

THE ICE IS BROKEN

LGBT situation in Ukraine in 2015



Kyiv
2016

LGBT Human Rights Nash Mir Center
Council of LGBT Organisations of Ukraine

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This publication provides information that reflects the social, legal and political situation of the LGBT (lesbian, gay, bisexual and transgender) community in Ukraine in 2015. It contains data and analysis of the issues related to LGBT rights and interests in legislation, public and political life, public opinion, provides examples of discrimination on ground of sexual orientation and so on.

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SUMMARY

Although drafting and public discussion of important legislative and policy documents that directly dealt with problems and interests of the LGBT community were continuously going on since the very beginning of 2015, only at the end of the year, with extra-large efforts and through the continuous pressure of the Western partners of Ukraine, the first Ukrainian legislative act, which explicitly prohibits discrimination based on sexual orientation and gender identity (SOGI) was adopted.

Activities of the LGBT community and the necessity for Ukraine to fulfil its international obligations made Ukrainian authorities pay their attention to LGBT issues and express their attitude towards them in 2015. The relevant statements and actions of representatives of state authorities and local self-governments were inconsistent, sometimes diametrically opposed; however, probably for the first time in the history of independent Ukraine, they demonstrated not only the homophobia inherent to our society, but also a modern European approach in addressing these problems.

Unlike the previous years, in 2015 the traditional homophobic statements and actions of representatives of leading Ukrainian political forces faced the opposite: LGBT people-friendly thoughts and actions coming from politicians no less prominent. The Presidential Party "Block of Petro Poroshenko" became the first political force in the Ukrainian parliament that declared and pretty consistently adhered to the policy of protection of equal rights for LGBT people.

Two major LGBT events of 2015 in Ukraine – the March for Equality in Kyiv and adoption of an anti-discrimination amendment to the labour legislation by the Parliament – have attracted great attention of domestic media and the general public. This has contributed to the unfolding of the public debate, in particular – regarding the need for and the depth of reforming Ukrainian society on LGBT issues in the context of the European integration. Whilst mass media have shown a tendency to preserve and develop a sufficiently adequate approach to the coverage of LGBT topics, discussions in the press and on the Internet have revealed that processes of gradual reduction of bias and enhancement of the level of tolerance and understanding of the issues under discussion take place among the Ukrainian public in general.

Large Ukrainian churches and religious associations remain the primary – and, in fact, the only socially important – source of support and dissemination of homophobic prejudice, as well as a source of incitement of hatred and support of discrimination against LGBT in Ukraine. In recent years, they have tried to keep as far away as possible from the LGBT issues, especially on the background of Ukraine's European integration process. That is how they behaved in early 2015 – for example, in a situation around the March of Equality in Kyiv – but the real "threat" of the adoption of legislation that would protect Ukrainians from discrimination on grounds of SOGI, forced them sharply to increase their activities and homophobic rhetoric during the second half of the year.

Ukrainian LGBT community that has become more noticeable in recent years, is facing new challenges, the main ones of them are: the sharp rise in homophobic violence and the reduction in funding of LGBT initiatives by the donors, particularly in the field of combating HIV / AIDS among men who have sex with men (MSM). The March of Equality in Kyiv and prohibition to hold it in Odesa, the adoption of the anti-discrimination amendment to the Labour Code, as well as the media coverage of the protection of LGBT rights, the spread of gay marriages, etc. in Western countries had a considerable influence on the increase of visibility and the public interest in LGBT issues.

In 2015 in Ukraine Nash Mir Center has documented 71 case of actions (incidents and crimes) on the grounds of homophobia and transphobia, discrimination and other violations of the rights of LGBT people. The largest number of cases was documented in Kyiv (17), Odesa (12), Zaporizhzhya and its oblast (11), in Dnipropetrovsk and its oblast (8), in Zhytomyr and its oblast (6), and in Kharkiv and the oblast (5). In addition, 2 cases per city were recorded in Ivano-Frankivsk, Chernivtsi and Vinnitsa and 1 case per region in Lviv, Kherson, Cherkasy, Chernihiv and Poltava oblasts and in the occupied Luhansk.

The territory of Ukraine, occupied by Russian troops and mercenaries (i.e., Crimea and the southern part of the Donetsk and Lugansk oblasts), remains a zone of lawlessness and arbitrariness. The situation of LGBTs in the area immediately after the occupation became unbearable, and the situation only deteriorated over the last year.

With the adoption of the Action Plan for the implementation of the Human Rights National Strategy for the period until 2020, the Ukrainian government has committed to draft the legislation and public policies that would put an end to discrimination and inequality of LGBT people in Ukraine. We can only hope that all the set goals will be achieved, and all legislative documents, that are envisaged by the mentioned Plan, will be officially adopted.

1. LEGISLATION AND JUSTICE

Although drafting and public discussion of important legislative and policy documents that directly dealt with problems and interests of the LGBT community were continuously going on since the very beginning of 2015, only at the end of the year, with extra-large efforts and through the continuous pressure of the Western partners of Ukraine, the first Ukrainian legislative act, which explicitly prohibits discrimination based on sexual orientation and gender identity (SOGI) was adopted.

It was the Law of Ukraine "On Amendments to Code of Labour Laws of Ukraine Concerning Harmonization of Legislation in Sphere of Preventing and Combating Discrimination with European Union Law", that adds a number of protected characteristics, in particular, the aforementioned SOGI (sexual orientation and gender identity), to article 2¹ of the Code of Labour Laws. It is difficult to overstate the importance of this legislative novelty – it was the first significant step towards obtaining effective equality of LGBT people in Ukraine after the decriminalization of voluntary sex between men in 1991, and it was adopted, despite the fierce opposition of influential Ukrainian churches.

It should be noted right off that this amendment was made to the current Labour Code of Ukraine (LCU), which is mainly preserved from the Soviet times and has to be replaced with a new Labour Code in the nearest future. The Cabinet of Ministers has not submitted yet to the Verkhovna Rada a new draft Labour Code, which was developed a year ago and contained a clause about prohibition of discrimination based on sexual orientation (but not gender identity). Shortly before the adoption of the aforementioned amendment to the Labour Code, the Parliament adopted in first reading the draft of the Labour Code, developed by several members of parliament that did not mention SOGI at all. Such an urgent adoption of the amendment to the old code, which should very soon become invalid, can be explained with the fact that the Verkhovna Rada was desperately trying to fulfil the obligations of Ukraine under the EU-Ukraine Action Plan on Visa Liberalization, the assessment of the implementation of which was to be carried out in December 2015. Due to the fact that after the adoption of the Draft Labour Code in the first reading amendments to it may be made only during the second reading, prior to which it should be discussed in the parliamentary committees, members of the parliament were not physically able to make the necessary amendments to the new document and to approve it as a whole, although at the beginning of December 2015 a proposal was already prepared and registered for discussion at the next session of the Parliament.

Instead, all the numerous recommendations of NGOs and international organisations regarding mentioning LGBT problems in the National Strategy for Human Rights have been consistently ignored at first by the Ministry of Justice, which developed the government's draft, and then by the Presidential Administration, which produced the final version, which was approved by a Presidential Decree № 501/2015 on August 25, 2015. On November 23, 2015 the Ukrainian government approved the Action Plan for Implementation of the National Strategy for Human Rights for the period until 2020, but for unknown reasons it was made public only in late 2015. The public has taken an active part in the development of this document by the Ministry of Justice, and the document incorporated almost all the proposals from Ukrainian human rights and LGBT organisations – it even contains provisions on the study of the problem of intersexuality. Moreover, the Action Plan, envisages, in particular:

- drafting of legislation that would prohibit discrimination on the grounds of sexual orientation and gender identity (SOGI) in all aspects of life that are regulated by law;
- development of the legislation on the registered partnership for same-sex couples;
- development of a new procedure of changing (correcting) gender for transgender people;
- treating hatred motives on the grounds of SOGI as the aggravating circumstances in the Criminal Code;
- lifting of the ban on the adoption of children for transgender people.

It is worth noting that even full implementation of the Plan does not automatically mean that all necessary changes will be introduced to the Ukrainian legislation – it will depend on the Verkhovna Rada

– but the adoption of such a suddenly progressive document, at least, shows a radical change in the policy of the Ukrainian government that consistently tried to ignore all the proposals related to the rights and interests of Ukrainian LGBT since the proclamation of independence of Ukraine.

In 2015 Ukrainian transgenders won three lawsuits against the Ministry of Healthcare of Ukraine, through which they appealed against some requirements of the Order No. 60 from 03.02.2011 that regulates the issue of sex change. Even though the Ministry of Healthcare appealed all of these decisions in the court of appeals, at the same time, according to information from transgender activists, the Ministry has started working on a new document to replace the mentioned Order. Drafting of this document takes place with a certain degree of participation of transgender people themselves, and there is a hope that the document will be in line with modern ideas and will no longer contain the provisions of the existing Order that cause criticism due to the violation of the rights and interests of transgender people.

