

OVERCOMING OBSTACLES

LGBT SITUATION IN UKRAINE IN 2018



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This publication presents information that reflects the social, legal and political situation of the LGBT (lesbian, gay, bisexual, and transgender) people in Ukraine in 2018. It contains data and analyses of the issues related to LGBT rights and interests in legislation, public and political life, and public opinion, and provides examples of discrimination on ground of sexual orientation or gender identity and more.

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SUMMARY

In 2018 civic activism of the LGBT community continued increasing and thus its visibility were increasing in Ukraine in general – especially in cities where LGBT activists and organisations operate. In particular, in addition to Kyiv and Odesa, the Equality March this year for the first time was held in Kryvyi Rih. Notable events related to the LGBT community happened also in Kharkiv, Zaporizhzhya, Kherson, and Mykolayiv.

The leading Ukrainian churches and movements affiliated with them as well as right-wing nationalist organisations remained the main opponents to LGBT equality. While the first launched a broad campaign of appeals to the Ukrainian authorities with their demands to protect "traditional values" and traditional family (which in practice means implementing state policy of discrimination against LGBTs) the second consistently tried to disrupt any LGBT events, often through aggressive attacks. The police effectively provided security and enabled the holding of the most visible public actions like the Equality March, but they usually acted very passively in other cases. Hate crimes against LGBT people as a rule were investigated ineffectively, offenders rarely were found and brought to responsibility, and the motives of intolerance based on sexual orientation or gender identity were deliberately ignored and not considered as aggravating circumstances for the commission of crimes.

The Ukrainian government in 2018 demonstrated no steps to implement the LGBTI components of the Action Plan on Human Rights, but provided evidently false information in its reports on the subject and actually tried to absolve itself of responsibility for their implementation. Representatives of the Ukrainian authorities demonstrated diametrically opposite views on the protection of LGBT rights and approach to the modern international standards in this field: while some of them supported this, others constantly resorted to demagoguery, calling for the protection of religious and conservative "traditional values" by which they meant sexism and homophobia.

The leaders of Ukrainian churches, as they had in the past few years, with the exception of the Moscow Patriarchate, tried to avoid public incitement to discrimination against LGBT people, and Patriarch Filaret of Kyiv even

made a few important statements that may indicate an attempt of his church to appear to be a more modern and responsible social force and some softening of its previously outright hostile attitude towards LGBTs.

Nash Mir Center in 2018 documented 358 cases of acts motivated by homophobia / transphobia, discrimination and other violations of LGBT rights in Ukraine. Representatives of the LGBT communities of large cities, where they are the most visible – Kyiv, Kharkiv, Odesa, and Dnipro – suffered from homophobic / transphobic aggression, discrimination and other violations most often.

The main recommendations for the Ukrainian authorities on LGBT issues remain steadily pro implementation of the Action Plan on Human Rights, combating homophobic violence, manifestations of homophobia and transphobia in all spheres of life, as well as protection of the rights and interests of not only the so-called "traditional", but of all families in Ukraine, including same-sex family couples.

1. LEGISLATION AND THE JUSTICIARY

Since the beginning of 2018 the Ukrainian legislation concerning LGBT rights and interests has not undergone any fundamental changes while the overall situation in this sphere improved.

While introduction of direct and explicit prohibition of discrimination on grounds of sexual orientation and gender identity into the laws of Ukraine on each occasion encounters great resistance from the majority of Verkhovna Rada members, the Ukrainian government still gradually introduces corresponding provisions in the secondary legislation and state policies. Thus, the Concept of the Public Health System Development, approved by the Cabinet of Ministers of Ukraine in 2016, stipulates that the right to health and health care is a basic human right regardless of sexual orientation and gender identity. Meanwhile, the Family Code of Ukraine and secondary legislation still retain provisions openly discriminatory towards LGBT people. The motives of homophobia and transphobia are not considered as aggravating circumstances in the commission of crimes.

For the last two years no significant progress was achieved to implement the LGBTI component of the Action Plan on Human Rights. In particular, the following of its items – with the implementation period already expired – remain unfulfilled:

- Para. 60 Action 8 and identical Para. 62 Action 1 (working out the medical standards to treat intersex persons). The Ministry of Health believes that the provision was implemented by developing documents relating to transgender issues, although the problems faced by transgender and intersex people are significantly different.
- Para. 105 Action 1 (regarding introduction of sexual orientation and gender identity (hereinafter abbreviated as "SOGI") as protected grounds in the Law of Ukraine "On Principles of Prevention and Combating Discrimination in Ukraine"). The Ministry of Justice refused to implement it, referring to procedural problems: Bill 3501, registered in the Verkhovna Rada of Ukraine and adopted in first reading, which amends the relevant provisions of the law, does not mention explicitly grounds of SOGI, and according to the parliamentary regulations alternative bills could only be

introduced within two weeks of its registration (November 2015). In addition, the Ministry of Justice believes that Ukraine has already fulfilled all the demands of the EU regarding the ban on discrimination on SOGI by adding these grounds to the anti-discrimination article of the Code of Labour Laws.

- Para. 105 Action 3 (amending the Criminal Code to criminalize offenses on motives of intolerance, particularly on grounds of SOGI, and to decriminalize contagion by HIV and other infectious diseases). The Chief Investigation Department of the Ministry of Internal Affairs had developed a relevant bill and on February 19, 2018, submitted it for expertise input to the Legal Department of the National Police, but it has not yet been introduced to the Cabinet of Ministers as stipulated in the Action Plan. The bill (Nash Mir has its text) proposes to consider as aggravating circumstances in the commission of crimes the motives of intolerance under a list of grounds not closed, as extant now (race, ethnicity, religion, gender), but under a further open list, which in theory could include any characteristic. In general, this document is quite progressive and creates a legal basis for the criminalization of hate crimes on any grounds, but, from our point of view, it has three major shortcomings. First, it contains no direct mention of SOGI, though even the official statistics show that prejudice to them is one of the most common motives in the commission of hate crimes, and the remaining widespread grounds are mentioned in this draft. Secondly, it preserves in the Criminal Code of Ukraine the current wording (Part 2 of Article 67) that allows the court to ignore the motives of intolerance as aggravating circumstances if they are not mentioned directly in the relevant articles of the Criminal Code. Thirdly, it provides for amendments to Article 161 and therefore, according to the parliamentary procedure rules, it may not be introduced in the Parliament until a final decision is made on already registered Bill 3501, which also changes this article. However, it should be noted that the changes to Article 161, proposed in the bill by the Chief Investigation Department of the MIA (prohibition of intentional actions aimed at humiliation of honour and dignity, insult of the feelings of citizens) are much more advanced than those contained in Bill 3501. In particular, the MIA's bill provides for such a ban on motives of public intolerance under an open list of

characteristic, rather than just three (race, ethnicity and religion) as provided in the current legislation and Bill 3501.

- Para. 105 Action 6 (development and submission to the Cabinet of Ministers of Ukraine of a draft law to legalize registered civil partnerships for both opposite-sex and same-sex couples in Ukraine). The Ministry of Justice refuses to develop the bill because of numerous homophobic appeals from the public and local councils. In the draft amendments to the Action Plan, which had been developed by the Ministry of Justice but have not yet been considered and adopted by the Cabinet of Ministers (Nash Mir has their text), the Ministry of Justice proposes to replace the development of this bill with its "support" – that is, not to develop it on behalf of the government, but rather to provide legal advice, if someone else (obviously, MPs) develop a bill and introduce it in the Parliament. It attracts our interest in this regard that at a meeting with representatives of public organisations on the draft amendments to the Action Plan, held in January 2018, representatives of the Ministry of Justice indeed agreed that this very institution would be responsible for drafting a law on registered partnership, and this action in the Action Plan would remain unchanged except for the extension of its implementation. As we see, in the next months of 2018 the official position of the Ministry on the implementation of the action has changed dramatically.

- Para. 105 Action 7 (lifting the ban on adoption of children, particularly by transgender and HIV-positive people). Ministry of Health has developed a corresponding draft order, but it received a negative feedback assessment during a public discussion before a conservative religious audience, and a draft order has not been approved. Meanwhile, the draft amendments to the Action Plan retain the provision in the current form, and the term of its implementation are prolonged.

- Para. 107 Action 9 (development and implementation of the standards of social work (for school psychologists, social workers) with teenagers and young people belonging to migrants, refugees, ethnic minorities, internally displaced persons, LGBTs, and providing them with social and psychological services for social adaptation). The very reply the Ministry of Education shows that the ministry believes that it has implemented this provision of the Action Plan, although this contradicts the information

provided in the letter – in fact, these standards have not been designed and implemented.

- Para. 109 Action 3 (development and adoption of common guidelines by the MIA and Prosecutor General of Ukraine to investigate hate crimes by the police taking into account the OSCE methodology).

Action 2 of Para. 109 (development and inclusion of a course on effective and proper investigation of hate crimes in the training of law enforcement officers) is being implemented very slowly – even though the relevant guidelines were developed in 2016, they, according to our estimates, are ineffective in general and are not intended to investigate hate crimes on grounds other than "race", national / ethnic origin or religious beliefs. We have no evidence that these guidelines or other materials on the specifics of hate crimes investigation are being used in the programmes of law enforcement staff training.

The above list is not exhaustive, we mention only the most important, in our view, still unimplemented LGBTI components of the Action Plan.

Because of the resistance of churches and religious organizations, ratification of the Istanbul Convention (on prevention of violence against women and domestic violence) is suspended. The main demand of the major Ukrainian churches is avoiding the use of the concepts of "sexual orientation", "gender" and their derivatives in the Ukrainian legislation in general; and most Ukrainian MPs support it. However, the President and the Government of Ukraine officially confirm the desire to achieve ratification of the document by the Parliament.

The Verkhovna Rada adopted the Law of Ukraine "On Amendments to the Criminal and Criminal Procedural Codes of Ukraine to Implement the Provisions of the Council of Europe Convention on Preventing Violence against Women and Domestic Violence and to Combat These Phenomena" pursuant to the Istanbul Convention that has not yet been ratified by Ukraine. Among other things, the law amends Articles 152 and 153 of the Criminal Code of Ukraine.

Article 152 "Rape", which previously dealt exclusively with genital-genital violent heterosexual intercourse, now punishes for "Committing acts of a

sexual nature related to vaginal, anal or oral penetration into the body of another person with the use of genitals or any other object, without the voluntary consent of the victim." Article 153 "Forcible satisfaction of sexual desire in an unnatural way", which previously dealt with all kinds of other violent sexual acts, including homosexual, will now be called "Sexual violence" that means "Committing any violent acts of a sexual nature, not related to penetration into the body of another person, without the voluntary consent of the victim." Both of these articles will now apply equally to both heterosexual and homosexual violent sexual acts. While previously there were prohibited sexual intercourse "with the use of physical violence, threats to use it, or the helpless state of the victim," now the applicable definition is just "without the voluntary consent of the victim." The consent is considered voluntary if it resulted from the free will of a person taking into account the surrounding circumstances. These small yet fundamental changes completely removed from the Criminal Code of Ukraine the difference between hetero- and homosexual sexual intercourse, and incorrect terminology ("in unnatural way") that remained from Soviet times.

