

THE FACE OF HATRED

Crimes and incidents motivated by homophobia and transphobia in Ukraine in 2014-2016



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Editor Andrii Kravchuk.

The report was prepared by: Oleksandr Zinchenkov, Ihor Koblikov (Nash Mir Center); Serhii Kravtsov, PhD in Sociology.

This publication highlights the situation in crimes and incidents motivated by hatred against homosexual, bisexual and transgender persons in Ukraine in 2014-2016. The report is prepared on the basis of information collected by the monitoring network of Nash Mir Center and its partners as well as the data of an online survey. The report presents statistics and examples of such crimes and incidents, the analysis of the current legislation, the proposed reforms and recommendations for their implementation.

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The report does not necessarily reflect the views of the OSCE / ODIHR or the UK Government or ILGA-Europe.

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1. METHODOLOGY OF COLLECTING INFORMATION

The high level of public homophobia in Ukraine, which is confirmed by all opinion polls to date, stems from the fact that most LGBTIs (lesbian, gay, bisexual, transgender, and intersex persons) in the country have a rather closed way of life, concealing problems related to their sexual orientation or gender identity from the broader public, and often even from those in their immediate environment. Such an attitude complicates access to this part of the population and the collecting of reliable information about their lives. Evidence findings used in this report were obtained from two main sources: through the monitoring network of Nash Mir Center and the online survey of popular dating sites for gay men. It should be noted at the outset that the data obtained in this way are not statistically significant and have only an illustrative character, demonstrating the existence of problems and outlining areas in which they occur, but not revealing their true prevalence. The data describe the situation qualitatively yet do not provide its precise quantitative assessment-values – for, unfortunately, Ukraine still lacks a statistically significant study of homophobic / transphobic violence and discrimination, and the social self-protectiveness of Ukrainian LGBTI people makes such outright research studies too complicated to attempt. Nash Mir Center nevertheless takes every opportunity to explore current situations, and this is the work approach that builds up our long-term experience and has gained us credibility within the Ukrainian LGBT community.

The monitoring network of Nash Mir consists of about 30 activists who live and gather information on violations of LGBT rights in almost all regions of Ukraine. They seek out such cases through personal encounters, the local press, their social activities and elsewhere. Each detected case is documented in set form according to the standards of the OSCE / ODIHR, and if there arise doubts about its authenticity, is verified in detail later to the degree possible. All names and contact information of victims and / or informants are kept in the archive of Nash Mir under terms of strict confidentiality in accordance with the standards of the OSCE / ODIHR and the laws of Ukraine. Nash Mir Center constantly cares about the professional development of its monitors, and regularly organizes workshops where they learn correct techniques and share experiences. We try as much as possible to expand our monitoring network, cooperating with other public organizations and engaging individual activists encountered through our other activities. In particular, in 2015-2016 Nash Mir Center implemented a joint project with NGO Gay Alliance Ukraine on monitoring violations of LGBTI rights, the results of which were included in the total array of monitoring data produced.

Among its other activities, Nash Mir Center is also engaged in providing legal assistance to the LGBT community. We offer initial legal assistance to each person affected by violation of her/his rights, and in case of need we are prepared to find a qualified lawyer for further proceedings in law enforcement and the courts. In addition, we also conduct trainings and publish materials to increase the general legal awareness of LGBTIs in Ukraine and to encourage them to protect their rights. In July and August 2016 activists of Nash Mir held five training sessions and focus groups on hate crimes motivated by homophobia / transphobia – in Kharkiv, Dnipro, Lviv, Odesa, and Kyiv. Information received from participants of these events was also used in the preparation of this report as comments and testimonies of Ukrainian LGBT community members about the problems they face in their everyday lives.

Most documented cases of LGBT human rights violations in Ukraine that are analyzed in this report were collected via an online survey conducted in September 2016 among Ukrainian users of the most popular gay dating websites in the country: *bluesystem.org* and *qguys.ru*. We undertook a similar study in 2013 (that time only among users of website *qguys.ru*).¹ For two weeks all users of those websites, who indicated their residence as being in Ukraine, while visiting that site saw our proposal to participate in collecting information on violations of LGBTI rights. For this purpose, they were asked to fill in a web-form developed by us that was generally similar to the forms we use throughout our monitoring network. Also, information about the survey was circulated by the most popular LGBTI social network groups: Facebook and VKontakte. In the preamble to the survey the participants were given an explanation of the terminology used, so that they would understand

¹ Nash Mir Center, *Hate crimes against LGBT persons in Ukraine over 2012-2013. English summary of the report*, 2013, gay.org.ua.

clearly the difference between crimes / incidents as well as discrimination on grounds of sexual orientation or gender identity (hereinafter abbreviated as SOGI) – as distinct from other problems which they might encounter:

Crimes and incidents motivated by homophobia or transphobia are any offenses which have the biased attitude to a person on grounds of sexual orientation or gender identity as the motive of committing a crime, from abuse and threats to causing bodily injury.

Discrimination is the unequal treatment of a person on any ground that produces negative consequences for her/him. Hate crimes may be regarded as an extreme form of discrimination.

2. ANALYSIS OF THE ONLINE SURVEY DATA

During the two weeks time that was given to fill in questionnaires, this opportunity was used by 410 persons. 19 filled-in questionnaires had serious errors which broke the correlation in constructing multidimensional relations, so they were removed from the total array. Three questionnaires had minor technical errors which did not affect the constructing of relations. Also, 31 questionnaire responses were clarified. The final array gathered for processing the survey's results comprised 391 questionnaires. The poll covered the whole territory of Ukraine, including the territory temporarily beyond governmental control.

Demographic and social indicators

The answers included in the analysis revealed that hate crimes / incidents were encountered thus:

- 2014 – 109 men, 14 women;
- 2015 – 142 men, 9 women, 1 person of another gender;
- 2016 – 104 men, 10 women, 2 persons of another gender.

The vast majority of respondents were men – this is indicative primarily of the fact that popular Ukrainian online resources for the meeting and socializing of homo/bisexual women are few, and those existing do not permit sorting out their Ukrainian users. Respondents could indicate their gender as male, female or "other". The category "other gender" also included lack of response in this item of the questionnaire.

By occupation the respondents were divided as follows (please see Figure 1):

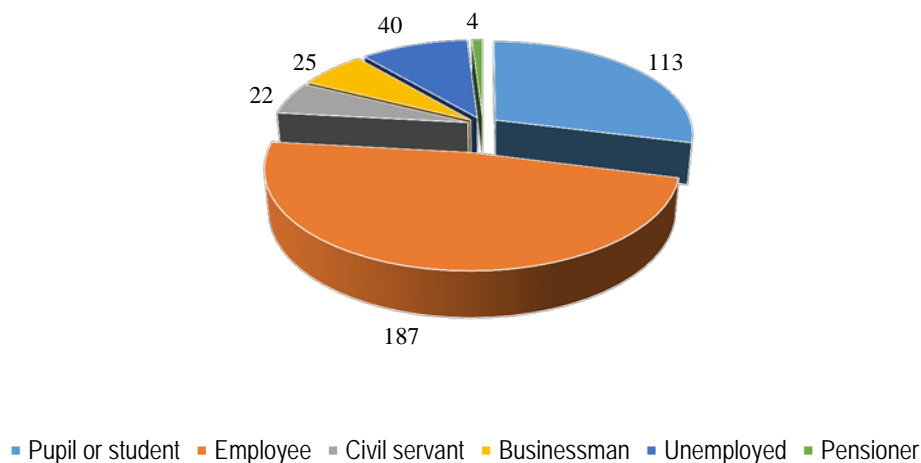


Figure 1. Distribution of the respondents by occupation.

The majority of respondents for the entire study period were represented by employees, as well as pupils and students (in total – 77%).

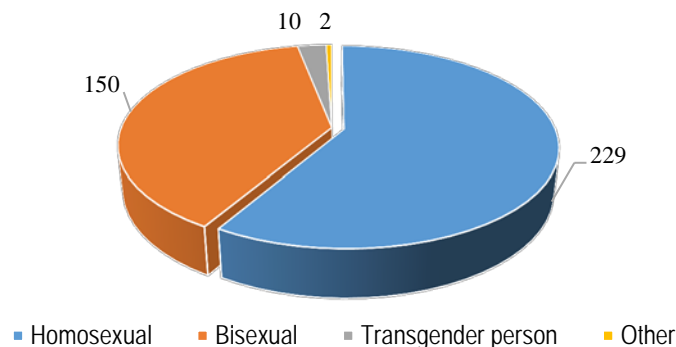


Figure 2. Distribution of the respondents by sexual orientation and / or gender identity.

The distribution by sexual orientation and / or gender identity is shown in Figure 2. The category "other" includes in this chart the answer "straight" and no answers.

Answers to the question "With whom do you live and maintain a household?" were as follows (please see Figure 3):

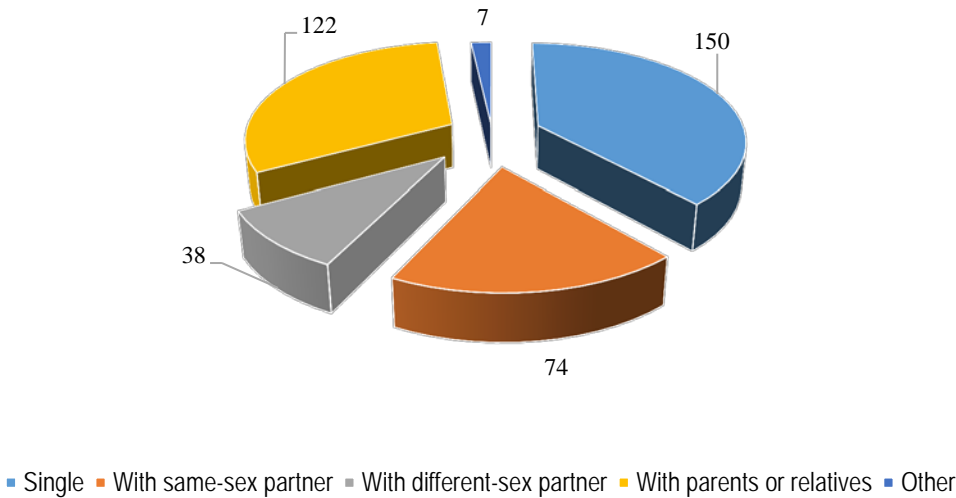


Figure 3. Distribution of respondents regarding the persons with whom they reside.

Most respondents proved to be single; the second largest category was those who live with parents or relatives. Third place in number were those who live with a same-sex partner; numbers nearly doubled for those living with opposite-sex partner. The last and least numerous group included people living with friends, acquaintances, and a group of men.

