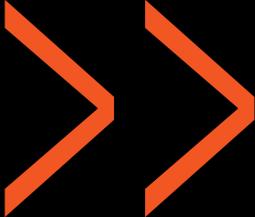


Destination



# EQUALITY

autumn 2012

NOT ALLOWED

HOMOSEXUAL PROPAGANDA

**BANNED**

DANGEROUS PROHIBITED CENSORED

If we chose to deal with the issue of legal bans on so-called "homosexual propaganda" for the first edition of our revamped magazine, it is because this trend is extremely alarming. Not only do the proposed or adopted bans constitute a serious threat to such basic fundamental freedoms in any democratic societies as freedom of expression, assembly and association, but they also represent a renewed wave of criminalisation of lesbian, gay, bisexual, trans and intersex communities.

In recent months, such laws have been discussed in various European countries, including some within the European Union. Under the guise of protecting minors from 'unwanted and harmful' information, these "homosexual propaganda" bans are clearly designed to silence and further marginalise the lesbian, gay, bisexual, trans and intersex movements. And unfortunately, the "gagging" strategy is working where laws have been enacted: activists are being arrested and detained, owners of public venues are refusing to rent premises for LGBTI events, journalists are stopping to cover activities of the LGBTI community.

So let's not be fooled. These laws are not a problem only for the LGBTI community. Anyone who speaks about homosexuality and the human rights of LGBTI people is in danger of being targeted too. A media outlet, a teacher, a human rights defender, a pop artist, anyone speaking out against homophobia and transphobia risks being prosecuted where such laws exist. A case in point: one of the individuals arrested at a public demonstration in St. Petersburg in April 2012 was a straight ally holding a sign that said: "The friend of our family is a lesbian. My wife and I love and respect her, her way of life as normal as ours, and her family is socially equal to ours".

Anti-propaganda laws are a blatant attack on human rights, and thus have become a top priority for our organisation. We at ILGA-Europe are focusing our efforts firstly on providing political, technical and moral support to LGBTI activists in the concerned countries, especially where the adoption of bans increases security risks. We are also working with other human rights organisations to call on international and European institutions to oppose attempts to ban "homosexual propaganda".

In times when our movement is facing such incredible challenges, we cannot stay silent. You too can contribute to efforts to hold back attempts at criminalising and censoring LGBTI communities in different corners of Europe. We need you to stand up together with us. Follow ILGA-Europe on Facebook, sign-up to our Euro-Letter or donate money so that we can work together to put a halt to these developments.

**Evelyne Paradis**  
Executive Director

# “Homosexual Propaganda Bans” – Why is Speech so Dangerous?

**Alli Jernow**, Senior Legal Advisor, International Commission of Jurists, puts the discussion of legal bans on ‘homosexual propaganda’ in a wider perspective: these laws threaten not just the LGBTI community, they undermine the very foundation of a democratic system in a number of countries. She stresses that these laws/proposals represent a blatant violation of international human rights law and are discriminatory.

## Their Words Will Crush Concrete - Solzhenitsyn

In March 2012, the Legislative Assembly of St. Petersburg adopted a law prohibiting the “propaganda of homosexuality.” Introduced by the ruling United Russia Party, the law imposes a fine of up to 5,000 rubles (125€) for individuals or 50,000 rubles (1,250€) for organisations convicted of “propaganda of sodomy, lesbianism, bisexuality and transgender identity among minors.” The law defines propaganda as “the intentional and unregulated distribution in a publicly accessible manner of information that can harm the health or the process of moral and spiritual development of minors, including forming among them the false perception that traditional and non-traditional relationships are socially equal.” Although seventeen activists were arrested on May Day for unfurling rainbow flags, the first person convicted under the new law was LGBT activist Nikolai Alekseyev. In a one-man demonstration near City Hall, he had held up a sign that read: *“Homosexuality is not a perversion. Field hockey and ice ballet are.”*

Alekseyev was quoting from a book written by the Soviet-era actress Faina Ranevskaya. She was a People’s Artist of the USSR and three-time Stalin Prize winner. Her book of aphorisms was published in Moscow and is available in libraries and bookstores across Russia. Quoting Ranevskaya earned Alekseyev a fine of 5,000 rubles.

