

**Council of LGBT Organisations of Ukraine
Nash Mir (Our World) Gay & Lesbian Centre**

LGBT Vector of Ukraine

The Situation of LGBT in Ukraine (November 2011 – 2012)

Kyiv
2013

Report «LGBT-vector of Ukraine» (English summary)

The publication contains various information reflecting the social, legal and political position of sexual minority citizens in Ukraine for the period from November 2011 till end of 2012. Included are analysis of legislation; speeches by state, political and public figures; data determined by a sociological poll; the results of our monitoring the observance of LGBT rights.

Original report drafted by Olexandr Zinchenkov
English summary by Andrei Kkavchuk
Coordinator of Nash Mir's projects: Andriy Maymulakhin

The authors express their sincere gratitude to all active participants of e-list LGBT Leaders, who collect and share relevant information about various aspects of the situation of LGBT people in Ukraine.

The report was prepared with the financial support from The Royal Netherlands Embassy in Kyiv. Monitoring violations of LGBT rights was also co-funded by "Remembrance, Responsibility and Future" Foundation (Germany).

This publication does not represent an expression of opinion by named donors. Nash Mir Centre bear responsibility for the content.

NASH MIR (Our World) Gay and Lesbian Center

Postal address: P.O. Box 173, Kyiv, 02100, Ukraine
Telephone/fax: +380 (44) 296-34-24
E-mail: coordinator@gay.org.ua
Internet-site: <http://www.gay.org.ua>

Council of LGBT Organisations of Ukraine

Postal address: P.O. Box 173, Kyiv, 02100, Ukraine
Telephone (Secretary): +380 (50) 315-54-57
Telephone/fax: +380 (44) 296-34-24
E-mail: info@lgbt-rada.org.ua
Some official statements of the Council could be found at <http://www.gay.org.ua>

© Nash Mir, Kyiv, 2013.

Parts of the report may be reproduced for noncommercial, educational, or scientific purposes, provided that the copyright statement and source for that material are clearly acknowledged and that the material is reproduced without alteration.

The report (in Ukrainian, Russian, and English summary) can be found on the Internet at:
<http://www.gay.org.ua/annualreports>

CONTENT

| | |
|---|----|
| Introduction | 4 |
| Methodology | 5 |
| 1. Legislation | 6 |
| 1.1. Draft laws on prohibition of “propaganda of homosexuality” | 6 |
| 1.2. Law “On Fundamentals of Prevention and Counteraction to Discrimination in Ukraine” | 7 |
| 1.3. Criminal Procedural Code of Ukraine | 8 |
| 1.4. Recommendation CM/Rec(2010)5 of the Council of Europe’s Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity | 8 |
| 1.5. UN Universal Periodic Review | 9 |
| 2. State bodies and local authorities | 10 |
| 2.1. The President of Ukraine | 10 |
| 2.2. The Prime Minister | 10 |
| 2.3. The Ministry of Foreign Affairs | 10 |
| 2.4. The Ministry of Health Care | 11 |
| 2.5. The Ministry of Education, Science, Youth and Sports | 11 |
| 2.6. The Ministry of Defence | 12 |
| 2.7. The State Committee on Television and Radio Broadcasting | 12 |
| 2.8. The Parliamentary Commissioner on Human Rights | 12 |
| 2.9. The local authorities | 13 |
| 3. Non-governmental areas | 14 |
| 3.1. Society’s attitude | 14 |
| 3.2. Mass media | 14 |
| 3.3. Churches | 15 |
| 3.4. Culture | 15 |
| 3.5. Business | 16 |
| 3.6. Sports | 16 |
| 4. Opinions of Ukrainian politicians | 17 |
| 5. Analysis of the documented cases of discrimination, infringement of rights, hate crimes and incidents on grounds of sexual orientation and gender identity | 19 |
| 5.1. Relations with private persons | 19 |
| 5.2. Relations with law enforcement bodies | 21 |
| 5.3. Employment | 22 |
| 5.4. Education | 22 |
| 5.5. Social sphere and consumer rights | 23 |
| 5.6. Judiciary sphere | 23 |
| 5.7. Right to peaceful assembly | 24 |
| 5.8. Penitentiary system | 25 |
| List of some additional information | 26 |
| About NASH MIR Centre | 27 |

