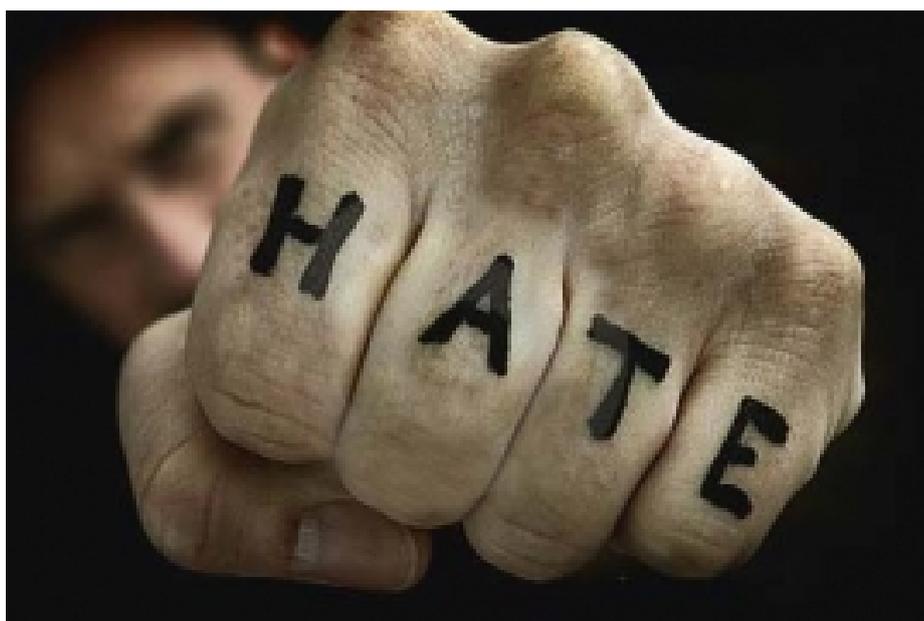


# Hate crimes against LGBT persons in Ukraine over 2012-2013

English summary of the report



## Hate crimes against LGBT persons in Ukraine over 2012-2013

English summary of the report<sup>1</sup>

*This publication presents statistics and examples of hate crimes and incidents against lesbian, gay, bisexual and transgender people in Ukraine for the period 2012-2013. The report uses the data obtained via Internet-based survey and from Nash Mir Center's monitoring network. Also presented are the activity on protection of rights of hate crimes victims and proposed recommendations for combating this negative phenomenon.*

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<sup>1</sup> Full text of the report is available in Russian at [www.gay.org.ua](http://www.gay.org.ua), link "Publications"

### **About monitoring**

For several years Nash Mir Center has developed its system of monitoring violations of LGBT people's rights in Ukraine. We established and now maintain an informal network that includes about 30 LGBT activists living in different regions of the country. Their mission is to seek out cases of human rights violations, make contact with the victim, document the case and send the information to the Nash Mir Center.

We, in turn, analyze incoming data, render the information more exact and verify its accuracy. The tasks of the Center also include methodological support of monitoring – we regularly provide training to maintain and improve the professional level of our monitors, to share experiences.

An additional advantage of this system is that to all affected persons coming into our field of vision we offer assistance in protecting their rights. Help may be limited only to initial legal advice from experts of our organization, but in case of need we further help in finding from friendly organizations a qualified lawyer, who then provides professional legal assistance. In addition, our organization constantly works to improve the legal knowledge of the LGBT community by producing and distributing literature and providing training.

Thus, Nash Mir Center constantly expands and updates its database that allows judging the current situation of the Ukrainian LGBT community.

### Assessment of the situation with the Internet survey

In the second half of August 2013 Nash Mir Center conducted the online survey "Monitoring of crimes and incidents motivated by hatred against LGBT people in Ukraine" among users of the dating website for "men who love men" QGuys.ru<sup>2</sup>, whose profiles are registered in Ukraine. We selected for analysis only those responses (499 in total) which contained complete or almost complete necessary personal data. In our view, his meeting this particular entrance screening criterion shows that a respondent would likely complete questioning conscientiously, and we can trust his answers in general.

It should be noted that this method of survey is not perfect from a sociological point of view, and the results can only be used for a rough estimate of the situation.

Most respondents are young men (98%) living in Kyiv and major cities of Ukraine. They demonstrate a high level of education that corresponds to their occupations: mainly businessmen, knowledge workers, office workers, students. The income level of the respondents, respectively, is relatively high.

They are involved sufficiently in the life of the LGBT community, but to a much lesser extent are they open to broader society. Only about 10% reported that they did not try to communicate with the community, limiting contacts to casual sex. Despite the relatively high level of acceptance of their own homosexuality, the degree of respondents' openness to the external environment is still quite low. Only about a quarter do not hide their homosexuality, one third are open to the most proximate heterosexual environment, slightly more than one third admit their homosexuality only within the LGBT community, and the remaining 12% are reluctant to admit their homosexuality, even among friends.

For the studied period 322 of 499 respondents (i.e. almost 65%) reported that at least once they suffered from incidents or crimes motivated by homo- or transphobia. Table 1 presents data on the number of respondents who experienced (regardless of the number of incidents) some violations of their rights.

Table 1.

