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EUROPEAN COURT: Same-sex marriage and the case Fedotova and Others v. Russia

'Until social norms say 'I do': How the Grand Chamber taketh and giveth away in Fedotova and Others v. Russia

By Claire Poppelwell-Scevak

[Strasbourg Observers](#) (12.04.2023) - As we continue 2023, with the rise of the far right, the war in Ukraine and Russia's absence at the Council of Europe, it may be difficult to be optimistic. However, I think that with the Grand Chamber's judgment in [Fedotova and Others v. Russia](#), there can be, at least, a sense of hope that the Court's case-law on the recognition of same-sex couples is (slowly) moving forward.

Some may discount the importance of this judgment as, on the one hand, Russia is no longer a party to the Council and a brief glimpse over the Respondent State's response is indicative of a (former) State Party that has appeared to have lost steam in putting forward its case before the Grand Chamber. On the other hand, you could see this case as simply continuing the trend of [Oliari and Others v. Italy](#) and [Orlandi and Others v. Italy](#) where the Court found that there is a positive obligation under Article 8 for Member States to afford some sort of recognition and protection to same-sex couples.

There may be some bias in my opinion as I co-wrote [the third-party intervention](#), submitted by the Human Rights Centre, to the Grand Chamber; however, I believe that this case should be studied further for two reasons. First, it provides a damning insight into the Court's inability to clarify what protections should be afforded to couples – regardless of whether they are different or same-sex. Second, it concretely foreshadows the impending clash between the consensus doctrine and traditional values as determinants to the width of the margin of appreciation.

Facts and decision

Two same-sex couples (note that there were initially three, however, one couple was struck out when this case went before the Grand Chamber) gave notice of marriage at their respective local Registry offices. Their notices were rejected as the authorities relied on the definition of marriage – by the Russian Family Code – to be a 'voluntary marital union between a man and a woman'.

Due to Russia's exit from the Council of Europe, the Grand Chamber quickly stated that it still had jurisdiction to examine this case. It then moved to an examination of Article 8, immediately finding that the applicants' claims are applicable under both the private and family life aspects of Article 8. Note that this section will focus on Article 8 (alone) as the Court found that there was no need to examine any arguments under Article 14 taken in conjunction with Article 8.

Referencing its judgments in *Oliari* and *Orlandi* in particular, the Grand Chamber started its analysis by confirming that Article 8 'has already been interpreted as requiring a State Party to ensure legal recognition and protection for same-sex couples by putting in place a "specific legal framework"'. However, this positive obligation does not (yet) extend to marriage available to same-sex couples.

Before turning to the margin of appreciation, the Grand Chamber engaged in a lengthy reasoning on the evolutive interpretation of the Convention, citing its previous case-law on this issue. In particular, the Grand Chamber held that there is 'a clear ongoing trend with the States Parties towards legal recognition of same-sex couples (through the institution of marriage or other forms of partnership)' with a 'number of international bodies' supporting this position.

With the above in mind, the Grand Chamber turned to determining the scope of the margin of appreciation. Given that an aspect of the applicants' identity was at stake and in light of the 'clear ongoing trend' in favour of recognising same-sex couples, the Grand Chamber quickly found that Russia's margin of appreciation was 'significantly reduced'. However, the Grand Chamber added that 'States Parties have a more extensive margin of appreciation in determining the exact nature of the legal regime to be made available to

same-sex couples'. This ability to choose extends 'both to the form of recognition and to the content of the protection to be granted to same-sex couples'.

Here, the Grand Chamber shifted its stance on the consensus doctrine by finding that 'while a clear ongoing trend is emerging towards legal recognition and protection for same-sex couples, no similar consensus can be found as to the form of such recognition and the content of such protection'. Thus, this issue remains in the domain of States Parties to decide. The caveat to this finding though, is that the protection chosen by the States Parties 'should be adequate'. Reference is made by the Grand Chamber to a legal framework that would provide protection for same-sex couples, and specifies 'material (maintenance, taxation or inheritance) or moral (rights and duties in terms of mutual assistance) that are integral to life as a couple and would benefit from being regulated within [such] a legal framework'.

The Grand Chamber then looked to whether Russia had struck a fair balance between the public interests and those of the applicants. According to the applicants, they had experienced a legal vacuum by not being legally recognised. Similarly, the Grand Chamber accepted that 'gaining official recognition for their relationship has an intrinsic value for the applicants...[which] forms part of the development of both their personal and their social identity as guaranteed by Article 8'.

From the Russian Government's perspective, the absence of such a legal framework was first based on the necessity to 'preserve the traditional institutions of marriage and the family'. Whilst the Grand Chamber repeated its 'support and encouragement of the traditional family', such an aim was also 'rather abstract and a broad variety of concrete measures may be used', as well as the 'concept of family [being] necessarily evolutive'. Moreover, the Grand Chamber held that providing protection for same-sex couples does not 'harm families constituted in the traditional way' or 'prevent different-sex couples from marrying or founding a family'.

Russia's second justification was that the Grand Chamber had departed from its reasoning in *Oliari* where it had taken into consideration the public's attitude towards same-sex couples. The Grand Chamber noted that public opinion in *Oliari* was not a decisive factor in its reasoning. Additionally, the Grand Chamber was unconvinced by this justification as it has 'consistently declined to endorse policies and decisions which embodied a predisposed bias on the part of a heterosexual majority against a homosexual minority' and that 'traditions, stereotypes and prevailing social attitudes in a particular country cannot, by themselves, be considered to amount to sufficient justification for a difference in treatment based on sexual orientation'.

The final justification was the protection of minors. The Grand Chamber summarily dismissed this argument with reference to [Bayev and Others v. Russia](#). Thus, the Grand Chamber found that there had been a violation of Article 8 as Russia to provide protection and recognition of the applicants' relationships.

EUROPEAN UNION: More violence, more equality: What's the current state of LGBTQ rights in Europe?

On this year's International Day against Homophobia and Transphobia, Euronews Culture assesses the current state of LGBTQ rights across European countries.

By [Andrea Carlo](#)

[Euronews](#) (17.05.2023) – Anti-LGBTQ violence is here, it's everywhere, and it isn't going away any time soon — at least, that's the latest assessment made by UN Secretary-General Antonio Guterres, in a statement released on the eve of the International Day Against Homophobia and Transphobia (IDAHOT), which the world celebrates on 17 May.

In a stinging condemnation of enduring global anti-LGBTQ prejudice, the UN chief urged countries to end the criminalisation and systemic oppression of queer people.

"Being yourself should never be a crime," Guterres stated. "We cannot and will not move backwards."

The current state of LGBTQ rights has particularly alarmed campaigners and analysts, as a flurry of repressive policies — from Republican-sponsored bills banning drag shows in several US states to Uganda's criminalisation of LGBTQ+ identities — seem to signal a growing hostility towards queer individuals.

But how is Europe faring in the midst of such upheavals? *Euronews Culture* takes a look at what the past year has meant for LGBTQ rights across the continent.

Malta, Netherlands top the rankings

Several European countries and cities have for years sat comfortably at the top of global rankings for LGBTQ rights and attitudes, and there are no signs of this changing any time soon.

In 2022, Amsterdam was pronounced the world's most queer-friendly city by Open for Business, with the report citing the Dutch capital's "welcoming attitudes," and heralding it a "strong global beacon" for pro-LGBTQ attitudes. London, Berlin, Stockholm and Dublin also ranked highly.

As for the latest Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) report, Malta has once again proclaimed Europe's best country for LGBTQ rights, holding onto the Rainbow Europe index's top spot for the eighth year in a row.

The Mediterranean country's overwhelmingly Catholic population and conservative stance on certain social issues — namely, abortion — make it an unlikely candidate for Europe's rainbow crown. Nevertheless, it has turned itself into something of a haven for queer folks.

Speaking to *Euronews Culture*, one young LGBTQ Maltese identifies growing secularism and strong government policies as key factors for why the small country has carved out a place for itself among the world's most queer-friendly places.

"Religious [attitudes] are starting to decline," said Paul (his name changed upon request), a software engineer who identifies as bisexual. "And the government is progressive for the community — especially for trans people recently."

Paul's assessment is backed by the facts: Despite being one of Europe's last remaining strongholds of religious devoutness, church attendance in Malta has plummeted from around 80% in the 1990s to 30-40% in recent years.

More marriage equality and galloping trans rights: glimmers of hope?

Over the past year, an array of European countries have taken several steps forward on various LGBT+ issues, providing some much-needed encouragement to activists across the continent.

Last July, Switzerland legalised same-sex marriage, joining a growing list of countries that allow gay couples to tie the knot.

The decision followed a referendum held in September 2021, in which just under two-thirds of voters supported "Marriage for all," as the new legal amendment had been billed.

It may come as a surprise to some that the Alpine state — frequently perceived as a bastion of high living standards — would take so much longer than many of its neighbours to legalise same-sex marriage. But it's worth noting that Switzerland — a confederation where cantons preserve significant autonomy — has not always shined on the civil rights front.

Back in 1990, Switzerland was the last European country to fully extend voting rights to women, after a Federal Supreme Court decision approved women's suffrage in the small canton of Appenzell Innerrhoden.

Following in Switzerland's footsteps, Slovenia also introduced gay marriage, while Croatia allowed same-sex couples to adopt.