INTRODUCTION

Our previous report on observance of LGBT human rights in Ukraine was named *One Step Forward, Two Steps Back* (<http://gay.org.ua/publications/report2011-e.pdf>), symbolising rollback from the liberal and democratic principles that Ukraine declares. This trend has continued in 2012, even reinforced by increasing hysteria in society on LGBT issues and the appearance of overt homophobia at the state level. This period is also marked by a rise of homophobic aggression – hate incidents and crimes towards LGBT persons have become more defiant and cruel and the authorities' reaction to them indicates their unwillingness to seek and punish violators. At the same time, cruel and unprovoked homophobic aggression (as well as sharp reaction to manifestations of homophobia in Ukrainian society and politics from Western political figures and mass media) aroused the interest of Ukrainian mass media, politicians and society in these subjects. The full range of public opinions on these issues has been shown. For the first time the Ukrainian authorities had to make some statements on developments; and Ukrainian journalists, at least, have almost unanimously blamed homophobic propaganda and aggression.

The obvious rise of public homophobia in Ukraine can be explained, in our opinion, by a number of factors: first, by the pre-election populism of main Ukrainian political forces (the parliamentary election took place in October 2012). Homophobic rhetoric has become almost the only factor unifying them on the base of so-called “traditional values” which are actively promoted by all main Ukrainian churches and religious groups. During one year deputies of the Verkhovna Rada (Ukrainian Parliament) from all political factions have registered three explicitly homophobic draft laws and adopted one of them in the first reading.

Appearance of such retrograde legislative proposals well matches the general trend by Ukrainian authorities for favouring actual divergence from the course of European integration. But in the case of LGBT issues the so-called “pro-European Ukrainian opposition” revealed exactly the same attitude as the ruling coalition. While the attitudes of political forces in the newly elected Parliament towards LGBT issues are still unclear, now the Rada also includes representatives of the extremely right and radical Ukrainian nationalist party Svoboda. For the observed period Svoboda repeatedly declared and demonstrated their support for homophobic discrimination and aggression, meanwhile asserting their opposition to the current regime and support for the European course of Ukraine.

At the end of 2012 Ukraine again found itself at the familiar crossroads between the West and East. Depending on this choice would be decided the nation's social and political values for further development. The choice of direction will be decisive, not least for the vector that LGBT Ukrainians shall have for the future.

METHODOLOGY

The basis for this annual report on the situation of LGBT people in Ukraine is data ascertained through the permanent monitoring of LGBT human rights observance being carried out by Nash Mir Centre. Additional information has been used from various Ukrainian and international LGBT and human rights organizations, in particular Gay Forum of Ukraine, Amnesty International, Human Rights Watch.

Data for legislative analysis were taken from the current Ukrainian legislation and draft laws considered in Parliament. The report also contains quotations from official replies to letters of the Council of LGBT Organizations of Ukraine.

The results of the monitoring of implementation by Ukraine of the *CMCE Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity* lie beyond the framework of this report and are presented in the separate report available at <http://gay.org.ua/publications/report2012-e.pdf>

The positions of international organisations (UN, Council of Europe, EU, OSCE) are cited from the original sources: these organizations' official documents and information from Ukrainian and international mass media.

Ukrainian mass media outlets (mostly Internet ones) served as sources of information for the positions of various officials, political and public figures (including religious leaders and representatives), sociological surveys, etc. related to LGBT issues.

A separate section of the report is dedicated to documented cases of discrimination and infringement of rights on grounds of sexual orientation; these were obtained in the course of monitoring by Nash Mir Centre. Materials of some court trials related to LGBT issues are used. This section is compiled on the principle of demonstrating the most vulnerable spheres of life from the LGBT viewpoint, and the most widespread forms of violations. To document every case a special form was used that had been developed and utilized in previous years. The cases were documented by workers of Nash Mir Centre as well as specially trained activists from almost all regions of Ukraine.

