



COMING OUT
LGBT GROUP



SR Silver Rose



List of issues related to the discrimination and violence against women who use drugs, sex workers, lesbian and bisexual women and transgender people in Russia

**Submitted for the consideration of the 8th periodic report by Russian Federation
for the 62d Session of the Committee on the
Elimination of all forms of discrimination Against Women (CEDAW)**

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Prepared by a coalition of civil society organizations, including:

- Non-profit partnership E.V.A.
- Andrey Rylkov Foundation for Health and Social Justice
- Canadian HIV/AIDS Legal Network
- Non-commercial partnership “Silver Rose” of sex workers and their supporters Russia
- “Coming Out” LGBT Group
- Transgender Legal Defense Project

Summary:

Women who use drugs, sex workers, lesbian and bisexual women and transgender people face multiple forms of discrimination, both due to their femaleness, as well as due to the perception that they violate the accepted gender codes. Criminalization is one of the ways to control undesirable human behavior. Criminalization – either real (in law) or perceived (in practice) – of certain *identities* in women, such as being a sex worker, a drug user, a lesbian or a transgender person justifies and in some cases sanctions discrimination, and perpetuates perception that criminalized women are stripped of their other rights, including the right to health, to be free from violence and degrading treatment, and to justice.

This list of issues has been prepared by a coalition of civil society organizations representing women who use drugs, sex workers and transgender women.

We urge the Committee to request the Russian Federation to provide information about all measures undertaken to reduce vulnerability to discrimination and violence of women who use drugs, sex workers, lesbian women and transgender individuals, including:

1. *Information, whether the existing laws and norms on violence against women allow taking into account, as aggravating circumstance, a bias motive related to sexual orientation, gender identity, engaging in sex work or drug use.*
2. *information about measures aimed at ensuring equal access of all women to state-guaranteed health care, that is provided in a non-judgmental, non-discriminatory way and responds to the specific needs of women who use drugs, sex workers, transgender individuals, including in pregnancy;*
3. *measures taken to ensure that women from marginalized communities, including women who use drugs, sex workers, lesbian women and transgender individuals can organize, register organizations and form associations for the purpose of protecting their rights and combating discrimination.*

Below, is the detailed list of issues, divided in three sections, focusing on specific concerns around discrimination experienced by criminalized and marginalized women.

I. Discrimination and violence against women engaged in sex work

CEDAW has already recognized the vulnerability of sex workers and has called for revision of a “legal framework on prostitution in order to ensure that women in prostitution are not criminalized”.¹ Criminalization and/or prohibition of sex work increases women's vulnerability in more ways than just in the context of trafficking and sexual exploitation. Russian² and international researchers note with concern that the ban on prostitution in the Russian Federation leads to a *de facto* ban on occupation for women who choose sex work as their employment, which, in turn, increases their exposure to discrimination in spheres such as sexual and reproductive health and the exercise of their civil, economic, and social rights.³

Russia has an estimated 3 million sex workers.⁴ More than 90% of them are women who engage in sex work without coercion. Prostitution in Russia is considered an administrative offense,⁵ while everything in connection with prostitution (i.e. organization of prostitution) is treated as a criminal offense with a penalty of up to 8 years in prison.⁶ Active enforcement of these legal provisions forces sex workers to work in dangerous conditions, exposes them to violence (often at the hands of law enforcement agents), and deprives them of any possibility to defend their rights.

1. The government's promotion of discrimination against women sex workers (violation of Art. 2 of the Convention)

Since their occupation is legally prohibited, female sex workers are particularly vulnerable to violence, including that suffered at the hands of law enforcement agents.⁷ The legal uncertainty surrounding sex work and the illegal status of sex workers creates major legal barriers to seeking protection and justice in law enforcement agencies, even in cases of obvious violence by client.⁸

Regular police raids are recorded on video and broadcast on television.⁹ Widespread are arbitrary detentions and acts of violence to extort bribes, to blackmail, abuse, torture, and humiliate sex workers out of bias against women engaged in sex work.

