contained in your notice directly indicates that the objectives of the planned public events are not to protect specifically violated rights and freedoms of sexual minorities, but, in essence, are rather to disseminate views and ideas, popularize same-sex marriage, and allow the propaganda of non-traditional sexual values among minors. Holding the announced public events in places free to visit indicates that the rights and freedoms of persons not participating in the public events will be violated, and will cause moral harm to children who witness such events»<sup>24</sup>.

Thus, the choice of which law to use to prohibit the events is made by the local authorities, while the court is already considering Alekseev's lawsuit against this ban. In all such cases, it makes identical decisions to dismiss the lawsuit, using the system of arguments developed by the Russian judicial system:

“

*There are also no grounds for imposing the obligation on the local government to coordinate the holding of public events, since part 1, paragraph 2, article 14 of the Federal Law of 24 July 1998 N 124-ФЗ «On basic guarantees of the rights of the child in the Russian Federation» stipulates that the state authorities of the Russian Federation take measures to protect children from information, propaganda, and agitation harmful to their health and moral and spiritual development, including information promoting non-traditional sexual relations.*

*Information about whether the goals and forms of public events, which were announced by the administrative petitioners, could be realized by disseminating information about homosexual relations in an acceptable neutral form is not provided.*

*The contested refusal does not contradict the norms of international law and the case law of the European Court of Human Rights, and is not discriminatory against the community of lesbians, homosexuals, bisexuals and transgender people.*

”

<sup>24</sup> Decision 2A-3703/2018 2A-3703/2018-M-2827/2018 M-2827/2018 of 6 July 2018 in case 2A-3703/2018 [//sudact.ru/regular/doc/i7oys6dEb31C/](https://sudact.ru/regular/doc/i7oys6dEb31C/).

Судебные и нормативные акты РФ

Верхний суд | Арбитражные суды | Суды общей юрисдикции | Мировые суды | Законодательство | Ответы на вопросы

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1. [Решение № 2А-1212/2018 2А-1212/2018-М-894/2018 А-1212/2018 М-894/2018 от 20 июля 2018 г. по делу № 2А-1212/2018](#)  
Гурьевский районный суд (Калининградская область) - Гражданские и административные  
...администрации о проведении публичного мероприятия – пикетирования с целью широкого общественного распространения заключений Конституционного суда Российской Федерации по делу о проверке конституционности федерального закона о запрете пропаганды нетрадиционных сексуальных отношений среди несовершеннолетних. Ссылаясь на ч. 3 ст. 7 Федерального закона «О собраниях, митингах, демонстрациях, шествиях и пикетированиях» в уведомлении сообщена следующая информация: пункт 1 - ...
2. [Решение № 2А-277/2018 2А-277/2018 – М-270/2018 М-270/2018 от 12 июля 2018 г. по делу № 2А-277/2018](#)  
Светловский городской суд (Калининградская область) - Гражданские и административные  
...административных истцов, своими действиями административный ответчик нарушил их права, гарантированные Конституцией Российской Федерации и Федеральным законом от 19.06.2004 года N 54-ФЗ "О собраниях, митингах, демонстрациях, шествиях и пикетированиях", необоснованно отказав по тому мотиву, что заявленные публичные мероприятия направлены на пропаганду нетрадиционных сексуальных отношений среди несовершеннолетних, поскольку целью заявленных публичных мероприятий ...
3. [Решение № 2А-540/2018 2А-540/2018-М-447/2018 М-447/2018 от 12 июля 2018 г. по делу № 2А-540/2018](#)  
Гвардейский районный суд (Калининградская область) - Гражданские и административные  
...вражды, а также иной информации, за распространение которой предусмотрена уголовная или административная ответственность. Согласно части 1 статьи 6.21 Кодекса Российской Федерации об административных правонарушениях пропаганда нетрадиционных сексуальных отношений среди несовершеннолетних, вызывающая в распространении информации, направленной на формирование у несовершеннолетних нетрадиционных сексуальных установок, привлекательности нетрадиционных сексуальных отношений, искаженного представления о социальной равноценности традиционных ...
4. [Решение № 2А-229/2018 2А-229/2018-М-176/2018 М-176/2018 от 9 июля 2018 г. по делу № 2А-229/2018](#)  
Неманский городской суд (Калининградская область) - Гражданские и административные

Nevertheless, given the current nature of the wider ban on «gay propaganda» in the Kaliningrad Region, human rights defenders and activists should:

- ✔ Monitor decisions of local courts in relation to Article 6.21 of the Code of Administrative Offenses of the Russian Federation and Article 26 of the Code of Administrative Offenses of the Kaliningrad Region<sup>25</sup>;
- ✔ Monitor refusals to coordinate the holding of peaceful assemblies by LGBT human rights activists, and more broadly, by those who advocate for human rights;
- ✔ Carry out monitoring in the field of human rights, in the LGBT community, and among journalists regarding the blocking of media outlets, news portals, or other internet sources that may be associated with the dissemination of neutral and LGBT-tolerant information;
- ✔ Provide legal support to LGBT activists in the region.

<sup>25</sup> <http://docs.cntd.ru/document/453125783> In some sources, this article is noted as having expired, an official request should be made to clarify.

The experience with prohibitions of «gay propaganda» in the Russian Federation did not go unnoticed by neighboring countries. As the adoption of regional laws in the Russian Federation was unfolding and the federal law was being developed, similar initiatives appeared and were registered in neighboring countries of Eastern Europe and Central Asia. For example, failed attempts to submit such bills to parliaments took place in Ukraine, Moldova, Belarus, and Kyrgyzstan (the bills were not submitted to parliament, as in Belarus, or were withdrawn, having not passed all stages of voting following vocal public discussions, lack of support, and loud international criticism — Kyrgyzstan, Moldova, Ukraine). However, a similar law was adopted in Kazakhstan in 2015<sup>26 27</sup>.

<sup>26</sup> In February 2015, the Upper House (Senate) of the Parliament of Kazakhstan approved a bill to protect children from information that is harmful to their health and development. The bill includes information that «promotes non-traditional sexual orientation» among other things.

<sup>27</sup> For more details about attempts to adopt similar prohibitions in EECA countries, see ECOM's 2018 report <https://ecom.ngo/wp-content/uploads/2020/04/Legislative-Analysis-2018-eng-fin.pdf>.



