ARTICLE 19

Traditional values?
Attempts to censor sexuality

Homosexual propaganda bans, freedom of expression and equality

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Executive summary

In this brief, ARTICLE 19 examines the recent proliferation of prohibitions on so-called "homosexual propaganda", and provides clear guidance on how international standards on freedom of expression and non-discrimination may be used in advocacy against such laws. ARTICLE 19 is deeply concerned that, despite international condemnation, a number of countries retain or are considering adopting legislation prohibiting "homosexual propaganda" on the pretence of protecting minors, public morals, or "traditional values". The brief considers these prohibitions in the context of attempts made at the UN Human Rights Council to embed "traditional values" in the international human rights framework, an initiative that threatens to legitimise discrimination and subvert the universality of fundamental rights.

Diverse sexual orientations and gender identities are a part of the human condition. The identity, visibility, and equal rights of lesbian, gay, bisexual and trans (LGBT) people cannot be dictated or negotiated by the prejudice of majorities. Attempts to silence a whole segment of the population cannot be framed as an issue of morality or the protection of children, but must be called out for what they are – a violation of human rights.

The right to freedom of expression encompasses the right to freely express one's sexual orientation or gender identity, as well as the freedom to seek, receive and impart information on issues related to sexual orientation or gender identity. Prohibitions that restrict these information flows discriminate against LGBT people, and deny all people their right to freedom of expression and information. In turn, this deprives all people of their ability to assert other fundamental human rights, in particular the right to freedom of peaceful assembly and democratic participation, the rights to health and an education.

International human rights mechanisms have taken a strong stance against attempts to prohibit "homosexual propaganda". The UN Human Rights Committee found in a 2012 decision that the prohibition of "homosexual propaganda" in Ryazan, Russia violated the right to freedom of expression. The decision affirmed that the right to equality protects individuals on the basis of their sexual orientation and gender identity, and places a positive obligation upon States to respect the freedom of expression rights of LGBT people. The decision finds support in the jurisprudence of the European Court of Human Rights and Inter-American Court of Human Rights, the reports of the Office of the High Commissioner for Human Rights, UN treaty monitoring bodies and UN special mandates, as well as in declarations of international and regional political bodies.

However, prohibitions on "homosexual propaganda" are retained in countries around the world, despite international condemnation. For example, a number of cities and provinces in the Russian Federation and Moldova have enforced "homosexual propaganda" bans to detain and fine persons peacefully exercising their right to freedom of expression. While attempts to institute similar laws in Hungary and Lithuania have largely been unsuccessful, initiatives to enact countrywide prohibitions on "homosexual propaganda" in the Russian Federation and Ukraine have gained popular support and are on-going. In Uganda, legislative proposals include criminal sanctions of up to seven years imprisonment for "promoting homosexuality". International campaigns have been mobilised to oppose the adoption of these laws.

In this context, ARTICLE 19 is concerned at efforts made by Russia at the UN Human Rights Council to call for recognition of "traditional values" as a vehicle for the promotion of human rights. While some traditional values may be invoked positively to enhance domestic appreciation for human rights, none of the resolutions recognise that traditional values may also be abused to justify human rights violations and legitimise discrimination. ARTICLE 19 believes that the rights contained within the Universal Declaration of Human Rights represent a coherent and universally agreed-upon framework for protecting the rights of all human beings, and that "traditions" contrary to these standards must be modified or if necessary eliminated.

Summary of recommendations

United Nations mechanisms:

- All Member States of the UN Human Rights Council should consider tabling a Resolution to affirm the right of LGBT people to freedom of expression and information and freedom of peaceful assembly.
- All Member States of the UN Human Rights Council should ensure, in light of the Advisory Committee's study, that future resolutions on traditional values recognise the negative as well as positive impact of traditional values on the effective implementation of human rights, in particular for people advocating for greater acceptance of LGBT rights.
- The Office of the High Commissioner for Human Rights, in completing the report on best practices in the application of "traditional values", must consider measures taken by States to modify or eliminate traditional values and practices that contradict international human rights standards, particularly in relation to the rights of LGBT people to freedom of expression and freedom of peaceful assembly.
- All UN treaty monitoring bodies must clearly denounce any prohibition on "homosexual propaganda" in their concluding observations to reports submitted by States.
- All Member States must use the opportunity of the Universal Periodic Review process to call into question States that fail to respect the freedom of expression and peaceful assembly rights of LGBT people.

Regional bodies:

- Regional bodies must take concrete measures to support their denunciation of laws prohibiting "homosexual propaganda" in Member States, as incompatible with human rights standards. Any defiance against these standards must be shown to have consequences.

- Regional bodies should monitor the implementation and enforcement of prohibitions on “homosexual propaganda” and remind Member States of their obligations under the international and regional human rights instruments.

States where prohibitions on “homosexual propaganda” have been adopted or are under consideration:

- States and provincial administrations where prohibitions on “homosexual propaganda” have been adopted or proposed should repeal or reject those prohibitions immediately.
- Any individuals convicted of “homosexual propaganda” offences should have their convictions quashed and removed from their records, be refunded any fines that they have paid, and be afforded adequate redress for the violation of their human rights.
- States must reaffirm their commitment to promoting and protecting the freedom of expression rights of all people on the basis of equal treatment and non-discrimination, regardless of sexual orientation or gender identity.
- States must fulfil their responsibility to take sustained and systematic action to modify or eliminate stereotypes and negative, harmful and discriminatory practices against LGBT people justified by traditional values.

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About ARTICLE 19 Law Programme

The ARTICLE 19 Law Programme advocates for the development of progressive standards on freedom of expression and access to information at the international level, and their implementation in domestic legal systems. The Law Programme has produced a number of standard-setting publications that outline international and comparative law and best practice in areas such as defamation law, access to information and broadcast regulation.

On the basis of these publications and ARTICLE 19's overall legal expertise, the Law Programme publishes a number of legal analyses each year and comments on legislative proposals as well as existing laws that affect the right to freedom of expression. This analytical work, carried out since 1998 as a means of supporting positive law reform efforts worldwide, frequently leads to substantial improvements in proposed or existing domestic legislation. All of our analyses are available at **http://www.article19.org/resources.php/legal/**.

If you would like to discuss this analysis further, or if you have a matter you would like to bring to the attention of the ARTICLE 19 Law Programme, please contact Andrew Smith, Legal Officer at ARTICLE 19 at **andrew@article19.org**.

Introduction

Recent years have been marked by the proliferation of laws prohibiting so-called "homosexual propaganda", especially in countries across Central and Eastern Europe. This forms part of a concerning regional trend to restrict spaces for the expression of dissent and to criminalise the defence of human rights. At the international level, attempts at the UN Human Rights Council to engrain "traditional values" in conceptions of human rights protection are troubling, particularly given the domestic context of those countries supporting these initiatives.

The concept of "homosexual propaganda" was first prohibited in the Russian region of Ryazan in 2006, and has subsequently been replicated across a number of Russian cities and provinces, including in St Petersburg. The concept has gained currency among a number of right wing political groups across the region. For example, in Moldova, a number of cities and towns have issued declarations prohibiting "homosexual propaganda" and banning "demonstrations of homosexuality." While attempts to institute prohibitions in Hungary and Lithuania have as yet been unsuccessful, there is currently popular support for countrywide bans in the Russian Federation's State Duma, and across political parties in Ukraine – despite condemnation from the UN Secretary-General Ban Ki Moon,[1] UN independent experts,[2] and the European Parliament.[3]

The prohibitions on "homosexual propaganda" share in common the provision of administrative or criminal sanctions to ban the dissemination of any information regarding issues related diverse sexual orientations or gender identities. In Moldova, the measures are in the form of declarations by city councils with unclear enforcement mechanisms. Most outline among their purposes the protection of either the rights of minors, the protection of public morality, or the expression of support for particular religious denominations or traditions. All of the laws fail to define their key terms and are capable of very broad interpretation.

Homophobic legislation is not a uniquely European problem. Legislative proposals in Uganda will if passed allow those who "promote homosexuality" to be imprisoned for up to 7 years. "Homosexual acts" remain illegal in 76 countries around the world, and individuals can be executed on the basis of their sexual orientation in 7.[4] Attacks against LGBT human rights defenders are frequent the world over, and impunity for these crimes against freedom of expression is rife.

The ambiguity of laws prohibiting "homosexual propaganda" makes their potential reach indeterminable. Such laws have already been enforced to detain and fine activists holding signs in public that merely declare their sexuality, and to detain people for participating in civil rights marches. The laws limit the diversity of publicly available information on matters relating to sexual orientation or gender identity and may impact the issues mass media outlets

[1] United Nations Secretary General, 11 December 2012, see: http://www.un.org/News/Press/docs/2012/sgsm14717.doc.htm
[2] UN rights experts advise Russian Duma to scrap bill on 'homosexuality propaganda', 1 Feburary 2013, http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12964&LangID=E
[3] European Parliament resolution of 24 May 2012 on the fight against homophobia in Europe, P7_TA(2012)0222
[4] "State Sponsored Homophobia: a world survey of laws criminalizing same-sex sexual acts between consenting adults", ILGA, May 2011.

cover, the availability of information in relation to health services and education, and the freedom of individuals to organise inclusive and diverse political, artistic or cultural events.