While LGBTQ rights in Eastern Europe often make headlines for all the wrong reasons, Moldova — a deeply Orthodox country, and one of Europe's most impoverished — has made significant progress in improving conditions for its queer citizens, jumping up 14 places in 2022's Rainbow Index.

Trans rights have also made significant headway, after new laws were passed in Finland and Spain that allow people to change their legal gender without undergoing gruelling medical procedures and assessments.

"This is what pride in one's country means," tweeted Spain's equality minister last week, sharing an article on how the new law had helped boost the country's ranking on the Rainbow Europe index.

Such gender recognition reform has been pilloried by certain conservatives and radical feminists, who decry what they consider attempts to erode sexual identity.

Nevertheless, many human rights campaigners and trans activists see such laws as indispensable steps to offering further equality and recognition to a deeply disenfranchised community.

Some ominous step-backs

As rosy a picture Europe's long list of newly acquired LGBT+ rights may paint, such advancements cannot, alas, paint over some of the widening cracks on the surface.

In Visegrád states, namely Poland and Hungary, the situation for the queer community leaves much to be desired, as LGBTQ individuals lack almost any legal protections, with few rights to spare.

Tomasz Leśniara, a Polish writer now based in Glasgow, testifies to the challenging situation for gay people like himself back at home, while also acknowledging burgeoning signs of improvement.

"As the ultra conservative Law and Justice (PiS) party has been in power since 2015, the legislative situation is just as bad as ever," Leśniara told *Euronews Culture*. "It is crucial for the ruling party to be changed in order for more progress to be made. However, it will be hard to achieve considering the financial aid that PiS offers, and a range of social/welfare options, payments and grants, especially for working classes."

Where Leśniara sees hope, however, is in the changing attitudes of the people themselves. "[Polish] society is much more accepting and more comfortable with LGBT+ individuals," he said. "There is a lot of work to be done, and some areas are more accepting than others."

Further east and beyond EU borders, Russia — Europe's "pariah" following Vladimir Putin's invasion of Ukraine last February — has further expanded its anti-LGBT legislation, after an existing law banning "gay propaganda" for children was extended to all age groups last December.

Looking west, Italy also seems to be going through something of a rough patch.

The country has long trailed behind its western neighbours on LGBTQ rights, only introducing same-sex unions seven years ago — and it's still a long way away from taking the leap towards sanctioning same-sex marriage itself.

The election of a hard-right government last September, led by impassioned nationalist Giorgia Meloni, has not been a welcome change for many in the LGBTQ community.

Back in 2021, Meloni's Brothers of Italy party — then part of the opposition — vehemently opposed a bill that would have enshrined anti-discrimination protections for LGBTQ people, cheering jubilantly after it was struck down by the Senate.

Meloni — whose roots lie in the country's far-right, neo-fascist Italian Social Movement — was widely portrayed as a radical, reactionary firebrand prior to taking office. But some analysts claim her bark may have been worse than her bite, as she has tried to toe a relatively Brussels-friendly line during her first six months in office.

When it comes to LGBTQ+ rights, Meloni's government has already signalled that its conservative stance is not budging any time soon — and has been intent to make good on that promise.

Indeed, the government has controversially tried to clamp down on same-sex couples by telling city councils to stop registering their children.

At an LGBTQ panel discussion held at Rome's Porta Portese theatre on the eve of IDAHOT, the overall atmosphere remained upbeat and buoyant in spite of such developments. The new government's looming shadow, nevertheless, was an unavoidable presence.

"This is a largely homophobic government," warned journalist Francesco Lepore, one of the event's speakers, while addressing the audience.

Another speaker, Marilena Grassadonia — a left-wing politician and lesbian activist — further called upon people to avoid complacency.

"We are living a political context in which everything is being called into question," she stated. "But there is something important we can do — that is, taking a side".

Some of those present, however, retained a more positive outlook.

"In the midst of everything that's happening, perhaps we'll see the creation of a more compact, close-knit [LGBTQ] movement," said event organiser, Antonino Tosto.

Increasing violence and legal equality go hand-in-hand

One of the most concerning changes noticed by LGBTQ watchdogs over the past year is a surge in queerphobic hate crimes.

"In 2022 there was a stark rise in violence against LGBTI people," stated ILGA. "[N]ot only in numbers but also in the severity of that violence."

France, Belgium, the Netherlands and the UK were among the countries cited as having reported such an increase.

SOS Homophobie in France also noted that homophobic and transphobic violence are up 28% and 27%, respectively, from last year.

In a newly released press report, the EU Commission commented on such developments with deep concern.

"We have seen a rise in anti-LGBTI rhetoric, fuelled by disinformation and false narratives, often leading to violence, harassment and stigmatisation," read the statement. "We are deeply concerned about the situation – within Europe and worldwide."

ILGA's latest study does however leave some room for optimism: increasing violence aside, the legal situation for LGBTQ people in Europe has improved overall.

"Despite intense anti-LGBTI attacks in several countries, equality is still advancing across Europe," the report stated.

"While the public discourse is becoming more polarised and violent, particularly against trans people, political determination to advance LGBTI rights is paying off."

HOLY SEE: Pope Francis says laws criminalising LGBT people are a 'sin' and an injustice

By [Philip Pullella](#)

[Reuters](#) (06.02.2022) - Pope Francis said on Sunday that laws criminalising LGBT people are a sin and an injustice because God loves and accompanies people with same-sex attraction.

Francis, who made his remarks in response to a reporter's question aboard the plane returning from a [two-country trip](#) to Africa, received full backing of his comments from two other Christian leaders on the plane with him.

"The criminalisation of homosexuality is a problem that cannot be ignored," said Francis, who then cited unnamed statistics according to which 50 countries criminalise LGBT people "in one way or another" and about 10 others have laws including the death penalty for them.

Sixty-six U.N. member states continue to criminalise consensual same-sex sexual relations, according to data from ILGA World – the International Lesbian, Gay, Bisexual,

Trans and Intersex Association. In several countries where same-sex relations are illegal, punishments can include a possible death penalty.

"This is not right. Persons with homosexual tendencies are children of God. God loves them. God accompanies them ... condemning a person like this is a sin. Criminalising people with homosexual tendencies is an injustice," Francis said.

He noted that the Catholic Church's catechism, or book of teachings, says same-sex attraction is not a sin but homosexual acts are. It also says that LGBT people should not be marginalised.

Francis mentioned his now-famous phrase from soon after he became pope in 2013 that he could not judge people with same-sex tendencies who are seeking God. He also noted that while visiting Ireland in 2018 he said that parents could not disown their LGBT children, but had to keep them in a loving family.

Support from Christian leaders

The pope made the trip to South Sudan, the second country on the tour, as a peace pilgrimage with Archbishop of Canterbury Justin Welby and Moderator of the General Assembly of the Church of Scotland Iain Greenshields.

Both Christian leaders were on the plane returning from there and participated in the pope's customary news conference with reporters, a first on any papal trip.

Both praised the pope's comments.

"I entirely agree with every word he said there," Welby said, noting that the Anglican communion was itself divided over gay rights and that two resolutions against criminalisation of LGBT people "have not really changed many people's minds".

Welby added: "I shall certainly quote the Holy Father. He said it so beautifully and accurately".

Expressing his own support of Francis, Greenshields referred to the Bible, saying:

"There is nowhere in my reading of the four Gospels where I see Jesus turning anyone away. There is nowhere in the four Gospels that I see anything other than Jesus expressing love to whoever he meets and as Christians that is the only expression that we can give to any human being in any circumstance".

Francis repeated that the Catholic Church cannot permit sacramental marriage of same-sex couples but that he supported so-called civil union legislation giving same-sex couples legal protection in issues such as pensions, inheritance and health care.

HUNGARY: Petition against Hungarian anti-LGBTIQ+ law

[***Link to the petition***](#)

[Forbidden Colours](#) (28.02.2023) - On 13 February 2023, the infringement procedure initiated by the European Commission against Hungary's 2021 'anti-LGBTIQ+ propaganda' law was published in the Official Journal of the EU. On that day, Forbidden Colours, Háttér Society and Reclaim launched an EU-wide petition to request every EU Member States to provide 'written observations' to the Court of Justice of the EU regarding this case.

With at least 20 Member States likely to engage, this infringement procedure is expected to become the largest human rights' infringement procedure ever brought in front of the Court of Justice of the European Union. This case is not only important to end the censorship currently endured by LGBTIQ+ people and organizations in Hungary, but also to protect all LGBTIQ+ people in the EU from the adoption of similar laws in their country.

The adoption of the law and the infringement procedure

On 15 June 2021, the Hungarian Parliament adopted Act LXXIX of 2021 on taking more severe action against paedophile offenders and amending certain acts for the protection of children. The original objective of the bill was to make the prevention, detection, and punishment of sexual criminal offenses against minors more effective.

However, last minute amendments introduced anti-LGBTIQ+ provisions in this law. In particular, the act amended the Child Protection Act, the Family Protection Act, the National Public Education Act, the Advertisement Act, and the Media Act to introduce a ban on access of minors to any content that "propagates or portrays divergence from self-identity corresponding to sex at birth, sex change or homosexuality." With these last-minute amendments, the so-called 'child protection law' became the Hungarian version of the 'anti-LGBT propaganda law' adopted in Russia in 2013.

