

Russian Federation

RESPECTING THE RIGHTS OF LGBTQIA+ PEOPLE IN THE CONTEXT OF BUSINESS ACTIVITIES: FULFILLING OBLIGATIONS AND RESPONSIBILITIES UNDER THE UNGPS

Submission prepared by the Sphere Foundation
for United Nations Working Group on Business
and Human Rights



CONTENT

1. In what ways LGBTQIA+ people experience human rights impacts in the context of business activities? Please provide specific examples of relevant experiences, including in specific economic sectors, and any relevant available data.....	4
2. Please explain ways in which LGBTQIA+ people may face intersecting forms of discrimination due to multiple factors, including their age, race, ethnicity, disability, or socio-economic status?	4
3. What measures has your government taken to address any discriminatory laws, policies, attitudes and practices in contexts in which businesses operate, and what measures have been taken to promote inclusive working environments? Please indicate whether specific reference is made to the situation of LGBTQIA+ people in any business and human rights regulatory frameworks, including the national action plan on business and human rights, in any mandatory human rights due diligence regulations, incentive schemes or disclosure or transparency requirements for companies and investors?.....	5
4. Are there any positive steps taken to ensure the protection of the rights of LGBTQIA+ people in the activities of the State in its role as an economic actor, e.g. state-owned enterprises, public procurement agencies, trade missions, export credit agencies, privatization of public services, public-private partnerships, and trade and investment agreements?	10
5. What measures does your government take to improve policy coherence across ministries and departments on issues related to the human rights of LGBTQIA+ people and responsible business conduct?	10
6. Are there any measures taken by the State to ensure access to justice and to an effective remedy by LGBTI people for business-related human rights abuses, including to remove any existing barriers and to ensure that all types of remedial mechanisms, processes and outcomes are sensitive to the experiences of LGBTQIA+ people?.....	10
7. Please provide any examples of positive practices of businesses domiciled in your territory and/or under your jurisdiction which integrate a gender perspective that is inclusive of the experiences of LGBTQIA+ people into their activities, policies and processes, including in their human rights due diligence processes, to respect the human rights of all?	11
8. Are there any positive practices of meaningful and equal participation of LGBTQIA+ people, movements and organizations in State-led decision-making initiatives and processes on business and human rights?.....	11
9. What support is provided by the State to assist and guide businesses in relation to respecting the human rights of LGBTQIA+ people, including in relation to the operations of business enterprises abroad?.....	11

INTRODUCTION

This report is prepared by Sphere Foundation in the framework of the call issued by the UN Working Group on Business and Human Rights on the topic “Respecting the rights of LGBTQIA+ people in the context of business activities: fulfilling obligations and responsibilities under the UNGPs”.

The Sphere Foundation (spherequeer.org) is a human rights organisation that has been advocating for the rights of the LGBTQIA+ community in Russia since 2011. The Sphere Foundation possesses expertise in developing and coordinating programs for psychological, emergency, and legal assistance, as well as monitoring of discrimination and engaging in national and international advocacy. It actively assists and supports LGBTQIA+ individuals and collaborate with other organisations that share similar objectives in various regions of Russia. Additionally, in response to Russia's full-scale invasion of Ukraine, the Sphere Foundation has taken an active stance against the war.

For the purpose of the report, its limitations and due to the rapid and sufficient decline of the situation with human rights, and in particular, with LGBTQIA+ rights and its protection, after the Russian invasion in Ukraine in 2022, **the focus of this input is** limited to Russian invasion and its consequences for LGBTQIA+ rights in the context of business and human rights.

1. In what ways LGBTQIA+ people experience human rights impacts in the context of business activities? Please provide specific examples of relevant experiences, including in specific economic sectors, and any relevant available data.