Regarding the degree of integration of the respondents with the LGBT community, the corresponding distribution is as follows (please see Figure 4):

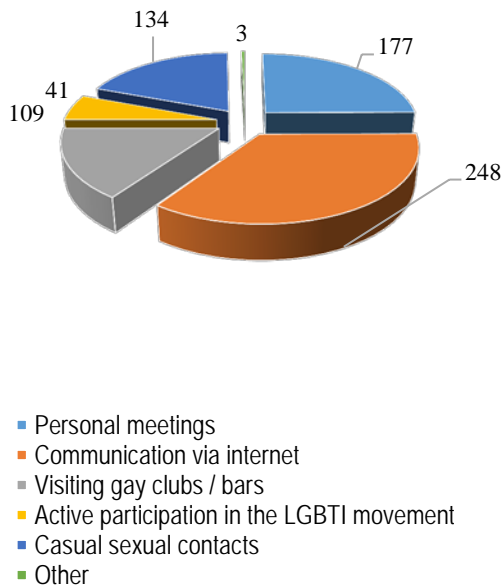


Figure 4. Distribution of respondents regarding their relations with the LGBT community.

Thus, as shown in Figure 4, the largest number of respondents make contact with other LGBTIs through the internet. Second place frequency is contact through personal meetings, i.e. meetings in parks, homes etc. In third place are relationships limiting themselves to sexual contacts. Fourth place by popularity is held by visiting gay clubs / bars. It should be noted that specialized venues for homosexuals in Ukraine are very few. Most of them are located in big cities and regional centers. Thus, among the 109 people who visited gay clubs / bars, 79 persons were living in regional centers, 22 persons in cities with a population over 100,000, 6 persons in cities with a population below 100,000, and only 2 persons in towns and villages. A small number

of respondents are actively involved in the LGBT movement. One gay teenager indicated that he expects to join the LGBT community (obviously after coming of age), 2 persons answered that they live in a registered same-sex partnership (apparently legalized abroad or in a foreign diplomatic institution).

Crimes and incidents homophobic / transphobic motives

Most questions posed were channeled through the online survey, and they concerned detection of crime incidents that occurred during the period 2014 to September (inclusive) 2016. Distribution of the number of cases, listed by region and size of settlements where victims lived, are itemized in Table 1.

Table 1. Distribution of cases that occurred to respondents, for years shown, with the regions of Ukraine and the residence of the victims.

Regions	2014				2015				2016 (first nine months)				Total
	A	B	C	D	A	B	C	D	A	B	C	D	
Total (in years)	123				152				116				
Vinnysya oblast	2	-	-	-	4	1	-	-	3	-	-	1	11
Volyn oblast	-	-	-	-	3	-	-	1	1	-	-	-	5
Dnipropetrovsk oblast	8	7	-	-	12	5	1	2	8	3	-	2	48
Donetsk oblast (controlled by Ukraine)	2	5	1	-	5	7	1	1	-	3	5	-	29
Zhytomyr oblast	-	1	1	-	3	-	-	-	-	-	-	-	5
Zakarpatska oblast	-	-	-	-	-	-	-	-	1	1	-	1	3
Zaporizhzhya oblast	4	2	-	-	3	1	1	-	5	2	2	2	22
Ivano-Frankivsk oblast	2	1	-	1	2	1	-	-	3	-	-	-	10
Kyiv oblast	-	1	-	1	-	1	4	-	-	2	3	-	12
Kirovohrad oblast	1	-	2	1	-	-	-	-	1	1	-	-	6
Luhansk oblast (controlled by Ukraine)	1	1	-	1	-	2	1	1	1	2	-	1	11
Lviv oblast	1	-	2	-	1	2	1	2	5	-	-	-	14
Kyiv city	28	-	-	-	40	-	-	-	16	-	-	-	84
Mykolaiv oblast	-	-	-	-	1	2	-	1	-	1	-	-	5
Odesa oblast	7	2	-	-	8	2	-	-	5	4	-	1	29
Poltava oblast	1	2	-	-	1	-	-	-	-	-	-	-	4
Rivne oblast	-	-	-	-	2	1	-	-	1	-	-	-	4
Sumy oblast	2	-	-	-	1	-	-	-	2	-	-	-	5
Ternopil oblast	1	-	-	1	-	-	-	-	-	-	-	-	2
Kharkiv oblast	7	3	1	-	6	2	-	-	10	1	1	-	31
Kherson oblast	2	-	-	2	-	-	-	-	1	1	-	-	6
Khmelnyskyi oblast	1	1	-	-	2	-	-	-	2	-	-	-	6
Cherkasy oblast	-	1	1	2	2	-	-	2	-	1	-	-	9
Chernivtsi oblast	2	-	-	-	2	-	1	-	2	1	-	-	8
Chernihiv oblast	-	-	-	1	-	-	-	-	1	2	-	-	4
Territory currently not under the control of Ukraine (Crimea, some regions of Donetsk and Luhansk oblasts)	4	-	2	-	3	2	2	-	3	-	1	-	15
Total (by the place of residence)	76	27	10	10	101	29	12	10	71	25	12	8	

Table 1 marked in capital letters: A – oblast center; B – city with a population of over 100 thousand; C – city of below 100 thousand; D - town or rural area

The largest number of cases was recorded as expected in the country's biggest city – Kyiv; the peak number of incidents took place in 2015, reaching 40 cases. The largest numbers of cases of LGBT human rights violations also correlate with the most populous regions in the East and the South of the country: Dnipropetrovsk (48), Kharkiv (31), Odesa (29), Donetsk (29), and Zaporizhzhya (22). In other regions, the number of documented cases does not exceed 20 in each region for the entire period described.

By age groups, this is how the statistics developed in regard to LGBTIs suffering crimes and incidents:

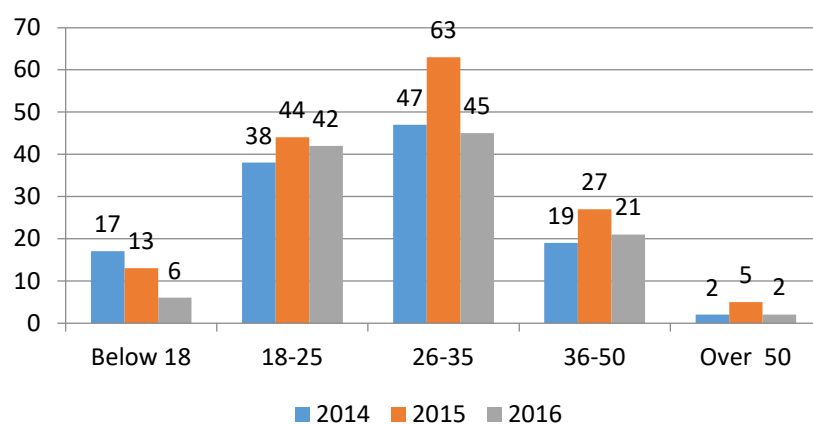


Chart 1. Distribution of the victims by age groups

As shown in Chart 1, the number of hate crimes and incidents against LGBT minors tends to decrease, albeit due to the small sample it cannot be stated with certainty. The distribution of these cases is given in Table 2.

Table 2. Number of cases that have occurred with young LGBT persons, listed by types of violations and years.

Type of violation	2014	2015	2016 (first nine months)
Physical violence without the use of weapons	4	3	2
Injuries by weapons	1	-	-
Rape or other sexual violence	-	1	-
Damage to property	3	-	1
Robbery	4	2	-
Threats with weapons	3	1	-
Insults or verbal threats	15	8	6
Extortion of money or other property	4	1	-
Disclosure or threat of disclosure of confidential information	7	2	2
Discrimination (refusal of employment, services, housing rental, etc.)	2	1	1

To generalize about the types of violations of LGBT rights in Table 2: the number of violations characterized by moral pressure being exerted on LGBT people who are minors (namely threats with weapons, insults or verbal threats, extortion of money or other property, disclosure or threat of disclosure of confidential information, denial of employment, services, housing rental, etc.) is expectedly higher than the number of violations characterized by physical impact.

Additional evidence favoring a conclusion that the crimes and incidents occurred precisely on the basis of sexual orientation and / or gender identity, is that the number of cases of extortion and robberies is low when compared with other types of violations. Thus, in 2014 were registered 17 cases of hate crimes and incidents against LGBT minors but including only 4 cases of robbery or extortion; in 2015 within a total of 13 cases – respectively, were only 2; and in 2016 within a total of 6 cases there were no robbery or extortion cases.

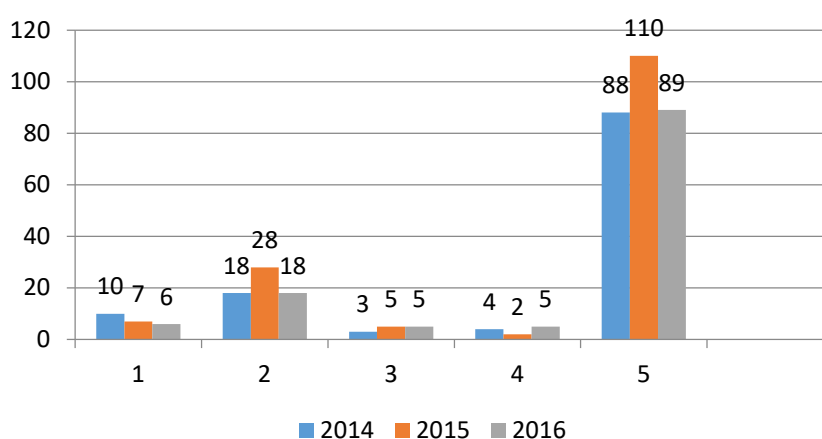
As for the older age groups, the overall situation is characterized by a marked increase in homo/transphobic crimes and incidents in 2015 (please see Chart 1, Table 3).

Table 3. Number of cases that occurred in LGBT older age groups, by the types of violations and years.

Type of abuse	2014	2015	2016 (first nine months)
Physical violence without the use of weapons	27	49	27
Injuries by weapons	1	1	2
Rape or other sexual violence	9	9	4
Damage to property	14	9	14
Robbery	16	15	12
Threats with weapons	9	9	12
Insults or verbal threats	65	80	80
Extortion of money or other property	26	25	25
Disclosure or threat of disclosure of confidential information	34	34	38
Discrimination (refusal of employment, services, housing rental, etc.)	8	19	15

As for juvenile victims (Table 2), the moral damage suffered by LGBT adults from offenders dominated the statistical picture, however also noteworthy were many cases of serious criminal offenses (robberies, rapes, injuries by firearms, unarmed physical violence sans the use of weapons, etc.).

Chart 2 clearly shows, as the figures bespeak, that affected persons rarely applied for help.



- 1 - Appealed to law enforcement or other government agencies and received help.
- 2 - Appealed to law enforcement or other government agencies but got no help.
- 3 - Appealed to non-governmental organizations (LGBT, human rights) and received help.
- 4 - Appealed to non-governmental organizations (LGBT, human rights) but got no help.
- 5 - Did not appeal anywhere.

Chart 2. The dynamics of victims' complaints to various agencies for help by years and addressees.

Victims rarely appealed to public associations that protect the rights of LGBT people, and in about half the cases they did not get help from them. This may be connected both with LGBTIs' ignorance about the presence in the region of non-governmental organizations (NGOs, which can provide such assistance), and with a certain distrust of them. Appeals to the police were more numerous, but the effectiveness of those appeals turned out to be even lower than in the case of assistance from NGOs: in 2014 10 persons received assistance, 18 – did not get any; in 2015 – respectively, 7 to 28; in 2016 – 6 to 18. The attitude of many of the respondents to the police may be characterized by a comment of one of them who answered the question "Did you try to protect the rights violated as a result of the incident?" with: "How can I apply for help to the police when only homophobes and extortionists work there?"