The State prohibits sex workers from exercising their right to freedom of association to protect their lives, health, and human rights. In 2013 the first sex All-Russia Sex Workers' Association was refused the official registration by the authorities in Saint-Petersburg. The trial court and the court of appeal upheld the authorities' position. As a justification for the refusal the authorities referred to laws which prohibit prostitution..¹⁰

2. Sex workers' vulnerability and discrimination in access to health care services (Art. 12 of the Convention)

On average, about 4.5% of sex workers are living with HIV, but in some cities, such as St. Petersburg,¹¹ this number may be as high as 50% of the street sex workers who use drugs. A lack of policies for HIV prevention among key populations is a major obstacle to prevention activities. Almost everywhere in Russia, HIV prevention projects have stopped by now, because they used to be financed by foreign grants and donations. Even in those regions where

¹ Concluding observations on the combined fourth and fifth periodic reports of Tajikistan. CEDAW. 29 October 2013. CEDAW/C/TJK/CO/4-5. Para 20.

² Ладная Н.Н., Туманова М.С. «Женщины, вовлеченные в сферу оказания сексуальных услуг и ВИЧ в России» Аналитический обзор. Москва, 2011

³ F. S. E. (FREDDIE) ARPS AND MIKHAIL GOLICHENKO. “*Sex Workers, Unite! (Litigating for Sex Workers' Freedom of Association in Russia)*”. Health and Human Rights International Journal. December 2014.

⁴ <http://www.gazeta.ru/social/2013/12/17/5807973.shtml>

⁵ Section 6.11 of the Russian Federation Code of Administrative Offences

⁶ Section 240 and 241 of the Russian Federation Criminal Code

⁷ <http://www.mk.ru/social/article/2013/09/17/916743-tanya-pokryitaya-mrakom.html>

⁸ “*Improving Counter-epidemic Measures Among Women with High Risk Behavior, Including Sex Workers and Injecting Drug Users*”, Report from the Inter-ministerial Meeting, UNFPA, Office in Russia. October 30-31, Moscow.

⁹ <http://www.tv100.ru/news/v-nevskom-rajone-prikryli-oc..>

¹⁰ F. S. E. (FREDDIE) ARPS AND MIKHAIL GOLICHENKO. “*Sex Workers, Unite! (Litigating for Sex Workers' Freedom of Association in Russia)*”. Health and Human Rights International Journal. December 2014.

¹¹ “*Improving Counter-epidemic Measures Among Women with High Risk Behavior, Including Sex Workers and Injecting Drug Users*”, Report from the Inter-ministerial Meeting, UNFPA, Office in Russia. October 30-31, Moscow.

prevention activities have been maintained, they only cover 3% to 5% of sex workers in the respective region. Thus, such projects fail to meet the basic need for sexual and reproductive health protection and violence prevention.

Studies show that due to the ban on prostitution, overwhelming stigma and discrimination, sex workers are a highly vulnerable group, poorly informed about the risks of HIV transmission.¹² Their occupation outlawed, sex workers are forced to migrate across the country and are the most discriminated group in terms of access to health care services, even though WHO's new guidelines recommend that countries should decriminalize sex work and improve sex workers' access to health services. The WHO Guidelines also emphasize that comprehensive prevention efforts focusing on community empowerment and on consistent and correct condom use can reduce the HIV transmission between sex workers and their clients. Evidence is available that where sex workers are able to negotiate safer sex and discuss HIV transmission risks, their vulnerability decreases significantly.¹³

II. Discrimination and violence against women who use drugs

Increased vulnerability of women who use drugs to gender-based discrimination, including physical and structural violence, has already been described in UN documents. In particular, the Special Rapporteur on violence against women highlighted their vulnerability to discrimination in the criminal justice system,¹⁴ and CEDAW has noted their vulnerability to discrimination in access to health care, including reproductive health services.¹⁵

By official data, 345,015 injecting drug users were registered in Russia in 2013, of whom 17.2% (59,245) were women.¹⁶ According to studies conducted in Europe, the proportion of women among the so-called problem drug users (i.e. mainly injecting drug users) stands at about 25%.¹⁷ According to UNODC, Russia has an estimated 1.7 million injecting drug users¹⁸. By extrapolating the European data to Russia, it can be assumed that approximately 425,000 injecting drug users in Russia are women.