ATTEMPTS TO CHALLENGE  
THE BANS AT THE NATIONAL  
AND INTERNATIONAL LEVELS

# 02



“

*The purposeful and uncontrolled dissemination of information that can harm health, and moral and spiritual development, including by creating a distorted understanding of the social equivalence of traditional and non-traditional family relationships among people, who, because of their age, cannot independently critically evaluate such information is propaganda.*

**Decision of the Constitutional Court of the Russian Federation of 19.01.2011, 151-0-0**

”

A number of LGBT activists in different cities of the Russian Federation, already during the enactment of the regional laws «on the prohibition of gay propaganda», tried to appeal such laws at the national and then at the international level, and tried to prove:

- ① The unconstitutionality and the lack of legal certainty of such laws (at the national level, this includes appeals to the Supreme Court of the Russian Federation and complaints to the Constitutional Court of the Russian Federation);
- ② The inconsistency of these laws with human rights standards, and, as a result, a violation of both the European Convention on Human Rights and Fundamental Freedoms, and the Covenant on Civil and Political Rights (complaints to the ECtHR and the UN Human Rights Committee).

Following the adoption of the first regional law in the Ryazan Region in 2006, two LGBT activists, Irina Fedotova and Nikolai Baev, held a picket on 30 March, 2009 near a secondary school building in Ryazan with the aim of promoting a tolerant attitude towards gays and lesbians by displaying posters with the words «Homosexuality is normal» and «I'm proud of my homosexuality». By 6 April 2009, the activists had been convicted of an administrative offense by a justice of the peace in accordance with Article 3.10 of the Ryazan law for displaying the posters<sup>28</sup>. They appealed this decision and lost the appeal, arguing that the regional law «On the prohibition of gay propaganda» violates the Constitution of the Russian Federation. The court disregarded this argument, as, in its opinion, Article 3.10 constitutes a legitimate restriction on the freedom of speech necessary «to protect the foundations of constitutional order, morality, health, rights, and the legitimate interests of other people»<sup>29</sup>.

<sup>28</sup> Decision of the magistrate court 18 of the Oktyabrsky District of Ryazan of 6 April 2009.

<sup>29</sup> Decision of the Oktyabrsky District Court of Ryazan of 14 May 2009 in case 12-46/2009.



## FIRST CONSTITUTIONAL COMPLAINT BY IRINA FEDOTOVA

### Rejected

*«The Laws of the Ryazan Region «On the protection of the morality of children in the Ryazan Region» and «On administrative offenses» do not establish any measures aimed at prohibiting or officially censuring homosexuality, do not contain any signs of discrimination...»*

They filed a constitutional complaint<sup>30</sup>, which the Constitutional Court of the Russian Federation rejected in 2011, holding that:

*“The Laws of the Ryazan Region «On the protection of the morality of children in the Ryazan oblast» and «On administrative offenses» do not establish any measures aimed at prohibiting or officially censuring homosexuality, do not contain any signs of discrimination, and are not meant to allow excessive action by public authorities. Accordingly, the provisions of these laws disputed by the applicants cannot be regarded as disproportionately restricting freedom of speech<sup>31</sup>.”*

Following this, Irina Fedotova filed a complaint with the UN Human Rights Committee in accordance with the individual complaints procedure, stating that:

- ✓ Her right to freedom of speech was limited, since she was prohibited from disseminating ideas about tolerant attitudes towards LGBT people by a court decision;
- ✓ The restriction established by the regional law and confirmed by decisions of local courts is not necessary in a democratic society, since it does not pursue any of the legitimate goals specified in the Covenant. The law itself is not formulated clearly enough, since it imposes an absolute ban on the dissemination of any ideas related to homosexuality, including objective or neutral information aimed at providing information to minors and promoting their tolerance towards homosexuals. The author argues that a complete prohibition on the dissemination of any information about homosexuality among minors results in the fact that her freedom of expression takes on a completely theoretical and illusory nature;

<sup>30</sup> Decision of the Constitutional Court of the Russian Federation of 19 January 2011, 151-0-0. [https://ru.wikisource.org/wiki/Определение\\_Конституционного\\_Суда\\_РФ\\_от\\_19.01.2010\\_№\\_151-О-О](https://ru.wikisource.org/wiki/Определение_Конституционного_Суда_РФ_от_19.01.2010_№_151-О-О).

<sup>31</sup> Ibid.

- ✓ The Ryazan law «On the prohibition of gay propaganda» itself violates the article of the Covenant<sup>32</sup> on equality before the law, since it discriminates against homosexuals<sup>33</sup>, since it de facto prohibits the dissemination of any information about homosexuals among minors,
- ✓ According to the Convention, there is no objective justification for such a differentiation in relation to the law<sup>34</sup>.

**The Committee raised two key issues in this case:**

- ① Whether the application of Article 3.10 of the Law of the Ryazan Region in the case of the author is a restriction of her right to freedom of expression<sup>35</sup>.
- ② The Committee must then ascertain whether this restriction on the author's right to express her views was justified in accordance with Article 19, Paragraph 3 of the Covenant, i.e. provided by law and necessary: **a)** for respect of the rights or reputations of others; and **b)** for the protection of national security and public order, or of public health or morals.

The Committee concluded that:

“  
... as stated in its General Comment No. 34, that «'the concept of morals derives from many social, philosophical and religious traditions; consequently, limitations... for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition'. Any such limitations must be understood in the light of universality of human rights and the principles of non-discrimination». In the present case, the Committee observes that section 3.10 of the Ryazan Oblast Law establishes administrative liability for «public actions aimed at propaganda of homosexuality (sexual act between men or lesbianism)» — as opposed to propaganda of heterosexuality or sexuality generally — among minors. With reference to its earlier jurisprudence, the Committee recalls that the prohibition against discrimination under article 26 comprises also discrimination based on sexual orientation<sup>36</sup>.  
”

<sup>32</sup> Referring to the International Covenant on Civil and Political Rights.

<sup>33</sup> Direct citation from the decision of the Committee.

<sup>34</sup> Citation from Communication 1932/2010, Irina Fedotova vs Russia, CCPR/C/106/D/1932/2010, 30 November 2012. Available in Russian at: <http://hrlibrary.umn.edu/russian/hrcommittee/Rview1932sess106.html>.

<sup>35</sup> It should be noted here that the Committee also notes the vagueness of the term «propaganda» — However, the Committee notes that the wording of Article 3.10 of the Law of the Ryazan Region does not provide a clear understanding of whether the term «homosexuality (sodomy or lesbianism)» refers to someone's sexual orientation or to sexual actions, or both. In any case, it is obvious that there has been a restriction on the right of the author to freedom of expression, which is guaranteed by paragraph 2 of article 19 of the Covenant. Citation.

<sup>36</sup> Ibid.

The Committee found a violation of articles 19 and 26 of the International Covenant on Civil and Political Rights<sup>37</sup>.