Generally, there is lack of open statistics on specifically LGBTQIA+ human rights violations in the context of business human rights. The State and its state bodies do not monitor such issues focusing on LGBTQIA+ human rights violations by business. It is not a priority for the State. LGBTQIA+ NGOs¹ and initiatives monitor such cases in two cases: 1. when a case was covered in the media or 2. when individuals themselves turn to such organizations for legal assistance. Not many cases even go the Court due to multiple reasons: fear of outing, stigmatization and stereotypes in society, fear of being assaulted by police, distrust to the judicial system, etc. The invasion of Russia to Ukraine in 2022 significantly has changed the landscape of discriminatory legislation passed by the State and human rights violations LGBTQIA+ people faced by business, as well as deepened existing problems stated above. Before the invasion – there are cases on labour rights (dismissal from work for sexual orientation, for “gay propaganda around minors”), freedom of association, assembly, right to health, freedom of speech, right to private life, after the invasion and adoption of multiple discriminatory laws and Russia’s Supreme Court constituting the “International Public LGBT movement” as an “extremist organization”, - number of outing (right to work, right to private life), propaganda cases, cases on censorship of LGBT content by business has escalated. According to our database, in 2015 there were 39 cases on labour rights and right to private life violations, in 2016 – 14, in 2017 – 16, in 2018 – 11, in 2019 – 4, in 2020 – 1, in 2021 – 12, **in 2022 – 20**, in 2023 – 8. **Censorship of LGBT content** that constitutes violation of access to information started in 2023, there were 43 cases in 2023, in 2024 – it is already 11 cases by March.

For more details on legislation – see question 3.

2. Please explain ways in which LGBTQIA+ people may face intersecting forms of discrimination due to multiple factors, including their age, race, ethnicity, disability, or socio-economic status?

In Russia, there are several groups within LGBTQIA+ community who may face intersectional forms of discrimination: LGBTQIA+ Migrants, LGBTQIA+ people with anti-war stand, LGBTQIA+ people from regions (Chechnya case + limited access to information), LGBTQIA+ minors (access to information, state’s “traditional values” propaganda), LGBTQIA+ HIV-positive people + migrant², etc.

¹ Since 2015, Sphere Foundation maintains the Monitoring of Discrimination Database (further referenced as “the Database”) based on multiple internal and external sources which currently includes more than fifteen hundreds of various cases of discrimination based on SOGI. Some of the cases we document had taken place before the work on the Database was initiated, thus it contains cases for the previous years as well.

² In 2023 we had a case of 24 years old HIV-positive gay from Tajikistan. He has been subjected to practices of conversion therapy by his family because of his homosexuality, moreover he was

However, the Supreme Court's decision on 30th November 2023, **which is discriminatory in its nature**, made it inessential to distinguish and search for intersectionality as the Supreme Court of Russia declared LGBT+ movement as an "extremist organisation". Therefore, the decision of the Supreme Court equates any activities associated with LGBT+ movement as extremism under the federal law "On countering extremist activities". Taking into account the current Russian repressive "anti-extremist" realities, this means that the extremist law can be applied to any person or any group of people for any act that could be qualified as support, approval, justification of, or participation in any form of a prohibited "extremist movement". Under Russian criminal law, participating in or financing an extremist organization is punishable by up to 12 years in prison. **In detail – see question 3.**

3. What measures has your government taken to address any discriminatory laws, policies, attitudes and practices in contexts in which businesses operate, and what measures have been taken to promote inclusive working environments? Please indicate whether specific reference is made to the situation of LGBTQIA+ people in any business and human rights regulatory frameworks, including the national action plan on business and human rights, in any mandatory human rights due diligence regulations, incentive schemes or disclosure or transparency requirements for companies and investors?

There are no positive measures have been taken to address any discriminatory laws, policies, attitudes and practices in context of business and human rights, and in particular LGBTQIA+ rights, by the State. Moreover, there are no measures have been taken to promote inclusive working environments. There is no National action plan on business and human rights, no mandatory human rights due diligence regulations.