Besides the mentioned Order of the Ministry of Healthcare (MoH), Ukrainian legislation still retains several provisions that overtly discriminate against LGBT people. In particular, Article 74 of the Family Code "The right to property of a woman and a man who live as one family, but are not married to each other or are not in another other alliance by marriage" and Article 91 of the same Code "The right to have support for a woman and a man who are not married to each other" and Article 211 "Persons who can be adoptive parents" openly discriminate against same-sex couples that are de facto married in comparison with similar heterosexual couples. The absence of any legal form of recognition of same-sex couples in Ukraine generally puts them at a disadvantaged position compared to heterosexual spouses. Also the discriminatory ban on adoptions for transgenders remains in place (MoH Order No. 479 from 20.08.2008 "On approving the list of diseases having which disables a person to be an adoptive parent"). The Criminal Code of Ukraine considers only motives of racial, national or religious hatred as aggravating circumstances when committing crimes, and also prohibits the incitement of such hatred only on these grounds, completely ignoring hatred reasons on the grounds of sexual orientation and gender identity. On November 10, 2015 Chervonozavodskyi District Court of Kharkiv, when trying a case on the murder of a gay man, in the decision actually said that the motive of homophobia cannot be regarded as an aggravating circumstance of the committed crime, and sentenced the criminal to 8 years in prison, which was only 1 year above the minimum provided for in Article 115 of the Criminal Code of Ukraine.¹ If a similar murder was committed with motives of religious, national or racial hatred, the minimum sentence would be 10 years.

The Working Group on Human Rights that is part of the Constitutional Commission that currently drafts a new Constitution of Ukraine, after lengthy discussions that involved legal professionals and community activists, in the end decided not to mention explicitly sexual orientation and gender identity among characteristics protected from discrimination in Article 42 "Non-discrimination" of the draft Constitution. Chairman of the Working Group Dr Volodymyr Butkevych, however, promised that the issue would be considered again when reforming the Ukrainian anti-discrimination legislation. In our opinion, the mere fact that a public and detailed discussion of this problem at this level took place is a positive one, even though we cannot agree with the decision not to mention SOGI on the list of protected characteristics, even if it is an open list. On the other hand, one cannot but congratulate the gender-neutral wording of Article 28 of the draft Constitution of Ukraine "Right to Marriage" produced by the Working Group ("Each of the spouses shall have equal rights and responsibilities in marriage and family"), which, in principle allows to extend the action of this legal doctrine to same-sex couples in the future.²

¹ Чумак Ю., *Обтяжуючих покарання обставин судом не встановлено*, 23.11.2015, www.khpg.org

² Конституційна комісія, *Проект Розділу II Конституції, підготовлений Робочою групою з прав людини станом на 10.07.2015, 11.07.2015*, constitution.gov.ua

2. STATE AUTHORITIES AND LAW ENFORCEMENT, LOCAL SELF-GOVERNMENT

Activities of the LGBT community and the necessity for Ukraine to perform its international obligations made the Ukrainian authorities to draw their attention to LGBT issues and express their attitude towards them in 2015. The relevant statements and actions of representatives of state authorities and local self-governments were inconsistent, sometimes diametrically opposed; however, probably for the first time in the history of independent Ukraine they demonstrated not only the homophobia so inherent to our society, but also a modern European approach in addressing these problems.

Traditionally, Valeriya Lutkovska, Ukrainian Parliament Commissioner for Human Rights pays the most attention to LGBT issues compared to all other state institutions. In 2015, the Commissioner's annual report on human rights in Ukraine contained an entire section on discrimination based on sexual orientation and gender identity. While Valeriya Lutkovska supported the position of the Ukrainian government not to mention LGBTs in the National Human Rights Strategy, in December 2015, together with the Ukrainian Helsinki Human Rights Union, she appealed to the Prime Minister with a demand to finally publish the adopted Action Plan for the implementation of this strategy and to avoid fundamental changes in its text, agreed with civil society organisations. Representatives of the Secretariat of the Commissioner also participated in the preparation and carrying out of the numerous activities of LGBT organisations.

Probably for the first time in the history of independent Ukraine the head of the state publicly spoke of LGBT rights – when commenting on problems related to the March of Equality in Kyiv on June 6, 2015, President Petro Poroshenko said: "I regard the March of Equality as a Christian and as a European president. These two things are compatible. I will not participate in it, but I see no reason for someone to interfere, because it is the constitutional right of every Ukrainian citizen [...] I have my own Christian values that I was brought up with, that my children are growing up with, but I do not share the indignation of certain political forces, who want to PR themselves with this, it is not the case for PR at all". Perhaps, it was the position of the President of Ukraine that made the Kyiv authorities and militia to ensure the event took place safely.

The state leaders paid special attention in 2015 to the ban on same-sex marriages in Ukraine. Namely, Volodymyr Hroisman, the Chairman of the Verkhovna Rada, openly mentioned it after adopting the amendment to the labour legislation prohibiting discrimination on the grounds of SOGI on November 12: "We stand with you for the family values, and in no case – I hear some fake talks that some same-sex marriages can be possible in Ukraine. God forbid this to happen, and we will never support it [...] We spoke today with the Prime Minister – and it is obvious that we need to affirm family values."³ In fact, the same thing was said by the mentioned Prime Minister Arsenii Yatsenyuk during his meeting on September 16 with representatives of the All-Ukrainian Council of Churches and Religious Organisations: "Amendments to the Constitution of Ukraine, which would undermine the foundations of spirituality and morality, will not happen!"⁴

Vitalii Klychko, Head of the Kyiv City State Administration and Kyiv Mayor, in 2015, similarly as in the previous year, decided that holding the March of Equality did not ring true and called upon the organizers "to refrain from such activities."⁵ According to LGBT activists, human rights activists and foreign diplomats involved in the negotiations with the administration of the Kyiv Department of the Ministry of Interior, the latter, even though they did not refuse steadfastly to ensure security during the March of Equality (as it was in 2014), however, were extremely unfriendly and strongly recommended to the organizers to cancel the event. "The main message everyone wanted to convey was – 'I will do

³ Українська правда, Рада проголосувала безвізову антидискримінаційну поправку, 12.11.2015, www.pravda.com.ua

⁴ Інститут релігійної свободи, Яценюк: Не буде змін до Конституції, які б підривали духовність чи мораль, 16.09.2015, www.irs.in.ua

⁵ Кличко закликав політичні сили і громадські організації не розпалювати ворожнечу та не провокувати чергового протистояння в Києві, 04.06.2015, kiev.klichko.org

everything possible so that you do not hold it because I do not like.' And then it went on: 'I do not want my kids to see it.' And it was a high-ranking police officer who told me that! And then he brings people into the meeting who threaten the organizers so that they would give up on holding the event," – one of the organizers of the March, Ruslana Panukhnyk said.⁶ In the end, the administration of Kyiv police very reluctantly agreed to ensure security measures just a day before the scheduled date of the March – it looks like the words of President Poroshenko, cited above in this section, turned out to be an irresistible argument, which forced them to change their attitude.

Despite the sufficient time and effort to develop a security plan for this event, the police still failed to prevent an attack on the March participants by organized homophobic groups, completely ignored to provide security to participants leaving after the march, and, reportedly, very casually investigates the actions of the attackers. During the attacks, evidently by ultra-right nationalists, at least 10 participants and 5 police officers have suffered. Kyiv Mayor Vitalii Klychko condemned the attack on a peaceful march and promised personally to check that the criminals were harshly punished.⁷

In contrast to the Kyiv authorities that did not try to ban LGBT Forum KyivPride 2015, Odesa city administration refused to consider the notification about holding the LGBT Festival OdesaPride 2015, and the Executive Committee of the Odesa City Council appealed to the Odesa District Administrative Court with a request to ban it. Odesa authorities referred to negative public attitude regarding the LGBT activities and the possibility of riots as the reasons for the prohibition of the festival. Despite the clear illegality of the demands of the plaintiff, the court partially granted them on August 13, thus prohibiting to hold the March of Equality in Odesa, but did not ban other activities of the festival.⁸

City authorities of Mykolaiv also tried prohibiting public LGBT events via court proceedings – namely, the bike ride through the streets of the city, which was organized by Association LGBT LIGA – but in this case the court refused to limit the right of citizens to peaceful assembly.⁹

According to many reports from community activists, many persons with homophobic views started serving in the militia/police in several Ukrainian cities, who are more inclined to cover up crimes against LGBT people rather than help protecting LGBTs. In August 2015, the police in Kryvyi Rih refused to document a homophobic attack on a closed gay disco, and one of the attackers openly boasted of his acquaintances in the militia, which, in his words, he called himself to stop the event.¹⁰ It seems that the administration of the police do not consider that such employees create any problems – for example, a cadet of the new patrol police in Lviv, who openly expressed his extreme homophobic attitudes and aggressive intentions during the training, as it turned out, was not expelled after his teacher reported of the professional inadequacy of that candidate, has successfully completed the training, and was accepted to the service.¹¹

