



# Public interest litigation in Russia

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# Russian mental health care

- Monopoly of the state
- Mental health institutions are extremely closed
- Deplorable conditions
- Institutionalized stigmatization of people with mental disabilities
- No community alternatives to large mental health institutions

# Key areas for strategic litigation: **mental disability**

- Legal incapacity = “civil death”
- Life-long institutional placement
- Equality of arms in criminal and civil cases
- Ill-treatment in institutions

# Mental disability rights: milestones of strategic litigation

- 2008: ECtHR criticized Russian plenary guardianship
- Russian Constitutional Court:
  - 2009: end of procedural invisibility of persons deprived of legal capacity
  - 2009: judicial review of hospital placement
  - 2011: judicial review for placement in social care homes
  - 2013: end of the plenary guardianship model (substantive aspect)
- 2013: ECtHR: right to marry

# Strategic litigation: implementation in the mental disability field

- 2009: immediate change of legal incapacity and hearings
- 2011: major legislative reform
  - Right to appear before a judge
  - Right to appoint a counsel
  - Consent required for institutional placement
  - Equal criteria for deprivation of liberty
- 2014: Civil Code amended: supported decision-making instead of plenary guardianship

# Strategic impact of the mental disability cases

- Tackling deeply rooted stereotypes
- Empowering people with disabilities and disability NGOs
- Public debate of the mental health care
- Good model for other former Soviet Union countries

# Strategic litigation: LGBT rights

- Freedom of assembly
- State-sponsored homophobia
- “Homosexual propaganda”
- Free speech
- Hate speech and hate violence
- Equal marriage

# LGBT strategic cases: victories?

- 2010: ECtHR *Alkseyev v. Russia* – right to hold gay marches
- 2010: Constitutional Court: prohibition of “promotion of homosexuality to minors” is constitutional
- 2012: UN Human Rights Committee *Fedotova v. Russia* – ban on “promotion of homosexuality” to minors is discrimination in violation of ICCPR
- 2013: Constitutional Court: prohibition of “propaganda of homosexuality” is constitutional