On 15 July 2021, the European Commission [announced](#) the launch of an infringement procedure against Hungary regarding this law. The Commission then considered that this so-called 'child protection law' violates EU secondary law such as the Audiovisual Media Services Directive, the e-commerce Directive, and the Services Directive. Moreover, the European Commission emphasized that the "provisions [of that law] also violate human dignity, freedom of expression and information, the right to respect of private life as well as the right to non-discrimination" enshrined in the EU Charter of Fundamental Rights. Finally, it [considered](#) that the law violates our common EU values laid down in Article 2 of the Treaty of the European Union.

Furthermore, as [denounced](#) by Eurochild, this law "clearly violates children's rights as laid down in the United Nations Convention on the Rights of the Child to which Hungary has been bound since 1991. Children have the right to healthy development, freedom of expression, self-identity, inclusive education, and access to justice. This legislation violates all these rights and risks harming the very children it claims to protect".

After a failed dialogue the European Commission [announced](#) on 15 July 2022 that the case would be referred to the Court of Justice of the European Union (CJEU). Yet, Forbidden Colours had to conduct an advocacy campaign to push the European Commission to finally file the case on 19 December 2022. The case [was published](#) in the Official Journal of the EU on 13 February 2023. From that moment on, EU Member States have six weeks to submit 'written observations' on the case to the CJEU.

An EU-wide petition to call out Member States to fulfil their engagements

On 13 February 2023, Forbidden Colours, together with Háttér Society and Reclaim, launched an EU-wide petition to remind EU Member States of their commitments and to ask them to provide 'written observations' on the case by 27 March 2023. By doing so, they would declare their full support to the protection and defense of the fundamental rights of LGBTIQ+ people in their country and in the European Union.

Forbidden Colours recalls that 19 Member States had loudly voiced their support for the respect of the human rights of LGBTIQ+ people only a few days after the adoption of the law in June 2021.

On 22 June 2021, 18 Member States joined a declaration [initiated](#) by Belgium Foreign Minister Sophie Wilmès condemning the Hungarian law and asking the European Commission “to use all the tools at its disposal to ensure full respect for EU law”.

Two days later, on 24 June 2021, 16 EU Heads of States and Governments [signed](#) a common declaration pledging to “continue fighting against discrimination towards the LGBTI community, reaffirming [the] defense of their fundamental rights”. They all declared that they were “committed to carry on with this effort, making sure that future European generations grow up in an atmosphere of equality and respect”.

Moreover, on 17 May 2021 – the International Day Against Homophobia, Biphobia, and Transphobia, 14 EU Member States had signed a diplomatic declaration on the protection of LGBTIQ persons in the European Union. A month before the adoption of the Hungarian ‘anti-LGBT propaganda’ law, these Member States made the [commitment](#) “to jointly develop a litigation strategy to support, where appropriate, the European institutions in court cases where the protection of EU values in general and LGBTIQ persons in particular is at stake”.

The publication of the infringement procedure against Hungary gives the EU Member States an opportunity to turn these words into action. They are now expected to show their full support to the EU core values of inclusion, equality, and the protection of the human rights of LGBTIQ+ people.

By signing the petition, citizens endorse a letter that the three organizations will send to the Foreign Affairs Minister of their country asking them to fulfil their commitments and provide ‘written observations’ on the infringement case.

Forbidden Colours, Háttér Society and Reclaim remain confident that at least 20 Member States should join the case, making it the largest human rights’ case ever brought to the attention of the CJEU.

LGBTIQ+ censorship: a devastating impact on LGBTIQ+ youth

In January 2023, a year and a half after the adoption of the law, Háttér Society [published](#) a comprehensive report regarding the far-reaching and devastating impact of the law. The organization reports that hostile public discourse and LGBTIphobic acts have been on the rise since the adoption of the law.

The vagueness of the terms used in the law – such as ‘depiction’ or ‘propagation’ – have created a strong chilling effect throughout the Hungarian society. By fear of potential sanctions, self-censorship has become the rule. Media refuse any broadcasting that touches upon LGBTIQ+ topics. School teachers and psychologists are scared to answer any question regarding LGBTIQ+ topics, in fear of losing their job.

Civil society organizations that have been working with schools on human rights and civic education have been denied access to schools unless they promised they will not touch upon LGBTIQI questions, even if the students themselves bring up such issues. No civil society organizations or external experts are allowed to hold comprehensive sex and relationship education classes in public education institutions.

Remaining silent may protect media and education professionals from sanctions. However, this puts children belonging to a sexual or gender minority in a precarious position.

The so-called ‘child protection law’ leaves LGBTIQ+ children, who are often subject to bullying, stigmatization and even violence, on their own.

Háttér Society concludes that "the law does not protect children, it shields them from information that is vital for their development as well-informed, open-minded human beings who respect sexual and gender diversity, and ultimately equal human dignity. The pretence of protecting children shall not be the basis of a legal framework that encourages discrimination, stigmatizes sexual and gender minorities, and above all, violates children's right to education that entails the right to receive objective, unbiased and comprehensive information on sexual and gender diversity."

HUNGARY: What do LGBTQ people think about Hungary's controversial referendum?

By *Ádám Magyar*

Euronews (03/04/2022) - <https://bit.ly/3J0Gwol> - Hungary is holding a controversial referendum on LGBTQ rights on Sunday (3 April), at the same time as a parliamentary election.

Voters will be asked for their views on legislation that limits schools' teaching about homosexuality and transgender issues.

Critics say the law, passed last year, was discriminatory, contravened European values and equates homosexuality with paedophilia.

Ahead of the vote, Euronews spoke to four members of Hungary's LGBTQ community to find out how they were feeling.

Three of them told us if things don't improve, they might not be living in Hungary much longer.

Mónika Magasházi: 'I wish the state would leave me alone'

"It's not that the state doesn't represent me or doesn't protect my rights. It's about being put on the spot and put in front of the gun."

This is how *Mónika Magasházi* summed up her feelings as a member of the LGBTQ community in Hungary in 2022.

"I no longer even think about being represented and protected by the state," *Mónika* added. "That's just in the dream category, now. I would be at least a bit happy if they would just leave me alone."

The 49-year-old trans woman has been on hormone therapy for about six months and is now preparing for her first reconstructive surgery.

She has been living as a woman for a year and a half, but it was the day of our interview that she first spoke to her boss at work about it.

In some ways, *Mónika* feels that coming out at work has even been made easier by the Hungarian government's handling of LGBTQ issues.

"I have a very strange feeling about this," said *Mónika*. "I feel very upset that the government has actually attacked us with this propaganda. It's coming out of the public media, it's coming out of the billboards. On the other hand, it can also be counterproductive for them. Because now that the government has shoved it in everybody's face, more and

more families, work communities and friends are talking about it. In many ways, it's damaging to us, but maybe we don't need so much to explain. For example, I didn't need to explain so much to my boss," she said.

But that doesn't mean everything will go smoothly at work. Even if her colleagues and bosses accept the new situation without any problems, changing her IDs and email addresses in the IT system will be a more difficult task. Since May 2020, it is not possible to change the gender registered in the civil registry in Hungary, so Mónika cannot submit new documents with her new, female name. And IT systems are based on official documents and the employment contract at her workplace.

"The parent companies don't even understand this problem because they don't have it. If you are in transition in the West, you go to the office, get your new documents, bring them to the company and they will rewrite your details," she said, adding that if a woman who is in transition and looks like a woman has to show her male documents anywhere, it is very inconvenient.

Emmett Hegedűs: 'With the new law, my dreams became impossible'

Emmett Hegedűs, 18, is in a similar situation to Mónika. The new law has made it impossible for both of them to change their gender and name.

"I really don't like signing my name or taking out my ID. When I was 16, I had [the] motivation to go ahead in life and that was of course that in two years I wouldn't have to take out my female ID, I wouldn't have to menstruate or anything like that. With the change in the law, the dreams, the plans that I had built up became impossible," said Emmett, who has become an activist recently. His goal is to dispel fears in people about members of the LGBTQ community.

"If I don't know something and the first information I hear is that it's dangerous, I might believe it. Provided I otherwise agree with the decisions of the government from whom the information comes. It sounds very scary that someone would go up to your child and tell them to change gender," he said, referring to the upcoming referendum, about which he has strong views.

"No one in their right mind can say 'yes' to any of the questions with a clear heart. I don't want any of these statements to come true either. However, there is no reality to any of them. So it's a very evil way of amplifying the fear that people already have."

The referendum on 3 April will include four questions, proposed by Hungary's ruling party, Fidesz:

- Do you support the teaching of sexual orientation to underage children in public education institutions without parental consent?
- Do you support the promotion of sex reassignment therapy for underage children?
- Do you support the unrestricted exposure of underage children to sexually explicit media content that may affect their development?
- Do you support the showing of sex-change media content to minors?

There was a fifth question, but this was not certified by the court:

- Do you support the availability of sex-change treatments for minors?

According to Mónika, the timing of the referendum is no coincidence:

"It is a disgusting thing. It is clearly about trying to somehow keep the Fidesz camp together and get them to the polls. They are hoping that they can mobilise these people by threatening to operate on kindergarten children. You can only give invalid answers to these stupid questions."

Márió Dányi-Nagy: 'Threats can suck the everyday joy out of your life'

Márió Dányi-Nagy also sees political motivation in the organisation of the referendum.

"It is held on election day to ensure a high turnout. On the other hand, they want to confuse things in people's minds, they want to suggest that Fidesz is protecting children from paedophiles."