2012

### DECISION OF THE UN COMMITTEE (Articles 19 and 26 violated)

#### The Russian Federation does not comply with the decision of the Committee

*«the concept of morals derives from many social, philosophical and religious traditions; consequently, limitations... for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition'. Any such limitations must be understood in the light of universality of human rights and the principles of non-discrimination»*

#### «Series of lawsuits» filed with the Supreme Court of the Russian Federation in an attempt to prove the unconstitutionality of the regional laws:

In 2012, the activist Vinnichenko from Astrakhan filed a complaint with the Supreme Court of the Russian Federation arguing that the Astrakhan regional law «On the prohibition of gay propaganda» violates the principle of legal certainty, since the terms «homosexuality» and «propaganda» are not defined in the legislation of the Russian Federation (either at the regional or federal level)<sup>38</sup>.

The court rejected the applicant's arguments and, referring to decisions of the European Court of Human Rights, argued that: propaganda is understood as the activity of individuals and (or) legal entities related to the dissemination of information aimed at the formation in the mind of attitudes or stereotypes of behavior, or having the goal of influencing, or influencing the persons to whom it is addressed, to commit or refrain from committing certain actions<sup>39</sup>.

Referring to decisions of the ECtHR (that did not relate to prohibitions on the freedom of speech and the restriction of LGBT rights), the Supreme Court of the Russian Federation also argued that the concept of «homosexuality», while not being the subject of legal regulation in federal legislation, nevertheless has a certain legal content, since it was used repeatedly as a term **denoting relations between individuals based on sexual attraction to persons of the same sex and the sexual relations between such persons**, in particular, in decisions of the European Court of Human Rights, which are an integral part of national legal regulations.

<sup>37</sup> Freedom of speech (Article 19) and equality before the law (Article 26), full text of the Covenant in Russian available at: [https://www.un.org/ru/documents/decl\\_conv/conventions/pactpol.shtml](https://www.un.org/ru/documents/decl_conv/conventions/pactpol.shtml).

<sup>38</sup> Decision 1-АПГ12-11 of 15 August 2012.

<sup>39</sup> Citation.

Based on this, as well as on the analysis that the contested provision of the regional law «On the prohibition of gay propaganda» is not a violation of the Constitution, the Supreme Court of the Russian Federation decided to dismiss Vinnichenko's complaint.

On 3 October 2012, the Supreme Court of the Russian Federation made a similar determination on the complaint of the Saint Petersburg organization «Vykhod» regarding the legality of Article 7-1 of the Law of Saint Petersburg of 31 May 2010 273-70 «On administrative offenses in Saint Petersburg». Using the same arguments and quoting a similar definition of «propaganda», the Supreme Court of the Russian Federation again rejected the complaint of the activists and left the decision of the regional court unchanged<sup>40</sup>.

Another decision of the Supreme Court of the Russian Federation was adopted on 7 November 2012, this time on the complaint of the activist M. V. Bakumova from Kostroma about the unconstitutionality of the local law "On the prohibition of gay propaganda". In this decision, the court reiterated that:

*... the content of the regional law does not include a general prohibition, censure, or negative assessment of homosexuality, lesbianism, bisexuality, or transgenderism, in the general system of legal regulation, but only a ban on public actions aimed at propaganda among minors<sup>41</sup>.*

In order not to change the line of argumentation already established in previous decisions, the Supreme Court enshrined the definition of «family values» in this decision:

*Family, motherhood, fatherhood, and childhood are recognized as family values in the Russian Federation in accordance with the provisions of Part 2 of Article 7 of the Constitution of the Russian Federation, and Article 1 of the Family Code of the Russian Federation, and are protected by the state.*

*Given the above, as well as the national traditions of the relationship to the family as a biological union based on the marriage of a man and a woman, the Family Code of the Russian Federation indicates that the regulation of family relations is carried out in accordance with, in particular, the principles of voluntary marriage between a man and a woman, the priority of raising children in a family, and care for their well-being and development (article 1)<sup>42</sup>.*

In this decision, as well as in previous ones, the Supreme Court of the Russian Federation dismisses the claims of the plaintiffs.

<sup>40</sup> Decision BC PΦ 78-АПГ12-16 of 3 October 2012.

<sup>41</sup> Decision of 7 November 2012 in case 3-5/12, available at: [//sudact.ru/vsrf/doc/yCWXBntZUtZJ/](http://sudact.ru/vsrf/doc/yCWXBntZUtZJ/).

<sup>42</sup> Ibid.

15.08.2012

## DECISIONS OF THE SUPREME COURT OF THE RUSSIAN FEDERATION

### The Court provides a definition of propaganda

*«propaganda is understood as the activity of individuals and (or) legal entities related to the dissemination of information aimed at the formation in the mind of attitudes or stereotypes of behavior, or having the goal of influencing, or influencing the persons to whom it is addressed, to commit or refrain from committing certain actions»*

03.10.2012

## DECISIONS OF THE SUPREME COURT OF THE RUSSIAN FEDERATION

### The Court tries to justify the regional law and indicate its protective role (in relation to children)

*«... the content of the regional law does not include a general prohibition, censure, or negative assessment of homosexuality, lesbianism, bisexuality, or transgenderism, in the general system of legal regulation, but only a ban on public actions aimed at propaganda among minors»*

07.11.2012

## DECISIONS OF THE SUPREME COURT OF THE RUSSIAN FEDERATION

### The Court provides a definition of «family values»

*«Family, motherhood, fatherhood, and childhood are recognized as family values in the Russian Federation in accordance with the provisions of Part 2 of Article 7 of the Constitution of the Russian Federation, and Article 1 of the Family Code of the Russian Federation, and are protected by the state»*

It is also worth considering separately the decision of the Constitutional Court of the Russian Federation in relation to a complaint regarding the constitutionality of Part 1 of Article 6.21 of the Code of Administrative Offenses of the Russian Federation brought by the citizens, N. A. Alekseev, Y. N. Yevtushenko, and D. A. Isakov<sup>43</sup>.

The Constitutional Court immediately dismissed the applicants' arguments citing decisions of the European Court of Human Rights, calling such an opinion of the ECtHR «subsidiary» and arguing that the latter does not have the competence of «normative control»<sup>44</sup> over the content of national laws and their compliance with the Convention.