By the initiative of a group of MPs, in July 2018 the Verkhovna Rada adopted the Law of Ukraine "On the Legal Status of Missing persons." The law defines the legal status of missing persons and provides legal regulation of relations connected with the establishment and registering, searching and social protection of those persons and their relatives. Article 7 of the law prohibits any discrimination of missing persons and their close relatives, including on ground of sexual orientation. Thus, this law became the second in the Ukrainian legislation, after the Code of Labour Laws, that provides direct and explicit prohibition of discrimination on ground of sexual orientation. Article 7 of the law includes in the concept of "a relative of a missing person" persons who are living together, connected by the common household, have mutual rights and obligations, thus effectively recognizing as relatives of missing persons their same-sex family partners.

In 2018, Parliament repeatedly refused to consider legislative initiatives aimed at direct restriction of the rights of LGBT persons or establishing discrimination on SOGI grounds, in particular Bills 8442 and 9183, identical

to each other, by Oleksandr Vilkul, an MP of the Opposition Bloc, "to protect public morals and traditional family values."

Adopted in 2016, the new rules of gender reassignment (Order 1041 of the Ministry of Health) removed such requirements for transgender persons wishing to officially change their gender as the lack of minor children and being not married. However, Ukrainian legislation retains the ban on marriage by people of the same sex. In summer 2018 a Ukrainian transgender activist, who is in transition from male to female gender, received a new birth certificate and passport which listed her new (female) gender without a divorce from her wife. Thus a legal casus was created of the recognition of same-sex marriage between Ukraine nationals, although the state registrar refused to issue a new certificate of marriage which would include a new name and gender of the activist.

Ukrainian courts for two years in a row have not taken decisions to ban LGBT public actions, as often happened before. In July 2018 the Dnipropetrovsk District Administrative Court refused to ban the Equality March in Kryvyi Rih under the suite of the Metalurhiina District Council in this city, though for purely procedural reasons.¹ However, the courts continue to ignore homophobic motives in the commission of hate crimes – in particular, the courts do not consider them as circumstances aggravating punishment.

¹ Дніпропетровській окружний адміністративний суд, *Справа №0440/5506/18*, 19.07.2018, reyestr.court.gov.ua.

2. THE STATE AND LOCAL AUTHORITIES, LAW ENFORCEMENT AGENCIES

Representatives of the government in 2018 rarely touched LGBT issues, and largely refrained from both positive and negative comments and statements regarding LGBT people. Even when the general tone of their words was friendly to LGBT people, they refrained from publicly supporting exactly LGBT people, instead focusing on common equality and human rights in general, as, for instance, Vice-premier-minister for European Integration Ivanna Klympush-Tsintsadze when receiving an award from KyivPride for supporting the LGBT community.²

A campaign of appeals to the local and state authorities with demands to ban "homosexual propaganda" under the banner of "protecting the traditional family" continues in Ukraine since last year. This year, the campaign mostly gained manifestation in the form of electronic petitions on the websites of the President, government and parliament of Ukraine as well as local authorities. After the intervention of Aksana Filipishyna, a representative of the Ukrainian Ombudsman, one of these petitions was removed from the President of Ukraine's website as being in breach of Article 23¹ of the Law of Ukraine "On citizens' appeals", according to which a petition may not contain attacks on human rights and freedoms, and Article 6 of the Law Ukraine "On principles of prevention and combating discrimination in Ukraine", according to which any form of discrimination, including incitement to discrimination, is prohibited.³

The rest of these petitions, however, remained and received the necessary number of votes for their consideration. The petitions on the President's website were answered by "any legislative initiatives to restrict constitutional rights are unconstitutional" while the President promised to "examine the adoption of national strategies to protect and promote

² Національний ЛГБТ-портал України, *Віце-прем'єр отримала нагороду за підтримку ЛГБТ-спільноти*, 16.06.2018, lgbt.org.ua.

³ Релігійно-інформаційна служба України, *Видалення петиції на захист традиційної сім'ї – порушення права на свободу думки, – юристи*, 29.03.2018, risu.org.ua.

traditional family values and the institution of the family in Ukraine."⁴ The petitions on the Verkhovna Rada's website were reviewed by respective parliamentary committees which gave quite different replies, sometimes with homophobic content, but without any legal consequences. The petitions on the Cabinet of Minister's website also received purely formal answers without concrete legal consequences.

Several dozens of local councils have adopted corresponding homophobic appeals to the government after consideration of electronic petitions or on the initiative of their members. The reaction of the Ombudsman's office on the decision of Chernivtsi City Council on consideration of the petition to "ban gay parades and equality festivals" in the city (the city council decided "to propose to LGBT communities to refrain from public events in the city of Chernivtsi") was the same as in the case of petitions on the President of Ukraine's website: to recommend to revoke this decision and to pay attention to the content of petitions that must not violate the laws of Ukraine.⁵ Currently, the main actual result of the homophobic petitions campaign has become the refusal of the Ministry of Justice to develop a bill on civil registered partnership. Although the Ministry of Justice invites Ukrainian LGBT organisations, along with other representatives of civil society, to cooperate in developing the public policy on human rights, equality, and non-discrimination, according to the Ministry's representatives the lack of political will among its senior leadership on the implementation of this policy brings all these good intentions to nothing. However, the same situation is typical for many other government institutions in Ukraine.

Wide publicity was given to the indirect discussion between Oleksandr Turchynov, the Secretary of the National Security and Defence Council of Ukraine, and Kateryna Levchenko, the Government Commissioner for Gender Policy. While Ms. Levchenko proposed that the Security Service of Ukraine pay attention to the spread of appeals which, under the pretext of protecting "the institution of family" in Ukraine, effectively promote the

⁴ Електронні петиції. Офіційне інтернет-представництво Президента України, *Відповідь на петицію № 22/042862-еп*, 25.06.2018, petition.president.gov.ua.

⁵ Grygorii Sorochnan, 21.10.2018, [facebook.com](https://www.facebook.com).

ideology of the Russian World, Mr. Turchynov defended these appeals and expressed his strong disagreement both with the position of the Commissioner and in fact with the state policy on gender and non-discrimination issues. In this regard, a number of public organisations and individual activists appealed to the President of Ukraine to react to the unacceptable statements of the Secretary of the NSDC.⁶

According to our data, in 2018 only Metalurhiina District Council in Kryvyi Rih City appealed to the court to ban an LGBT event (the Equality March), but the court refused to do this. The city councils of Kryvyi Rih and Cherkasy⁷ did not support the initiatives of some of its members to appeal to court with a demand to ban LGBT events in these cities. It should be noted that in cases known to us legal departments of local councils provided quite correct conclusions on such draft appeals, pointing out that they violate Ukrainian law and constitutional principles, but in most cases the local councils ignored these observations.

Infamous Ivano-Frankivsk Mayor Ruslan Martsynkiv, a representative of the ultra-right Svoboda party, reiterated his views that a gay cannot be a patriot of Ukraine,⁸ but in general, representatives of local authorities in 2018 rarely spoke on topics related to LGBTs.

The newly elected Parliamentary Commissioner on Human Rights Lyudmyla Denisova, who once was noticed supporting homophobic initiatives as the chairperson of a parliamentary committee, initially surprised the public with her statement about the lack of complaints to the Ombudsman about homophobia, but later strongly supported the

⁶ Центр інформації про права людини, *Громадськість просить Порошенка відреагувати на текст Турчинова про “загрозу гендерної диктатури”*, 14.12.2018, humanrights.org.ua.

⁷ Zmi.ck.ua, *Черкаські депутати вирішили не просити забороняти гей-паради*, 12.06.2018, zmi.ck.ua.

⁸ Znaj.ua, *Гей – не патріоти: скандальний мер спробував пояснити власну маячню*, 26.06.2018, znaj.ua.

Equality March in Kyiv and appealed to the city authorities and police to ensure the safety of its participants.⁹

Continuing her campaign to crush stereotypes in health issues, Acting Minister of Health Ulana Suprun sparked a lively public discussion around a post on her Facebook page accompanied by an educational video: "Today we have to break down myths and stereotypes which have long been refuted by science. For example, that homosexuality is a disease."¹⁰ Ulana Suprun also provided her comprehensive and unequivocal response to a stereotypical petition "to stop the propaganda of homosexuality and to protect the traditional family values": human rights and freedoms are protected by the Constitution of Ukraine, the electronic petition may not contain inroads upon them, and if the author of the petition is not able to live in conditions of equal opportunities, respect for the dignity of all people, and non-discrimination, the Constitution guarantees him the right to freely leave the territory of Ukraine.¹¹

The above-mentioned transgender activist, while receiving her new documents in connection with the official change of gender (male to female), met a generally friendly attitude from representatives of the civil status registry and Solomyanskyi military recruiting office in Kyiv. Officers of the latter institution even proposed her for entry into military service and also to agitate for other members of the transgender community despite the fact that in Ukraine people diagnosed with transsexualism are now still considered, at best, unfit for military service in peacetime and of limited fitness in wartime.

Although this activist had no significant problems while receiving her new documents in connection with the official change of gender, she informed that in a very similar situation such problems arose for another transgender in Kharkiv: the head of Novobavarskyi Department of Civil

⁹ Уповноважений Верховної Ради України з прав людини, *Відкрите звернення Уповноваженого Верховної Ради України з прав людини щодо неприпустимості підбурювання до дискримінації та насильства по відношенню до учасників Маршу Рівності*, 13.06.2018, ombudsman.gov.ua.

¹⁰ Уляна Супрун, *Гомосексуальність*, 19.06.2018, facebook.com.

¹¹ Правозахисний ЛГБТ Центр "Наш світ", 15.09.2018, facebook.com.

Registry Office refused to accept documents for requesting a new birth certificate from a transgender girl on the ground that she was not subjected to surgery and did not dissolve her marriage. Those requirements for the official change of gender by transgender persons were eliminated by MOH Order 1041 of 05.10.2016, but obviously not all employees of the relevant state bodies are aware of these changes yet.

The National Police of Ukraine in 2018 have continued the policy of cooperation with the LGBT movement on ensuring protection of LGBT events from homophobic violence and training of the police staff under the principles of tolerance and non-discrimination. As we learned, the Rules of Ethical Behaviour of Police Officers, approved by the Ministry of Internal Affairs Order 1179 of 09.11.2016, demand from the staff, in particular, "to respect the dignity of every person, treat everyone fairly and impartially regardless of [...] sexual orientation."

For two consecutive years there have been no noticeable efforts by the local police to withdraw from protection of public LGBT events and no recommendations by local police to ban such events, as regularly happened in previous years. It should be noted that in many cases (for instance, when trying to conduct the Equality Festival in Chernivtsi, round tables on LGBT topics in Uzhhorod and Vinnytsya, Trans*march 2018 on the Transgender Day of Remembrance in Kyiv and so on) the police acted very passively and did not prevent aggressive blocking of these actions by radical homophobic groups. The police limited themselves only to physical protection and evacuation of events' participants. In the case of the mentioned transgender action in Kyiv, the police failed to ensure its realisation even on the site that the police itself had chosen and recommended to the event's organisers. According to their observations, the police did not even try to resist the aggressive opponents of the action, but rather backed the opponents' requirements to prevent its holding. Meanwhile, the police did provide quite effective protection and prevented such blocking of the Equality Marches in Kyiv, Kryvyi Rih, and Odesa, resorting to the use of physical force and special equipment if necessary.

