

## Re: The situation of LGBTQ people in Ukraine in 2023

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***In the first half of 2023, the Verkhovna Rada of Ukraine continued to pass laws prohibiting discrimination based on sexual orientation and gender identity in accordance with EU legislation. Currently, the most problematic and urgent issue in this area is the introduction of registered civil partnership in Ukraine, available to same-sex couples: Inna Sovsun MP submitted her Bill 9103 to the VRU for consideration, and the Ministry of Justice is to submit a similar document in December this year. On June 1, the ECtHR ruled that lacking any form of legal recognition of same-sex couples in Ukraine is a violation of the European Convention on Human Rights.***

***This issue is widely covered in the Ukrainian mass media from mostly neutral or friendly positions, with the exception of conservative religious publications. The main opponent of legal equality for LGBTQ people is the leading Ukrainian churches, which adhere to an uncompromisingly hostile position and refuse dialogue and public discussion of these issues. Most of the Verkhovna Rada members are inclined to listen to their opinion, but the situation in this area is changing rapidly. According to all the latest public opinion polls, the attitude of Ukrainian society towards LGBTQ people is steadily improving, and towards churches, it is getting worse. Another campaign of homophobic appeals by local councils to the state leadership was noticeably weaker than similar campaigns in previous years.***

***The Pride Month in 2023 was marked by an unprecedented wave of symbolic support from Ukrainian businesses, including leading ones in their fields of activity, which published statements in support of LGBTQ people and/or painted their logos on social networks in rainbow colors. Meanwhile, there were also attempts to discriminate against LGBTQ people in hiring that is expressly prohibited by Ukrainian legislation. The total number of cases of discrimination, hate crimes and other violations of LGBTQ people's rights, as in several previous years, shows a downward trend.***

### 1. GENERALIZED SOCIO-POLITICAL SITUATION

#### LEGISLATION AND JUDICIARY

In May 2023, the Verkhovna Rada amended the law "On advertising" by prohibiting job advertisements from making demands on a number of grounds, including sexual orientation (Article 24-1).

Back in May 2021, the Cabinet of Ministers submitted to the Verkhovna Rada for consideration Bill 5488 developed by the Ministry of Internal Affairs, which provides for the criminalization of hate crimes and hate speech as well as a direct ban on discrimination based on sexual orientation and gender identity (hereinafter abbreviated as SOGI). In May 2023, it was finally considered by the relevant parliamentary Committee on Law Enforcement, which recommended that the Verkhovna Rada adopt this bill in the first reading as a basis. Now it may be submitted for consideration by the plenary session of the parliament. According to the Plan of Legislative Work of the Verkhovna Rada for 2023, Bill 5488 is to be considered in the last quarter of this year.

In March 2023, Inna Sovsun MP (Holos party), who was joined by 17 more members of the parliament from the parties Holos and Servant of the People, introduced to the Verkhovna Rada Bill 9103 "On institution of registered partnerships," which provides for the introduction of registered civil partnerships in Ukraine, available for both opposite-sex and same-sex couples. According to this document, civil partners should receive the status of a close relative of the first degree of consanguinity and the basic rights and obligations of marriage, with the exception of issues related to the adoption of children. Bill

9103 has not yet been considered by the relevant parliamentary Committee on Legal Policy, but received positive conclusions from four other parliamentary committees.

The Ministry of Justice reported that, according to the Human Rights Action Plan, it is developing a similar draft law, which should be completed and submitted to the Verkhovna Rada for consideration in December 2023. The Plan of Legislative Work of the Verkhovna Rada for 2023 adopted by the parliament provides for consideration of the draft law on registered civil partnerships also in December 2023 (Item 297). The justification for such a step is “Implementation of the recommendations of the European Commission regarding Ukraine's application for EU membership dated June 17, 2022, COM (2022) 407 final, which states that ‘sexual orientation and gender identity are not recognized as protected characteristics in anti-discrimination legislation.’” It should be noted that, according to the Regulations of the Verkhovna Rada, the introduction of alternative bills is possible only within 14 days after the registration of the first bill on a certain issue, therefore, in order to submit the draft law, which is currently being developed at the Ministry of Justice, to the Verkhovna Rada for consideration, it will be necessary to find a way to bypass this limitation.