1. LEGISLATION

In 2012 for the first time in Ukrainian legislation a trend appeared for adoption of explicitly homophobic laws. The first draft law of such a kind (the so-called “laws on prohibition of propaganda of homosexuality”) had been registered in 2011 in the Ukrainian Parliament and in 2012 was adopted upon the first reading. It was followed by two other bills, similar in genre.

Certain acts written into the law (which provided implicit discrimination on SOGI grounds), had existed even before, but either they were inoperative in fact or had a quite particular characteristic. However, there have been and still remains evident law and actual discrimination towards same-sex couples: under Art. 74 of the Family Code of Ukraine, namely “Right to property of a woman and a man who live as a family together but are not married”. Obvious and unjustified discrimination towards transgender persons is provided not by laws but by secondary legislation acts, mostly operative Orders of the Ministry of Health Care, specifically the Order No. 479 of 20.08.2008 in fact prohibiting adoption of children by transsexual persons.

At the same time, Ukrainian legislation also contains anti-discrimination provisions, but no provision explicitly mentions SOGI. The Ministry of Justice assumes that SOGI *may* be implicitly included under the vague wording of “other grounds” that is present in most of the mentioned provisions. Currently this law-generating state body, as well as the rest of the state institutions possessing the right to initiate legislation, consistently rejects all proposals to include SOGI explicitly in any anti-discrimination legal provisions. In particular this rejection is held regarding the new law “On Fundamentals of Prevention and Counteraction to Discrimination in Ukraine”, in spite of insistent and regular recommendations of international institutions to the Ukrainian authorities. Thus we are forced to conclude that such behaviour by the Ukrainian authorities and legislators cannot be explained otherwise than by their manifestation of established institutional homophobia.

1.1. Draft laws on prohibition of “propaganda of homosexuality”

Draft law No. 8711 (since 12.12.2012 – No. 0945)

We note in the Verkhovna Rada/Ukrainian Parliament in Summer 2011 the first registration of bills opposing “propaganda of homosexuality”. This bill's formal name is “On introduction of Changes to Certain Legislative Acts of Ukraine (regarding protection of children’s rights in the safe information sphere)”. Detailed legal analyses is at [http://www.undp.org.ua/files/en_43498msm_eng_Ukraine_FAQ_Law_8711 - June 2012.pdf](http://www.undp.org.ua/files/en_43498msm_eng_Ukraine_FAQ_Law_8711_-_June_2012.pdf)

The six authors of this bill represented all main political factions of the Parliament, both ruling “pro-Russian” coalition and “pro-European” opposition as well.

Subsequently, the cited bill was repeatedly and very negatively examined and assayed by various Ukrainian and international organisations, in particular by Amnesty International, Human Rights Watch, UNDP, UN Office in Ukraine, European Union, Council of Europe, Ukrainian Ombudsman -- and even by the official representative of the Ministry of Foreign Affairs of Ukraine and the Chief Legal Expertise Department of the Verkhovna Rada. Nevertheless, Law 8711 was adopted by an overwhelming majority of the members of the Ukrainian Parliament in the first reading on October 2, 2012. None of the deputies voted against this bill, even those from the so-called “pro-European opposition” who later denounced it. Currently this bill is in the process of preparation, for its second reading in the Verkhovna Rada's new, 2013 convocation, leading to its re-registration and a change in its designated number.