Information on specific LGBT rights violators appeared interesting in regard to respondents' answers about their personal social circle or groups. Thus, over the period under inquiry the statistics acquired developed as follows (please see also Figure 5):

The greatest number of responses received were in the category "unknown person". Over the years, the percentage in this category was: 2014 – 31%; 2015 – 29%; 2016 – 27%. Overall during the period there occurred 152 of those cases.

The consequences for victims during the focal period were:

- Psychological trauma – 107 answers;
- Injury – 47 answers;
- Damage to property – 37 answers;
- No consequences – 33 answers;
- Other – 1 answer ("The damage, of course, took place – both moral and physical. However, I did not allow it to grow into the 'rank' of injury").

Also a significant percentage fell into two categories, regardless of the year the incident was committed – one was "Little known persons (e.g. neighbors)" and the other was "Group of persons (including organized homophobic groups, far-right groups etc.)": in 2014 – 21 and 20%, respectively; in 2015 – 21 and 24%; in 2016 – 15 and 23%. During the entire period were noted 99 cases of LGBT human rights violations from unfamiliar people, and 119 – from organized groups. Accordingly we can see that organized homophobic groups are becoming an ever more visible threat to Ukrainian LGBTI people.

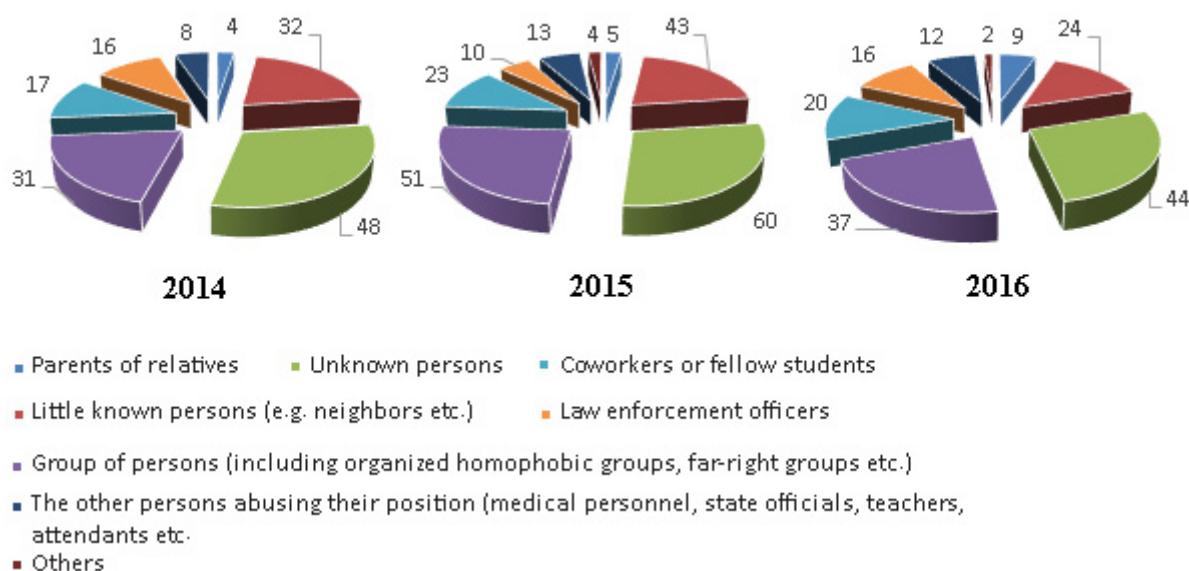


Figure 5. Persons who were LGBT rights violators.

LGBT victims suffered these types of consequences from a group of persons during the time period under study:

- Psychological trauma – 98 answers;
- Injury – 67 answers;
- Damage to property – 47 answers;
- Without consequences – 5 answers;
- Other – 2 answers, including:
 - 1) Robbery;
 - 2) Theft of a camera, watch, backpack, and beating.

Regarding LGBT rights violations by the police, the situation in the first 9 months of 2016 (16 cases) deteriorated compared to 2015 (10 cases) and already at end of third quarter reached the level for all of 2014 (16 cases). The distribution of the types of violations by the police for the entire study period (42 cases) is as follows:

- Verbal insults or threats – 26 cases;
- The threat of weapons – 8 cases;
- Physical violence without the use of weapons – 11 cases;
- Injury by weapon – none observed;
- Rape or other sexual violence – 2 cases;

- Robbery – 5 cases;
- Extortion of money or other property – 19 cases;
- Damage to property – 8 cases;
- Disclosure or threat of disclosure of confidential information – 21 cases;
- Discrimination – 6 cases;
- Other – 2 cases, including:

1) One case of verbal abuse or threats occurred in 2015, in the category of an unemployed person aged 16-35, in the Desnyanskyi District Police Department of Kyiv city. This person reported that upon his writing an application to the police regarding three of its officers, the head officer tore this application up and turned the victim out of the office.

2) One case occurred in Kharkiv in 2016 with a person aged 26-35, a worker. The victim noted that law enforcement officers insulted him, extorted his money or other tangible assets, and threatened to disclose confidential information about his sexual orientation. He explained that the police make appointments with gay men via the internet, provoke them into dating with teenagers, and then begin to threaten the set-up victim with criminal prosecution for corruption of minors. Also in crowded places where gays usually meet, they pretend to seek sexual partners, and then extort money.

The consequences to victims of law enforcement officers' actions over the period were:

- Psychological trauma – 36 answers;
 - Damage to health – 15 answers;
 - Damage to property – 12 answers;
 - No consequences – 3 answers;
 - Other – 4 answers, including:
- 1) They threatened to imprison me, so I had to pay a bribe;
 - 2) I had to sell my laptop;
 - 3) Material damage;
 - 4) Debts.

Some violations also were perpetrated by civil servants, teachers, medical staff, and other service personnel. Thus, 33 criminal cases occurred over the period, including:

- Verbal insults or threats – 23 cases;
- Threats with weapon – 3 cases;
- Physical violence without the use of weapons – 5 cases;
- Injury by weapon – 1 case;
- Rape or other sexual violence – 5 cases;
- Robbery – 2 cases;
- Extortion of money or other property – 4 cases;
- Damage to property – 8 cases;
- Disclosure or threat of disclosure of confidential information – 19 cases;
- Discrimination (denial of employment, services, housing rental, etc.) – 17 cases;
- Other – 1 case which consisted of the administration of unnecessary psychopharmacological prescription drugs with heavy side effects.

The consequences for the victims of this category of offenders over the period were:

- Psychological trauma - 28 answers;
 - Damage to health – 12 answers;
 - Damage to property – 8 answers;
 - No consequences – 5 answers;
 - Other – 3 answers, including:
- 1) Two people lost their jobs;
 - 2) One person pointed out that no consequences occurred, but because of his/her caution.

A number of violations were by colleagues at work or fellow students. In 2014 were indicated 17 persons, in 2015 – 23 persons, and in 2016 – 20 persons. The total for the study period comprised 60 like documented cases, including:

- Verbal insults or threats – 48 cases;
- Threats with weapon - 2 cases;

- Physical violence without the use of weapons – 12 cases;
- Injury by weapon – 1 case;
- Rape or other sexual violence – 1 case;
- Robbery – 3 cases;
- Extortion of money or other property – 7 cases;
- Damage to property – 6 cases;
- Disclosure or threat of disclosure of confidential information – 31 case;
- Discrimination (denial of employment, services, rental housing, etc.) - 18 cases;
- Other – 1 case consisting of the forced abandonment of residence.

The consequences for the victims in this category of offenders over the period were:

- Psychological trauma – 45 answers;
- Damage to health – 13 answers;
- Damage to property – 6 answers;
- No consequences - 12 answers;
- Other - 4 answers, including:
 - 1) Three people lost their jobs;
 - 2) One person left the studies.

Violence in the family includes answers attesting crimes were done by parents or relatives. In 2014 this was indicated by 4 respondents; in 2015 – 5, and in 2016 – 9 respondents. It should be noted that LGBT persons, who mentioned homophobic incidents with relatives or parents in the study period (18 cases total), had the following degree of openness regarding their sexual orientation:

- 4 persons "never hide her/his homosexuality"
- 4 persons "are open only to other LGBT people";
- 5 persons "do not hide their homosexuality but feel no need to talk about it"; and
- 5 persons "hide from the majority but some persons in their heterosexual environment know."

Among those affected over the entire study period and who appealed to the police and got help, was just one person aged 18-25, who in 2014 belonged to the category of "pupil or student". The other victims of domestic violence did not appeal anywhere.

The consequences for those affected over the period were:

- Psychological trauma – 16 answers;
- Damage to health – 6 answers;
- Damage to property - 1 answer;
- No consequences - 2 answers;
- Other – 2 answers, including:
 - 1) I had to leave educational institution;
 - 2) One person pointed out no consequences ensued, but because of his/her caution.

Most respondents believe that crimes and incidents were related to their sexual orientation and / or gender identity, basing this assertion on the content of verbal abuse suffered (346 cases of 391 for the whole study period). Likewise, in 47 cases the respondents believed that crimes and incidents related to their sexual orientation and / or gender identity, basing this assertion on the inscriptions relevant to their victimization. 45 cases took place near gay clubs; this association with dedicated venues could well indicate the homophobic nature of the incidents. Other reasons contributing to the determination of the offenders' motives as homophobic were: a meeting set up by the police through a gay website showing false personal information; placing a particular video on social networks, spreading confidential information, and more.

3. ANALYSIS OF THE MONITORING NETWORK DATA

Regarding 167 cases documented from January to September 2016, 80 can be classified as hate crimes, and 52 - as hate incidents (the rest mostly are classifiable as on account of discrimination). The number of violations by region was distributed as follows (please see Table 4):

Table 4. Regional distribution of documented cases of violations of LGBT rights in Ukraine for the first nine months of 2016.

Region	Number of cases
Zaporizhzhya	21
Kyiv and Kyiv oblast	18
Odesa	16
Dnipro and Dnipropetrovsk oblast	16
Vinnytsya	11
Kharkiv and oblast	6
Donetsk oblast (controlled by Ukraine)	6
Zhytomyr	4
Chernivtsi and oblast	4
Lutsk	4
Lviv	3
Sumy	3
Mykolayiv	3
Ivano-Frankivsk	3
Ternopol and oblast	2
Khmelnyskyi	2
Poltava	2
Uzhhorod	2
Luhansk oblast (controlled by Ukraine)	1
Territory beyond the control of Ukraine (Crimea, Donbas)	5

The following types of violations were recorded (please see Table 5, one case may include several different types of violations):

Table 5. Distribution of documented cases of violations of LGBT rights in Ukraine for the first 9 months of 2016, showing the types of violations.

