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General situation of LGBTI people

Over the last few years the intense concerted efforts to limit the human rights of LGBTI people have dramatically increased. The executive, legislative and judiciary branches of government including the politicians of all levels; religious leaders; traditional and online media; various civil society actors including the so-called “parent groups” and “orthodox activists”; nationalists and other radical groups attacked the rights of LGBTI people and their supporters (particularly their rights to freedom of assembly, expression and association), and contributed to an image of LGBTI individuals as outcasts. This took place in the environment of an already existing widespread crackdown on human rights and the rule of law, notably with the implementation of the ‘foreign agent’ law in 2012 that harshly limited the capacities of NGOs and weakened Russian civil society. The adoption of a federal law prohibiting “propaganda of non-traditional sexual relations among minors” (“the propaganda law”) in June 2013 contributed to an additional pressure on Russian civil society and led to an increase in violence – including inhumane and degrading treatment, illegal prosecution and murder – against LGBTI individuals and the supporters of their rights. Altogether, in such severe climate of impunity human rights violations against LGBTI individuals go unpunished.

Politicians at the highest levels including Children’s Rights Commissioner for the President publically opposed LGBTI persons’ human rights referring to “traditional values”, “the family” and loyalty to Russian nation and culture. The government also gradually moved to restriction of adoptions of Russian children by same-sex couples or unmarried persons in the countries allowing same-sex marriages and partnerships and threatened to cancel previous adoptions by such couples. A bill that would deprive same-sex couples of their parental rights was presented but withdrawn. A large number of LGBTI persons who are open about their sexual orientation lost their jobs, especially teachers but notably also persons in the

police and journalists. An online campaign was launched by a group called “Parents of Russia” to identify, disclose and force LGBTI teacher to resign.

Strong homophobic attitudes have increased in media. Almost all media are under heavy state control, except a very few outlets. However, even these are falling under the increasing pressure from the authorities. Broadcast television remains the main source of news for the majority of people in Russia. All national TV channels have been predominately exposing official position and news. The Internet is no longer a free space where one can openly express critical views. A new law has recently been implemented to impose government control on the Internet, restricting and prohibiting access to the opposition’s websites, blogs, etc. The state has been making continuous efforts to restrict information available on the Internet, and control or prevent the organisation of mass events and activities through social media.

The “propaganda law” law has not only denied LGBTI people equal social standing but also implied the opinion that their identities and relationships are unnatural and perverse, openly discriminates the LGBTI community and legitimises hate-based violence against LGBTI persons. Although the discriminatory approach was present even before the law was adopted, the authorities now use it as a legal reference point for banning any LGBTI event or activity. LGBTI people in Russia are denied the rights to equality and protection from discrimination, freedom of expression and peaceful assembly. Authorities often fail to prosecute perpetrators of hate crimes against LGBTI people. The “propaganda law” polarises Russian society and leads to inhumane and degrading treatment against LGBTI people. It has become a tool for discrimination and harassment against the LGBTI community in the country.

Legal and human rights instruments

Constitutional provisions and legal framework

Although the constitution stands for equal rights for all citizens, there is almost no legal protection of LGBTI persons in Russia. On the contrary, laws explicitly discriminate against LGBTI persons, especially the federal law banning “propaganda of non-traditional sexual relationships among minors”. This law provides the authorities with a simple legal reference point for banning any LGBTI event, harassing LGBTI persons, limiting their possibilities to have jobs, become families and parents. However, so far the law is mostly used as a preventative measure to ban public assemblies of LGBTI activists and to prevent individuals and organisations to advocate for LGBTI rights or even be open about the existence of LGBTI persons. Warning notes and fines have so far been issued in a few cases that were brought to court. Due to Russia’s influence in the region, the law has unfortunately also impacted on attitudes and policies in the whole region. The similar law passed the first reading in parliament, in Kyrgyzstan. There are also attempts in other countries on the post-Soviet space to adopt similar legislation as both political and religious leaders are playing an important part in these negative developments.