Following this, the Court noted that the recognition of human dignity is a fundamental value of Russian statehood, recognized the human right to «freely adhere to one's beliefs», and noted that Article 19 of the Constitution of the Russian Federation guarantees protection to all regardless of their sexual orientation:

“  
*In turn, the state is called upon to take measures aimed at eliminating possible infringements of the rights and legitimate interests of individuals on the basis of their sexual orientation, and to provide effective opportunities to protect and restore their violated rights on the basis of the principle of equality before the law and the courts, enshrined in Article 19 (Part 1) of the Constitution of the Russian Federation*<sup>45</sup>.  
”

However, this is the point where the recognition of human rights values ends and the Court proceeds to the examination of the case on the merits while focusing on protecting children and on arguments in support of the constitutionality of laws «on the prohibition of gay propaganda».

The Constitutional Court summarized its understanding of the role of international human rights law and international standards, leaving no illusions that the decisions of the UN Human Rights Committee, and/or the arguments of the European Court of Human Rights can be heard and applied by Russian courts:

“  
*The above provisions of international legal acts are of a general nature, in the international community, as well as in the practice of various national constitutional legal systems, there is no consensus regarding the understanding of the limits of an individual's sexual autonomy, the dissemination of information regarding sexual relations, normative definitions of obscene behavior, or regarding the conditions and criteria on the basis of which such behavior can be recognized as socially dangerous and be subject to state legal prohibition.*  
”

<sup>43</sup> DECISION OF THE CONSTITUTIONAL COURT OF THE RUSSIAN FEDERATION In the case of the verification of the constitutionality of part 1 of Article 6.21 of the Code of Administrative Offenses of the Russian Federation in connection with the complaint of citizens N. A. Alekseev, Y. N. Yevtushenko, and D. A. Isakova of 23 September 2014. Full text of the decision is available at: <http://www.szrf.ru/szrf/doc.phtml?nb=100&issid=1002014040030&docid=180>.

<sup>44</sup> Citation from the decision of the Constitutional Court of the Russian Federation indicated above.

<sup>45</sup> Ibid.

“  
*In the legislation of the Russian Federation, the mechanisms for implementing these provisions, by virtue of Article 15 (Part 4) of the Constitution of the Russian Federation, are an integral part of the Russian legal system, and are based on traditional ideas of humanism in the context of the national and religious composition of Russian society, and its sociocultural and other historical characteristics, in particular, on ideas, universally recognized in Russian society (and shared by all traditional religious faiths) about marriage, family, motherhood, fatherhood, and childhood, and their special value, which have been formally and legally enshrined in the Constitution of the Russian Federation. Accordingly, the dissemination by a person of his beliefs and preferences regarding sexual orientation and specific forms of sexual relations should not infringe upon the dignity of others and cast doubt on public morality in its understanding prevailing in Russian society, as this would otherwise be contrary to the foundations of law and order<sup>46</sup>.*

”

Later, the Constitutional Court of the Russian Federation focuses in detail on arguments in defense of the «traditional family» and the need to safeguard children from information that may threaten their development. The Court also emphasizes a number of times the inadmissibility of an expanded interpretation of the «prohibition of gay propaganda», and strengthens the argument that the hypothetical interests of the child in this case outweigh the interests and rights of the LGBT community:

“  
*YGiven the sensitive nature of issues related to individuals' sexual identity, inextricably linked to the right to privacy and individual autonomy as constitutional values, the interference with which by the state should be minimized, the prohibition on the propaganda of non-traditional sexual relations among minors, or on the imposition of information about such relationships on minors is not subject to broad interpretation and must be considered in the context of the circumstances emphasized in Part 1 of Article 6.21 of the Code of Administrative Offenses of the Russian Federation, and which, only with such a narrowly focused interpretation can deviation from the general, constitutionally protected principles of individual autonomy, non-interference in private life, and the freedom of speech be justified, subject to a balance with other constitutional values, including protection of the family, motherhood, fatherhood, and childhood<sup>47</sup>.*

”

The Constitutional Court of the Russian Federation came to a decision, quite expected against the background of all previous jurisprudence, and held that Part 1 of Article 6.21 of the Code of Administrative Offenses of the Russian Federation does not contradict the Constitution of the Russian Federation.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

**DECISION OF THE CONSTITUTIONAL COURT OF THE RUSSIAN FEDERATION**

- 1** *«the freedom of sexual self-determination implies the existence of objective differences in sexual identity and the ability for individuals, as a general rule, having reached adulthood, to choose any options of sexual behavior not associated with violence and harm to life or health, or that threatens such harm, including those that may be assessed disapprovingly by the majority, including from the point of view of ethical, religious, or other notions that have arisen in the specific historical socio-cultural conditions of this society. Accordingly, sexual contacts per se, by mutual consent between persons of the same sex, which do not fall under the criminal prohibition of actions of a sexual character with persons under the age of sixteen, are not prohibited by international legal norms nor by the Constitution of the Russian Federation, Article 19 (Part 2) of which guarantees the protection of all persons, regardless of their sexual orientation, and sexual orientation as such cannot serve as a legitimate criterion for establishing differences in the legal status of a person and citizen».*
  
- 2** *«only with such a narrowly focused interpretation can deviation from the general, constitutionally protected principles of individual autonomy, non-interference in private life, and the freedom of speech be justified, subject to a balance with other constitutional values, including protection of the family, motherhood, fatherhood, and childhood»*





«TESTING THE SYSTEM» — CONSECUTIVE  
APPLICATIONS FOR «PEACEFUL ASSEMBLIES»  
AND LAWSUITS CHALLENGING THE LEGALITY  
OF THE BAN ON PEACEFUL ASSEMBLIES  
BY ALEKSEEV AND TEAMS OF ACTIVISTS  
IN VARIOUS REGIONS OF THE  
RUSSIAN FEDERATION

03



The well-known Russian activists for the rights to peaceful assembly and freedom of speech of members of the LGBT community, Nikolai Alekseev, together with his team, consistently and systematically «check» the work of the Russian judicial system, proving not only that the right to peaceful assembly and freedom of speech «do not work» (are systematically violated) in relation to community members, but also that there is no way to use effective legal remedies and that there are no fair trials. 34 decisions were made against the activist team and Nikolai Alekseev in various regional courts in 2019 alone.

Судебные и нормативные акты РФ

Верховный суд | Арбитражные суды | **Суды общей юрисдикции** | Мировые суды | Законодательство | Ответы на вопросы

Войти в личный кабинет | СудАкт в соцсетях

Текст документа: **Алексеев пропаганда нетрадиционных**

Найдено 34 документа

Номер:

Статья закона: **статья 6.21 Кодекса об администра- г**

Дата документа: с:  по:

Инстанция: **Первая инстанция**

Регион: **Все**

Суд:

Судья:

**Найти** | Очистить все

21. **Решение № 2А-245/2019 от 19 февраля 2019 г. по делу № 2А-245/2019**  
Кирсановский районный суд (Тамбовская область) - Гражданские и административные

...которая направлена на пропаганду войны, разжигание национальной, расовой или религиозной ненависти и вражды, а также иной информации, за распространение которой предусмотрена уголовная или административная ответственность. Пропаганда нетрадиционных сексуальных отношений среди несовершеннолетних, выразившаяся в распространении информации, направленной на формирование у несовершеннолетних нетрадиционных сексуальных установок, привлекательности нетрадиционных сексуальных отношений, искаженного представления о социальной равенности традиционных ...