The St. Petersburg law has received the most media attention, but it is not the only law of its kind. Similar laws have been adopted in other regions, including Ryazan, Arkhangelsk, Kostroma and Novosibirsk. Under the oldest of these, the Law on the Protection of Morality and Health of Children in Ryazan, two activists were arrested and convicted for staging a protest near a school. They had held up signs stating: “Homosexuality is normal” and “I am proud of my homosexuality. Ask me about it.” Their conviction was upheld on appeal and the Constitutional Court rejected their application. Nikolai Baev has now filed an application with the European Court of Human Rights and Irina Fedotova has

filed a complaint with the UN Human Rights Committee. Both cases are pending.

The “homosexual propaganda” ban may go national. In March 2012, a bill was introduced in the lower house of the State Duma that would impose a fine of up to 500,000 rubles (12,500€).” What is more, the Russian phenomenon appears to be spreading. In a number of other Eastern European states, including Ukraine, Moldova, Lithuania, Hungary and Latvia, similar bans on “homosexual propaganda” have been proposed or adopted, although the degree of mainstream political support varies.

Obviously, advocates for LGBT human rights are at risk. So are their friends and supporters. But the laws will have a chilling effect on a wide swath of society, from teachers and journalists to musicians and healthcare providers. Parents have expressed concern about such laws inciting bullying and violence against their gay and lesbian children. Same-sex partners have wondered whether appearing in public with their children would be an offense. One woman wrote that her thirteen year-old son was forced to remove his earring at school after the St. Petersburg law was adopted because “being gay” was inappropriate. There are reports that organisations that used to work with LGBT rights groups have cancelled joint events, fearful of running afoul of the law. A city councillor even suggested banning the rainbow symbol itself.

The laws are vague, deliberately so, but their clear intent and effect is to remove any mention of sexual and gender diversity from the public sphere. It is about making LGBT people disappear. This was brought home with the arrest of Sergey Kondrashov, a lawyer in St. Petersburg who was arrested for holding up a sign that read: “A dear family friend is lesbian. My wife and I love and respect her ... and her family is just as equal as ours.” Kondrashov was later cleared of the homosexual propaganda charge but convicted of disobeying a police order.



Such bans have been condemned by the European Parliament, the CoE's Commissioner for Human Rights Nils Muižnieks and UN High Commissioner for Human Rights Navi Pillay. They are blatant violations of international human rights law and standards. First, they are so vague that no one can tell what conduct or expression is actually prohibited. Is a rainbow button permissible or will it earn its wearer a stiff fine? Is a kiss between two lovers on a park bench now illegal? Under international law, all limits on the right to freedom of expression must be provided for by law. That means that a law must be precise enough to enable the ordinary individual to regulate his or her conduct. The bans on homosexual propaganda fail this test.

Second, the laws have no permissible purpose. In other words, they cannot be justified by any of the reasons cited by local politicians. Under international law – specifically the International Covenant on Civil and Political Rights, and the European Convention for the Protection and Promotion of Human Rights and Fundamental Freedoms – limitations on freedom of expression can only be enacted for the purpose of respecting the rights or reputations of others, or protecting national security, public order, or public health and morals. But the bans on homosexual propaganda do not further any of these aims. Public morality and protecting children, the justifications most frequently cited by authorities, have been specifically rejected as a reason to limit LGBT advocacy by the European Court. In a series of cases, the European Court has repeatedly upheld the right of LGBT organisations to hold pride events. In *Alekseyev v. Russia*, the Court dismissed the argument that “propaganda promoting homosexuality . . . could be harmful if seen by children or vulnerable adults.” In short, public debate on LGBT issues cannot be suppressed in the names of protecting public morality or the rights of children. Promoting the “perception that traditional and non-traditional relationships are socially equal,” as the St. Petersburg law defines “homosexual propaganda,” harms no one.

Third, the laws are discriminatory. A ban on “homosexual propaganda” targets one particular kind of sexual preference for differential treatment. In the pride cases, the European Court found that the prohibition on pride events not only violated the right to freedom of assembly but was also discriminatory. Authorities had banned pride events simply because they disapproved of the sexual orientation of the participants. Discrimination on the basis of sexual orientation or gender identity is forbidden under international law.

The right to freedom of expression under international law means that even expression that is unpopular, considered offensive, or disliked by the majority is protected. Freedom of expression applies not only to information or ideas that are favourably received but also to those that offend, shock or disturb the state or any sector of the population.

