



I G L H R C

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Mr. Yuri Michailovich Luzhkov, Mayor of Moscow City

Mr. Rashid Gumarovich Nurgaliyev, Minister of Interior of Russian Federation

May 16, 2008

Open letter: Respect and protect the human rights of all in Moscow, including lesbian, gay, bisexual, and transgender people

Mr. Mayor, Mr. Minister of Interior,

As they have in each of the past two years around this time, lesbian, gay, bisexual, and transgender (LGBT) people in Moscow will attempt to exercise their rights to free expression, assembly, and association by holding public demonstrations to publicize the injustices they face simply because of their sexual orientation or gender identity. In each of the past two years, their request for authorized demonstrations were denied, and when trying to voice their claims in the streets of Moscow, they faced both the violence of their opponents, and arrest by the police. We ask that their request and public demonstration be handled differently this year.

We are writing to you on behalf of the International Gay and Lesbian Human Rights Commission (IGLHRC) and the European Region of the International Lesbian and Gay Association (ILGA-Europe), human rights organizations working for equality and nondiscrimination for LGBT people, recognizing your authority as mayor to authorize demonstrations in Moscow and as minister of interior to oversee the security of the public, including that of participants in demonstrations. We are also acknowledging your influence, as high-level representatives of the local and central government, on public opinion in Russia. We are writing to ask you to use your authority and your influence in order to respect and protect the human rights of all people in Moscow, including LGBT people. We present a few considerations towards this end.

As human rights organizations, we turn first to human rights principles and international human rights law, especially the European Convention of Human Rights and its case law, which Russia is mandated to observe as a member of the Council of Europe. Two fundamental principles are human rights universality and equality. These laws and principles make no exceptions for LGBT people. LGBT people have the same human rights as any other citizens in Russia, and as in any other member state of the Council of

Europe or the United Nations. They include the rights to peacefully express their views and to assemble in public spaces to voice those views.

The European Court of Human Rights made a decision on these issues. The Court found Poland in violation of the European Convention because the Mayor of Warsaw did not authorize a LGBT march in 2005 (*Bączkowski and Others v. Poland*, 2007, violations of Art. 11 on freedom of association and assembly, Art. 13 on the right to an effective remedy, and Art. 14 on nondiscrimination).

The Court also established that “democracy does not simply mean that the views of the majority must always prevail: a balance must be achieved which ensures the fair and proper treatment of minorities and avoids any abuse of a dominant position.” In *Plattform Ärzte für das Leben v. Austria* (1985), the Court explicitly stated its principled position that: “A demonstration may annoy or give offence to persons opposed to the ideas or claims that it is seeking to promote. The participants must, however, be able to hold the demonstration without having to fear that they will be subjected to physical violence by their opponents; such a fear would be liable to deter associations or other groups supporting common ideas or interests from openly expressing their opinions on highly controversial issues affecting the community. In a democracy, the right to counter-demonstrate cannot extend to inhibiting the exercise of the right to demonstrate.”

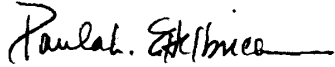
The Court also established that “a genuine and effective respect for freedom of association and assembly cannot be reduced to a mere duty of the state not to interfere.” The state incurs positive obligations to secure the effective enjoyment of these freedoms. This includes the obligation of the police to ensure the security of all people voicing a political message in the street, whether in an authorized demonstration or not, and whether or not the majority shares the same view. The Council of Europe’s *European Code of Police Ethics* (2001) speaks explicitly about the role of the police that goes beyond recognizing human rights to safeguarding them.

Demonstrations, marches, and other public events are organized by LGBT people in many parts of the world as a means to claim their space in civil society and to draw attention to the human rights violations they regularly confront. This exercise of free expression, assembly, and association has become a core vehicle for social change for LGBT people. Through such public events the majority in society learns about differences in general, and different sexualities in particular. Little by little, prejudice and misconceptions about LGBT people diminish. On the other hand, by witnessing such public events, LGBT people who live in fear because of their difference can see not only that their opponents may voice ideas in the street, but also that their supporters may exercise the same rights; this way, LGBT people can regain their confidence, dignity, and hope. They take part in building a community.

Not only the majority, but also the LGBT minority looks toward you as mayor and minister of interior to represent them and to respect and protect their human rights. Protecting LGBT people’s security and rights to free expression, assembly, and association does not infringe upon the rights of those who have different views and, as we

have seen, already express them.

Make this year different. Use your authority to allow the LGBT rally to occur, and work with the police to ensure that the safety of all is the highest priority of the day.



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Executive Director
IGLHRC



Patricia Prendiville
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IGLHRC works to secure the full enjoyment of the human rights of all people and communities subject to discrimination or abuse on the basis of sexual orientation or expression, gender identity or expression, and/or HIV status. A US-based nonprofit, nongovernmental organization, IGLHRC effects this mission through advocacy, documentation, coalition building, public education, and technical assistance.

ILGA-Europe is the European Region of the International Lesbian and Gay Association, a nongovernmental umbrella organization which represents over 220 member organizations at the European level. ILGA-Europe works towards a world in which the human rights of all people are respected and everyone can live in equality and free from discrimination on the grounds of sexual orientation, gender identity or expression.