<b><i>The nature of the incident</i></b>	<b>2012</b>	<b>2013</b>
	<i>Sample of 499 respondents</i>	
I was insulted with words and / or gestures	175 (35%)	173 (35%)
Confidential information about me (of sexual orientation) was disclosed	126 (25%)	118 (24%)
I was threatened with violence (e.g., beating, killing)	90 (18%)	74 (15%)
I was subjected to physical violence (e.g., punching, kicking etc.)	67 (13%)	56 (11%)
They tried to extort money, goods, services from me	57 (11%)	34 (7%)
I was robbed	45 (9%)	25 (5%)
My property was damaged (e.g., smashed windows, punctured car tires)	27 (5%)	21 (4%)
I was denied commercial services (e.g., not allowed in or was kicked out of the bar, taxi, etc.)	29 (6%)	19 (4%)
I was subjected to sexual actions of a degrading nature	22 (4%)	15 (3%)
They attempted to murder me	20 (4%)	15 (3%)
I was raped	17 (3%)	11 (2%)
I was wounded with weapon (such as a stick, metal rod or the like, cold steel, or firearm)	11 (2%)	8 (2%)

<sup>2</sup> We express our sincere gratitude to Mr. Aleksey Khodorovsky, the website owner, for cooperation.

For each type of incidents, every respondent could indicate a certain number of cases from “1” to “10 and more”. When summing up all individual cases, we obtain an average of about 4 incidents per 1 LGBT person per year.

As is noted above, our study cannot claim sociological precision, its sampling technique and conducting method are not perfect. Nevertheless, based on all the collected data one can draw an unequivocal conclusion:

**Members of the Ukrainian LGBT community constantly face manifestations of intolerance from society at large. Incidents and crimes against them as a sub-group have a different character, severity, and frequency, and generally are not isolated cases but constitute a pervasive phenomenon.**

Table 2 shows the number of respondents who reported that they suffered (at least once) from the actions of certain groups or individuals.

Table 2.

<i>Violators by category</i>	<i>The number of respondents who reported this violator</i>
	<i>The sample 499 respondents</i>
Outsiders (non-organized groups)	177 (35%)
Colleagues at work or schoolmates	105 (21%)
The police or other law enforcement agencies	99 (20%)
Organized groups (hooligans, nationalists, “pedofilyay” <sup>3</sup> etc.)	91 (18%)
Parents, relatives	61 (12%)
Other individuals who abused their position (a teacher, doctor, waiter, taxi driver etc.)	56 (11%)
Employer (manager)	47 (9%)
Others	39 (8%)

We did not render further analysis of the information, as the data set is not sufficiently large and full, and the probability of error in a more in-depth analysis can increase.

Next, a respondent was asked to describe the single most serious incident that occurred to him in 2012-2013. This section was filled in by 300 respondents, of which 172 gave only formal replies, and 128 also gave details of the incident.

Line items from Table 3 show what impacts these incidents had (respondents could choose several answers).

<sup>3</sup> “Okkupay-pedofiliay” or just “pedofiliay” is a recent movement of self-appointed combatants against pedophiles that first appeared in Russia and then spread throughout Ukraine too. For more details, please see page 5.

Table 3.

Consequences of incident for the victim	Number of responses
	<i>Sample of 300 respondents</i>
Psychological trauma	227 (76 %)
Material losses	103 (34 %)
Health damage	66 (22 %)
Nil	68 (23 %)

Table 4 shows that overwhelmingly in most cases those surveyed did not seek protection of their rights, and among those who applied to the police only a third managed to protect their rights.

Table 4.

Did you make any attempt to protect your rights and if so what was result?	Number of replies
	<i>Sample of 300 respondents</i>
Yes. I appealed to the police or other authorities. I managed to protect my rights (at least partially).	16 (5 %)
Yes. I appealed to the police or other authorities. However, my rights were not protected.	30 (10 %)
No. I did not apply to the police or other authorities for protection of my rights.	254 (85 %)

Respondents at will could leave their contact information (e-mail was provided by 45%, telephone – 30%). Thus, we have the capability to clarify the information if necessary.

## Protecting rights of the victims

The project provides legal counselling to LGBT victims of hate-motivated actions and other types of discrimination, and violation of rights. During the period from April 2011 to August 2013 there were provided 83 consultations in total, among them 65 for gay men, 10 for lesbian women, 6 for transgender persons, 1 for a bisexual and 1 for a heterosexual men. Leaders or activists of NGOs representing interests of their organizations' client are regarded as individuals in these numbers. Most complaints were received from Kyiv and Kyiv Oblast (21), Dnipropetrovsk Oblast (15), the cities of Donetsk (7) and Chernivtsi (5).

The mentioned problems can be divided as follows (see table 5)

Table 5.

<i>Problem</i>	<i>Number of complaints</i>
<b>1. Hate crimes</b>	<b>23</b>
a) physical violence	8
b) rape	1
c) harassment	3
z) robbery	1
d) disclosure of or threat to disclose information on sexual orientation or HIV status	11
<b>2. Hate incidents</b>	<b>13</b>
a) threats of physical violence	9
b) homophobic attitude in the family	3
c) threat to deprive of parental rights	1
<b>3. Hate speech</b>	<b>2</b>
<b>4. Violation of the rights of LGBT people by the police</b>	<b>29</b>
a) unlawful detention	20
b) provocation to commit a crime	16
c) blackmail and extortion	7
z) groundless summons to the police	3
d) unlawful photographing and fingerprinting	1
e) police inaction	1
<b>5. Discrimination in employment and education</b>	<b>4</b>
<b>6. Discrimination in the judicial sphere</b>	<b>3</b>
<b>7. Discrimination in places of confinement</b>	<b>3</b>
<b>8. Discrimination in the Armed Forces</b>	<b>2</b>
<b>9. Counselling for human rights defenders and LGBT activists</b>	<b>5</b>
<b>10. Other issues</b>	<b>5</b>

Hate-motivated actions most often were addressed in connection with the illegal activities of "Okkupay-pedofilyay" groups. Under the guise of being minors, they meet (entrap) gay men online, and during the personal meeting phase they surround the victim, force him (through fear of violence and sometimes by actual violence) into self-incrimination, and then spread the video of the "confession" out upon the social networks. Usually, neither "pedofiliays" nor their victims apply to the police, which only contributes to the

increase of the number of such incidents. Over 2012-2013 such groups have been active covering all the major cities of Ukraine.