Types of violations	Number of cases
Insults and threats	99
Physical violence of varying severity without the use of weapons	70
Physical violence with weapons	2
Torture or inhuman treatment	3
Threats by weapons	6
Robbery	16
Extortion	9
Disclosure or threat of disclosure of confidential information	28
Sexual violence	4
Attacks on LGBT organizations and peaceful assemblies	4
Hate speech	6
Damage to property	1
Homophobia in the family	8

In addition, reported were such sporadic violations by individuals as one attempt to drive a car into visitors of a gay club (Kharkiv), and one knowingly false report on the explosives mining of premises where an LGBT event was held (Lviv).

In 10 cases of crimes and in 7 cases of incidents the offenders were police officers. The victims reported the following infringements or inaction on the part of law enforcement employees (please see Table 6):

Table 6. Violations of LGBT rights in Ukraine by law enforcement employees in the first nine months of 2016.

Types of violations	Number of cases
Failure to protect rights (receiving applications, providing assistance)	11
Soliciting bribes	5
Physical violence	3
Aiding other violators	3
Illegal detention	3

Data on cases of LGBT rights violations for 2014 and 2015 can be found in the annual reports of Nash Mir on the situation of LGBT people in Ukraine.² Comparing them with those obtained in the first 9 months of 2016, the following picture emerges (please see Table 8):

Table 7. Distribution of specific violations of LGBTI rights in Ukraine over the past five years.

Types of violations	Percentage of the total number of violations for				
	2012	2013	2014	2015	2016 (first nine months)
Insults, humiliation of human dignity	42	59	39	41	59
Physical abuse of varying severity	34	46	31	45	43
Robbery	0	0	9	15	10
Extortion	3	3	6	7	5
Disclosure or threat of disclosure of confidential information	3	30	17	21	17
Sexual violence	1	0	4	3	2

During the period of 2014-2016 Nash Mir Centre provided 102 consultations on legal issues related to SOGI. In 37 cases, consultations concerned documented cases. Most who applied for legal assistance were interested in writing application statements to the police on the fact of an offense motivated by homophobia or transphobia, and in how to protect their rights in cases of hate crimes and incidents.

² Nash Mir Center, *From Despair to Hope. LGBT situation in Ukraine in 2014, 2015*; Nash Mir Center, *The Ice Is Broken. LGBT situation in Ukraine in 2015, 2016*, gay.org.ua.

4. EXAMPLES OF HATE CRIMES AND INCIDENTS

From the monitoring network's data base we have selected several dozen of the most characteristic and / or glaring examples of crimes and incidents motivated by homophobia or transphobia that occurred in the period from 2014 to 2016 inclusively. In this chapter we for the most part present examples of cases that we documented during 2016 (although the described events could occur during the entire study period of 2014-2016). We reported examples of earlier incidents in our publication on hate crimes for the previous years.³ While we try to fact-check the reported testimonies, we cannot guarantee their absolute truth. The cases are reported here in the way they are described in the preserved testimonies given us by the victims or witnesses or recorded from their own words by our monitors. We translated the obtained information and made minimal grammatical and shortening adjustments. The location and year of each incident is indicated in parentheses after the case number.

Case 515 (Kyiv, 2014)

Zhovten cinema was burned on the evening of October 29, 2014, in Kyiv. During the demonstration of a movie on LGBT topics within the Molodist International Film Festival, two young men threw bottles containing an incendiary mix into a room containing about a hundred spectators. As a result of this crime, the building was seriously damaged, leading to the temporary closing of the film theater. Fortunately, people were evacuated in time from the blazing building.



Figure 6. Arson of Zhovten cinema in Kyiv.



Figure 7. The screening hall of Zhovten cinema after the arson.

Within one day the police arrested two individuals who reputedly committed the arson. According to an advisor to Interior Minister Anton Gerashchenko, the detainees revealed the motives of their action this way: "They wanted to commit a hooligan act at a film screening on LGBT issues, conducted within the Molodist International Film Festival, in order to thwart this particular show and thus to demonstrate their contempt for the LGBT community in general. The suspects swear that they just wanted to disrupt the screening of a film on LGBT issues and could not have imagined that their actions would lead to fire and destruction of the cinema."

³ Please see note 1.

This was the first homophobic incident in Ukraine which endangered the lives and health of so many (several dozen) people and caused such a great material damage loss (about 2.5 million US dollars). On May 10, 2015, Holosiivskyi District Court of Kyiv city adopted their formal decision in the Case 752/1463/15-к, sentencing the defendants to 2 and 3 years in prison. However, the Court freed them from punishment in the form of imprisonment, putting them on probation for a period of 2 years (meaning that the adjudged will remain at liberty if they commit no new crimes and follow the supervision rules of criminal executive inspection for the next 2 years). Despite the defendants admitted to the homophobic motive of their crime, the investigation and the court completely ignored this fact, and accordingly accused and sentenced them only for ordinary hooliganism.



Figure 8. A police officer seriously wounded in the attack at the Equality March (Case 543).

Case 543 (Kyiv, 2015)

On June 6, 2015, several dozen youths attacked participants of the Equality March and the police who guarded them. As a result of the use of explosives by the attackers, about 10 police officers suffered trauma, and during a "hunt" by the attackers for the March participants after the demonstration's end, another 9 demonstrating persons suffered. The police arrested 25 attackers at the scene, but later they were released.

On April 8, 2016, Obolonskyi District Court of Kyiv city made a decision in Case 756/16243/15-к. The investigation and the court accused four attackers of committing ordinary hooliganism, completely ignoring the obvious homophobic motive of the attack. The court recognized the defendants' "sincere repentance" in committing a crime as a fact that mitigated the sentence (although the only thing they grieved over, apparently, was that the attackers' victims turned out to be law enforcement officers and not marchers). One of the defendants, Danylo Dashevskyi, expressly stated in the court: "My actions were not aimed at causing injuries to police officers. We tried to disrupt the event and the spread and propaganda of sexual minorities' actions who actually [...] were involved in the spread and propaganda of perversions." The prosecutor and the accused signed an agreement on recognition of guilt, which was approved by the court and led to the conviction of the accused and to 3 years in prison each. Simultaneously, the court freed them from imprisonment as punishment, but set them a probation period of 2 years.

Case 596 (Zaporizhzhya, 2016)

On January 3, 2016, at 10:20 p.m., Yevhen met a guy at internet site *da.zp.ua*, then they agreed to meet in person at about 11 p.m. Arriving at the specified location, Yevhen was standing at the bus stop of public transport when a blue car drove up (the number of the car he does not remember). The driver signaled and Yevhen sat in the car in the front seat next to the driver. The driver was wearing a mask. Inside, there was another man who closed his eyes to Yevhen. After that, they began to threaten him with a gun, putting it against his neck, and told him to answer their questions clearly and distinctly. During these threats, Yevhen heard words voiced that he was gay, and those like him should be killed. They insulted and humiliated him as their victim. They extorted money and ascertained whether some relatives could pay for him, but Yevhen said that he had no one who could pay. He was taken to a wasteland (he cannot identify the place) and taken out of the automobile. They humiliated him, threatened him with a gun, and said that if he ran, they would shoot.

They took away his phone, and got money from his bag. Then he was told to go away in a straight direction and do not look back. According to the victim, the perpetrators are still on the same webchat site under the same nickname as before.



Figures 9, 10. The attack on the police officers during the Equality March (Case 543).

Case 605 (Dnipro, 2015)

Anton: "These two guys constantly expected me by the university, threatened me, publicly humiliated me. It started with threatening messages on social networks, including VKontakte. They several times struck blows in my stomach, but bruising did not appear, and so I did not even appeal to the police. All this led up to that I was afraid to go to the university, and then left it. Sayings like: rear-steer, fag, queer. They publicly forced me to kneel, simulating oral sex. No counter-action was committed to, because I was afraid to go even to the police; if those guys learned about it, there would be more than a light beating."

Case 610 (Vinnytsya, 2015)

Andrii met a guy named Max in Vkontakte; they met in person the next day about 3 p.m. on the quay by Roshen fountain. Walking, they were approached by 3 other young guys who, surrounding Andrii, began calling him "fag", offending him, shooting at the camera, and hitting on his head. After making a video of Andrii confessing that he is gay, the violators threatened to show the video to his parents, family and in the school. They demanded 5 thousand UAH for their silence. Andrii gathered the money and brought it to them on Wednesday. The meeting turned out to be with another guy, who named himself Serhii. He said that Andrii had to bring another 5,000 or make other gay guys acquainted with them (and the violators would blackmail them the same way). Andrii did not know what to do – he had no more money, and did not want to expose other gays. So the next day the boy victim decided to commit suicide by swallowing pills. He was saved by his college teacher, who decided to visit him in the hostel and called an ambulance. Andrii's life was saved. In desperation, he told everything to the teacher, and she – to the director of the school. They insisted

that the student write an application to the police. The next day they went to the police station. The police accepted the application and gave Andrii an assignment for him to get documentation of the blows suffered. The police did not contribute to an informed investigation of the violations and Andrii decided to leave the school. After making his own investigation, Andrii concluded that the offenders were minors from Modnyi Prigovor ("Fashion Sentence", a homophobic group) because he found their real pages in V Kontakte.

Case 636 (Sumy oblast, 2015)

The police – a Sergeant and a Junior Sergeant – detained two boys for no obvious causes. They called them "fags, scumbags and backs."

Case 637 (Kyiv, 2015)

Irina Lysenko, a manager in a Silpo supermarket, fired several workers, accusing them of being gay (in insulting form, in front of witnesses). The victims did not appeal anywhere.

Case 638 (Mariupol, 2015)

A few police officers, posing as gay men looking for dates, suggested meeting the victim via social networks; while meeting illegally they detained the victim, and took him to the district police department where they extorted money amounting to 8,000 UAH – or they would report him at work, and to his parents and neighbors about the meeting. The victim was forced to pay this amount.

Case 642 (Ivano-Frankivsk oblast, 2015)

"Two police officers with the rank of sergeant arrested [me] for gay dating through Mamba [a popular dating website] and drew up a protocol. [They] Were exact in looking for a gay man, then even gave [me] a certificate which stated that I was gay. [I] Wrote a complaint against the police chief."

Case 647 (Kyiv, 2015)

Three guys aged 19-25 beat a gay men, called him "fag" and "whoreson." The victim turned to the police, but he was denied from initiating a criminal case.

Case 653 (Kyiv, 2015)

Three guys beat Roman during a meeting to which he'd agreed on an internet dating site. During the beatings they insulted and accused him of homosexual orientation. The victim received injuries of medium gravity, and sought medical help.

Case 654 (Odesa, 2015)

"One guy appointed a meeting, brought me to his home, in some time a few men entered the apartment calling themselves Modnyi Prigovor ["Fashion Sentence", a homophobic group] and demanded money lest they tell anything to [my] family and friends, and threatened to beat me and showed me videos as they beat other guys... After this case [I] had to give money to the attackers; after that they demanded more... The fear of further meeting with anyone... No action was committed because the attackers said that they have the police officers among them and it's pointless to apply anywhere."

