

Russian Federation

MENTAL HEALTH AND HUMAN RIGHTS: LGBT+ PERSPECTIVE

Submission prepared by Sphere Foundation
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INTRODUCTION

This report is prepared by Sphere Foundation in the framework of the call issued by the Office of the High Commissioner for Human Rights on the topic “Mental Health and Human Rights”.

Sphere Foundation (spherequeer.org) is a human rights organisation that has been advocating for the rights of the LGBT+ community in Russia since 2011. 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 LGBT+ 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, Sphere Foundation has taken an active stance against the war.

1. Existing enabling normative and policy measures at the local and national levels in Russia applied for the realization of the human rights of persons with psychosocial disabilities and current or potential users of mental health services: General context

Article 41 of the Russian Constitution guarantees the right to health protection and medical care.

In 2012 Russia ratified the UN Convention on the Rights of Persons with Disabilities (hereafter – UN CRPD) and subsequently the Federal Parliament passed the implementing legislation¹. However, the laws implementing the Convention did not contain any provisions addressing special needs of persons with psychosocial disabilities. Likewise, the governmental programme “Accessible Environment” (2011 - ...) which was approved as a road map for implementing the Convention contains no measures for persons with mental health issues².

The law implementing the UN CRPD established prohibition of discrimination on account of disability. However, the anti-discrimination provision omitted the concept of reasonable accommodation. As a consequence, the doctrine of reasonable accommodation is rarely invoked in Russian policy documents or judicial practice. We are not aware of any measures aimed at accommodating needs of persons with mental health issues or intellectual disabilities.

In Russia there is no separate anti-discrimination law, though persons with disabilities are limited in protecting their rights and usually the access to fair trial is not fully guaranteed for them.

Psychiatric services are regulated by the Law no. 3185-1 of 2 July 1992 “On Psychiatric Care and the Citizens’ Rights related to its Provision” (“Psychiatric Care Act”). This act provides for many substantive and procedural guarantees which largely correspond to international human rights standards. The Psychiatric Care Act prohibits limitations of rights on account of mental disability or previous hospital admissions, however, in the absence of comprehensive anti-discrimination legislation in Russia and in light of numerous limitations on the rights of persons with mental disorders their stigmatization persists.

The Supreme Court of Russia publishes quarterly digests of the views of the UN treaty bodies, including those of the UN CRPD. However, implementation of such guarantees is poor due to proliferation of unofficial practices that perpetuate a highly restrictive regime of psychiatric care: patients of mental hospitals and residents of psychiatric boarding homes are subject to automatic and drastic limitations of their rights regardless of whether they are treated on a voluntary or compulsory basis³.

Until 2015 plenary guardianship⁴ had been the only measure of protection for persons with mental illness. Partial guardianship (trusteeship) was introduced in 2015 as a less restrictive alternative in accordance with the UN CRPD. However, the removal of legal

¹ Federal Law of 1 December 2014 no 419- FZ on Amendments to Certain Legislative Acts Concerning Social Protection for People with Disabilities Following Ratification of the CRPD.

² The Ministry of Labour and Social Protection of the Russian Federation. The State Programme “Accessible Environment” (as amended) for 2011-2021 and 2022-2030. <http://www.rosmintrud.ru/ministry/programms/3/0>

³ For a recent overview see: *Psychiatry in Russia – an Outsider of the System Stuck in the Past*. MedRussia, 17 October 2019: <https://medrussia.org/32326-psikhiatriya-rossii-autsayder/> (in Russian); *Russia: Psychiatric reform stalled by stereotypes and lack of money*, Eurasianet, 16 September 2019: <https://russian.eurasianet.org/россия-реформа-психиатрии-тормозится-из-за-стереотипов-и-нехватки-денег> (in Russian);

⁴ In accordance with Article 29 of the Civil Code of the Russian Federation plenary guardianship means substituted decision-making in virtually all spheres of transactions.