Of equal concern, and less measurable, is the extent to which these prohibitions, and the homophobic and trans-phobic rhetoric deployed in favour of their adoption, legitimises discrimination and violence against LGBT people and other human rights defenders.

International human rights law clearly protects the rights of all people, including LGBT people, to individually and collectively seek, receive and impart information of all kinds – including in relation to issues on sexual orientation and gender identity. ARTICLE 19 finds that prohibitions on "homosexual propaganda" erode the central tenant of the international human rights system that "all human beings are born free and equal in dignity and rights." They restrict the right of individuals to express their identities and ideas and to participate in public and political life – in particular through peaceful assemblies. They marginalise LGBT people and deny them the information and opportunities key to asserting other fundamental rights – including the right to education and the right to health. In turn, all people are denied a broad range of information and perspectives on matters in the public interest, thus public debates are starved of the pluralism and tolerance that is key to any democracy.

ARTICLE 19 is further concerned at attempts to legitimise discriminatory practices through the promotion of the concept of "traditional values" at the UN Human Rights Council. We believe that the rights contained within the Universal Declaration of Human Rights (UDHR) and other international standards represent a coherent and universally agreed-upon framework for protecting the rights of all human beings, and must not be subverted by the introduction of vague appeals to "traditional values" that disregard their role in justifying human rights violations.

ARTICLE 19 hopes that this brief provides a useful tool for strengthening human rights advocacy against prohibitions on "homosexual propaganda", and for the promotion and protection of the freedom of expression rights of LGBT people.

International human rights standards

The right to freedom of expression and information

Article 19 of the UDHR guarantees the right to freedom of expression.[5] This is elaborated upon and given legal force by Article 19 of the International Covenant on Civil and Political Rights (ICCPR)[6] which protects the right of *all people* to seek, receive, and impart information of any form, including political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse.[7] Importantly, the right protects expression that others may find deeply offensive.[8]

The right to freedom of expression and information therefore protects the right of all people, including LGBT people, to seek, receive, and impart information on all issues relating to sexual orientation and gender identity. The Human Rights Committee (HR Committee), the monitoring body for the ICCPR, explicitly stated that this also protects the right to publicly "giv[e] expression to [their] sexual identity and seek […] understanding for it."[9]

Numerous international mechanisms have issued reports that make clear that the right to freedom of expression and information applies irrespective of sexual orientation. The UN High Commissioner on Human Rights has recommended that States:

> [E]nsure that individuals can exercise their rights to freedom of expression, association and peaceful assembly in safety without discrimination on grounds of sexual orientation and gender identity.[10]

Regional human rights bodies have confirmed this understanding of the scope of the right to freedom of expression. For example the European Court of Human Rights (ECtHR) has held that the right to freedom of expression, guaranteed by Article 10 of the European Convention on Human Rights (ECHR), is "applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population."[11] The ECtHR has said that "there is little scope […] for restrictions on political speech or on debate on questions of public interest."[12]

[5] UN General Assembly Resolution 217A(III), adopted on 10 December 1948.
[6] International Covenant on Civil and Political Rights, 16 December 1966, UN Treaty Series, vol. 999, p. 171.
[7] General Comment No. 34, HR Committee, CCPR/C/GC/34, 12 September 2011, para. 11.
[8] *Ibid.*
[9] *Fedotova v. Russian Federation*, CCPR/C/106/D/1932/2010, Communication No. 1932/2010, 30 November 2012, para. 10.7.
[10] Report of the UN High Commissioner for Human Rights, Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, A/HRC/19/41, 17 November 2011, para. 84(f).
[11] *Handyside v. UK*, Application No. 5493/72, Judgment of 7 December 1976, para. 49.
[12] *Öllinger v Austria*, European Court of Human Rights, Application No. 76900/01, Judgment of 29 June 2006, para. 38.

The ECtHR has also supported this conclusion in cases relating to protests in support of LGBT rights under Article 11 of the ECHR, which protects the right to freedom of peaceful assembly. The ECtHR has affirmed that the individual and collective exercise of the right to freedom of expression encompasses the right to publicly express one's sexual orientation or gender identity.[13]

The ECtHR has also emphasized that "restricting a person from receiving information that others wish or may be willing to impart"[14] is a violation of the right to freedom of expression. Otherwise, "society would be faced with being deprived of the opportunity of hearing differing views on any question which offends the sensitivity of the majority opinion."[15] The right therefore includes the right to impart and receive information about diverse sexual orientations or gender identities.

Also, the 2011 Council of Europe report, Discrimination on Grounds of Sexual Orientation and Gender Identity,[16] recommends that States respect the right to freedom of expression by safeguarding the possibility to impart and receive information on issues related to sexual orientation and gender identity in any form, such as the press, publications, oral and written statements, art and other media. It recommends that any discriminatory provision criminalising the dissemination and diffusion of factual information concerning sexual orientation and gender identity should be abolished.

Also at the regional level, the African Charter on Human and Peoples' Rights[17] ("the African Charter") guarantees the right to freedom of expression and information under Article 9, and the American Charter on Human Rights[18] (ACHR) protects the right at Article 13.

[13] *Alekseyev v. Russia*, Applications nos. 4916/07, 25924/08 and 14599/09, 21 October 2010, which concerned a series of refusals to permit pride marches over several years in Moscow. The ECtHR recognised the purpose of the marches and picketing was to promote "respect for human rights … and to call for tolerance towards sexual minorities." It found that the reason the authorities objected to this was "the very fact that [the applicants] wished to openly identity themselves as gay men or lesbians, individually and as a group."

[14] *Leander v. Sweden*, Application No. 9248, 26 March 1987, para. 74; *Sirbu et al v. Moldova*, Application Nos. 73562/01, 73565/01, 73712/01, 73744/01, 73972/01 and 73973/01, 15 June 2004, para. 18.

[15] *Alekseyev, op.cit.*, para. 77.

[16] Discrimination on Grounds of Sexual Orientation and Gender Identity, 2nd edition, 2011.

[17] The African (Banjul) Charter on Human and Peoples" Rights, adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986.

[18] American Convention on Human Rights, Pact of San Jose, Costa Rica (B-32), adopted 22 November 1969, entered into force 18 July 1978.

The right to freedom of peaceful assembly

The right to freedom of expression is integral to the enjoyment of the rights to freedom of assembly and of association, guaranteed in Article 20 of the UDHR, and Article 21 of the ICCPR.[19]

The State is under a positive obligation to enable the exercise of the right to freedom of peaceful assembly, including the obligation to exercise a presumption in favour of the holding of assemblies. Importantly, peaceful assemblies must be protected by the State, including from counter demonstrators and *agents provocateurs*.[20]

The right to freedom of peaceful assembly also extends to the expression of ideas that may be considered controversial or that are "not necessarily favourably received by the government or the majority of the population"[21] or that "may annoy or give offence to persons opposed to the ideas or claims that it is seeking to promote."[22]

This right is also guaranteed regardless of the sexual orientation or gender identity of the participants and protects expression related to issues of sexual orientation and gender identity.[23] The obligation to secure the effective enjoyment of the right to freedom of peaceful assembly is of "particular importance for persons holding unpopular views or belonging to minorities, because they are more vulnerable to victimisation."[24] The ECtHR stressed that the exercise of this right cannot be "made conditional on its being accepted by the majority" as otherwise, "a minority group's rights to freedom of religion, expression and assembly would become merely theoretical rather than practice and effective."[25]

Also at the regional level, the ACHR[26] and the African Charter[27] both protect the right to freedom of peaceful assembly.

[19] General Comment No. 34, *op. cit.,* para. 4. Also, the UN Special Rapporteur on the right to freedom of opinion and expression described the right as a collective right that "endows social groups with the ability to seek and receive different types of information from a variety of sources and to voice their collective views. This freedom extends to mass demonstrations of various kinds... It is also a right of different peoples, who, by virtue of the effective exercise of this right, may develop, raise awareness of, and propagate their culture, language, traditions and values." Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/HRC/14/23, 20 April 2010, para. 29. See also Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27, 21 May 2012, para. 12.
[20] ECtHR, *Plattform "Ärzte für das Leben"*, Application No. 10126/82, 21 June 1988, para. 34.
[21] HR Committee, *Viktor Korneenko et al v. Belarus*, Communication No. 1274/2004, para. 7.3
[22] ECtHR, *Stankov & UMO Ilinden v. Bulgaria*, Application Nos. 29221/95 and 29225/95, 2 October 2001, para. 86.
[23] *Fedotova, op. cit.; Alekseyev, op.cit.;* Baczkowski and Others, *op. cit.*
[24] *Alekseyev, op. cit.*, para. 70. See also: Baczkowski and Others, *op. cit.*, para. 64.
[25] *Alekseyev, op. cit.*, para. 81.
[26] At Article 15.
[27] At Article 11.

