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RE: FEDERAL LAW NO. 135-FZ

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Introduction

The aim of this memorandum is to give an overview of the recently enacted Federal Law of June 29, 2013 No. 135-FZ “On Amendments to Article 5 of the Federal Law On Protection of Children from Information Harmful to their Health and Development and to Certain Legislative Acts of the Russian Federation with the Aim of Protecting Children from Information that Promotes Negation of Traditional Family Values” (**Law No. 135-FZ**).

The law has spurred much controversy in the Western media and led many homosexual agenda groups to call for a boycott of the Winter Olympic Games to be held in Sochi in 2014. To be clear, media reflections regarding the law have been grossly exaggerated and have provided a distorted view of the aims and scope of the law in question.

Law No. 135-FZ

Polling has indicated that Law No. 135-FZ is incredibly popular in the Russian Federation as a means of protecting family values and the law was passed by a vote in the Duma with one hundred per cent approval. The law is an amendment to an existing larger statutory prohibition of activities aimed at harming children and hurting family life in the Russian Federation. The amendment prohibiting the propagation of any activity aimed at harming the psychological or physical well-being of minors does include, *inter alia*, propaganda promoting alternative sexual life-styles. However the law, as originally drafted (and maintained after the enactment of the much maligned amendment) also prohibits the promotion of any sexual lifestyle harmful to minors, including those involving heterosexual acts. The law forbids, in a similar nature, any act which promotes the use of intoxicating drugs, alcohol, denies family values, promotes gambling, contains strong language or promotes offending language.

Precisely stated, the law does not prohibit:

- homosexual behavior (homosexual sodomy was decriminalized in the Russian Federation in 1993);
- publicly identifying with same-sex attraction;
- holding public debates and/or events on the issue of social status of LGBT groups;
- the formation and functioning of LGBT associations or interest groups;

Furthermore:

- the law is administrative and not criminal (therefore no punishment of imprisonment is allowed under the law);
- it does not permit any interference in the private life of Russian citizens;
- it does not authorize arbitrary detentions or arrests as has been widely publicized;
- the law, as with all other laws in the Russian Federation and the Council of Europe, remains under the supervision of the European Court of Human Rights.

Misreporting by the media

Comparisons made in the media, like those of broadcaster and television presenter Stephen Fry in his open letter to British Prime Minister David Cameron,¹ that because of the enactment of Law No. 135-FZ the Sochi Olympic games must now be compared to those held in Berlin in 1936 under the tyrannical rule of Adolf Hitler lack credibility and are a grave insult to the countless millions who died as a result of Nazi aggression. To be pointedly obvious, Law No. 135-FZ is incomparable to what took place in Nazi Germany. The law has led to no war, no deaths and no internments in concentration camps whereas World War II saw the death of approximately 5.9 million Jews. World War II also resulted in the death of an estimated 30, 000 million Russians (2-3 million of which themselves were prisoners of war); brave men and women who gave their lives to defeat Adolf Hitler and the Nazi forces.

Major media outlets have also grievously breached their journalistic obligations by creating threats in the law which are nowhere present in the statute itself. The Canadian Broadcasting Corporation has recently reported that the security of teams and fans at the upcoming Winter Olympic Games are at risk because of the new law and that among other things, the recently signed law gives authorities the right to detain tourists and foreign nationals suspected of being homosexual or “pro-gay.”² CNN, in its reporting, provocatively asks “could Russia arrest gay athletes?”³

The New York Times takes the position that the I.O.C. should have pressured the Russian Federation not to enact the law under the threat of removing the games from Sochi.⁴ The United States CBC Evening News, with a viewership of nearly 6 million people, quoted protestors of the law who claimed they would be arrested for similar protests in the Russian Federation and criticized Russia for the fact that the vast majority of the population supported the law and that no parliamentarians voted against the amendment.⁵

¹ <http://www.stephenfry.com/2013/08/07/an-open-letter-to-david-cameron-and-the-ioc/>.

² See e.g., Ian Munroe, “*Should Olympians Fear Russian Anti-Gay laws?*”, CBC News, July 26, 2013. <http://www.cbc.ca/news/canada/story/2013/07/25/sochi-olympics-gay-laws.html>.