The adoption of a law on registered civil partnership is also to correct the systemic shortcomings of Ukrainian legislation which are indicated in the decision of the European Court of Human Rights in the case *Maymulakhin and Markiv v. Ukraine* adopted on June 1, 2023. The panel of judges unanimously decided that Ukraine violated Article 8 of the European Convention on Human Rights (right to respect for private and family life) in combination with Article 14 (prohibition of discrimination) due to the absence in our country of any form of state registration for same-sex family partners and, as a compensation for moral damage, ordered to pay them 5,000 euros each as well as to reimburse the costs of lawyers' work. When considering the case, the court took into account Ukraine's application for EU membership, available information on petitions and actions to support same-sex marriages / partnerships in our country, survey data on the attitude of Ukrainian society to these issues, recommendations of international organizations on this matter. As the basis for the conclusions, the court also used the general analysis of the situation with the recognition of same-sex unions in the Council of Europe member states, carried out by the Grand Chamber of the ECtHR in the case *Fedotova and Others v. Russia*.

In February 2023, the Verkhovna Rada withdrew from consideration Bill 3916 authored by the well-known by his homophobic initiatives Hryhorii Mazurashu MP (Servant of the People party) which proposed to prohibit “propaganda of homosexuality and transgenderism.” Similarly, the draft Resolution of the Verkhovna Rada No. 6473, introduced by Oleksandr Kachura MP (Servant of the People party), which called to cancel the state support for the production of the feature film “My Young Prince” touching on LGBTQ topics, was withdrawn from consideration. Both documents did not receive the recommendations of the parliamentary committees necessary for their submission to the plenary session of the Verkhovna Rada.

In February 2023, the Supreme Court of Ukraine considered a cassation appeal against the decision of the Shevchenkivskiy District Court of Kyiv dated February 24, 2021, and the decision of the Kyiv Court of Appeals dated November 23, 2021, in the lawsuit of NGO Insight against Patriarch Filaret of the Ukrainian Orthodox Church – Kyiv Patriarchate, who in an interview to Channel 4 called same-sex marriages the cause of the coronavirus epidemic. Courts of previous instances came to the conclusion that such an assessment is an expression of the subjective opinion of Patriarch Filaret and not a statement of fact, such conclusions can neither be refuted nor confirmed, and therefore cannot be the subject of a dispute. The Supreme Court left the mentioned decision and resolution, which refused to satisfy the claimant's demands, unchanged.

#### **STATE AND LOCAL AUTHORITIES, LAW ENFORCEMENT AGENCIES**

In May 2023, the President of Ukraine Volodymyr Zelenskyi evasively responded to the petition in support of Bill 9103 “On institution of registered partnerships,” noting that “[...] the Ukrainian state deliberately chose to move towards European standards which are based on the three fundamental values of the Council of Europe — democracy, rule of law, and human rights. European law proceeds from the fact that

respect and protection of fundamental human rights (primarily [...] the right to respect for private and family life, prohibition of discrimination) is the main duty of the state.”

According to the reports of LGBTQ activists, during the first half of 2023 the Ministry of Justice of Ukraine has already prepared the text of a draft law on registered civil partnerships, which, according to the Human Rights Action Plan, is to be submitted by the Ukrainian government to the Verkhovna Rada for consideration in December of this year. Deputy Minister of Justice Valeriya Kolomiets quite actively covered the progress of work on this document and repeatedly expressed her support to it and the protection of LGBTQ people’s rights in general.

It is noteworthy that representatives of the Ukrainian government, in general, were skeptical of the similar Bill 9103 initiated by Inna Sovsun MP, at the same time mentioning the government's intentions to develop its own draft law. In particular, proposals to Bill 9103 were published on behalf of Defense Minister Oleksiy Reznikov, in which he stated that his ministry does not support this document and expressed a number of comments to it, which, however, look quite strange and contradict the current Ukrainian legislation. After that, NGO “Ukrainian LGBT+ military for Equal Rights” asked Minister Reznikov for a meeting to discuss controversial issues regarding this bill. Ministry of Defense’s officials promised to arrange such a meeting with the Minister or another official representative of the ministry, but had not fulfilled this promise at the time of writing this report.

One of the problematic issues for the Ministry of Defense was the lack of information about the number of LGBTQ people among military personnel, in connection with which the command of some Armed Forces units began to conduct allegedly anonymous surveys of personnel whether they are LGBTQ persons or know LGBTQs among other military personnel. LGBTQ and human rights organizations, however, immediately pointed out the flawed methodology of such a survey, its fundamental unreliability and insignificance in relation to issues of protecting LGBTQ military personnel rights.