Oppositely, between 2012 and 2024 Russian LGBTQIA+ community, as well as LGBTQIA+ human rights organizations, initiatives and defenders faced several waves of repressions³. Such waves of repressions, together with the focus on "traditional values" have shaped today's landscape of human rights of LGBTQIA+ persons. From the adoption of **Article 6.21** into the Code of Administrative Offences of the Russian

systematically threatened by his family while he was living in Tajikistan and after he moved to Moscow, Russia. In October 2022, he was violently beaten by his cousin in Sakhalin, Russia and was threatened to be sent directly to Tajikistan, where he believed he would be killed. He flew to Armenia, there we helped him with humanitarian visa application to French embassy, however there were massive delay in getting visa, therefore he was back in Moscow, where he applied for visa in French embassy, but he had limited time to stay in Russia as a migrant. Moreover, as migrant with HIV-positive status he could be deported any time. It was December 2023, on 30th November 2023, the Supreme Court of Russia declared LGBT+ movement as an "extremist organisation". The decision of the Supreme Court equates any activities associated with LGBT+ movement as extremism under the federal law "On countering extremist activities". According to the federal law of March 30, 1995 No. 38-FZ "On preventing the spread of the disease caused by the human immunodeficiency virus (HIV infection) in the Russian Federation", art. 11, he would inevitably be deported by Russian authorities to Tajikistan due to his HIV-positive status.

³ **For details** – see Joint submission on protection against violence and discrimination based on sexual orientation and gender identity, in relation to the human rights to freedom of expression, association and assembly for the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Sphere Foundation, Coming out, NC SOS, 2024, <https://spherequeer.org/submission-for-un/>

Federation⁴ in 2013 **LGBTQIA+ community is seen by the State as “the other” that should be limited in rights to protect societal majority. The State adopted several laws and more to limit LGBTQIA+ rights, such laws constitute direct discrimination.** Moreover, it has impacted the realization of human rights by LGBTQIA+ persons, in particular, freedom of expression, freedom of association, and peaceful assembly, which directly linked to the enjoyment of other human rights such as right to life, freedom of movement, right to work, right to private life and right to liberty and security of person together with enjoyment such rights without discrimination⁵. Business goes in line with the State; therefore, any legislation changes are simultaneously implemented by business.

- **"Propaganda of same-sex relations among minors"**

In 2013 there was a shift towards limitations of LGBTQIA+ rights. **Article 6.21** was introduced into the Code of Administrative Offences of the Russian Federation⁶, which established administrative liability for "propaganda of same-sex relations among minors". In 2013-2021, Article 6.21 was applied very selectively. While before 2021 it was mainly used as a basis for banning or dispersing public LGBTQIA+ events or protests, the situation has significantly worsened since 2021. The number of administrative sanctions in the form of a fine (which for individuals was 5,000 roubles) did not exceed 6-8 cases per year.

In 2014, Article 212.1 of the Russian Criminal Code⁷, the so-called “Dadin’s article”, was adopted establishing criminal responsibility for repeated violation of the established procedure for organizing or holding a meeting, rally, demonstration, procession or picket. If a person is brought to administrative responsibility for participating in an unauthorized assembly 3 times in 180 days, they may be sentenced to up to 5 years in prison.

In November 2022 there was **expansion of the ban on “gay propaganda” law**⁸, which prohibited any gay propaganda offline and online to anyone, not only minors, and imposed high administrative fines for breaking the law. The legislation prohibiting "propaganda of non-traditional sexual relations" was applied not only in the sphere of public actions (protests, rallies, pickets, websites of LGBTQIA+ organisations), but also in the private sphere. The grounds for initiating administrative proceedings under the article on propaganda are now images, videos or texts posted on social networks, sometimes even on private accounts, denounced by members of the law enforcement agencies.

Since 2022, LGBTQIA+ resources including sites of LGBTQIA+ organisations, LGBTQIA+ podcasts on Russian streaming services, LGBTQIA+ online communities on VKontakte

⁴ Code of Administrative Offences of the Russian Federation, https://www.consultant.ru/document/cons_doc_LAW_34661/

⁵ It is not an exhausting list of human rights that are limited or violated due to repressions of LGBTQ+ community in Russia, as all rights are interconnected.