In any society based on democracy and pluralism, minority viewpoints must be heard. If popularity was a requirement for the exercise of rights, LGBT voices in Russia and many other states would be silenced. In *Alekseyev v. Russia*, the European Court noted that while there might be a lack of consensus on issues of same-sex marriage within Europe, there was no ambiguity about the right to openly identify as gay or lesbian or to campaign for such rights.

The homosexual propaganda bans can be read as a backlash to the increasing visibility of LGBT activists and the jurisprudence of the European Court, upholding the rights of those activists to organise pride parades and equality marches. What is happening in Russia and other countries that have adopted or considered such laws is clearly at odds with not only the rest of Europe but also legal advances that have been made in other regions of the world and at the UN.

In the Russian context in particular, the homosexual propaganda bans appear to be both an attempt to bolster support for the ruling political party by inflaming a kind of culture war around “traditional values” and an attempt to silence opposition and dissenting voices generally. It was impossible to be alive this summer without hearing about the Pussy Riot trial. What is perhaps less well known is that, in addition to being convicted of hooliganism motivated by religious hatred, the three members of the punk collective were also found to have engaged in homosexual propaganda. But this was just the latest in a long list of examples. In March, a court upheld a decision by the Ministry of Justice to ban Pride House from the 2014 Winter Games in Sochi. The court ruled that Pride House would lead to “propaganda of non-traditional sexual orientation that could undermine the security of Russian society and the state.” In June 2012, President Putin signed a new law that dramatically increased fines for participating in unsanctioned rallies, just ahead of a planned opposition protest. In August, a city court in Moscow upheld the municipal government’s decision to ban all pride parades for 100 years.

Is speech really so dangerous? Apparently some governments think so. Perhaps they know their Solzhenitsyn. At the conclusion of her trial, Pussy Riot member Nadezhda Tolokonnikova quoted the Russian dissident and Nobel Prize winner: “*Once noble people mobilize, their words will crush concrete.*”

The International Commission of Jurists (ICJ) and ILGA-Europe produced a joint briefing about legislative proposals and laws banning “homosexual propaganda” which provides an overview of the laws. It analyses the potential impact, places these laws in a human rights framework, and provides recommendations to national policy-makers and activists and international organisations on how to deal with these developments: [www.ilga-europe.org](http://www.ilga-europe.org)

# Silencing voices against homophobia violates human rights



A comment article by **Nils Muiznieks**, Human Rights Commissioner of the Council of Europe, published on his website on 21 June 2012<sup>1</sup>. The Commissioner writes that laws banning information about LGBTI issues mark a 'worrying step back towards a bygone era when homosexual were treated like criminals'.

Recent months have seen renewed efforts in some Council of Europe member states to silence voices against homophobia and transphobia. Laws banning information about lesbian, gay, bisexual, transgender and inter-sex (LGBTI) issues mark a worrying step back towards a bygone era when homosexuals were treated like criminals. These efforts to curtail freedom of expression and assembly run starkly against international and European human rights standards.

The targets of these measures have not only been LGBTI activists, but also those expressing solidarity with their struggle for equality and others who have sought to disseminate factual information about sexual orientation and gender identity.



Tamás Dombos, Hungarian LGBT Alliance

## Backwards trend towards criminalisation

Laws banning "propaganda", "spreading" or "promotion of homosexuality" have been adopted at national or local level in several member states and have been under consideration in many others. These laws are often so vaguely worded that they may outlaw any public discussion or public activity surrounding LGBTI issues.

In 2009 political groups in Lithuania seeking to prohibit information on homosexuality in schools pushed through the adoption of a Law on the Protection of Minors against the Detrimental Effects of Public Information. While the initial version of the law prohibited "propagation of homosexual, bisexual and polygamous relationships", it was amended in 2010 and the situation remains legally ambiguous. In Moldova several cities and local districts recently adopted laws prohibiting the "aggressive propaganda of non-traditional sexual orientations". In one case, a local bill was declared unconstitutional.

In Russia criminal and administrative laws against "propaganda of homosexuality" were enacted in Ryazan region in 2006, in Arkhangelsk in 2011 and Kostroma and Saint Petersburg in 2012. Several other regions are discussing such laws, as is the State Duma at the national level. These laws provide for very harsh fines – up to EUR 12 700 for associations.