Criminal and administrative laws in Russia prohibit all types of activities which women who use drugs can be engaged with due to drug use or drug dependence. Drug use is an administrative offence punishable with imprisonment (section 6.9 of the Code of Administrative Offences of the Russian Federation); possession of drugs can be administrative or criminal offence punishable with many years of imprisonment (section 228 of the Criminal Code of the Russian Federation). There is a very fine line between a crime of drug possession and a crime of drug trafficking; police often use entrapment to arrest drug users who hand over small amounts of drugs to their peers in response to multiple requests for help in drug withdrawal¹⁹.

1. The vulnerability of women who use drugs to discrimination in the criminal justice system (Article 2 of the Convention)

1. Women convicted of drug-related offenses account for about 40% of all incarcerated women in Russia, whereas the proportion of men imprisoned for drug-related offenses stands at some 20% of the male prison population.²⁰
2. In 2013, more than 14% of all Russians serving prison sentences for drug offenses were women, while the proportion of women in the overall prison population in Russia is less than 7%.²¹

¹² WHO Guidelines: Prevention and treatment of HIV and other sexually transmitted infections for sex workers in low- and middle-income countries, 2012

¹³ Ibid.

¹⁴ Report to the UN General Assembly by Special Rapporteur on violence against women, its causes and Consequences. 'Pathways to, conditions and consequences of incarceration for women', A/68/340, 21 August 2013, pages 9-10.

¹⁵ Concluding observations of CEDAW on the combined fourth and fifth periodic reports of Georgia. CEDAW/C/GEO/CO/4-5. July 2014. Para 30.

¹⁶ Based on data made available to E.V.A. by the Russian Federal Statistics Service, Letter No. 08-08-3/2746-DR of July 18, 2014.

¹⁷ Women's voices — experiences and perceptions of women facing drug problems. EMCDDA, Lisbon, May 2009.

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¹⁸ World Drug Report. UNODC, 2012.

¹⁹ For example, see *Veselov and others v. Russia*. European Court of Human Rights. Application Nos 23200/10, 24009/07 and 556/10. Judgment of November 2, 2012.

²⁰ Based on sentencing statistics available from the Judicial Department of the Russian Supreme Court at <http://www.cdep.ru/index.php?id=79> and the Federal Penitentiary Service statistics <http://fsin.su/statistics/>

3. When facing criminal charges, women who use drugs are more likely than men to have their offenses categorized as serious crimes: in 2013, more than 43% of women convicted of drug-related offenses were sentenced for drug trafficking, 22% were convicted for particularly serious crimes, and 15% were convicted for crimes committed in complicity. To compare, in the same year, only some 25% of men charged with drug-related offenses were sentenced for drug trafficking, 13% for drug crimes considered particularly serious, and 7% for drug crimes committed in complicity.²²

The figures from official judicial and prison statistics quoted above indicate that women who use drugs are criminalized to a much greater extent than women from other segments of the population and also that compared to drug-using men, women who use drugs face more serious charges leading to much tougher sentences.

Women who use drugs often depend on men and tend to use drugs together with their partners; this is the reason why of all women charged with drug offenses, the proportions of those sentenced for crimes in complicity and for running a drug den are double the respective proportions of men charged with drug offenses.

Another factor contributing to disproportional criminalization of women who use drugs is that they face much greater barriers to access to drug treatment and rehabilitation services, since the design of these services in Russia totally fails to address women's needs (see more about it below). As a consequence, women who become addicted to drugs usually face just two options—either try and overcome the addiction on their own (which is incredibly difficult) or inevitably get caught in the criminal justice system.