22. **Решение № 2А-120/2019 2А-120/2019-М-30/2019 М-30/2019 от 12 февраля 2019 г. по делу № 2А-120/2019**  
Данковский городской суд (Липецкая область) - Гражданские и административные

...29.12.2010 №436-ФЗ «О защите детей от информации, причиняющей вред их здоровью и развитию» (п.4 ч.2 ст.5) содержат запрет на пропаганду нетрадиционных сексуальных отношений. Полученные истцами ответы главы администрации города Данкова явились поводом к обращению с настоящим административным иском. Иных уведомлений о проведении публичных мероприятий с иными целями ...

23. **Решение № 2А-134/2019 2А-134/2019-М-75/2019 М-75/2019 от 6 февраля 2019 г. по делу № 2А-134/2019**  
Скопинский районный суд (Рязанская область) - Гражданские и административные

...привлечения внимания общества и власти к существующей дискриминации лиц гомосексуальной ориентации гомофобии, трансфобии, фашизму и ксенофобии, возникает угроза нарушения прав несовершеннолетних на защиту от информации, пропаганды и агитации, наносящих вред их здоровью, нравственному и духовному развитию. Кроме того, пропаганда нетрадиционных сексуальных отношений среди несовершеннолетних, выразившаяся в распространении информации, направленной на формирование у несовершеннолетних ...

24. **Решение № 2А-310/2019 2А-310/2019-М-129/2019 М-129/2019 от 5 февраля 2019 г. по делу № 2А-310/2019**  
Каширский городской суд (Московская область) - Гражданские и административные

...а также иной информации, за распространение которой предусмотрена уголовная или административная ответственность. В силу части 1 статьи 6.21 Кодекса Российской Федерации об административных правонарушениях пропаганда нетрадиционных сексуальных отношений среди несовершеннолетних, выразившаяся в

Судебные и нормативные акты РФ

Верховный суд | Арбитражные суды | **Суды общей юрисдикции** | Мировые суды | Законодательство | Ответы на вопросы

Войти в личный кабинет | СудАкт в соцсетях

Текст документа: **Алексеев пропаганда нетрадиционных**

Найдено 317 документов

Номер:

Статья закона: **статья 6.21 Кодекса об администра- г**

Дата документа: с:  по:

Инстанция: **Первая инстанция**

Регион: **Все**

Суд:

Судья:

**Найти** | Очистить все

1. **Решение № 2А-4556/2019 2А-4556/2019-М-4067/2019 М-4067/2019 от 14 сентября 2019 г. по делу № 2А-4556/2019**  
Пушкинский городской суд (Московская область) - Гражданские и административные

...а также иной информации, за распространение которой предусмотрена уголовная или административная ответственность. В силу части 1 статьи 6.21 Кодекса Российской Федерации об административных правонарушениях пропаганда нетрадиционных сексуальных отношений среди несовершеннолетних, выразившаяся в распространении информации, направленной на формирование у несовершеннолетних нетрадиционных сексуальных установок, привлекательности нетрадиционных сексуальных отношений, искаженного представления о социальной равенности традиционных ...

2. **Решение № 2А-1126/2019 2А-1126/2019-М-997/2019 М-997/2019 от 9 сентября 2019 г. по делу № 2А-1126/2019**  
Лобнинский городской суд (Московская область) - Гражданские и административные

...других лиц и ставить под сомнение общественную нравственность в ее понимании, сложившемся в российском обществе, поскольку иное противоречило бы основам правопорядка. Применительно к настоящему делу пропаганда нетрадиционных сексуальных отношений носит навязчивый характер, о чем свидетельствуют намерения административных истцов проводить публичные мероприятия продолжительный период времени в местах, которые являются открытыми для массового посещения несовершеннолетних. ...

3. **Решение № 2А-3218/2019 2А-3218/2019-М-3191/2019 М-3191/2019 от 23 августа 2019 г. по делу № 2А-3218/2019**  
Домодеховский городской суд (Московская область) - Гражданские и административные

...развитию» и 24.07.1998 №124-ФЗ «Об основных гарантиях прав ребенка в российской Федерации», а также привлечению к ответственности, предусмотренной ст. 6.21 КРФоАП ( пропаганда нетрадиционных сексуальных отношений среди несовершеннолетних). Согласно преамбуле и подпункту «с» пункта 1 статьи 29 Конвенции о правах ребенка, принятой Генеральной Ассамблеей ООН от 20.11.1989, для ...




4. **Решение № 2А-888/2019 2А-888/2019-М-706/2019 М-706/2019 от 15 августа 2019 г. по делу № 2А-888/2019**  
Сафоновский районный суд (Смоленская область) - Гражданские и административные

24 июля 1998 г. № 124-ФЗ «Об основных гарантиях прав ребенка в Российской Федерации» и ст. 6.21 Кодекса

In total, an examination of the register of both the regional and federal prohibitions for all the years of their existence shows 319 cases against Nikolai Alekseev and his team<sup>48</sup>. Nearly all of the cases relate to judicial review of refusals to allow peaceful assemblies.

Having received refusals to allow the holding of peaceful assemblies with references to both the regional (earlier) and the federal law on the «prohibition of gay propaganda among minors», the activists appealed each such refusal in court.

The lawsuits on the «illegality of decisions to refuse to allow public events» are all exactly the same, as the team of human rights defenders asks the courts to declare such decisions illegal and in violation of:

-  Decisions of the European Court of Human Rights,
-  The decision of the UN Human Rights Committee,
-  They also often refer to the decision of the Constitutional Court of the Russian Federation of 23.09.2014 24-П<sup>49</sup>, from which it follows that «executive authorities are not entitled to refuse to allow peaceful assemblies with reference to the said prohibition on the holding of public events of representatives of sexual minorities<sup>50</sup> the direct intent of which is not to involve minors, and the goal of which is not directly addressed to minors»<sup>51</sup>.