⁶ Центр інформації про права людини, *Міліція відмовляє організаторів від проведення акцій через безпеку*, 17.07.2015, humanrights.org.ua

⁷ Київська міська державна адміністрація – офіційний Інтернет-портал, *Віталій Кличко вимагає покарати провокаторів, які влаштували сутички на "Марші рівності"*, 06.06.2015, kievcity.gov.ua

⁸ УНІАН, *Одеський суд заборонив проведення маршу ЛГБТ, запланованого на 15 серпня*, 13.08.2015, www.unian.ua

⁹ Преступности.нет, *Суд отказал николаевскому исполкому в запрете проводить представителям ЛГБТ велопробег в центре города*, 04.09.2015, news.ru

¹⁰ Гей-Альянс Україна, *Подробности нападения на ЛГБТ-вечеринку в Кривом Роге*, 31.08.2015, urogai.org

¹¹ К. Ковальски, *В новой полиции Львова служит агрессивный гомофоб, готовый избивать геев до потери сознания*, 30.09.2015, urogai.org

3. POLITICS¹²

Unlike the previous years, in 2015 the traditional homophobic statements and actions of representatives of the leading Ukrainian political forces faced the opposite: LGBT people-friendly thoughts and actions coming from politicians no less prominent. Presidential party Block of Petro Poroshenko became the first political force in the Ukrainian parliament that declared and pretty consistently adhered to the policy of protection of equal rights for LGBT people.

Members of the Parliament from the BPP, Serhii Leshchenko and Svitlana Zalishchuk participated in the March of Equality on June 6 in Kyiv. They also developed, and together with other members of the Parliament: Ivanna Klympush-Tsintsadze, Iryna Herashchenko, Ihor Hrynivyi, Mariya Ionova, Ivan Melnychuk, Olha Chervakova, Vitalii Chepynoha, Vladyslav Holub, Volodymyr Aryev, Oleksiy Poroshenko, Iryna Lutsenko, Mustafa Nayyem (all from the Block of Petro Poroshenko), Viktoriya Syumar, Leonid Yemets, Olena Masorina (all from the People's Front); Hryhorii Nemyrya, Olena Kondratyuk (both from Batkivshchyna); Viktoriya Ptashnyk (Samopomich) submitted to the Parliament the amendment to the Code of Labour Laws, which prohibited discrimination on grounds of SOGI in labour relations. Most of these MPs are young pro-European public figures that came to politics after the victory of the Revolution of Dignity. Among the well-known seasoned politicians who pay attention to the problem of protecting the rights of LGBT people, first of all, the head of the Committee of Verkhovna Rada of Ukraine on Human Rights, the deputy head of the All-Ukrainian Union Batkivshchyna Hryhorii Nemyrya should be mentioned, who even made a famous Ukrainian LGBT activist Bohdan Hloba his assistant-consultant.

It is interesting to observe the evolution of attitudes towards LGBT issues of such people as, for example, Volodymyr Aryev. Thus, in 2013, then being an MP from Batkivshchyna, he voted at the PACE session against Recommendation 2021(2013) "Combating discrimination based on sexual orientation and gender identity," and in his Facebook he stated that this resolution was adopted only thanks to the support of the European Socialists, to which he also attributed Communists who were very unpopular in Ukraine.¹³ In November 2015, Volodymyr Aryev wrote on his Facebook page: "I have deliberately sinned and voted in favour of an amendment to prevent discrimination of sexual minorities when hiring. You can wipe your feet off me, but it was a requirement for the visa-free regime with EU, which most MPs failed. So, you can be a sissy when you have both a diplomatic passport and a 5-year multi-entry visa in your pocket, but I support real not declarative European integration for all, not only for the chosen ones. And this process involves difficult decisions."¹⁴ His example enables us to see that experienced Ukrainian politicians, even though they have not yet changed their attitude, actually formed due to homophobic views of main Ukrainian churches towards LGBT people, are, nevertheless, ready to give up their prejudice for the sake of Ukraine's integration into modern Europe. "New" pro-European politicians often show a different attitude, which is virtually identical to the current opinion of the EU – for instance, the already mentioned Serhii Leshchenko, when commenting on his participation in the March of Equality on Facebook, said: "[...] this photo is a sign that Ukraine is changing, and the LGBT community for the first time ever could openly hold the event in support of their rights. Democratic values come out from the underground. Thanks to the Ministry of Interior, which realized the importance of the moment and put forth great efforts to protect LGBT pride walk. I am sure that next

¹² This section covers the activities of Ukrainian politicians who are not public officials. We do not consider members of parliament and local councils as public officials since they represent not the state but their voters, but mention the heads of these bodies because they represent the state body or local government as a whole; respectively, the activity of the Verkhovna Rada is highlighted in the previous section, and MPs – in this one.

¹³ 27.06.2013, www.facebook.com/volodymyr.ariev

¹⁴ 05.11.2015, www.facebook.com/volodymyr.ariev

time there will be even more non-indifferent citizens and the march will take place on Kreshchatyk, not on Obolonska Quay."¹⁵



Picture 1. Participants of the March of Equality in Kiev, June 6, 2015, including MPs S. Leshchenko (the third person from left) and S. Zalishchuk (the sixth person from left in the front row).

After last year's scandal, when party Democratic Alliance refused to accept a well-known LGBT activist Bohdan Hloba as its member, the mood of its leaders (apparently due to unexpectedly wide publicity and condemnation of their actions) has changed. In particular, Party Chairman Vasyl Hatsko in an interview said: "In fact, we do not have any prejudice against sexual minorities. [...] We have conservative views on the doctrine of the family. And DemAlliance is not opposed to introduction of amendments to the legislation on anti-discrimination of sexual minorities. And, overall, we do not deny the possibility to give equal rights to sexual minorities in many spheres of life."¹⁶

In general, Ukrainian politicians, just as it used to be before, are still trying to distance themselves from the LGBT issues. Only radical Ukrainian nationalists – such as members of Svoboda Party, the Right Sector, Ihor Mosiichuk MP of the Radical Party – tend to have an openly homophobic and usually aggressive stance. Ihor Mosiichuk, in particular, said: "[...] in the amendments to the Constitution, proposed by President Petro Poroshenko, there is a prohibition to discriminate on ground of sexual characteristic. That is, in case these amendments are adopted, sinners-sodomites can freely promote homosexuality, because if they are prohibited to do certain things (no granted permissions to hold gay parades, no appearances in media, no approvals to adopt children...), that would violate the Constitution [...] Members of the Parliament should be aware that if they vote in favour of these

¹⁵ 06.06.2015, www.facebook.com/leshchenko.ukraine

¹⁶ Польсько-українській портал, Василь Гацько: «У нашої партії є представники сексуальних меншин. І це не заважає ні їм, ні партії», 03.11.2015, www.polukr.net

amendments to the Constitution and open the way to sodomy, they will be excommunicated from the Church and the Holy Communion and will burn in blazing inferno."¹⁷

Another notorious MP Volodymyr Parasyuk offered to send all the members of the LGBT community, who will gather for the March of Equality March in Kyiv, to defend the state in the area of anti-terrorist operation (ATO). He added that in general he supports the idea of the Right Sector to ban the event, and that the Ukrainian people should adopt not all European values.¹⁸

Practice shows that even politicians from, so to speak, "the liberal camp" – in particular, the presidential party Block of Petro Poroshenko (BPP) – often share both the views and propaganda clichés of their political opponents. Thus, the MP from the BPP Serhii Kaplin in a stereotypically-homophobic way explained why he did not support the prohibition of discrimination on grounds of SOGI: "I know what will happen after this amendment – the European Union's requirement will appear as follows: we will not give you the money unless you adopt the law on same-sex marriages. It is unacceptable for society. We are not ready for that either mentally or historically. I can still live with love between women, but not with love between men."¹⁹

The main political opponents of the ruling coalition, party Opposition Block, which became the successor to the Party of Regions, were unanimous and consistent in their attitude towards the LGBT people – they responded to the adoption of the anti-discrimination amendment to the labour legislation with registering a draft resolution on the abolition of the amendment.²⁰ Speaking of the March of Equality, an MP from Opposition Block's faction, Chairman of Centre Party Vadym Rabinovych expressed the position that was typical for the majority of Ukrainian politicians in recent years: "Personally, I believe that it is unnatural, not needed by anyone and contrary to traditional, cultural, religious and other beliefs of people who have always traditionally lived on this territory. I think that such parades do not constitute a very positive development for Ukraine. However, nowadays it is a trend in the world, that whoever expresses an opinion like myself at the moment, hinders the development of democracy ... I'm a man with a traditional orientation, I do not like these deviations. They are contrary to the fundamentals of the existence of the society. Whilst we are headed to Europe, and Europe has this as the basis of existence. This contradiction needs to be looked into and sorted out."²¹