2. Stigma associated with stereotypical understanding of maternity as a social function (Article 5 of the Convention)

The State officially declares a need for promoting intolerance towards drug use, which in practice leads to enormous stigma and discrimination against drug users.²³ Society's stereotypical understanding of women's role as mothers aggravates such discrimination. Cases have been reported where the State financed the production of media disseminating inaccurate and extremely stigmatizing concepts that women who use drugs cannot bear healthy children.²⁴

3. Barriers to access to drug treatment and rehabilitation services (Article 12 (1) of the Convention)

There is not a single public or municipal rehabilitation center in Russia to offer programs which meet the needs of drug using women. For example, there is not a single such center allowing women to attend a drug rehabilitation program together with their children. Moreover, drug addiction is considered legitimate ground for termination of parental rights.²⁵ Thus, women's access to drug treatment and rehabilitation is greatly hindered by the providers' failure to meet women's special needs.

4. Barriers to access to reproductive health services (Article 12 (2) of the Convention)

According to medical literature, "one out of ten (11%) pregnant women use narcotic drugs."²⁶ No medical protocols are available in Russia to guide the prenatal care of women with drug dependence. Most medications prescribed in Russia for the treatment of drug addiction are contraindicated during pregnancy.²⁷ Russian gynecologists are not trained in specific aspects of caring for women with drug dependence. Drug addiction is considered an indication for abortion.²⁸ The state-promoted intolerance towards patients with addictions causes medical professionals to pressure drug using women who wish to carry the pregnancy to term into having an abortion by convincing them that their babies would be born with abnormalities.^{29,30}

²¹ Ibid.

²² Ibid.

²³ Presidential Decree No. 690 of June 9, 2010, on the approval of the Strategy for the State's anti-drug policy in the Russian Federation for a period until 2020.

²⁴ The Administration of Krasnoyarsk Krai paid 420,000 rubles for 12 shocking video clips. <http://www.adme.ru/tvorchestvo-reklama/shokiruyuschaya-soc-reklama-okazalas-goszakazom-218405/>

²⁵ Article 69 of the Family Code of the Russian Federation.

²⁶ Obstetrics. National Guidelines. (2009) Ed. Aylamzyan. p. 488. Available at http://med-books.by/books/Aylamzyan_Natsionalnoe_rukovodstvo_Akusherstvo.pdf

²⁷ Order of the RF Ministry of Health of 28 April 1998, No 140 endorsing the Standards (Model Protocols) for diagnosis and treatment of patients with addictions.

²⁸ Order of the RF Ministry of Health and Social Development of 3 December 2007, No. 736 endorsing the List of medical indications for termination of pregnancy.

²⁹ <http://rylkov-fond.org/blog/lichnye-svidetelstva/yulia-story/>

³⁰ <http://rylkov-fond.org/blog/press-releases/pr/>

III. Discrimination and violence against lesbian, bisexual women and transgender individuals

Lesbian and bisexual women face multiple forms of discrimination because their personhood is defined in terms of both their femaleness and sexual orientation. Transgender people are also targeted to gender-based discrimination, as they suffer from all the existing gender stereotypes expressing female identity, holding female documentation or being perceived by society and authorities as women.

The Committee has already highlighted particular vulnerability of lesbian and bisexual women and transgender people to discrimination and violence – in both its general recommendations³¹ and concluding observations, including those issued for the Russian Federation.³² The Special Rapporteur on violence against women, its causes and consequences recognized sexual orientation as a further contributory factor for risk of violence against women.³³

In 2013, the Russian State Duma adopted a law prohibiting so-called “propaganda of non-traditional sexual relations among minors.”³⁴ This law negatively affects lesbian and bisexual women and transgender people in all spheres of their lives. As was pointed out by the Committee on the Rights of the Child in 2014, anti-propaganda law “encourages the stigmatization of and discrimination against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons,” and “lead[s] to the targeting and ongoing persecution of the country’s LGBTI community, including through abuse and violence, in particular against underage LGBTI-rights activists.”³⁵

1. Hate crimes and hate speech against lesbian, bisexual women and transgender individuals (arts. 1, 2 and 5 of the Convention; GR # 12)

Even though the Russian Criminal Code does not explicitly mention homo- or transphobia as aggravating circumstances in sentencing, the list of such circumstances includes hatred or hostility towards a particular “social group.” Thus, at least in theory, hate crimes and hate speech against LBT women in Russia can be prosecuted taking into account the bias motive as an aggravating circumstance. However, it never occurs in practice; instead, perpetrators go unpunished, and this impunity, alongside laws denying lesbian, bisexual women and transgender individuals their equal value as social beings, perpetuate the systemic violence.