<sup>1</sup><http://www.humanrightseurope.org/2012/06/human-rights-commissioner-fears-silencing-of-anti-homophobia-campaigners/>



"It is very disappointing that after years of slow progress of LGBT rights in Hungary we have to report on these hostile proposals unequivocally in conflict with both international human rights standards and Hungarian constitutional requirements. Even though the proposals were submitted by the extreme right-wing opposition party Jobbik and were rejected by the Parliament and local governments, it is very telling that no leading government officials openly denounced the proposals. Political homophobia is clearly on the rise in Hungary."

In Ukraine two draft laws were put forward in parliament in 2011 and 2012 making it an offence to “spread homosexuality”, including by “holding meetings, parades, actions, demonstrations and mass events aiming at intentional distribution of any positive information about homosexuality”. Similar initiatives have been proposed at local or national level in Hungary, Latvia, and earlier, in Poland as well.

### European standards protect LGBTI rights

All the major international and European instruments provide that freedom of expression, association and assembly should be applied without discrimination, including on grounds of sexual orientation and gender identity. In *Alekseyev v. Russia* the European Court of Human Rights ruled that the repeated ban on pride demonstrations in Moscow violated the convention and stated that there was no scientific evidence that open public debate about sexual orientation has an adverse effect on children. In last week’s [12 June 2012] judgment *Genderdoc-M v. Moldova*, the Court found a violation with respect to the ban of an LGBT demonstration in Chişinău which the authorities had considered to “promote homosexuality”.

States should combat homophobic and transphobic hate speech. Indeed, the European Court of Human Rights recently ruled in the case of *Vejdeland and Others v. Sweden* that homophobic speech did not fall under the protection of

Article 10 guarantees of free expression. In the case, the Court found justified the criminal conviction of individuals who distributed leaflets in an upper secondary school calling homosexuality a “deviant sexual proclivity” with a “morally destructive effect on the substance of society”.

### What governments should do

Frequently, governments have sought to justify restrictions on the freedoms of LGBTI persons with reference to public opinion, moral or religious considerations. This is clearly unacceptable from the perspective of human rights. Prides must be permitted, and governments must protect them, as well as allow the peaceful expression of opposing views, if they do not constitute hate speech.

If public opinion is hostile to LGBTI rights, governments have a responsibility to raise awareness and educate the public. A good opportunity for doing so was recently provided by the Council of Europe, which has launched a programme of awareness-raising and educational activities on LGBT issues available to states on a voluntary basis. Albania, Italy, Latvia, Montenegro, Poland and Serbia have already joined the programme, which is a good first step towards overcoming prejudice in society. Rather than seeking to keep or drive LGBTI issues back into the closet, states must fulfil their human rights obligations to all and help counter public prejudice.



“GENDERDOC-M expresses their deep indignation with adoption of those shameful and absurd decisions of several cities and districts of the republic of Moldova “On proclamation of the city/ district zone of particular support for Moldovan Orthodox Church and inadmissibility of aggressive propaganda of non-traditional sexual orientations” by the City Councils.

It is a matter of our concern that recent manifestations of homophobia, hate speeches and incitements to violence and discrimination against LGBT people have acquired a form of systematic attacks. They are quickly accelerating and gaining in strength now - during the current instable political situation. The hysteria and rush around the issues of LGBT people’s rights is discord among competing political forces. In this situation, LGBT community has become a scapegoat in political games chosen as such due to their marginalised social status.

We are outraged by these developments in Moldova and the silence of the national authorities regarding blatant violations of human rights. Moreover, we are deeply concerned by the direct implication of Moldovan Orthodox Church and its affiliated organisations in the process of lobbying these legislative initiatives.

We reiterate our strong conviction of the fact that LGBT people are being used as a tool in the political war for power due to their marginalised status and high level of societal homo- and transphobia.”



Anastasia Danilova, GENDERDOC-M

# Eastern European countries should learn lessons from history



## The legacy of Section 28

**Jasmine O'Connor**, Stonewall International Officer, warns about the potentially devastating consequences of laws banning 'homosexual propaganda'. She discusses the impact that similar legislation has had in Great Britain, explaining that, while the laws have been repealed, they have lasting effects.

Russia's parliament is currently examining draft legislation that would make it illegal to 'promote' homosexuality. They are not alone – Ukraine and Lithuania are considering similar laws. In Hungary some right-wing politicians are working to ensure similar proposals are brought before Parliament. In Moldova such decisions already exist in some municipalities. For those of us who live in western and central European countries, where governments are generally working harder than ever to secure equality for their lesbian, gay and bisexual (LGB) citizens, anti-LGB laws seem offensive and outdated.