Case 661 (Kyiv, 2016)

The victim was approached on the street by a group of teenagers aged 16-18 who asked, "Are you fags?" and began the beating. The victim managed to fight them off with help of an accidental passerby. The victim received injuries of medium severity.

Case 662 (Lutsk, 2015)

"The oblast police department on Vynnychenka street, extortion of money from me, threats that [they] would tell everything in the university unless [I] pay 600 UAH. Three police officers aged 35-45. Dragged [me] to the basement and abused."

Case 664 (Dnipro, 2015)

"A group of young men (10-15 persons) aged 20 to 30. Under the guise of dating via Hornet, my friend was invited to a meeting where he was attacked with cries of "Hold him, kill! He's queer!" and was caused injuries of moderate severity. The police did not appear to a call."

Case 666 (Kiev, 2015)

A waitress refused to serve and asked the customer to leave the establishment, accusing him of homosexual orientation.

Case 667 (Ivano-Frankivsk oblast, 2015)

"Police officers. We met on a dating [web]site. [They] Put [me] in the car, brought into the office, extorted money... otherwise – disclosure of non-traditional orientation. "You're a fag, everyone will learn." The material [damage] was in the amount of 2,400 hryvnias." The victim did not complain anywhere.

Case 670 (Dnipro, 2015)

The attack was by a group of 10-15 guys on a guy who came expecting to date (on Mira avenue in Livoberezhnyi-3 district). The attackers yelled, "Catch the fag, he wanted to rape a boy!" The victim received injuries of moderate severity.

Case 674 (Kyiv, 2016)

Vera and two lesbian friends of hers rested on Obolonska quay and talked. At some point they were approached by a man aged about 30-35 who asked whether they were OK. After the girls assured him that everything was OK, he did not stop his "communication" and asked if they belonged to the "non-traditional" identity. After receiving an affirmative answer, he began to say that they "have had no normal man" and started offering his "services" as well as insulting them because of their sexual orientation. After the girls' repeated attempts to get rid of him as an annoying "assistant" and his talking in a raised voice, he grabbed Vera and punched her with his fist in the face and with his leg in the lower abdomen, with the result that the girl fell off a cliff toward the direction of the river. The girls believe that the attacker had heard their conversation earlier and thus realized their homosexual orientation. Vera received minor injuries and suffered psychological shock.

Case 678 (Odesa, 2016)

The coordinator of Queer Home Odesa and one of its visitors stood in front of Queer Home's office (in place on the office's facade are indications to the public that the facility is an [LGBT] community center). The community center was being approached by two unidentified persons – a man and a woman aged about 20, plain and decent looking, but the witnesses got the feeling that their presence might be a deliberate action. They came to the community center holding hands, and then when they were in front of the office, the man stopped, bent over the railings on the stairs at the entrance to the office, and took out a pepper sprayer. Then the man shot out gas into the eyes of the coordinator and one of the visitors. Without shouting or informing anybody, the couple quickly left. The coordinator and visitor present were affected by gas and received minor damages to their eyes and respiratory tracts.

Case 681 (Luhansk, 2016)

A year ago Mykyta communicated with a guy over VKontakte (a popular internet social network), then he went to Moscow and recently came back and wrote, "Let's meet." Mykyta came at 5 p.m. into VLKSM central park (Luhansk), greeted him. Then guys in masks ran up to Mykyta from all sides of the park, dragged him to the garages, shouted "Death to fags! Luhansk is a clean city! We'll purge our land from you freaks!". They beat him while shooting a video and drenching him with a brilliant green substance. People in the park did not react. On the contrary, another man with his wife came over and started to curse the victim and embitteredly support the attackers – about 25 persons. The guy being attacked was saved because someone in the crowd said that now the police would come; it was then the attackers released the victim.

Case 682 (Zaporizhzhya, 2016)

On May 3, 2016, Andrii rested and slept over in his friend's home. The next day he returned home because an old lady with whom he lives in the same apartment had called a police patrol because Andrii had not slept at home. Police officers, having arrived, suggested Andrii give a written explanation on why he was not at home. Andrii's phone rang. Answering the call, he said: "I cannot talk, my apartment is full of pigs." He was accused of insulting the police and told to go to the police station. Andrii tried to apologize, but the police put him into their car and drove to the police station. On the way one of the police officers said that they suspected that Andrii had a non-traditional sexual orientation, and informed him that he should pass a test on the subject. When they arrived at the station, the police officer got Andrii into the hallway and told everyone that he had brought in "a fag" (reproaches and insults from other officers were heard).

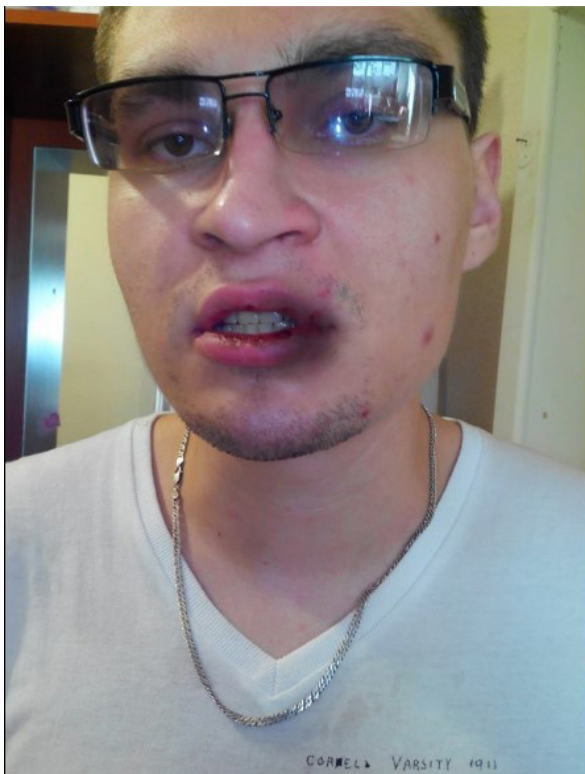
The police officer humiliated, insulted and beat Andrii. None of the other police officers tried to stop these actions. Then Andrii was recorded on camera to document the recognition that he had insulted a police officer, and released. In the evening Andrii felt pain at the site of the bodily impact point where he had been beaten. He called a hotline of the Ukrainian MIA (Ministry of Internal Affairs). In an hour investigators arrived

who began to dissuade him from testifying. On May 6, Andrii went to the chief police department in order to give evidence in detail and to initiate a request (referral order) to the forensic medicine expertise facility. The request for assignment approval was not given. On May 7, he underwent forensic medicine expertise examination following his own application for such. On May 10, his statement was forwarded to the oblast prosecutor's office, but the investigator there strongly avoided contact with the victim and refused to accept his statement attesting that the actions of the police were motivated by hatred.

Case 683 (Dnipro, 2016)

"On May 30, 2016, at around 11 p.m., I came home, walked along the waterfront from Monastyrskyi island and upwards. I met a company of guys and girls, they nagged at me about the color of my pants, and asked if I am a fag to wear such pants. I told them that I was gay, and asked if they have problems with that. They told me: "Fuck out of here, faggot." I went on, they attacked from behind. First I was hit in the jaw, but I bent to the side and only my lip was slashed. Then [they] knocked me to the ground and repeatedly struck my back with their feet and hit me in my elbow. Then they fled, then the police came (probably someone called, I do not know). The police took me into Sobornyi District Police Department premises to write an application statement, and left. Another officer there who was taking the application was very rude and talked in foul language to me. But he accepted my application and gave me an assignment (referral order) to the forensic medicine expertise facility.

I requested that they help me get home because my mother did not answer phone calls and I had no money to take a taxi. He told me that now he would go outside with me "to communicate". He brought me out of the police department and repeatedly struck me in my kidneys and said, "Fuck out of here." I called an ambulance; they drove me to the hospital, where I was examined by the neurologist and surgeon for abrasions of the soft tissues of the head, abrasions of the right forearm, and a bruised lower lip. They drew up a certificate (certifying medical statement) on their findings for me. Then I called the police of a higher level and told them what happened to me in the district department; they took my testimony and got this new application transmitted to the attention of the original Sobornyi District Police Department. Then I went home."



Figures 11, 12. The victim of a homophobic attack (Case 683).

Case 688 (Kyiv, 2016)

One February evening [the exact date is not defined] around 9 p.m., the victim went to the toilet in McDonald's restaurant nearby Khreshchatyk metro station along with his friend. Both men were sober.

Because they felt sympathy for each other, they kissed in a closed men's room stall. Then they heard a strong knocking on the door and loud demands to come out. The victims opened the door. Three drunk men started beating Oleksandr and his friend, so that the victims suffered injuries of mild severity. The attackers insulted the victims and extorted money. The victims escaped and caught the attention of guards who took no action to protect them. The victims and the attackers came out into the street. There an unfamiliar woman stood up for the victims; she diverted the attention of the attackers, and this time the victim managed to escape into the metro. The victims did not appeal to law enforcement staff or for medical assistance.

Case 689 (Kyiv, 2016)

The victim was a participant of the Equality March. According to him, their group was under surveillance by violently disposed people who had gotten no access to the core demonstration itself. After the Equality March, the victim and his friends (a group of 10 people) was taken by the March's organizers to Vystavkovyi Tsentr ("Exhibition Center") metro station. There they decided to fill their time by waiting in the Exhibition Centre area, and were in this territory until about 12:20. Then the group decided to retreat outside. They went out two by two. The victim and his friend went to the exit. The victim felt a blow on his head made by someone outside his field of vision. During the entire assault the victim remembers only three moments: the blow in his head; how he tried to rise to his feet; and finally how he was sitting on a fence covered in blood. Witnesses say that the victim was attacked from behind onto his back by three men. Then the victim fell to the ground, was group-mobbed, and covered his head. The attackers struck the victim in the head and other body parts. After beating their victim, the attackers fled in an unknown direction. Then friends of the victim tried to call an ambulance. Later they found a police officer near the exit from the exhibition center, who again called for an ambulance. It arrived soon, the victim received first medical aid, and he was taken to the nearest hospital.



Figure 13. The participant of the Equality March after a homophobic attack (Case 689).

Case 696 (Ternopil oblast, 2015)

Tanya told one of her friends that she kissed a girl and that she liked it very much. The same evening, her [female] friends called Tanya to go walking. Moving away from crowded places, the girls began to insult her and to behave aggressively. During the incident one of the girls plucked a silver chain from Tanya, others torn her jacket. The assaulters were heard to voice the attitude that such people as Tanya should not wear jewelry and beautiful things. The girl managed to escape her assailants, but for a couple of days she felt frightened

and talked to no one. Later Tanya contacted a friend in Ternopil who suggested to Tanya that she leave her hometown, to which she agreed.