Another legislation which is negatively impacting the work for LGBTI rights is the “Russian foreign agent law” adopted in 2012, imposing an obligation for non-governmental organisations (NGOs) receiving external funding and involved in “political” activities to register as “foreign agents”. The law does not clearly define what exactly the “political” activities constitute, and is widely interpreted by law enforcement officials as including human rights advocacy, raising awareness or any other activity that hypothetically opposes the official political standpoint. The law demands those foreign-funded NGOs for more detailed informing of the purpose of their expenditures, tightening the reporting responsibilities of their activities. NGOs are forced to redirect physical and financial resources to manage increasing bureaucratic obligations, and being prevented from performing their human rights work. The law also obligates NGOs to display the label “foreign agents” on their websites and all publications, bringing even more obstacles to

cooperation and dialogue with authorities and media. Through 2013 and 2014, the Russian government launched an unprecedented, nationwide campaign of inspection of thousands of NGOs to identify the “foreign agents” and force them to register as such. In June 2013, the Ministry of Justice was granted the power to register organisations as foreign agents without their consent or initial recourse through the Court system. The inspections have led to fines, warnings, and prosecution of dozens of NGOs accused of failure to abide by the new regulations. Several Russian LGBTI organisations are already listed as “foreign agents” or accused of carrying out such role.

In January 2015 a new law on “undesirable foreign and international organisations” was proposed and adopted in the first reading. According to a new bill any foreign or international organisation “who poses a threat to the defence capacity and security of the state or to public order, public moral or to public health” can be designated as undesirable. Any individual working for such organisation can be subject to an administrative fine. This law harshly narrows the capacity of civil society to work with human rights issues and prevents international organisations from its support and work in Russia.

Regional and international human rights instruments

In 2013, the Russian Federation was reviewed during the UN Universal Periodic Review process. Russia rejected all recommendation from UPR that were related to the abolition of the “propaganda law” and to the prevention of arbitrary limitations to freedom of expression and peaceful assembly. However, the Russian authorities agreed to “prevent discrimination based on sexual orientation and gender identity”, but it remains unclear how the state will act to implement this. In February 2014, UN Special Rapporteurs on Freedom of Opinion and Expression, on Human Rights Defenders, on Cultural Rights, and on Right to Health, issued a joint statement expressing concerns about the “propaganda law” in their respective fields. Furthermore, in 2012, the UN Human Rights Committee found that the “propaganda law” in Russia violates Article 19 (2) on the right to freedom of expression and the Article 26 “prohibition on discrimination

in the International Convention on Civil and Political Rights". In 2010, the European Court of Human Rights fined Russia for banning Pride parades in Moscow on grounds of public safety. The European Court of Human Rights has also stated that Russia has violated the rights to freedom of expression (article 10) and non-discrimination (article 14) guaranteed under the European Convention on Human Rights" for administrative prosecution and fining persons for showing posters "Homosexuality is normal" and "I am proud of my homosexuality" outside of a school.

During the Winter Olympics in Sochi, Russia, the United Nations secretary-general, Ban Ki-moon, made a speech condemning the attacks on the LGBTI community as a consequence of the "propaganda law". He did not specifically refer to Russia's new laws, but his speech carried symbolic references.

Sexual and Reproductive Health and Rights and HIV/AIDS

People living with HIV/AIDS often encounter discrimination in Russia. A federal AIDS law includes non-discrimination provisions, however it is rarely enforced. Those who live with HIV/AIDS are often alienated from their families, employers and people within the public health sector.

Due to the recent enforced "propaganda laws" in Russia it has become much more difficult to provide HIV services to LGBTI persons. This can lead to worsening the situation of the HIV epidemic in the country. The discrimination and stigma towards the LGBTI community bring harm to their access to public health services. LGBTI people seldom seek HIV-prevention or treatment because they fear they might be exposed to ridicule, violence or arrest. In Moscow, an HIV clinic had to close down because the clients and staff felt unsafe. The World Health Organisation (WHO) argues that the repressive "propaganda law" disturbs the fight against HIV. WHO also reports that stigma and discrimination have probably led to significant under-reporting of contamination incidents among the LGBTI community. It also hinders the availability, access and uptake of health and social

services, which increases the risk of further HIV spreading. There is little reliable data on HIV prevalence amongst Men who have Sex with Men (MSM), but numbers around 4-10% are indicated. The coverage of MSM by HIV prevention programmes is low. These programmes reach around 16 % of MSM population.

Civil society organisations and institutions active in LGBTI field

There are only a few officially registered NGOs in Russia that are focusing on LGBTI rights. One of the biggest organisations is *Russian LGBT Network*, with its HQ located in St. Petersburg. It has member organisations from over 20 other regions across Russia. Russian LGBT Network runs a 24/7 toll-free hotline that provides support to the Russian LGBTI community. The volunteers working there are trained as crisis centre and hotline operators to provide legal help and counselling. Other organisations are not mentioned here to protect their security.