*The authors of 8711, from left to right and top to bottom:
L. Grigorovich (Our Ukraine - People's Self-Defense),
T. Chornovil (independent),
J. Kovalevsky (Party of Regions),
E. Lukyanov (Our Ukraine - People's Self-Defense),
P. Unguryan (Yulia Tymoshenko Bloc), E. Tsarkov (Communist Party of Ukraine).*

Draft law No. 10290

This bill was a kind of clone of the one previous, but titled with a more frank name: “On Prohibition of Propaganda of Homosexuality Aimed at Children”. Like Bill 8711, it received a negative opinion from the Chief Legal Expertise Department of the Verkhovna Rada, and a positive recommendation from the relevant parliamentary Committee on Freedom of Speech. The Head of the Committee Yuri Stets (representing the so-called “pro-European opposition”) supposed that this bill might be used by the authorities for prohibition of any civil action, nevertheless he did not vote against it, exactly similar to his stance in the case of Bill 8711.

Because this draft law had not been voted on up until the time of regular parliamentary elections, it was removed from the agenda. However, its author Vadym Kolesnichenko, member of the Parliament from the ruling Party of Regions, did register in the newly elected Parliament an



V. Kolsnichenko (in the center), the author of the Bill No. 10290

identical draft law No. 1155 “On Prohibition of Propaganda of Same-Sex Sexual Relations Aimed at Children”.

Draft law No. 10279

This draft law was proposed by Vitalii Zhuravsky, member of Parliament from the Party of regions. Its substantial differences, from the above-mentioned bills, were including prohibition of “propaganda of transsexualism” and broadening the prohibition of propaganda to include all of the population rather than children only. The text of the explanatory note to the bill was obviously copied from a similar document of his Russian colleagues. This bill had not been voted upon and was finally revoked by its author.

1.2. Law “On Fundamentals of Prevention and Counteraction to Discrimination in Ukraine”

In May 2012 the Ukrainian government approved a draft antidiscrimination law which is a part of Ukrainian obligations before EU under Visa Liberalisation Action Plan. Despite its own promises the Ukrainian government approved this draft law without consultations with NGOs and actual public discussion. The proposed statute was quite negatively estimated by Ukrainian human rights NGOs and does not explicitly mention sexual orientation or gender identity. A proposal of the Council of LGBT Organisations of Ukraine and Coalition against Discrimination in Ukraine to the Ministry of Justice urging the explicit inclusion of sexual orientation and gender identity in this law was rejected.

The necessity to explicitly add SOGI to the anti-discrimination grounds that are mentioned in this law then was noted by experts of the European Commission against Racism and Intolerance, UN High Commissioner for Human Rights, representatives of the EU. Nevertheless, the Ukrainian Ministry of Justice, which is currently preparing changes to this law, still does not think so. The Ministry justifies their stance in light of a negative reaction towards this law by a “substantial part of the Ukraine’s population” -- which statement is indicated in the official reply of the Ministry to the Council of LGBT Organisations of Ukraine.

1.3. Criminal Procedural Code of Ukraine

Article 63 of the Constitution of Ukraine guarantees the right of a person not to testify against oneself, members of family and close relatives, the composition of which is defined by the law. In this case, the law is the Criminal Procedural Code of Ukraine, which in its new edition in Art. 3 expands definition of this term also to “persons who live together, connected by joint everyday life and have mutual rights and obligations, in particular persons who live together but are not married”. There are evidently no obstacles to interpreting this provision as relating also to same-sex couples living together like a family.

1.4. Recommendation CM/Rec(2010)5 of the Council of Europe’s Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity

This document was adopted in 2010 unanimously by representatives of all CoE’s member states. The adoption may be called indeed historic for European homosexual and transgender people because it laid down the foundations of contemporary all-European human right standards towards LGBT persons. In March 2013, the Committee of Ministers of the Council of Europe is going to start estimating implementation of the Recommendation by the member states. Unfortunately, we can only state the fact that since its adoption of the Recommendation Ukraine

has done virtually nothing to realise it. The detailed report on results of monitoring this Recommendation's implementation by Ukraine can be found at <http://www.gay.org.ua/publications/report2012-e.pdf>

1.5. UN Universal Periodic Review

On October 24, 2012, Ukraine for the second time in its history underwent and emerged from the procedure of the UN Universal Periodic Review (<http://www.ohchr.org/EN/HRBodies/UPR/Pages/UASession14.aspx>).