In many cases, lesbian, bisexual women and transgender individuals have been attacked during public events in support of LGBT rights or at LGBT gatherings.

A.P., an openly bisexual woman and LGBT activist, was attacked twice during 2013, both times in St. Petersburg.

On June 29, 2013, A.P. and three of her friends were attacked at the venue of a Gay Pride rally (the four of them were taking part in the rally) by about a dozen men who opposed the rally. Following the incident, the four victims, including A.P., reported the attack to the police, supporting their complaints by evidence from medical workers who examined the victims after the attack. The attack itself was filmed from different angles by many journalists and lay people. Despite the evidence, police took virtually no steps to investigate the attack, repeatedly refused to open a criminal case, and failed to take into account the bias motive as an aggravating circumstance.³⁶

On November 3, 2013, two unidentified men armed with a baseball bat and a gas gun broke into the office of the LaSky Project. Shouting homophobic insults, they attacked two LGBT activists who were near the front door at the moment—Dmitry Chizhevsky who was shot in the eye and partially lost his sight as a result, and A.P. who sustained less severe injuries confirmed by medical records.

³¹ See, e.g. General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/GC/28, 18 and 31 ; General recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, CEDAW/C/GC/32, 6.

³² *Russian Federation*, 40-41, CEDAW/C/USR/CO/7 (2010).

³³ Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, A/HRC/17/26, 22, 47, 51, 58, 67, 73, 76, 104.

³⁴ Federal Law on June 29, 2013 No. 135-FZ “On Amendments to Article 5 of the Federal Law ‘On Protection of Children from Information Harmful to their Health and Development’ and to Certain Legislative Acts of the Russian Federation with the Aim of Protecting Children from Information that Promotes Negation of Traditional Family Values”.

³⁵ *Russian Federation*, 24, CRC/C/RUS/CO/4-5 (2014).

³⁶ See., e.g., the decision of the neighborhood policeman of Police Department No. 78 in the Central District of St. Petersburg where he refuses to open a criminal investigation, dated July 9, 2013. “Coming Out” LGBT Group, is providing legal assistance to the victims.

Authorities opened a criminal investigation against the perpetrators for “hooliganism” and inflicting bodily harm “out of hooligan motives,” but suspended the investigation soon afterwards; they refused to classify the crime as aggravated by a bias motive against LGBT.³⁷

However, not only those who are vocal in their support of LGBT rights are targeted by hate crimes, but also lesbian, bisexual women and transgender individuals who just express their identities or sexuality.

On October 20, 2014, in St. Petersburg, two unidentified men attacked a lesbian couple returning home on the last subway train. The men saw the women hugging on the escalator and followed them; on the street, one of the men attacked the women while shouting “shitty lesbians” and “no to LGBT,” while the other one recorded the attack on his phone camera. Before running away, the attacker said he would kill the women if he ever sees them again.

On the next day, the women reported the attack to the police. However, the police took virtually no steps to check into the facts they reported in their complaint, failed to consider the bias motive, and refused twice to open a criminal investigation. Unable to get the police to take any effective steps in investigating the attack, in December 2014 the women reported the incident to the UN Special Rapporteur on violence against women, its causes and consequences.³⁸

The hostility is further fueled by hate statement from politicians and opinion leaders. Public insults and incitement to violence, attempts to justify violence and discrimination based on sexual orientation or gender identity never get prosecuted, suppressed, or punished in in Russia.