Case 702 (Ivano-Frankivsk oblast, 2015)

Oleksandr worked in a private hotel as an administrator for 6 months. For the duration of this time there were no complaints about his work – quite the contrary, he was given bonuses for his work, and he did advertising about the hotel on the internet that attracted more visitors. Forgetting to close properly his page on the social network (Facebook) on his own laptop, he left it at his workplace. The owner of the hotel took and used Oleksandr's laptop. Whether this was done on purpose or by accident is not known, but the owner entered Oleksandr's page and read his private correspondence which was very outspoken. He then immediately fired Oleksandr and said that he needed no "faggots" in the hotel, even if they were there only to wash the toilets. At discharge, Oleksandr did not receive his salary for the last month. It turned out that on the hotel's records he was not formally employed. He also received threats that unless he returned home to Ivano-Frankivsk, everybody in the resort town would learn about his orientation, and he would never find a good job again even at home.

Case 704 (Ternopil oblast, 2015)

Violators provoked the victim to show his erotic photos on the social network VKontakte, deceiving him into believing that he talked with a young guy and not three elderly MIA officers. He showed photos, and they agreed to meet. At the meeting he was detained and brought to the police station. There he was called insulting words that, in their view, fully described his sexual preferences. He was threatened that he would be sent to a prison, where he would constantly be raped, and definitely not by young and attractive boys. Eventually, the violators proposed to the victim to "forget" about his offense (pornography) for 5,000 USD, and released him. The next day, the victim gave the policemen the money and then never heard from them anymore.

Case 732 (Odesa, 2016)

According to the victim, for two months she as a social pedagogue / speech therapist conducted trainings with a 6-year-old child. During this period the victim made tremendous strides in working with the child and this fact had been repeatedly confirmed by the child's parents. However, later (after OdesaPride, in which the victim participated) the parents learned about her sexual orientation and subsequently the victim underwent insults and beatings by the mother in the child's presence. She also accused the victim by saying that her sexual orientation is a disease and stated that the victim corrupted her child. The mother then demanded the return of the full amount of money spent on home training. Also the offender threatened the teacher with court trials. All this happened in the presence of the child. Then the child's mother turned the victim out with the words: "Those like you need the electric chair." The victim asked for help from a lawyer.

Case 748 (Kharkiv oblast, 2016)

"Two men played themselves up as gay. I started a conversation with them. They gave me to understand they did not object to having sex with me. After that, they took out their police certificates, showed them briefly, took my passport, inspected my belongings and offered me a ride to the police station. They said they were working out information on a murder based on homosexual grounds, and I looked like a criminal; later they said that I behaved immorally in a public place. [They] Threatened me with physical violence, and to call some group etc. Then I called 102 [the police hotline]. [They] Came after a long time. [They] at first called saying that did not want to come – they said, "sort things out by yourselves". One of the men shot me with his camera, checked for me in some database (inquiring of someone on the phone). They said that those like me have to be combatted against, that gays should be killed".

Case 752 (Odesa oblast, 2015)

"A guy, aged about 20, [we] met on the internet, went for a walk, [he] began to beat [me] and called someone else to come. [He] hit me with his arms and legs, used gas spray, broke [my] jaw, threatened to kill [me]. [He] Said that I was a fag and had to be murdered. [I] Could not resist, because the attack was sudden, and he used a gas spray. I offered him [the attacker] money and phone, but he was not interested."

Case 758 (Dnipropetrovsk oblast, 2015)

The violators were a group of athletic teen boys aged 19 to 25. When the victim got off the bus, they caught him around the corner and started beating him with a knife and similar tools. The knife wounds were up to 5

cm in depth. The victim managed to escape. This group of boys then was constantly waiting by a club for lonely guys. They tried to enter this "thematic" club, but the guard stopped them.

5. OPINIONS OF THE LGBT COMMUNITY ON HOMOPHOBIC VIOLENCE AND DISCRIMINATION IN UKRAINE

In order to enhance legal awareness and to encourage the protection of their rights, activists of Nash Mir held in 2016 a series of training sessions and focus group researches on hate crimes among local LGBT communities in Kharkiv, Dnipro, Lviv, Odesa and Kyiv. We provide below the most informative and typical, in our view, opinions and testimonies of participants of these events, responding about the problems associated with homo / transphobic violence and discrimination that they face in their everyday lives. The direct words of focus groups' participants is shown in quotation marks.

The focus groups' participants were asked a number of questions which garnered replies, and of particular, note were the following answers:

Have you been a victim of hate crimes motivated by homo / transphobia?

Do you know cases of hate crimes / incidents in your city?

All focus groups turned out to contain victims of hate crimes motivated by homophobia or transphobia. The participants of all groups were aware of other similar cases in their cities. We do not cite their stories about such incidents, inasmuch as they are included in the total dataset of the monitoring network.

How effective / efficient / operational was investigation of hate crimes committed in your city by the law enforcement agencies?

Kharkiv: Most participants argued that the investigation of such cases is very difficult going and faces very high resistance from the law enforcement agencies.

Odesa: "No results." "The issue of qualification is being decided, as is establishment of any homophobic motive as a main motive of the crime. Investigators and prosecutors strongly resist such a turn of affairs, arguing that the mentioned motive is not there."

Kyiv: "In our city [Sumy] was "queer Andryushka"; he dressed in all women's, but still wore a huge red beard. Two years ago he was murdered on ground of hatred towards LGBT people, but the case is still not investigated." "Last year, the police worked very quickly in one case: they came to the victim and by the use of physical force forced him to take back a statement about the crime." "In those incidents / crimes where application were submitted to the police, investigations are not carried out, that has a frankly negative impact on the attitude of the victims to this issue."

Do you know about the activities of organized hate groups in your region?

Kharkiv: "Okupay-pedofilyay (although they are not so active now), Modnyi Prigovor ["Fashion sentence"], Sokil ["Falcon"], the Right Sector, ultras, groups working on the same principle but not identifying themselves in any way." Everybody also noted the growing number of small groups of guys (about 3 persons) whose main activity consist of extortion and robbery of gay men using dating through social networks.

Dnipro: Most members know of organized hate groups that conduct their activity through social networks. In Zaporizhzhya they are White Terror and Modnyi Prigovor, and they operate not through official channels, but through active youth. One respondent from Kyiv also mentioned the group Buratino.

Lviv: "The Right Sector, Azov, Bili Khorvaty ["White Croats"], Ukrop, Sokil, Svoboda." "Christian churches." "Aidar, Vovky ["Wolves"]."

Odesa: "[I have] Seen how the youth from Modnyi Prigovor beat a gay man in the present Green Theater." "Okupay-pedofilyay, Modnyi Prigovor." "The Right Sector, Samooborona ["Self-defense"]." "Football ultras from Molodaya Nenavist ["Young Hatred"] and Soborka."

Kyiv: "Some groups identifying themselves either with The Right Sector or Azov corps". "The Right Sector, Aidar, Azov, Modnyi Prigovor." "Besides the groups said earlier, I know of a few groups in VKontakte with Nazi symbols (for instance, Misanthropic Division)." "Aidar, Azov, the Right Sector, Modnyi Prigovor, Okupay-pedofilyay, Tryzub ["Trident"], Svoboda."

Do you know cases of crime / hate incidents by the police?

Kharkiv: "This winter there was a fight in our gay club. They called the police. The patrol force arrived quickly, behaved very calmly and tolerantly, even though we were after the show and on heels." "The militia [the

previous law enforcement agency that had remained since Soviet times, but is now replaced by the new police] "figured out" a beach was gay on the river, and for a very long time were engaged in extortion under various pretexts. Many people there were in trouble. When the police appeared, trouble stopped."

Dnipro: "Yes, we know: homophobia, unfriendly attitude, refusal to perform their direct functions." "My acquaintance was literally beaten by a police officer to whom he turned for help, after he was beaten in the street by homophobes."

Lviv: Such cases are unknown.

Odesa: "When submitting an application, a police officer cracked jokes; we were kept in the police station together with the people who assaulted us. When we indicated that we are gay, a police officer noted: "So, maybe they even tried to rape you fags?"

Kyiv: Such cases are unknown.

How do you consider, whether criminal responsibility for hate crimes has to be more severe?

Kharkiv: "No, it does not. If we want and demand equal treatment for ourselves, then we should not ask for stricter punishment for crimes. Since it would distinguish us from the majority." "Yes, sure, it will create the preconditions to ensure that their number decreases." "This should be a lesson for everyone, so [I] agree." "Yes, but it should apply not only to LGBT people but to all vulnerable groups." Most of the participants called for strengthening the responsibility for hate crimes.

Dnipro: All participants felt that the responsibility for hate crimes should be definitely stricter than in cases of ordinary crimes.

Lviv: "Committing a hate crime on grounds of SOGI has to be an aggravating circumstance, along with the commission of a hate crime based on race, nationality or religious beliefs." "Yes, we in Ukraine must adopt an analog of the American Matthew Shepard amendment. It can cause a considerable public response. Since gays are usually beaten to the very end." "Yes, because these crimes bear a message to society. Impunity creates a ground for new crimes against LGBT people, contributes to their spread." "There should be an additional penalty in the form of educational training." The majority of respondents answered the question positively.

Odesa: "Yes, provided high-quality 're-education of the criminal'". "Strict to the maximum, that they do not want to do so." "No, as this way LGBT people would attract extra attention." Opinions of the audience were divided.

Kyiv: "Yes, because the violence inflicted during the commission of crimes has a more cruel character." "This must be a qualifying feature when determining punishment." "We need to fix the clear legal concept of hatred, particularly referring to the Universal Declaration of Human Rights." "Yes, a [hate] crime committed not because of the personal hatred to a person but through her/his membership in a particular group." "Yes, without accepting all-human values, there cannot be further development." "Yes, since it's a manifestation of xenophobia." "Yes, any discriminated group needs more serious protection."

Would you turn for help if you were sure that your case would be investigated?

Kharkiv: Most participants would appeal to the police in any case. One participant said that he feared disclosure of his personal life.

Dnipro: All participants responded positively.

Lviv: All participants responded positively.

Odesa: The views of the participants were divided. Most would turn to the police in any case. Some feared vengeance and disclosure of their personal lives. "It is necessary to appeal with such applications, no matter whether the case is investigated or not, because your every request is already a step towards overcoming criminality. Each undeclared fact occasions hidden statistics that in our country are very significant, especially concerning LGBT".

Kyiv: All participants responded positively.

Do you know the facts about hate speech towards LGBT? From whose side?

Kharkiv: The church, politicians, the city mayor and his team, representatives of the local media.

Dnipro: Most participants knew of cases of hate speech, some faced such incidents regularly. One participant mentioned the police officers who provided security at a queer party at KyivPride. According to him, they were indignant: "Why should we protect these queers here?"

Lviv: "Politicians, religious leaders, at all levels, in fact." "Christian churches". "Church leaders". "Colleagues, neighbors." "The church, the interior minister." "Artem Skoropadskyi, Dmitry Korchinsky, Illya Kyva, the leader of Svoboda in Dnipro Ihor Tokovenko, a Svoboda member in Lviv Vasyl Moldovan, the chaplain of the Ukrainian Greek Catholic Church in Lviv, Sadovyi, the secretary of the Lviv City Council [activists of far-right nationalist organizations and the city management]."

Odesa: Most participants knew cases of hate speech, some faced such incidents regularly. "Teachers in Odesa Academy of Law." "Svoboda [political party]." "Kyva, Arsenii Yatsenyuk, Orthodox Churches, Artem Skoropadskyi [conservative and nationalist politicians]."