Unfortunately, the latest report on our state did not contain a word of comparison or input about implementation of the recommendations on human rights towards LGBT made by representatives of various neighbouring states during the previous UPR in 2008, including the recommendation of Slovenia that Ukraine undertook commitment to consider and reply (http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/UA/A_HRC_8_45_Ukraine_E.pdf see p. 58-5)

This year a whole number of countries also expressed their concern about persecutions in Ukraine on grounds of SOGI (Ireland, Finland, Belgium, Australia, Switzerland, Uruguay, and Sweden) and the adoption in the first reading of the homophobic Bill 8711 (Netherlands, Norway, Germany, Canada, France, Slovenia, and Great Britain). These countries called upon the Ukrainian authorities to reject this bill and to include in the legislation prohibition of discrimination on SOGI grounds. Ukraine decided to take these communicated concerns into consideration and to provide answering reply by the next session of the UN Human Rights Council (March 2013) to 145 recommendations altogether, of which 12 recommendations concern LGBT citizens, made by various states during UPR.

"Shadow report" submitted to UN UPR by Ukrainian LGBT organisations could be found at <http://www.gay.org.ua/documents/upr2012.pdf>

2. STATE BODIES AND LOCAL AUTHORITIES

Previously representatives of the state authorities quite seldom mentioned LGBT issues. Usually the sense of their statements took form characteristically in neutral phrases like “everybody here has equal rights;” but later by “we have to take into consideration the views of all society” -- the while they were certainly adhering to “traditional” and “Christian” values. But the rise of tensions around the LGBT rights situation in Ukraine during 2011-2012, above all connected with a surge of homophobic aggression and the appearance of Bills 8711 and 10290, made even President Viktor Yanukovich express his opinion and he had never been noticed before to speak about such issues.

Now we are seeing a disturbing trend of openly homophobic statements issuing from high-ranking representatives of the national authorities. At the same time, we should note that official representatives of the Ukrainian Ombudsman and Foreign Ministry did acknowledge the problem of non-observance of human rights towards LGBT citizens in Ukraine.

2.1. The President of Ukraine

On October 17, 2012, at a meeting with heads of Ukrainian churches and religious organisations the President for the first time spoke on the subject of the notorious Bill 8711 on “prohibition of propaganda of homosexuality”. He said, *“In the EU they expect us to decide this issue ... We have to take into consideration the viewpoint of [our] society and reckon with it and the viewpoint of believers. We have to reasonably come to decision in this issue”* (<http://korrespondent.net/ukraine/politics/1408859-yanukovich-o-zaprete-propagandy-gomoseksualizma-my-dolzhny-schitatsya-s-tochkoj-zreniya-veruyushchih>).

President Yanukovich also noted numerous appeals of various international institutions, the European Union in particular, about the law “On Fundamentals of Prevention and Counteraction to Discrimination in Ukraine”. The President characterised this law in a very vague and weird way: “This is a law known to believers as promoting non-traditional sexual relations and making propaganda” (<http://obkom.net.ua/news/2012-10-17/1245.shtml>). Assuredly, he had not closely read this law, because it contains not a word about “non-traditional sexual relations”.

One should note that meanwhile in November 2012, despite numerous protests and appeals of human rights and religious organisations, the Ukrainian President signed Bill 10221, which groundlessly complicates the process of registration and functioning of religious organisations, and was characterised by all Ukrainian churches as discriminative and unacceptable. Later he promised to revise this law.

2.2. The Prime Minister

“I can assert that there will not be adopted any legislative acts which would infringe upon rights of sexual minorities in Ukraine”, stated Ukrainian Prime Minister Mykola Azarov at the meeting with his Norwegian colleague on November 30, 2012, in Oslo (<http://ukranews.com/ru/news/ukraine/2012/11/30/84798>). But it should be noted that this statement was made after the Ukrainian government had totally ignored all appeals and recommendations on LGBT human rights from both national and international organisations.