⁶ Code of Administrative Offences of the Russian Federation, https://www.consultant.ru/document/cons_doc_LAW_34661/

⁷ Criminal Code of the Russian Federation, https://www.consultant.ru/document/cons_doc_LAW_10699/

⁸ <https://sozd.duma.gov.ru/bill/217472-8>

(the Russian social networking site), and many others have also begun to be [blocked](#) en masse for containing information "aimed at propagating non-traditional sexual relations". In 2022 and 2023, TV channels and streaming platforms were [fined](#) for "propaganda of non-traditional relations". In 2022, a Moscow court [fined](#) Meta and [Tiktok](#) tens of thousands of euro for refusing to take down what the authorities considered "LGBT propaganda". [Cinema screenings](#), theater plays, [books](#) and bookstores were also targeted. Aforementioned constitutes violation of right to access to information and freedom of assembly by the state and by businesses.

- **Traditional values and extremism, the result of Russian invasion to Ukraine**

Before the invasion of Russia to Ukraine in 2022, **the law "On combating extremism"** that was introduced in 2002⁹ was not used massively towards LGBTQIA+ NGOs and activists and **did not targeted** LGBTQIA+ community as such.

The invasion of Russia to Ukraine in 2022 and the Decree of the President of the Russian Federation dated November 9, 2022 No. 809 "*On approval of the Fundamentals of State Policy for Maintaining and Strengthening of Traditional Russian Spiritually-Moral Values*"¹⁰ escalated situation with LGBTQIA+ human rights and the position of human rights organisations, initiatives and activists. The signal was that LGBTQIA+ people and those who protect their rights are in danger and could be considered **as extremists**.

The Decree proclaims that

"A threat to traditional values is posed by the activities of extremist and terrorist organizations, certain media and mass communications, the actions of the United States of America and other unfriendly foreign states, a number of transnational corporations and foreign non-profit organizations, as well as the activities of some organizations and individuals on the territory of Russia."¹¹

Thus, protection of traditional values viewed by the State **as protection of national security**. Moreover, the Decree introduced the notion **"destructive ideology"**, however this notion is vague and is not incorporated in the law so far (but the discussion of the substance is an ongoing process in 2023). On the other hand, **"destruction of the traditional family through the promotion of non-traditional sexual relationships"** is explicitly mentioned in the Decree and targets any individual, legal entity or NGO working with SOGI¹². Those who produce such *"destructive*

⁹ Federal Law "On countering extremist activities", No. 114-FZ, July 25, 2002, <http://www.kremlin.ru/acts/bank/18939>

¹⁰ Decree of the President of the Russian Federation dated November 9, 2022 No. 809 "On approval of the Fundamentals of State Policy for Maintaining and Strengthening of Traditional Russian Spiritually-Moral Values, <http://actual.pravo.gov.ru/text.html#pnum=0001202211090019>

¹¹ Ibid, para.13

¹² Ibid, para.14

ideology" "pose an objective threat to the national interests of the Russian Federation"¹³.

Thus, **the Decree links threat to traditional values** (i.e. any destructive ideology, which is not clearly defined under Russian law) **with extremism** and criminal liability for such activities. Under the Decree, development and implementation of laws, plans, strategies, etc. is proclaimed¹⁴.

The **anti-transgender law** was introduced in July 2023, which banned transgender people from accessing gender affirming health services – including voluntary surgeries, the law also prohibited people from changing their name and legal gender.¹⁵ Such law places trans people outside the legal system, further marginalizing the group without a possibility to protest discriminatory law as the judicial system in Russia works in line with the regime.

On 30th of November 2023 the decision of Russia's Supreme Court constituting the "International Public LGBT movement" as an "extremist organization" was held (looking back, we could see the connection between the Decree and the Russian Supreme Court's decision). The decision of the Supreme Court equates any activities associated with LGBTQIA+ movement as extremism under the Federal Law "On countering extremist activities"¹⁶.