Kyiv: "In the region – one hundred percent of representatives of government agencies, prosecutors, police." Identified were representatives of the church, police, public activists, civil servants, former militia, some members of LGBT organizations, Love Against Homosexuality (a religious and homophobic group).

6. REVIEW OF THE CURRENT LEGISLATION AND JUDICIAL PRACTICE, CONCLUSIONS, PLANNED REFORMS

The Criminal Code of Ukraine contains a number of articles (namely, 67, 115, 121, 122, 126, 127, 129, 293) providing for more severe punishment for crimes committed under motives of racial, ethnic or religious intolerance, and Article 161, which establishes criminal responsibility for incitement of national, racial or religious enmity and hatred, as well as for discrimination on the open list of grounds. Thus, despite the fact that currently the very concept of "hate crime" in the Ukrainian legislation is absent, in fact this category of crimes is recognized but only on the three aforementioned grounds. If such a crime were committed, in particular, under homophobic or transphobic motives, the current Ukrainian legislation does not provide for it a heavier penalty and, therefore, does not recognize it as a hate crime.

In the opinion of Ukrainian human rights organizations, this situation is unacceptable, so they have long been trying to convince lawmakers to expand the list of motives of intolerance, which aggravate in severity penalties for committing such crimes – in particular by adding intolerance on grounds of sexual orientation and gender identity. Meanwhile, they also support the decriminalization of discrimination, which, in their view, should be seen not as a criminal but as an administrative offense, and should entail less strict liability. Eventually, the Ukrainian government agreed with the proposals of civil society. Adopted in 2015 the Action Plan to Implement the National Strategy on Human Rights for the Period until 2020 contains provisions (paragraph 105, measure 3) about the "removal from the disposition of Article 161 of the Criminal Code of Ukraine the part concerning criminal liability for discrimination (direct or indirect restriction of rights or direct or indirect privileges on various grounds) – along with the amendments made to the Code of Ukraine on Administrative Offences and the Civil Code of Ukraine, providing for fines, damages, etc."

The same paragraph provides for "ensuring punishment for crimes committed under motives of intolerance on grounds such as race, skin color, religious beliefs, sexual orientation, transsexuality, disability, language (amendments to paragraph 3 of Article 67, the second paragraph of Articles 115, 121, 122, 126, 127, 129, Article 293)."

As regards Article 161, a group of members of Ukraine's parliament registered Bill 3501 which was adopted at first reading on 16.02.2016. This bill, in particular, removes responsibility for discrimination from Article 161 while adding to the Code of Ukraine on Administrative Offences Article 188⁴⁹ "Violation of legislation on preventing and combating discrimination." Unfortunately, this bill does not add sexual orientation and gender identity to the list of grounds on which discrimination is explicitly prohibited (contrary to that envisaged in the Action Plan and recommendations of the Council of Europe's experts) – thus the prohibition of discrimination on SOGI grounds remains only implicit ("or other characteristics") that, in practice, is not sufficient to combat effectively discrimination on these grounds.

Quite unexpectedly, the Chief Investigation Department of the Ministry of Interior in 2016 began to collect information on cases of hate crimes for motives different from those three mentioned in the Criminal Code (i.e. racial, religious or national / ethnic intolerance) without waiting for the reform of criminal law.

Comparing the results of the investigation of crimes and incidents motivated by homo / transphobia for the period of 2014-2016 with the results of a similar previous study for the period 2012-2013⁴, Nash Mir can see that the situation of violence and discrimination against LGBT people in Ukraine over the past three years did not evidence any signs of improvement. As evident from Table 8, in 2013 among all types of LGBTI human rights violations sharply increased their share of such violations as insults / humiliations and threats of disclosure or disclosure of confidential information, as well as physical violence. We attribute this to the fact that some informal Russian homophobic groups (first of all, Okkupai-pedofilyai) at this time extended their activities into the territory of Ukraine. The leader of this movement, Russian neo-Nazi Maksim Martsinkevich nicknamed Tesak ("Slasher"), held in 2013 a kind of "tour" through major cities of Ukraine. There on tour he met with his supporters and conducted workshops on abuse and public humiliation of homosexuals, who were enticed via the internet allegedly on a date.⁵ Against the background of the Russian aggression, in 2014 the number of such cases slightly decreased, but we can see that in 2015-2016 informal homophobic groupings again intensified their activity. All participants of the focus groups conducted by Nash Mir in 2016

⁴ Please see note 1.

⁵ Please see, for instance, Nash Mir Center, *Report on Hate Crimes against LGBT Persons in Ukraine in 2013, 2014*, gay.org.ua.

complained about this. The Russian-import Okkupai-pedofilyai now meets Modnyi Prigovor of the same origin. In Zaporizhzhya operates the similar group Naslediye ("Heritage") which specializes in provoking gay men to have sex with minors, expecting that the victim, who could break the Criminal Code, will not complain to the police about the violator's action. Unfortunately, the police, knowing about illegal activities of the group, still turn a blind eye to it.⁶

While the above-mentioned groups are engaged only in bullying and extortion of single gay men, such organizations as the Right Sector, Aidar, Azov, Svoboda etc., mentioned in focus groups, do not even hide that they stay behind organized attacks on LGBT events and venues – in particular, attacks on the Equality March in Kyiv, the Equality Festival in Kyiv, Lviv, Odesa, community centers in Odesa, Kryvyi Rih and others. It is clear that such activities involve not all members of those political movements and veterans or volunteers of the respective military forces; however, it is also clear that the leadership of these structures not only does not dissociate themselves from manifestations of homophobic aggression, but rather openly supports and encourages it. All these groupings, without exception, existing in Ukraine, which have been noticed in their planned attacks on LGBT events and venues, profess ultra-rightwing and racist ideology. They consider their homophobic activity as the struggle for the future of the Ukrainian nation and the "white race" that only emphasizes the fundamental similarity and equal social significance of crimes under motives of national or racial hatred, which are actually recognized by Ukrainian law as hate crimes, and crimes motivated by homophobia or transphobia.

An unacceptably high level of homophobia and transphobia expressions among law enforcement officers, demonstrated by the results of our monitoring, leads to the fact that Ukrainian LGBTI people do not trust such officers and do not see opportunities to protect their rights with their help. This results in the impunity status of LGBTI rights abusers as well as in an underestimation of the prevalence of crime and incidents under homo / transphobic motives – already low due to the fact that the victims of such crimes are simply afraid or find it nonsensical to inform the law enforcement agencies on their own enforcement staff peers. It should be noted that the reputation of the newly formed patrol police among the Ukrainian LGBT community is much better than for the rest of the MIA's structures. The number of complaints about patrol police work has noticeably diminished, and gratitude for their help indeed has significantly increased compared to the situation observed before the reforms. Similarly should be noted the readiness of the National Police leadership to work with LGBTs and human rights organizations in developing and implementing policies of tolerance, prevention of discrimination and protection of vulnerable minorities.

However, it should be noted that the structures of law enforcement are altogether an integral part of Ukrainian society, and therefore cannot but in general share its characteristic views. Addressing Ukrainian LGBT community's problems requires overcoming their prime source cause: homophobic prejudice that holds dominance in Ukrainian society. For example, a recent poll conducted by the Kyiv International Institute of Sociology at the request of Nash Mir, showed that 60% of the Ukrainian public perceive rather negatively or definitely negatively people of homosexual orientation, including 42% who responded with a definitely negative attitude to such people.⁷ This result underlines the need for broad educational campaigns, inclusion of sexual orientation and gender identity issues in school curricula, and for programs of training and professional development for teaching staff, lawyers and law enforcement officers.

The overview of the judgments (sentences, decisions) in criminal proceedings mentioned in the Unified State Register of Court Rulings showed that the majority of decisions were taken in respect of crimes against life and health (murder, bodily injuries of varying severity), most often committed on the "ground of personal hostile relations connected with non-traditional sexual orientation" or under lucratively inclined motives. The victims are solely gay men.

Viewed overall, here are the general trends observed:

- 1) most crimes are classified as grave and especially grave (punishment for which provides for imprisonment up to 10 years, and more than 10 years or life imprisonment, respectively);

⁶ Please see, for instance, the video of TV5, *They among Us*, 30.09.2016, [youtube.com](https://www.youtube.com/watch?v=...).

⁷ Київський міжнародний інститут соціології, *Ставлення до людей гомосексуальної орієнтації: лютий 2016 р.*, 2016, gay.org.ua, in Ukrainian.

- 2) the majority of crimes were committed with extreme, unjustified cruelty to the victim (for example, a large number of stab wounds, attempts to commit a demonstrative execution, dismemberment of the corpse);
- 3) a standard practice of defendant / defender is to choose a defense tactics which provides that the actions of the defendant were caused by the (gay) victim's illegal encroachment on his health and sexual freedom and integrity. At that, such actions allegedly committed by the victim, in terms of the defendant have resulted in a state of affect that have significant influence on the qualification of the crime. However, the courts are critical of this position of the defense, generally, objectively assessing the real motives of the crime. Only in one case did the court of appeal change the qualification of a crime from murder (part 1 of Article 115 of the Criminal Code of Ukraine) to murder committed in a state of extreme emotion (Article 116 of the Criminal Code);
- 4) 4) quite often is the situation when criminals choose their victim on the basis of sexual orientation, believing that the victim will not turn to law enforcement – because, for instance, of being ashamed of his/her sexual orientation;
- 5) most cases involve a set of crimes, namely crimes against life and health in connection with crimes against property.

The Ministry of Interior of Ukraine stated in its letter that it finds it necessary to introduce in paragraph 3 of part 1 of Article 67 of the Criminal Code of Ukraine (CCU) "Circumstances aggravating punishment" amendments which would "create a more effective prevention and combating discrimination system by creating a norm based upon the 'enmity model.'" The Interior Ministry also points out that "changing dispositions of certain articles of the Criminal Code [that is changes to the second parts of Articles 115, 121, 122, 126, 127, 129, and Article 293 envisaged in the Action Plan (para. 105, measure 3)] by adding another qualifying feature of 'commission for motives of intolerance' is inappropriate."⁸

Given the position of the Ministry, it is worth paying attention to the provisions of the Criminal Code of Ukraine and the relevant jurisprudence regarding the imposition of punishment by the courts. Imposing penalties, courts in each case have to comply with the requirements of the criminal law and must take into account the severity of the offense, the identity of the perpetrator and the circumstances mitigating or aggravating punishment (Decision of the Supreme Court of Ukraine "On the practice on imposition of criminal punishment by courts" No. 7 of October 24, 2003). The circumstances aggravating punishment are provided for under Article 67 of the Criminal Code. One of these circumstances is commission of the crime on ground of racial, national or religious enmity or discord (paragraph 3 of Article 67 of CCU). Listed in part 1 of Article 67 of the Criminal Code, the list of circumstances aggravating punishment is exhaustive, so the court has no right to refer to other circumstances as aggravating and to take them into account in sentencing, unless they explicitly mentioned in this Article. Thus, the aggravating circumstances – particularly, the motives of intolerance on grounds of SOGI – should be enshrined in paragraph 1 of Article 67 of the Criminal Code.