Limiting the rights to freedom of expression and peaceful assembly

While the right to freedom of expression and the right to freedom of peaceful assembly are fundamental rights, they are not guaranteed in absolute terms and may be subject to narrowly tailored limitations. Limitations on these rights must comply with the three-part test and be: provided by law, pursue a legitimate aim, and meet the requirements of necessity and proportionality. Furthermore, limitations on rights must not violate guarantees against discrimination.[28]

- **Provided by law:** all limitations must conform to the principle of legality. This means that they must "be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly and it must be made accessible to the public."[29]

- **Legitimate aim:** all limitations must be in pursuit of a listed "legitimate aim." Under the ICCPR these are: respect for the rights or reputations or others, the protection of national security or of public order; or the protection of public health or morals.[30] Additionally, the right to freedom of peaceful assembly may also be restricted to protect public safety.[31]

  Attempts to justify prohibitions on "homosexual propaganda" are often premised on protecting the rights of others, children in particular, and the protection of public morals. More broadly, refusals to permit or measures to prohibit assemblies by LGBT people or in support of LGBT rights often rely on public order arguments.

  Under international law, limitations to protect the rights of others should not be interpreted, *inter alia*, to restrict political debate.[32] Also, they must be supported by evidence and should not be speculative; for example, the ECtHR has held that there was no scientific or social data "suggesting that the mere mention of homosexuality, or open public debate about sexual minorities' social status, would adversely affect children or 'vulnerable adults."[33]

[28] The Siracusa Principles on the Limitation and Derogation Provisions in the ICCPR, part I.A.2 and I.A.9, UN Commission on Human Rights, 28 September 1984, E/CN.4/1985/4.

[29] General Comment No. 34, *op. cit.* Also, the Siracusa Principles, *ibid.,* require limitations to be articulated in terms that are "clear and accessible by everyone" and to be of general application, that they not be arbitrary or unreasonable, and that adequate safeguards and effective remedies shall be provided for the illegal or abusive imposition or application of limitations on human rights." In similar terms, the ECtHR has stated that limitations must be "formulated with sufficient precision to enable the citizen … to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail." See, e.g. *Muller and Others v. Switzerland*, application No. 10737/84, 24 May 1988, para. 29.

[30] Article 19(3) ICCPR, and Article 21 ICCPR. Similarly, under the ECHR these rights may be restricted to protect national security, the prevention of disorder or crime, for the protection of health or morals, and the protection of the rights and freedoms of others; Article 10(2) ECHR and Article 11(2) ECHR.

[31] Article 21 of the ICCPR.

[32] General Comment No. 34, *op. cit.*, para. 28.

[33] *Alekseyev, op. cit.*, para. 86.

The State bears the burden of demonstrating that any limitation to protect "public morals" is *essential* to the maintenance of respect for fundamental values of the community.[34] While States enjoy a margin of appreciation in this regard, this discretionary leeway does not permit "public morals" to be invoked to "justify discriminatory practices"[35] or "to perpetuate prejudice or promote intolerance."[36] International human rights bodies have noted that concepts of morality are constantly evolving,[37] that any limitation "must be based on principles not deriving exclusively from a single tradition",[38] and "must be understood in the light of the universality of human rights and the principle of non-discrimination."[39] Where public morality has been invoked to restrict the free expression rights of LGBT people, the UN High Commissioner for Human Rights has warned of "privileging the antagonists" rather than those claiming rights.[40]

Similarly, in cases of invoking protection of public health, international standards maintain that such measures must be "both evidence-based and proportionate to ensure respect of human rights."[41] States should "refrain" from employing criminal laws and legal restrictions that aim to regulate public health if they are neither evidence-based nor proportionate.

Restrictions on the free flow of information are more likely to harm an individual or group's health rather than advance it.

[34] The Siracusa Principles, *op. cit.*

[35] *Ibid.* The HR Committee also asserted that morality based limitations on rights "must be understood in the light of the universality of human rights and the principle of non-discrimination; General Comment No. 34, *op. cit.*, para. 32.

[36] *Hertzberg et al v. Finland*, Communication No. 61/1979, individual opinion by Committee members Opsahl, Lallah and Tarnopolsky, 2 April 1982. The decision of the majority in *Hertzberg* should now be read in light of the decision in *Fedotova*, *op. cit.*

[37] The Siracusa Principles, *op. cit.* See also: *Muller vs. Switzerland*, *op. cit.*, para. 35, in which the ECtHR equated the concept of "public morality" with safeguarding the general population from obscene materials. In *Alekseyev, op. cit.*, in finding that the limitation placed on the right to freedom of peaceful assembly was not necessary in a democratic society, the ECtHR noted para. 82 that "[a]t no stage was it suggested that the event would involve any graphic demonstration of obscenity of a type comparable to the exhibition in the case of *Müller and Others* referred to by the Government… the participants had not intended to exhibit nudity, engage in sexually provocative behaviour or criticise public morals or religious views." Citing comments of the Mayor of Moscow, the ECtHR exposed the public morality argument as cover for the fact that what the authorities found objectionable was "the very fact that they [the demonstrators] wishes to openly identify themselves as gay men or lesbians, individually and as a group." The Court therefore found that the violation of the applicant's Article 11 rights also constituted a violation of the guarantee against discrimination under Article 14.

[38] General Comment No. 34, *op. cit.*, para. 32.

[39] *Ibid.*

[40] Report of the United Nations High Commissioner for Human Rights, Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, *op. cit.*, para. 64.

[41] Interim report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 3 August 2011, A/66/254, para. 18.

As for public order or public safety limitations, States are under a positive obligation to promote and protect the right to freedom of expression, and to take reasonable and appropriate measures to enable lawful demonstrations to proceed peacefully.[42] The threshold for prohibiting expression on the basis of protecting the public order is therefore high and must be evidence based, rather than premised on speculation.[43] The potential for a public order disturbance, in particular from counter-demonstrators, should not be the basis for denying the right to freedom of peaceful assembly. Less restrictive measures to ensure the maintenance of public order, such as the deployment of additional law enforcement officers to protect participants, should therefore be considered.

- **Necessity and proportionality:** For a limitation on the right to freedom of expression or freedom of peaceful assembly to be considered necessary, States must demonstrate in a "specific and individualised fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat."[44] Moreover, the restriction must not be overly broad and must be the least restrictive means available for achieving the protective function. Account must also be taken of the form of expression as well as the means of its dissemination.

Equality and non-discrimination

The right to equality and non-discrimination is protected under all major international and regional human rights instruments.[45] The HR Committee has interpreted the protections for equality and non-discrimination under the ICCPR to be inclusive of the grounds of sexual orientation and gender identity.[46] In particular, it recommended that signatory States should guarantee equal rights to all, regardless of their sexual orientation,[47] and has welcomed legislative steps taken by States to comply with this obligation.[48] In 2012, the HR Committee explicitly ruled that the enforcement of administrative sanctions for the promotion of "homosexual propaganda" in Ryazan, Russia violated the petitioner's right to non-discrimination under Article 26 of the ICCPR.[49]

[42] *Plattform "Ärzte für das Leben"*, *op. cit.*, paras 32 and 34.
[43] For example, the ECtHR stated that the "mere existence of a risk is insufficient for banning [a peaceful assembly]: in making their assessment the authorities must produce concrete estimates of the potential scale of disturbance in order to evaluate the resources necessary for neutralising the threat of violent clashes. *Barankevich v. Russia*, Application No. 10519/03, 26 July 2007, para. 33.
[44] General Comment No. 34, *op. cit.*, para 35; also: *Shin v. Republic of Korea*, Communication No. 926/2000, HR Committee, 16 March 2004, para. 7.3.
[45] See, for example: Article 7 of the UDHR; Articles 2(1) and 26 of the ICCPR; Article 2(2) of the International Covenant on Economic, Social and Cultural Rights; Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Article 2(1) of the Convention on the Rights of the Child; Article 1(1) and Article 24 of the American Convention on Human Rights, and Article 2 and Article 19 of the African Charter on Human and Peoples' Rights.
[46] *Toonen v. Australia*, HR Committee, Communication No. 488/1992, para. 8.7; and *Young v Australia*, Communication No. 941/2000, para. 10.4.
[47] HR Committee Concluding observations on Chile (CCPR/C/CHL/CO/5, para 16), San Marino (CCPR/C/SMR/CO/2, para 7), and Austria (CCPR/C/AUT/CO/4, para. 8).
[48] See, for example: HR Committee Concluding observations on El Salvador (CCPR/C/SLV/CO/6, para. 3(c)), Greece (CCPR/CO/83/GRC, para. 5), Finland (CCPR/CO/82/FIN, para. 3(a)) and Slovakia (CCPR/CO/78/SVK, para. 4.)
[49] *Fedotova*, *op.cit.*

The monitoring bodies for all of the major international human rights treaties support the inclusion of sexual orientation and gender identity as protected characteristics in the guarantees for equality and non-discrimination under those instruments.[50]

The ECtHR[51] and the Inter-American Court of Human Rights[52] have reached the same conclusion regarding regional protections against discrimination. In assessing the reasons offered by States for justifying restrictions, the ECtHR has been emphatic that the "predisposed bias on the part of a heterosexual majority against a homosexual minority" cannot amount to sufficient justification for interferences with the freedom of expression or peaceful assembly rights of LGBT people.[53]

Protection for human rights defenders

The Declaration on Human Rights Defenders provides that everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels.[54] The rights to participate in democracy and the right to individually and collectively "seek, obtain and hold information" and to "public, impart or disseminate" information to others are identified as essential to the work of human rights defenders.[55] These provisions also protect LGBT human rights defenders.[56]

[50] See: General Comment No. 20, Committee on Economic, Social and Cultural Rights, E/C.12/GC/20, 2 July 2009, para. 32; General Comment No. 2, Committee Against Torture, CAT/C/GC/2, 24 January 2008, para 21; General Comment No. 28, Committee on the Elimination of Discrimination Against Women, CEDAW/C/GC/28, 16 December 2010, para 18; General Comment No. 4, Committee on the Rights of the Child, CRC/GC/2003/4, 1 July 2003, para. 6.