capacity of a person suffering a mental illness resulting in substituted decision-making is still the default measure of protection. A finding of legal incapacity has drastic consequences for the person's life and in reality, results in total exclusion from decision-making and often leads to life-long institutionalisation in closed facilities. A person deprived of legal capacity can be detained in a mental hospital without any medical justification, such person can be locked in a social care home without his consent⁵. Despite the reforms of procedural rules governing deprivation of legal capacity, it is still commonplace that a person can be judged legally incapable without being notified of the court proceedings against him. Thus, the criticism of the Russian system in *Shtukaturov v. Russia*⁶ is still relevant in many aspects.

The 1992 Psychiatric Care Act provided for a state-run service for protecting rights of patients in mental hospitals. This provision had never been implemented and eventually was repealed in 2024.

2. Challenges encountered and good practices in the implementation of enabling normative and policy measures: LGBT+ perspective

2.1 General context and challenges

- The Federal Law on Social Services prohibits 'placement of children with disabilities having no mental disorders at social care institutions designed for children with mental disorders and vice versa'. This provision perpetuates stigmatization of children with mental disabilities by legitimizing their exclusion from general social care services⁷.
- A person with mental disability declared legally incapable automatically loses important human rights in many spheres. In case of institutional care removal of legal capacity means that such person is placed under plenary guardianship of the institution which assumes virtually unlimited control over financial and personal decisions. The institution thus acts as a service provider and a legal representative of the resident. The law does not provide for effective guarantees against this conflict of interests.
- People with mental illness are also discriminated against in family law. A parent declared legally incapable due to psychosocial disability is automatically deprived of his or her parental rights and in the absence of the other parent the child is transferred into state custody⁸. There are no measures in place to accommodate special needs of parents with mental illness and a diagnosis of a mental disorder can be the only reason for restricting parental rights⁹.
- Psychiatric healthcare is legally and physically separated from the rest of the medical profession. State¹⁰ mental hospitals are extremely closed prison-like institutions, often in a dilapidated state. They perpetuate the stigmatization of

⁵ See: Mental Disability Advocacy Center (MDAC). Guardianship and Human Rights in Russia. Analysis of Law, Policy and Practice. 2007. Despite some legislative changes implemented since this report was published, the overall characteristic of the guardianship regime in Russia remains valid.

⁶ See: *Shtukaturov v. Russia*, no. 44009/05, judgment of 27 March 2008.

⁷ Federal Law of 28 December 2013 no. 442-FZ "On the fundamentals of social services for citizens in the Russian Federation", section 12.

⁸ Family Code of the Russian Federation, Article 121(1).

⁹ See European Court of Human Rights. *Kocherov and Sergeyeva v. Russia*, no. 16899/13, judgment of 29 March 2016.

¹⁰ Private mental hospitals are almost non-existent in Russia with the exception of a few large cities. Inpatient beds in private mental hospitals are very expensive.

those with mental health issues. Large long-term social care institutions (psycho-neurological boarding homes, or “internats”) have been the only available specialized social care services for people with intellectual or mental health problems. Persons with mental health issues are excluded from general social care services. Whereas in theory social services are supposed to work with persons with mental health issues if they require care or support in the community, in practice social services (which are state-run) often refuse to work with persons with mental health issues due to their “dangerousness”, regardless of the true nature of the disorder.