In 2015, politicians from the Right Sector, the other right-wing groups, and their supporters were the most aggressive in their behaviour and comments towards LGBTs. During the attack on the March of Equality in Kyiv, where several dozen participants and law enforcement officers suffered, 7 people were detained, and 4 of them turned out to be members of the so-called Ukrainian Volunteer Corps of the Right Sector.²² Before the start of the event, explicit threats to prevent the event by all means appeared on the official website of the Right Sector.²³ Deputy Head of the Mykolaiv Oblast Right Sector Ihor Yuresko in an official letter to the Chairman of Mykolaiv Oblast State Administration openly threatened with violence if local LGBT activists attempted to commemorate the heroes of the Heavenly Hundred

¹⁷ ІА "Єдність", *Нардеп Мосійчук пообіцяв "гієну вогняну" усім, хто проголосує за заборону дискримінації ЛГБТ*, 30.06.2015, www.ednist.info

¹⁸ Ю. Сімакова, *В.Парасюк запропонував відправити представників ЛГБТ-спільноти до зони АТО*, 03.07.2015, www.unn.com.ua

¹⁹ В. Козуб, *Полтавський нардеп виступив проти геїв, але «за» лесбійок*, 17.11.2015, poltava.today

²⁰ Верховна Рада України – офіційний веб-портал, *Проект Постанови про скасування рішення Верховної Ради України від 12 листопада 2015 року про прийняття за основу та в цілому як закон проекту Закону України про внесення змін до Кодексу законів про працю України (щодо гармонізації законодавства у сфері запобігання та протидії дискримінації із правом Європейського Союзу)*, 13.11.2015, rada.gov.ua

²¹ ГОРДОН, *Вадим Рабинович о "Марше равенства": это противостоит и никому не нужно*, 05.06.2015, gordonua.com

²² О. Рудоманов, *Чотири із семи підозрюваних у нападі на Марш рівності - члени "Правого сектору"*, 09.06.2015, ukr.lb.ua

²³ This statement was later removed from the Right Sector's website but remained in other sources, including here: 02.06.2015, www.facebook.com/RightSectorKm

and lay flowers onto the monument in their honour.²⁴ The then Head of the Right Sector Dmytro Yarosh MP always was more cautious in his comments than his adherents, but also never hid his homophobic views and intentions: "Given what has just been said, the representatives of the Military-Political Movement Right Sector will be forced away from other things to prevent implementation of the plans of haters of the family, morals and general ideas about a human being. We have enough things to do, but circumstances force us to pay attention to this evil."²⁵ Oleh Kutseryb, a candidate for an MP from the Right Sector in the parliamentary elections of 2014, on his Facebook page even bragged how he severely beat two gay men and two other people who were trying to protect them.²⁶ Traditionally homophobic activists from Svoboda Party were not too far behind the Right Sector – in particular, they took responsibility for the attack on the LGBT festival OdesaPride 2015.²⁷ According to the victims of the attack on Kyiv March of Equality, the deputy of the Kyiv Oblast Council from Svoboda and Deputy Chairman of this Council Yurii Noyevyi coordinated actions of the attackers and personally hit at least one protester.²⁸

²⁴ НикВести, Николаевский "Правый сектор" пригрозил ЛГБТ-сообществу жестким отпором за попытку возложить цветы к памятнику Небесной Сотне, 01.09.2015, nikvesti.com

²⁵ 04.06.2015, www.facebook.com/dyastrub

²⁶ This status was later removed from the Facebook but remained in other sources, for instance here: ІА "Національний ЛГБТ-портал України", Кандидат в народні депутати Олег Куцериб розповів як побив чотирьох людей, серед яких була гей-пара, 14.07.2015, www.lgbt.org.ua

²⁷ Прес-служба Одеської обласної організації ВО "Свобода", Свободівців, затриманих за присутність біля ЛГБТ-фестивалю, відпустили, 15.08.2015, odesa.svoboda.org.ua

²⁸ К. Ковальски, К нападениям на участников «Марша Равенства» причастен депутат, — адвокатка потерпевших, 22.06.2015, urogaii.org; Соцпортал, Заступник голови Київської облради спровокував бійку на марші ЛГБТ, 06.06.2015, socportal.info

4. MEDIA AND SOCIETY

Two major LGBT events of 2015 in Ukraine – the March for Equality in Kyiv and adoption of an anti-discrimination amendment to the labour legislation by the Parliament – have attracted great attention of domestic media and the general public. This has contributed to the unfolding of the public debate, in particular – regarding the need for and the depth of reforming Ukrainian society on LGBT issues in the context of the European integration. Whilst mass media have shown a tendency to preserve and develop a sufficiently adequate approach to the coverage of LGBT topics, discussions in the press and on the Internet have revealed that processes of gradual reduction of bias and enhancement of level of tolerance and understanding of the issues under discussion take place among the Ukrainian public in general.

Although the qualitative growth of tolerance, impartiality and awareness of LGBT issues among Ukrainian journalists in recent years should be noted, some inherent to them professional shortcomings still occur occasionally in mainstream printed and electronic media. For example, Odesa online source "048.ua" in its article about the festival "OdesaPride-2015" accused the organizers of "separatist provocations," relying only on comments from homophobic far-right activists and not asking the organizers of the festival themselves (although after the article was published, the editorial department agreed to give the organizers the floor to speak).²⁹ Some coverage of the March of Equality in Kyiv, as it happened with the morning TV-programme "Abzats!" on the New Channel,³⁰ clearly suffered from bias and pseudo-sensationalism. Yet the press continues to widely use incorrect terminology relating to LGBTs like "homosexualist" instead of "homosexual", "non-traditional orientation" instead of "homosexual orientation", "homosexuality" etc. On November 28, 2015, the Social Action Centre / No Borders Project presented a report on the monitoring of hate speech in the Ukrainian media in 2014. LGBTs ranked fifth by the number of mentions (after "Ukrainians", "Russians", "Chechens" and "people from Caucasus") out of 424 recorded cases of "hate speech".³¹

Peripetia with the March of Equality and approval of the anti-discrimination amendment to labour legislation revealed new trends in the Ukrainian society – a noticeable increase of awareness about LGBTs and support for protection of their interests among prominent public figures and the general public. Sociological data for December 2014 showed that Ukrainians divided into three roughly equal parts in their attitudes towards the legislative prohibition of discrimination on grounds of sexual orientation – those who support it, those who do not, and those who cannot decide. A sociological survey "Youth of Ukraine – 2015", conducted by GfK Ukraine in 2015 showed that among the Ukrainian youth aged 14 to 35 years old, 45% would not want to live next door to homosexuals (to compare: 54% would not want to live next to the Roma; 33% – next to HIV-positive people, 19% – next to Muslims).³² Publications by various media sources³³ and on social networks created an impression among LGBT activists³⁴ that prominent public and cultural figures often regard LGBT issues with understanding and support.

Some LGBT activists even decided to check the "street" level of tolerance of average Ukrainians to public displays of gay love on their own experience – in Vinnytsya this action took place without any problems,³⁵ whilst in Kyiv the participants faced homophobic aggression; however, only after they had

²⁹ 048.ua – Сайт города Одессы, *Сепаратисты готовят Одессу к новым испытаниям. На этот раз "гей-парадом"*, 09.08.2015, www.048.ua

³⁰ Новый Канал, *Почему милиционеры стали главными участниками марша секс-меньшин? – Абзац!* – 8.06.2015, 08.06.2015, www.youtube.com

³¹ Без кордонів, *Проект "Без Кордонів" оприлюднив звіт за результатами моніторингу мови ворожнечі в українських ЗМІ у 2014 р.*, 01.12.2015, noborders.org.ua

³² І. Волосевич, С. Герасимчук, Т. Костюченко, *Молодь України – 2015*, 2015, с. 8, www.gfk.com

³³ Please see, for instance, Ю. Макаров, *Мораль і моралісти*, 09.07.2015, tyzhden.ua; Новое время, *Белозерская, Ерема и другие известные украинцы рассказали, как относятся к легализации однополых браков*, 23.11.2015, nv.ua

³⁴ Л. Собески, *Золотая середина*, 30.07.2015, urogai.org

³⁵ Гей-альянс Украина, *Винница прошла тест на толерантность*, 07.09.2015, urogai.org

been walking for an hour in the centre of Kyiv and holding hands.³⁶ Another fact that illustrates the attitude of the public towards LGBT issues: out of three pickets at the Odesa Oblast State Administration, which took place simultaneously on August 12, 2015, and had a total of 180 participants, the smallest picket was the one against an LGBT event (the March of Equality) and had less than 10 people, the others protested against other things.³⁷

³⁶ Е. Сафонов, *Скрытая камера: Как реагируют на геев в Киеве*, 22.07.2015, birdinflight.com

³⁷ УНІАН, *В Одесі мітингують проти проведення гей-фестивалю та розміщення штабу ВМС у Будинку профспілок*, 12.08.2015, www.unian.ua

5. CHURCHES AND RELIGIOUS ORGANISATIONS

Large Ukrainian churches and religious associations remain the primary – and, in fact, the only socially important – sources of support and dissemination of homophobic prejudice, as well as sources of incitement of hatred and support of discrimination against LGBTs in Ukraine. In recent years, they have tried to keep away as far as possible from the LGBT issues, especially from the background of Ukraine's European integration process. That is how they behaved in early 2015 – for example, in a situation around the March of Equality in Kyiv – but the real "threat" of the adoption of legislation that would protect Ukrainians from discrimination on grounds of SOGI, forced them sharply to increase their activities and homophobic rhetoric during the second half of the year.