The Court ruling proclaimed that:

- **"Propaganda of destruction of the ideology of traditional family values"** and **"inciting social discord by criticizing anti-LGBT laws in Russia"** are several reasons to acknowledge the movement as extremist. Thus, anyone either not fitting the "ideology of traditional family values" (still undefined within Russian legislature) or criticizing passed legislature going against human rights standards might be persecuted as "extremist" on this basis.
- The court **decision referred to 40 organizations and 281 people belonging to "the movement"**, - their identities are unknown and will probably be revealed only through cases being launched against any particular person or organization (and this could happen in a randomized order and time frame across different Russian regions or simultaneously, we cannot make such assumptions).
- Among the attributes of "the movement's participants" were listed: "presence of certain mores, customs, traditions (e.g., gay pride parades), similar lifestyle (in particular, **the specifics of choosing sexual partners**), common interests and needs, specific language (**use of potential feminities**)". Firstly, such a statement negates the supposition that the decision on "extremism" would only concern activists and those who've been public – this could potentially be

¹³ Ibid, para. 16

¹⁴ Decree of the President of the Russian Federation dated November 9, 2022 No. 809, paras.25-

¹⁵ <https://sozd.duma.gov.ru/bill/369814-8>

¹⁶ Federal Law "On countering extremist activities", No. 114-FZ, July 25, 2002, <http://www.kremlin.ru/acts/bank/18939>

harmful for any queer person in Russia. Secondly, bringing femininities into this is an alarming development for feminist movement, on par with close ties of this court decision to “traditional family values”.

Under the ruling the following activities considered as “extremist”:

- the abbreviation "LGBT".
- "rainbow" flag and its variations, black and pink triangle, lambda, etc.; images of them on clothing, toys, accessories, etc.
- the words "lesbian", "gay", "bisexual", "transgender", "transsexual", "crossdresser", "drag queen", "drag king", "genderqueer", "asexual", "pansexual".
- calls for recognition of LGBT rights, same-sex marriage, allowing same-sex families to adopt and raise children, and anti-discrimination laws.
- LGBT literature.
- conducting events (i.e. that could be seen as LGBT-related).
- submitting alternative reports to international organizations.
- calls for protests and negative evaluations of laws.

The notion of extremism is vague and arbitrary applicable, there is no clear practice yet. Moreover, the extremist law is applicable for the past activities, before the movement was proclaimed as extremist. Thus, it places anyone who was active as an activist for LGBTQIA+ rights or was an open queer person at risk of being prosecuted for extremism. As of now, we registered [1 case](#) before the court dealing with LGBTQIA+ extremism.

The decision of the Supreme Court is discriminatory in its nature. Moreover, such a decision grants permission for social hatred towards the minority. Placing LGBTQIA+ movement in line with extremism, the Supreme Court opened up a repressive mechanism for limiting freedom of opinion and expression of any group or “destructive ideology” that constitutes “a threat to national interests” and goes against the “traditional values”. Moreover, after the Supreme Court’s decision the ‘witch hunt’ is officially started, any NGO, initiative or activist, any open queer person is in danger under the jurisdiction of its own State.

A ruling on recognizing [“international public LGBT+ movement” as extremist](#) **has no similar precedent worldwide**, and might result in some dire consequences: firstly, in further persecution of LGBTQIA+ people by the Russian authorities, and, secondly, might become something that could be used as a positive example by the **anti-gender movement** and by far-rights parties as a tool for undermining democratic trends.

Thus, aforementioned laws, decree, Supreme Court decision closely are discriminatory in nature, they disproportionately limit freedom of expression, freedom of assembly, freedom of association of LGBTQIA+ people, activists, NGOs and initiatives and make

it almost impossible to be open queer person in Russia. In those circumstances business will unlikely be human rights oriented. Moreover, some of the biggest businesses are affiliated (Gazprom, VK, Yandex) with the state or there is risk of affiliation, which potentially (or already¹⁷) could result in human rights violations by business. (Content and access to information, social networks and messengers and right to privacy and digital rights, freedom of speech).