No positive moves were observed in the investigation of hate crimes motivated by homo- or transphobia. As before, the patrol police and

investigators constantly ignore the obvious homophobic / transphobic motivation of the criminals, and often themselves demonstrate homophobic and unprofessional behaviour towards LGBT victims of crimes. They were repeatedly observed refusing to introduce homophobic motives in a statement about the crime, despite relevant corresponding instructions by the Ministry of Internal Affairs. Also, the MIA and the National Police for two years already have delayed the development of a bill amending the Criminal Code to criminalize hate crimes, as provided in Paragraph 105 Action 3 of the Action Plan on Human Rights. It should be noted that the newly formed Department for Monitoring Observance of Human Rights of the MIA actively entered into the process of discussing amendments to the Action Plan, agreed with most suggestions of human rights and LGBT organisations on this matter, and immediately established constructive cooperation with them. However, this structure lacks authority: although it is responsible for the formation of the MIA policy on human rights, even development of the above-mentioned amendments to the Criminal Code was assigned not to officers of this department but to the Central Investigation Department whose staff are not inclined to cooperate with civil society.

In spring 2018, the Office of Juvenile Prevention in the Department of Preventive Activity of the National Police of Ukraine together with the Ukrainian Institute for Research of Extremism launched a joint project to counteract bullying in schools "I have the right to be myself."¹² According to the study of NGO Fulcrum, presented in December 2017, 88.5% of LGBT students and pupils in schools suffered from verbal harassment, and 53.5% – from physical abuse.¹³

The State Migration Service of Ukraine consistently refuses to grant refugee status to asylum seekers who are persecuted because of their belonging to the LGBT community and the LGBT movement in their homeland – ostensibly because of refugees' unfounded allegations. In July,

¹² Національна поліція, *Ювенальна поліція впроваджує проект із протидії булінгу у навчальних закладах*, 06.03.2018, npu.gov.ua.

¹³ ВБО "Точка опори", *Національне дослідження шкільного середовища в Україні*, 2018, с. 8, issuu.com.

the District Administrative Court of Kyiv dismissed an appeal of a transgender activist from Russia on such a decision of the SCSU, despite the clear and unequivocal evidences of mass persecution and threats to life even for ordinary LGBT people, not to mention activists of the LGBT movement in Russia. On November 21, the Kyiv Appeal Administrative Court overturned the decision and ordered the SCSU to review the application of this trans activist for refugee status.



Figure 1. A representative of the General Staff of the Armed Forces Inna Zavorotko, openly gay and ATO veteran Viktor Pylypenko, and LGBT activists Ruslana Panuhnyk and Andrii Kravchuk (left to right) in the public debate "Who is fighting? Colours of Ukrainian patriotism" – IZONE space, Kyiv, 09.18.2018.

The problems of LGB military personnel first attracted the attention of the Ministry of Defence of Ukraine. Representatives of the General Staff of the Armed Forces of Ukraine – Inna Zavorotko from the Department of Legal Support and Volodymyr Kashlyuk from the Chief Department of Morale and Psychological Support participated in the opening of the photo exhibition "We Were Here" dedicated to participation of LGBTs in the Antiterrorist Operation in the Donbas. They discussed with LGBT activists legal and psychological problems faced by LGB soldiers and assured that

the Armed Forces Command understands the need for their solution and is ready to work on it.¹⁴

¹⁴ Савчук І., *Кольори української армії: геї та лесбійки на передовій*, 2018, Український інтерес, uain.press.

3. POLITICS AND SOCIETY

Traditionally, most attention to LGBT issues in Ukraine is demonstrated by the main political opponents of the LGBT movement: right-wing forces and individual politicians as well as religious conservatives. Support of LGBTs from the liberal-democratic forces is much less visible than homophobic rhetoric and aggressive actions by their opponents.

The Equality March 2018 in Kyiv, predictably, became the main event that made both enemies and supporters of the LGBT community speak out. This year's march was attended by only two MPs of Ukraine – Svitlana Zalishchuk and Serhii Leshchenko – and also by Kyiv City Council member Yurii Didovets.

On the eve of the march the extreme right-wing parties Right Sector¹⁵ and the National Corps¹⁶ made appeals to prevent it from happening; the first party announced the gathering of its supporters before the march on its route. Indeed, opponents of the action began to gather on the evening before, trying to block the march; and on the morning of June 17 about two hundred people blocked Volodymyrska street on the pride march's route. When the police began to squeeze them on both sides, they began to aggressively oppose this and used tear gas against the police. The police overcame their resistance in a pretty tough manner, and freed the way for the march. As a result of the clashes with the police, five policemen and up to ten of the march's opponents were injured. The police detained 57 people, but they were later released. Participants of the march did not suffer during and immediately after the event, although about ten persons in Kyiv city centre were subjected to homophobic attacks during the next days

As it turned out, the opponents of the march submitted an application for a counter-action, but it had to happen in a place far from the route of the march. The march opponents who tried to block it appeared to be mostly young people from the ultra-right organisation C14, as well as a small

¹⁵ Правий сектор, 13.06.2018, facebook.com.

¹⁶ Національний корпус, *Національний корпус за здорову і щасливу українську націю*, 15.06.2018, nationalcorps.org.

number of religious activists who joined them. Most religious activists peacefully protested on both sides of the march route.



Figure 2. The police detain opponents of the Equality March in Kyiv who tried to forcibly block its route and resisted, 17.06.2018.

Ihor Mosiichuk, an ultra-right politician and MP from the Radical Party of Oleh Lyashko, two days before the Equality March filed a lawsuit against the Kyiv City State Administration – demanding a ban against the conducting of the Equality March – with the District Administrative Court of Kyiv City.¹⁷ The Unified State Registry contains no information on the consideration of this case. After the march, Ihor Mosiichuk expressed his outrage on the participation of Marie Jovanovich, the USA Ambassador in

¹⁷ Окружний адміністративний суд міста Києва, Суд розгляне позов щодо заборони Маршу рівності за правилами спрощеного позовного провадження без повідомлення сторін, 16.06.2018, oask.gov.ua.

Ukraine, in this "march of perverts" and demanded to appeal to the US government about her being withdrawn from Ukraine.¹⁸

Being outraged by the holding of the Equality March, but not wanting to violate the prohibition of discrimination, Oleh Barna, an MP from the Petro Poroshenko Bloc, on June 15 registered in the Verkhovna Rada Bill 8489 "to prohibit public demonstrations of any kind of sexual orientation." The proposal provoked a barrage of ridicules from the public and a negative opinion from the parliamentary Committee on Freedom of Speech and Information Policy. In November 2018, Oleh Barna promised to introduce a new, corrected, version of the bill,¹⁹ but taking into account the social and political reaction to this initial document, it is clear that a further version has no chance of adoption.

In 2018 there also were a few scandals involving Ukrainian politicians on LGBT issues. Thus, an independent member of parliament, former Health Minister Oleh Musii appealed to Prime Minister of Ukraine Volodymyr Hroisman with a request to explain whether "popularization of homosexuality in childhood age and corruption of minors" are the practice of the government, inferring to the book about sex education for children titled "A frank talk about "IT" that contains a reference to homosexual relations. The Prime Minister and Minister of Education Liliya Hrynevych disowned this book, and the latter said that the book had not any relation to the Ministry of Education and had not its recommendations.²⁰ A big public debate was aroused after the publication of an article by Hanna Turchynova, a professor of the National Pedagogical Drahomanov University and the wife of Oleksandr Turchynov, the Secretary of the National Security and Defence Council of Ukraine. Her article was against "homodictatorship" and the introduction of "gender ideology" (meaning the anti-discrimination expertise of new school textbooks) that was actively supported by religious and conservative circles and strongly

¹⁸ УНІАН, *У Ляшка через "Марш рівності" хочуть відкликання з Києва посла США*, 19.06.2018, unian.ua.

¹⁹ Obozrevatel.ua, *Штрафи за секс-орієнтацію в Україні: скандальний законопроект отримає новий шанс*, 15.11.2018, obozrevatel.com.

²⁰ УНІАН, *Гройсман і Гриневич відхрестилися від книжки про секс для школярів*, 20.04.2018, unian.ua.

condemned by the liberal public. This condemnation and demands by some civil society activists and human rights organisations for the release of Hanna Turchynova from the University were perceived by many people and organisations of conservative views as harassment; they caused a backlash of support for Hanna Turchynova's homophobic and patriarchal statements, in particular by Oleksandr Turchynov himself and Ihor Zhdanov, the Minister of Youth and Sports of Ukraine.²¹

Far-right parties and public organisations in 2018 continued and intensified their aggressive attacks on any events which they considered as related to LGBT rights and "gender ideology" – especially noticeable in these actions being groupings such as C14, Right Sector, the National Corps, Tradition and Order, Katechon, Carpathian Sich and others.

In particular, on March 31, activists of the Poltava branch of the National Corps disrupted a training of NGO TERGO dedicated to the fine points of psychologists' work with representatives of the LGBT community. About 15 young men in masks broke into the room where the training took place, spoiled the certificates of participants and other materials of the event, and behaved aggressively by trying to take away the phones of participants who tried to make photos / videos of the incident. The police recorded the incident, but said that they would not investigate the incident because of the absence of claims by victims, although the TERGO head Olena Hloba reported that they submitted the respective application to the police.²²

Also, in the evening on May 10, representatives of right-wing radical movements disrupted a discussion event considering the attack on the rights of the LGBT community in Russia. This discussion was organised by Amnesty International Ukraine. According to the executive director of the organisation Oksana Pokalchuk, participants of the meeting were locked in a room where they began to carry out the action (a creative space on

²¹ Ігор Жданов, *Заява на захист Ганни Турчинової*, 23.06.2018, Українська правда. Блоги, blogs.pravda.com.ua.

²² Єгорова А., *Зірваний тренінг щодо роботи психологів із ЛГБТ: організатори наполягають на розслідуванні, поліція вважає конфлікт вичерпаним*, 02.04.2018, Зміст, zmist.pl.ua.

Mechnykov street). Eyewitnesses reported that they noticed the head of Right Sector's Kyiv branch among about 20 of the attackers.²³

Right-wing radical nationalists began to associate with religious activists in attempts to block the conducting of LGBT actions. However the religious activists themselves resorted to peaceful forms of protest, such as marches on "protection of the traditional family" or a rally outside Verkhovna Rada against the Equality March on June 22 that brought together about 300 participants. The slogans of the protesters were supported by Yuriy Tymoshenko MP from the People's Front party.²⁴



Figure 3. A peaceful rally of the Equality March's opponents nearby the Verkhovna Rada, 22.06.2018.