The Plenum of the Supreme Court in the above-mentioned decision emphasizes that, pursuant to paragraph 2 of Article 67 of the Criminal Code, the court, having established the presence of aggravating circumstances stated in paragraphs 2, 6, 7, 9, 10, 12 (of part 1 of this Article, is obliged to mention them in its judgment and take them into account in sentencing (please note with attention that above-mentioned paragraph 3 is absent in this list). According to part 2 of Article 67 of the Criminal Code, the court may, depending on the nature of the offense, not recognize any of these circumstances mentioned in part 1 of this article, except the circumstances specified in paragraphs 2, 6, 7, 9, 10, 12, as aggravating, providing the reasons for its decision in the judgement. Therefore, even if amendments to paragraph 3 of part 1 of Article 67 expand the existing list of motives of bias / intolerance, the court in each case will have the right not to consider those circumstances when assigning punishment as aggravating. Thus, the effective application of Article 67 in cases of crimes motivated by homophobia or transphobia will be impossible without amendments not only to part 1 but also to part 2 of Article 67 of the Criminal Code – for example, unless it will be provided as follows:

2. The court may, depending on the nature of the offense, not recognize any of the circumstances mentioned in part 1 of this Article, except the circumstances specified in

⁸ Ministry of Interior of Ukraine, Department for Formation of Policies on the Minister-Controlled Governmental Agencies and Monitoring, *Letter 14/223i,233i of 15.07.2016*, 2016, *the archives of Nash Mir Center*.

paragraphs 2, 3, 6, 7, 9, 10, 12, as such that aggravate punishment, when providing the reasons for its decision in the judgement.

Part 1 of Article 11 of the Criminal Code says that crime is "provided for in this Code a socially dangerous act (action or inaction) performed by the subject of a crime." Public danger consists in that the act / omission either causes damage to relations protected by law, or involves the real possibility of causing such damage. This feature of crime is one of the criteria relevant to classifying offenses. Thus, the degree of public danger (gravity) defines:

- 1) a general crime – contains the basic elements of a crime and contains no mitigating or aggravating (qualifying) circumstances (for instance, murder, i.e. intentional illegal infliction of death to another person);
- 2) a crime with mitigating circumstances – characterized by circumstances which greatly reduce the social danger and punishment for this type of crime (e.g. murder committed in a state of extreme emotion);
- 3) a crime with aggravating circumstances, i.e. those aggravating and influencing qualification of the crime (such as murder for motives of racial, national or religious intolerance);
- 4) a crime with particularly aggravating (particularly qualifying) circumstances, that is providing special public danger because of the crime (e.g. theft committed on large scale or by an organized group).

The content of the social danger of the crime as one of its features, and its impact on the classification of crimes according to their severity, are essential in the context of the delimitation of hate crimes from other crimes. This is explained in that the damage caused by hate crimes to society as a whole may be significantly higher compared with the damage from crimes caused without prejudices. The very serious consequences (i.e. higher public danger, gravity) are a key reason why hate crimes are classified as crimes of the relevant type with aggravating circumstances.

Currently homophobia and transphobia, widespread in society, are considered by many Ukrainians as some kind of "traditional values" that incite their desire to protect them in any way, and that instigate criminals to use them for their own purposes. Gays look like convenient victims for blackmail and robbery who will not want to apply to the police for protection, fearing publicity. The homophobic beliefs of the criminals are often used in the courts as arguments which are to mitigate the extent of their guilt. Thus, in Case 337/6787/15-к, which was considered on 06.02.2016 in the Court of Appeal of Zaporizhzhya oblast, the defense of the persons accused of robbery and extortion made an appeal citing the fact that "the indictment does not make clear at all that the guys wanted in an unusual way to establish justice in society, to punish those relating to sexual minorities, that PERSON_4 had no intent to take possession of another person's property, but had only a desire to teach a lesson." In our view, the situation when homophobic or transphobic motives of crimes are not considered by law as socially dangerous only contributes to maintaining a high level of hate crimes against LGBT people.

Therefore, in our opinion, the position of the Interior Ministry to limit amendments in the Criminal Code to extension of the list of circumstances that aggravate punishment, is one-sided and leads to leveling the value and nature of hate crimes as those having a much higher level of public danger compared to "ordinary" crimes. It is not enough to punish severely crimes committed for motives of hatred on certain grounds – the law has to treat them as a separate class of crimes, emphasizing their particular public danger.

In addition, under part 1 of Article 65 of the Criminal Code, the court shall appoint punishment "within the limits set in the relevant article (a part of the article) of the Special Part of this Code" – that is, unless an article provides increased punishment for a hate crime, the punishment for this crime may not exceed the maximum penalties for an "ordinary" crime. If to consider consistently the motive of hatred on certain grounds only as circumstances aggravating punishment but not affecting the qualification of a crime, it will lead to sanctions provided for committing hate crimes being significantly lighter than those provided for the commission of qualified crimes.

Finally, it should be noted that, of course, deliberate actions aimed at inciting enmity and hatred, humiliation of honor and dignity or causing offense on certain grounds, as provided in Article 161, are also hate crimes. For some reason this article was not mentioned in the Action Plan among those which are to impose

"punishment for crimes committed for motives of intolerance on grounds such as race, skin color, religious beliefs, sexual orientation, transsexuality, disability, language", but it is clear that appropriate changes should be made to this article as well.

7. RECOMMENDATIONS

The Action Plan to Implement the National Strategy on Human Rights for the Period until 2020 contains provisions aimed at addressing most of the aforementioned legal and political issues, without which it is impossible to overcome homophobia and social problems caused by it. The task of the Ukrainian authorities, civil society and our foreign partners consists in achieving its strict and timely implementation. In particular, LGBTI components of the Action Plan include:

- paragraph 39, measure 5; deadline – III quarter of 2016: adoption and revision of governmental normative acts on the protection of peaceful assemblies in accordance with modern international standards in the field of peaceful assemblies, taking into account the specifics of controversial gatherings, including events of the LGBT community;
- paragraph 105, measure 1; deadline – I quarter of 2016: development and submission to the Cabinet of Ministers of Ukraine of a draft law on amendments to the Law of Ukraine "On Principles of Prevention and Combating Discrimination in Ukraine" on [...] complying with the provisions of the EU's legal acts the list of grounds on which discrimination is prohibited, including prohibition of discrimination on grounds of sexual orientation and gender identity;
- paragraph 105, measure 3; deadline – II quarter of 2016: development and submission to the Cabinet of Ministers of Ukraine of a draft law on amendments to the Criminal Code of Ukraine on [...] removal from the disposition of Article 161 of the Criminal Code of Ukraine the part concerning criminal liability for discrimination (direct or indirect restriction of rights or setting indirect or direct benefits on grounds) – along with the amendments made to the Code of Ukraine on Administrative Offences and the Civil Code of Ukraine, providing for fines, damages etc.; the provision of penalties for crimes committed under motives of intolerance on grounds such as race, skin color, religious beliefs, sexual orientation, transsexuality, disability, language (amendments to paragraph 3 of Article 67, the second parts of Articles 115, 121, 122, 126, 127, 129, Article 293);
- paragraph 106, measure 2; deadline – II quarter of 2016: development and placing of posters for victims of hate crimes in the police and ambulance stations;
- paragraph 107, measures 5 and 6; deadline – since the first quarter of 2016: development, involving international experts and civil society representatives, of a training course for law enforcement officials to prevent discrimination and to keep law enforcement officers from effecting discrimination towards vulnerable groups; introducing the respective course in training, retraining and advanced training of law enforcement officers;
- paragraph 109, measure 1; deadline – III quarter of 2016: approval of a protocol / instructions on accepting application about a criminal offense taking into account the motive of intolerance mentioned by the victim;
- paragraph 109, measure 2; deadline – IV quarter of 2016: development and inclusion of a course on effective and proper investigation of hate crimes in training, retraining and advanced training programs of law enforcement officers;
- paragraph 109, measure 3; deadline – IV quarter of 2017: development and adoption of joint guidelines of the MIA and Prosecutor General of Ukraine to investigate hate crimes by law enforcement bodies with regard to the methodology of the OSCE;
- paragraph 109, measure 4; deadline – IV quarter of 2018: development and adoption of the order on introduction of specialization (imposing duties) for prosecutors and investigators responsible for monitoring the investigation of hate crimes in each region.

At the time of drafting this report (November 2016) we can state that only partial fulfillment of some above-mentioned provisions are realized. Fundamental changes to the Criminal Code, which should ensure criminalization of hate crimes motivated by homophobia / transphobia provided in the measure 3, paragraph 105 of the Action Plan for the second quarter of 2016, have not been developed and submitted to the Cabinet of Ministers. Moreover, the position of the MIA on this issue is tantamount to revision of this provision of the Action Plan and narrowing of the planned changes. We cannot accept such a proposal and we believe that the

planned changes have to be made to all mentioned articles of the Criminal Code (paragraph 3 of Article 67, parts 2 of Articles 115, 121, 122, 126, 127, 129, Article 293) as well as to Article 161. The exact mechanism for the implementation of these changes is a subject of discussion, but they certainly must meet the following criteria:

- the penalties for crimes motivated by intolerance on grounds of race, skin color, national or ethnic origin, language, religion, sexual orientation, gender identity should be higher than for offenses without aggravating circumstances;
- the grounds of race, skin color, national or ethnic origin, language, religion, sexual orientation, gender identity must be explicitly specified in the text of the Criminal Code as aggravating penalties for crimes committed under motives of intolerance on certain grounds;
- the court should be obliged to consider the motive for commission of crimes listed above as a circumstance aggravating the penalty;
- deliberate actions aimed at incitement of enmity and hatred, insult of the feelings of citizens, humiliation of honor and dignity of citizens on grounds listed above must be criminalized.

8. LGBT HUMAN RIGHTS NASH MIR CENTER

LGBT Human Rights Nash Mir Center is a Ukrainian public organization which aims to implement and protect the rights and freedoms, meet public, social, cultural, political, economic and other interests of the Ukrainian LGBT community. Our history dates back to the mid-1990s, when a small group of enthusiasts from East Ukrainian city of Luhansk decided that it was a time for those public activities. The official registration of Nash Mir Center took place in 1999.

Our activities are aimed at both the LGBT community and Ukrainian society as a whole. Now we focus our efforts on:

- Monitoring LGBT rights violations.
- Legal aid and counseling to victims of discrimination and hate crimes on grounds of sexual orientation or gender identity.
- Legal education of the LGBT community.
- Joint action with other organizations to protect the equal rights for LGBT people on the legislative and political level.
- Strategic litigation.
- Support for local initiative groups in their activities on providing social and psychological support for LGBT people, mobilization of the LGBT community at the local level.

Nash Mir Center is a co-founder of the Council of LGBT Organizations of Ukraine (which currently unites the vast majority of Ukrainian LGBT organizations) and the Coalition for Combating Discrimination in Ukraine – an association of various public organizations and individual activists who seek to promote equality and combat discrimination in Ukrainian society.