Due to the "foreign agents law" it is now very difficult for the LGBTI organisations to attract funding and receive foreign donations. Many organisations fear violent attacks and hate crimes on the grounds of sexual orientation and gender identity against their members. LGBTI activists are often attacked in their offices, at demonstrations, in courts, police stations and in the public places. Homophobic groups have organised themselves via social media to harass and assault LGBTI people. Law enforcement authorities seldom prosecute those perpetrators who commit brutal attacks LGBTI activists have been routinely prevented from holding public meetings in Russia for years. Authorities always decline their applications to hold public peaceful events on the grounds of the inability to ensure participants safety. Law enforcement authorities and homophobic groups use the "propaganda law" to justify harassment against LGBTI activists, disrupt their public events and prevent them from doing their human rights work.

What Sweden can do? – 9 questions to discuss

Within the broader context of support to democracy, human rights, gender equality and increased freedom of expression in Russia, Sweden has a great opportunity to include issues related to the rights of LGBTI persons and their access to justice. When addressing LGBTI in a non-supportive government context as Russia, it is very important to consult LGBTI organisations in the country to make sure not to overrule their agenda. Questions to consider and discuss:

- Could Sweden do more to stay updated on the legal and security situation and the judgements and priorities of the LGBTI movement?
- Could Sweden do more to offer protection to activists and attend court cases and keep contributing to protection of organisations at risk?
- Could Sweden do more to seek effective strategic alliances (e.g. within EU) and continue to bring up LGBTI rights in the dialogue with the Russian government?
- Could Sweden do more to support the judiciary to stay firm in defending human rights of LGBTI persons and activists?
- Could Sweden do more to encourage and support cooperation and synergies between LGBTI organisations mainstream Human Rights organisations nationally and regionally? With SRHR organisations nationally and regionally?
- Could Sweden do more to strengthen the organisational capacities of the LGBTI organisations so that they can improve their effectiveness and networking – despite the present difficulties?
- Although the anti-propaganda-law makes it difficult to write about LGBTI issues, could Sweden do more to support initiatives that aim at giving accurate information about LGBTI-issues to the community and others? E.g. making use of social events, cultural events, sports events, exchange programmes etc.
- Could Sweden do more to promote inclusion of gay, lesbian, trans and intersex persons and MSM group in the supported initiatives of gender equality?
- Could Sweden do more to encourage gender based violence initiatives to include the LGBTI population? Trafficking initiatives?

For further advice on dialogue regarding LGBTI issues, download [Sida's Human Rights of Lesbian, Gay, Bisexual and Transgender Persons - Conducting a Dialogue](#) and the Ministry of Foreign Affairs [Dialogue brief](#). Also refer to the [EU tools](#) and guidelines in the reference list.

More specific advice and support measures, as well as contact information, can also be provided through ILGA or RFSL, should the Embassy wish for a dialogue. Also refer to EU toolkits mentioned in the reference list.

References

2014 edition of the *Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe*, ILGA-Europe

http://www.ilga-europe.org/home/publications/reports_and_other_materials/rainbow_europe

GLOBAL COMMISSION ON HIV AND THE LAW UNDP, HIV/AIDS, 2011, *Regional Brief-Practice For the Eastern Europe and Central Asia Regional Dialogue of the Global Commission on HIV and the Law*, <http://www.hivlawcommission.org/index.php/regional-dialogues-main/eastern-europe-and-central-asia?task=document.viewdoc&id=19>

MSM Global Fund <http://www.msmsgf.org>

ILGA, *State-sponsored Homophobia: A world survey of laws prohibiting same sex activity between consenting adults*. (See updated version at www.ILGA.org)

RFSL, *LGBT in Development*, An introduction in how to include LGBT in programming in development: http://www.rfsl.se/public/LGBT_in_development.pdf

[Sida's Human Rights of Lesbian, Gay, Bisexual and Transgender Persons - Conducting a Dialogue](#) and the Ministry of Foreign Affairs [Dialogue brief](#).

The [Toolkit for training police officers on tackling LGBTI-phobic crime](#) by ILGA Europe is the result of a consultation process organised by ILGA-Europe together with member organisations and police forces that have already worked in partnership with LGBTI associations

EU news, tools and guidelines: http://eeas.europa.eu/human_rights/lgbt/index_en.htm

The EU Guidelines (2013): [Guidelines for supporting LGBTI persons' human rights](#).

The human rights of LGBTI persons have been a Swedish government priority since 2009. As a service to staff, guidance notes have been prepared to provide basic information about the situation of this (often forgotten) group and inspire discussions on what Sweden could do to better include LGBTI rights in diplomacy and programming.