The second largest group of complaints is issues related to illegal actions of the police through the Internet. In practice, provoking crime has become a popular way to improve the figures of activity for the Ukrainian police. To do this (to bring about entrapment), police officers register at one of the online dating websites for gay men and ask one of its customers to disclose his intimate photos. The act of opening photos, then, entails a criminal charge of pornography distribution, or exacts a bribe for silence. Thus over the last 2-3 years dozens of gay men were prosecuted or forced to pay large bribes to the police for silence. In some cases customers, who wished to protect their rights, received legal assistance from our gay-friendly partner NGO "Dignity."

In one case, police officers through the Internet provoked a minor to engage in prostitution, and later, in violation of the law (without the presence of his parents or other legal representatives), an administrative penalty was imposed upon him.

Some LGBT people were subjected to physical violence or threat of violence when their sexual orientation or gender identity became known to others. Thus, in March 2013 a homosexual man from a small town in Kyiv Oblast applied for help due to harassment that he regularly experienced from the group of young people gathering in the courtyard of an apartment building where the victim lived. Along with threats of physical violence against him, they followed him to the door of his house and repeatedly tried to break off the door to his apartment. His complaints to the local police yielded nothing – they did not even come in response to his calls. Because of such persecution, the victim was forced to sell his apartment and move to Kyiv, where he feels more secure, although now he has to rent an apartment instead of having his own.

However, the most outrageous instance occurred in November 2011 when in Dnipropetrovsk a group of drunken young men brutally beat and raped a gay man. The victim has no doubt that he would have been murdered if not for an accidental passerby. A consultation on the case was requested by local LGBT activists from the organization Our Center, whose client the victim was. Thanks to the efforts of activists and lawyers, the case was brought to the court and the offenders were convicted, receiving various terms of imprisonment.

Two consultations were provided to transgender persons in connection with the use of physical violence and threats of violence against them, both by private individuals and by the officers of the Border Service. In both cases the victims of these incidents directly associate their ill treatment with their gender identity. In another case, a transgender woman (MtF) has been denied the right to education due to the fact that her appearance does not match the photograph in her passport, and Ukrainian legislation does not regulate this issue.

Twice, homosexual persons requested help to resolve the conflicts that had arisen due to their sexual orientation. In one case, a lesbian couple complained of neighbors threatening them with forced eviction from an apartment owned by one of the girls.

Another case is the following: two men lived together for 15 years, jointly gained property and general business, which were registered to only one of them. At present their relationship has broken off, and in fact one of the former partners has remained without his share of property and business. This situation is not regulated in terms of the Ukrainian legislation, which does not recognize same-sex partnership and all issues, including property rights, which can be associated with it. At the same time, heterosexual cohabitants under the Ukrainian law (Article 74 of the Family Code of Ukraine) have the right to marital property, similar to that enjoyed by officially registered spouses. Therefore, this situation constitutes obvious discrimination of same-sex couples as compared to heterosexual families. A lawyer from the friendly organization Without Borders began working with the victim to determine whether this case can be used for further strategic litigation.

Not all of those who applied for advice agree to publicly defend their rights. Some of them do not believe that law enforcement agencies can help them -- fearing even more problems over their part in the matter -- doubt the Ukrainian courts, and most importantly, fear that information about their sexual orientation would be disclosed to other people. Unfortunately, experience shows that their fears are largely justified.

## Cases documented by Nash Mir Center and its monitoring network

Information on these cases was not collected by the Internet survey, but received from participants of Nash Mir Center's monitoring network in the regions, from the media / Internet or directly from victims. It was not used in the above-mentioned statistical analysis.

### 1. Physical violence in the family, Kremenchuk (Case 366)

Date, time and place: 23.01.2012, about 6 p.m., Kremenchuk (Poltava Oblast). The house of the victim's mother.

Source of information: An activist of Nash Mir Center in Poltava.

Victim(s): A bisexual man, 24 years old.

Type of crime: Physical violence.

Perpetrator(s): The victim's stepfather, an unemployed alcoholic.

Brief description of the incident with bias indicators: When visiting his mother, the victim was subjected to insults and then physically abused by his stepfather, who was in a state of alcohol intoxication, because of his "non-standard" sexual orientation.

Status of the case: The victim's mother called the police. There was instituted a criminal case, and the court sentenced the stepfather under Article 125 of the Criminal Code of Ukraine "Intentional minor injury" to fine of 51 Ukrainian hryvnias and 40 hours of community service. However, the investigation and the sentence did not touch sexual orientation of the victim as the motive of the crime.

Response of local authorities: It is absent.

Impact on the victim(s) and the community: The victim sustained a craniocerebral injury of medium severity and felt mentally depressed.

### 2. Physical violence in the family, Kryvyi Rih (Case 371)

Date, time and place: 05.03.2012, about 3 a.m., Kryvyi Rih (Dnipropetrovsk Oblast). The apartment of the victim's grandmother.

Source of information: An activist of Nash Mir Center in Kryvyi Rih.

Victim(s): A gay man, 32 years old.

Type of crime: Physical violence.

Perpetrator(s): The stepbrother of the victim (23 year old, a security guard, an alcoholic) and his friends.

Brief description of the incident with bias indicators: The perpetrators, being in a state of alcohol intoxication, at night came in the apartment, where the victim lived with his grandmother, and began to extort money from the grandmother. The victim was trying to protect his grandmother. Then attention of the perpetrators shifted to the victim. Being aware of his homosexuality, the stepbrother and his friends dragged the victim into the staircase and began beating, abusing and threatening to kill him because of his sexual orientation. Only the intervention of neighbors saved the victim from further beatings.