The decisions of the regional courts in the lawsuits of Alekseev and his team do not differ from year to year, or from region to region. The courts of the Russian Federation are unanimous in overlooking the part of the arguments of the Constitutional Court of the Russian Federation about the proportionality of limitations to the real threat:

“*In itself, the prohibition of propaganda of non-traditional sexual relations, as the activity of purposeful and uncontrolled dissemination of information that could harm health, and moral and spiritual development, including the formation of distorted ideas about the social equivalence of traditional and non-traditional sexual relations, among minors, who, by virtue of their age cannot independently critically evaluate the information received, does not exclude the distribution of relevant information in a neutral (educational, artistic, historical) context*”<sup>52</sup>.

<sup>48</sup> In different years, various activists from different cities joined Nikolai Alekseev, an incomplete list is provided here: Yevtuchenko, Y. N., Nepomnyashchey, K. S., Panov, V. V., Molyakov S. A., Mikahilova, S. A., Klimov, V. N., Ivanov, V. I., Alekseeva, I. N., and others.

<sup>49</sup> Decision of the Constitutional Court of the Russian Federation of 23 September 2014 N 24-П city of Saint Petersburg «In the case of the verification of the constitutionality of part 1 of Article 6.21 of the Code of Administrative Offenses of the Russian Federation in connection with the complaint of citizens N. A. Alekseev, Y. N. Yevtushenko, and D. A. Isakova», available at <http://www.szrf.ru/szrf/doc.phtml?nb=100&iissid=1002014040030&docid=180>.

<sup>50</sup> Citation from the decision of the Constitutional Court of the Russian Federation of 23.09.2014 24-П.

<sup>51</sup> Citation from decision 2A-835/2019 2A-835/2019-M-791/2019 M-791/2019 of 29 July 2019 in case 2A-835/2019, available at [link](#).

<sup>52</sup> Ibid., citation from the decision of the Constitutional Court of the Russian Federation.

“Accordingly, Part 1 of Article 6.21 of the Code of Administrative Offenses of the Russian Federation by itself and in the system of legal regulation in force in the Russian Federation cannot be regarded as entailing official censure or, moreover, prohibition, of non-traditional sexual relations, in particular homosexuality. A different interpretation of this, to allow the restriction of the human rights and freedoms of citizens solely on the basis of sexual orientation, would be contrary to the constitutional principles of equality and non-discrimination<sup>53</sup>.”

Regional courts, despite the arguments of both the Constitutional Court of the Russian Federation and the European Court of Human Rights, regularly and unanimously reached standard decisions:

“As indicated by the Constitutional Court of the Russian Federation in the aforementioned decision, the goal established by the federal legislator in establishing this norm was to protect children from exposure to information that could push them towards non-traditional sexual relations, which prevents the development of family relationships as they are traditionally understood in Russia and expressed in the Constitution of the Russian Federation.

The Constitutional Court of the Russian Federation recognizes that the possibility of the influence of relevant information, even transmitted in an intrusive form, on the future life of the child has not been proven absolutely.

Thus, in the court's opinion, the decision of local authorities is based on convincing and necessary grounds, which justify restrictions on the constitutional right to freedom of assembly. National authorities have applied standards that are consistent with the principles embodied Art. 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 04.11.1950 and does not contradict the current legislation of the Russian Federation<sup>54</sup>.”

<sup>53</sup> Ibid., citation from the decision of the Constitutional Court of the Russian Federation.

<sup>54</sup> Decision 2A-888/2019 2A-888/2019-M-706/2019 M-706/2019 of 15 August 2019 in case 2A-888/2019, Safonovsky District Court (Smolensk oblast), available at: [//sudact.ru/regular/doc/lf3UAsmSaFUW/v](https://sudact.ru/regular/doc/lf3UAsmSaFUW/v)



ANALYSIS OF THE PRACTICE  
OF APPLYING THE FEDERAL LAW  
AT THE REGIONAL LEVEL

044





Cases on the prohibition of sites, for the most part, containing pornographic materials (the largest category of cases) + cases on the closure of informational websites about LGBT rights



Cases on prohibitions of peaceful assemblies (within this box there should be another for the so-called cases of peaceful assemblies of Alekseev and his team)

According to the registry on the website sudact.ru, as of April 2020, 763 court decisions were registered under Article 6.21 of the Code of Administrative Offenses of the Russian Federation for the propaganda of non-traditional sexual relations among minors<sup>55</sup>.

Судебные и нормативные акты РФ

Верховный суд | Арбитражные суды | Суды общей юрисдикции | Мировые судьи | Законодательство | Ответы на вопросы

Текст документа: пропаганда нетрадиционных сексуалы

Найдено 763 документа

- Решение № 07-298/2019 07П-298/2019 от 3 октября 2019 г. по делу № 07-298/2019**  
Волгоградский областной суд (Волгоградская область) - Административные правонарушения  
...мирной акции, однако администрация в проведении акции отказала, поскольку цель акции нарушает закон и влечёт административную ответственность, предусмотренную ч. 1 ст. 6.21 КоАП РФ ( пропаганда нетрадиционных сексуальных отношений среди несовершеннолетних). В связи с отказом администрации в проведении акции они всё же собрались провести мирную несанкционированную акцию 12 августа 2019 года в 12 ...
- Решение № 2А-5657/2019 2А-5657/2019-М-4892/2019 М-4892/2019 от 19 сентября 2019 г. по делу № 2А-5657/2019**  
Центральный районный суд г. Барнаула (Алтайский край) - Гражданские и административные  
...распространение информации, за распространение которой предусмотрена уголовная или административная ответственность. В статье 6.21 Кодекса Российской Федерации об административных правонарушениях предусмотрена административная ответственность за занятие пропагандой нетрадиционных сексуальных отношений среди несовершеннолетних. Согласно пункту 7 статьи 2 Федерального закона от 29 декабря 2010 года N 436-ФЗ «О защите детей от информации, причиняющей вред ...
- Решение № 2А-4556/2019 2А-4556/2019-М-4067/2019 М-4067/2019 от 14 сентября 2019 г. по делу № 2А-4556/2019**  
Пушкинский городской суд (Московская область) - Гражданские и административные  
...а также иной информации, за распространение которой предусмотрена уголовная или административная ответственность. В силу части 1 статьи 6.21 Кодекса Российской Федерации об административных правонарушениях пропаганда нетрадиционных сексуальных отношений среди несовершеннолетних, выразившаяся в распространении информации, направленной на формирование у несовершеннолетних нетрадиционных сексуальных установок, привлекательности нетрадиционных сексуальных отношений, искаженного представления о социальной равноценности традиционных ...
- Решение № 2А-1126/2019 2А-1126/2019-М-997/2019 М-997/2019 от 9 сентября 2019 г. по делу № 2А-1126/2019**  
Лобненский городской суд (Московская область) - Гражданские и административные  
...люми и ставить под сомнение общественную нравственность, в ее понимании, сложившемся в российском

<sup>57</sup> Full text of Article 6.21 of the Code of Administrative Offenses of the Russian Federation available at: [//sudact.ru/law/koap/razdel-ii/glava-6/statia-6.21/](https://sudact.ru/law/koap/razdel-ii/glava-6/statia-6.21/).