³ Laura Smith-Spark and Phil Black, “*Protests, boycott calls as anger grows over Russia anti-gay propaganda laws*”. CNN, August 4, 2013. <http://edition.cnn.com/2013/08/01/world/europe/russia-gay-rights-controversy>.

⁴ Jere Longman, “*Outrage Over an AntiGay Law Does not Spread to Olympic officials*”, New York Times, August 6, 2013. http://www.nytimes.com/2013/08/07/sports/games-officials-tiptoeing-around-russias-antigay-law.html?_r=0.

⁵ Charlie D’Agata, “*Russia’s Anti-Gay Laws Spark Backlash Ahead of Olympics*”, CBC Evening News, August 10, 2013. http://www.cbsnews.com/8301-18563_162-57598002/russias-anti-gay-laws-spark-backlash-ahead-of-olympics/. Even the title of the article is grossly misinformed since protests have arisen over a single law (not laws) and that the law itself was actually an amendment to an existing law which protects minors from any sort of

The irony of these comments is well reflected in a Huffington Post article claiming that athletes and tourists could receive criminal sanctions for protesting the laws in a posting which shows a large protest by proponents of homosexual behavior with rainbow flags walking through the centre of Moscow.⁶ Thus, the story uses a photo showing a protest in the Russian Federation, which is allowed to function peaceably and without fines, in a story about how tourists and Olympians may face criminal sanctions for the same activity that the Russian protesters are clearly pictured to be participating in.

And the trail of misinformation goes all the way to the White House. In a televised appearance on America's number rated evening talk show, the Tonight Show with Jay Leno, the host posed a question to President Obama about the new law and made the grossly negligent statement that the amendment makes homosexual behavior illegal – likening it to rounding up Jews for the Holocaust. The President, rather than correcting the dangerously erroneous statement, replied that he had no patience for countries like Russia which discriminated against people who identify as homosexuals and likened what is happening in Russia to Africa [where a number of nations have severe prison sentences for homosexual behavior and Uganda is now debating implementing the death penalty for those who practice homosexual behavior].⁷ The moral stance of President Obama is shocking when juxtaposed to his own foreign policy of using American ambassadors abroad to actively sponsor “gay pride” parades.

During the Prague Pride Parade, held on August 17, just 11 days after the Leno appearance, the American ambassador led the parade holding the banner of the American embassy and was followed by staff that carried banners with American flags and a picture of President Obama and John F. Kennedy.⁸ In the parade route were men dressed in leather cod pieces with spikes around their necks and bare buttocks exposed carrying other men on chains.⁹ This same parade, with the American Ambassador at the head, was also historic because it was the first time the parade allowed pedophile proponents to march as well.¹⁰

Free speech hypocrisy

In addition to being misleading and exaggerated, the mass media and foreign government condemnation of the Russian Federation has also been hypocritical. On the same day that the Federal Duma passed the analyzed law, new amendments were adopted that target actions “expressing obvious disrespect to society and committed with the aim of offending the religious feelings of believers.”¹¹ The harsh sentence of up to three years for “offending religious feelings”

corruption including from smoking, gambling, being disrespectful to parents and truancy (therefore being only indirectly related to homosexual propaganda as one of many different forms of influence).

⁶ Curtis M. Wong, “*Russia's Anti-Gay Law Will Impact Foreign Tourists, Possible Olympic Athletes*”, Huffington Post, July 11, 2013. http://www.huffingtonpost.com/2013/07/11/russia-gay-law-tourists-_n_3581217.html.

⁷ <http://www.nbc.com/the-tonight-show/video/president-obama-on-russias-anti-gay-laws/n39715/>. NBC incidentally is the American broadcaster of the Sochi Winter Olympics.

⁸ See: <http://www.youtube.com/watch?v=YWYbeGcEMe4>.

⁹ <http://www.youtube.com/watch?v=k2DX4YVgYkU> From 1:34 (parade participants in leather, chains with nudity).

¹⁰ <http://www.pedofilie-info.cz/historicky-poprve-jsme-se-jako-pedofilove-zucastnili-prague-pride/> Statement of Pedophile group about their marching in the Prague parade for the first time in history.