Public opinion polls show that Ukrainian society still holds onto a mainly negative attitude regarding LGBT people. Thus, the results of a nationwide

²³ Новое время, У Києві невідомі зірвали дискусію про ЛГБТ, 10.05.2018, nv.ua.

²⁴ Леонова М., Під Радою протестували проти маршів ЛГБТ-спільноти, Громадське Телебачення, 22.06.2018, hromadske.ua.

survey among the adult population of Ukraine, commissioned by the UN Development Program in Ukraine, which was held from 11 to 24 July, 2018, by Ilko Kucheriv Democratic Initiatives Foundation and the Ukrainian Sociology Service company, and in cooperation with the Human Rights Information Centre, determined the following results. 46.9% of the respondents believed that the rights of LGBT people have to, or in certain circumstances may, be limited (in 2016 – 46.2%), while 37.5% (in 2016 – 41.3%) believed that the rights of LGBT people may not be restricted. Meanwhile, Ukrainian society has already recognized a problem of discrimination based on sexual orientation: 24.9% of the respondents (in 2016 – 21.6%) rated it as one of the most common in Ukraine. Only age (39.7%) and disability (32.1%) were mentioned more often.²⁵

However, in everyday communication Ukrainians demonstrate generally quite tolerant behaviour regarding LGBT persons. Thus, a "social experiment" by LGBT activist Iryna Rekhlo in Chernivtsi ended quite positively: she was standing on a busy street with a placard stating "I am a lesbian. Embrace me", to which passers-by of any age and gender react friendly and embraced her with affection.²⁶

Odesa's TV channel DumskayaTV on the eve of the Equality March in this city decided to check how random passers-by would respond to a couple of gay tourists (they were played by local actors) seeking their direction to the popular recreation area "Arcadia." It turned out that most people willingly communicated with the "lovers", showed the way, and advised on the best entertainment venues, although occasionally aggressive homophobic reaction happened as well.²⁷ Similarly, journalists from Kryvyi Rih on the eve of the Equality March in the city decided to ask citizens' their attitude towards LGBT people: the vast majority of respondents said

²⁵ Колишко С., Паращевін М., Яворський В., ред. Печончик Т., *Що українці знають і думають про права людини: оцінка змін (2016-2018) / Резюме дослідження*, ГО "Центр інформації про права людини, 2018, с. 41, 44.

²⁶ Молодий буковинець, *"Я лесбійка – обійми мене": у Чернівцях ЛГБТ-активістка провела соціальний експеримент*, 05.06.2018, molbuk.ua.

²⁷ Думская, *Социальный эксперимент: как одесситы на влюбленную пару геев реагировали*, 17.08.2018, dumskaya.net.

that they treat LGBT people neutrally and believe that they have the right to "their choice", but negatively regard "gay parades".²⁸

Popular Ukrainian singer Irina Bilyk, by contrast, decided to publicly support the Equality March in Kyiv, presenting a video for her new song "Do not hide eyes" to the International Day against Homophobia and Transphobia. "I hope that this social project will become the basis for increasing tolerance in our society and help LGBT representatives "not to hide their eyes" and to be themselves!", Irina Bilyk said.²⁹

The issue of Ukrainian society's attitude towards LGBTs was discussed on the talk show "The right to power" on one of the most popular TV channels in the country "1 + 1", on June 14 – two days before the Equality March in Kyiv. Expressing their thoughts on the subject were MPs Ihor Guz (the People's Front), Yurii Pavlenko (the Opposition Bloc), Ivan Krulko (Batkivshchyna), famous liberal Orthodox priest Heorhii Kovalenko, as well as other guests of the programme, among whom both LGBT and religious homophobic activists were represented. All members of the Ukrainian Parliament expressed views generally unfriendly to LGBT and objected to granting equal rights for LGBT people, while Rev. Heorhii Kovalenko noted that, although the church condemns homosexual relations, it also condemns all violence and recognizes the supreme value of liberty. To the question "How would you react to gay neighbours?", 61% of the talk show's audience answered that they do not care, 20% – that they would have avoided contact with them, and 8% – that they would have supported them.³⁰

Issues related to LGBTs begin to arise also in the Ukrainian sport. General Director of Zarya FC Serhii Rafayilov caused a lively public discussion by his repeated homophobic statements (including the reluctance to see gay players on his team) that forced the Football Federation of Ukraine to respond. Deputy Head of FFU Yurii Zapisotskyi stated that the words of

²⁸ Первый Криворожский, *Как к представителям ЛГБТ-сообщества относятся жители Кривого Рога*, 06.07.2018, 1kr.ua.

²⁹ Irina Bilyk, *Ірина Білик – Не ховай очей*, 17.05.2018, youtube.com.

³⁰ ТСН, *Право на владу за 14 червня 2018 року*, 14.06.2018, youtube.com.

Serhii Rafayilov could be examined by the Control and Disciplinary Committee of the Federation.³¹

³¹ Новое время, *В ФФУ прокоментували слова гендира Зорі про його небажання бачити в клубі гравців-геїв*, 19.10.2018, nv.ua.

4. CHURCHES AND RELIGIOUS ORGANISATIONS

In 2018 leading Ukrainian churches, except for the UOC (MP), did not put forward their own homophobic proposals but chose rather to support relevant initiatives contained in various petitions and appeals to the authorities by conservative religious organisations and individual activists. Thus, in June 2018, the Conference of Bishops of the Roman Catholic Church in Ukraine adopted an appeal "to the Ukrainian authorities at all levels, and to the faithful over 'the Equality March' in Kyiv," in which they did not put forward their own wishes or demands to Ukrainian authorities but instead condemned the "gender ideology" and urged "to listen to our citizens and to defend the family."³² Relevant petitions and appeals, which were mentioned in the statement of the bishops' conference, included direct calls for discrimination and restrictions of human rights that are expressly prohibited by the laws of Ukraine. However, since the bishops did not make these calls on behalf of themselves, they formally did not violate these laws, that is the standard tactics of Ukrainian churches since the adoption of the law "On Principles of Prevention and Combating Discrimination in Ukraine" which prohibited incitement to discrimination.

In general, in 2018 the main topics of Ukrainian churches' applications related to LGBT issues were in support of actions to "protect the traditional family," protests against (mostly supposed) government measures to protect the interests of LGBT people, and outrage at the ignoring of numerous homophobic complaints from the public by the government and the beating by the police of protesters who tried to impede the conducting of the Equality March in Kyiv.

As in 2017, only the Ukrainian Orthodox Church (Moscow Patriarchate) called upon authorities not to permit holding of the Equality March in Kyiv, in the person of its head, Metropolitan Onuphrius – because "it could cause irreparable damage to the clean hearts and souls of our children and, moreover – incur God's wrath upon Ukrainian land, on which the

³² Родина, *Звернення конференції єпископів Римсько-Католицької Церкви в Україні до української влади усіх рівнів та до вірян з приводу проведення "маршу рівності" в місті Києві, 13.06.2018*, rodyna.org.ua.

innocent blood of Ukrainians has already been shed for several years."³³ Contrastingly, the head of the UOC-KP Patriarch Filaret in an interview to *Ukrayinska Pravda* said that Ukraine did not risk losing its spirituality through the Equality Marches since "[...] we have already gay parades, even twice. How many participants were there? A hundred or two? And even so, many of them were foreigners. And 10 thousand came to the recent march for the family." He also assured that he is ready to conduct a memorial service for a deceased gay Christian because that person was, though a sinner, however a Christian. According to the patriarch, only God himself can decide if he would forgive this sin.³⁴ In January 2018, Patriarch Filaret gave a lengthy interview to a *Deutsche Welle* correspondent in which, inter alia, he unexpectedly declared that "Sexual marriages of a man with a man may be permissible, but not believed to be right" and that sinners should be tolerated but it is unacceptable to say that this (their sin) is right and to support it.³⁵ These statements of Patriarch Filaret strikingly differ from both the one still declared as the official attitude of the UOC-KP to LGBT people and the well-known homophobic views of the patriarch himself. Earlier the Ukrainian Orthodox Church – Kyiv Patriarchate did not recognize the existence of such a notion as "same-sex marriage" and strongly objected to the recognition of not only same-sex marriages but any form of registered partnership for same-sex couples. Apparently, the leadership of the UOC-KP already understands the importance of protecting the rights of LGBT people within the official course of the Ukrainian authorities towards European integration, and wants to appear in such circumstances as a responsible and modern social force that works to the benefit of the Ukrainian state.

After the formation of the new Orthodox Church of Ukraine (OCU) on the basis of the UOC-KP and the Ukrainian Autocephalous Orthodox Church,

³³ Українська Православна Церква, *Звернення Предстоятеля з приводу проведення "Маршу рівності" у Києві*, 11.06.2018, church.ua.

³⁴ Романюк Р., Панченко Ю., Сарахман Е., Патріарх Філарет: *Якщо Томосу нам не дадуть, то це означає, що Москва перемогла Вселенського патріарха*, 14.06.2018, Українська правда, pravda.com.ua.

³⁵ *Deutsche Welle*, *Філарет: Війна на Донбасі триватиме ще один-два роки*, 31.01.2018, dw.com.

Patriarch Filaret formally left the church leadership positions, and his protégé and pupil Metropolitan Epiphany was elected as the head of the new Church. Due to a provocative phone call by a couple of Russian prankers, which was leaked online, his position on LGBT people in Ukraine became known: "This is a complex issue, and we should not raise this issue at the beginning of this path, now one needs to work upon this that Ukrainian society accept it".³⁶ The official comment on the OCU's Facebook page also adds that "the Church follows the biblical position, defining same-sex relationships as a sin, and this view is shared by the majority of Ukrainian society."³⁷ Thus, we can see that the OCU tries to pursue a very cautious policy on LGBT issues: while recognizing the problems and the need to overcome them, it refrains from any steps in this direction.

Against the background of the positive statements about LGBTs by Pope Francis and processes of rethinking traditional attitudes towards LGBT issues in the Catholic Church as a whole, the hierarchy of the Ukrainian Greek Catholic Church for several years in a row has refrained from any public statements on these matters. However, the global processes exert influence on Ukrainian Greek Catholics as well – quite expectedly, first of all in Western countries. Thus, a young priest of the UGCC in Switzerland Nazarii Zatorskyi gave a lengthy interview with the online magazine "Box", wherein he pointed to the unequal treatment of LGBTs by his church and problems of interpretation of religious instructions affecting the lives of LGBT people, and said: "Exactly because of this so many Catholic theologians and some bishops of the Catholic Church see the solution to this problem in that the Church should put LGBTs on equal footing with heterosexuals and start blessing same-sex couples in some form. Of course, in this case the same requirements would apply to homosexual Christians as to heterosexual spouses: no sex before marriage and outside of marriage."³⁸

³⁶ Obozrevatel.ua, *Пранкери подзвонили Епіфанію: сплигло аудіо скандальної провокації*, 24.12.2018, obozrevatel.com.

³⁷ Православна Церква України, 22.12.2018, facebook.com.

³⁸ Секція, *Отець Назарій Заторський про Біблію, ЛГБТ-спільноту й одностатеві шлюби*, 01.10.2018, section.in.ua.