The LGBTQ community and pedophiles in Hungary

The so-called child protection law passed by the Hungarian parliament last year was framed by the governing Fidesz party as an instrument to protect children from paedophilia and any sexual influence that is not approved by parents. The law banned any content portraying or "promoting" homosexuality or sex reassignment to anyone under 18. A lot of NGOs and EU member states criticised the law, not just because they thought it is against the LGBTQ community, but also because it deals with paedophilia and LGBTQ issues in the same text, making it possible to conflate the two.

The 35-year-old trainer from Budapest feels that as a gay man, the pressure has been mounting on him in recent years:

"It's annoying when someone starts shouting loudly next to you. But it is also annoying when something keeps buzzing constantly, louder and louder. That's kind of what's happening now," he said.

"My previous partner and I were harassed on the street many times, once physically, but it was more of a case of being called names. This causes self-censorship. I get the feeling that I am not safe in my own country because I could be attacked at any time. Politicians say things like I am not an equal citizen. And when it came to the association with paedophiles, it sent me to the floor. It was as if they had put a target on my back, that I was someone to be attacked. I bought pepper spray at the time, but I wasn't attacked in the end. But recently, for example, at the end of a date, a guy kissed me in a public place and it made me nervous, even though I didn't used to be like that. That kind of threat can suck the everyday joy out of your life."

Mário studies behavioural psychology and clearly sees the government's responsibility for the deterioration of the situation.

"It is coded in human behaviour to exclude, discriminate, hurt those who are not like the others," he said. "If you put the incendiary under this, it will be reinforced. And it needs real effort to promote not that, but acceptance, peace."

Last year, Mario started planning to move to Vienna, Austria, but eventually decided to stay because he felt that society was not as dismissive of him as the government. In the future, however, he can imagine leaving the country, just as our other interviewees are strongly considering moving - especially if Fidesz remains in power and introduces further restrictive measures with the new mandate.

Ákos Modolo: 'The law has given us visibility like never before'

"A lot of my friends have gone abroad because they don't feel valued by this country, they don't feel they can hold their heads high, they can't stand the rhetoric that is being hurled at them on a daily basis, and they are restricted by the laws," said Ákos Modolo, who wants to stay in Hungary.

"I went to Stockholm last year and it was like a sudden breath of fresh air. But in Budapest, I have a very good, supportive community of friends and a vibrant activist community. I know many authentic and courageous people who inspire me.

"In Stockholm, I saw that they already have what we are fighting for in Hungary, legally and in terms of social acceptance. I feel I have more work to do here," said the 27-year-old, who comes from a small town in the lowlands of Hungary, Mezőberény, and grew up in a conservative, religious community. He found out he was gay at the age of 14 but didn't tell anyone until he moved to Budapest at the age of 19.

"I felt that in the countryside the subject was taboo, or if they had spoken about it, they did it in a negative sense. For example, it was made fun of at school, or sometimes in a sermon it was said that it was a sin to live your homosexuality," he explained.

Akos said in his role as an activist he was targeted by the government. He used to hold gay awareness programmes mainly in secondary schools, but the new law means this is no longer possible. Instead, he targets universities, workplaces and bible study groups. According to him, the sessions were aimed at showing how LGBTQ people live, rather than being about sex education.

"Since the law was passed, we have not been able to go to secondary schools, even though two-thirds of our invitations used to come from secondary schools. Legally, the wording of

the law is very vague, which shows that it is all about communication for Fidesz. It is also not clear if we really cannot go to secondary schools now by the text of the law. In any case, the teachers dare not invite us. Not even the most liberal ones, because they are afraid of retaliation, of being on the front page of the government media the next day for having engaged in sexual propaganda," he said.

Despite all the difficulties, however, Ákos believes that the situation of the LGBTQ community in Hungary is not hopeless.

"I see that the acceptance of LGBTQ people has increased recently, despite the political campaign. The laws have given us visibility like never before. Several of my conservative gay friends who used to vote for Fidesz and opposed me being an activist have come out and said enough is enough. We lost some battles in the short term, but I think we can be optimistic in the long term."

LITHUANIA / ECtHR: A book of fairy tales harmful for children?

Macatė v. Lithuania on restricting and labelling a children's book that depicts same-sex families in a positive light

By Ingrida Milkaitė

[Strasbourg Observers](#) (31.03.2023) - On 23 January 2023, the Grand Chamber of the ECtHR found that restricting and labelling a book of fairy tales as harmful to children solely because of LGBTI content breached Article 10 ECHR. For the first time in the Court's case-law, [Macatė v. Lithuania](#) (app. no. 61435/19) assessed restrictions imposed on literature about same-sex relationships which is *aimed directly at children* and written in a style and language easily accessible to them. The Court warranted a more extensive analysis of the legitimate aim pursued by such restrictions. This resulted in one of the few Article-10 judgments where the imposed restrictions were unanimously found to not pursue *any* aims that can be accepted as legitimate for the purposes of Article 10 § 2 ECHR.

A summary of the facts

The case of [Macatė v. Lithuania](#) concerns a children's book of fairy tales containing storylines about same-sex marriage published in December 2013. '*Gintarinė širdis*' or 'Amber Heart' was written by Neringa Dangvydė Macatė, a professional writer and specialist in children's literature, also openly homosexual. She passed away on 21 March 2020 and her mother continued the proceedings.

The applicant's book (the English version is accessible free of charge [here](#)) contains six fairy tales aimed at children of primary school age (9–10-year-olds). The fairy tales – based on traditional fairy-tale motifs – depict members of various marginalised groups (different ethnic groups or people with intellectual disabilities) and address issues such as stigmatisation, bullying, divorced families and emigration, with the aim of teaching children to accept differences in the appearance and lifestyles of others (§ 57). Two of the stories concern relationships and marriages between persons of the same sex. One tale tells the story of a prince who "arrived at a city whose inhabitants were dark-skinned and fell in love with a male tailor" (§ 16). The other tale is about a princess who marries her childhood friend, a shoemaker's daughter (§ 17) (the English version can be accessed [here](#)).

The book was published by the publishing house of the Lithuanian University of Educational Sciences (an autonomous, public institution), with partial funding from the Ministry of Culture. After its publication, three major events unfolded. On the 1st of March 2014, one of the biggest Lithuanian newspapers, 'Lietuvos rytas', published an article entitled "Fairy tales about non-traditional love – in children's backpacks". It contained an interview with the author and comments from members of the Lithuanian Parents' Forum expressing criticism that stories about same-sex relationships were being presented to children (§ 19). Three days later, the Registry of the Government received an email from an individual alleging that the book was "encouraging perversions" and forwarded it to the Ministry of Culture. The Ministry requested the Inspectorate of Journalist Ethics to assess whether the book might be harmful to children. Finally, on the 20th of March 2014, eight members of the Lithuanian Parliament sent a critical letter to the Rector of the University, in which they referred to the article in 'Lietuvos rytas'. The Rector then ordered the publishing house to suspend the distribution of the book.

The Inspectorate of Journalist Ethics (the Inspectorate) assessed the book as it is the institution in charge of monitoring the implementation of the Act on the Protection of Minors from Negative Effects of Public Information (the Minors Protection Act) (§ 85). Considering that "fairy tales that portray the relationship between same-sex couples as normal and self-evident are harmful to a child's fragile, nascent worldview and are overly invasive, directive and manipulative" (§ 23), the Inspectorate concluded that the two fairy tales which depicted same-sex couples did not comply with section 4 § 2 (16) of the Minors Protection Act. Following the Inspectorate's recommendation that the book be labelled with a warning that it might be harmful to children under 14, the University abided by it and resumed the book's distribution a year later, with the book bearing a warning label.

The applicant lodged civil proceedings against the University, arguing that depiction of same-sex relationships could not be considered harmful for children of any age. Yet, in 2019, the measures taken against the book were endorsed by the national courts and the applicant's claim was dismissed. Having exhausted all domestic remedies, she complained to the ECtHR about the temporary suspension of the distribution and subsequent labelling of her book. She alleged that those measures had been taken solely because her book contained a positive depiction of same-sex relationships. She argued that section 4 § 2 (16) of the Minors Protection Act had aimed at limiting the dissemination of any positive information about LGBTI persons, on the pretext of protecting children. She also complained, under Article 14 (prohibition of discrimination) in conjunction with Article 10 (freedom of expression), that the reason behind the restrictions on her book had been prejudice against sexual minorities.

Read the rest of the analysis [HERE](#):

- A summary of the Grand Chamber's judgment regarding Articles 10 and 14 of the ECHR
- Separate opinion
- Comment on the judgment and its potential future impact
- Conclusions

LITHUANIA / ECtHR: A children's book of fairy tales and same-sex marriages

Labelling a book of fairy tales as harmful to children solely because of LGBTI content breached the Convention

Registrar of the European Court (23.01.2023) - The case of [Macatė v. Lithuania](#) (application no. 61435/19) concerned a children's book of fairy tales containing storylines about same-sex marriage. Distribution of the book had been suspended soon after its publication in 2013. It had been resumed one year later after the book had been labelled as possibly harmful to children under the age of 14. This was the first case in which the European Court of Human Rights had assessed restrictions on literature about same-sex relationships written specifically for children.

In today's **Grand Chamber** judgment¹ in the case the European Court held, unanimously, that there had been:

a violation of Article 10 (freedom of expression) of the European Convention on Human Rights.