¹¹ Criminal Code, Article 148. Cited in Human Rights Without Frontiers Int'l Newsletter, 20 August 2013.

goes far beyond any punishment in Law No. 135-FZ, yet almost nothing has been made of this free speech restriction in the media. In fact, similar free speech restrictions exist in every country in Europe and yet complaints are rarely ever raised.¹²

Moreover, countless cases have arisen in the West where freedom has actually been restricted because of *opposition* to homosexual behaviour. As many groups are calling for a boycott of the Winter Olympics, it should be noted that the host of the 2012 Summer Olympics, the United Kingdom, has also seen dozens of cases arise where freedom has been restricted due to religious and traditional beliefs on homosexual behaviour and same-sex relationships. For example, preachers have been arrested and convicted for speaking against homosexual behaviour,¹³ employees have been demoted for supporting traditional marriage¹⁴ and some have even been dismissed for refusing to act against the conscientious beliefs,¹⁵ business owners have been sued and forced to close their businesses for refusing to condone same-sex relationships¹⁶ and access to facilities have been denied because the proposed event supported the traditional view of marriage.¹⁷ In one case, government funding was actually been removed because a Christian charity *refused* to promote homosexuality.¹⁸

All of these cases are examples of attacks on freedom, yet there was no outrage, no condemnation, no media backlash, and certainly no calls for an Olympic boycott. It is therefore regrettable that members of the media will often only raise their voice if members of a “popular” group are targeted by free speech restrictions: when the “unpopular” viewpoint that favours traditional marriage is censored in the West and supporters of that viewpoint are vilified,¹⁹ very little is said.

¹² For a list of European laws restricting freedom of speech and a collection of cases that have ensued, see Paul Coleman, *Censored: How European “hate speech” laws are threatening freedom of speech*, Kairos Publications: Vienna, 2012.

¹³ For example, in 2002 Harry Hammond was convicted of a criminal offence for displaying a sign bearing the words “Jesus Gives Peace, Jesus is alive, Stop Immorality, Stop Lesbianism, Jesus is Lord” in his local city centre. See *The Guardian*, 18 January 2012.

¹⁴ For example, in 2011 Adrian Smith, a housing manager in Manchester, was demoted and had his salary reduced by 40% because he stated his views on marriage on his personal *Facebook* page. See *The Daily Mail*, 23 October 2011.

¹⁵ In 2007 Lillian Ladele was forced to leave her job as a civil registrar because her religious belief on marriage was not accommodated by her employer. See *Ladele v London Borough of Islington* [2009] EWCA Civ 1357.

¹⁶ In 2009 guesthouse owners Peter and Hazelmary Bull were sued £3,600 for refusing to offer double-bedded accommodation to unmarried couples. Their guesthouse now faces closure. Other Christian guesthouses have also been successfully sued. See *Bull and Bull v. Hall and Preddy and Hall* [2012] EWCA Civ 83.

¹⁷ For example, in 2012 several organizations attempted to host a conference on the legal definition of marriage at the Law Society in London. The Law Society cancelled the booking, claiming that the conference breached its diversity policy. The conference was then due to take place at the Queen Elizabeth II Conference Centre, but the Government-run venue also cancelled the booking citing similar reasons. See *The Daily Telegraph*, 11 May 2012.

¹⁸ For example, in 2008 a Christian care home had a £13,000 per year grant removed for refusing to promote homosexual behaviour to its elderly residents. After more than a year of internal appeals – amounting to £21,000 in legal fees – and after the case was made public, the council eventually backed down but did not offer to pay any of the legal fees. See ‘Care home suffers under ‘equality’ laws: How traditional Christian beliefs cost an elderly care home a £13,000 grant,’ *The Christian Institute*, May 2009.

¹⁹ For example, in 2012 Archbishop of York John Sentamu received a number of abusive and threatening emails of a racist nature after stating that marriage must remain between a man and a woman¹⁹ and David Burrowes MP revealed

Similar laws in Europe

It should be noted that the Russian Federation is not the first country to legislate at a national level to ban homosexual propaganda. On 14 July 2009 Lithuania amended its Law on the Protection of Minors from Detrimental Effects of Public Information. The law, planned to come into force on 1 March 2010, defined public information, which might have a detrimental effect on minors. Among other clauses, it stated, that the following information has a detrimental effect on minors: “propagation of homosexual, bisexual and polygamous relationships”, and “information that distorts family relationships and its values”. The law was vetoed by the Lithuanian President mainly on the grounds of vagueness and the lack of clear definitions, but the veto was overridden by a large majority in the national legislature.