Status of the case: The victim has not applied to the police.

Response of local authorities: It is absent.

Impact on the victim(s) and the community: The victim sustained a bodily injury of medium severity and felt mentally depressed.

### 3. Threatening behavior with use of presumably traumatic weapon, Kirovohrad (Case 386)

Date, time and place: 21.04.2012, Kirovohrad. The cruising place in the park where gay men gather.

Source of information: The victim.

Victim(s): A gay man, 29 years old.

Type of crime: Threatening behavior.

Perpetrator(s): An unascertained man, 25-30 years old.

Brief description of the incident with bias indicators: The victim was sitting at the cruising place when he was approached by an unknown guy who said that he know why the victim is sitting in this place, insulting him because of his sexual orientation. He then pulled out a gun and, threatening with it, forced the victim to escape. The perpetrator fired several shots (presumably with rubber bullets), but did not cause physical harm.

Status of the case: The victim has not applied to the police.

Response of local authorities: It is absent.

Impact on the victim(s) and the community: The victim felt extremely frightened and mentally depressed.

#### **4. Homophobic assault against a bisexual man, Kyiv (Case 389)**

Date, time and place: 06.05.2012, early in the morning, Kyiv. The courtyard of the Institute of Ecology's hostel.

Source of information: The victim.

Victim(s): A bisexual man, 22 years old.

Type of crime: Physical violence.

Perpetrator(s): Three men aged 25-35, the victim's neighbors in the hostel.

Brief description of the incident with bias indicators: The victim was returning from a night club. His neighbors, who stood near the entrance, did not like the way the victim was dressed (in their opinion, too provocatively) and they began to insult him, blaming him for homosexuality and the inability to be "a real man", and then the two of them began to strike blows in the face and stomach. The third perpetrator, an officer of the armed forces, did not participate in physical violence, but verbally approved of his friends' actions.

Status of the case: The victim has not applied to the police.

Response of local authorities: It is absent.

Impact on the victim(s) and the community: The victim sustained minor injuries and feel mentally depressed because he still lives close by these people.

#### **5. Homophobic assault against lesbian women, Zaporizhzhia (Case 395)**

Date, time and place: 09.06.2012, early in the morning, Zaporizhzhia. Nearby the exit of a gay club.

Source of information: An activist of Nash Mir Center in Zaporizhzhia.

Victim(s): Three lesbian women, about 25 years old.

Type of crime: Physical violence.

Perpetrator(s): A taxi driver.

Brief description of the incident with bias indicators: When the victims came out of the club, a taxi driver invited them to sit in the car but they refused. Then he



began insulting them because of their sexual orientation, drove up to one of them from behind at her feet, threw her on the car bonnet, drove a couple of meters, and threw her off. When the two other girls ran up to him and tried to stop, he punched one of them in her face and knocked out a tooth, and the second, grabbing her arm, dragged over the pavement a few meters behind the car.

Status of the case: The police were called and they have soon found the attacker and instituted a case. The victims were called to the court but they refused to come. It is not known what decision was taken by the court.

Response of local authorities: It is absent.

Impact on the victim(s) and the community: The victims sustained minor injuries and felt depressed. This incident also impressed the other visitors of the gay club – it made them understand that they cannot feel safe close by the club.

## 6. The attack on two organizers of the Kyiv Pride 2012 (Case 401)

Date, time and place: 20.05.2012, Kyiv. Outdoors (nearby Darnytsia metro station).

Source of information: The victims, mass media.

Victim(s): Pride organizers Sviatoslav Sheremet, Maksim Kasianchuk.

Type of crime: Physical violence.

Perpetrator(s): about 10 masked men aged 25-30.

Brief description of the incident with bias indicators: First, the victims were sprayed with tear gas by a group of young men in masks at an impromptu press conference on the failure of the gay pride march right in full view of present journalists. Several minutes later the victims went to a next empty courtyard to change clothes and then were attacked again by the same perpetrators who surrounded them and began methodically and brutally beat them. The fact that it happened due to their public activities is testified by the attackers' question before the beating, "Вы пидары?" ("Are you fags?"); besides this day all center of Kyiv was patrolled by groups of aggressive enemies of the Pride. Some journalists, who still stayed near, managed to record this assault.

Status of the case: The police were immediately called. They instituted a criminal case under Article 296 of the Criminal Code "Hooliganism." The investigation has not yet been completed. The police and the Public Prosecutor's Office in Kyiv have refused to regard the crime as a hate crime.

Response of local authorities: There has been hardly any. An open letter of the Council of LGBT organisations of Ukraine to all leading Ukrainian political parties with appeal to denounce the evident and brutal homophobic aggression has remained without any reply, none of the addressees has condemned the attack on the organizers of the Pride.

Although no group has claimed responsibility for the attack, appreciation of these events at various right-wing websites and in social network groups suggests that it was doing of right-wing extremists. At the same time, Andrii Illienko, a member of the Political Council of the [radical right-wing Ukrainian nationalist]



Svoboda Party, stated that it was Ukrainian nationalists who disrupted a gay pride parade in Kyiv (<http://glavcom.ua/news/80229.html>).

Impact on the victim(s) and the community: The victims sustained various injuries of mild to medium severity. The Ukrainian LGBT community received a clear signal of what should expect in Ukraine those who publicly dare to claim their rights. Now it is obvious that the authorities cannot and do not want to protect public LGBT events from homophobic aggression.

### **7. The attack on the third organizer of the Kyiv Pride 2012 (Case 403)**

Date, time and place: 22.06.2012, Kyiv. In the street outside the home of the victim.