When in the early summer journalists turned to the leading Ukrainian churches for comments on the threats from the Right Sector to prevent the March of Equality in Kyiv, a spokesman for the Ukrainian Orthodox Church (Moscow Patriarchate) Bishop Clement said that his church, while condemning the March itself, still believed that such issues could not be resolved through violence. His colleague from the Ukrainian Orthodox Church of Kyiv Patriarchate (UOC KP) Archbishop Yevstratii refused to comment on the appeal to the church from both sides (the March organizers and its opponents), but at the same time supported the position of Mayor Vitalii Klychko (who urged the organizers to cancel the event). Representatives of the Ukrainian Greek Catholic Church (UGCC) did not want to comment on this event as well.³⁸ Instead, on June 15 representatives of the All-Ukrainian Council of Churches and Religious Organisations announced their proposals for a new Constitution of Ukraine, among which there was one to preserve the definition of a marriage as a marital union between a man and a woman.³⁹ Having learned that the Constitutional Commission rejected the majority of these proposals, the Head of the UGCC Major Archbishop Svyatoslav addressed to the Chairman of the Constitutional Commission, Chairman of the Verkhovna Rada of Ukraine Volodymyr Hroisman, a letter in which yet again he condemned the "immoral" and "unnatural" same-sex partnerships and stressed "the necessity to take into account in one way or another the foundations of identity and traditional for Ukrainian citizens principles of human relations as reflected in the proposals of the All-Ukrainian Council of Churches and Religious Organisations (UCCRO) to the Constitution of Ukraine."⁴⁰ Interestingly, according to information posted on the website of UCCRO, on July 22, the entire Council addressed the same text to Volodymyr Hroisman, and to the President of Ukraine Petro Poroshenko.⁴¹

Apart from same-sex marriages, major domestic churches regard protection from discrimination on the grounds of SOGI as another deadly threat to Ukraine. Traditionally, Patriarch Filaret (UOC KP) is very worried about this problem, and initiates the governing bodies of the church always to send appeals calling upon the government to prevent prohibition of such discrimination; in 2015 this position was once again confirmed on behalf of the Synod of the UOC KP: "The Church is alarmed by the attempts to adopt a law in the Ukrainian parliament banning so-called discrimination based on "sexual orientation" and calls on parliamentarians to refrain from approval of these legislative initiatives."⁴² Before the vote in parliament on the anti-discrimination amendment to labour legislation Patriarch Filaret offered to legislators, instead of the explicit prohibition of discrimination on grounds of SOGI, to prohibit discrimination on unclear grounds of "attitude to sexual relations" in order to prevent even the mention of sexual orientation and gender identity in the Ukrainian legislation (the Patriarch probably does not

³⁸ Т. Козак, *Мэр, президент и представители УПЦ – о праве геев провести Марш и угрозах Правого сектора*, 05.06.2015, nv.ua

³⁹ Інститут релігійної свободи, *Рада Церков пропонує розширити в Конституції цінності сім'ї та права на життя*, 13.06.2015, www.irs.in.ua

⁴⁰ Інформаційний ресурс Української Греко-Католицької Церкви, *Глава УГКЦ у справі змін до Конституції України звернувся до Голови Верховної ради України*, 16.07.2015, news.ugcc.ua

⁴¹ Всеукраїнська Рада Церков і релігійних організацій, *Рада Церков застерігає владу від зазіхання на сімейні цінності в новій Конституції*, 22.07.2015, vrciro.org.ua

⁴² Українська Православна Церква Київський Патріархат, *Журнал № 24 Засідання Священного Синоду Української Православної Церкви Київського Патріархату*, 27.07.2015, www.cerkva.info

know that these concepts have been existing in the Ukrainian legal field already for several years).⁴³ Although Pavlo Unhuryan MP managed to register the appropriate alternative bill, it was automatically rejected after a successful vote on the said amendment. Immediately after the vote, the Head of UGCC Major Archbishop Svyatoslav expressed his disagreement: "The danger is that, in fact, the terms "gender identity" and "sexual orientation" refer to so-called gender ideology and become a dangerous precedent for the Ukrainian legislation."⁴⁴ Soon representatives of the All-Ukrainian Council of Churches and Religious Organisations held a special press conference where they unanimously condemned and called on the President to veto the new law.⁴⁵

Interestingly, that while consistently and fiercely resisting the prohibition of discrimination against LGBT people, the same Ukrainian churches consistently deny their own actions: "We do not support discrimination against persons who consider themselves homosexuals";⁴⁶ "On behalf of the Church I strongly reject the accusations of supporting discrimination";⁴⁷ "The Council of Churches, and all denominations that it includes, oppose discrimination on any grounds, including on grounds of sexual orientation [...] In our religious postulates we have different views, but when it comes to state functioning – there can be no questions."⁴⁸

A collective appeal of heads of Christian denominations in Odesa to the Mayor of Odesa with a request to ban the March of Equality illustrated the way in which the main churches of Ukraine oppose discrimination.⁴⁹

⁴³ Українська Православна Церква Київський Патріархат, *Щодо заборони у Трудовому кодексі дискримінації за будь-якими ознаками*, 07.11.2015, www.cerkva.info

⁴⁴ Інформаційний ресурс Української Греко-Католицької Церкви, *Блаженніший Святослав про внесення депутатами Верховної Ради України антидискримінаційної норми в трудове законодавство*, 13.11.2015, news.ugcc.ua

⁴⁵ ІА Інтерфакс-Україна, *Церкви та релігійні організації України закликають президента накласти вето на дискримінаційні поправки до КЗпП*, 19.11.2015, interfax.com.ua

⁴⁶ Всеукраїнська Рада Церков і релігійних організацій, *Декларація ВРЦіРО про негативне ставлення до явища гомосексуалізму та так званих одностатевих шлюбів*, 15.05.2007, vrciro.org.ua

⁴⁷ Please see note 43.

⁴⁸ Протоієрей Олекса Петрів, представник УГКЦ у Секретаріаті ВРЦіРО, *Стенограма засідання Робочої групи з прав людини Конституційної комісії*, 02.10.2015

⁴⁹ ІА Одесса-медиа, *Представители одесских церквей выступили против проведения гей-парада*, 12.08.2015, odessamedia.net

6. LGBT COMMUNITY

Ukrainian LGBT community, which has become more noticeable in recent years, is facing new challenges, the main ones of which are: the sharp rise in homophobic violence and the reduction in funding of LGBT initiatives by the donors, particularly in the field of HIV / AIDS among men who have sex with men (MSM). The March of Equality in Kyiv and prohibition to hold it in Odesa, the adoption of the anti-discrimination amendment to the Labour Code, as well as the media coverage of the protection of LGBT rights, the spread of gay marriages, etc. in Western countries had a considerable influence on the increase of visibility and the public interest in LGBT issues.

The Queer Home Project, which is implemented by Gay Alliance Ukraine, greatly enhances the opportunities of local LGBT communities. Over the past two years, this all-Ukrainian public organisation opened seven community centres under the same name in the big cities of Ukraine: in Kyiv, Odesa, Kryvyi Rih and Zhytomyr – in 2014, and in Kharkiv, Vinnytsya and Zaporizhzhya – in 2015. "Queer Home is a platform for communication, meetings, personal and creative growth and development. All tolerant people are welcome here – those who do not divide others on the basis of gender identity and sexual orientation. You can always have an interesting, informative, useful and safe time in Queer Home" – this is how the purpose of the project is described on its web page.⁵⁰ Attacks by groups of unknown young men in masks on Queer Homes in Odesa (August 15) and Kryvyi Rih (August 30) became alarming signals. The attackers in Kryvyi Rih, who caused considerable damage to the premises of the community centre and its visitors,⁵¹ were never found, while in Odesa the attackers were immediately arrested by the police, and soon the local branch of Svoboda Party took the responsibility for this action.⁵²

Using the access to the local LGBT community provided by a network of Queer Homes, Gay Alliance Ukraine and Nash Mir Center, with the support of Swedish government agency SIDA and non-governmental organisation RFSL, started a two-year project in 2015, combining their capabilities for the purpose of improving monitoring of discrimination and violence against LGBTs and legal protection of LGBT people in the regions.