[51] *Salgueiro da Silva Mouta v. Portugal*, Application No. 33290/96, 21 December 1999; and P.V. v. Spain, Application No.35159/09, 30 November 2010. In relation specifically to the right to freedom of peaceful assembly, see: *Bączkowski v. Poland*, Application No.1543/06, 3 May 2007; *Genderdoc-M v. Moldova*, Application no. 9106/06, 21 June 2012; *Alekseyev, op.cit.*

[52] *Caso Atala Riffo y Niñas vs. Chile*, Inter-American Court of Human Rights, 24 February 2012. The Court held that "sexual orientation" and "gender identity" both fall within the specified "other social condition" under Article 1.1. The Court further noted that "both laws and the States themselves should assist society in advancing [growing social acceptance of other family forms]; otherwise, we run the serious risk of legitimizing and consolidating different forms of discrimination which violate human rights." The remedies awarded included requiring that Chile provide educational programmes on sexual orientation and gender identity to civil servants and judges.

[53] C.f. *Alekseyev*, op.cit., para. 97.

[54] Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, A/RES/53/144, 8 March 1999, [as affirmed] in General Assembly resolution 64/163 of 17 March 2010, Article 1.

[55] *Ibid.,* at Article 6 and Article 8.

[56] In her 2009 report, the UN Special Rapporteur on Human Rights Defenders expressed deep concern regarding "denigration campaigns and violent threats against defenders of lesbian, gay, bisexual and transgender rights. Report of the Special Rapporteur on the Situation of Human Rights Defenders, A/HRC/13/22, 30 December 2009; para 49. Similarly, the UN High Commissioner for Human Rights has condemned the de-registering of NGOs advocating for LGBT rights, police raids on offices and the confiscation of members' details and attacks on the personal reputations of human rights defenders. Annual report of the United Nations High Commissioner on discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, *op. cit.* At the regional level, Recommendation CM/Rec(2010) of Council of Europe, *op.cit.,* identified the need for States to take measures to protect LGBT human rights defenders and their right to exchange information on matters of sexual orientation and gender identity.

Economical, social, and cultural rights

Prohibitions on “homosexual propaganda” deprive all people of information that is crucial to asserting their economic, social and cultural rights. In particular, these prohibitions have a disproportionate impact on the rights of LGBT people to health and education.

The right to the highest attainable standard of health is guaranteed in numerous international human rights instruments on terms of non-discrimination.[57] It has been described as “dependant on the realisation of other human rights [including] access to information.”[58] Attaining the highest standard of health on the basis of non-discrimination requires of States a “positive and respectful approach to sexuality and sexual relationships.”[59]

The right to an education is similarly guaranteed in international human rights law on terms of non-discrimination.[60] The UN High Commissioner for Human Rights has called upon States to tackle prejudice and intimidation against LGBT young people, including by integrating the principles of tolerance and non-discrimination into school curricula and discourse, and for media to eliminate negative stereotyping of LGBT people.[61] Moreover, she cites homophobic and transphobic educational environments as causes for isolation and stigma that contribute to truancy, absenteeism, and children being forced out of school and even suicide.[62]

Together, the right to the highest attainable standard of health and the right to education impose a positive obligation on States to make available and disseminate information regarding sexuality and sexual health.[63] Hence, States should abolish criminal and other laws restricting access to comprehensive education and information on sexual and reproductive health.[64] This also requires States to refrain from censoring, withholding or intentionally misrepresenting health-related information[65] and requires the abolition of laws that “censor discussions of homosexuality in the classroom” since this fuels “stigma and discrimination of vulnerable minorities.”[66]

[57] Article 25(1) of the UDHR; Article 12 of the International Covenant on Economic, Social and Cultural Rights; Article 12(1) of the Convention on the Elimination of Discrimination against Women, and Articles 24 and 17 of the Convention on the Rights of the Child.

[58] UN Committee on Economic Social and Cultural Rights, General Comment No. 14, E/C.12/2000/4, 11 August 2000, para. 3.

[59] Report of the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 16 February 2004, E/CN.4/2004/49, para. 53.

[60] E.g. Article 26 of the UDHR; Article 28(1) and (3) of the CRC; Article 3(a) of the UNESCO Convention Against Discrimination in Education.

[61] Annual Report of the UN High Commissioner for Human Rights on discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, *op. cit.,* paras 58 and 60.

[62] *Ibid.* See also: Report by the Special Rapporteur on the Right to Education, E/CN.4/2006/45, 8 February 2006, para. 113; E/CN.4/2003/75/add.1, para. 1508.

[63] 2011 Annual Report of the UN High Commissioner for Human Rights on discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, *op. cit.,* para. 61. “The right to education includes the right to receive comprehensive, accurate and age-appropriate information regarding human sexuality in order to ensure young people have access to information needed to lead healthy lives, make informed decisions and protect themselves and others from sexually-transmitted infections.”

[64] Report of the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 3 August 2011 A/66/254, para. 56.

[65] *C.f.* UN Committee on ESCR.12/2000/14, para. 14

[66] Report of the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, *op. cit.,* para 59. See also Report of the UN Special Rapporteur on the right to education, A/65/162, 23 July 2010, paras 23 and 69.

The UN Special Rapporteur on the Right to Education shares these concerns. He has noted that "in order to be comprehensive, sexual education must pay special attention to diversity, since everyone has the right to deal with his or her own sexuality."[67] Furthermore, the Special Rapporteur noted that hetero-normative sexual education normalises, stereotypes and promotes discriminatory images that deny the existence of LGBT people exposing them to risky and discriminatory practices.[68] The Special Rapporteur voiced specific concerns in a 2008 communication to Poland that a proposed law to ban the "promotion of homosexuality" would "prevent students having access to sexual health information."[69]

The European Committee of Social Rights has similarly held that State-sponsored sex education programmes that reinforce gender and sexual orientation stereotypes or prejudice or contribute to the social exclusion of marginalised groups violate the rights of young people to health and non-discrimination.[70] They held that the State has a responsibility to ensure that education "is objective, based on contemporary scientific evidence and does not involve censoring, withholding or intentionally misrepresenting information."[71] At the regional level, this position is supported by the Committee of Ministers for the Council of Europe Recommendation CM/Rec(2010).[72]

[67] Report of the UN Special Rapporteur on the right to education, A/65/162, 23 July 2010, para. 23.
[68] *Ibid.,* para. 69.
[69] Report of the Special Rapporteur on the right to education, 13 May 2008, A/HRC/8/10/Add.1, para. 81.
[70] *International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Croatia,* Complaint No. 45, decision of 11 August 2009, para. 48.
[71] *Ibid.,* para. 47
[71] Appendix to the Recommendation, paras. 31-32

Traditional values at the UNHRC

Since 2009, Russia has tabled three resolutions at the UN Human Rights Council (HRC) that claim to seek the promotion of human rights and fundamental freedoms through a "better understanding" of traditional values.[73] At the request of the HRC, the Office of the High Commissioner on Human Rights (OHCHR) has convened a workshop on the issue, and the Advisory Committee to the HRC prepared a study for presentation at the March 2013 session. Pre-empting this study, the HRC voted in September 2012 to task the OHCHR with collating a summary of "best practices" in the application of traditional values.[74]

The three resolutions share in common the assertion that "all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing." They cite the UDHR and the ICCPR, and claim to be acting in furtherance of the Vienna Declaration and Programme of Action, which reaffirms the universality of human rights. Each of the resolutions invoke the principle of equal treatment, and the second and third both stress that "traditions shall not be invoked to justify practices contrary to human dignity and violating international human rights law."

The problem with "traditional values"

ARTICLE 19 believes that increasing dialogue on the nature of traditional values, within a framework of respect for international human rights law, is positive where done to foster greater ownership of those principles among domestic constituencies. However, the resolutions do not recognise that traditional values is a concept without definition and thus subject to arbitrary interpretation, and that traditional values are diverse and varied rather than universal. Particularly concerning is the failure to recognise that traditional values are often abused by States to legitimise discrimination against minority groups, to silence dissent, and violate people's human rights – in particular those of LGBT people. With these concerns, ingraining the concept of "traditional values" in international human rights law, absent robust qualification, presents a real threat to protection, especially for human rights defenders that seek to challenge established power hierarchies and inequalities.

