

Alekseyev v. Russia (App. No. 4916/07) and Bayev v. Russia (App No. 67667/09)

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Speaker: Nigel Warner, ILGA-Europe, Council of Europe adviser

The *Alekseyev v. Russia* cases address bans on demonstrations promoting tolerance and respect for the human rights of LGBTI persons in 2005, 2006 and 2007, and the absence of an effective remedy to challenge those bans. The European Court of Human Rights found violations of Convention Articles 11 (right to freedom of assembly), 13 (right to an effective remedy), and 14 (prohibition of discrimination) taken in conjunction with Article 11.

The *Bayev v. Russia* case addresses violations of the right to freedom of expression and discrimination on account of fines imposed on the applicants for displaying banners considered to promote homosexuality among minors against the regional laws prohibiting such “propaganda”, adopted in several regions since 2006, and followed by a nation-wide law of 2013 similar to that effect (violations of Article 10 and of Article 14 in conjunction with Article 10).

The main argument advanced by the RF in support of these laws – that they are necessary to protect minors from information about homosexuality – was dismissed by the ECtHR as “lacking any evidentiary basis”.

State of Execution - Alekseyev

The execution of judgments process in this case has now been proceeding for 7 ½ years. Not only has there been no serious attempt to implement the judgment, but similar freedom of assembly violations continue unabated.

The so-called “propaganda of homosexuality” law continues to be used to ban events despite repeated expressions of concern by the Committee of Ministers, despite the ECtHR’s ruling in the Bayev case and despite a ruling by the Constitutional Court of the RF in September 2014 that appeared to restrict the application of the federal “propaganda” law in the field of freedom of assembly.

The latest Action Plan of the Russian Federation offers no evidence of any improvement or prospect of improvement in the situation.

State of Execution – Bayev

With the Bayev judgment relatively recent (June 2017), this is the first occasion on which the case has come up for consideration at the CM DH meeting.

The Action Plan offers no general measures for the implementation of the Bayev judgment, referring only to the holding of “consultations” with competent state authorities. Indeed, it appears to repudiate the judgment, citing a ruling of the RF Constitutional Court to the effect that the “propaganda laws” are consistent with the Constitution.

The “propaganda laws” continue to be used to the detriment of LGBT youth, denying them access to essential information, not least in relation to health issues.

Key Issues

- Why are the general measures claimed by Russian authorities wholly ineffective?
- Why is the Constitutional Court ruling restricting the use of the “propaganda law” in relation to freedom of assembly completely ignored by lower courts?
- The repudiation of the Bayev judgment in the Action Plan is justified on the basis of the supposed danger to minors’ health of information about homosexuality – an argument dismissed by the ECtHR as “lacking any evidentiary basis”.

Main Recommendations

- To request to the Russian authorities to put forward a comprehensive and detailed action plan to ensure execution of the Alekseyev and Bayev judgments, including repeal of legislation prohibiting so-called “propaganda of homosexual relations”.
- To continue to obtain information on the treatment of notifications to hold public events similar to those in the Alekseyev case.

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