Source of information: The victim.

Victim(s): Pride organizer Taras Karasiichuk.

Type of crime: Physical violence.

Perpetrator(s): A young man.

Brief description of the incident with bias indicators: The victim was attacked in an empty street nearby his home by an unknown young man who was waiting for him. The assaulter asked the victim, "Ты пидар?" ("Are you faggot?"), and started brutally beat him up not waiting for the answer. The assaulter run away when noticed approaching passers-by.

Status of the case: The victim's relatives immediately called the police, but police officers came only next day, after repeated calls of LGBT activists to the city police department. There has been instituted a criminal case under Part 1 of Article 122 of the Criminal Code "Intentional moderate bodily injury." The investigation has not yet been completed. The police and the Public Prosecutor's office of Kyiv refused to regard the crime as a hate crime.

Response of local authorities: It is absent.

Impact on the victim(s) and the community: The victim has got several injuries of various degrees (in particular, he had a broken jaw and a craniocerebral injury). The effect on the Ukrainian LGBT community was the same as after the beating of his colleagues in May.



### **8. Homophobic assault against a bisexual man, Zaporizhzhia (Case 404)**

Date, time and place: 15.06.2012, late at night, Zaporizhzhia. At a bus stop.

Source of information: An activist of Nash Mir Center in Zaporizhzhia.

Victim(s): A bisexual man, 20 years old.

Type of crime: Physical violence.

Perpetrator(s): Two young men.

Brief description of the incident with bias indicators: The victim got off the bus and just walked away from the stop as he was attacked by two guys. He does not remember where they came from – probably got off the bus after him. First, they insulted the victim by the words "педик" and "пидар" ("fag", "queer") and said that he looked like a girl, then knocked him to the ground and kicked in the head and the body, resulting in the victim lost consciousness. When he regained consciousness, there was no one beside him. The assaulters have not stolen his things or money.

Status of the case: The victim did not call the police because of the fear that the investigation will out his sexual orientation.

Response of local authorities: It is absent.

Impact on the victim(s) and the community: The victims sustained bodily injuries of mild severity (he did not go to the hospital).

**9. Homophobic assault against a gay man, Zaporizhzhia (Case 414)**

Date, time and place: 21.07.2012, late at night, Zaporizhzhia. Nearby the café where the victim works.

Source of information: An activist of Nash Mir Center in Zaporizhzhia.

Victim(s): A gay man, 24 years old.

Type of crime: Physical violence.

Perpetrator(s): Three young men.

Brief description of the incident with bias indicators: The victim was attacked near the café, which he left after work. Shortly before that, the company of three young men was served in this café. Then they behaved rudely, turning their attention to his alleged "not masculine" clothes and piercing, calling him in feminine gender, and telling lewd jokes about him. Outside they proceeded to insult him with rude words due to his sexual orientation, and then began to hit him in the face and stomach until he fell to the ground, after which they disappeared.

Status of the case: The victim did not call the police.

Response of local authorities: It is absent.

Impact on the victim(s) and the community: The victim sustained injuries of mild severity (he did not go to the hospital).

**10. Homophobic assault against a gay male couple, Kharkiv (Case 418)**

Date, time and place: 06.05.2012, late at night, Kharkiv. At the entrance of the house where the victims live.

Source of information: An activist of Nash Mir Center in Kharkiv.

Victim(s): Two gay men living together.

Type of crime: Physical violence.

Perpetrator(s): The neighbor and his two friends.

Brief description of the incident with bias indicators: The perpetrators previously treated the victims badly because of their sexual orientation (insults, hard blows in the front door of the victims' apartment, etc.). In that evening, when one of the victims went to the staircase to see who was knocking on the door, three men started beating him. When the second victim came to help his partner, he was also beaten. It lasted about half an hour until other residents of the house by joint efforts could pull the attackers away.

Status of the case: The victims turned to the police. However, the criminal case (under Art. 122 of the Criminal Code "Deliberate moderate injury") was instituted against only one of the perpetrators, what the victims perceive as probable collusion between perpetrators and investigation bodies.

Response of local authorities: It is absent.

Impact on the victim(s) and the community: The victims sustained injuries of medium severity (broken jaw and ribs, multiple bruises), and also are in a state of permanent stress as they have to live close by these people.

**11. Beating of a gay man in a nightclub, Kharkiv (Case 422)**

Date, time and place: 18.08.2012, at night, Kharkiv. At the exit of the nightclub *Jam*.

Source of information: An activist of Nash Mir Center in Kharkiv.

Victim(s): A gay man, 26 years old.

Type of crime: Physical violence.

Perpetrator(s): Two guards of the nightclub *Jam*.

Brief description of the incident with bias indicators: *Jam* seems to be is a mixed club (i.e. visited both straight and gay public), but the administration and the security often regarded gay people with prejudice. This time a gay man was severely beaten by guards of the club. The pretext for the beating was a glass that that gay man had allegedly smashed, but the victim and several witnesses claim that the real

reason was the homophobic attitude of the administration and the guards of the club, which is confirmed by the remarks of the guards during the beating, "Ты что, крутой пидар?" ("Who are you, a cool faggot?") and "Как вы заебали, пидары!" ("We are f..king sick of you, queers!").

Status of the case: The police arrived at the scene, but they did nothing to investigate the crime. The probable cause of the police's inaction could be their friendly relations with the owner of the club, who, covering his guards, said that it was he who beat the victim, and invited the police officers to his office, after which they departed and took no further action to investigate the incident. Later the victim made complaint to the public prosecutor against the police's inaction, but examination of his application lasts up to date.

Response of local authorities: It is absent.