KyivPride 2015 and OdesaPride 2015 were the most prominent LGBT events in 2015. Kyiv Forum, which was held for the fourth time in 2015, went quite well, except for the March of Equality that the city authorities, police and radical Ukrainian nationalist groups tried to interfere with – however, this event still took place. During the attack of aggressive homophobes on the March several people suffered – in particular, one of the law enforcement officers was seriously injured (he received a shrapnel wound in the neck, and did not bleed to death only because of the first emergency aid provided by the participants of the peaceful march).⁵³ Activists of Ukrainian LGBT community organized a fundraiser for the treatment of the wounded militia officers, and in two weeks raised UAH 45,000, which was handed over to the injured law enforcement officers.⁵⁴

Instead, OdesaPride that was held for the first time in 2015, faced fierce resistance from the main enemies of the Ukrainian LGBT community – leading churches and radical far-right nationalist groups, implicitly supported by the city authorities and police. By an undoubtedly illegal court decision the city authorities banned the March of Equality, and not being able to ban with the help of the court the rest of the festival activities, resorted to putting pressure on landlords who started massively refusing to provide the already agreed services to the Pride organizers. The organizers managed to more or less cope with these challenges and even agreed with activists from the Right Sector and Automaidan that they would keep their supporters from committing violence. But, as noted above, the premises of the

⁵⁰ Гей-альянс Україна, Проект Queer Home, urogai.org

⁵¹ М. Демур, *На Queer Home Кривбас було совершено нападение*, 30.08.2015, urogai.org

⁵² Please see note 27.

⁵³ Подробности, *Учасники Марша равенства спасли жизнь раненому милиционеру*, 07.07.2015, podrobnosti.ua

⁵⁴ О. Горчинська, *Публічний камінг-аут. Три історії про те, що означає бути геєм чи лесбійкою в Україні*, 19.11.2015, nv.ua

Queer Home that hosted the festival activities still were attacked by the supporters of the other homophobic group – Svoboda Party.⁵⁵

The approval process by the Verkhovna Rada of the amendment to the labour law, that banned SOGI-based discrimination and was part of Ukraine's commitments under the Action Plan to liberalize visa regime between Ukraine and the EU, drew a lot of public attention to LGBT issues. Picketing the Verkhovna Rada and demanding the MPs to approve the respective amendment was a notable event in this process. Many LGBT activists attended the picket.⁵⁶ Eventually, as it became known from a source in the EU, thanks to the actions of the public (including the LGBT community) Ukraine managed to get a positive decision on the implementation of the Action Plan: "We can't give a negative recommendation because of the Ukrainian public. They've done so much over the past six months, in terms of street rallies, or civil society pressure, to get parliament to enact proper laws."⁵⁷



Picture 2. Ukrainian LGBT activists during a picket by the Verkhovna Rada.

The Friendly Doctor project of All-Ukrainian Charitable Organisation Fulcrum successfully continues and extends the scope of its activities; through this project LGBT people can get free professional advice from a doctor in a friendly atmosphere, and take free rapid testing for sexually transmitted diseases.⁵⁸ In addition to offices that have been operating already in Kyiv, Dnipropetrovsk and Odesa, new offices opened in Kherson and Kharkiv in 2015.⁵⁹ After a long court battle Fulcrum managed to overcome the unexpected homophobia recurrence from the State Registration Service of Ukraine, which for a long

⁵⁵ К. Ковальски, *Об ОдессаПрайде — с эмоциями и без*, 18.08.2015, urogai.org

⁵⁶ Громадське телебачення, *#UA101010: Під Радою вимагають ухвалення "візових" законів*, 10.11.2015, hromadske.tv

⁵⁷ A. Rettman, *Ukraine '3%' away from EU visa-free green light*, 07.12.2015, euobserver.com

⁵⁸ friendlydoctor.org

⁵⁹ ІА "Національний ЛГБТ-портал України", *У Харкові відкрився кабінет Friendly Doctor*, 07.12.2015, www.lgbt.org.ua

time was refusing to register the information project "National LGBT Portal of Ukraine" as a news agency for absolutely unlawful reasons.⁶⁰

Association LGBT LIGA is successfully developing its network of representative offices in the regions of Ukraine, and on September 1-6 held "Days of Equality and Pride" in Mykolaiv that included sports, cultural and social events.⁶¹

Charitable Foundation Gender Z held a campaign in Zaporizhzhya to combat discrimination against LGBT people under the slogan "Love wins over hatred", in particular, by placing social advertising on billboards.⁶² The organizers were forced to remove one of the posters, which was located near the military base, following the request of the administration of this base.



Picture 3. One of the banners of the campaign "Love wins over hatred".

NGO Insight throughout the entire year of 2015 supported the LGBT Shelter in Kyiv, where LGBT people, who found themselves in a difficult life situation, including internally displaced persons from the occupied territories of Crimea and Donbas, could receive temporary shelter and help. On December 10-13, 2015, Insight under the auspices of the Coalition for Combating Discrimination in Ukraine, in partnership with the Commissioner of the Verkhovna Rada of Ukraine on Human Rights and with the support of the Norwegian Helsinki Committee and the Norwegian Ministry of Foreign Affairs, held another Equality Festival, within the framework of which they held many cultural events.⁶³

On October 22-24 NGO Insight held an international conference "Transgender in social and medical context," where for the first time at this level in Ukraine issues concerning the life of transgender people, with the participation of transgender persons themselves, were discussed.⁶⁴ Important judgments on lawsuits of transgender persons, who challenged certain provisions of the Order No. 60

⁶⁰ ІА "Національний ЛГБТ-портал України", Мін'юст відкликав скаргу проти ВБО "Точка опори", 20.01.2016, www.lgbt.org.ua

⁶¹ Асоціація ЛГБТ "ЛІГА", 3 1 по 6 вересня 2015 року у Миколаєві Громадська організація «Асоціація ЛГБТ «ЛІГА» організувала правозахисний захід «Дні рівності та гордості» для спільноти ЛГБТ, 09.02.2016, www.lgbt.mk.ua

⁶² Радіо "Свобода", У Запоріжжі проходить кампанія з протидії дискримінації представників ЛГБТ-спільноти, 04.08.2015, www.radiosvoboda.org

⁶³ Фестиваль рівності, equalityfest.org.ua

⁶⁴ Ю. Франк, Первая трансгендерная конференция в Киеве: как это было, 22.11.2015, www.insight-ukraine.org

from 03.02.2011 concerning the change of gender, were also obtained with the help of NGO Insight and Civil Initiative T-ema. Representatives of CI T-ema also joined the working group to develop standards of medical care on the topic "Transsexualism" that should soon replace the above-mentioned Order No. 60 of the MoH of Ukraine.⁶⁵

It should be noted that because the LGBT community stays closed off from the general public (which is explained by the homophobia common in Ukrainian society), an impression was building up that Ukrainian LGBTs are concerned only with their own issues and do not participate in the resolution of national problems. Articles published on the web portal of Gay Alliance Ukraine telling the stories of gays serving in the ranks of the Ukrainian army, fighting the enemy in ATO zone, were the response to unreasonable accusations of the LGBT community of not being patriotic and avoiding their civic duty in this difficult time for the country.⁶⁶



Picture 4. Oleh, an open gay, is a soldier of the Ukrainian army defending his Motherland in the ATO zone.

⁶⁵ NGO Civic Initiative T-ema, ОО "ГИ "Т-ема" инициировала разработку новых медицинских стандартов по теме "Транссексуализм", 2015, t-ema.org.ua

⁶⁶ К. Ковальски, "Я гей, я был в АТО, я видел смерть, и я — патриот своей страны", 19.01.2016, urogai.org

7. DISCRIMINATION AND VIOLENCE AGAINST LGBTs

In 2015 in Ukraine Nash Mir Center has documented 71 case of actions (incidents and crimes) on the grounds of homophobia and transphobia, discrimination and other violations of the rights of LGBT people. The largest number of cases was documented in Kyiv (17), Odesa (12), Zaporizhzhya and the oblast (11), in Dnipropetrovsk and the oblast (8), in Zhytomyr and the oblast (6), and in Kharkiv and the oblast (5). In addition, 2 cases per city were recorded in Ivano-Frankivsk, Chernivtsi and Vinnytsya and 1 case per region in cities of Lviv, Kherson, Cherkasy; oblasts of Chernihiv and Poltava; and in occupied Luhansk. The total number of the reported cases and the number of violations of the rights of LGBT people may differ in this Section due to the fact that some cases include more than one violation per case.

