

Video message of  
**Nils Muižnieks**, the Council of Europe  
Commissioner for Human Rights  
to the Conference  
***Challenge without Response: Hate  
Crimes against LGBT people in Ukraine,***  
Kyiv, 23 February 2018,  
organised by the LGBT Human Rights  
Nash Mir Center and the Ukrainian  
Helsinki Human Rights Union



Dear friends, dear participants,

It is a pleasure for me to say a few words through this video on the issue of combatting homophobia and transphobia.

Let me start on a positive note. In the last decade we have been witnessing ground-breaking progress in the recognition and realization of equal human rights for LGBTI persons. An important milestone was the appointment in 2016 of the UN Independent Expert on sexual orientation and gender identity. We have also witnessed new laws at the national level on family rights and legal gender recognition, and a sea change in public attitudes towards LGBTI persons in many countries in Europe.

The jurisprudence of the European Court of Human Rights also continued to evolve. In the June 2017 *Bayev and Others v. Russia* judgment concerning the Russian law prohibiting “propaganda of homosexuality”, the Court found that “*by adopting such laws, the authorities reinforce stigma and prejudice and encourage homophobia, which is incompatible with the notions of equality, pluralism and tolerance inherent in a democratic society*”. In an earlier judgment in the case of *Identoba and Others v. Georgia*, the Court reiterated that state parties to the Convention have an obligation to protect LGBTI persons and to effectively investigate those responsible for the acts of violence committed against them. In the *Vejdeland and Others v. Sweden*, the Court made clear that homophobic speech cannot be protected as free speech.

Yet, there is no room for complacency, and in 2017 we were constantly reminded that we should never ever rest on our laurels. Events unfolding in the Chechen Republic, where a number of gay men (or men perceived to be gay) were arrested or abducted between February and April 2017 and reportedly subjected to severe ill-treatment and humiliation while in detention, as well as in Azerbaijan, where in September the law enforcement authorities have apprehended and detained 83 persons— who were reportedly identified on the basis of their

actual or perceived sexual orientation and gender identity - were in particular remarkable in this regard.

Even those countries which made considerable progress towards the recognition of LGBTI human rights are not immune from rather forceful manifestations of homophobia and transphobia. In the UK, there were reports of a dramatic rise in homophobic and transphobic hate crimes in the wake of the Brexit referendum. In its 2017 report on homophobia in France, the NGO "SOS homophobie" observed a correlation between advances in the recognition of LGBTI rights and increases in hate crimes and hate speech. The 2016 murder of 23-year old trans activist Hande Kader in Turkey, whose body was found mutilated and burned, was a sad reminder that violence motivated by homophobia and transphobia is often particularly brutal and cruel.

In Ukraine, 2017 has signified enhanced cooperation between the police and the LGBT organisations and improved protection against homophobic and transphobic acts of aggression, however, the key challenge - investigating hate crimes against LGBTI persons and punishing the perpetrators – remains unresolved. Moreover, many inspiring and promising ideas and initiatives, which were formulated in the National Human Rights Strategy and Action Plan, remain on paper and have so far not been fully translated into the respective laws, regulations and practices. And while the Ukrainian society as a whole gradually becomes more tolerant toward manifestations of diversity of its members, right-wing and traditionalist groups do not cease to display aggressive behavior towards people whose sexuality and gender identity they perceive as a challenge.

So what could and should be done in order to counter this alarming trend and to overcome the hatred against LGBTI persons? Throughout my mandate I have been encouraging governments to adopt a comprehensive approach for tackling homophobia and transphobia, which would include enacting explicit prohibitions against discrimination on grounds of sexual orientation and gender identity and taking effective action to identify, investigate and punish hate crimes and hate speech. But while effective laws and criminal justice systems are essential, they are not enough if we want to bring about broader changes in societal attitudes towards LGBTI persons. They should be complemented by outreach campaigns and education in schools to promote understanding and respect of the human rights of LGBTI persons. Even more importantly, governments should demonstrate positive political leadership on this issue. Building alliances involving civil society, national and local authorities, national human institutions, faith-based communities and the private sector can help build more inclusive societies where LGBTI persons can live freely, safely and be treated equally. There is still a long way ahead to achieve this, but profound political and societal changes we have been witnessing in the last decade towards more diverse and accepting societies make me cautiously optimistic that there is the light at the end of the tunnel and we only need to keep moving forward no matter what.

I wish you very fruitful discussions during the conference.