2.3. The Ministry of Foreign Affairs

Oleh Voloshyn, Director of the Information Policy Department (in fact, the spokesman of the Ukrainian MFA) made some noteworthy statements on behalf of the Ministry. On May 29, 2012 he acknowledged criticism, contained in the annual US State Department report on observance of

human rights in 2011, concerning infringement of rights of LGBT persons and prisoners in Ukraine (<http://www.pravda.com.ua/news/2012/05/29/6965529>).

On the next day after adoption of Bill 8711 in the first reading, Mr. Voloshyn made a statement: *“The MFA expected that during further consideration of this draft law all international obligations of Ukraine on protection of human rights in whole and minorities’ rights in particular will be observed”* (<http://korrespondent.net/ukraine/politics/1402060-mid-nadeetsya-hto-rada-peresmotrit-svoe-otnoshenie-k-zakonoproektu-o-gomoseksualizme>). Later he added in the interview granted to journalists, *“Our people’s representatives [i.e. members of the Parliament], when flirting with some attitudes of a part of society, have to understand that they just cross up this very society with their actions. Like it or not, but homophobia and euro-integration are incompatible”* (<http://korrespondent.net/ukraine/events/1403998-inostranye-smi-gomofobiya-i-evrointegraciya-nesovmestimy>).

2.4. The Ministry of Health Care

In 2010 the Committee of Ministers of the Council of Europe adopted Recommendation to member states CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity. While monitoring implementation of this Recommendation by the Ukrainian authorities, the Council of LGBT Organisations of Ukraine received an official reply from the Ministry of Health Care asserting that *“Medical textbooks and teaching materials, which were issued in recent years, do not consider homosexuality as a disease”*.

Nevertheless, we have found that such textbooks were issued for the last decade and received approval of the Ministry of Health Care. For instance, the following textbooks explicitly characterised homosexuality as a mental disorder or sexual perversion and even prescribed its medical treatment:

- I. Mavrov, *Sexual Diseases* (Ukrmedknyha, Ternopil, 2005);
- L. Havenko, V. Bitenskii, *Psychiatry and Narcology* (Zdorovie, Kiev, 2009);
- O. Nepreenko (ed.), *Psychiatry* (Zdorovie, Kiev, 2001).

These books are indicated as official textbooks in library catalogues of many Ukrainian medical universities, so the information from the MHC seems patently incorrect in view of actual practices.

Meanwhile the Chief Sexopathologist of the Ministry, Dr. I. Horpinchenko, declared his position on homosexuality in these exact words: *“Is it bad or good? It is normal. One should not fight against it. Today all civilised countries acknowledge that homosexuality is the right of a man to realise his/her sexuality. But this is dead end from the viewpoint of the main function of living organisms – continuation of one’s kind”* (<http://life.comments.ua/2012/03/14/327763/seksologichitayut.html>).

2.5. The Ministry of Education, Science, Youth and Sports

In his interview to SHO magazine in September 2012, Minister Dmytro Tabachnik said that the civilisational choice of our country should be for a union of Russia and Ukraine. He also added that *“Unless it happens, our fate will be as sad as of civilisation dying just before our eyes, that initially arose on the basis of Christianity and ends with ban on Christian symbols, propaganda of sodomy, euthanasia and juvenile destruction of family institution”* (<http://glavcom.ua/news/90619.html>).

2.6. The Ministry of Defence

On March 28, 2012 the Department of Humanitarian and Social Policy of the Ministry replied to the previous enquiry of the Council of LGBT Organisations of Ukraine with the following words: *“Discrimination on grounds of sexual orientation and gender identity is prohibited by international instruments of human rights support [...] The Ministry of Defence of Ukraine condemns facts of deliberate incitement to hatred on grounds of [...] sexual orientation. The Recommendation of CMCE CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity has been taken into account, [...] in the Armed Forces of Ukraine there are planned and implemented information and educational activities on issues of elimination of all forms of discrimination”.*

2.7. The State Committee on Television and Radio Broadcasting

The Committee has become the first Ukrainian state body that officially declared its support for Draft Law 8711 “on prohibition of propaganda of homosexuality” which is directly aimed to restrict freedom of expression. It has expressed this stand in its letter of February 13, 2012 to Archbishop Mytrofan, Administrator of the Ukrainian Orthodox Church. Besides, it promised to support this bill when Parliament would discuss it.