7.1. Hate Actions against LGBTs

As in previous years, the largest number of cases (53) relates to actions on ground of hate towards homosexual people. 45 of them may be described as *hate crimes*, and 8 as *hate-motivated incidents* (they are less serious offenses than crimes). In 6 of these cases manifestations of *hate speech* (italicized terms are used in accordance with the OSCE classification⁶⁷) were reported. The following violations were observed in the documented cases (please see Table 1):

Table 1. Actions on the grounds of hate towards LGBTs

Types of violations	Number
Insults, humiliation of human dignity	29
Physical abuse of various degrees of severity	32
Sexual violence and harassment	2
Burglary	11
Robbery	1
Extortion, blackmail	5
Illegal collection, disclosure, or threat to disclose confidential information	15
Murder	6
Threat of murder	1
Armed threat	1
Attacks on LGBT events and locations where they are held	6
Terrorism	1
Causing damage to property of LGBT organisations	2

We estimate that in 2014 and 2015 the number of acts of hatred towards LGBT people significantly increased, mostly due to the increase of grave crimes, including murders, grave and medium gravity bodily injuries, attacks on LGBT events and community centres using weapons and explosives. Gay men again often become victims of robberies. There are youth groups that lure gays over the Internet to come to meetings and then beat them there in many big cities. The majority of the victims do not want to defend their rights for various reasons.

The biggest public outcry was caused by the planned attack on June 6, 2015, of several dozen of young people on participants of the March of Equality and the police who guarded the March. As a result of the use of explosives by the attackers, about 10 police officers suffered, and because of the "hunt" for the March participants after the demonstration, 9 more event participants suffered.

⁶⁷ For more details, please see, for instance, OSCE/ODIHR, *Preventing and responding to hate crimes*, 2015, pp. 15-17, www.osce.org



Pictures 5, 6. Attack on law enforcement officers during the March of Equality in Kyiv, June 6, 2105.



Picture 7. Severely injured law enforcement officer during the attack on the March of Equality in Kyiv.



Picture 8. Attack on the bar "Libertine" in Odesa.

Attacks by homophobic-minded groups caused damage to offices and staff of LGBT organisations in Odesa and Kryvyi Rih. Also attacks on closed resting places for gays and lesbians were made in these cities. For instance, on July 20, a grenade was detonated at the door of bar Libertine in Odesa (a guard suffered from injuries), and in late August attendees of a gay party in Kryvyi Rih were beaten by two dozen young men in masks, whose leader, by contrast, did not hide his face: it was Anton Kravchenko – one of the leaders of Kryvyi Rih's Automaidan (one of the movements that opposed the regime of the former President Yanukovich).

Since the beginning of 2015 at least six murders on the grounds of homophobia occurred in Ukraine, and more than a dozen gay men received injuries of different severity. Criminals would get acquainted with men in social media under the guise of gays and they would rob and beat (or kill) their victims during the meetings. The murders took place on the grounds of homophobia in Luhansk, Kharkiv, Kyiv, Zhytomyr, Lviv and Odesa.

Case 587

On December 10 a 30-year-old gay man was killed in his home in Odessa with several stabs of a knife. He met his killer on a dating website and brought him to his apartment. The murderer was arrested "right on the spot" and investigation is still ongoing.



Pictures 9, 10. The victim and the office after an attack on LGBT organisation in Kryvyi Rih on August 30, 2015.

Case 553

On August 30 a group of about ten people attacked the office of an LGBT organisation in Kryvyi Rih. Shouting homophobic slogans like "death to faggots", they smashed and ruined everything they saw – furniture, office equipment – and threw smoke bombs on the premises. Several volunteers of the organisation, who at that time were in the room, suffered injuries of various severities, and one of them was taken to the hospital. Activists estimate that material damage alone from an attack totals up to the amount of about UAH 4,000.

7.2. Relations with Law Enforcement Agencies

During 2015, 18 cases were documented that show the facts of violations of LGBT people's rights by the law enforcement. Most often the police violated the rights listed below (please see Table 2):

Table 2. Violation of LGBTs' rights by the law enforcement.

Rights violated (by which actions)	Number
The right to effective legal remedies (refusal to protect the rights, improper performance of the functions of protection of rights)	10
The right to freedom and personal inviolability (violation of procedural rules, physical violence, extortion, abuse of power)	9
Freedom from discrimination (insults and humiliation of human dignity)	7
The right to respect for private life (illegal collection of confidential information and the threat of its disclosure)	4
Tortures	1

Refusal to ensure LGBT rights protection or improper performance of duties was one of the most common types of violations by the law enforcement agencies regarding LGBTs. For instance, in late August, during an attack on a gay party in Kryvyi Rih the police officers present there took no action in order to stop violence against the attendees of the party. In addition, according to the website of Gay Alliance Ukraine, Anton Kravchenko, the leader of the attackers, even said that he had informed the police about this "action".

Also, law enforcement officers of Kryvyi Rih are not in a hurry to investigate the attack on the office of an LGBT organisation committed the same day (please see description of Case 553 above). Moreover, as it is seen from the materials of criminal proceedings, law enforcement regard it as "a quarrel on the basis of personal hostile relations" between the beaten volunteer and one of the attackers (even though

the victim have never seen the attacker before) rather than a crime against a public organisation due to the motive of homophobia. By the way, the head of the organisation managed to register a statement about the attack on the organisation only in late December.

7.3. Judicial Proceedings

The right to a fair trial was violated at least twice. In one case, the Odesa District Administrative Court knowingly ruled an unjust decision that prohibited holding public activities of OdesaPride Festival 2015 in August. In another case, which occurred in the city of Pryluky (Chernihiv oblast), a gay man who was accused of distributing pornography through provocation from the police, was not given a public defender for the time of the investigation and the trial, which lasted until March 2015.

In addition, the Ukrainian courts in 2015 had very lenient verdicts on two crimes committed on the grounds of homophobia: arson of metropolitan Zhovten cinema in October 2014 and the murder of a gay man in Kharkiv in January of that year. The logic of the judges becomes clear once one studies the case files – it appears that they believe that the motive of homophobia is not an aggravating circumstance, but rather a mitigating one.

7.4. Employment

4 cases of violation of LGBT people's rights were reported in the employment sphere. In all cases, the victims have suffered from a prejudicial treatment by the management because of their sexual orientation and were forced to quit their jobs. In one of these cases, a homosexual also suffered from prolonged harassment by his colleagues.

Case 582

In the summer of 2015 27-year-old Serhii, who works at one of the large enterprises in Kryvyi Rih, repeatedly suffered from insults and received threats from his supervisor to be fired due to Serhii's "non-traditional" sexual orientation, which the supervisor began to suspect. The last conversation with Serhii regarding this matter ended with a threat: "If I find out you are a faggot, I will f***ing fire you."

Case 538

At the end of December 2014 34-year-old Andrii had to resign from one of the enterprises in the capital because of the unacceptable atmosphere in his team regarding him when colleagues accidentally found out about his "non-standard" orientation. For the same reason his boss stopped paying him the "envelope salary" that other workers also received and that actually constituted a lion's share of income from Andrii's work. When Andrii tried to clarify the salary issue with the boss, the latter said that he "was not going to discuss the problems of the enterprise with those who indulge in under-the-tail."

7.5. Education

3 cases of discriminatory attitude were reported in the education sphere: in one case, from the students, in another case – from the administration, and in the third case – both from the students and administration.

Case 533

At the beginning of 2015 a case of transphobic harassment was reported in one of the higher educational institutions in the city of Dniprodzerzhynsk. First, a transgender (MtF) student was

subjected to harassment by her peers for months (e.g., right in the classroom her hair was set on fire, and the lecturer pretended not to notice it); when she complained to the rector of the institution, the latter, knowing about the conflict, said: "You have to change. They don't like such people as you are. You're just sick." As a result, the victim was forced to change the place of study.

Case 583

During the whole year 19-year-old Andrii, a student of a college in Kharkiv, was subjected to harassment and intimidation by a group of students because of his sexual orientation. In particular, he heard threats going his way like "You are a faggot – you all faggots should be killed!" Tired of tolerating such a tense atmosphere, Andrii turned to the Deputy Director of the institution with a complaint, to which she replied: "Well, what can we do? You attract attention with mannered gestures, dyed hair and unusual clothing yourself" – and did nothing to deal with the situation.

7.6. Healthcare

2 cases associated with insulting people of homosexual orientation by the medical staff were reported in the medical sphere.

Case 530

In January 2015 the Deputy Chief Doctor of Chernivtsi AIDS Centre publicly insulted a gay man because of his homosexual orientation, and in that way he disclosed the personal information of the patient.