During the Pride Month, two government bodies — the Ministry of Culture and the Ministry of Foreign Affairs — painted their logos on their social media pages in the rainbow colors as a sign of solidarity with the LGBTQ community. Although the Ministry of Foreign Affairs of Ukraine decided not to sign the joint statement of the ministers of the Council of Europe member countries on the occasion of May 17 — the International Day against Homophobia, Biphobia and Transphobia, — the Ambassador of Ukraine to Moldova signed a joint letter of representatives of foreign countries and international organizations in support of the Pride Month in this country. On December 26, the Ambassador of Ukraine to the USA Oksana Markarova took part in the opening of the photo exhibition “LGBTIQ+ in Defense of Ukraine” organized in the US capital, Washington DC, by a number of LGBTQ organizations with the help of the Ukrainian Embassy.

The official representative of Ukrzaliznytsya (state-owned Ukrainian Railways), responding to the request to organize separate compartments for women, stated that this service would also be available for transgender women.

Local councils of few oblasts and cities, mainly in the west of Ukraine, took part in a campaign against the adoption of Bill 9103 on registered civil partnerships, organized with the help of leading Ukrainian churches. Deputies of local councils participated in public discussions of this topic and / or adopted appeals to the central government with demands not to adopt laws to protect the rights of LGBTQ people, prepared with the help of the homophobic movement “All Together!” — particularly, such documents were supported by Kovel (Volyn oblast), Ivano-Frankivsk and Lutsk city councils. Alla Domanska, a member of the Lutsk City Council from the European Solidarity party, unsuccessfully tried to dissuade her colleagues from such a step. Meanwhile, the Rivne City Council did not support a similar appeal proposed by three of its members from Svoboda party.

In general, this next campaign of homophobic appeals by local councils to the state leadership was noticeably weaker than similar campaigns in previous years. Local religious and ultra-conservative activists expressed their indignation by the fact that they did not find any support from local state administrations, and the Lviv Oblast Military Administration even arranged an educational lecture on the topic of sexism, gender discrimination, and homophobia for civil servants and members of local councils.

## POLITICS, MASS MEDIA AND SOCIETY

The introduction of a draft law on civil registered partnership to the Rada Verkhovna by Inna Sovsun MP, perhaps, for the first time made the issue of LGBT rights protection one of the leading topics of Ukraine's domestic policy. Although most members of the Verkhovna Rada stayed away from the discussion of such topics, Inna Sovsun managed to attract 17 more members of parliament as co-initiators of this bill: 5 of her fellow party members from Holos and 12 from the ruling Servant of the People party, including the heads of these parties Kira Rudyk (Holos) and Olena Shulyak (Servant of the People).

Last year, the Servant of the People party finally decided on its ideology, joining the pan-European political association Alliance of Liberals and Democrats for Europe (hereinafter abbreviated as ALDE), while Holos party, which always positioned itself as a liberal political force, has been a member of this association since 2020. Holos party became the only one of the leading Ukrainian political forces to paint its logo in rainbow colors during the Pride Month.

It is worth noting that not all members of the Servant of the People and its parliamentary faction share the liberal-democratic ideology; this party was actually formed as just a support group for the current president of Ukraine, Volodymyr Zelenskyi. While the head of Holos Kira Rudyk argued for the support of Bill 9103 on ideological grounds (“Liberal values are about equal opportunities for everyone. That is why I support the draft law of my colleague Inna Sovsun on registered partnerships”), the head of the Servant of the People Olena Shulyak appealed to calls from public organizations and citizens (“when I read the appeals of concrete people who write that ‘now in Ukraine, every day may be the last for us,’ and ask to grant them equal rights with traditional couples — it is simply impossible to ignore it”). Thanks to Inna Sovsun’s initiative, a resolution supporting the introduction of civil registered partnerships in Ukraine was adopted at the ALDE Congress held in May 2023 that became a surprise for its participants from the Servant of the People party.

According to Inna Sovsun, currently there is a lack of votes in support of any bill on same-sex civil partnerships both in the Verkhovna Rada as a whole and even in the relevant parliamentary Committee on Legal Policy — however, the situation is gradually changing for the better, and certain members of parliament are changing their views on this topic. Homophobic statements and actions of the Russian authorities are one of the reasons that motivate such changes. In particular, quite unexpectedly, Bill 9103 was supported by the head of the parliamentary Committee on Youth and Sports Andrii Kozhemyakin (Batkivshchyna party). According to the author of this draft law, Mariya Klyus, assistant to Inna Sovsun, at the committee meeting Andrii Kozhemyakin stated that he supports Christian values, “But we are now in a state of war, we clearly know who is our enemy, who is our friend. And if we can do something to move away from Russian ‘ties’ [i.e. officially stated common values], then I support this decision and this draft.”