The Court found that the measures against the applicant's book had intended to limit children's access to information depicting same-sex relationships as essentially equivalent to different-sex relationships.

In particular it could not see how, according to the national courts and the Government, certain passages – a princess and a shoemaker's daughter sleeping in one another's arms after their wedding – had been sexually explicit. Nor was it convinced by the Government's argument that the book had promoted same-sex families over others. To the contrary, the fairy tales had advocated respect for and acceptance of *all* members of society in a fundamental aspect of their lives, namely a committed relationship.

As a result, it concluded that restricting children's access to such information had not pursued any aims that it could accept as legitimate.

A legal summary of this case will be available in the Court's database HUDOC ([link](#))

Principal facts

The applicant, Neringa Dangvyde Macatė, was a Lithuanian national who was born in 1975 and lived in Vilnius. She died in March 2020 and her mother continued the proceedings in her place.

The applicant was an openly lesbian children's author. In December 2013 the Lithuanian University of Educational Sciences published one of her books, *Amber Heart (Gintarinė širdis)*, which contained fairy tales aimed at nine-ten-year olds, with partial funding from the Ministry of Culture. Adapted from traditional fairy tales, the book included characters from different ethnic groups or with intellectual disabilities and addressed issues such as stigmatisation, bullying, divorced families and emigration. Two of the six fairy tales in the book had story lines about relationships and marriages between persons of the same sex.

Soon after publication, the Ministry of Culture was forwarded a complaint alleging that the book was "encouraging perversions". The Ministry asked the Inspectorate of Journalistic Ethics to assess whether the book might be harmful to children.

Around the same time, eight members of the Lithuanian Parliament sent a letter to the University, relaying to it concerns expressed by associations representing families about literature which "sought to instil in children the idea that marriage between persons of the same sex was a welcome phenomenon".

The Inspectorate concluded that the two fairy tales which depicted same-sex couples did not comply with section 4 § 2 (16) of the Act on the Protection of Minors from Negative Effects of Public Information ("the Minors Protection Act"). That provision states that any information which "expresses contempt for family values" or "encourages a different concept of marriage and creation of family than the one enshrined in the Constitution or the Civil Code" is considered as having a negative effect on minors. The Inspectorate recommended that the book be labelled with a warning that it might be harmful to children under 14 years of age.

The University's publishing house suspended distribution of the book in March 2014. A year later distribution was resumed, with the book bearing a warning label, in line with the Inspectorate's recommendation.

The applicant lodged civil proceedings against the University, arguing that depiction of same-sex relationships could not be considered harmful for children of any age, but in 2019 the courts ultimately endorsed the measures taken against the book and dismissed her claim.

In particular, in February 2019 the Vilnius Regional Court – in a second round of proceedings after the Supreme Court had remitted the case for fresh examination – upheld an assessment at first instance of the harm the book could cause children. The regional court also found that certain passages were too sexually explicit and that the way in which the fairy tales depicted a new family model raised the question of whether the applicant herself had sought to discriminate against those who held values different from her own.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 22 November 2019.

Relying on Article 10 (freedom of expression) of the European Convention on Human Rights taken alone and in conjunction with Article 14 (prohibition of discrimination), the applicant complained about the temporary suspension of the distribution of her book and its subsequent labelling as harmful to children, alleging that those measures had been taken solely because the book contained a positive depiction of same-sex relationships. She also argued that section 4 § 2 (16) of the Minors Protection Act, although seemingly neutral, had in reality aimed at limiting the dissemination of any positive information about LGBTI persons, on the pretext of protecting children.

She also complained, under Article 14 (prohibition of discrimination) in conjunction with Article 10, that the reason behind the restrictions on her book had been prejudice against sexual minorities.

On 18 June 2020 the Lithuanian Government were given notice² of the application, with questions from the Court.

The Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber on 31 August 2021.

ILGA-Europe (the International Lesbian, Gay, Bisexual, Trans and Intersex Association), ARTICLE 19 and Professor David Kaye, acting jointly, and Háttér Society were granted leave to intervene in the written proceedings as third parties.

A Grand Chamber hearing on the case took place on 23 March 2022 in the Human Rights Building, Strasbourg.

Judgment was given by the Grand Chamber of 17 judges (...).

Decision of the Court

Article 10

Firstly, the Court found that the temporary suspension of the distribution of the book and its subsequent labelling with a warning could be attributed to the State. In particular, the measures had been taken by the University, a public body, had directly resulted from the domestic legislation and had been examined and endorsed by the national courts.

It considered that those measures had interfered with the applicant's freedom of expression. The books had been recalled from bookshops, thus reducing availability to readers. It was also likely that the warning labels had decreased readership: a significant number of parents with children from the book's intended age group would have been dissuaded from letting their children read it, especially given the prejudice against the LGBTI community in Lithuania; and children over the age of 14 were in general far less interested in reading fairy tales. Furthermore, the labels had to have impacted the applicant's reputation as an established children's author and discouraged her and others from publishing similar literature.

The Court then went on to find that the measures had had a basis in domestic law, namely section 4 § 2 (16) of the Minors Protection Act.

The applicant and the Government disagreed as to what had been the aim of the restrictions. The Court rejected the Government's argument that they had sought to protect children from sexually explicit information. It could not see how certain passages – a princess and a shoemaker's daughter sleeping in one another's arms after their wedding – depicted carnal love. Nor did it find convincing the Government's submission that the fairy tales had been seeking to "insult", "degrade" or "belittle" different-sex relationships and "promote families of the same sex". The Court could not see any such aim in the applicant's writings which, to the contrary, advocated respect for and acceptance of *all* members of a given society in a fundamental aspect of their lives, namely a committed relationship.

Furthermore, the Court found that the legislative history of section 4 § 2 (16), and the examples of its application, revealed an underlying intent to restrict children's access to information about same- sex relationships. In particular, the text of section 4 § 2 (16) had clearly meant to refer to same-sex relationships and marriages, since both the Constitution and the Civil Code only provided for marriage between a man and a woman and Lithuanian legislation did not permit legal recognition of same-sex unions.

Having established that the aim pursued by the measures had been to restrict children's access to content depicting same-sex relationships as being essentially equivalent to different-sex relationships, the Court then examined whether such an aim could be regarded as legitimate under the Convention.

The Court had already held in its case-law that there was no scientific evidence – as confirmed by various international bodies – to suggest that the mere mention of homosexuality, or open public debate about sexual minorities' social status, would adversely affect children. The Court also took note of the fact that the laws of a significant number of Council of Europe member States – including Lithuania – either explicitly included education on same-sex relationships in school curricula, or contained provisions on ensuring respect for diversity and prohibition of discrimination on the grounds of sexual orientation in teaching.

Lastly, it held that restricting children's access to information about same-sex relationships – where such information could not be considered inappropriate or harmful to them on any other basis than sexual orientation – demonstrated that the authorities had a preference for some types of relationships and families over others and that they saw different-sex relationships as more socially acceptable and valuable than same-sex relationships, thereby contributing to continuing stigmatisation. Therefore, such restrictions, however limited in their scope and effects, were incompatible with the notions of equality, pluralism and tolerance inherent in a democratic society.

The Court therefore concluded that the measures against the applicant's book had not pursued any aims that it could accept as legitimate for the purposes of Article 10.

Other articles

The Court held, by 12 votes to 5, that there was no need to examine separately the applicant's complaint under Article 14 of the Convention taken in conjunction with Article 10.

Article 41 (just satisfaction)

The Court held that Lithuania was to pay the applicant's mother 12,000 euros (EUR) in respect of non-pecuniary damage and EUR 5,000 in respect of costs and expenses.

Separate opinions

Judges Yudkivska, Lubarda, Guerra Martins and Zünd, joined by Judge Kūris, expressed a joint partly dissenting opinion which is annexed to the judgment.

The judgment is available in English and French.

RUSSIA: Same-sex marriage and the case Fedotova and Others v. Russia

'Until social norms say 'I do': How the Grand Chamber taketh and giveth away in Fedotova and Others v. Russia

By Claire Poppelwell-Scevak

[Strasbourg Observers](#) (12.04.2023) - As we continue 2023, with the rise of the far right, the war in Ukraine and Russia's absence at the Council of Europe, it may be difficult to be optimistic. However, I think that with the Grand Chamber's judgment in [Fedotova and Others v. Russia](#), there can be, at least, a sense of hope that the Court's case-law on the recognition of same-sex couples is (slowly) moving forward.

Some may discount the importance of this judgment as, on the one hand, Russia is no longer a party to the Council and a brief glimpse over the Respondent State's response is indicative of a (former) State Party that has appeared to have lost steam in putting forward its case before the Grand Chamber. On the other hand, you could see this case as simply continuing the trend of [Oliari and Others v. Italy](#) and [Orlandi and Others v. Italy](#) where the Court found that there is a positive obligation under Article 8 for Member States to afford some sort of recognition and protection to same-sex couples.

There may be some bias in my opinion as I co-wrote [the third-party intervention](#), submitted by the Human Rights Centre, to the Grand Chamber; however, I believe that this case should be studied further for two reasons. First, it provides a damning insight into the Court's inability to clarify what protections should be afforded to couples – regardless of whether they are different or same-sex. Second, it concretely foreshadows the impending clash between the consensus doctrine and traditional values as determinants to the width of the margin of appreciation.