Судебные и нормативные акты РФ

Верховный суд | Арбитражные суды | Суды общей юрисдикции | Мировые суды | Законодательство | Ответы на вопросы

Войти в личный кабинет | СудАкт в соцсетях

Текст документа:

Найдено 375 документов

Номер:

Статья закона:

Дата документа: с:  по:

Инстанция:

Регион:

Суд:

Судья:

1. [Решение № 2А-5657/2019 2А-5657/2019–М-4892/2019 М-4892/2019 от 19 сентября 2019 г. по делу № 2А-5657/2019](#)  
 Центральный районный суд г. Барнаула (Алтайский край) - Гражданские и административные  
 ...распространение информации, за распространение которой предусмотрена уголовная или административная ответственность. В статье 6.21 Кодекса Российской Федерации об административных правонарушениях предусмотрена административная ответственность за занятие пропагандой нетрадиционных сексуальных отношений среди несовершеннолетних. Согласно пункту 7 статьи 2 Федерального закона от 29 декабря 2010 года N 436-ФЗ «О защите детей от информации, причиняющей вред ...
2. [Решение № 2А-8575/2019 2А-8575/2019–М-8502/2019 М-8502/2019 от 5 сентября 2019 г. по делу № 2А-8575/2019](#)  
 Советский районный суд с. Уфы (Республика Башкортостан) - Гражданские и административные  
 ...ФЗ»). Пунктом 4 ч. 2 ст. 5 Закона № 436-ФЗ к запрещенной для распространения среди детей информации отнесена информация, отрицающая семейные ценности, пропагандирующая нетрадиционные сексуальные отношения и формирующая неуважение к родителям и (или) другим членам семьи. Кроме того, ч. 2 ст. 6.21 КоАП РФ пропаганда нетрадиционных сексуальных отношений среди несовершеннолетних, выразившаяся в ...
3. [Решение № 2А-5658/2019 2А-5658/2019–М-4889/2019 М-4889/2019 от 4 сентября 2019 г. по делу № 2А-5658/2019](#)  
 Центральный районный суд г. Барнаула (Алтайский край) - Гражданские и административные  
 ...распространение информации, за распространение которой предусмотрена уголовная или административная ответственность. В статье 6.21 Кодекса Российской Федерации об административных правонарушениях предусмотрена административная ответственность за занятие пропагандой нетрадиционных сексуальных отношений среди несовершеннолетних. Согласно пункту 7 статьи 2 Федерального закона от 29 декабря 2010 года N 436-ФЗ «О защите детей от информации, причиняющей вред ...
4. [Решение № 2А-5842/2019 2А-5842/2019–М-5643/2019 М-5643/2019 от 3 сентября 2019 г. по делу № 2А-5842/2019](#)  
 Центральный районный суд г. Барнаула (Алтайский край) - Гражданские и административные

All of these lawsuits can be divided into two categories:

**First category of lawsuits** — cases initiated by the prosecutor to close websites containing, in the prosecutor’s opinion, information that is harmful to the health and development of children and that explicitly promotes non-traditional sexual relations.

There are 375 of such decisions. They do not differ in a detailed description of what threatens the health and development of children, and largely relate to websites containing pornographic material. However, among these cases, there are cases concerning neutral materials of a non-pornographic nature related to the life and rights of LGBT people. Given that information about specific violators is removed from the case file, it is often impossible to say exactly what the decisions, with such general wordings, concern:

“  
*Through access to the internet telecommunications network, it has been established that information that clearly promotes non-traditional sexual relations among minors, namely homosexuality among boys, lesbianism among girls, and bisexual relations among children, is freely available on the <information removed> website<sup>56</sup>.*  
 ”

<sup>56</sup> [//sudact.ru/regular/doc/20AdUAX3n0Yj/](http://sudact.ru/regular/doc/20AdUAX3n0Yj/)

“  
*In addition to Part 2 of Article 6.21 of the Code of Administrative Offenses, which allows prosecution for the dissemination of propaganda, Russian law also allows the Federal Service for Supervision of Communications, Information Technology and Mass Media (Roskomnadzor) or the courts to declare that certain information is not subject to distribution, and to require websites to eliminate this violation*<sup>57</sup>.  
”

Among cases related to the closure of internet pages, a series of cases regarding the closure of the webpage «Children-404» is separately important:

“  
*Using this legal mechanism, the prosecutor of Barnaul filed a lawsuit to declare four pages of the social network «VKontakte» as prohibited information. The application was filed with the court on the basis of a complaint previously sent to the prosecutor by a member of the local legislative body. Three pages contained sexually explicit content aimed at meeting gay teenagers. Nevertheless, the request also related to the page «Children-404», for which, as noted above, control measures were used to block any sexual content. The case relating to blocking access to the «Children-404» website<sup>58</sup> was not formally related to the case initiated by Roskomnadzor against Elena Klimova, administrator of the «Children-404» group, although they were considered in parallel<sup>59</sup>.*  
”

**Second category of lawsuits** — appeals against the prohibition on holding peaceful assemblies (the vast majority of cases were initiated by Alekseev and a team of activists), as well as appeals against criminal proceedings initiated for holding **«unauthorized peaceful assemblies»**:

“  
*At a judicial hearing of the complaint in a Volgograd Regional Court, V. S. Pogorelov testified that they had applied to the administration for permission to hold a peaceful rally, however, the administration refused to provide permission for the rally, since its purpose violates the law and entails administrative liability under part 1, Article 6.21 of the Code of Administrative Offenses of the Russian Federation (propaganda of non-traditional sexual relations among minors). In connection with the administration's refusal to allow the rally to be held, they nevertheless gathered to hold an unauthorized peaceful rally on 12 August 2019 at 12:00, in connection with violations of the rights of youth, in particular: the rights of LGBT youth, the right to be oneself, and the right to marriage equality. Thus, he entered the premises of the park opposite no. 93 on Lenin Avenue, the «Tsaritsyn Opera» of Volgograd. The rally had not yet begun, but they were already detained by police officers<sup>60</sup>.*  
”

<sup>57</sup> Federal Law of 27 July 1996 149-ФЗ «On information, information technology, and the protection of information».