For the first time, in 2018 heads of the leading confessions in Odesa did not make a joint appeal to the local authorities calling for them not to allow the holding of the Equality March; neither were there any corresponding requests from individual churches as well.

5. LGBT COMMUNITY

According to the police, about 3,500 people participated in Kyiv Equality March, while according to its organisers – about 5,000, that is about one and a half times or twice more than in the previous year. Safety for the event was provided by about 5,000 policemen. The Equality March in Odesa totalled about the same number of participants as in the previous year (circa 100); the very first march held in Kryvyi Rih – about 30. After the scandal surrounding posters of questionable content, which were observed in 2017 at the Kyiv Equality March, lengthy discussions took place within the LGBT community on the nature and common values of the LGBT movement, and the responsibility of its individual representatives for the overall image of LGBT people in the eyes of wider society. Consequently, such posters were not present at all Ukrainian public LGBT events in 2018. In line with the results of the public discussion, the theme of Equality March 2018 in Kyiv became "the visibility of the LGBT community". The Equality March 2018 in Odesa went under the motto of "Our families are our values."

One of the posters that attracted attention at this year's march in Kyiv read "Thank the Ukrainian army for the ability to hold this march." The participation of LGBT people in defending Ukraine from Russian aggression, that underscores the status of the LGBT community as an integral part of Ukrainian society, was also highlighted in the artistic project of Ukrainian photographer Anton Shebetko "We were here" consisting of the same named photo exhibition in Gallery IZONE (Kyiv) and publication of interviews with the heroes of the photos in the internet edition "Bird in Flight". In the gallery and online they told about their life experiences as LGBT people and participants of the Anti-terrorist operation.³⁹ These and other materials about LGBT veterans of the ATO appeared in numerous media outlets and attracted wide public attention. Viktor Pylypenko – the first and so far the only ATO veteran volunteer who made public coming-out – attended the opening of the exhibition and public discussion "Who is fighting? Colours of Ukrainian patriotism" with

³⁹ Шебетко А., *"Идет война, а эти с флагами": Украинские ЛГБТ на службе в зоне АТО*, Bird in Flight, 08.06.2018, birdinflight.com.

participating representatives of the Ministry of Defence, where he told about his experience of military service and related problems with which he faced as a gay person. Even more problems concerning military service are faced by transgender people who are officially not allowed to serve in the Ukrainian army – however, as it turned out, they also took an active part in resisting Russian aggression as volunteers.⁴⁰



Figure 4. A participant of the Kyiv Equality March with a poster "For the traditional family values in gay families", 17.05.2018.

The main complaint about Kyiv Equality March 2018 from strangers and some of the LGBT community concerned the presence of platforms exhibiting drag queens that, so they felt, discredited this march as a human rights event. However, the organisers of the march came to a consensus that any persons and organisations which share common values of equality and tolerance and do not violate the law might participate in it. It should be noted that this event demonstrates a clear trend of becoming

⁴⁰ Заборона, Пішли у транс: Себастьян, військовий доброволець, 28.03.2018, zaborona.com.

gradually more similar to LGBT pride parades typical for Western society, by their nature more colourful and entertaining.

The participation in the Kyiv Equality March has noticeably enlivened the social life of the Ukrainian drag queens community. On the wave of enthusiasm, Drag Queen Festival "Golden Watermelon" was announced in Kherson, in October 2018.⁴¹ The Odesa Equality March, which took place on August 18, also showed increasing LGBT activism in the South of the country and a reduction of aggressive homophobic sentiment among the region's population. It caused significantly more neutral and even positive reactions in the local press and showed a sharp decline in the number of its aggressive opponents: if in 2017 their number was about the same as the marchers' (100), in 2018 it was several times less.⁴²

However, as in the previous year, the biggest problem of the Ukrainian LGBT movement in 2018 remained the high level of aggression by right-wing nationalist groupings who consistently tried to disrupt all LGBT events that become known to them. Although by now all Ukrainian LGBT organisations are aware of the threat of physical violence by far-right radicals, always inform the local police about their own planned actions, and ask for police protection, during 2018 in many cases the police acted very passively, and attacks by right-wing radicals were successful in preventing the holding of LGBT events, even those with the participation of police officers.

With this in mind, sometimes the organisers of public LGBT actions were forced to resort to extraordinary security measures and initially did not inform others about the time and place their event was to be held, as was the case in the march "For Diversity and against Discrimination" held in Kherson on May 17.⁴³

A similar march was held on June 10 in Poltava, just behind the march for "traditional family values": a few dozen girls went downtown with an LGBT rainbow flag, LGBT symbols on their faces, and posters that in particular

⁴¹ Drag Queen Festival "Золотий кавун", facebook.com.

⁴² Деро Одеса, ЛГБТ-марш в Одесі: Як це було, 18.08.2018, odesa.depo.ua.

⁴³ Горелов К., В Херсоне прошел секретный марш "За разнообразие и против дискриминации", 17.05.2018, Гривна, grivna.ks.ua.

read "How one can hate for the ability to love?" One participant of the march was affected by the attack of an unknown man who pushed her hard, took the poster, tore it into pieces and threw it.⁴⁴



Figure 5. The "Rainbow Flashmob" in Zaporizhzhya, 16.05.2018.

The "Rainbow Flashmob" in Zaporizhzhya, held by the local LGBT organisation Gender Z on May 16, on the eve of the International Day Against Homophobia and Transphobia, also faced problems. An unknown man threw a bomb into the crowd (probably a large firecracker) that affected a number of activists, journalists, and police officers guarding the action. The attacker was immediately detained by the police who seized from him a gun and an electric shocker. He was subsequently arrested and his case submitted to trial.⁴⁵

⁴⁴ Коло, Під час ходи на підтримку ЛГБТ-спільноти у Полтаві постраждала дівчина: подробиці, 12.06.2018, kolo.news.

⁴⁵ ЗОБФ "Гендер Зед", Видимі та сміливі: у Запоріжжі відбувся веселковий флешмоб, 16.05.2018, genderz.org.ua.

In September in Mykolayiv already traditional Days of Equality and Pride were organised by LGBT Association LIGA. On April 23-25, 2018, the International Conference "Transgenderness: Challenges and Perspectives in Contemporary Ukraine and the World" was organised by NGO "Insight" in Kyiv. It was an important event for the trans*community throughout the former Soviet Union.⁴⁶

The activity of the Parental Initiative TERGO in 2018 was very active and fruitful: they held a series of workshops for students, teachers and psychologists practising on LGBT topics in several regions of Ukraine, paying particular attention to bullying in schools.⁴⁷ Also, through various kinds of trainings, meetings and other events, other leading Ukrainian LGBT organisation continued their work among the LGBT community and Ukrainian society as a whole. Thus, Zaporizhzhya Charity Foundation Gender Z organised several "Schools for Tolerance" on issues of sexual orientation and gender identity in various cities of Ukraine (Zaporizhzhya, Kyiv, Mykolayiv, Chernihiv, Kharkiv, Kropyvnytskyi, Melitopol, Berdyansk) for journalists, civil society activists, psychologists, social workers, and others.

NGO Fulcrum continued its projects of the Corporate Equality Index, dedicated to the study of business corporate policy in Ukraine to support equality and diversity, and the Friendly Doctor, designed to improve the level of healthcare for the Ukrainian LGBT community. Also in the field of health services for men who have sex with men, such as the prevention and combating of HIV / AIDS, Ukraine's leading organisation in this field ALLIANCE.GLOBAL continued its activity.

Nash Mir Center in 2018 continued monitoring of human rights violations, discrimination, incidents and hate crimes against LGBT people in Ukraine, and focused its efforts on working with national police and advocacy of implementation of the Action Plan on Human Rights' LGBTI components – in particular, the development and adoption of amendments to the Criminal Code regarding hate crimes. We conducted round tables on

⁴⁶ Kyiv Trans Conference, 2018, transconf.org.ua.

⁴⁷ БІ "Tergo", *Останній місяць року ТЕРГО проводить на Херсонщині!*, 11.12.2018, tergo.org.ua.

strengthening dialogue between the LGBT community, civil society, local authorities, and the National Police on prevention of discrimination and hate crimes in Vinnytsya, Kharkiv and Kryvyi Rih. On December 12, Nash Mir Center together with the Human Rights Information Centre held in Kyiv the conference " Intolerance without Responsibility: Hate Speech & Hate Crimes in Ukraine", for which we had prepared a comprehensive report on hate crimes and incidents in Ukraine on all grounds.⁴⁸ The conference was attended by Svitlana Zalishchuk MP, the head of the Central Territorial Department of Justice in Kyiv of the Ministry of Justice Stanislav Kutsenko, representatives of the Ministries of Internal Affairs and Justice of Ukraine, the Parliamentary Commissioner on Human Rights, the National Police, centres of free legal aid, foreign embassies, and international organisations. Nash Mir Center has also actively participated in meetings of civil society and the Ukrainian government on the implementation of the Action Plan on Human Rights and development of amendments to it.

⁴⁸ Kravchuk A., Hate Crimes and Incidents in Ukraine, 2018, Nash Mir Center, gay.org.ua.

6. VIOLENCE, DISCRIMINATION AND OTHER VIOLATIONS OF LGBT PEOPLE'S RIGHTS ⁴⁹

Nash Mir's monitoring network in 2018 documented 358 cases of actions motivated by homophobia / transphobia, discrimination and other violations of LGBT rights in Ukraine. 34 included events that happened in 2017, the rest – 324 cases – occurred in 2018. In comparison, previously in 2017 Nash Mir Center documented 226 cases. Such a sharp increase in the annual number of the reported LGBT rights violations, in our opinion, resulted from both increasing efficiency of the monitoring network activity and the real growth of violence against LGBT people by right-wing radical groups.

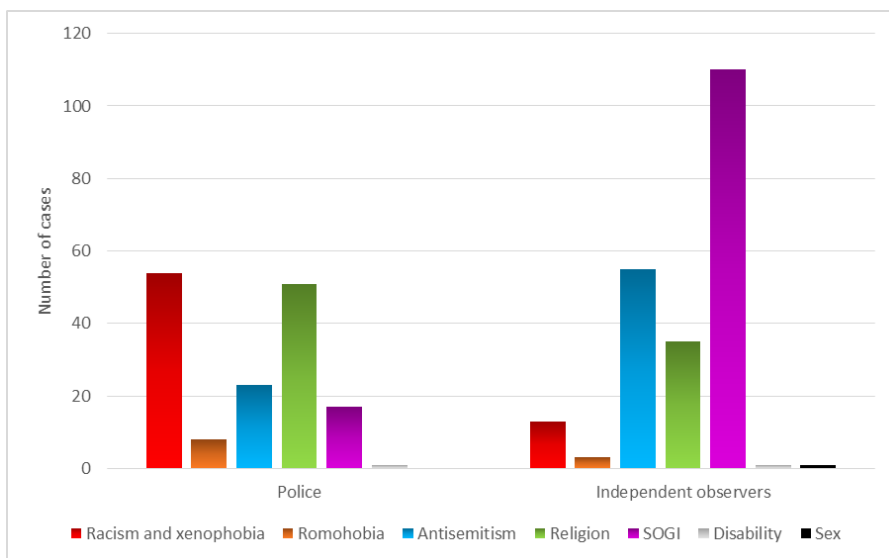


Figure 6. The number of hate acts on various grounds in Ukraine in 2017 reported to the OSCE by the National Police and independent observers.