Facts and decision

Two same-sex couples (note that there were initially three, however, one couple was struck out when this case went before the Grand Chamber) gave notice of marriage at their respective local Registry offices. Their notices were rejected as the authorities relied on the definition of marriage – by the Russian Family Code – to be a 'voluntary marital union between a man and a woman'.

Due to Russia's exit from the Council of Europe, the Grand Chamber quickly stated that it still had jurisdiction to examine this case. It then moved to an examination of Article 8, immediately finding that the applicants' claims are applicable under both the private and family life aspects of Article 8. Note that this section will focus on Article 8 (alone) as the Court found that there was no need to examine any arguments under Article 14 taken in conjunction with Article 8.

Referencing its judgments in *Oliari* and *Orlandi* in particular, the Grand Chamber started its analysis by confirming that Article 8 'has already been interpreted as requiring a State Party to ensure legal recognition and protection for same-sex couples by putting in place a "specific legal framework"'. However, this positive obligation does not (yet) extend to marriage available to same-sex couples.

Before turning to the margin of appreciation, the Grand Chamber engaged in a lengthy reasoning on the evolutive interpretation of the Convention, citing its previous case-law on this issue. In particular, the Grand Chamber held that there is 'a clear ongoing trend with the States Parties towards legal recognition of same-sex couples (through the institution of marriage or other forms of partnership)' with a 'number of international bodies' supporting this position.

With the above in mind, the Grand Chamber turned to determining the scope of the margin of appreciation. Given that an aspect of the applicants' identity was at stake and in light of the 'clear ongoing trend' in favour of recognising same-sex couples, the Grand Chamber quickly found that Russia's margin of appreciation was 'significantly reduced'. However, the Grand Chamber added that 'States Parties have a more extensive margin of appreciation in determining the exact nature of the legal regime to be made available to same-sex couples'. This ability to choose extends 'both to the form of recognition and to the content of the protection to be granted to same-sex couples'.

Here, the Grand Chamber shifted its stance on the consensus doctrine by finding that 'while a clear ongoing trend is emerging towards legal recognition and protection for same-sex couples, no similar consensus can be found as to the form of such recognition and the content of such protection'. Thus, this issue remains in the domain of States Parties to decide. The caveat to this finding though, is that the protection chosen by the States Parties 'should be adequate'. Reference is made by the Grand Chamber to a legal framework that would provide protection for same-sex couples, and specifies 'material (maintenance, taxation or inheritance) or moral (rights and duties in terms of mutual assistance) that are integral to life as a couple and would benefit from being regulated within [such] a legal framework'.

The Grand Chamber then looked to whether Russia had struck a fair balance between the public interests and those of the applicants. According to the applicants, they had experienced a legal vacuum by not being legally recognised. Similarly, the Grand Chamber accepted that 'gaining official recognition for their relationship has an intrinsic value for the applicants...[which] forms part of the development of both their personal and their social identity as guaranteed by Article 8'.

From the Russian Government's perspective, the absence of such a legal framework was first based on the necessity to 'preserve the traditional institutions of marriage and the family'. Whilst the Grand Chamber repeated its 'support and encouragement of the traditional family', such an aim was also 'rather abstract and a broad variety of concrete measures may be used', as well as the 'concept of family [being] necessarily evolutive'. Moreover, the Grand Chamber held that providing protection for same-sex couples does not 'harm families constituted in the traditional way' or 'prevent different-sex couples from marrying or founding a family'.

Russia's second justification was that the Grand Chamber had departed from its reasoning in *Oliari* where it had taken into consideration the public's attitude towards same-sex couples. The Grand Chamber noted that public opinion in *Oliari* was not a decisive factor in its reasoning. Additionally, the Grand Chamber was unconvinced by this justification as it has 'consistently declined to endorse policies and decisions which embodied a predisposed bias on the part of a heterosexual majority against a homosexual minority' and that 'traditions, stereotypes and prevailing social attitudes in a particular country cannot, by themselves, be considered to amount to sufficient justification for a difference in treatment based on sexual orientation'.

The final justification was the protection of minors. The Grand Chamber summarily dismissed this argument with reference to *Bayev and Others v. Russia*. Thus, the Grand Chamber found that there had been a violation of Article 8 as Russia to provide protection and recognition of the applicants' relationships.

RUSSIA: ROC breaks off with Western denominations that recognise LGBT marriages

Secretary of the DECR MP noted that these are the Lutheran churches of Sweden and Norway, as well as the Episcopal Church in the United States.

By [Elena Yufereva](#)

[SPZH](#) (11.02.2023) - Hieromonk Stefan (Igumnov), secretary for inter-Christian relations of the Department for External Church Relations (DECR MP), said that the Russian Orthodox Church has broken off contacts with Western Christian communities that have recognized [same-sex marriage](#), reports [ria.ru](#).

"Christians in Europe today face a huge challenge to resist the pressure of liberal ideology and attempts to bring a liberal agenda into church life. This is particularly true for Churches which are in one way or another historically affiliated with the state. A number of Protestant congregations in the West have not withstood this test, departing from basic Christian moral principles and legitimising the most liberal phenomena concerning the complete distortion of the traditional understanding of marriage and the family. The Russian Orthodox Church categorically severed all contact with such communities. Life has shown that such communities are no longer capable of returning to traditional practices with regard to family and marriage," Hieromonk Stefan said.

The secretary of the DECR MP noted that examples of such communities include the Lutheran Churches of Sweden and Norway as well as the Episcopal Church in the United States, which belongs to the Anglican family of Churches.

As previously reported, [Uganda is about to break with the Anglican Church over LGBT marriages](#).

RUSSIA: LGBTQ history museum in St Petersburg is shut down

[Euronews](#) (09.12.2022) – A museum devoted to Russia's LGBTQ history in St Petersburg has opened and closed in the space of a few days after Russia's tough new 'gay propaganda' law came into force.

Piotr Voskresensky is the founder of the museum. He dedicated years to amassing the collection of Russian-made statues, jewellery, vases, books and other art objects that showcased the history of the country's LGBTQ subculture

However, the collection fell foul of the law that completely bans what the authorities regard as the promotion of "non-traditional" sexual relations.

On the 5th of December, Russian president Vladimir Putin signed a law which banned completely anything deemed "propaganda" of non-traditional sexual relations, gender reassignment and paedophilia. This extends to media, the internet, advertisements, books or films.

If found guilty of disseminating "LGBT propaganda" among minors, a person faces a fine of up to €75,000 (5 million roubles), while among adults the fine is more than €60,000 (4 million roubles). Fines for "propaganda promoting paedophilia" will be €150,000 (10 million roubles) while "gender change propaganda" faces a fine of €60,000 (4 million roubles).

The new legislation had already hardened harsh anti-gay laws. The museum's brief opening was a symbolic protest against the crackdown on an embattled minority community.

RUSSIA: Fines for LGBT propaganda to be from 50,000 to 200,000 rubles

Interfax (31.08.2022) - <http://www.interfax-religion.com/?act=news&div=16660> - Fines for the propaganda of non-traditional relations will be from 50,000 rubles to 200,000 rubles for citizens, Russian State Duma Information Policy Committee head Alexander Khinshtein, the author of the relevant bill, said.

The draft law changes Article 6.21 of the Russian Code of Administrative Offenses by envisaging "the propaganda of non-traditional sexual relations or preferences expressed in the dissemination of information aimed at forming non-traditional sexual preferences, the attractiveness of non-traditional sexual relations or preferences, a distorted idea of the social equivalence of traditional and non-traditional sexual relations or preferences, or forcing information on non-traditional sexual relations or preferences that arouses interest in such relations."

Under the draft law, which Khinshtein published on his Telegram channel, the document envisages administrative fines for such offenses in an amount of 50,000 rubles to 100,000

rubles for citizens, 100,000 rubles to 200,000 rubles for officials, and 800,000 rubles to one million rubles for legal entities.

If these violations are committed using mass media or the Internet, the fine will be 100,000 rubles to 200,000 rubles for citizens, 200,000 rubles to 400,000 rubles for officials, and one million rubles to four million rubles for legal entities.

If the said violations were committed among minors, the fine will be 100,000 rubles to 200,000 rubles for citizens, 200,000 rubles to 400,000 rubles for officials, and one million rubles to two million rubles for legal entities.

If these offenses were committed using mass media or the Internet, the fine will be 200,000 rubles to 400,000 rubles for citizens, 400,000 rubles to 800,000 rubles for officials, and two million rubles to five million rubles for legal entities.

The bill also includes new articles, 6.21(1) and 6.21(2), in the Code of Administrative Offenses.

The first of them envisages liability for the propaganda of pedophilia expressed in "dissemination of information aimed at forming the attractiveness of pedophilia or forcing information on pedophilia causing interest in pedophilia." Such offenses may be punishable by a fine in an amount of 200,000 rubles to 400,000 rubles for citizens, 400,000 rubles to 800,000 rubles for officials, and one million rubles to four million rubles for legal entities.

Harsher punishment is envisaged if such offenses are committed using mass media or the Internet. In that case, the fine will be 400,000 rubles to 800,000 rubles for citizens, 800,000 rubles to two million rubles for officials, and four million rubles to ten million rubles for legal entities.

New Article 6.21(2) envisages liability for dissemination among minors of information "demonstrating non-traditional sexual relations or preferences, including description, images of non-traditional sexual relations or preferences." In that case, a fine is envisaged in an amount of 50,000 rubles to 100,000 rubles for citizens, 100,000 rubles to 200,000 rubles for officials, and 800,000 rubles to one million rubles for legal entities.