However, due to pressure from various international institutions (the European Parliament had adopted a resolution criticizing the enacted law on 17 September 2009), as well as the visits of the Council of Europe’s Commissioner for Human Rights, the law was amended in December 2009, before coming into force. The law no longer explicitly mentions that propagation of homosexual relationships causes detrimental effects to minors and Article 4 of the law has been redrafted in more general terms. It is still considered detrimental to minors to “promote sexual relations” and “express contempt for family values, encourage the concept of entry into marriage and creation of a family other than that stipulated in the Constitution and the Civil Code.” According to Article 38 of the Lithuanian Constitution: “Marriage shall be concluded upon a free mutual consent of a man and a woman”.

Concerning other European countries there are draft laws prohibiting “promotion of homosexuality which could adversely affect the physical and mental health of children” under consideration currently in Ukraine. In Moldova, several municipalities have adopted local ordinances banning “aggressive propaganda of non-traditional sexual orientation”, however most of these have either been annulled by local courts or rescinded by the municipalities themselves.

In the United Kingdom Section 28 of the Local Government Act of 1988 stated that a local authority “shall not intentionally promote homosexuality or publish material with the intention of promoting homosexuality” or “promote the teaching in any maintained school of the acceptability of homosexuality as a pretended family relationship”. The law has been repealed in 2003 by the British Parliament, although according to the opinion polls the majority of the public favored keeping Section 28. Of course, a critical difference with the Russian federal law under review has been that the British law restricted Government’s speech (local authorities being governmental units), whereas the latter may aim at private speech as well.

ECHR case law and freedom of speech

While the mainstream media reporting on the law has been inaccurate and at times irresponsible, there have also been legitimate concerns raised that aspects of the law may unduly restrict freedom of speech.

that he has received hate mail and death threats for supporting marriage in parliament. See *BBC News*, 6 February 2012 and *The Daily Telegraph*, 3 February 2013.

Article 10 of the European Convention on Human Rights provides the right to freedom of expression. However, the right is not absolute and any interference with this right can be lawful if it is justified under Article 10 § 2. For the interference in question to be justifiable, it must: (1) be prescribed by law; (2) pursue a legitimate aim; and (3) be necessary in a democratic society. However, any exceptions to the right to freedom of expression must be “construed strictly and the need for any restrictions must be established convincingly.”²⁰ The Court is empowered to give the final ruling on whether a restriction is reconcilable with freedom of expression as protected by Article 10²¹ and any restriction imposed must be proportionate to the legitimate aim pursued.²²

The framework for analyzing Article 10 restrictions seems to be most suitable for commenting on the newly enacted Russian federal law.

First, any restriction placed on expression must have a basis in the domestic law of the State in question.²³ If there is no basis in the domestic law for the restriction, the Court will invariably find a violation of Article 10.²⁴ Secondly, although any restriction must have a basis in domestic law, the Court is also concerned with the “quality” of any given law: if the law in question does not fulfill the “quality” requirements – accessibility, precision, foreseeability and clarity – the Court will find a violation of Article 10. In the seminal case of *Sunday Times v. The United Kingdom*, the Court held:

First, the law must be adequately accessible: the citizen must be able to have an indication that is adequate in the circumstances of the legal rules applicable to a given case. Secondly, a norm cannot be regarded as a ‘law’ unless it is formulated with sufficient precision to enable the citizen to regulate his conduct: he must be able—if need be with appropriate advice—to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail.²⁵

Although the Court stated that legal certainty is “highly desirable,” it also recognized many laws are “inevitably couched in terms which, to a greater or lesser extent, are vague and whose interpretation and application are questions of practice”.²⁶ Hence, there is clearly a threshold, and when a domestic law crosses the threshold and lacks the basic qualities that make

²⁰ *Şener v. Turkey*, no. 26680/95, § 39, ECHR 2000-III. See also *Thoma v. Luxembourg*, no. 38432/97, §§ 43, 48, ECHR 2001-II; see also *The Observer and The Guardian v. the United Kingdom*, judgment of 26 November 1991, Series A no. 216, p. 30, § 59.

²¹ *Handyside v. The United Kingdom* (1976) 1 E.H.R.R. 737 § 49.