In any case, it should be noted that LGBT people in Ukraine are among the main victims of hate crimes and discrimination – this is evident, particularly, when one looks at the statistics of hate crimes and incidents

⁴⁹ In this section, the number of documented violations of LGBT people's rights may apparently exceed the number of cases, because in some cases more than one sphere of rights was involved.

on all grounds which were collected by the OSCE on the basis of information provided by both the police and independent observers.

Table 1. The distribution of cases documented in 2018 by regions of Ukraine.

Region	Number of cases
Kyiv and oblast	124
Odesa and oblast	43
Kharkiv	29
Dnipro and oblast	26
Zhytomyr and oblast	13
Kherson and oblast	13
Cherkasy	12
Lviv	10
Vinnitsya and oblast	9
Donetsk oblast (under Ukraine's control)	8
Poltava oblast	8
Donetsk oblast (occupied by Russia)	7
Uzhhorod and oblast	7
Ivano-Frankivsk and oblast	7
Zaporizhzhya and oblast	6
Chernivtsi	6
Chernihiv	6
Sumy and oblast	5
Rivne and oblast	4
AR Crimea (occupied by Russia)	4
Lutsk	4
Kropyvnytskyi and oblast	3
Ternopil	2
Mykolayiv	1

Khmelnyskyi	1
Total	358

Most homophobic / transphobic aggression, discrimination and other violations was suffered by representatives of big city LGBT communities in urban areas where they are most visible: Kyiv, Odesa, Kharkiv and Dnipro.

Acts motivated by homophobia or transphobia

Actions motivated by homophobia / transphobia and hate speech on the part of persons not vested with official authority, were observed in 246 cases. 111 of them (8 in 2017 and 103 in 2018) may be described as *hate crimes*, and 129 (13 in 2017 and 116 in 2018) – as *hate incidents*. In 9 cases manifestations of *hate speech* were recorded.⁵⁰

The following types of violations were noted (please see Table 2):

Table 2. Number of different types of rights violations of LGBTs in 2018.

Types of violations	number of cases
insults, humiliation of human dignity, threats	176
physical violence of varying severity	93
illegal collection, disclosure (or the threat of disclosure) of confidential information	38
homophobia / transphobia in family	35
extortion and blackmail	29
robbery	16
attacks on LGBT centres, actions or activists	12
threats with weapons and their application	11
damage to property	7
obstruction to peaceful actions	7
brigandage	6

⁵⁰ Italicized terms correspond to the classification of the OSCE / ODIHR.

homophobic inscriptions / appeals	6
offensive language	3
sexual violence	2
kidnapping	2
attempt to deny parental rights	1
torture or inhuman treatment	1
murder	1
disobedience to lawful demands of police	1

In 2018, the first time since the Revolution of Dignity, hate crimes were recorded in fewer number than incidents, whereas in previous years crimes always prevailed over incidents (please see Table 3). This may mean reduction in the share of serious offenses concerning LGBT people, as also was evidenced by the decrease in the proportion of physical abuse cases in this category – 93 of 246, while in 2017 such cases were 92 of 172 cases. However, to claim with confidence that this is not an accident, we need more monitoring time.

Table 3. The correlation of homophobic / transphobic crimes and incidents in 2014-2018.

Year	Number of crimes	Number of incidents
2014	27	10
2015	45	8
2016	136	67
2017	99	71
2018	111	129

Meanwhile, of increasing concern is the infliction of attacks on LGBT centres, events and activists – as well as obstructions to the carrying out of peaceful actions. If in 2017 eight such cases were recorded, in 2018 – already 19 have been. Given 16 cases of physical violence during the so-called "safaris" that were carried out by far-right groupings before and after peaceful LGBT events in Kyiv, Kharkiv and Odesa, it is clear that the

participation of LGBT people in the public life of Ukraine is becoming more dangerous. This exists and applies not only to communities in major centres, but also to ones in such cities without noticeable LGBT activism as Rivne, Uzhhorod, Poltava, Ivano-Frankivsk, and Vinnytsya. After the growth of far-right radicalism in Ukraine in recent years and the concentration on LGBT people as one of its main targets, such groupings are increasingly attacking not only public events but also private meetings targeted to specific audiences. Examples of this include the disruption of a training for psychologists in Poltava in March 2018, which was arranged by the organisation TERGO, and a round table for the police(!) and local authorities in Vinnytsya, which was organised by Nash Mir Center.

A proportion of property crimes, in which the victims are chosen specifically because of their sexual orientation, such as extortion, blackmail, robbery, and burglary, remains significant also. In 2018, 51 cases of such crimes were recorded.

In late November 2018, Nash Mir Center sent to the Chief Investigation Department of the National Police of Ukraine an official request about the number and legal classification of crimes committed in Ukraine in 2018 on the grounds of homophobia and transphobia (motivated by intolerance towards homosexual and transgender people). We received no response to this request within the period prescribed by law.

Attacks on LGBT events and/or activists

Case 1102

In January 2018, in Kryvyi Rih two LGBT activists of the Dnipro branch of NGO Gay Alliance Ukraine were attacked with obvious signs of a planned crime on ground of hate towards homosexual people. All victims submitted applications to the police about the attack. As far as is known the police have not yet been able to find the attackers and the crime is qualified as being without the motive of intolerance.

In July, one of the activists was again attacked by unknown people (Case 1256). This crime also has not been detected yet.



Figure 7. An LGBT activist from Kryvyi Rih after being attacked by unknown persons (Case 1102).

Case 1112

On January 19, 2018, three unknown persons, looking about 20 years old, with faces hidden under hoods, attacked and beat Liam Anthony Tong, a British national, who arrived in Kyiv as a tourist. Wanting to stroll through the city centre, he arrived at Mykhailivska Square, where the incident occurred. One of the offenders began throwing snowballs at him, while the second pushed his suitcase by foot. Liam took it as a bad joke. He tried to move on and not to pay any attention, hoping that these three would leave him alone, but they knocked him off his feet and started kicking him. According to Liam, nobody came to his aid when he was beaten. Later some passers-by called an ambulance and the police. When the victim tried to go to the nearest business offices asking to wash off the blood, no one would let him.



Figure 8. Liam Anthony Tong, a British tourist, after being attacked by hooligans on Mykhailivska Square (Case 1112).

"The offenders did not like his unordinary creative appearance. I clarified from Liam whether there were verbal abuses or any statements of homophobic nature addressed to him – he said no, he was beaten in silence (although he might not catch their words or might lose consciousness for a time), and then they stood at a distance, watching and laughing as he tried to recover," told a monitor of Nash Mir.

Perhaps the attackers were representatives of far-right groups who at that time and in a nearby place blocked an antifascist action.

The police (Shevchenkivske District Department) accepted the application very reluctantly. The victim had only 2 hours before the departure of his air flight. A police officer tried to demotivate him in every way saying "We must now go to the crime scene, are you ready?", "Are you willing to miss the plane?", "Are you ready to fly here while we will conduct an

investigation?", "If you are not ready, then it makes no sense to apply." However, the application was accepted, and the case was preliminarily qualified as ordinary hooliganism. The motive of prejudice was not included in the investigation materials.

Case 1122

In February 2018, during the debate within the campaign "Football against Homophobia" held in Ivano-Frankivsk public Urban Space 100, unknown persons threw a smoke bomb under the venue site. Also, several young men in balaklavas came into the venue; they swore at organisers of the discussion and made them remove anti-homophobic booklets.

Case 1130

Young men from the ultra-right organisation Freikorps showed a great interest in the activities of NGO Women Association Sphere and its activists in Kharkiv during 2018. Rarely were events organised by activists of the Sphere held without a brutal intervention of Freikorps members. In February they disrupted a lecture about the LGBT movement in the bookstore "Ye".

At 19:15 a group of young people came into the bookstore's premises and introduced themselves as national activists and said that they "will not allow the promotion of homosexuality in a frontline city", "the Maidan did not stand for such values" and that the lecture's audience prevented them from buying books. The police officers, who arrived onto the scene, proposed that the lecture audience to disperse, because they could not ensure the order and were not entitled to hinder other citizens (i.e. Freikorps members) from buying books.

Case 1211

In May, again Freikorps and also the Tradition and Order grouping disrupted a lecture on homophobia organised by the Sphere. Again the police were inactive.



Figure 9. Intruders blocking a lecture in Kharkiv about the LGBT movement (Case 1130).

Case 1254

In July, 8 people in masks broke into the premises of the Kharkiv PrideHub, which hosted LGBT events, sprayed some gas, smashed up the toilet room, tore a photo exhibition from the walls, and smashed the furniture. At that time 10 people who were in the room suffered from this attack, sustaining headache, facial chemical burns, nausea and dizziness.

The police launched a criminal investigation under article 296 of the Criminal Code "Hooliganism." The motive of intolerance was not included in the investigation materials.



Figure 10. Masked person at the attack on the Kharkiv PrideHub (Case 1254).

Case 1326

In September, in Kharkiv an LGBT event in the PrideHub was again disrupted and property damaged – this time by young men from the Tradition and Order organisation. The police brought the assailants outdoors, but no one was detained.

Cases 1343, 1398, 1450

Similar attacks on LGBT activities in Kharkiv by extreme right-wing groups were also observed in October, November and December 2018. The last incident, on December 28, lads from Tradition and Order just locked the PrideHub's door by thereby blocking about 80 people inside.



Figure 11. The blocking of the Kharkiv PrideHub (Case 1326).

Relations with the law enforcement authorities

In 30 cases abuses by law enforcement agencies were reported. Most often the police violated the following rights (please see Table 4):

Table 4. Violations of LGBT rights in 2018 by the police.

Violated rights (by what actions)	Number
The right to an effective remedy (failure to protect the rights, improper performance of duties to protect the rights)	20
The right to peaceful assemblies (protection and ensuring of conducting)	10
The right to respect for private life (blackmail, threats of disclosure and disclosure of confidential information)	7
The right to liberty and personal security (violation of procedural rules, illegal detention, physical violence, extortion of a bribe)	7
Freedom from discrimination (insults, threats and humiliations of human dignity, complicity with offenders)	5

As in previous years, the main violations by police remain inadequate responses to appeals from LGBTs for protection. In addition to the shortcomings listed in the relevant section of the report for 2017, another significant aspect became obvious: namely, the protection of peaceful assemblies. Due to the increasing attacks of far-right groupings on both public and private LGBT events (please see the previous subsection of this report), an urgent need exists for a proper response by the police to such threats. Response should include not only physical security for a peaceful assembly's participants, but also ensuring the conducting of the very assembly, despite threats and attempts by opponents to disrupt such events. The police provided adequate protection only to the Equality Marches in Kyiv, Odesa and Kryvyi Rih (probably because of a lot of pressure and attention from the international community). During other peaceful gatherings, both public (for example, the Transgender Day of Remembrance in Kyiv, 18.11.2018) and non-public ones (a round table for the police in Vinnytsya, 19.03.2018), when far-right groupings attempted to disrupt them, the police only tried not to allow physical clashes (by halting the holding the very LGBT meetings), but police allowed the gatherings' opponents to conduct their aggressive actions and did not take any steps to stop their unlawful actions.