Harsher punishment is also envisaged if such offenses are committed using mass media or the Internet. In that case, the fine will be 100,000 rubles to 200,000 rubles for citizens, 200,000 rubles to 400,000 rubles for officials, and one million rubles to four million rubles for legal entities.

If all of the said offenses are committed by foreigners or stateless persons, they will be given the same fines as Russian citizens, but with expulsion from Russia or administrative arrest for 15 days and also expulsion.

Khinshtein said earlier on Wednesday that he had sent a bill on administrative liability for the propaganda of pedophilia and LGBT to the Russian government for review.

He said such liability is now envisaged only for the propaganda of LGBT among children. "We and our colleagues in the IT Committee want to apply it to any propaganda of non-traditional sexual relations, regardless of age," the parliamentarian said.

He also said the committee is completing the work on an earlier announced bill, which makes corresponding changes to some laws and imposes a ban on the dissemination of such information offline and online.

The committee will be ready to hold a public debate of these initiatives after the start of the fall session of the State Duma, Khinshtein said.

State Duma Deputy Speaker Vyacheslav Volodin earlier spoke about the plans to organize a public debate on these bills and consider them in the fall session. "Bearing in mind the stated position of most factions, there is confidence that the bills banning the propaganda of non-traditional values and introducing liability for its dissemination will be adopted," Volodin told reporters.

RUSSIA: Fleeing War and Discrimination, LGBT Russians Find Refuge in South Caucasus

By Anastasia Tenisheva

The Moscow Times (01.08.2022) - <https://bit.ly/3AvfCUz> - When tens of thousands of Russians fled the country this spring following the Kremlin's invasion of Ukraine, many chose to resettle in Armenia and Georgia.

But for LGBT Russians, their new homes in the conservative South Caucasus — where there are few protections against homophobic violence — may mean facing even greater risks than in the hostile environment they left behind.

Watching her friends in Russia being arrested for their anti-war activism, body-positive blogger and LGBT advocate Ollie decided to move to the Armenian capital to work with a project helping LGBT people affected by Russia's invasion of Ukraine.

Ollie, 27, said she chose Yerevan because many Armenians speak Russian as a second language and Russians do not need a visa to enter the country.

"Nothing is scary after living [as an LGBT person] in Russia," said Ollie, who declined to give her full name. "Here I have not experienced homophobia or transphobia... Probably around 50% of my queer acquaintances moved to Yerevan."

Armenia and Georgia are socially conservative societies, and LGBT people face a number of legal and social obstacles, as well as discrimination and occasional violence. Armenia [placed](#) 47th out of 49 European and Eurasian countries in a ranking of civil liberties, protections and recognitions afforded to LGBT people.

Like Russia, the Armenian Constitution only [recognizes](#) marriage between men and women.

But while LGBT Armenians struggle for acceptance, a number of LGBT Russians said they feel safe in Armenia because — at least for the moment — they are treated as guests.

"It feels like local rules don't apply to me as I'm a foreigner," said one member of the Russian LGBT community in Armenia who requested anonymity to speak freely.

"Armenia has legal discrimination [against LGBT people], same-sex marriage is illegal and local LGBT communities are even more closed. It's a conservative country. But I haven't experienced discrimination," she said.

Several local and international LGBT organizations in Armenia are working to help new Russian emigrants to integrate.

The Queer Svit [project](#), where Ollie works as a marketing director, helps LGBT people from Ukraine, Russia and Belarus flee abroad and provides temporary shelter in Armenia.

In Armenia, locals are “tolerant” toward LGBT foreigners, said Mamikon Hovsepyan, the communications director at Pink Armenia.

“The capital is quite active and diverse and there are some [LGBT-friendly] places, cafes, clubs and parties, but the general attitude is negative,” he told The Moscow Times.

“[LGBT] Russians will be accepted by [Armenian] society unless they show their sexuality,” he added. “Homophobia usually targets the local community.”

Local human rights group Pink Armenia last year [registered](#) at least 35 human rights violations against LGBT people, as well as discrimination based on their sexual orientation, gender identity and expression.

A trans person [was sexually assaulted](#) in Yerevan in June.

The situation in neighboring Georgia is similar. A far-right group staged a rally to disrupt an LGBT event in the Georgian capital of Tbilisi earlier this summer and one of the group’s members [died](#) after setting himself on fire in a protest against non-traditional relationships.

Russian activist Alexander Sofeev, who visited the event targeted by protesters, said the situation was tense, but police ensured the safety of participants.

“I think the Georgian government does not promote homophobia, it is usually done by individual far-right activists,” Sofeev, a member of the Pussy Riot feminist art group who moved to Tbilisi last year, told The Moscow Times.

“On the contrary, in Russia, it [homophobia] is imposed at the state level,” he said.

Russian activists said that Moscow’s crackdown on anything perceived as “Western” in the wake of the war has had an acute impact on the LGBT community.

“Tensions in Russian society have increased since the war began and it affects the most vulnerable groups, including sexual minorities,” said Anna Akulina, 32, who left the southern city of Rostov-on-Don for Yerevan in early April.

Since the Kremlin launched its invasion of Ukraine in February, Russian state television coverage has cast LGBT rights as foreign values that threaten the country. A Chechen military commander [said](#) on state television last month that Russia is fighting a “holy war” against “satanist values” such as LGBT rights.

Last month Russian lawmakers [submitted](#) legislation that would ban any information deemed “LGBT propaganda.”

“Russia is not a safe place for a queer person: you face being outed at work, bullying, even beatings. You get used to hiding all the time in Russia,” said body-positive blogger Ollie.

Many LGBT Russians fled abroad in fear of human rights abuses if they were detained or arrested by Russian police for their anti-war views.

“Can you imagine me calling the police in Russia if anything happens? I cannot. I don’t trust them,” Ivan Sokolov, who is openly gay, told The Moscow Times.

"I'm more likely to get help [from the police] in Armenia."

But Sokolov, 23, who moved to Yerevan a week after the war started, said he's experienced homophobic slurs, and that he worries about what might happen in the future.

"I feel safer here than in Russia," he said. "But what will the situation be in three or six months?"

RUSSIA : 390 Duma members co-author anti-LGBT

HRWF with Interfax (24.10.2022) - A bill banning the propaganda of LGBT (lesbian, gay, bisexual, transgender) and pedophilia, the demonstration of LGBT-related information, and information inciting sex change among adolescents was submitted to the State Duma on 20 October.

The initiative was co-authored by 390 Duma members, including all faction leaders and deputy speakers.

According to the draft law, the changes to the 2013 law banning the exposition of minors to what authorities deem "gay propaganda" will affect the Internet, mass media, books, audiovisual services, cinematography, and advertising.

The bill extends the list of information prohibited from dissemination among children: the propaganda and demonstration of non-traditional sexual relations and (or) preferences, as well as information which can make children to want to change their sex. The new changes also formally draw a distinction between the notions of "demonstration" and "propaganda."

The bill mandates a paid subscription and additional security features for access to television and radio content which is banned for children, and labelling of promo material for such content.

In addition, the bill prohibits advertising content containing information that demonstrates non-traditional sexual relations or preferences.

Propaganda of non-traditional sexual relations or preferences, including the propaganda of pedophilia, would be banned among Russian citizens, both adults and minors.

In all, five laws would be affected: "On information, information technologies, and information protection," "On mass media," "On protecting children from information which harms their health and development," "On advertising," and "On state support for Russian cinematography."

Another bill submitted on Thursday contains amendments to the Code of Administrative Offenses.

LGBT propaganda would entail fines of between 50,000 - 400,000 rubles for individuals, 100,000 - 800,000 rubles for officials and 800,000 - 5,000,000 rubles or up to 90 days of suspended operation for legal entities.

The propaganda of pedophilia would entail fines of 200,000 - 800,000 rubles for individuals, 400,000 - 2,000,000 rubles for officials, and 1,000,000 - 10,000,000 rubles

or up to 90 days' suspended operation for legal entities.

Fines for violating the ban on LGBT demonstration and information inciting sex change among adolescents: 50,000 - 200,000 rubles for individuals, 100,000 - 400,000 rubles for officials, and 800,000 - 4,000,000 rubles or up to 90 days of suspended operation for legal entities.

For foreign nationals and stateless persons, the penalty would be an administrative expulsion from the Russian Federation.

Lawmakers argued the law needs to be toughened amid Russia's intensified confrontation with the West and as its armed forces battle next-door.

Alexander Khinsein, a senior lawmaker and the head of the Duma's information committee, said the Ukraine offensive had given the proposed law "new relevance."

"The special operation takes place not only on the battlefield, but also in the minds and souls of people," Khinsein said.

Konstantin Malofeyev, a banker and conservative media baron, told the Duma hearing that passing the law is part of Russia's war effort.

"The war is not only on the battlefield. It is also in the smart-phones of our children, in cartoons and films," Malofeyev said.

"Our enemy really holds the propaganda of sodomy as the core of its influence," he said.

RUSSIA: Pro-Putin Chechen general who led 'gay purge' killed in Ukraine

Chechen general Magomed Tushayev was killed on Saturday, and was responsible for torturing and murdering LGBTQ+ individuals.