- There are no state rehabilitation programmes for persons with mental illness aimed at integrating them in the community apart from temporary “dormitories” with a few large mental hospitals designed to foster transition into the community after a long hospital stay. The effectiveness of such dormitories is limited because they neither cooperate with social services nor implement any programmes for persons with severe mental disorders who lack own housing or family support. Although employment legislation provides for so called quotas for persons with disabilities at large enterprises, the quotas system does not require employers to accommodate needs of people with a particular disability, including mental illness. In practice, many jobseekers with mental illness prefer not to use the benefits out of fear of being rejected for a particular post on account of mental illness.
- There over 150 000 residents of psychoneurological boarding homes in Russia. Although the Federal Law on Social Services applies to persons with psychosocial disabilities, their admission and discharge to social care facilities is excluded from this law and instead regulated by the 1992 Psychiatric Care Act.
- In 2022 the 1992 Law on Psychiatric Care concerning admission of persons with mental disabilities was amended. Effective from 1 September 2024 placement of persons in social care homes for persons with mental disabilities who lack legal capacity is effectuated based on the request of their guardian. Subject to Article 35 of the Civil Code when a person is placed under supervision of a mental health hospital the latter is considered the person’s guardian by virtue of law. It follows that the mental hospital has an ultimate decision-making power regarding inpatients deprived of legal capacity. Likewise, a social care facility is by law entrusted with guardian powers with regard to residents lacking legal capacity which perpetuates conflict of interests and deprives people with mental disabilities of effective guarantees against abuses, life-long institutionalisation and arbitrary deprivation of liberty.

2.2 LGBT+ perspective

- In February 2024 Russia suspended the ICD-11, that had been in force since 2022 in Russia. The reason behind the suspension is that the approaches to treating LGBT+, pedophilia, and transgenderism proposed by the WHO contradict “traditional values” enshrined in the Constitution of the Russian Federation¹¹.
- While there have been a number of alarming reports documenting the so called “conversion therapies” in Russia¹², the Russian psychiatry has never

¹¹ <https://asi.org.ru/news/2024/02/05/rossiya-priostanovila-perehod-na-novuyu-versiyu-mezhdunarodnoj-klasifikaczii-boleznej/>

¹² See: The Insider. At least 12 organizations in Russia offer services for “curing homosexuality”, 4 March 2024. <https://theins.ru/news/269678>

officially denounced such practices. It is virtually impossible to openly discuss LGBT+ mental health issues in Russia following adoption of legislation banning the so called “promotion of homosexuality” and the 2023 decision of the Russian Supreme Court declaring “international LGBT Public movement” an extremist organization¹³. As a consequence, access by LGBT+ persons to quality mental health services are limited.

- When it comes to intersection of identities, for instance, mental disability and sexual orientation or gender identity, it puts such a person in a more vulnerable position. Stigma around LGBT+ persons as well as around disability creates a scenario where LGBT+ persons with mental health issues are afraid to come to state hospital to seek help, and, on the other hand, paid services or hospitals are not friendly and their services usually at a high price that limits the access to such help.
- In 2023 the Russian Federal Parliament passed legislation explicitly prohibiting medical interventions aimed and changing sex and legal recognition of gender reassignment¹⁴ despite the fact that for many years Soviet and Russian medical profession recognized gender-affirming treatments as essential component of health care for transgender individuals. Following the adoption of this law the Russian Psychiatric Society adopted clinical guidelines for gender identity disorders which completely excluded any interventions aimed at supporting gender transition and instead confined itself to psychotherapy to reconcile the individual with his or her legal gender¹⁵. As a consequence, transgender individuals are denied access to medical care in accordance with internationally recognized standards, including mental health care. Transgender individuals are outside of the legal system in Russia.
- Strict bans on discussing LGBT+ issues have been implemented in Russian schools, affecting psychologists and educators under the so-called “gay propaganda law.” As a result, LGBT+ adolescents are denied access to qualified psychological support and are unable to openly discuss their identity. These restrictions intensify feelings of isolation, fear, and inner conflict among LGBT+ youth, significantly increasing the risk of depression, anxiety disorders, and suicidal behavior.

2.3 Good practices

- Despite the lack of the political will on the federal level, there are examples of good practices on the regional level, such as the Service for protecting rights of people with mental disabilities and orphaned children in Nizhniy Novgorod which can be regarded as a model and efficient initiative. The service is funded by the regional government and is institutionally independent from mental health and social care services. Its mandate includes provision of free legal aid to mental health users.
- The spread of online mental health services.
- There are good psychologists in schools, orphanages and kindergartens, however, in the regions the situation much worse.