[73] All three resolutions are titled "promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind." A/HRC/12/L.13/Rev.1, 30 September 2009, requested the High Commissioner to convene a workshop on the role of traditional values and present a summary of the views exchanged therein. A/HRC/16.L.6, 18 March 2011, welcomed the workshop and summary and requested the Advisory Committee to prepare a study on how a "better understanding and appreciation of traditional values" could contribute to the promotion and protection of human rights. A/HRC/21/L.2, 21 September 2012, granted the Advisory Committee an extension to finalise the report, but pre-empted its conclusions by requesting the High Commissioner for Human Rights to collate a summary of information from UN Member States and other relevant stakeholders on "best practices" in the application of traditional values.

[74] The OHCHR study is due to be presented to the HRC at the 24th Session in September 2013.

Motivations behind the resolutions

The motives of Russia in tabling these resolutions must also be considered. Prohibitions on "homosexual propaganda" are but one of the numerous ways Russia has in recent years severely restricted the space for civil society to engage in critical debate or any form of human rights advocacy. The replication of similar measures across the region adds further weight to concerns regarding the motivation for pursing recognition of "traditional values" at the HRC.

Advisory Committee's study and recommendations

The Advisory Committee to the HRC, mindful of divided views on this issue, included in their study both the negative and positive impact that traditional values may have on the effective implementation of human rights.[75]

The Advisory Committee note that traditional values are not defined, that they are varied and complex and scarcely referenced in international human rights law.[76] In contrast to the ambiguity of "traditional values", the Advisory Committee note the "moral universality" of existing human rights protections, and that they reflect the full diversity of the cultures and societies involved in their drafting.[77] Nevertheless, traditional values consistent with the UDHR may be a useful educational vehicle for enhancing domestic appreciation for international human rights norms.[78]

The Advisory Committee note that international law requires States to bring traditional values into compliance with human rights standards,[79] thus making clear the potential for disparity between the two. That "tradition is often invoked to justify maintaining the status quo, failing to take into account the reality that traditions, cultures and social norms have always evolved over time" is noted, and that "a human rights-based approach, by contrast, often requires changes to the status quo in order to ensure compliance with international human rights standards."[80]

[75] Study of the Human Rights Council Advisory Committee on promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind, A/HRC/22/71, 6 December 2012, at Part III.B.

[76] Although it is noted that Article 17.3 of the African Charter requires Member States to promote and protect the "morals" and "tradition values" of the community.

[77] The Advisory Committee note the reflections of Brazil on the UDHR in this regard, that the declaration "did not reflect the particular point of view of any one people or of any one group of peoples, neither was it the expression of any particular political doctrine or philosophical system. It was the result of the intellectual and moral cooperation of a large number of nations; that explained its values and interest and also conferred upon it great moral authority", study of the Advisory Committee, *op. cit.,* para. 33.

[78] Study of the Advisory Committee, *op. cit.,* para. 77.

[79] See: the preamble to the Convention on the Elimination of All Forms of Discrimination against Women; Article 2(2) of the Protocol to the African Charter of Human and Peoples' Rights on the Rights of Women in Africa at Article 2(2); the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights on 25 June 1993; and the Beijing Declaration and Platform for Action, adopted at the Forth World Conference on Women, endorsed by UN General Assembly Resolution 50/203, 22 December 1995, para. 119 and 124(a); Committee on the Elimination of Discrimination against Women, general recommendation no. 19 on violence against women, 1992, para. 11 and 23, and general recommendation no. 21, 1994, article 16, para. 21 and 22; and the Reports of the Special Rapporteur on violence against women, its causes and consequences; E/CN.4/2006/61/Add.5, 15 February 2006, para. 9, 20, 76, and 80; A/HRC/4/34, 17 January 2007, para. 67.

[80] Study of the Advisory Committee, *op. cit,* para. 40.

Several of the Advisory Committee's findings relate to minorities, and are particularly relevant to LGBT human rights defenders. The study recognises that human rights violations "justified by traditional, cultural or religious values are often targeted against minority or disenfranchised groups that are not in a position to shape the dominant discourse defining the values of the overarching society or community."[81] Specifically, those defenders who challenge "traditional" social constructions of gender, including by challenging socio-cultural norms, traditions, perceptions and stereotypes about femininity and sexual orientation, are recognised as being particularly exposed to risk of violence and abuse of human rights.[82]

The Advisory Committee reminds States of their responsibility to take sustained and systematic action to modify or eliminate stereotypes and negative, harmful and discriminatory practices justified by traditional values.[83] States are also encouraged to recognise and safeguard the links between positive traditional values (defined as those consistent with the UDHR) to strengthen universal respect for and implementation of human rights.[84]

ARTICLE 19's recommendations

ARTICLE 19 supports the concluding recommendation of the Advisory Committee that States must fulfil their responsibility to take sustained and systematic action to modify or eliminate stereotypes and negative, harmful and discriminatory practices justified by traditional values. As emphasised in this policy brief, this must include guaranteeing the freedom of expression, peaceful assembly and association rights of all people on the basis of non-discrimination, including on grounds of sexual orientation and gender identity. Any future attempts to abuse "traditional values" to restrict the right to freedom of expression and assembly, particularly of vulnerable minorities, must be rejected.

We urge the UN Office of the High Commissioner for Human Rights, in completing the report on best practices in the application of "traditional values", to emphasise that such values have a negative as well as positive role to play. The report should consider measures taken by States to modify or eliminate traditional values and practices that contradict international human rights standards, particularly in relation to the rights of LGBT people to freedom of expression and freedom of peaceful assembly.

[81] *Ibid.,* para. 42.
[82] *Ibid.,* para. 43.
[83] Study of the Advisory Committee, *op. cit.,* para. 76.
[84] *Ibid.,* para. 77.

"Homosexual propaganda" bans violate international human rights law

ARTICLE 19 finds that the prohibitions on "homosexual propaganda", examples of which are listed in the following section, violate a number of international human rights standards, in particular the right to freedom of expression and the right to freedom of peaceful assembly.

Prohibitions on "homosexual propaganda" violate the rights to freedom of expression and freedom of assembly

As noted above, all restrictions on the right to freedom of expression and the right to freedom of peaceful assembly must satisfy the three-part test. They must: be provided for by law; pursue a legitimate aim; and be necessary and proportionate to that aim. The bans on "homosexual propaganda" fail this test on all three parts:

- **The bans fail the test of legality:** ARTICLE 19 finds that the provisions of various regulations that ban "homosexual propaganda" are neither sufficiently clear to enable individuals to regulate their conduct in conformity with the law. The following problems should be particularly emphasised:

  - Key terms in the prohibitions are either not defined or are defined in vague terms. This creates two clear problems: (i) individuals cannot decide with any certainty whether their conduct is legal or not, thus having a chilling effect on potentially lawful expression; and (ii) the ambiguity of the provisions leaves too much discretion to police and prosecutors and may therefore be enforced arbitrarily. In particular, the laws fail to define the terms "propaganda" or "promotion." Several aspects of the offence are not clear, including what types of information are prohibited, what intent must be proven to show culpability, and what "among minors" actually means.

  - Sham "safeguards" for human rights. A number of the bans contain qualifications that attempt to assert that prohibitions on "homosexual propaganda", which clearly violate the right to freedom of expression or the right to freedom of peaceful assembly, do not in fact infringe these rights. These apparent "safeguards" are a contrived attempt to mollify criticism from international human rights bodies and are, at best, intellectually dishonest.

    For example the Ukrainian bill contains a qualification to protect the freedom of expression rights of all people, including the rights of individuals to campaign for greater tolerance of LGBT people and respect for their rights. However, it does not make clear how law enforcement should distinguish between acts of promoting tolerance towards LGBT people and making non-negative references to homosexuality in public.

While the Russian Supreme Court has found prohibitions on "homosexual propaganda" to be compatible with protections for the right to freedom of expression and freedom of peaceful assembly under the Constitution, it is clear from the manner in which those laws have been enforced that they prohibit *any* expression of support for LGBT people or *any* public expression of sexual orientation or gender identity. The conclusions of the Russian Supreme Court are contrary to those reached by the European Court of Human Rights and the HR Committee.

- **The bans do not pursue legitimate aims:** All of the prohibitions on "homosexual propaganda" attempt to frame the restrictions they impose on the rights to freedom of expression and freedom of peaceful assembly in human rights language by citing one of a number of legitimate aims:

    - <u>Protection of the rights of others:</u> In determining whether prohibitions on "homosexual propaganda" protect the rights of others, it is important to consider that international human rights courts have consistently decided in a number of cases that States that prohibit "homosexual propaganda" have failed to produce evidence in support of claims that the mention of homosexuality or public debate about the social status of sexual minorities has any adverse affect on children or vulnerable adults. These decisions reiterate that the protective utility of any restriction on the right to freedom of expression or freedom of peaceful assembly must be supported by objective evidence and must not be speculative.

      Prohibitions on "homosexual propaganda" have also consistently been enforced against LGBT human rights defenders attempting to make political statements about the discriminatory treatment of LGBT people in their respective countries. International human rights law does not permit the "protection of the rights of others" to be invoked to restrict political debate, or to justify discriminatory practices against LGBT people.