In some cases, police officers collect sensitive information about homosexuals and threatened them with its spread. Thus, according to the victims, officers of the Department of Cybercrimes in Dnipro (1 Polya Street) in at least three cases collected and threatened to reveal, in violation of the procedural rules, the personal data of gay men who were detained without presenting official suspicions.

Case 1288

In August 2018, Mykola met through a dating website for gay men with a guy – that later turned out to be an operation of Dnipro cyberpolice officers who 'worked out' gays while looking for an offender rapist target. Mykola described what happened to him in this way: "I came to a meeting in the city centre, where I was surrounded by a group of strong-built men, who introduced themselves as police officers, showed their certificates, said that they were conducting investigations in connection with the rape

of a 12-year-old boy. They proposed that I take a drive to 1 Polya Street, and asked me inappropriate questions: "How long have you been gay..., do your parents know..., did you have sex with a woman...". Further, they took my phone, connected it to a laptop and downloaded internal memory files, then photographed and released me. No papers were presented to sign, that is everything was unofficial. I understand that they carried out operational work in this way, but the methods are the same as 20 years ago..."

Case 1229

After the Equality March in Kyiv several of its female participants were attacked by a group of far-right radicals. The police who were present were inactive. One of the participants described the incident: "After the pride we left [the metro] at Kontraktova Square. There were 5 girls of us. We hid all the [LGBT] symbols in the metro. [...] Rain started, and we unfurled the rainbow flag and covered the bench with it. About an hour passed and we expected nothing bad. The rain ended, but we forgot to hide the flag. It all happened very quickly: suddenly we were approached by about 30 guys with Nazi symbols. They began to behave aggressively, clap using their hands and to call us by various expressions like "queers", and threatened to punish us because we are not such people as everyone else. The police officers, who were nearby, came. The attackers grabbed the flag and began to pull. One of my friends did not want to give it up, was holding it tight – so now she had her arm injured. The police were close and just looked on. They took away the flag and also shot us on video. Then they began to trample the flag and were gone. The police followed. We were shocked. Now I understand that we could apply to the police or could have taken video, but unfortunately we did not. We did not ask, and did not ascertain the names of the police officers. But their behaviour surprised us because they all just watched this and did nothing."

Case 1276

On May 19 in Chernivtsi groupings Tradition and Order, Katehon, Zentropa, and others disrupted the Equality Festival. The attackers sprayed tear gas

and even threw a hammer into the event's organisers. The police were called who did not manage to ensure public order, the safety of participants and visitors, nor conducting of the festival. The festival's organisers filed an action about an offence having been committed against them, but so far it has brought no result.

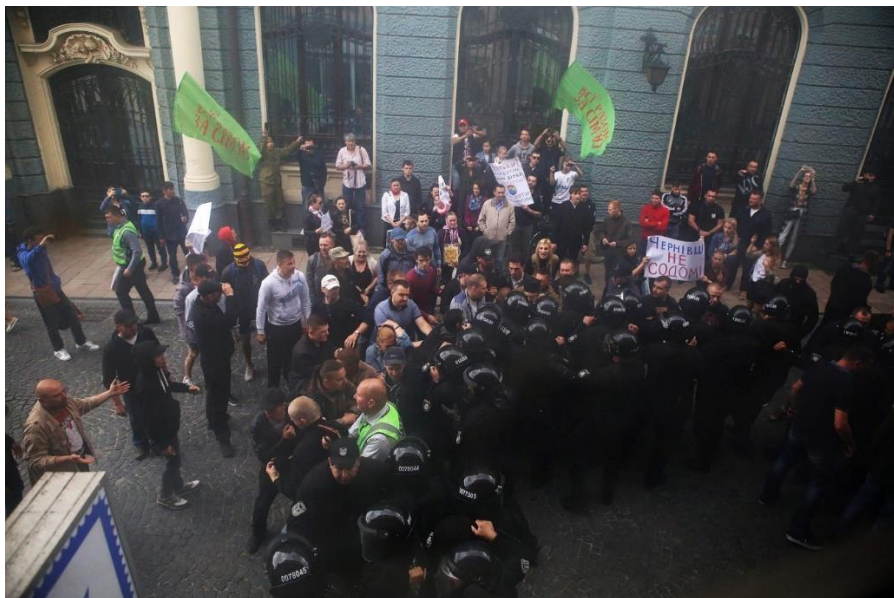


Figure 12. The attack on the Equality Festival in Chernivtsi (Case 1276).

Employment

24 cases of violations of LGBT human rights were recorded in this sphere (please see Table 5):

Table 5. Violations of LGBT rights in 2018 in the field of employment.

Rights violations (by what actions)	Number
Discrimination (inaction of the administration, compulsion to resign, unlawful dismissal, unlawful refusal to hire, insults, humiliations of human dignity, threats, biased attitude, sexual harassment, bullying)	23

Respect for private life (illegal collection, disclosure, or threat of disclosure of confidential information)

7

Case 1127

In Cherkasy in April a transgender girl was denied employment by the head of security in supermarket "Molly". He treated her insolently and humiliatingly: "Who are you, man or woman?", "Are you rear wheel drive?", "You look like a fagot," "You are a fag, we don't need fagots at work," "Well, you know, our shop helps organisations at the front, we have many [people] from the Right Sector, we profess values other than you, I think you will just be killed here." The victim tried to cite the anti-discrimination law, but left after intimidation.

Case 1337

The victim works in a choir of one of Kyiv's Protestant churches. He has an anonymous public blog mentioning his sexual orientation. One of his friends (a parishioner of his church) in September saw the blog and identified the victim, about which he informed the church's leader. The victim began to experience moral pressure at work to quit his job. Eventually the case was hushed up, after the victim swore that he had heterosexual orientation. He was recommended to marry at the first opportunity so that "there would not be rumours."

Case 1415

Serhii in October was forced to resign "by personal request" from one of the shops of mobile communication in Vinnytsya, after his boss found out about his sexual orientation. "I don't need queers at work," he said.

Education

Violations in this sphere were recorded in 23 cases (please see Table 6):

Table 6. Violations of LGBT rights in 2018 in education.

Violated rights (by what actions)	Number
Discrimination (bullying, threats, inaction of administration)	19

Hate incident (insults, humiliations of human dignity, threats, physical violence)	8
Respect for privacy (invasion of privacy, illegal gathering, disclosure, or threat of disclosure of confidential information)	3
Hate speech	1

Case 1101

The case occurred in January in a hostel of one of Rivne's universities. The violators (the neighbours in the hostel) broke into the room of the victim and began swearing at him, and repeatedly hit him in the face because they learned that the victim is gay. Then they began looking for evidence of his homosexuality into his phone and laptop, threatening the victim to take him out into the woods and there to rape him and "leave to die" if he should tell his parents about the incident. Not having found the desired evidence, the offenders forced the victim to admit his homosexuality on video.

Case 1191

On April 18, 2018, at Melitopol State Pedagogical University a lecture was organised and held entitled "For the natural family values and against changes in the law for homosexuals in our country." The organiser of the lecture was D.V. Hrybov, a senior lecturer in economics, management and administration of the university. The speakers on this topic were Ye.M. Demyanenko, a member of the Zaporizhzhya Oblast Council and the head of Agape Ukraine charitable foundation; O.V. Semeniuk, a deputy of the Melitopol City Council; and O.V. Konovalov. Quotes from their report: "The values that they are trying to impose on us, by its nature to us, to the Slavs, are not values, it is not inscribed at the genetic level, and not punched, and unnatural for us as Slavs", "There is nothing more aggressive than tolerance. What happens with it, you can go and see in Europe."

A representative of the Ministry of Education, where the complaint was sent by Zaporizhzhya NGO Gender Z, did not see anything unacceptable in

the event and stated that it was an expression of personal opinions in accordance with the Constitution of Ukraine.

Case 1441

In November, Kirill, a transgender guy, told a psychologist in his college (Kharkiv) about his gender identity and sexual orientation. The psychologist told about this to Kirill's tutor, who in turn shared the news with the whole group, explaining this with by stating "Our group is a family, we need to share problems." Then Kirill started having problems with his classmates: insults, bullying, humiliations. Only a few people in the group accepted his transgenerness. In her turn, the tutor constantly tried to take Kirill to the church and reminded him about "atonement of sins" and repentance. When this became known to the dean of the college, the administration wanted to expel Kirill, because he was studying to become a teacher, and persons such as himself "may not educate children." Because of this, Kirill had to change his speciality.

Case 1446

Yuliya, a senior pupil in one of Kyiv's schools, had on her backpack a small badge of the rainbow flag. In November one classmate of hers saw it (he was probably close to far-right groupings) and rudely ordered her to remove the badge, saying that he would exterminate all gays and lesbians. The victim refused, then he threatened to use gas or an electric shocker against her, and also said that sometimes "they" even use acid. Yuliya was forced to remove the badge.

Access to goods and services

In this sphere 15 cases were documented (please see Table 7):

Table 7. Violation of the rights of LGBT people in 2018 in the provision of goods and services.

Violated rights (by what actions)	Number
Discrimination (threats, refusal to rent, biased attitude)	13

Hate incidents (insults, humiliation of human dignity, threats, physical violence)	6
Hate speech (homophobic inscriptions / calls)	1

In 6 cases, LGBT organisations and activists were denied to hold some events. In Uzhhorod (Hotel Old Continent), Kyiv (Hotel Bratislava), and Lviv (Hotel George and Dovzhenko Cinepalace) administrations refused for fear of counter-actions by far-right groupings, and in three of these cases. In three of these cases authorization was denied following "preventive" dialogue with the local police or local authorities (Uzhhorod and Lviv). In Chernivtsi, the administration of the Underhub space accused Amnesty International Ukraine, whose discussion was by disrupted by homophobic groups (Case 1276) – saying that organisers of the discussion themselves provoked the attack against them.

These cases, first of all, are connected with fears of the premises' owners for the safety of their property. Further, these cases were caused by the inability of local law enforcement agencies to ensure law and order, as well as with reputational risks because of the homophobia widespread in society.

Violations of LGBT rights in the occupied territories

11 cases of violations of the human rights on SOGI grounds were documented in 2018 in the occupied territories of Ukraine (namely, Crimea and a part of Donetsk oblast). They include both actions motivated by homophobia and transphobia as well as by discrimination peculiar to Ukraine as a whole and cases that reflected local circumstances connected with the actions of the occupation authorities in these territories.