When it comes to access to justice and remedy (in general and in case of business and human rights violation) there are almost no mechanisms to use to protect human rights at the regional or international level. After the invasion of Russia to Ukraine in 2022, Russia was excluded from the Council of Europe, therefore Russian LGBTQIA+ persons have been left with less mechanisms for strategic litigation, protection of human rights. Those mechanisms that are left (UN human rights system and OSCE) could not provide enforceability of a case' decision at the national level. There is high level of margin of appreciation of the state even when it comes to enforceability of the ECtHR decisions, the same applies to UN mechanisms.

4. Are there any positive steps taken to ensure the protection of the rights of LGBTQIA+ people in the activities of the State in its role as an economic actor, e.g. state-owned enterprises, public procurement agencies, trade missions, export credit agencies, privatization of public services, public-private partnerships, and trade and investment agreements?

No. There are a lot of affiliated businesses as was stated above, such businesses are dependent on the regime and legislation.

5. What measures does your government take to improve policy coherence across ministries and departments on issues related to the human rights of LGBTQIA+ people and responsible business conduct?

No measures are taken. As was stated above in question 3 – the State specifically targets LGBTQIA+ community and limits their rights, directly discriminate them.

6. Are there any measures taken by the State to ensure access to justice and to an effective remedy by LGBTI people for business-related human rights abuses, including to remove any existing barriers and to ensure that all types of remedial mechanisms, processes and outcomes are sensitive to the experiences of LGBTQIA+ people?

Generally, there is access to justice and to remedy for everyone. However, when it comes to LGBTQIA+ person, there are personal issues with fear, distrust in judicial system and there are institutional issues such as societal stigmatization, the practice not to investigate the case, delay it.¹⁸ After the invasion to Ukraine in 2022, it is almost

¹⁷ Yandex music has deleted any LGBTQIA+ content (podcasts) for Russian and international subscribers. <https://www.forbes.ru/forbeslife/499638-bolee-4000-edinic-kontenta-udaleny-s-andeks-muzyki-iz-za-fejkov-i-lgbt-propagandy>

¹⁸ According to our Database, in 2017 a gay man "X" was outed by his colleagues at work, his sexual orientation was forcibly revealed. Afterwards, he was exposed to psychological and physical violence and stigmatization at work based on his sexual orientation. In 2018 he sent a complaint on outing at work to the Investigative Committee of Russian Federation, but the Committee denied it. Then X, with the help

impossible to protect your rights as queer person due to Supreme Court's decision on extremism and propaganda law. As a queer person in Russia the State and the law do not protect your rights, oppositely, you are deprived of your rights and seen as "extremist", therefore, you could not express yourself freely as a queer person.

7. Please provide any examples of positive practices of businesses domiciled in your territory and/or under your jurisdiction which integrate a gender perspective that is inclusive of the experiences of LGBTQIA+ people into their activities, policies and processes, including in their human rights due diligence processes, to respect the human rights of all?

N/A.

8. Are there any positive practices of meaningful and equal participation of LGBTQIA+ people, movements and organizations in State-led decision-making initiatives and processes on business and human rights?

No. It is impossible now or even before 2022.

9. What support is provided by the State to assist and guide businesses in relation to respecting the human rights of LGBTQIA+ people, including in relation to the operations of business enterprises abroad?

The state does not provide any assistance or guidance for business in relation to respecting LGBTQIA+ people's human rights. On contrary, the state encourages and force business to discriminate LGBTQIA+ community by following discriminatory laws. It has a negative impact on reputation and earnings as well as such business activities violate LGBTQIA+ rights.

of human rights organization brought the case against the Investigative Committee on its denial to initiate a criminal case about outing at work. The Court ruled in favor of X, the Committee was obliged to restart investigation on the outing case. In 2020 the Investigative Committee decided not to institute criminal proceedings, however after X's appeal to the Court, the Court decided to restart investigation again. After the Russian invasion to Ukraine in 2022 and the start of widespread repressions, specifically towards LGBT+ community, and the unwillingness of the system to protect the rights of people, the case was lost and never brought to the Court.