    - <u>Protection of public morals:</u> Diverse sexual orientation and gender identities are part of the human condition, and the silencing of LGBT people cannot be framed as an issue of morality or the protection of children. Any restriction on freedom of expression or freedom of assembly on the basis of protecting public morals must be *essential* to the maintenance of respect for fundamental values of the community, and cannot justify prejudice or promote intolerance.

      In any case, those relying on public morality arguments frequently make references to local or regional "traditional values" or to protecting the core beliefs of specific religious denominations. International human rights law is clear that "public morals" is not a fixed concept but one that develops over time, and thus cannot be satisfied by mere reference to historical practices. Secondly, the concept must always be interpreted in light of the universality of human rights and not be premised on principles derived from a single tradition.

Further, international human rights courts have interpreted "public morals" as permitting narrow restrictions on graphic depictions of obscenity. However, prohibitions on "homosexual propaganda" do not distinguish between obscene expression and other forms of information regarding sex, sexuality, and gender identity. Decisions of international courts related to permissible restrictions on obscene content can therefore be distinguished from those that impose what are essentially blanket prohibitions on the dissemination of information related to sex between persons of the same sex, sexuality, or gender identity.

- Protection of public health: Arguments that prohibitions on "homosexual propaganda" serve public health ends are not evidence based and are frequently premised upon and perpetuate harmful stereotypes of LGBT people. As outlined in the previous section, numerous UN mechanisms have recognised that any limitation on human rights to protect public health must be evidence based. Moreover, they have indicated in clear terms that criminal sanctions will rarely be a proportionate means to achieve public health outcomes absent clear evidence in favour of their effectiveness. Available evidence indicates that limiting the free flow of information relating to sexual orientation and gender identity has harmful consequences for the physical and mental health of individuals, particularly LGBT people, and therefore cannot be considered to be necessary to protect public health.

- Protection of public order: The State is under a positive obligation to promote and protect the right to freedom of expression and to take reasonable and appropriate measures to enable lawful demonstrations to proceed peacefully. The potential for public order disturbances at an assembly does not warrant a prohibition, but requires a full assessment of the means by which any potential threat of violence clashes can be neutralised so that all view points may be heard. Prohibitions on public gatherings of LGBT people, such as pride parades, are often based on concerns that such occasions will provoke violence from counter-demonstrators. In this context, the counter-demonstrators that have indicated their intention to use violence should be the target of restrictive State action, and not demonstrators with peaceful intentions.

- Non-discrimination: International human rights law is clear that no "legitimate aim" for limiting the protection of human rights may be invoked to justify discriminatory practices. Where a prohibition singles out expression or assemblies related to homosexuality for differential treatment, clear and objective evidence must be introduced to justify why the same prohibition does not extend to information pertaining to heterosexuality. It has not been possible for any State to cite objective evidence in support of the "legitimate aims" pursued by prohibitions on "homosexual propaganda" because no such evidence exists.

- **The bans are not necessary or proportionate:** Since prohibitions on "homosexual propaganda" do not in fact pursue any legitimate aim and are clearly discriminatory in nature, it is clear that there is no case for the necessity of these provisions in a democratic society or any question regarding the possible proportionality of the penalties imposed as a consequence of their enforcement.

Prohibitions on "homosexual propaganda" infringe human rights

Prohibition on "homosexual propaganda" have the effect of restricting the ability of LGBT persons to express their identities and to participate in public and political life; denying to them the opportunities to assert other fundamental rights – such as the right to education and the right to health. This limits public discourse and denies all people the full diversity of information regarding sexual orientation and gender identity. All of the adopted and proposed prohibitions outlined in the previous section discriminate against LGBT people and violate the rights of all people to freedom of expression and to freedom of peaceful assembly.

Prohibitions on “homosexual propaganda”

The countries that have adopted, considered, or are currently considering prohibitions on “homosexual propaganda” are the Russian Federation, Ukraine, Moldova, Lithuania, Hungary, and Uganda.

Russian Federation

Reforms to the Criminal Code in the Russian Federation in 1997 repealed the offences of “sodomy” and “satisfaction of perverted forms of sexual desire”, essentially decriminalising homosexuality. However, discrimination against LGBT people remains in the criminal code, as Article 132 on sexual assaults specifies that: “homosexuality, lesbianism, or other acts of a sexual nature which are carried out violently or with a threat of violence are punishable by 3 to 6 years’ imprisonment.” Sexual orientation and gender identity are also excluded from the list of protected characteristics for defining bias motivated crimes. In 1999, Russia adopted ICD-10 standards, according to which homosexuality was removed from the registry of officially recognised diseases.

Draft Federal Law No. 44554-6 (2012) proposes to amend the Code of Administrative Offences to make any “propaganda for homosexuality among minors” an offence. The terms “homosexual propaganda” and “among minors” are not clearly defined in the draft legislation. An explanatory note to the Draft explained that the law is considered “necessary to protect the younger generation from the effects of homosexual propaganda.” The penalties take the form of fines on a graded scale according to the identity of the accused; for individuals fines are set between 4,000 and 5,000 rubles (GBP £100); for officials between 40,000 and 50,000 rubles (GBP £1000), and for organisations between 400,000 and 500,000 rubles (GBP £10,000).

The draft federal law passed its first reading in the State Duma on 25 January 2013, with 388 votes in favour, 1 vote against and 1 abstention. A number of LGBT activists were detained during a peaceful demonstration outside the State Duma, and violence was reported against LGBT activists in several other Russian cities. On 1 February 2013, the UN independent experts on the right to freedom of expression, human rights defenders, cultural rights, and the right to health called on the lower house of the State Duma to reject the draft federal law.[85] The European Parliament has also passed resolutions calling on Russia to refrain from adopting the same law.[86]

[85] UN rights experts advise Russian Duma to scrap bill on ‘homosexuality propaganda’, 1 Feburary 2013, http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12964&LangID=E

[86] European Parliament resolution of 13 December 2012 containing the European Parliament’s recommendations to the Council, the Commission and the European External Action Service on the negotiations of the new EU-Russia Agreement, P7_TA(2012)0505; European Parliament resolution of 24 May 2012 on the fight against homophobia in Europe, P7_TA(2012)0222; European Parliament resolution of 14 December 2011 on the upcoming EU-Russia Summit on 15 December 2011 and the outcome of the Duma elections on 4 December 2011, P7_TA(2011)0575.

Since 2006, a number of provinces and cities have initiated various prohibitions on "homosexual propaganda":

- **Ryazan Oblast** adopted an administrative prohibition in 2006 that makes it an offence to engage in any "public actions aimed at propaganda of homosexuality (sodomy or lesbianism) among minors."[87] Administrative fines are available as sanctions and are set at 4000 rubles for individuals and between 10,000 rubles and 20,000 rubles for legal entities. In the case of *Fedotova v. Russia*, the HR Committee has held that the arrest and fine of an LGBT activist for publicly giving expression to her sexual orientation was a violation of the right to freedom of expression and non-discrimination under the ICCPR.[88]

- **Arkhangelsk** adopted a prohibition on "public actions aimed at homosexual propaganda towards minors", with penalties of up to 50,000 rubles, in September 2011.[89] Essential elements of the offence are not defined. In August 2012, the Russian Supreme Court upheld the constitutionality of the ban while limiting the definition of what may be considered "propaganda."[90] The Court found "homosexual propaganda" to be inclusive only of the direct promotion of homosexual relations among minors, limiting the meaning to expression that seeks to "impose" the homosexual "life" or "attitude". The judgment emphasises, without clear reasoning, that the prohibition would not affect pickets in support of gay rights or public discussions on gay rights and does not prohibit informing minors about homosexual relations provided that information remains "neutral" in tone.

- **St Petersburg** adopted an administrative prohibition on "homosexual propaganda" on 30 March 2012.[91] It bans "propaganda of (or public activities promoting) sodomy, lesbianism, bisexuality, trans-genderism and paedophilia to minors" and "the purposeful and uncontrolled dissemination of information in a publicly accessible way that can be harmful to the health, moral and spiritual development of minors." This offence includes forming in a child's mind "a distorted perception of social equality of traditional and non-traditional marital relationships." The conflation of homosexuality and trans-genderism with paedophilia is indicative of the legislation drafters' prejudices regarding sexual orientation and gender identity. Administrative fines are available as sanctions: for individuals these are set at 5000 rubles, for officials at 50,000 rubles, and for legal entities between 250,000 and 500,000 rubles. Several prosecutions have been already initiated for the violation of this regulation.[92] Russia's Supreme Court rejected

[87] Section 3.10 of the Ryazan Oblast law.

[88] *Op.cit.* In March 2009, Irina Fedotova was arrested for displaying posters declaring "homosexuality is normal" and "I am proud of my homosexuality" near a secondary school building in Ryazan. She was charged with engaging in public action aimed at propaganda of homosexuality among minors, and ordered to pay a 1500 ruble fine (GBP £31).