¹³ <https://www.rbc.ru/politics/30/11/2023/6568458b9a79471364217d98>

¹⁴ Federal Law of 24 July 2023 no. 386-FZ.

¹⁵ Russian Society of Psychiatrists. Gender Identity Disorders. Clinical Guidelines. 2024.

3. Whether and if so, how, the OHCHR's Mental Health Guide (Mental health, human rights and legislation: guidance and practice) was used and any feedback on the Guide itself

The OHCHR Guide *Mental Health, Human Rights, and Legislation: Guidance and Practice* has not been used for reviewing legislative or policy measures in Russia.

4. Suggestions of other policy tools for the implementation of a human rights perspective to mental health mindful of the centrality of mental health for the full realization of the right to health: LGBT+ perspective

According to Sphere's Psychological support program, the following legislative and policy changes should be implemented in Russia:

- **Discriminatory anti-LGBT+ laws should be abandoned**

Gay propaganda law, law prohibiting medical interventions aimed at changing sex and legal recognition of gender reassignment, the Supreme Court's ruling on extremism should be abandoned as it contradicts international human rights standards.

- **Deinstitutionalization and promotion of community-based care**

Russia must prioritize the gradual closure of psychoneurological institutions (PNIs) and shift toward community-based mental health care services. The PNI system violates human dignity by isolating individuals and denying them access to societal integration. Deinstitutionalization should be accompanied by the development of supportive community networks, rehabilitation programs, and inclusive housing solutions, allowing people with psychosocial disabilities to live independently and participate fully in society. This transition is crucial for protecting their rights to autonomy, freedom of movement, and non-discrimination.

- **Ending forced and non-consensual treatment**

Forced psychiatric treatments, including hospitalization and medication without informed consent, must be abolished. Mental health services should respect the autonomy of individuals and their right to make decisions about their own treatment. Policies must ensure that people have access to information about their condition and available treatment options, empowering them to make informed decisions about their mental health care. Mental health professionals should receive training on respecting the rights and wishes of patients, focusing on consent, dignity, and personal agency.

- **Prohibition of conversion therapy and elimination of discrimination in mental health care**

Conversion therapy, aimed at changing a person's sexual orientation or gender identity, must be explicitly banned. Mental health care professionals should adhere to internationally recognized standards, which affirm that sexual orientation and gender identity are not mental illnesses. Legal frameworks must prohibit any form of discrimination against LGBT+ individuals in accessing mental health services. Mental health policies should ensure that all people, regardless of their identity, can access supportive, non-discriminatory care that respects their dignity and personal autonomy.

- **Ensuring access to gender-affirming health care for transgender individuals**

The government should repeal the law prohibiting medical interventions aimed at changing sex and legal recognition of gender reassignment and instead establish policies that guarantee access to comprehensive, gender-affirming health care for transgender individuals. Access to hormone therapy, surgeries, and legal gender recognition must be available without unnecessary bureaucratic barriers.

- **Training of mental health professionals on human rights standards**

Mental health professionals, including psychologists, psychiatrists, and social workers, must undergo mandatory training on human rights-based approaches to mental care.

- **Developing safe spaces for adolescents to discuss gender and sexual identity**

The bans on discussing LGBT+ issues in schools should be lifted, and psychologists and educators should be allowed to provide inclusive and supportive environments for all students. Adolescents must have access to mental health services that are free of stigma and discrimination, where they can openly discuss their concerns about gender and sexual identity. This will significantly reduce the risk of suicidal behavior and mental health crises among LGBT+ youth by providing them with the resources and support they need to navigate challenges related to their identity.