By Benjamin Weinthal

The Jerusalem Post (01.03.2022) - <https://bit.ly/3tHwyE7> - Ukraine forces killed Chechen general Magomed Tushayev on Saturday at the Antonov International Airport (GML) northwest of Kyiv. Tushayev is responsible for the torture and murders of LGBTQ+ individuals in the largely Muslim region of Chechnya in Russia.

The Ukrainian Armed Forces confirmed his death, writing in a tweet that "Magomed Tushayev, leader of the 141 motorized regiment of the Chechen National Guard, was killed!."

Illia Ponomarenko, a defense reporter for *The Kyiv Independent*, tweeted: "Magomed Tushayev, one of Ramzan Kadyrov's top warlords, has been killed in action in Hostomel. Ukraine's elite Alpha Group is reportedly fighting Chechens in the airfield."

Peter Tatchell, a British LGBTQ+ activist and human rights campaigner, told *The Jerusalem Post* that "While I never rejoice at the killing of anyone, his death means one less mass murderer on the loose. Those who live by the sword should not be surprised if they die by the sword. This will mean that he is no longer able to abduct, torture and kill Chechen LGBTs and dissidents, which is a good thing."

Kadyrov said on Saturday that the Chechen fighters did not have “one single casualty or wounded” combatant, according to Reuters.

Kadyrov, who has been widely criticized for his repressive rule, said: “The president [Putin] took the right decision, and we will carry out his orders under any circumstances.”

LGBTQ publication *The Los Angeles Blade* reported that “Tushayev, who was one of three top advisors and military commanders for Kadyrov, prior to the Ukrainian invasion by Russian forces, was directly involved in the campaign of terrorizing the LGBTQ+ community in Chechnya.”

According to the *Blade*: “Sources with Russian-based human rights organizations confirmed that Tushayev played an unspecified role as recently as May of 2021 when human rights activist and a gay man, Ibragim Selimkhanov, was abducted from a subway station in the Novogireyev District of the Russian capital city of Moscow by four Chechen operatives and flown against his will to the Chechen capital city of Grozny.

“Since 2017, human and LGBTQ+ activists noted that Chechen security operatives and other officials in the Kadyrov regime, including Tushayev sources confirmed, have rounded up dozens of men on suspicion of being gay, held them in unofficial detention facilities for days, humiliated, starved and tortured them, in what has been dubbed Chechnya’s ‘anti-gay purge,’” the report added.

Fox News Digital reported “The Chechens are part of a Russian national guard unit and are well known for fighting insurgencies, using brutal tactics that even jolted Russia during its two brutal wars in the ‘90s against them. The Chechens have been employed to hunt down terrorists in Syria and used by Russia to fight elsewhere, including in Georgia. They also fought the Ukrainians in Donbas when hostilities began there in 2014.”

RUSSIA: Russian church leader appears to blame gay pride parades for Ukraine war

The Moscow Times (07.03.2022) - <https://bit.ly/3vLFqdo> - The head of Russia’s Orthodox Church appeared to blame liberal Western values — drawing particular attention to gay pride parades — for Russia’s invasion of Ukraine in his Sunday sermon.

President Vladimir Putin ordered the deadly “special operation” in Ukraine on Feb. 24 to “demilitarize and denazify” the pro-Western country after recognizing eastern Ukraine’s two breakaway territories as independent republics.

But Patriarch Kirill said the war is about “which side of God humanity will be on” in the divide between supporters of gay pride events — or the Western governments that allow them — and their opponents in Russian-backed eastern Ukraine.

“Pride parades are designed to demonstrate that sin is one variation of human behavior. That’s why in order to join the club of those countries, you have to have a gay pride parade,” he said in his Forgiveness Sunday sermon.

The Russian church leader characterized gay pride parades as a “loyalty test” to Western governments, which Ukraine’s breakaway republics have “fundamentally rejected.”

“For eight years there have been attempts to destroy what exists in Donbas,” Patriarch Kirill said, referring to the region where Kyiv has been at war with the separatist republics since 2014.

"And in Donbas there is a rejection, a fundamental rejection of the so-called values that are offered today by those who claim world power," he said.

"We know that if people or countries reject these demands, they are not part of that world, they become strangers to it."

Patriarch Kirill painted the Russian invasion of Ukraine in more apocalyptic colors as a conflict "far more important than politics."

"If humanity accepts that sin is not a violation of God's law, if humanity accepts that sin is a variation of human behavior, then human civilization will end there," said he.

The Russian Orthodox Church has been accused of aligning itself with the officially secular Kremlin during Putin's years in power.

SERBIA: Serbian police ban EuroPride march, citing security concerns

By Dusan Stojanovic

AP News (13.09.2022) - <https://bit.ly/3xrTLeM> - Serbia's police on Tuesday banned a Pride march planned amid pan-European LGBTQ events being held this week in Belgrade, citing a risk of clashes with far-right anti-gay activists. Organizers vowed to appeal the ban.

Pro-Serbian [Orthodox Church](#) conservative groups, who have been marching unhindered for weeks on the Serbian capital's streets to protest the LGBTQ events, had scheduled a new demonstration for Sept. 17 — the day of the Pride parade. Police also banned that anti-gay protest.

"After the security assessment, it was determined that there is a high risk the safety of participants in both (marches) on the announced routes will be endangered, as well as the safety of other citizens," police said in a statement.

Serbia's populist president had earlier warned the gay Pride march would be banned.

Organizers of EuroPride, the largest annual Pride event in Europe — which includes a week of festivities — said they hoped their legal appeal against the ban will be accepted and that they would hold the festivities as planned.

"Belgrade Pride will use all available means to overturn this decision," their statement said. After the ban was announced, gay activists booed and jeered Serbian Prime Minister Ana Brnabic, who is openly lesbian but has been accused by the Serbian gay community of doing nothing to improve their status. She attended a human rights conference that was a part of the weeklong LGBTQ events.

The Council of Europe's human rights commissioner, Dunja Mijatovic, said Serbian authorities should withdraw the ban on the march and protect participants. The CoE is Europe's top human rights body.

"It is highly regrettable that the Serbian authorities have decided to ban the EuroPride march scheduled for 17 September," Mijatovic said in a statement. "Weeks of uncertainty concerning the holding of this march have sent a wrong message to the public and made

space for hateful rhetoric and more threats against LGBTI people, including from religious leaders”

Members of the European Pride Organizers Association chose Serbia’s capital three years ago to host the annual event, hoping it would represent a major breakthrough for a Slavic country that is traditionally conservative and strongly influenced by the Orthodox Church. Serbia’s rights groups have urged supporters to join the Pride march as part of a struggle for democracy that they say is under threat from President Aleksandar Vucic’s autocratic regime. Serbia is formally seeking European Union membership — and has pledged to boost LGBTQ rights — but has for years been moving closer to Russia’s political orbit.

Several EU officials have said they will join the LGBTQ events, while those calling on the Serbian government to reverse the previously heralded ban included U.S. Secretary of State Antony Blinken.

Vucic, who has for weeks warned the Pride march would be banned, said police can’t cope with possible riots by right-wing groups against the Pride march amid a crisis over [relations with Serbia’s breakaway province of Kosovo](#) as well as the energy crisis caused by the war in Ukraine.

“In the current geopolitical situation and tensions in the region, senseless clashes on the streets of Belgrade would make the position of our country more difficult, (and) endanger the safety of participants in the marches, as well as other citizens,” Serbian Interior Minister Aleksandar Vulin said.

UNITED KINGDOM: Church of England bishops refuse to allow same-sex marriages

The Church of England will refuse to allow same-sex couples to get married in its churches

By Muvija M.

[Openly](#) (19.01.2023) - The Church of England will refuse to allow same-sex couples to get married in its churches under proposals set out on Wednesday in which the centuries-old institution said it would stick to its teaching that marriage is between a man and a woman.

The proposals were developed by bishops, who form one of three parts of the Church's governing body known as the General Synod, after the Church of England's six-year consultation on sexuality and marriage - among other subjects - and will be put to the General Synod at a meeting next month.

The Church of England is central to the wider Anglican communion, which represents more than 85 million people in over 165 countries.

"Same-sex couples would still not be able to get married in a Church of England church," the statement said, confirming a BBC report overnight that [bishops had refused to support a change in teaching](#) to allow priests to marry gay couples.

Under the proposals, same-sex couples could have a service in which there would be "prayers of dedication, thanksgiving or for God's blessing on the couple" in church after a civil marriage. Gay marriage was legalised in Britain in 2013.

Still, the prayers would be voluntary for clergy to use and could be used in combinations "reflecting the theological diversity of the Church", the Church of England said, implying spiritual leaders could choose not to offer such blessings.

"I am under no illusions that what we are proposing today will appear to go too far for some and not nearly far enough for others, but it is my hope that what we have agreed will be received in a spirit of generosity, seeking the common good," said Justin Welby, the Archbishop of Canterbury.

Separately, Church of England bishops will be issuing an apology later this week to LGBTQI+ people for the "rejection, exclusion and hostility" they have faced in churches, according to the statement.

The Church of England, which was founded in 1534, has been divided for years on how to deal with same-sex marriages, with lesbian, gay, bisexual and transgender (LGBT) activists fighting for the same rights as heterosexual Christians.

Seeking to address the contentious issue, Welby called on the bishops last year to "abound in love for all", even as he backed the validity of a resolution passed in 1998 that rejected "homosexual practice as incompatible with Scripture".