[89] The law came into force from January 2012; see: http://www.huffingtonpost.com/2011/09/29/russias-arkhangelsk-gay_n_986994.html

[90] "Russian Supreme Court Defines Homosexual Propaganda", 13 September 2012; available at: http://en.rian.ru/russia/20120913/175939700.html

[91] See text in Russian: http://www.gov.spb.ru:3000/noframe/law?d&nd=537913971&prevDoc=891831166

[92] For example, LGBT activist Nikolai Alekseyev, the petitioner in the ECtHR case *Alekseyev v. Russia*, was prosecuted in April 2012 for holding a sign in public stating that "homosexuality is not a perversion"; and 17 individuals were arrested for participating in a pro-LGBT civil rights march in May 2012, although they were not charged under the anti-propaganda law. Proceedings were also initiated against the artist Madonna following her speaking out in favour of LGBT rights at a concert in St Petersburg in August 2012 but the case was dismissed on 22 November 2012. The prosecution of another artist, "Lady Gaga", was also sought for calls she made for respect for LGBT rights during a concert in the city on 9 December 2012.

a constitutional challenge to the St Petersburg law in October 2012, adopting a similar line of argument as in relation to the Arkhangelsk case.[93] The European Parliament condemned the administrative law ahead of the Presidential election in 2012.[94]

- **Moscow:** The Moscow regional parliament rejected an administrative prohibition on "homosexual propaganda" on 22 November 2012 on the grounds that it was in conflict with the country's federal law.[95]

Administrative prohibitions on "homosexual propaganda" have been also adopted by cities of Kostroma (February 2012), Magadan (29 June 2012), Novosibirsk (2 July 2012), Krasnodar (19 July 2012), Samara (20 July 2012), and Bashkortostan (4 August 2012).[96]

Ukraine

Ukraine decriminalised homosexuality on 12 December 1991. On 12 January 2012, President Viktor Yanukovich signed a Decree requiring Ukraine to comply with the Council of Europe recommendations prohibiting discrimination on the ground of sexual orientation and gender identity.[97]

Draft Federal Law No. 8711 On Introduction of Changes to Certain Legislative Acts of Ukraine – Regarding Protection of Children's Rights in the Safe Information Sphere was submitted to parliament on 20 June 2011, proposing to ban the "promotion" of homosexuality through any production, printing, distribution, or publication. It includes various charges, including a criminal charge of between 3 and 5 years' imprisonment for non-negative references to homosexuality in public discourse, especially in mass media. According to the Explanatory note to the Draft Law, homosexuality is one of the main factors leading to the destruction of the family as a social institute and to the aggravation of the demographic situation in the country.[98] The Draft Law passed its first hearing in Parliament on 2 October 2012 with a vote of 289 to 61. The Draft Law has been criticised by a number of members of the Parliamentary Assembly for the Council of Europe,[99] the European Parliament,[100] and Ban Ki Moon, the UN Secretary General.[101]

[93] "Supreme Court rejects complaint on gay propaganda", 3 October 2012, available at: http://en.rian.ru/russia/20121003/176381092.html
[94] European Parliament resolution of 16 February 2012 on the upcoming presidential election in Russia, P7_TA(2012)0054.
[95] "Moscow lawmakers reject gay-gag bill", 22 November 2012, see: http://www.gaystarnews.com/article/moscow-lawmakers-reject-gay-gag-bill221112
[96] "Gang attack blamed on Russia's ban on gay propaganda", 4 November 2012, see: http://www.guardian.co.uk/world/2012/nov/04/gang-attack-russia-gay
[97] The decree on the plan of actions for the fulfilment of commitments that stem from Ukraine's membership in the Council of Europe. The Council of Europe Standards, "Combating Discrimination on Grounds of Sexual Orientation or Gender Identity" 2011; see: http://www.coe.int/t/dghl/standardsetting/hrpolicy/Publications/LGBT_en.pdf
[98] The objectives of the Draft Law were to ensure the rights of children; to protect the institute of childhood; to protect children from the promotion of non-traditional sexual relationships; to create appropriate conditions for the healthy moral, spiritual and psychological development of children; to form in the younger generation the idea about the institute of the family as a union between a man and a woman; to overcome the demographic crisis.
[99] PACE, 25 April 2012. Freedom of expression of lesbian, gay, bisexual and transgender (LGBT) persons in Ukraine threatened. Available at: http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=18255&lang=EN
[100] European Parliament resolution of 13 December 2012 on the situation in Ukraine, P7_TA(2012)0507.
[101] United Nations Secretary General, 11 December 2012, see: http://www.un.org/News/Press/docs/2012/sgsm14717.doc.htm

The Draft Law defines "propaganda" as "an activity that aims and/or manifests itself in the deliberate dissemination of any positive information about homosexuality, which may impair the physical and mental health of the child, his moral and spiritual development, including forming a misconception that the traditional and non-traditional marital relationships are socially equal." This definition does not distinguish between private and public acts of propagation. In Article 7, it specifically prohibits – at all levels of education – the promotion of homosexuality aimed at children through the use or distribution of informative or educational literature, lessons, games or events. The Draft Bill contains a qualification to claim that it was not intended to limit the rights of individuals of "non-traditional" sexual orientations,[102] but no further guidance is given regarding reconciling the prohibition and the guarantee of these rights.

A second Draft Federal Law, No. 10290, was submitted to parliament in February 2012, proposing measures to ensure the "healthy moral, spiritual and psychological development of children, to promote the idea that a family consists of a union between a man and a woman,' and 'to overcome the demographic crisis." The list of activities considered as "promotion" is extensive, including meetings, demonstrations, parades, and educational materials on homosexuality. The draft law also prohibits educational activities on homosexuality.

Neither of the two draft laws had been adopted at the time of going to print.

Moldova

In May 2012, Moldova adopted an anti-discrimination law that does not include "sexual orientation" as a protected characteristic in its main provision (Article 1(1)). Sexual orientation is, however, included as a protected characteristic in the field of employment.[103]

At the same time, a number of regional cities have adopted measures to declare opposition to "homosexual propaganda". For example, on 23 February 2012, the city of Bălţi passed the "proclamation […] of support for the Moldovan Orthodox Church and inadmissibility of aggressive propaganda of non-traditional sexual orientations."[104] Similar initiatives were adopted at the same time in two nearby villages.

[102] Article 3 of the Draft Law states that "nothing in this act can be interpreted as limiting the constitutional rights and freedoms.... [including] freedom of expression, association in political parties and organizations of peaceful assembly and public events."
[103] Article 7 of the law: "Mixed reactions to adoption of Moldova's anti-discrimination law", 25 May 2012, see: http://www.ilga-europe.org/home/news/for_media/media_releases/moldova_anti_discrimination_law
[104] Decision #02/16 of the City Council of Bălţi, 23 February 2012.

A number of other municipalities have copied the prohibition in Bălţi, with many adopting measures to designate the entire of their localities as a "prohibited zone for homosexual demonstrations." These included Drocia district (27 March 2012), Soroca district (20 March 2012), and Cahul (29 March 2012).[105] The municipalities of Hiliuţi, Făleşti District and the Anenii Noi District have adopted similar prohibitions.[106]

The Moldovan LGBT organisation "Genderdoc-M" launched a lawsuit against the City Council decision in Bălţi in April 2012, seeking a judicial order for the Council to repeal its own decision. While the case is on going, acts of intimidation and harassment against lawyers and LGBT activists in the country have been reported.[107]

Lithuania

Homosexuality was decriminalised in Lithuania in 1993 and discrimination on the ground of sexual orientation is banned in employment, education, and access to goods and services and in the course of activities by State and municipal institutions under the 2005 Law on Equal Treatment. Public instigation of violence against LBGT people and other minorities is an offence under Section 170 of the Penal Code.

Despite these protections, on 1 March 2010, the Law on the Protection of Minors against the Detrimental Effect of Public Information came into effect.[108] The Law had been drafted to include a prohibition on "directly disseminat[ing] to minors [...] public information whereby homosexual, bisexual or polygamous relations are promoted," because such information has "a detrimental effect on the development of minors." The concerns regarding this law resulted in a European Parliament resolution calling for its review and referring to the need to prevent discrimination.[109] The law that was eventually passed did not include this controversial provision. However, under the current law as enacted, information "which distorts family relations and expresses contempt for family values" is prohibited in so far as it has a detrimental effect on minors. This provision has not yet been enforced in the context of information relating to LGBT issues and remains to be tested.[110]

105 Correspondence with ARTICLE 19 contacts in Moldova.

106 *Ibid.*

107 "GENDERDOC-M representatives threatened at Court of Appeals in Bălţi", IGLA Europe, 24 January 2013, see: http://www.ilga-europe.org/home/guide/country_by_country/moldova/genderdoc_m_representatives_threatened_at_court_of_appeals_in_balti

108 "Lietuvos Respublikos Nepilnameciu apsaugos nuo neigiamo viešosios informacijos poveikio istatymas", No. IX-1067, 21 October 2011, available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=410367. A draft version is available in English at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=363137.

109 European Parliament resolution of 9 September 2009 on the Lithuanian Law on the Protection of Minors against the Detrimental Effects of Public Information, B7-0027/2009. See also: European Parliament resolution of 17 September 2009 on the situation in Lithuania following the adoption of the law on protection of minors, P7_TA(2009)0019; European Parliament resolution of 19 January 2011 on the violation of expression and discrimination on the basis of sexual orientation in Lithuania, P7_TA(2011)0019.