But it's not long since Britain – today seen globally as a beacon for LGB equality – ditched a law that was strikingly similar to that currently proposed in Russia and other countries. The British experience might give those countries a useful lesson from history; our anti-LGB law caused a lot of pain and isolation for millions of LGB people. Worse, its effects were felt mainly by the people we should do most to protect: schoolchildren.

In 1988 our government introduced a small amendment to an otherwise nondescript local government bill making it an offence for local authorities to promote 'the acceptance of homosexuality as a pretended family relationship'. Many teachers felt that they were outlawed from mentioning or doing anything relating to sexuality in schools. Many teachers refused to challenge homophobic bullying and violence in their schools or to explore themes about sexual orientation in the classroom.

Most disturbingly it resulted in many teachers refusing to respond to questions from LGB students about their health and well-being. A generation of young LGB people grew up having no one they could turn to get information on how to stay healthy and happy.

In 1989 a small group of men and women committed to repealing Section 28 formed Stonewall, which campaigns today as Europe's largest lesbian, gay and bisexual equality charity. Stonewall has fought hard to achieve change for Britain's 3.7 million LGB people. The age of consent for sex between men was reduced, first to 18 (in 1994) and then to 16, equal with straight people, in 2000. The unfair ban on LGB people serving in the Armed Forces was lifted in 2000. New laws now offer protection against discrimination in every walk of life, including against homophobic hate crimes.

Following a strenuous campaign Section 28 was finally repealed across Britain in 2003. Stonewall still faced fierce opposition from those claiming that homosexuality could



**Polina Savchenko**,  
St. Petersburg  
LGBT organisation  
Coming Out

"Russian society is extremely homophobic and ignorant about sexual orientation and gender identity issues. But instead of leading its people on the way to greater tolerance, Russian government took an opposite path. The bans on so-called "propaganda of homosexuality" aim to outlaw any visible actions by the gay community and prevent LGBT organisations from promoting gay rights. In reality, however, the lawmakers achieved the opposite from their intention. In response to this outrageous attack on their freedoms, gay people in Russia stood up for their rights like never before. Hundreds of people came out in the streets to protest. We gained new friends and allies, both in Russia and abroad. Mainstream human rights organisations joined forces with us, even Russian media came to our defense. And today, human rights activists and LGBT communities are mobilized, and despite the general political trend of clampdown on freedoms in Russia, the will to fight and the awareness that our actions can lead to results is there more than ever before."

be promoted to young people and had no place being discussed in schools. But through gathering the support of teachers, doctors and health and education professionals – who debunked many of the myths being spread by our opponents – we were successful.

Unfortunately Section 28's shadow still looms over our schools today. Stonewall's Teacher's Report in 2009 found many teachers want to combat homophobic bullying in their schools, but lacked the confidence or know how to do it. Fewer than one in ten had received any training on it.

As a result homophobic bullying is almost endemic in UK schools. Stonewall's latest School Report - based on research by University of Cambridge - found that over half of LGB young people experience homophobic bullying in Britain's schools. This has a profound impact on young people's attainment and aspiration, with one in three LGB young people who experience bullying saying they consider changing their future educational plans because of it. Even more worrying is the impact on young people's health and wellbeing – almost a quarter of LGB young people attempted to take their own life. Teachers have also told Stonewall that LGB young people are far from the only group to experience homophobic bullying, with academic boys and those who perceived to act differently, being particularly at risk.

The good news is that progress is being made. Since Stonewall first conducted the school report in 2007 the level of homophobic bullying has fallen by ten percentage points. What's more we've found that where schools and teachers take simple steps to tackle homophobic bullying its incidences decrease dramatically, showing that where schools take action it can be stopped. Which is why it's so appalling that any country could enact laws which leave young people to experience such misery.

While Governments choose to ignore history's lessons thankfully activists don't. LGB equality groups are gaining strength across Eastern Europe and are making the case for reform. Stonewall – which now campaigns against state-sponsored homophobia worldwide – has shared the lessons we have learnt with several of these groups. We had no such allies in 1989, but today – as many of those countries are actual or prospective members of the EU, the Council of Europe and the United Nations – we can lend our voice to their calls for change.