Case 551

In February 2015, two homosexuals suffered insults and humiliation coming from the medical staff of an emergency room in one Dnipropetrovsk hospital (on Heroiv Stalinhgradu Street) due to their sexual orientation, when they turned there for medical care after the attack by a homophobic gang.

7.7. Access to Goods and Services

Discrimination of LGBTs in the consumer sphere was observed in three cases and took place due to the homophobic attitude of the service personnel and a landlord.

8. SITUATION IN THE OCCUPIED TERRITORIES

The territory of Ukraine, occupied by Russian troops and mercenaries (i.e. Crimea and the southern part of Donetsk and Lugansk oblasts), remains a zone of lawlessness and arbitrariness. The situation of LGBTs in the area immediately after the occupation became unbearable, and the situation only deteriorated over the last year.

Even in Crimea, where there is no military action, any public displays of homosexuality or transgenderism are de facto banned and face a very aggressive attitude from both the occupation Russian authorities and its volunteers. Although the occupation authorities in Crimea and Sevastopol banned any LGBT events immediately after the occupation in 2014,⁶⁸ in early 2015 various "Russian communities" of the peninsula created a movement "Antimaidan" with the main declared objective to support Putin's fight with "anti-Russian forces", "corruption on the grounds", "arrogance and rudeness of some officials", "gay parades", and to promote Orthodox holidays. Vladimir Tyunin, one of the organizers of this movement, promised that their enemies, "if required, will be smashed in the heads".⁶⁹

The situation of LGBT people who remain in the occupied area of Donbas is even worse. Self-proclaimed authorities of so-called "People's Republics" have fun by drafting "laws" that declare their views – for instance, "Parliament of Luhansk People's Republic" is discussing the draft "Family Code" that prohibits gay marriages.⁷⁰ In reality, any "laws" do not make any sense in this zone of absolute lawlessness. Oleksandr, a gay man from occupied Gorlovka (Donetsk oblast), says: "I am not an LGBT activist and never took part in these activities. Now folks are in a shitty situation here, no joking with LGBT people. Homosexuality is punished with basements⁷¹ and forced labour, so no one shouts out loud that he is gay – it's dumb."⁷²

⁶⁸ Nash Mir Center, Council of LGBT Organizations of Ukraine, *From Despair to Hope. LGBT situation in Ukraine in 2014, 2015*, p. 27, gay.org.ua

⁶⁹ Новости Крыма, Крымский «Антимайдан» будет бороться с гей-парадами, 19.02.2015, news.allcrimea.net

⁷⁰ Луганский Информационный Центр, Проект Семейного кодекса ЛНР предусматривает запрет однополых браков – Карякин, 12.10.2015, lug-info.com

⁷¹ A usual punishment by the de facto authorities for any misconduct in the occupied part of Donbas consist in detaining the victim in unequipped basements without any facilities for an indefinite term.

⁷² О. Сімончук, "Гомосексуальність карається підвалами": як живуть ЛГБТ у терористичній "ДНР", 11.12.2015, lgbt.org.ua

9. CONCLUSIONS AND RECOMMENDATIONS

With the adoption of the Action Plan for the implementation of the Human Rights National Strategy for the period until 2020, the Ukrainian government has committed to draft the legislation and public policies that would put an end to discrimination and inequality of LGBT people in Ukraine. We can only hope that all the set goals will be achieved, and all legislative documents, which are envisaged by the mentioned Plan, will be officially adopted.

In addition to legislative reforms, bringing Ukraine closer to the modern European standards of protection of LGBT people's rights and interests, the problem of homophobic violence needs to be addressed urgently. Law enforcement authorities in the process of their reform must also learn about the experience and attitude towards the problem from their colleagues in developed Western countries. Overall, our recommendations remain mostly unchanged since as of the beginning of 2016 the only significant step towards achieving effective equality for LGBT people was the adoption of a legislative ban on discrimination on grounds of SOGI in the Labour Code. Thus,

1. **The Verkhovna Rada of Ukraine** should eliminate all provisions in the Ukrainian legislation that lead to discrimination on grounds of sexual orientation or gender identity – in particular, in Article 74 "The right to property of a woman and a man who live as one family but are not married to each other or are not in another marriage" and Article 91 "The right to maintenance of a woman and a man who are not married to each other" as well as the respective clauses of Article 211 "Persons who can be adoptive parents" of the Family Code of Ukraine. We also recommend that the Ukrainian parliament passes a law on registered partnership for same-sex couples. In the process of reforming the Ukrainian legislation, sexual orientation and gender identity should always be mentioned explicitly as characteristics that are protected from discrimination and incitement to enmity and hatred. Homophobic/transphobic motives for committing a crime should be defined as aggravating circumstances in Articles 161, 121, 122, 126, 127, 129, 293, 296 of the Criminal Code of Ukraine.
2. **The President, the Cabinet of Ministers of Ukraine, and the Commissioner of the Verkhovna Rada of Ukraine on Human Rights** are advised to adopt national policies to combat inequality, discrimination, increase tolerance and mutual respect in society, and always explicitly to mention sexual orientation and gender identity in the policies as protected characteristics, and LGBTs – as a vulnerable group.
3. **The Cabinet of Ministers of Ukraine** is recommended to realise priority proposals to implement the Recommendation of the Committee of Ministers of the Council of Europe CM/Rec(2010)5 set forth in a special Report on the implementation of this recommendation by Ukraine.⁷³
4. Namely, **the Ministry of Healthcare of Ukraine** is recommended:
 - to amend the MoH Order No. 60 from 03.02.2011 "On Improving Provision of Medical Assistance to Persons in Need of Sex Change (Correction)" and the MoH Order No. 479 from 20.08.2008 "On Approving the List of Diseases Having Which Disables a Person to Be an Adoptive Parent" in accordance with the proposals of the Council of LGBT Organisations of Ukraine provided in a letter to the Minister of Healthcare of Ukraine (ref. No. 01-11/12-LGBT from 11.14.2012);
 - to organize a revision of all textbooks and other teaching and learning materials for medical schools to bring them into compliance with the ICD-10 with the purpose to eliminate any mentions of homo- and bisexuality as illnesses, mental disorders, sexual perversions etc. In addition, to ensure that new teaching materials are examined for correct coverage of issues of sexual orientation and gender identity.

⁷³ Nash Mir Center, *Summary Report on implementation of the Recommendation CM/Rec(2010)5 of the Committee of Ministers of the Council of Europe on measures to combat discrimination on grounds of sexual orientation or gender identity by Ukraine* (Nash Mir Center, Kyiv, 2013), p. 5, gay.org.ua

5. **The Ministry of Interior of Ukraine** is recommended regularly to hold educational activities with their staff on the topics of tolerance and inadmissibility of human rights violations regarding LGBTs, and (together with the prosecutors) thoroughly and impartially to investigate instances of human rights violations of LGBT people committed by police officers and to bring the guilty persons to liability.
6. **State authorities and their representatives** are recommended to take into account and to be governed in their future activities by the principle enshrined in Article 35 of the Constitution of Ukraine, which states that "church and religious organisations in Ukraine are separated from the state, and schools – from the church" and that "no religion shall be recognized by the State as mandatory."
7. **Representatives of state authorities and local self-governments** are recommended to prevent and condemn public manifestations of homophobia, adhere to the principles of respect, equality and non-discrimination for all social groups.

Ukrainian mass media and journalists are recommended to use illustrations, relevant to the content of the material, and avoid the use of incorrect terms and discriminatory vocabulary on LGBTs.

10. METHODOLOGY AND AUTHORS OF THE REPORT

The monitoring network of Nash Mir Center and publicly accessible mass media, especially electronic ones, were the main sources of information for this report. Our results cannot be considered statistically representative in terms of quantitative sociological data, but we state that they quite adequately reflect the current situation for LGBT people in Ukraine, at least from the viewpoint of the Ukrainian LGBT community. State institutions except for the Parliament Commissioner for Human Rights, practically neither monitor nor collect information on issues related to the observance of the rights and interests of this social group in Ukraine, therefore, more trustworthy statistics and analysis on these issues other than those published by the Ukrainian LGBT and human rights organisations and individual activists, simply do not exist. Years of experience of our public work with the Ukrainian LGBT community, cooperation with leading domestic and international human rights organisations and own life experience as ordinary Ukrainian LGBT citizens are the guarantees of truthfulness and representativeness of our information – we write about what we feel and see around us in everyday life.

Our activities are aimed at both the LGBT community and Ukrainian society in general. We are now focusing our efforts on:

- Monitoring violations of LGBT people's rights.
- Legal aid and counselling for victims of discrimination and hate crimes on grounds of sexual orientation or gender identity.
- Legal education for the LGBT community.
- Advocacy for the protection of equal rights for LGBTs on legislative and political levels.
- Strategic litigation.
- Supporting local initiative groups, mobilizing LGBT communities at the local level.

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