<sup>58</sup> For more details about the «Children-404» case, see here: <https://www.interfax.ru/russia/531972>.

<sup>59</sup> Citation, for more details about this case and similar ones, see «Правосудие или осуждение? Права ЛГБТ в российской судебной практике». (с) September 2016, Equal Rights Trust.

<sup>60</sup> Decision 07-298/2019 07П-298/2019 of 3 October 2019 in case 07-298/2019, available at [//sudact.ru/regular/doc/lnL74xFToM-Nu/](http://sudact.ru/regular/doc/lnL74xFToM-Nu/).



“  
*In his statement, K.K.A. indicated that on [Day.Month.Year], he decided to hold a single picket in Saint Petersburg at the Palace Square to protest against the growth of chauvinistic sentiments and militarism in the country. He intended to use the rainbow flag of the LGBT community with the words «information removed» as visual paraphernalia. The day before the picket, he disseminated information about the date, time, and subject of the picket on social networks and in the media. On [Day.Month.Year] at approximately 15:00, at the Palace Square, he began to unfurl the flag. At that time, a citizen, known to him as T. I., began to grab the flag from him. Police officers approached and grabbed him (K.K.A.) by the hands, put him in a car, and brought him to the 78th police department<sup>61</sup>.*  
”

This jurisprudence shows that the right to a fair trial and effective remedies is not upheld in the Russian Federation.

All existing court decisions, regarding both the closure of websites and media materials containing information about LGBT people, as well as refusals to declare prohibitions on holding peaceful assemblies as illegal, rely on exactly the same arguments, and deny members of the Russian LGBT community protection of their rights.

Such an approach by the courts does not meet the requirements of international law in terms of the standards for a fair and independent court and effective legal remedies. Moreover, Russian activists have consistently «passed through» all legal channels, including the Supreme Court and Constitutional Court of the Russian Federation, the decisions of which, despite some reservations by the Constitutional Court, in essence, confirm the legality and constitutionality of the «prohibition on gay propaganda».

“  
*In the case of Alekseev v. Russia, the ECtHR found that the repeated refusals of the authorities to allow gay parades in Moscow violated the right to freedom of peaceful assembly provided for in Article 11, the right to an effective remedy in accordance with Article 13, and the right to protection from discrimination in accordance with Article 14, in conjunction with Article 11<sup>62</sup>.*  
”

Given the systematic disregard of decisions of the European Court of Human Rights and the comments of the UN Human Rights Committee by both local courts, as well as by the Supreme Court of the Russian Federation, we can unfortunately say that international remedies are not sufficiently effective in relation to human rights violations in the Russian Federation.

<sup>61</sup> Decision 33-354/2015 33-6748/2014 of 5 February 2015 in case 33-354/2015, available at: [//sudact.ru/regular/doc/QKV1kxF-BFHO/](https://sudact.ru/regular/doc/QKV1kxF-BFHO/).

<sup>62</sup> Alekseev vs Russian Federation, complaint 4916/07, 25924/08 and 14599/09, 21 October 2010.



CONCLUSIONS  
AND RECOMMENDATIONS

05

## CONCLUSIONS

An analysis of jurisprudence during the period that both the regional and federal laws were in force (2013—2020) indicates the ineffectiveness of legal remedies in the Russian Federation.

During the years that the laws «on the prohibition of gay propaganda» have been in force, there has been a consistent use of the judicial system to strengthen the existing prohibition and its consistent application in cases where local and/or federal authorities need to restrict the rights of members of the LGBT community. This primarily concerns the rights to freedom of speech and freedom of association, as well as the right to information.

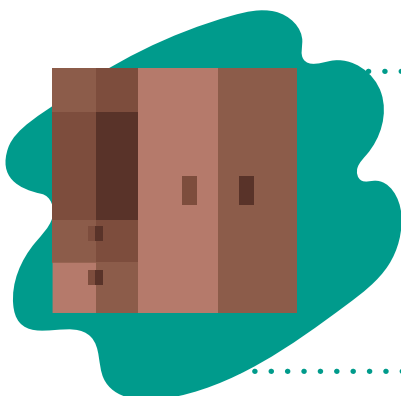
In addition, the law enforcement practice and the unchanging prohibitive nature of the decisions of courts of all instances, including decisions of the Supreme Court of the Russian Federation and the Constitutional Court of the Russian Federation, indicate a violation of the right to a fair trial and the right to an effective remedy. Even the decisions of the European Court of Human Rights and the UN Human Rights Committee could not affect the development and meaning of the jurisprudence.



**People fear persecution and emigrate  
=  
become labor migrants  
+  
asylum seekers**







**Prosecution of activists + NGOs  
=  
weakened LGBT civil society, and burnout  
of activists**







**Non-activists, ordinary people live in the shadows,  
are afraid of coming out, are not prepared to fight  
for their rights, as they do not see the results  
of such actions in the past**

## RECOMMENDATIONS

### For national and international civil society organizations, as well as for activists:

-  despite the apparent recurrence and the indistinguishability of court decisions, continue ongoing monitoring of allegations of violations of Article 6.21 of the Code of Administrative Offenses and monitor court decisions related to LGBT people, with an analysis of the trends;
-  support those who decide to work publicly, and try to exercise freedom of speech and freedom of association, including supporting legal aid networks for those accused under Article 6.21 of the Code of Administrative Offenses and other repressive articles used in relation to LGBT people;
-  seek and develop alternative methods for both protesting and mobilizing the community in order to counter the attempts of authorities to render the LGBT community invisible and silent in the Russian Federation (while still ensuring safety);
-  support legal and social support networks for those who decide to leave the Russian Federation and need support for their asylum requests abroad.

### For the international community and diplomats:

-  exert influence on the Russian Federation to repeal laws restricting the rights of LGBT people, including Article 6.21 of the Code of Administrative Offenses and other similar provisions;
-  condemn acts of violence against representatives of the LGBT community and activists in the Russian Federation, and raise this issue during current and high-level meetings with relevant officials of the Russian Federation;
-  support discussions on the importance of the visibility of the LGBT community, particularly in countries with repressive authorities and practices, develop a discussion on the universality of human rights and the unacceptability of their infringement in favor of so-called «traditional values»;
-  require the government of the Russian Federation to enforce the judgement of the European Court of Human Rights in the case «Alekseev v. Russia», recommendation CM/Rec (2010)5 of the Committee of Ministers of the Council of Europe to member states on measures to combat discrimination based on sexual orientation and gender identity, as well as the recommendations of the UN Human Rights Committee regarding complaint 1932/2010, Irina Fedotova vs. Russia.