On September 19, 2013, member of St. Petersburg legislature Vitaly Milonov, author of a local anti-propaganda law, came to the opening of the Queer Culture Festival and publicly insulted the festival's participants and volunteers by calling them “animals,” “AIDSy,” “fags,” etc. When K., a lawyer with “Coming Out” LGBT Group, concerned about impending fighting, called the police, Milonov verbally attacked her, calling her a snitch and then using the Russian derogatory term for “dyke” twice. The incident was captured on video, heard and witnessed by many people.

After the incident, K. reported it to the prosecutor's office seeking administrative proceedings against the MP for the insult and discrimination, but her request was denied on the ground that Milonov's impunity as a member of parliament could not be waived. She tried to appeal the decision, but without success.

K. also attempted to sue Milonov requesting a district court to find a violation of her right to privacy and non-discrimination and to award non-pecuniary damages. However, both the first instance and the appeal courts denied her claims.³⁹

In November 2013, immediately following the attack on the LaSky office (see above), Vitaly Milonov was interviewed by a popular media outlet in St. Petersburg and made a series of homophobic statements justifying the violence and abuse of LGBT rights. In particular, he said that the attack against LaSky had been staged by LGBT activists themselves. A.P. who was a victim of the attack in question appealed to the Investigative Committee with a request to institute criminal proceedings against MP Milonov for hate speech. The investigators sought expert opinions on the case. Some of the experts confirmed that Milonov's interview contained hate speech against LGBT as a social group, while some others argued that LGBT cannot be defined as a social group, and the latter opinion was used to deny the request to open criminal proceedings.⁴⁰

³⁷ See., e.g. Decision of Leninsky District Court of St. Petersburg of 5 March 2014. “Coming Out” LGBT Group, is providing legal assistance to A.P.

³⁸ “Coming Out” LGBT Group is providing legal assistance and psychological support to the victims.

³⁹ See letter from the Prosecutor's Office of Primorsky District of St. Petersburg of October 17, 2013, No. 2096-zh/13; decision of Primorsky District Court in St. Petersburg of March 20, 2014, Case No. 2-6231 2014; decision of Kirov District Court in St. Petersburg of June 5, 2014, Case No. 2-1617/2014; Decision on Appeal of the Judicial College for Civil Cases, St. Petersburg City Court, of October 14, 2014, Case No. 33-12999/2014.

⁴⁰ See, e.g. Decision of the acting investigator at the Investigative Committee's Office in the Central District of St. Petersburg of January 13, 2014, refusing to institute criminal proceedings. “Coming Out” LGBT Group is providing legal support of the case.

Questions to the Government:

- Please indicate whether the existing laws and norms on violence against women allow taking into account, as an aggravating circumstance, a bias motive related to sexual orientation or gender identity.
- Please provide information on the prevalence and prevention of hate crimes against women based on gender identity and sexual orientation, in addition to data on prosecutions and convictions of perpetrators of such crimes.
- Please provide details about appropriate training to law enforcement officials recommended by the Committee in its previous concluding observations for combatting discrimination against LBT women.

2. Persecution and dismissals of lesbian, bisexual women and transgender individuals (Arts. 1, 2, 5, 10 and 11 of the Convention)

Russia's laws banning the so-called "propaganda of non-traditional sexual relations to minors" provoked a wave of persecutions against LGBT individuals and LGBT rights defenders working in schools and universities. Since in Russia women traditionally represent the majority of teachers, especially in general school, such persecutions have a particularly strong impact on lesbian, bisexual women and transgender individuals.

Today in Russia, there are organized groups collecting information on such teachers, their private lives and civic positions, in social networks, on websites and forums, and then forwarding this information to school administrations and educational authorities with a demand that teachers who "promote perversion" should be banned. One such activist alleges that he has caused 29 LGBT teachers across Russia to be fired from their jobs.⁴¹ Human Rights Watch has documented seven cases where LGBT people or their supporters were threatened with dismissal or forced to leave their teaching jobs at universities, schools, and educational centers for children.⁴²

Typically, victims resign of their own accord, but some get fired by the employer.