Ultra-conservative and radical-nationalist socio-political forces, in particular, such as the parties National Corps, Right Sector, Svoboda, etc., remain irreconcilable opponents of equal rights for LGBTQ people. They are not influential at the national level and are not represented in the Verkhovna Rada, with the exception of Svoboda whose one member was elected to the parliament in a majority district. Svoboda party, however, is quite noticeably represented in local councils, especially in the west of Ukraine, where it consistently promotes a homophobic agenda together with religious activists. In particular, Svoboda faction in the Volyn Oblast Council issued a statement condemning efforts to promote “aggressive gender ideology in the educational sphere” and to legalize same-sex marriage in Ukraine, and prepared a draft of a corresponding appeal to the Verkhovna Rada, which, however, was not supported by the council.

During the Pride Month, aggressive opponents of the LGBTQs also became noticeably more active — in particular, the organizers of the international queer film festival Sunny Bunny, which was successfully held on June 22-28 in Kyiv, received numerous threats to set fire to the cinemas Zhovten and KINO42, which were showing the festival program. Zhovten cinema was already heavily damaged by arson committed for similar reasons on October 29, 2014, so the organizers of the festival and the management of the cinemas immediately contacted the police. This time, the threats of unknown attackers were not implemented.

The Pride Month, which lasted from May to June 2023, was also marked by a symbolic wave of support from businesses, both small and leading in their fields of activity, unprecedented in Ukraine before. Such large national companies as Apteka Dobroho Dnya pharmacy chain, all major mobile phone operators — Vodafone, Kyivstar, Lifecell, — the chain of household appliances and electronics stores Comfy, the state and largest postal service in Ukraine Ukrposhta, Internet provider Lanet, and others published statements in support of LGBTQ people and / or painted their logos in rainbow colors. The reaction of the audience to such actions was very various; they received both approval and strong condemnation. According to Mariya Nazarenko, Marketing and E-commerce Director of Comfy, after the company published its logo with a rainbow flag on its Facebook page, the number of new subscribers increased threefold.

At the same time, the reaction to the Pride Month on the part of the largest private postal company Nova Poshta was restrained but noticeably unfriendly: administrators of its social networks deleted questions about the company's attitude to LGBTQ people from users and even blocked the most active of them. According to the reports of critics of Nova Poshta, this is connected with the personal position of its owner. An even bigger scandal erupted around the publication of an advertisement for employment at the IT company Soft.ua, in which the requirements for candidates included “non-involvement in the LGBT movement.” After the company's management realized that such requirements directly contradicted the current Ukrainian legislation and could lead to them being brought to administrative and even criminal liability, this ad was removed from the job vacancies website, but Soft.ua and its manager Dmytro Asmohilov on their pages in social networks repeatedly emphasized their fundamentally negative attitude towards LGBTQ people.

However, according to all recent public opinion polls, such attitude is now shared by a minority of Ukrainian society. Thus, a comprehensive study by the Sociological Group Rating, conducted in early 2023, found that, within the year since the beginning of the full-scale Russian invasion, the neutral or positive attitude towards the LGBT community increased from 53 to 64%. According to the research by the Cedos Analytical Center and the Agency Info Sapiens “The impact of war on youth in Ukraine,” during 2022 the share of those who do not want to live next to LGBT people decreased from 31% to 28%. A survey by the Kyiv International Institute of Sociology ordered by Nash Svit Center in June 2023 also confirmed this positive trend: over the year, the share of those who have a negative attitude towards LGBT people decreased from 38.2% to 33.9%; the share of those who support the introduction of civil registered partnerships for same-sex couples increased from 23.6% to 28%, while the share of those against it decreased from 41.9% to 38.9%.

Ukrainian mass media, for the most part, very actively and positively covered the participation of openly LGBTQ people in the war against Russia and the introduction of registered civil partnerships. The exception was religious websites, which voiced the irreconcilably homophobic position of the leading Ukrainian churches — however, they are not too visible and popular in the Ukrainian mediaspace.

#### **CHURCHES AND RELIGIOUS ORGANIZATIONS**

In 2023, official representatives of the leading Ukrainian churches, united within the All-Ukrainian Council of Churches and Religious Organizations (hereinafter abbreviated as AUCCRO), focused their efforts on opposing the introduction of registered civil partnerships available to same-sex couples in Ukraine. On March 27, AUCCRO appealed to the Chairperson of the Verkhovna Rada regarding the inadmissibility of the adoption of Bill 9103, and on June 14 it published a statement “on the inadmissibility of equating same-sex cohabitation with family” (although, according to Ukrainian legislation, same-sex partnership is already considered as family), responding to the ECtHR's decision in the case *Maymulakhin and Markiv v. Ukraine*.

