

**DISCRIMINATION AGAINST
MEMBERS OF THE LGBT
LGBT+ COMMUNITY IN
THE OCCUPIED CRIMEA ON
THE GROUNDS OF SEXUAL
ORIENTATION AND GENDER
IDENTITY**



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Throughout the course of occupation of the Crimean peninsula the Russian Federation has been systematically implementing discriminatory policies against members of the LGBT+ community. It has established an atmosphere of fear and hatred in Crimea, which prevents LGBT+ people from fully exercising their rights and forces them to leave their homes and move to mainland Ukraine or abroad. As of 2014, the number of representatives of the LGBT+ community in Crimea amounted to approximately 16,200 persons, however, the number of people who remain in the territory in 2023 is unknown.

The Russian Federation does not recognize the state of occupation, so it has extended its legislation and law enforcement practices to the peninsula. Formally, the Constitution and sectoral legislation of the Russian Federation enshrine the principle of equality between all persons, but it is not applied in practice. Criminal liability for discriminatory acts is not provided for, and the courts never impose administrative sanctions for the violation of the principle of prohibition of discrimination on the basis of sexual orientation. Furthermore, labor and family legislation contains discriminatory provisions, as well as legislation on protection of children's rights. For instance, the Code of the Russian Federation on Administrative Offenses stipulates liability for propaganda of «non-traditional sexual relations» among minors.

The European Court of Human Rights in its decision (*Alekseev v. Russia and Baev and others v. Russia*) noted that the refusal of the Russian authorities to grant permission to hold an Pride march was a violation of the European Convention on Human Rights and rejected the argument that the resistance to the Pride march and the subsequent administrative prosecution of the participants was justified.

The UN Human Rights Committee, in turn, stated that the applicant's conviction under the Code of Administrative Offences, which prohibits "public actions aimed at promoting homosexuality among minors," violated her right to freedom of expression together with the right to freedom from discrimination (*Irina Fedotova v. Russian Federation (communication No. 1932 (2010))*).

In addition, the UN Committee Against Torture recognized the ineffectiveness of investigations carried out by the Russian Federation in cases of violent attacks on members of the LGBT+ community.

In autumn 2022, a draft law on complete ban on «propaganda of non-traditional sexual relations» among adult citizens through display of information about LGBT+ people on the Internet, in media, books, audiovisual services, cinema, and advertising was approved in two readings, which provides for amendments to sectoral legislation and introduction of liability. In addition, in June 2023, a draft law banning gender reassignment surgery was adopted in the first reading. Such changes to the legislation, if further adopted, will significantly deteriorate the situation with the rights of LGBT+ persons in Crimea.

Due to the implementation of rhetoric targeted against members of the LGBTI+ community spread by Russia, the number of human rights violations in Crimea has increased, which are justified by the so-called «preservation of morality». One of the propaganda narratives used by the Russian authorities is the opposition of «traditional values» to «homosexual Europe.» This is particularly manifested in the statements of the occupation authorities representatives. For example, the Minister for Internal Policy, Information, and Communications of the so-called «Republic of Crimea» Dmitry Polonsky stated as follows:

«We can recommend that they go to free Gayrope and walk the streets of the capitals of European countries where there is complete tolerastia (tolerance, but in a bad way). They shouldn't come to our heroic land and walk around with rainbow ribbons»

One of the consequences of propaganda has been a surge of hate-motivated violence. Such attacks are carried out not only against members of the LGBT+ community, but also against people who may resemble them by certain external features. The attacks are carried out by both individuals and organized groups; the perpetrators often shout homophobic slogans while inflicting bodily injuries. At least during 2014-2016, the right-wing radical movement «Occupy-Pedophile» has been operating in Crimea, whose members used to organize meetings with representatives of the LGBTI+ community, commit violent acts, film them, and further distribute on the Internet.

Throughout the entire period of occupation of Crimea, not a single equality march was held due to the fact that the courts, referring to Russian federal legislation, did not allow for them to be held, as there is allegedly a «legal prohibition of dissemination of information among minors that is harmful to health and/or development of children, denies

family values, promotes non-traditional sexual relations». The occupation authorities, in turn, justify this practice stating that «there are no LGBT+ people in Crimea». The occupation authorities, in turn, justify this practice by denying the presence of the LGBT+ presence in Crimea.

As a result of the illegal extension of Russian legislation on the territory of Crimea, medical records of persons include homosexual orientation as a mental illness. Consequently this prevents members of the LGBT+ community, who require medical examination to be employed, from exercising their right to work. Moreover, under the conditions of occupation, the number of dismissed members of the LGBT+ community has increased, especially among educators.

Discrimination is continuously perpetrating other areas. Since 2014, substitution maintenance therapy programs for people with HIV/AIDS have been recognized as illegal, which denied access of people with this diagnosis to proper medical care. Minors within the LGBT+ community are unable to seek psychological assistance. In many cases, transgender people whose appearance and data did not match those in the old passport were unable to obtain a new one and were effectively left without documents, as the Russian Federation imposes Russian citizenship on Crimean residents. Furthermore, as a result of constant persecution by the occupation authorities, many LGBT+-oriented entertainment venues were forced to cease activities in Crimea. Thus, almost all LGBTI+ initiatives that existed before the occupation have disappeared. For example, the “Friends” hotel and the “Qbar” gay bar in Sevastopol were closed, and the “Yizhaky” bar significantly limited its activities.

Violation of international law

The persecution of LGBT+ people in Crimea by the Russian Federation constitutes a violation of the International Covenant on Civil and Political Rights, in particular the right to privacy, the right to freedom of expression, freedom of association and the prohibition of discrimination.

Moreover, the implementation of discriminatory policies constitutes a violation of the European Convention on Human Rights, in particular the right to respect for private and family life, the right to freedom of expression, the right of peaceful assembly, and may account for discrimination.

The actions of individuals responsible for the implementation of the policy of persecution of members of the LGBT+ community display signs of a crime against humanity under Article 7(1)(h) of the Rome Statute of the International Criminal Court (persecution of an identifiable group or collectivity). Hate-motivated violence against civilians, which is tolerated and even approved by the occupying power could be qualified as a war crime under Article 8(2)(a)(iii) of the Rome Statute of the International Criminal Court (wilfully causing great suffering, or serious injury to body or health).

Officials and authorities of the Russian Federation responsible

At the federal level, those responsible for the implementation of discriminatory policies against the LGBT+ community are the President of Russian Federation Vladimir Putin, Prime Ministers Dmitry Medvedev (2012–2020) and Mikhail Mishustin (since 2020), the Chairperson of the Federation Council of the Federal Assembly of the Russian Federation Valentina Matviyenko.

At the local level of the «Republic of Crimea and the city of Sevastopol» those responsible are:

- Head of the “Republic of Crimea” Sergey Aksyonov;
- Chairman of the State Council of the “Republic of Crimea” Vladimir Konstantinov;
- mayors of cities that ban Pride marches;
- officials who do not respond to violent attacks motivated by homophobia and judges of occupation courts who tolerate such practices in the administration of justice;
- persons who fail to supervise compliance with the anti-discrimination provisions of the Occupying Power’s labor laws;
- officials who have spread hostile rhetoric against members of the LGBT+ community;
- persons who do not take measures to exclude homosexuality from the list of mental illnesses that impede the right to work.

The full text
of the analytical report