In December 2014, Special School No. 565 (a school for children with special needs) in St. Petersburg fired A.K., a music teacher, after the school director and the district administration received information about the woman's private life. Someone calling themselves Timur Isayev known for harassment of teachers who support the LGBT community had collected this information in social media and disseminated it. After receiving information about the teacher from Timur Isayev, the administration notified the teacher that her sexual orientation was incompatible with working in the school—even though before the incident, the teacher had not been open at the workplace about her personal life. The school director gave her a choice between voluntary resignation and being fired with a negative record in her employment history. The woman refused to resign of her own accord, and the director fired her based on Article 81, para 8, of the Russian Labor Code (making it legal to dismiss "an employee performing educational functions if they commit an immoral act incompatible with continuing this type of work"). In firing the teacher, the director emphasized on many occasions that he had no problems with A.K.'s performance as a teacher, but that he was under strong pressure from the authorities and had to let her go. A case is currently pending before the Kirov District Court of St. Petersburg on whether the teacher's dismissal was unlawful.⁴³

Questions to the Government:

- Please indicate whether a teachers' sexual orientation, gender identity, or activities in support of LGBT rights can be grounds for their dismissal.
- Please provide information on steps the Russian Government intends to address the problem of persecution and harassment of teachers who are LGBT individuals or advocates for LGBT rights.

⁴¹ <https://meduza.io/feature/2014/12/12/moya-orientatsiya-eto-amoralno> (accessed on 10 Jan 2015).

⁴² License to Harm – Violence and Harassment against LGBT People and Activists in Russia. <https://www.hrw.org/reports/2014/12/15/license-harm-0> (accessed on 10 Jan 2015).

⁴³ "Coming Out" LGBT Group is providing legal assistance and psychological support to A.K. For more information about the teacher's dismissal, see Daniil Turovsky's article at <https://meduza.io/feature/2014/12/12/moya-orientatsiya-eto-amoralno> (accessed on 10 Jan 2015).

3. Medical treatment as compulsory requirement for legal gender recognition (arts. 1, 5, 10 and 12 of the Convention)

The Government correctly states in its report that transgender people in Russia can change the name and gender marker indicated in their identity documentation.⁴⁴ However, despite the fact that the Russian law does not require any medical intervention prior to the change of documentation, civil registry offices and courts often require it in practice. The requirement of gender reassignment surgery (or surgeries) is a particularly serious limitation. Not all transgender people choose to undergo gender reassignment surgery; some cannot afford it, while for some others surgery is contraindicated for reasons such as health or age.

In 2013-2014, courts in Novosibirsk denied legal gender recognition and refused to authorize a change of identity documents to transgender person X., despite the fact that he had confirmation from a medical board of his diagnosis of "transsexualism" and of his male social and psychological gender, with recommendations for changing the gender marker in his identity papers with "a possible morphological reassignment in the future." Without reference to any law, courts insisted that his gender marker cannot be recognized and identity documents changed unless he undergoes an irreversible gender reassignment surgery.⁴⁵ Having exhausted all available domestic remedies, X. had to take his case to the European Court of Human Rights.

Holding identity documents indicating female gender, X. has continuously been faced with stigma and discrimination. He cannot get a job so he can pay for gender reassignment surgery, as employers either refuse to deal with him or advise him to change his documents first. During the court proceedings, X. had to answer personal questions to be let into the courthouse as he presented his ID; employees and officers of the district court made jokes about his situation. Earlier, he had been expelled from a college for refusing to attend a physical education class for women, and another school had lowered his final grades for refusing to wear woman's clothes to the final exam. During his workplace training, X. could not use the toilet, because the director insisted that he should use the women's toilet in accordance with his legal gender, but the women refused to allow him in.⁴⁶

This type of situations caused X. severe distress, so he had to limit his life to bare necessities by refusing to leave his city, to use banks and postal services, to access certain public services and health care services, to purchase a phone plan in his name, to change residence, and to get a driver's license.