Similar statements with objections to any steps towards the recognition of family relationships and protection of same-sex partners' rights were also made by the heads of particular churches and religious associations — namely, the Ukrainian Greek Catholic Church, Orthodox Church of Ukraine, Ukrainian Orthodox Church – Kyiv Patriarchate, all-Ukrainian associations of Pentecostals, Baptists, etc.

Leading religious media began to regularly republish extremely manipulative materials on LGBT issues prepared by the homophobic movement “All Together!” led by religious activist and journalist Ruslan

Kukharchuk, and leaders of Ukrainian churches began to participate in events organized by this movement. Church officials, however, carefully avoided wording that would directly condemn homosexuality and LGBTQ people, replacing them with vague phrases about "protecting the family" and "family values." Particularly, one more march "for family values" was held in Kamianets-Podilskyi on May 21 organized by the local Spiritual Council of Christian Churches and Religious Organizations that, unexpectedly for its organizers, caused a flurry of criticism in social networks as an event directed against LGBTQ people and European integration of Ukraine. The representatives of the Spiritual Council were forced to justify themselves, emphasizing that nothing in the announcements or speeches of the clergy indicated that this was an "anti-LGBT march" or mentioned the topic of homosexuality.

Obviously, Ukrainian churches are forced to respond to the changing mood of Ukrainian society which is becoming more and more tolerant and friendly to LGBTQ people and is beginning to become disillusioned with the church. The latest sociological surveys demonstrate both the growth of support for the LGBTQ community and the decline in the authority of the church in Ukraine. Thus, a sociological survey conducted by the Razumkov Center from May 23 to 31, 2023, showed that within just three months the level of public trust in the church decreased by 9 percent compared to February-March of this year down to 61%. The level of public trust in public organizations turned out to be the same, but compared to churches, they received a lower level of mistrust.

Individual religious activists and representatives of churches began to express their disagreement with the position of the church leadership and ultra-conservative believers who demand that the state live according to religious laws and have an uncompromising attitude towards homosexuality. In particular, such views were expressed by the well-known religious expert, activist and journalist with theological education Viktor Tregubov (Orthodox) and military chaplain Olena Lehenchuk (Pentecostal).

#### **LGBTQ COMMUNITY**

As for the entire Ukrainian society, the main issues of the LGBTQ community in 2023 were helping the armed forces in resisting Russian aggression and surviving in war conditions. Many Ukrainian LGBTQ organizations in these difficult times focused their efforts on supporting the community, in particular, providing emergency material and financial assistance to victims of hostilities and temporary shelter to refugees from occupied and dangerous territories. Some organizations from the east and south of Ukraine were forced to evacuate almost all of their personnel to relatively safe regions, becoming forced migrants themselves.

Public activity to protect the rights of LGBTQ people this year was mainly focused on advocacy for the adoption of a law on registered civil partnership, especially by the NGO "Ukrainian LGBT+ military for equal rights" and simply open LGBTQ military, actively assisted by journalists and other LGBTQ organizations. This provoked a noticeable increase in counteractivity by homophobic religious activists and the military, who have tried in every way to downplay the merits of LGBTQ soldiers or to deny their existence altogether. It is worth noting that the not very tolerant attitude towards LGBTQ people in Ukrainian society forces the vast majority of them to hide their identity, in particular, in the military service; open LGBTQ people in Ukraine still make up a small share of their total number.

Although, in general, the attitude towards LGBTQ people in the Ukrainian military may be described as tolerable, the lack of an official policy of the Ministry of Defense and the Ministry of Internal Affairs on this issue leads to the situation when everything depends on the specific circumstances. There happen some regrettable cases of intolerant behavior and even violence. The most intolerant attitude towards LGBTQs is demonstrated by various military units formed by right-wing radical organizations; however, this does not create serious problems due to the fact that those units consist of volunteers with the corresponding ideological views, among whom there are no openly LGBTQ people.

LGBTQ activists serving in the Armed Forces report, for the most part, a neutral attitude from their fellow soldiers and commanders as well as absence of discrimination in promotion and awards for dutiful service. The only openly transgender woman in the Armed Forces, an American volunteer, military journalist Sarah Ashton-Cirillo recently became the host of the official English-language news of the Territorial Defense Forces.

Transgender people in some places experience problems with the necessary hormonal drugs — both with their availability and with the cost against the background of a general decrease in their incomes. LGBT and charitable organizations try to help them in solving this problem as much as possible.