- **Creating a national strategy for promotion of mental health**

Russia should adopt a national strategy for mental health that is aligned with international human rights standards. This strategy should prioritize the protection of vulnerable groups, promote access to mental health services for all, and reduce the stigma surrounding mental illness and psychosocial disabilities.

5. Disaggregated data on persons with psychosocial disabilities and current or potential users of mental health service, as well as mental health services, including community-based services

We have limited information about statistics provided by the state's organizations, moreover, such data is limited. Therefore, we share statistics from the Sphere's Psychological support program to LGBT+ persons between 2022 – August 2024.

Common themes for requests:

Depression, loneliness, anxiety, fear, apathy, problems with parents, relationship issues, low self-esteem, parental homophobia, how to come out, sleep problems, loss of interest in life, sexual issues, inability to handle stress, fatigue, burnout, gender dysphoria, homophobic/transphobic environment, social phobia, difficulties in finding a job, panic attacks, learning to deal with emotions, challenges with boundaries and taking responsibility, struggles to find close people and build relationships, stress from emigration, body dissatisfaction, defining one's gender identity and/or sexual orientation, dealing with relationship breakups, difficulty expressing feelings.

In 2022, our psychologists conducted **799** psychological consultations. 799 consultations were provided to **275** people: 141 women, 98 men, 36 transgender, non-binary, and gender non-conforming people. Among them, 34 individuals were at risk of suicide.

In 2023, our psychologists conducted **708** psychological consultations. 708 consultations were provided to **248** people: 109 women, 58 men, 56 transgender, non-binary, and gender non-conforming people, 25 adolescents. Among them, 57 individuals were at risk of suicide.

In January 2024, our psychologists conducted **78** psychological consultations for **47** people. 78 consultations were provided to: 21 women, 10 men, 9 transgender, non-binary, and gender non-conforming people, 7 adolescents. Among them, 10 individuals were at risk of suicide.

In February 2024, our psychologists conducted **85** psychological consultations for **34** people. 85 consultations were provided to: 14 women, 8 men, 8 transgender, non-binary, and gender non-conforming people, 4 adolescents. Among them, 6 individuals were at risk of suicide.

In March 2024, our psychologists conducted **123** psychological consultations for **59** people. 123 consultations were provided to: 21 women, 16 men, 18 transgender, non-binary, and gender non-conforming people, 4 adolescents. Among them, 8 individuals were at risk of suicide.

In April 2024, our psychologists conducted **126** psychological consultations for **57** people. 126 consultations were provided to: 16 women, 12 men, 24 transgender, non-binary, and gender non-conforming people, 5 adolescents. Among them, 14 individuals were at risk of suicide.

In May 2024, our psychologists conducted **104** psychological consultations for **52** people. 104 consultations were provided to: 19 women, 12 men, 13 transgender, non-binary, and gender non-conforming people, 7 adolescents, 1 other. Among them, 23 individuals were at risk of suicide.

In June 2024, our psychologists conducted **122** psychological consultations for **57** people. 122 consultations were provided to: 15 women, 10 men, 12 transgender, non-binary, and gender non-conforming people, 19 adolescents, 1 other. Among them, 34 individuals were at risk of suicide.

In July 2024, our psychologists conducted **151** psychological consultations for **66** people. 151 consultations were provided to: 18 women, 10 men, 17 transgender, non-binary, and gender non-conforming people, 21 adolescents. Among them, 41 individuals were at risk of suicide.

In August 2024, our psychologists conducted **91** psychological consultations for **47** people. 91 consultations were provided to: 14 women, 8 men, 13 transgender, non-binary, and gender non-conforming people, 1 other, 11 adolescents. Among them, 26 individuals were at risk of suicide.

Thus, between January – August 2024, 419 people has already received help, when in 2023, in total, there were 248 people, in 2022 – 275, which constitutes large-scale demand for psychological help among LGBT+ people in Russia. Moreover, 2024 statistics illustrates the rise of transgender persons who seeks help.