Impact on the victim(s) and the community: The victim sustained multiple injuries all over his body, a broken nose, and severe craniocerebral injury.

## **12. Beating and robbery of a gay man, Kharkiv (Case 423)**

Date, time and place: 30.08.2012, in the evening, Kharkiv. In a taxicab.

Source of information: An activist of Nash Mir Center in Kharkiv.

Victim(s): A gay man, 27 years old.

Type of crime: Physical violence.

Perpetrator(s): A taxi driver.

Brief description of the incident with bias indicators: The victim was beaten and robbed by a taxi driver. The victim believes that the reason was his "non-standard" sexual orientation, which the driver guessed when the victim said goodbye to his boyfriend before getting into the car. This is evidenced by the driver's insulting questions like "Кто из вас кого трахает? Вы же пидары!" ("Who of you f..ks whom? You are queers indeed!") and other insults in the same spirit.

Status of the case: The victim made complaint to the police, but no one has contacted him after that, and he has taken no other actions.

Response of local authorities: It is absent.

Impact on the victim(s) and the community: The victim sustained injuries of mild severity. In addition, the perpetrator grabbed his wallet with 700 Ukrainian hryvnias.

## **13. Beating and robbery of a gay man, Kyiv (Case 402)**

Date, time and place: 22.06.2010, at night, Kyiv. Near University metro station.

Source of information: The victim.

Victim(s): A gay man, 27 years old.

Type of crime: Physical violence, robbery.

Perpetrator(s): A group of four men.

Brief description of the incident with bias indicators: The victim was beaten and robbed by four unknown men. He believes that it was caused by his homosexual orientation, which perpetrators could guess from his appearance.

Status of the case: The victim applied to the police. Later the attackers were detained in connection with other crimes. In 2012 the court convicted the violators to various terms of imprisonment for the aggregate crimes committed by them to the date.

Impact on the victim(s) and the community: The victim has sustained injuries of light severity, as well as material damage in the amount of things stolen from him, totaling 310 Ukrainian hryvnias.

## **14. Property damage, vandalism in Kyiv (Case 435)**

Date, time and place: February 2013, Kyiv. Near the metro stations University and Lev Tolstoy Square.

Source of information: NGO Insight, web social networks.

Victim(s): NGO Insight, the Ukrainian LGBT community.

Type of crime: Property damage, vandalism.

Perpetrator(s): A group of unascertained persons closely connected with The Ukrainian Choice, a political project of Viktor Medvedchuk.

Brief description of the incident with bias indicators: Lightboxes on some stations of the Kyiv metro, which posted social advertising of LGBT NGO Insight criticizing homophobic bills, were smeared with black paint.

Status of the case: NGO Insight applied to the police, but they denied instituting criminal proceedings. The police detained the perpetrators at the time of committing their unlawful actions, but after they explained to the officers that their goal was to prevent the so-called "propaganda of homosexuality", they were released. The vandals themselves filmed their actions and uploaded the video into the Internet.

Impact on the victim(s) and the community: NGO Insight and the Ukrainian LGBT community once again ascertained their opponents' activity and the reluctance of law enforcement agencies to protect the rights of LGBT people.

### **15. Homophobic assault against a gay men, Lviv (Case 436)**

Date, time and place: 16-17.02.2013, at night, Lviv. Near the café Milady.

Source of information: An activist of Nash Mir Center in Lviv.

Victim(s): Two gay men of 20 and 27 years of age.

Type of crime: Physical violence.

Perpetrator(s): A group of unascertained persons from the right-wing grouping Galaktony.

Brief description of the incident with bias indicators: The victims were beaten by militants from the right-wing grouping Galaktony on leaving the café that held a gay party at that time. Besides, one of the victims suffered from the tear gas applied by the perpetrators. Since 2005, a variety of far-right organizations continue trying to track down gay parties organized in Lviv to attack their visitors. This time organizers of the event knew in advance about the planned raid from web social networks and warned all participants, including victims, about the danger, urging people not to go out of the café.

The attackers also shouted homophobic insults, indicating the nature of the attack.

Status of the case: The victim did not apply anywhere for help.

Impact on the victim(s) and the community: The victims sustained injuries of light severity.

### **16. Preparation of a homophobic assault, Lviv (Case 439)**

Date, time and place: 09.03.2013, in the evening, Lviv. In the center of the city.

Source of information: An activist of Nash Mir Center in Lviv.

Type of crime: Preparation of a hate crime.

Perpetrator(s): A group of unascertained members of the extreme right-wing grouping Moloda Halychyna and fans of the football club Karpaty.

Brief description of the incident with bias indicators: On March 7, 2013, when monitoring the pages of Lviv ultra-right groups in social networks, a regional activist of the Nash Mir Center in Lviv saw communications on the page of Moloda Halychyna indicating that militants of this group had learned about a gay party planned on March 9 in Lviv. Over the next two days this online resource displayed preparation of the members of this grouping, as well as fans of the FC Karpaty, to make attack on this LGBT event -- with detailed instructions on whom, how, and what tools to beat with. So, for example, organizers engaged girls, friends of the militants, in this "campaign of intimidation" to beat lesbians, because guys did not want to beat girls themselves.

In the evening of March 9 activists of Nash Mir Center came to the agreed place of gathering of militants near the Opera House and saw several groups of young people in black, among whom also were girls, a total of about 60 people. Many of them had backpacks, from which baseball bats peeped out. Then they

went in groups to the place of the LGBT party. Our activists followed them, by phone telling the organizers of the party where the militants were directing their steps. However, they did not notice that they themselves were followed by another group of militants at close range. Realizing who was walking before them, the militants began to insult the activists and planned to attack them; however, they managed to hide in a McDonald's, and the militants proceeded to the venue of the party.