It is a difficult time for many LGB people in Eastern Europe, who find themselves caught in game of political expediency– but things can change. Stonewall's story may give hope to LGB rights groups worldwide. It took a long time, but we've reached a point where it has become unacceptable for mainstream politicians to use homophobia to get votes (although some still try). All our main political parties now agree on the basic case for equality. In 2009 David Cameron – who leads the Conservative Party – apologised to LGB people for his party's role in introducing Section 28. Today his party, in coalition with the Liberal Democrats, has promised to introduce equal marriage for LGB people by 2015.

So progress is possible. Groups like Insight, the Hungarian LGB & T Alliance and GenderDoc-M, working with other equality groups like Stonewall, can help change things for millions of LGB people. As long as the EU, individual member states and the Council of Europe continue to support our fight for equality, we can remain hopeful that Section 28 will become a sad lesson from history rather than a renewed modern injustice.



Vladimir Simonko, Lithuanian Gay League

Photo by Vytautas Valentinas

*“Homophobic Member of Parliament Petras Graziulis has repeatedly proposed legislative initiatives banning “gay propaganda”, for example in 2012 a proposal for a new article in the Administrative Code entitled “Denigration of constitutional moral values”, aiming at criminalization of a very wide variety of actions and activities e.g. campaigning on human rights issues related to sexual orientation and gender identity, providing sexual health information to LGBT individuals, organization of LGBT film festivals, Pride events etc. Lithuanian Gay League, protesting the proposals to ban freedom of expression and assembly for LGBT people, held a press conference and public action with waiving a 30 metres long rainbow flag near the Parliament on the International Day Against Homophobia and Transphobia.”*



**Olena Shevchenko,**  
Insight public organisation



Brussels protest at the Ukrainian Mission to the EU

“In the last two years, we have a tendency to return to the so-called paradigm of “traditional values and morality”. This process is very much linked to political and economic factors. Recently, in Ukraine during 2010-2012 three homophobic bills were registered, which was accompanied by great public interest and the support of plenty of homophobic public organisations: movement “Love against homosexuality”, public organisation “All together” ,committee of Mothers of Ukraine, political party “Svoboda” etc. Religious leaders came together with government leaders to support campaigns for the “tradition values and morality” and start playing a growing role in the political life of Ukraine.

Against the background of the recent economic and political crisis, public support for the church is growing, leading for fear amongst politicians to support the LGBT community. This happens partially also in the light of the upcoming elections. In this climate, xenophobia and especially homophobia grow with the high speed.

Bill 8711 became a symbol of union in the Ukrainian Parliament, five deputies from all represented parties unite their efforts and proposed this bill together. The Committee of Freedom of Speech

supports this law, so we still wait for it to be voted this autumn. The same situation happened with law 10290. The only difference between the bills are sanctions for so called propaganda of homosexuality aimed on children. Law 8711 includes administrative sanctions, law 10290 includes criminal sanctions (from 3 to 5 years imprisonment). Propaganda defined in 10290 includes: *promotion aimed at children, including holding meetings, parades, actions, demonstrations and mass events aiming at intentional distribution of any positive information about homosexuality; educational lessons, thematic discussions, interactive games and other events connected to homosexuality; and distribution in media of messages about homosexuality and appeals in any form about homosexual way of life, which may negatively influence children.* The same bill also includes “popularisation of any ideas of tolerance towards people with homosexual orientation.”

The last law initiative came from the Party of Regions. Law 10729 aims to ban “propaganda of homosexuality” with criminal sanctions. This law states that “any effort to create an image about equality between heterosexuality and homosexuality should be punished” and this law also talks about adults, not just propaganda aimed at children.”



rue Belliard straat 12, Brussels B-1040, Belgium  
Tel.: +32 2 609 54 16, fax: + 32 2 609 54 19

Magazine of ILGA-Europe, autumn 2012

**Editor:** Juris Lavrikovs (juris@ilga-europe.org)

**Contributors:** Anastasia Danilova, Tamás Dombos, Alli Jernow, Nils Muižnieks, Jasmine O'Connor, Evelyne Paradis, Olena Shevchenko, Vladimir Simonko

**Design & layout:** Silja Pogule, www.siljadesign.lv, **printer:** Papyrus Printing, www.papyrusprinting.be

ISSN 2070-2353



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With support from the European Union. This magazine is supported by the European Union Programme for Employment and Social Solidarity PROGRESS (2007-2013). For more information see: <http://ec.europa.eu/progress>  
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