²² *Id.*

²³ The Court has held that domestic laws can be based on any applicable rules of international law (See *Groppera Radio AG v. Switzerland* (1990) 12 E.H.R.R. 321 §§ 65-68) and common law (*Sunday Times v. The United Kingdom* (1979-80) 2 E.H.R.R. 245 §§ 48-9). Moreover, codes of practice that are derived from legislation have also been considered applicable for the purposes of Article 10 § 2 (see *R v. Advertising Standards Authority Ex p. Matthias Rath* E.M.L.R. 22 § 26.)

²⁴ See, for example, ECHR: *Peev v. Bulgaria*, application no. 64209/01, judgment of 26 July 2007.

²⁵ *Sunday Times v. The United Kingdom* (1979-80) 2 E.H.R.R. 245 § 49.

²⁶ *Id.*

it incompatible with the rule of law, the Court will not consider the restriction “prescribed by law”.

The Court also takes into account the consistency of domestic case-law in the implementation of a legal provision. The existence of contradictory domestic court decisions in the application of domestic laws has led the Court to conclude that a particular interference did not meet the condition of being “prescribed by law,” whereas a uniform and consistent jurisprudence was considered to allow a person to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail.²⁷

The definition of “precision” in criminal law was given by the Court in the Greek proselytism case of *Kokinnakis v. Greece*: “*The condition is satisfied where the individual can know from the wording of the relevant provision and, if need be, with the assistance of the courts’ interpretation of it, what acts and omissions will make him liable.*”²⁸

The Venice Commission in its recent Opinion²⁹ on the Russian draft law (at the material time) raised two issues concerning the quality of the provisions under scrutiny. The vagueness of the terms “propaganda” and “promotion” and inconsistency in judicial enforcement. The former critique is to a large degree unsubstantiated – the terms “propaganda” and “promotion” are not only used in numerous “hate speech” laws to which the Venice Commission never raised any objections, but may also be found in several international treaty documents.³⁰ The bottom line is whether these provisions are given a consistent and precise interpretation by the law enforcement and the judiciary. Thus, if the law is applied inconsistently in the domestic courts, it will be difficult to pass the first prong of the ECHR test. It is therefore of critical importance that the Russian high courts deliver judgments that would ensure a uniform application of the newly enacted federal law if the law is to meet the first criterion laid out by the ECHR.

As for the second prong of the test, the law clearly promotes a legitimate aim as defined and enumerated by Article 10 § 2 of the Convention: that of protecting the health and morals of others (in this case children). The protection of morals is deemed to be a legitimate aim, especially when children or minors are targeted by immoral speech. Beginning with a seminal decision in *Handyside v. the United Kingdom*,³¹ the jurisprudence of the Court granted a much wider margin of appreciation to Member States when restricting harmful speech focused on minors. First, the Court emphasized that “*it is not possible to find in the domestic law of the various Contracting States a uniform European conception of morals.*”³² Second, the Court

²⁷ See e.g. ECHR, *Goussev and Marek v. Finland*, Judgment of 17 January 2006, §§ 53-57; ECHR, *Markt Intern Verlag GMBH and Klaus Beermann v. Germany*, Judgment of 20 November 1989, §§ 28-30.

²⁸ ECHR, *Kokkinakis v. Greece*, Judgment of 15 May 1993, application no. 14307/88, § 52.

²⁹ European Commission for Democracy through Law, Opinion on the issue of so-called “propaganda of homosexuality” in the light of recent legislation in some Member States of the Council of Europe, 14-15 June 2013.

³⁰ E.g. Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, Article 19 (1) of the revised European Social Charter, Article 6 (3) of the European Convention on the Legal Status of Migrant Workers.

³¹ ECHR, Judgment of 7 December 1976, application no. 5493/72.

