

Execution of judgments

**Alekseyev v. Russia
(Moscow pride marches)**

**Bayev v. Russia
("Propaganda of homosexuality")**

**Based on Rule 9.2 submission by
Coming Out and ILGA-Europe**

Alexeyev v. Russia

- Repeated bans on demonstrations promoting respect for the human rights of LGBT persons (Moscow prides, 2005 – 2007)
- Absence of an effective remedy
- Violations of Article 11, 14 + 11, and 13

Bayev v. Russia (2017)

- Fines for violating laws prohibiting promoting “propaganda of homosexuality among minors”.*
- Violations of Article 10 and 14 + 10

ECtHR Bayev judgment

Protection of minors argument

- RF “focused on the need to shield minors from information which could convey a positive image of homosexuality, as a precaution against their conversion to a “homosexual lifestyle” ...(74)
- ECtHR: This position “unsubstantiated. The Government were **unable to provide any explanation** of the mechanism by which a minor could be enticed into “a homosexual lifestyle”
- Dismissed “**as lacking any evidentiary basis.**”(78)

Alekseyev case

Execution process so far

- 7 ½ years
- 10 CM Decisions - raise serious concerns:
 - Continuing bans (8x)
 - “Propaganda” laws (6x)
- CM recommended general measures (*inter alia*):
 - comprehensive action plan
 - revision to assemblies act
 - training and awareness raising for authorities & general public
 - code of conduct for local authorities and police
 - further guidance by highest courts

Constitutional Court ruling of 23/9/14 on “propaganda of non-traditional sexual relations law”

“..... the prohibition of propaganda of non-traditional sexual relations among minors

did not create impediments to the expression by sexual minorities of their opinion with all legal means, including organisation and holding public events.”

(cited repeatedly in RF action plans since then)

Alekseyev case – Updated Action Plan (1)

Comprehensive General Measures claimed:

- Dissemination of judgment and international human rights law
- Inclusion in legal databases
- Training, workshops, meetings
- Rules of conduct

.... for all levels of judges, court employees, employees of ministry of internal affairs, local authorities, and prosecutors across the RF.

Updated Action Plan (2)

- LGBT community “afforded the opportunity to fully exercise the rights guaranteed by the Constitution and the Convention, including by using mass events format”
- 13 events cited – only one public event similar to Alekseyev case.
- Statistical information requested in 12/2016
CM Decision not provided

Latest Gay Russia/Moscow Pride submission

- 2/2016 – 7/2018: Notifications in 250 cities in 80 ex 85 regions rejected. None accepted.
- Appealed in courts, up to Supreme Court level. All rejected, mostly on basis of “propaganda” law.
- 134 cases lodged at ECtHR, dozens communicated.
- Mr Alekseyev constantly receiving death threats by telephone, SMS, etc.

Coming Out/ILGA-Europe submission: St Petersburg 2018 IDAHOT event

- 7 notifications for rally to be held on 17 May submitted; all rejected by reference to “propaganda” law
- Appeals to District Court rejected:
 - “public event does not exclude propaganda of non-traditional sexual relationships among minors”
 - “Legal ban aimed at protection of children’s health not discriminatory”

Coming Out/ILGA-Europe submission: St Petersburg 2018 Pride event

- 30 individuals holding rainbow symbols or supporting the protesters detained
- Administrative fines totalling more than 450,000 rubles
- NB: RF has not exercised right to respond to this, nor the Gay Russia/Moscow Pride information.

Bayev v. Russia

Action Plan

- No general measures in the Action Plan.
- Holding “consultations” with competent state authorities.
- Appears to repudiate the Court’s judgment on the basis that “propaganda” laws consistent with RF Constitution (Constitutional Court ruling)

Bayev v. Russia cases

Examples of recent effects of “propaganda” laws on freedom of expression

- LGBT youth community centre in St Petersburg closed by following police raid – **no LGBT organisation can work with LGBT youth for fear of closure.**
- Largest LGBT portal on health issues blocked – **forced to restrict access of minors to health information.**
- Two other LGBT community portals forced to put in place age restrictions on access.

[ECtHR: “disseminating knowledge on sex and gender identity issues indispensable part of a ... general public health policy”]

IN SUMMARY

- Freedom of assembly denied for 13 years
- General measures claimed by Russian authorities wholly ineffective
- Constitutional Court ruling on effects of “propaganda law” on freedom of assembly completely ignored by lower courts
- Key judgment of ECtHR repudiated by reference to **conversion to “homosexual lifestyle”** theory lacking any evidentiary basis

What to do?

- Next Decision should include structure of comprehensive action plan with concrete actions and timetable.
- Subsequent Decisions should request data on progress in implementing each of the actions.
- Decisions should continue to request data on f.o.a applications and the related Court proceedings.
- Continue to insist on repeal of “propaganda of homosexuality” laws