Case 1202

In December 2017, the Russian FSB in the temporarily occupied territory of Crimea carried out the examination for "extremist calls" from the LGBT-friendly hotel Friends located nearby Yevpatoriya. After this examination, in April 2018 an owner of the hotel began to receive phone calls allegedly

from villagers. According to him, these conversations were to the following effect: "Because of your hotel, tourists do not come to us, people are displeased to live beside a "pigeonry" [gay place]. Either close up or we will write a complaint to the police", etc. Under various pretexts the village administration did not issue permits for the hotel for the new season. The head of the local village "Self-defence" (the paramilitary groupings that took part in the Russian occupation of Crimea) told the hotel owner, "Residents do not want such a hotel that would be working in their village, you either close it or we will not let you work, nor [customers of] yours to have fun here." The owners were forced to close the hotel.

Case 1234

In Donetsk, in April 2018, a group of enthusiasts wanted to open a gay club. An informed source related that: "After they had been contacted by the representatives of the local MGB [the so-called "Ministry of State Security"] who carried out relevant conversations with them, these people wanted only one thing: to leave the "flourishing republic" as soon as possible. While none of them was beaten or "thrown in the basement", they just were clearly told that this (a gay club) would not be. Arguments that such institutions exist in Moscow and Petersburg also had no effect. "The guards of security" stated that "this is not Moscow, we have representatives of the Chechen people here who just would not understand this, and we respect them and reckon with their opinion." It should be noted that the enthusiasts were not quite ordinary people, but those who have "connections" at the top of this "people's republic".

Case 1265

Late one evening in July 2018, nearby the unofficial gay club Yezhy in the town of Simeiz, Oleksandr was approached by several men who introduced themselves as FSB [Federal Security Service of Russia] officers. They asked him to show his documents, viewed his personal photos and conversations on his mobile phone, while threatening to take him to the police station and deport him. They joked that one should not walk in the

night "in doubtful places and be engaged in unknown activity," obviously referring to homosexual relations.

Case 1314

An LGBT activist from occupied Donetsk related this information: "In August, I decided to arrange a meeting. We were about 20 people. We sat outdoors, then the whole company decided to walk around the city. I had a rainbow flag, and one of the girls threw the flag as a cloak on her shoulders. People would stop us and began to ask something like, "What right have you to walk around here so [dressed]?" They insulted us. It happened that our way passed by the post where actually stood 3 on duty (we had just forgotten about this post). They stopped and insulted us, shoved the girl who wore the flag, and took it. They began to threaten us with imprisonment and even almost took us to the police station. Naturally, all this actions were accompanied by selected obscenities towards us – "dykes, queers, those do not live in our city and country" – but we, well, were released and told that if we were noticed here with something similar, we would be sent to dig trenches and "cure our illness."

7. CONCLUSIONS AND RECOMMENDATIONS

In 2018 civic activism of the LGBT community went on increasing as well as its visibility in Ukraine in general, especially in cities where LGBT activists and organisations are present. In particular, in addition to the Kyiv and Odesa Equality Marches, this year for the first time such an event was held in Kryvyi Rih; also notable events related to LGBT people occurred in Kharkiv, Zaporizhzhya, Kherson, and Mykolayiv. Besides public events to protect LGBT rights and to meet the needs of the LGBT community, non-governmental organisations have launched programmes of various trainings, meetings, round tables, etc., aimed at spreading modern views on LGBT issues and establishing mutual understanding with wider society.

In the eyes of society, LGBT and gender issues began to be seen as inextricably linked, this perception was in many ways contributed to by the activities of religious-conservative and far-right groups. They have greatly increased their activity in response to the rising visibility of the LGBT community and the beginning of governmental reforms toward approaching the modern standards of Western society in this field. Many famous and influential public figures stood up for protection of "traditional values", i.e. the patriarchal way of life and homophobia, including such figures as NSDC Secretary Oleksandr Turchynov, Minister of Youth and Sport Ihor Zhdanov, prominent politicians, MPs and others. Equality and modernization of Ukrainian society was supported by Government Commissioner for Gender Policy Kateryna Levchenko, a few younger MPs mainly from the Eurooptimists group, many prominent journalists and civil society activists. Matters relating to LGBT and gender equality have been the subject of active discussions in the media and on the internet.

While the activity of religious and conservative circles was limited mostly to organising campaigns of appeals to the authorities containing demands to abandon these reforms and in fact to legalise discrimination against LGBTs, far-right groups have tried to physically block any LGBT events and at which they have unhesitatingly resorted to violence. The response of the government and law enforcement to this surge in homophobic and "anti-gender" violence has been virtually invisible. Although the police quite effectively provided protection and ensured conducting of a few

such high-profile public LGBT events as Equality Marches, in other cases police's response to blocking and attacks by far-right groupings was extremely passive and confined mostly to the physical security of the participants and their evacuation from the scene of actions. Attackers were rarely detained and even more rarely prosecuted, and their actions were never qualified as hate crimes under the motive of intolerance on SOGI grounds – neither during the investigation, nor in the trial.

Amid the expansion of campaigns of homophobic appeals to the authorities, implementation of the LGBTI components of the Action Plan on Human Rights in 2018 almost stopped. The Ministry of Justice actually refused to draft a law on registered partnership, citing stereotyped appeals from local councils with demands to protect "traditional values" and "traditional family." The Ministry of Health, though not abandoning the intention to lift the ban on the adoption of children, particularly by HIV-positive and transgender persons, still has not dared to adopt the already developed order on this issue. The Ministry of Internal Affairs, namely, the Chief Investigation Department eventually had developed a bill on criminalization of hate crimes on a number of characteristics, yet it has not been submitted to the Cabinet of Ministers as required by the Action Plan. But from February 2018 it has been on the expertise of the Legal Department of the National Police. Although, in general, the bill is fairly progressive, it contains a number of shortcomings that are highlighted in Section I "Legislation and the judiciary" of this report.

Finally, the Ministry of Education, although it reported about implementation of Action 9, Para. 107 of the Action Plan on Human Rights, – to develop and implement standards of social work with adolescents and young people belonging in particular to LGBTs, and providing them with social and psychological services in their social adaptation – has not actually done it. The relevant standards have not been developed and adopted in the form of any documents.

Summarizing our observations and conclusions contained in this report, we recommend:

1. **The Verkhovna Rada of Ukraine** is recommended to 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. When adopting new laws, anti-discrimination articles in them have to directly and openly prohibit discrimination on grounds of sexual orientation and gender identity. Laws and regulations aimed at protecting families and children should protect all families without discrimination – in particular, same-sex family couples and children raised by them.

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 LGBTIs – as a vulnerable group. Special attention should be paid to this issues within the development of amendments to the current Action Plan on Human Rights.
3. **The Ministry of Justice of Ukraine** is recommended to implement Action 6, Para. 105 of the Action Plan on Human Rights – development and submission to the Cabinet of Ministers of Ukraine a draft law to legalize registered civil partnerships for both opposite-sex and same-sex couples in Ukraine. Although adoption of such a law by the Verkhovna Rada in the near future seems unlikely, this would send to Ukrainian society the right message from the Ukrainian government, while indulgence towards homophobic sentiments in society can only contribute to their strengthening. By leaving without solutions the problems of overcoming social homophobia and establishing the legal status of same-sex partnerships, the Ukrainian government only

postpones them into the future and complicates its tasks towards European integration.

4. **The Ministry of Health of Ukraine** is recommended:

To amend the MoH Order 479 from 20.08.2008 "On Approving the List of Diseases Having Which Disables a Person to Be an Adoptive Parent" by removing from it the code F64 (item 9 "Gender identity disorders").

To monitor implementation and maintenance of a new order of medical care to persons in need of gender reassignment; to continue the development and adoption of amendments to this order in collaboration with activists of the transgender community – in particular, to reduce the minimum term for psychiatric supervision of patients with transsexual identification set by the Unified Clinical Protocols "Gender Dysphoria" (now – 2 years).

5. **The Ministry of Education** is recommended to include topics of sexual orientation and gender identity in the school curricula and programmes of universities and professional training of the teaching staff; to attract LGBT and other civil society organisations to design and implement such programmes. The state standards of social work with adolescents and young people belonging in particular to LGBTs, and providing them with social and psychological services in their social adaptation must be developed and implemented in accordance with Action 9, Para. 107 of Action Plan on Human Rights. Development of these standards should involve representatives of NGOs that represent and protect the interests of these vulnerable groups.

6. **Ministry of Internal Affairs of Ukraine** is recommended:

Regularly to hold educational activities with their staff on the topics of tolerance and inadmissibility of human rights violations regarding LGBTIs, and (together with the prosecutors) thoroughly and impartially to investigate instances of human rights violations of LGBTI people committed by police officers and to bring the guilty persons to liability.

To submit the bill designed to implement Action 3 of Para. 105 of the Action Plan on Human Rights to the consideration of the Cabinet of Ministers, and recommend to The Cabinet of Ministers to introduce the bill to the Verkhovna Rada. The developed draft law should be amended as follows, aiming for the precise implementation of the Action Plan and providing a legal basis for the proper qualification, effective investigation and appropriate punishment of hate crimes on any grounds:

- The open list of grounds, relating to motives of intolerance which aggravate punishment of the offences, contained in the bill, should explicitly include all characteristics which in practice occur in hate crimes in Ukraine. In fact, the bill referred to all these characteristics except sexual orientation and gender identity as well as political or ideological beliefs.
- The bill is to amend the Paragraph 2 of Article 67 of the Criminal Code of Ukraine by adding Paragraph 3 of Part 1 of Article 67 in the list of the provisions of Article 67 which the court may not ignore. This will ensure the proper qualification of any offence under the Criminal Code, which includes the motive of intolerance to a particular characteristic, as a hate crime.
- It is recommended to remove the clause of the bill amending Article 161, as it prevents the introduction of the bill to the Verkhovna Rada until completion of consideration of Bill 3501, which also amends this article. However, if, at the time of consideration the MIA's bill by the Cabinet of Ministers, Bill 3501 will finally be approved or rejected by Parliament, this provision should be retained, because it significantly improves the legal effectiveness of Article 161 as compared to its current text or those proposed in Bill 3501. The urgent need for introduction of the other changes provided for in the MIA's bill to the Criminal Code has resulted from the fact that in the case of adoption of Bill 3501 the Criminal Code

will lose any legal basis to investigate hate crimes on grounds other than race, nationality / ethnicity, or gender.

7. **The state authorities, local government** 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"
 - To take note and explain to the public that the concept of family under the Family Code of Ukraine is not limited to officially registered marriage, and the protection of the interests of family extends to all forms of family relations.
 - To prevent and condemn public manifestations of homophobia, adhere to the principles of respect, equality and non-discrimination for all social groups.

8. METHODOLOGY AND THE 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 LGBTI people in Ukraine, at least from the viewpoint of the Ukrainian LGBTI community. State institutions, except for the Parliament Commissioner for Human Rights, practically neither monitor themselves 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 LGBTI and human rights organisations and individual activists, simply do not exist.

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

- Monitoring violations of LGBTI 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 LGBTI community.
- Advocacy for the protection of equal rights for LGBTIs on the legislative and political levels.
- Strategic litigation.
- Supporting local initiative groups, mobilizing LGBTI communities at the local level.