Status of the case: The organizers of the LGBT party in advance hired a private guard and applied to the police. By the time of the extreme right militants' arrival, police officers were already in place and prevented the attack, although none of the militants was detained.

Impact on the victim(s) and the community: The LGBT communities in the western regions of Ukraine are the most closed and unorganized in the country. The main reason for this situation is their fear before society, which in these regions is most conservative and religious. However, the LGBT community in Lviv is the most organized and solidary-prone in this region of the country, although, constantly being "monitored" by ultra-right groupings, LGBT activists and ordinary members of the community experience constant fear for their safety.

### **17. Beating and robbery of a gay man, Chernivtsi (Case 442)**

Date, time and place: 04.01.2013, in the evening, Chernivtsi. At a public transport stop.

Source of information: An activist of Nash Mir Center in Chernivtsi.

Victim(s): A gay man, 19 years old.

Type of crime: Physical violence, robbery.

Perpetrator(s): A group of unascertained persons.

Brief description of the incident with bias indicators: The victim got acquainted with a guy, allegedly gay, in the web social network Vkontakte and arranged about meeting. At the place of meeting somebody among 4 unknown men in clothing with deep hoods called him by name. Making sure that it was he, they attacked him, knocking him down to the ground severely beaten, while shouting homophobic remarks "Beat fags!", "Now let's see what's inside you motherfuckers!" etc. At same time they took away the victim's cell phone. Thanks to the interference of a passerby, the attackers stopped the beating and fled.

Status of the case: The victim applied to the police by writing a statement about theft of the mobile phone. He did not mention the main reason of the attack. The attackers have not been found.

Impact on the victim(s) and the community: The victim was robbed and sustained injuries of light severity. The victim and his friends realized that social networks are not safe places.

### **18. Threat of physical violence and arson of the library, Mariupol (Case 448)**

Date, time and place: 20.04.2013, Mariupol (Donetsk Oblast).

Source of information: Head of the NGO Donbass-SocProject, the media.

Victim(s): Organizers and participants of the Diversity Forum.

Type of crime: Threat of physical violence and arson.

Perpetrator(s): A group of unascertained persons allegedly from ultraright-wing groups.

Brief description of the incident with bias indicators: Organizers of the Diversity Forum and Korolenko Library in Mariupol, where the Forum was planned to be held, received threats of physical violence and arson of the building, as a result of which the library refused to hold a Forum on its premises. During the event in the new place, there was observed a significant gathering of aggressive young skinheads, shouting homophobic slogans and threats to participants of the event.

Status of the case: The organizers applied to the police for the protection of the event (the police did not want to react for a long time) and that helped to avoid open conflict.

Impact on the victim(s) and the community: Fear of the organizers of the Forum for their safety and the safety of participants.

**19. Insults and physical violence against a transgender girl, Sumy (Case 449)**

Date, time and place: March 2013, Sumy. At the entrance of an educational institution.

Source of information: An activist of Nash Mir Center in Sumy.

Victim(s): Transgender girl (MtF), 15 year old.

Type of crime: Verbal abuse, physical violence.

Perpetrator(s): A group of unascertained persons.

Brief description of the incident with bias indicators: At the entrance of the college that the victim attends she was stopped by few older kids with a question whether she is “queer” (due to her appearance). After making insults connected with her gender identity, they grabbed her and hit her head against a concrete wall.

Status of the case: The victim did not apply for help.

Impact on the victim(s) and the community: For several days the victim had a headache and was in a depressed state.

**20. Threat of physical violence and damage to property, Kyiv (Case 453)**

Date, time and place: 25.07.2013, at night, Kyiv.

Source of information: The victim.

Victim(s): A transgender woman (MtF), 49 year old.

Type of crime: Threat of physical violence, damage to property.

Perpetrator(s): A neighbor of the victim.

Brief description of the incident with bias indicators: A neighbor of the victim, a drug addict and former prisoner, in a condition of allegedly narcotic intoxication in the middle of the night was bursting in the door of the victim’s apartment, demanding that she get out and threatening to beat her. At that point he was screaming obscenities towards her about her gender identity.

Status of the case: The victim called the police who detained the infringer and drew up a report on the administrative offence.

Impact on the victim(s) and the community: The victim is experiencing permanent fear for her safety because of constant threats and attempts to attack by this person. It has continued for several years since he had been released from prison.

## Conclusions and recommendations

The state must pay attention to the problem of overcoming public homophobia that causes crimes and incidents motivated by hatred towards LGBT people. This report does not cancel the need to collect and analyze relevant information by law enforcement and other government agencies. However, under the existing total disregard of this need by the state, we aim to carry out our work on collection and analysis of data on hate crimes, discrimination, and human rights violations against LGBT people in Ukraine most efficiently and professionally. Within this activity, we see the need

- to expand and stimulate our network on monitoring the situation and legal assistance in the regions;
- to improve the skills of our monitoring network's participants and to develop contacts between them for the purpose of mutual support and exchange of experiences;
- to provide a program of legal education for the local LGBT communities that would help them to protect their rights.

The Ukrainian legislation does not include concepts such as "hate crime" and "hate incident." The only article of the Criminal Code, criminalizing offences motivated by hatred, is Article 161 "Violations of the equality of citizens according to their race, nationality or religion," which provides for the prosecution of "intentional acts aimed at inciting national, racial or religious hatred, humiliating national honor and dignity, or outraging the feelings of citizens in relation to their religious beliefs." However, as the name implies, the list of protected characteristics in this article is very limited (e.g., race, nationality, religious beliefs) and closed, not providing responsibility for crimes motivated by hatred based on sexual orientation or gender identity. For example, all attempts to bring the people, who beat organizers of Gay Pride 2012 in Kyiv, to justice under this article were unsuccessful – the Public Prosecutor's Office staff have not seen in this case a violation of Article 161 of the Criminal Code. The investigating authorities have restricted charges to the article "Hooliganism."