## 2. VIOLENCE, DISCRIMINATION AND OTHER VIOLATIONS OF LGBTQ PEOPLE’S RIGHTS<sup>1</sup>

In the first half of 2023, Nash Svit Center’s monitoring network documented 24 cases of actions based on homophobia / transphobia, discrimination and other violations of human rights on SOGI grounds in Ukraine, as well as 3 cases happened abroad with Ukrainian refugees. The distribution of the documented cases by region is indicated in Table 1:

*Table 1*

| Region                                      | Number    |
|---|-----------|
| Kyiv and Kyiv oblast                        | 5         |
| Zhytomyr and oblast                         | 3         |
| Ivano-Frankivsk and oblast                  | 3         |
| Lviv  | 3         |
| Donetsk oblast                              | 2         |
| Lutsk                                       | 1         |
| Kirovohrad oblast                           | 1         |
| Mykolaiv                                    | 1         |
| Odesa region                                | 1         |
| Poltava                                     | 1         |
| Rivne                                       | 1         |
| Ternopil                                    | 1         |
| Chernivtsi                                  | 1         |
| Abroad (Netherlands — 2, Great Britain — 1) | 3         |
| <b>Total</b>                                | <b>27</b> |

### Violations by the occupying forces (war crimes)

We documented one war crime committed by the Russian invaders in temporarily occupied Donetsk. At the end of April, a gay man aged 29 was subjected to insults and physical violence by a Russian military patrol — they did not like his appearance and voice that led them to the conclusion of his homosexual orientation. They also took the victim’s smartphone.

<sup>1</sup> In this section, the number of documented violations of LGBTQ people’s rights may apparently exceed the number of cases, because some cases involve several violations.

### Interaction with private persons

As in previous years, the largest number of cases (21) concerns actions based on homophobia and transphobia. 11 of them may be characterized as hate crimes, 8 — as hate incidents, 2 — as hate speech according to the OSCE classification. In these cases, the following types of violations were noted (please see Table 2):

Table 2

| Types of violations   | Number |
|---|--------|
| insults, threats, humiliation of human dignity                | 16     |
| physical violence of various degrees of severity              | 13     |
| extortion, blackmail  | 2      |
| robbery, brigandage   | 2      |
| illegal collection and disclosure of confidential information | 1      |
| intentional destruction or damage to property                 | 1      |
| homophobia / transphobia in the family                        | 1      |
| homophobic inscriptions / calls                               | 2      |

#### Case 2274

In the evening at late May, Danylo aged 25 was attacked by a group of unknown youths in the capital's Podil district because of his appearance. He was insulted due to his sexual orientation, and also received several blows. He immediately called the police, but the patrol did not come by the curfew beginning that made the victim hurry home.

The next day, he filed a complaint with the police, and Nash Svit Center provided him with legal assistance. Due to the publicity that this story gained in mass media<sup>2</sup>, as well as due to the appeal of the Parliamentary Commissioner for Human Rights to the leadership of the capital police, law enforcement officers opened criminal proceedings under Art. 161 of the Criminal Code ("Violation of the equality of citizens"), but when the two attackers were detained they were charged under Art. 296 of the Criminal Code ("Hooliganism") that, in our opinion, shows the reluctance of law enforcement officers to apply Article 161 of the Criminal Code to investigate crimes of intolerance on SOGI grounds.

#### Case 2277

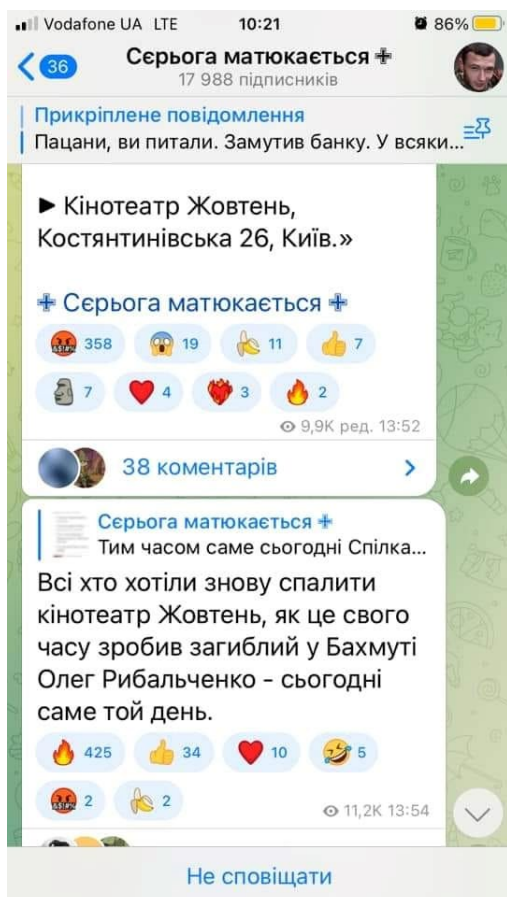
From June 22 to 28, the International queer film festival Sunny Bunny was held in Zhovten and KINO42 cinemas in Kyiv. Shortly before the start of this event, far-right pages in social networks started publishing calls to set fire to these cinemas, and the cinemas received such threats (please see screenshots below) that forced them to contact the police and take additional security measures.