110 Correspondence with Lithuanian activists, 22 January 2013.

There have been other attempts to introduce legislation that would restrict the free flow of information on issues relating to sexual orientation and gender identity in Lithuania. On 5 June 2012, the Parliament rejected a proposed law to prohibit "the denigration of constitutional moral values" and the "organisation of events contradicting social morality."[111] On 22 June 2012, the Order and Justice party proposed a referendum on a law to constitutionally forbid the propaganda of homosexual relations and to prohibit homosexual adoption.[112] A coalition of the Order and Justice Party, Social Democrats, the Labour Party and the Polish Electoral Campaign won the Lithuanian parliamentary elections on 28 October 2012.

Hungary

Homosexuality has been decriminalised incrementally in Hungary since 1961.[113] The 2003 Act on Equal Treatment and the Promotion of Equal Opportunities prohibits discrimination on grounds that include sexual orientation and sexual identity in the fields of employment, education, housing, health, and access to goods and services.[114]

The far-right opposition party Jobbik has proposed a number of bills to institute various prohibitions on homosexual propaganda, but the relevant parliamentary committee refused to put them on their agenda on 7 May 2012. Two amendments to the Constitution were proposed (Bills no. 6719[115] and no. 6720[116]) that would prohibit assemblies and public speeches that "propagate disorders of sexual behaviour – especially sexual relations between members of the same sex"; and to define "propagation of disorders of sexual behaviour" as a misuse of freedom of expression. Bill no. 6721 was proposed to amend laws on advertising, on the media, on misdemeanours and the Criminal Code to punish similar acts of "propagation."[117] The amendments propose fines of up to HUF 150,000 (GBP £415), and up to three years of imprisonment, with aggravated sentences of five or eight years for some offences. No other political parties have supported the adoption of these laws.

[111] "Administracinių teisės pažeidimų kodekso 224 bei 259(1) straipsnių pakeitimo ir Kodekso papildymo 188(21) straipsniu įstatymo projektas", No. XIP-4490, 29 May 2012, available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=425637.

[112] "Lithuania to hold referendum on banning gay adoption and 'propaganda'", 22 June 2012; available at http://www.lithuaniatribune.com/13743/lithuania-to-hold-referendum-on-banning-gay-adoption-and-%E2%80%9Epropaganda%E2%80%9C-201213743/

[113] Decision of the Constitutional Court No. 37/2002 equalised the age of consent in Hungary.

[114] Act CXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities; available at: http://www.egyenlobanasmod.hu/data/Act_CXXV_2003_English.pdf

[115] Bill 6719; available at: http://www.mkogy.hu/internet/plsql/ogy_irom.irom_adat?p_ckl=39&p_izon=6719

[116] Bill 6720; available at: http://www.mkogy.hu/internet/plsql/ogy_irom.irom_adat?p_ckl=39&p_izon=6720

[117] Bill 6721; available at: http://www.mkogy.hu/internet/plsql/ogy_irom.irom_adat?p_ckl=39&p_izon=6721

Uganda

On 25 September 2009, David Bahati MP introduced the "anti-homosexuality" bill to Parliament. The bill fell from the legislative agenda following international pressure but returned in February 2012. Rebecca Kadaga, the speaker for the Ugandan Parliament, has indicated the bill will be voted on in 2013.

The bill was first dubbed the "kill the gays bill", due to its inclusion of the death penalty for various forms of sexual conduct between consenting adults of the same sex. The penalty for this offence has now reportedly been substituted with custodial sentences of up to life. Also of concern but far less publicised is that the bill additionally prohibits the "promotion of homosexuality", with sentences of up to 7 years imprisonment and the cancellation of certificates of registration for legal entities including NGOs. The prohibition extends to any involvement in the making or distribution of information materials, the use of electronic devices for promotion, or funding others engaged in promotion. Failure to report offences within 24 hours of becoming aware of the commission of an offence is also punishable by fines or imprisonment of up to three years.[118]

The bill claims to be in response to "the attempts of sexual rights activists seeking to impose their values of sexual promiscuity on the people of Uganda" and the "uncensored information technologies". The bill claims to protect the "culture of the people of Uganda" and the "traditional family".

The bill has received international condemnation, including from the UN High Commissioner for Human Rights,[119] UN special rapporteurs on human rights defenders and the right to freedom of opinion and expression,[120] and the European Parliament.[121]

[118] At Article 14 of the 2009 draft bill. A copy of the draft bill is available from the ARTICLE 19 law programme on request.
[119] "UN human rights chief urges Uganda to shelve "draconian" law on homosexuality", 15 January 2010, see: http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=9722&LangID=E
[120] "Uganda: last chance to shelve Anti-Homosexuality Bill should not be missed, warn UN human rights experts", 1 March 2010, see: http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=9855&LangID=E
[121] Resolutions of the European Parliament: P7_TA(2012)0299 "on violence against lesbians and LGBT rights in Africa", 5 July 2012; P7_TA(2009)0119 "on Uganda: anti-homosexual draft legislation", 17 December 2009; P7_TA(2010)0495 "on Uganda: the so-called 'Bahati bill' and discrimination against the LGBT population", 16 December 2010; P7_TA (2011)0074 "on Uganda: the killing of David Kato", 17 February 2011.

Conclusion and recommendations

Prohibitions on so-called “homosexual propaganda” clearly violate the right to freedom of expression, the right to information and the right to freedom of peaceful assembly and discriminate against LBGT people. It is of particular concern that despite widespread international condemnation, a number of countries retain such prohibitions and remain confident enforcing them to silence LGBT people.

Concerted international action is required at the national and international level to make clear to proponents of discrimination and censorship that prohibitions on “homosexual propaganda” are not justified on the basis of protecting traditional values or practices, public morals or the rights of children and will not be tolerated.

States where prohibitions on “homosexual propaganda” have been adopted or are under consideration:

- The decisions of international and regional human rights bodies regarding the protection of LGBT people’s freedom of expression and assembly rights must be implemented.
- States and provincial administrations where prohibitions on “homosexual propaganda” have been adopted or proposed should repeal or reject those prohibitions immediately.
- Any individuals convicted of “homosexual propaganda” offences should have their convictions quashed and removed from their records, be refunded any fines that they have paid, and be afforded adequate redress for the violation of their human rights.
- States must reaffirm their commitment to promoting and protecting the freedom of expression rights of all people on the basis of equal treatment and non-discrimination. Sexual orientation and gender identity should be included as protected characteristics in domestic prohibitions on discrimination.
- States must fulfil their responsibility to take sustained and systematic action to modify or eliminate stereotypes and negative, harmful and discriminatory practices against LGBT people justified by traditional values.

United Nations Mechanisms:

- All Member States of the UN Human Rights Council should consider tabling a Resolution to affirm the right of LGBT people to freedom of expression and information and freedom of peaceful assembly.

- All Member States of the UN Human Rights Council should ensure, in light of the Advisory Committee's study, that future resolutions on traditional values recognise the negative as well as positive impact of traditional values on the effective implementation of human rights.

- The Office of the High Commissioner for Human Rights, in completing the report on best practices in the application of "traditional values", must consider measures taken by States to modify or eliminate traditional values and practices that contradict international human rights standards, particularly in relation to the rights of LGBT people to freedom of expression and freedom of peaceful assembly.

- All UN treaty monitoring bodies must clearly denounce any prohibition on "homosexual propaganda" in their concluding observations to reports submitted by States.

- All Member States must use the opportunity of the Universal Periodic Review process to call into question States that fail to respect the freedom of expression and peaceful assembly rights of LGBT people.

Regional bodies:

- Regional bodies must take concrete measures to support their denouncements of laws prohibiting "homosexual propaganda" in Member States, as incompatible with human rights standards. In particular, the Council of Europe should remind member States that such laws defy the rulings of the European Court of Human Rights and the Resolutions of the Parliamentary Assembly, the Committee of Ministers, and the Congress of Local and Regional Authorities. Such defiance must be shown to have consequences.

- Regional bodies should actively monitor the implementation and enforcement of prohibitions on "homosexual propaganda" and remind Member States of their obligations under the international and regional human rights instruments.

- The European Union must follow up on its Resolution of 24 May 2012 "on the fight against homophobia in Europe" that categorically condemned the rise in prohibitions on "homosexual propaganda". This requires:
  - The Commission to ensure that discrimination on the basis of sexual orientation is

prohibited in all sectors by completing the anti-discrimination package based on Article 19 of the Treaty on the Functioning of the European Union.

- The implementation of the opinions contained in the findings of the European Union Agency for Fundamental Rights in its report “Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity”.
- For the Commission to carefully examine and use future results of the Agency for Fundamental Rights’ European LGBT Survey.
- For the Commission to finalise and issue a comprehensive roadmap to equality without discrimination on grounds of sexual orientation or gender identity.
- For the Vice-President of the Commission to systematically raise concerns regarding restrictions on the freedom of expression and peaceful assembly rights of LGBT people.

DEFENDING FREEDOM
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