³² *Id.*, at § 48.

devoted a major part of its reasoning in *Handyside* to the fact that the disputed publication “was aimed above all at children and adolescents aged from twelve to eighteen” including “sentences or paragraphs that young people at a critical stage of their development could have interpreted as an encouragement to indulge in precocious activities harmful for them.”³³

Similarly, in the case of *Otto-Preminger-Institut v. Austria*, the Court held that no violation of Article 10 occurred when a blasphemous film was seized by Austrian authorities noting that it could have been viewed by minors.³⁴ The latest decision emphasizing the protection of minors was *Vejdeland and others v. Sweden*³⁵ – which involved applicants who went to a secondary school and distributed leaflets in or near pupil’s lockers that criticized homosexual behavior. The applicants were prosecuted for “agitation against a national or ethnic group” and were given suspended sentences combined with fines. However, the Court found no breach of Article 10. Apart from commenting on the content of the leaflets, namely that the content of the leaflets contained “serious and prejudicial allegations,”³⁶ the Court emphasized the fact that “the leaflets were left in lockers of young people who were at an impressionable and sensitive age.”³⁷

Furthermore, the ECHR has itself, under Protocol 1, Article 2 of the Convention (right to education), created safeguards to guarantee the rights of parents to protect their children from information and teaching they deem harmful to them. 36 years ago, the Court in *Kjeldsen and others v Denmark* affirmed to parents the right under Protocol 1, Article 2 of the Convention to opt their children out of classes which were objectionably indoctrinating.³⁸ While these opt-outs were denied to the applicants in the *Kjeldsen* case, the guarantee nonetheless became a seminal part of the ECHR case law. In the 2007 case of *Folgero and Others v. Norway* the Grand Chamber upheld the opt-out for parents who wished to prevent their children from attending religious education classes.³⁹ The progeny of *Folgero* has continued to promote the freedom of parents to take their children out of religious education. From *Kjeldsen* to *Folgero* and its progeny, the Court has continued to hold that the right to opt-outs holds equally to all subjects and not just religious education.⁴⁰

Therefore, it is clear that the aims of protecting minors from information which could be harmful to them, precisely what the Russian amendment to Article 5 aims to accomplish, is in line with Convention standards and European jurisprudence.

The third stage of the ECHR analysis is whether the restriction on speech is “necessary in a democratic society.” According to the well-settled jurisprudence of the Court, the adjective “necessary,” within the meaning of Article 10 § 2, implies the existence of a “pressing social

³³ *Id.*, at § 52.

³⁴ ECHR, *Case of Otto-Preminger-Institut v. Austria* (11/1993/406/485), 20 September 1994, Series A vol. 295-A.

³⁵ ECHR, Judgment of 9 February 2012, application no. 1813/07.

³⁶ *Id.*, at § 54.

³⁷ *Id.*, at § 56.

³⁸ ECHR, *Kjeldsen, Busk Madsen and Pederson v. Denmark*, Judgment of 7 December 1976, Application No. 5095/71, 5920/72, 5926/72, § 50ff.

³⁹ ECHR, *Case of Folgero and Others v. Norway*, App. No. 15472/02, judgment of 29 June 2007.

⁴⁰ See e.g. *Id.*, § 84(e).

need.” The Court has emphasized that although freedom of expression may be subject to exceptions, they must be “*narrowly interpreted*” and “*the necessity for any restrictions must be convincingly established.*”⁴¹

The overbreadth of the law in general, meaning all of its provisions (among them the prohibition of propaganda regarding non-traditional sexual relationships with an aim to corrupting minors), does raise concerns from a free speech perspective. If the law is applied in such a way that is disproportionate or disconnected to the legitimate aim pursued, the Court will likely find a violation of Article 10 for failing to pass the proportionality test. However, as the Court does not review domestic legislation *in abstracto* but always applies the Convention to the individual facts of a particular case, whether the newly enacted law as applied would survive the Court’s proportionality test is dependent upon the case-law of the Russian courts following a domestic judicial challenge. Given that the law was only passed in June 2013, it will be some time before the Court has the opportunity to analyse the law.

Conclusion

The media reporting on Law No. 135-FZ has clearly been inaccurate and at times it has bordered on hysterical. The news stories have served to provide a warped view of the aims and scope of the law in question – which has always been to prohibit the propagation of any activity aimed at harming the psychological or physical well-being of minors. The Russian Federation, in an attempt to protect its children and family values, has every democratic right to legislate in this area. Nevertheless, it must also be recognized that aspects of the law in general, not merely the reference to “nontraditional sexual relations,” may unduly restrict freedom of speech. Given the overbreadth of aspects of the law, these concerns should be considered legitimate.

⁴¹ See e.g. ECHR, *Observer and Guardian v. the United Kingdom*. Judgment of 26 November 1991, application no. 13585/88.