<sup>2</sup> <https://life.pravda.com.ua/society/2023/05/30/254563>





In particular, one of the leaders of the far-right organization C-14 Serhiy Bondar openly called on his followers to burn down these cinemas for the second time (Zhovten cinema was already burned down in 2014 due to the screening of LGBT-themed films).



### Relations with law enforcement agencies

In 7 cases, the interaction of the victims with law enforcement agencies was noted. In three of them, cases of violations of LGBTQ people's rights by law enforcement officers were documented (please see Table 3):

Table 3

| Infringed rights (by what actions)   | Number |
|--|--------|
| effective means of legal protection (refusal to protect rights)  | 2      |
| equality and non-discrimination (biased treatment due to sexual orientation or gender identity)  | 1      |
| freedom and personal integrity (violation of procedural norms, excess of official powers, insults, humiliation of human dignity, threats, physical violence) | 1      |
| respect for private life (intrusion into private life, illegal collection and disclosure of confidential information)  | 1      |

#### Case 2259

At the beginning of March in the city of Kremenchuk, Poltava oblast, a gay man aged 24, an internally displaced person, was "asked" by the local police to drive with them to the police station to clarify some circumstances. There, he underwent threats from a group of law enforcement officers who baselessly accused him of drug distribution, treason, etc. When they found information in his phone that indicated his sexual orientation, the taunts and bullying began. In particular, they said, "I would cut people like you with a knife, there is no sense in you," "you will eat shit and drink urine in the dust," waved their hands as if to strike, gave him painful slaps. The victim was forced to confess to some crimes, but he denied everything. Then he was released, but before that, they took a picture of something in his phone, entered some codes there, and also forced him to sign in the visit logbook that he had no any claims. They also ordered him to come to the police station upon their first call to be "witness." He spent the whole night in the station.

#### Law Proceedings

The Zhytomyr District Court was considering a criminal case regarding the torture of a non-binary person for more than two years (we previously wrote about this crime and the problems associated with its investigation in our reports for 2020 and 2021), but it still has not reached the substantive hearing stage. Meanwhile, the defendants, who are charged with serious crimes (torture, beatings and murders, robbery), have not been restricted in their freedom in any way, avoid court hearings and even go abroad during martial law, due to which hearings are constantly postponed. Nash Svit Center provides legal support for the victim in this case.

The terrible crime happened back in April 2020 on the outskirts of Zhytomyr: then a group of youths tormented the victim all night only because of her gender identity.

Since the trial began in March 2021, the situation in the case has not improved in any way: only eight hearings took place, most of which focused on procedural issues initiated by the accused party, and another fifteen scheduled hearings did not take place at all for a variety of reasons — in particular, non-appearance of the accused, their representatives, or other circumstances. Thus, after more than two years of litigation, the case did not even reach a hearing on the merits. Because of this, the victim decided to appeal to the High Council of Justice with a complaint about the inactivity of the court and violation of her right to a fair trial due to the artificial delaying of the process. The complaint provides specific information on the signs of disciplinary misconduct in the judge's behavior and states that the judge's actions and procedural decisions appear to favor the defendants, which negatively affects the rights of the victim and her ability to receive fair satisfaction within a reasonable time.

All these circumstances, as well as cases of the defendants openly mocking the victim, both in the courtroom and outside it, have an extremely negative effect on the psychological state of the victim and her family.

This and similar cases, which, unfortunately, are numerous, cause the representatives of the LGBTQ community to distrust the law enforcement and judicial system. It is typical that since the new Criminal Code of Ukraine came into effect (2001), not a single indictment has been brought to court under Article 161 of the Criminal Code — the only one that, at least hypothetically, provides for responsibility for crimes committed under motives of homophobia / transphobia; not a single court verdict has been issued, in which such motives of perpetrators would have been openly indicated. Meanwhile, for about two years, the Verkhovna Rada has not been able to consider Bill 5488 on the criminalization of hate crimes and incitement of enmity on a number of grounds, including SOGI.

In **employment**, 3 cases of discrimination based on SOGI were documented, two of which were related to illegal refusal to hire and one to harassment, interference in private life, and illegal collection and disclosure of confidential information.