However, it should be noted that even criminal charges under the grounds that Article 161 of the Criminal Code protects directly, are extremely rare. The police and prosecutors prefer to use other articles of the Criminal Code that provide for punishment, e.g., for disorderly conduct or assault and battery, because proving violation of Article 161 requires additional work to define qualificatory characteristics. Thus, this article does not work in regard to not only LGBT persons but also other vulnerable groups.

The same is true regarding Article 67 of the Criminal Code that defines aggravating circumstances. Among motives of hatred it mentions only a "crime motivated by racial, national or religious enmity or discord" (Para. 3, Part 1) – a closed list of signs identical to that referred to in Article 161.

As for administrative liability, the Code of Administrative Offences does not provide for penalties for offences motivated by hate.

In this regard, we consider it necessary to amend Paragraph 3 of Part 1 of Article 67 of the Criminal Code, by changing its wording and expanding the list of motives, which are aggravating circumstances in the commission of crimes, henceforward including in them, among other impetuses, enmity on grounds of sexual orientation and gender identity.

We support the proposal of Kharkiv Human Rights Group to remove from the Criminal Code (Article 161) criminal liability for "intentional acts aimed at humiliating national honor and dignity or outraging the feelings of citizens in relation to their religious beliefs", instead providing administrative liability for

- public incitement to discrimination or hate crimes (on a number of grounds);
- dissemination of information, production and dissemination of advertisements containing incitement to commit hate crimes (on a number of grounds);
- minor damage to property motivated by hatred (on a number of grounds);
- disorderly conduct motivated by hatred (on a number of grounds);

and also to consider motives of hatred as an aggravating circumstance of administrative offences<sup>4</sup>. However, we believe that in all the mentioned cases it is necessary to specify sexual orientation and gender identity among protected grounds explicitly, which would correspond to the real situation of hate crimes and incidents in Ukraine.

We also, along with other human rights organizations in Ukraine, draw attention of the government to its duty to ensure the effective implementation of laws and protection of human and civil rights in general. However, taking into account homophobia dominant in the mass consciousness of Ukrainians, we call upon all stakeholders and citizens to pay special attention to overcoming its effects in society and activities of the state, and especially in law enforcement bodies. In this regard, we consider it necessary to include the topics of sexual orientation and gender identity in the school curricula, programs of initial and advanced training for teaching staffs, lawyers, and officers of law enforcement agencies.

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<sup>4</sup> *Злочини на ґрунті ненависті в Україні, квітень 2011 – квітень 2012* (Харків, "Права людини", 2012), с. 54-56  
<http://library.khpg.org/files/docs/1339735328.pdf>

## About NASH MIR

### OUR HISTORY

“Nash Mir” (Our World) Gay and Lesbian Centre was established in Luhansk in Southeastern Ukraine in 1997 as a grassroots group. By our initiative we took upon ourselves the responsibility for educating Ukrainian society about homosexuality, toppling recurrent stereotypes and prejudices against gays and lesbians, consolidating lesbian and gay community, and for advocating our rights.

This is the situation in Ukraine we discovered: there “wasn't a problem with homosexuality” as long as it went unseen. At first, local judiciary officials simply did not know what to do with our organization! Interviewed by a national newspaper, one official said, *“How can we recognize them [the organization] on an official level, as a juridical person? There is no legal basis, though this sort of orientation isn't forbidden, but neither are precedents... If I register them, excuse me, wankers will come, and someone else... And what about morality?”* Using far-fetched grounds they refused our registration.

Certainly we did not let ourselves be humbled by such obvious discrimination. Nash Mir was indeed registered at the end of 1999. But successful registration was made possible only as the result of a determined battle by the members of the organization for their legal rights, and the steadfast attention to this issue on the part of some international human rights organizations.

### OUR GOALS

- Protection of rights and freedoms towards LGBT in Ukraine and improvement of their legal protection, combating discrimination on grounds of SOGI (sexual orientation and gender identity).
- Improvement of society's attitudes towards homosexuality and people of homosexual orientation, combating homophobic and transphobic sentiments in the mass consciousness.
- Upbringing of self-consciousness of LGBT as equal and valuable members of society.

### OUR CURRENT ACTIVITIES

Our projects are aimed at Ukrainian gay and lesbian community and society in general. At present we focus our activities on the following:

- Monitoring violations of LGBT rights.
- Initial legal help and counseling for victims of discrimination and hate crimes based on sexual orientation.
- Legal education of LGBT community.
- Joint actions with other organizations to advocate for full LGBT rights on the legislative and political levels.
- Supporting grassroots groups in their work of providing social and psychological services to LGBT, HIV/AIDS prevention among MSM, mobilization of the community on local level.
- Organizing seminars and conferences.
- Public relations.

Information provided by Nash Mir Centre has been used in Ukrainian mass media publications as well as in reports of the Council of Europe Commissioner for Human Rights, U.S. Department of State's Reports 2007-2012, OCSE, UN Periodical Reviews 2008/2012 and other documents of various organisations and institutions.

Nash Mir Centre's publications include reports of research projects we realised, literature on legal education, legislative analyses, and booklets on HIV/AIDS awareness, tolerance, educational materials, and periodicals.

Nash Mir Centre is a founding member of the Council of LGBT Organisations of Ukraine (at present 26 NGOs are members). Nash Mir Centre is member of the Coalition for Combating Discrimination in Ukraine and is acting participant of its Strategic Litigation to Combat Discrimination Fund.