In 2012, the Moscow City Court denied legal gender recognition and change of documentation to transgender woman Z. despite a medical report confirming her diagnosis with recommendations for a change of documents. The ground for refusal was the absence of gender reassignment surgeries.⁴⁷

In 2014, a district court in Moscow denied legal gender recognition to transgender woman K. who had undergone orchiectomy.⁴⁸ The judge ruled that the intervention was not enough for legal gender recognition and demanded confirmation of medical gender reassignment in four aspects.

Questions to the Government:

- What are the requirements for legal gender recognition for transgender people wishing to change their identity documentation? Are these requirements provided by law? Why are transgender people who have not had any gender reassignment surgery or have had just one such surgery denied legal gender recognition? In what way is the Russian Government planning to address the problem of gender reassignment requirement prior to legal gender recognition?
- The head of the Russian delegation said at the previous Committee's session in 2010 that gender reassignment surgery is not covered by the State's budget, but also mentioned a possibility for this policy to be changed. Has the Russian Government considered a possibility of including the cost of gender reassignment treatment in the compulsory health insurance program? If so, with what results?

⁴⁴ Russian Federation, 204, CEDAW/C/RUS/8 (2014).

⁴⁵ Ruling of Leninsky District Court in Novosibirsk of November 5, 2013, Case No. 2-4182/2013; Decision on Appeal of the Judicial College on Civil Cases, Novosibirsk Regional Court, of February 6, 2014, Case No. 33-1051/2014; Judicial Order to refuse to submit the appeal for review by the Court of Appeal of July 10, 2014, Case No. 1416-4d.

⁴⁶ Cases documented by the Transgender Legal Defense Project.

⁴⁷ Decision on Appeal of Judicial College on Civil Cases, Moscow City Court, of October 22, 2012, Case No. 11-21399/13.

⁴⁸ Decision of Meshchansky District Court in Moscow of October 24, 2014, Case No. 2-12726/2014

4. Stigma associated with stereotypical understanding of maternity as a social function (Article 5 of the Convention)

Laws banning the so-called “propaganda of non-traditional sexual relations to minors” make lesbian and bisexual mothers and transgender parents particularly vulnerable.

Since this legislation was passed, LGBT organizations providing legal assistance have received numerous calls from lesbian and bisexual mothers concerned that the law may be used for taking away their custody of children. Many women with children from previous heterosexual relationships have faced threats from the children's fathers who threatened to take custody of the children in connection with the ban on “propaganda.” Women who have adopted children are afraid that adoption may be cancelled. Many LBT mother are forced to teach their children not to tell the truth about their family and hide the fact that they have two parents of the same sex.

Even though no evidence is available at the moment of anti-propaganda laws being used to restrict the rights of lesbian and bisexual mothers and transgender parents, the latter may suffer (and are already suffering) from the actions of private parties who can report LBT families to police, child welfare authorities or to social services. Thus, according to a survey conducted by Levada Center in 2013, 50% of respondents definitely agreed that raising children in a same-sex family is “propaganda of homosexuality” in and of itself, and 28% somewhat agreed with this statement.⁴⁹

Moreover, in the autumn of 2013, a bill was introduced in the State Duma to make a parent's “non-traditional sexual relations” legal ground for removing their parental rights. According to the bill’s explanatory note, “following the letter of the law [banning propaganda of non-traditional sexual relations], such propaganda should be prohibited not only in mass media, but also in the family.”⁵⁰ Even though the bill was subsequently withdrawn by its author, it is expected to be resubmitted upon revision.⁵¹

Questions to the Government:

- Please explain whether a parent's (adoptive parent's) sexual orientation, gender identity, or activities in support of LGBT rights can be grounds for restricting her parental rights.

⁴⁹ <http://www.levada.ru/12-03-2013/strakh-drugogo-problema-gomofobii-v-rossii> (accessed on 11 Jan 2015).

⁵⁰ See details on Bill No. 338740-6. Available at <http://www.duma.gov.ru/>.

⁵¹ See <http://lenta.ru/news/2013/10/20/again/> (accessed on 11 Jan 2014).