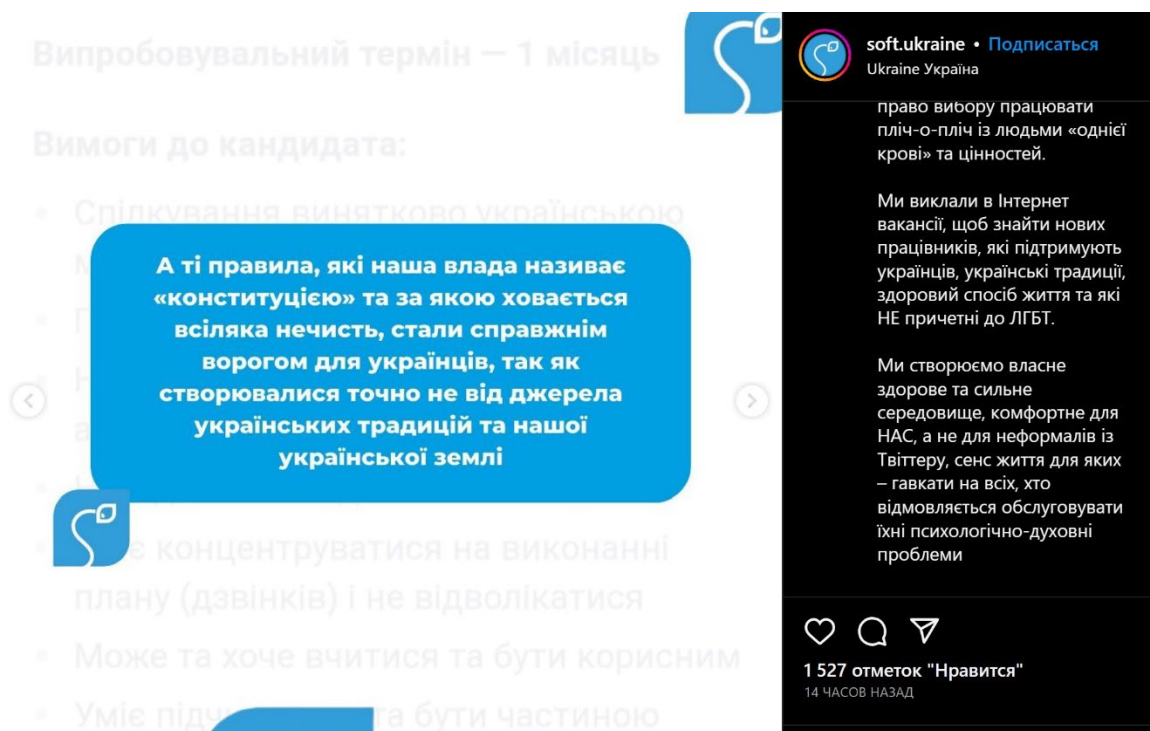
*Case 2278*

In June, employer SOFT.UA posted a vacancy announcement on the job search site Work.ua. Among the requirements for candidates, it openly noted, “not to belong to the LGBT community.”

**Вимоги до кандидата:**

- Спілкування винятково українською мовою
- Підтримує все українське
- Не має шкідливих звичок (паління, алкоголь, наркотики)
- **Не відноситься до ЛГБТ спільнот**
- Уміє концентруватися на виконанні плану (дзвінків) і не від
- Може та хоче вчитися та бути корисним

The next day, after numerous complaints, this line was removed from the ad. However, SOFT.UA company has repeatedly confirmed its homophobic / transphobic position on its pages in social networks and assured that it will continue to adhere to it, as well as expressed dissatisfaction with the current constitutional and legal norms that prohibit discrimination on SOGI grounds in employment.



In **provision of goods and services**, 3 cases of discrimination on SOGI grounds were documented, consisting of denial of service, inaction of the administration and prejudiced attitude.

In **health care**, one case of denial to provide medical services to a transgender person was documented.

In **education**, one case of discrimination on SOGI grounds was recorded, which consisted of a teacher's biased attitude towards a female student, underestimation of her grades, interference in personal life, insults and threats.

In **the Armed Forces of Ukraine**, 3 cases of rights violations based on SOGI were documented: 2 cases of discrimination by representatives of the Territorial Recruitment Centers when serving call-up papers and 1 case of harassment of a soldier by his fellow military due to his sexual orientation.

**Abroad**, we documented 3 cases of intolerance towards Ukrainian refugees due to their sexual orientation. It is noteworthy that in two of these cases violators were also Ukrainian refugees.

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*2022 was a very difficult year for all members of our small organization as well as for all Ukrainian people. We may definitely call a success that after the homophobic pogrom of our office and many other troubles in the first months of the war, we were able to overcome the problems, remain a united group of like-minded people, and carry on our activities.*

You can support Nash Svit's activity at <https://gay.org.ua/donation/>