Commentary by LGBTQ+ group "Coming Out"
to the Human Rights Committee

Juny 2026

Comments on the draft General Comment No. 38 on Article 22 (Freedom of Association) of the International Covenant on Civil and Political Rights

I. Background of the submitting organisation

This report was prepared by the LGBTQ+ group "Coming Out".

"Coming Out" (comingoutspb.org/en/) is a nonprofit initiative group founded in 2008 in St. Petersburg, Russia. It protects the rights of the LGBTQ+ community and helps queer people live more safely and with dignity in Russia. The main goal of the "Coming Out" LGBTQ+ group is to establish equal legal and social rights for everyone, regardless of their sexual orientation and/or gender identity. "Coming Out" provides legal, psychological and career promotion services to the Russian LGBTQ+ individuals, monitors discrimination to collect evidence of the experiences of LGBTQ+ people in Russia and works with the authorities on cases of discrimination and violence. We also monitor public hate speeches including state sponsored propaganda narratives (e.g., "Traditional values" messages).

II. Introduction and focus of the submission

In December 2025, the LGBTQ+ group "Coming Out" submitted comments concerning the use of "extremism" designations to suppress non-violent associative life and to criminalize ordinary forms of collective activity connected with LGBTQ+ communities in the Russian Federation.

Several concerns raised in that submission are reflected in the present draft General Comment. These include the heightened impact of restrictions on marginalized groups; the protection of unpopular, controversial or dissenting associations; the impermissibility of criminalizing associative activity through vague concepts such as "extremism"; and the requirement that restrictions comply with the principles of legality, necessity, proportionality and non-discrimination.

The present submission therefore does not repeat the recommendations already incorporated into the draft. It addresses a distinct remaining issue: restrictions directed formally at an association may, where the association is defined by reference to the identity or status of its members or beneficiaries, produce a broader criminalizing and delegitimizing effect on the entire community associated with that identity or status.

In such circumstances, the impact is not limited to the legal entity, informal association or identified members concerned. The restriction may render ordinary community life including communication, mutual support, cultural activity, provision of services and participation in shared spaces as evidence of prohibited association. It may consequently expose all persons who possess, or are perceived to possess, the relevant identity or status to suspicion, exclusion or prosecution.

III. Proposals

We propose to amend the Art. 9 of the Draft after the words "effective realization of the right for these persons, groups and communities" as follows:

"*Where an association is restricted, prohibited or criminalized solely or primarily because of the identity or status of the community from which it draws its members or whose interests it serves, the measure affects not only the association and its members but may de facto criminalize or delegitimize the group as a whole, including persons merely perceived to share that identity or status.*"

IV. Justification

The Russian experience illustrates how a restriction formally directed at an association may operate as a restriction on the collective existence of an entire identity-based community.

In November 2023, the Supreme Court of the Russian Federation designated the so-called "international LGBT movement and its structural units" as extremist. The entity identified in the judgment had no legal personality, defined membership, leadership, organizational structure or other characteristics permitting individuals to determine whether they belonged to it. It was constructed by the authorities through reference to a shared sexual orientation, gender identity, symbols, discourse and forms of community activity.

The absence of an identifiable association did not limit the scope of the prohibition. On the contrary, it enabled the authorities to treat a broad and indeterminate range of persons, venues and activities as manifestations of the prohibited "movement". Criminal and administrative proceedings have concerned LGBTQ+ activists, owners and employees of clubs and bars, performers, publishers and distributors of LGBTQ+-related literature, providers and recipients of community-oriented services, and individuals communicating about LGBTQ+ issues online or in private. According to the submitting organization's monitoring, prosecutions are not confined to conduct involving violence, incitement or any genuine threat to national security or public order.[1]

This practice demonstrates that, where an association is defined not through an identifiable organizational relationship but through the identity or perceived identity of the persons connected with it, the distinction between prohibiting the association and prohibiting the community becomes largely fictitious. Ordinary manifestations of identity, solidarity or

[1] https://comingoutspb.org/wp-content/uploads/2026/06/en_kachestvennoe_2025.pdf

community participation may be interpreted as evidence of membership in, participation in or support for the prohibited association.

The resulting interference therefore extends beyond the association and its actual members. It affects any person who engages in the ordinary social, cultural, commercial or private life of the relevant community, as well as persons merely perceived to belong to it. The restriction delegitimizes the community as a source of potential members and as the intended beneficiary of associative activity. It also creates a foreseeable chilling effect, compelling individuals to conceal their identity, avoid shared spaces, discontinue mutual support and refrain from exercising their rights under articles 19, 21 and 22 of the Covenant.[2]

This broader effect is particularly important for marginalized communities, for whom associations may provide essential access to information, legal and psychological assistance, cultural life, personal safety and protection from discrimination. The criminalization or prohibition of such associations may therefore eliminate not only a particular organizational structure but the practical possibility of maintaining community life at all.

The draft General Comment already recognizes that restrictions may have a differentiated and heightened impact on marginalized persons and communities. It should further clarify that, where an association is restricted because of the identity or status of the community from which it draws its members or whose interests it serves, the restriction may itself de facto criminalize or delegitimize that community as a whole. This consequence must be taken into account when assessing the discriminatory character, necessity and proportionality of the restriction under article 22, read together with articles 2 and 26 of the Covenant.

For any additional information, please contact:

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[2] At the moment the restrictions which formally are formulated as restriction of freedom of association constitute in reality an arbitrary persecution of a whole social group connected with imprisonment and sometimes enforced disappearances, cruel treatment during arrest or police raids, forced military contracts and even death in custody.