In its letter to the Committee, the Council of LGBT Organisations of Ukraine had pointed out that such a position directly contradicts the CMCE Recommendation as well as other Ukrainian international obligations. Nevertheless the Committee replied with confirmation of its support for this bill.

2.8. The Parliamentary Commissioner on Human Rights

For a number of years Ukrainian LGBT organisations have complained about the disregard of LGBT problems in Ukraine on the part of the Parliamentary Commissioner on Human Rights (Ukrainian Ombudsman). In her letter of January 11, 2012 the official representative of Ms. Nina Karpachova, the then Commissioner on Human Rights, had written that the Ombudsman *“... does not have a right to disclose information on personal life of complainant without his/her consent. So it is not accidentally that Annual Reports of the Commissioner do not mention infringements of rights of citizens with non-traditional gender [probably the author meant “sexual”] orientation”.* It should be noted that in fact these reports did not mention personal information at all – while containing information on infringement of rights of quite various groups of population: women, disabled people, prisoners, ethnic minorities, etc. The next words of this letter then elucidated the situation: *“... besides, the Commissioner cannot ignore mixed [here “negative” is meant] attitude of Ukrainian society towards these people”.*

The attitude of this institution to the problems of Ukrainian LGBT people has radically changed upon the Parliament's appointment of Ms. Valeria Lutkovska as new Ombudsman in April 2012. In one of her first interviews to mass media she said *“... prohibition of discrimination applies to everybody, particularly representatives of sexual minorities who must obtain rights equal to the other citizens’.* And it turned out that religious organisations are against such approach. I guess that in Ukraine too we will have to solve this problem taking into account the Orthodox peculiarities of the country. [...] I hardly understand how to decide this issue. I think that we have to gather academics, experts, public organisations and think how to find a way out of this situation” (<http://www.pravda.com.ua/articles/2012/04/26/6963555>).

When the Verkhovna Rada adopted Draft Law 8711 in first reading, Valeria Lutkovska criticised its text in an open appeal to the members of the Parliament for the reason that it does not contain the definition of the term “propaganda of homosexuality”

(http://ombudsman.gov.ua/index.php?option=com_content&view=article&id=2055:2012-10-03-13-29-59&catid=14:2010-12-07-14-44-26&Itemid=75). She believes that this term is absurd and cannot conform to the requirement of certainty in stated legal provisions. The official representative of the Ombudsman has also informed the Council of LGBT Organisations of Ukraine in the letter of November 30, 2012 that the Commissioner supports explicit inclusion of sexual orientation in anti-discrimination law of Ukraine and has notified the Ministry of Justice about it.

2.9. The local authorities

On May 15, 2012 the Mayor of Donetsk Mr. Oleksandr Lukianchenko declared that the city authorities would refuse permission for a Gay Pride march if they receive such an application (<http://www.pravda.com.ua/news/2012/05/15/6964522>)

In 2011-2012 appeals were made to the President to revoke the registration of the Council of LGBT Organisations of Ukraine, forbid Gay Pride events and “to fight against homosexuality” by Lviv, Ternopil, Ivano-Frankivsk City Councils and Lviv, Volyn, Rivne Oblast [i.e. regional] Councils (<http://news.if.ua/news/14103.html>, <http://zik.ua/ua/news/2012/05/17/348963>, <http://www.bible.com.ua/news/r/79058>)

On 28 Mar 2012 Hennady Kernes, the Mayor of Kharkiv, gave instructions to close *Drive* gay club in premises owned by the city and never to allow opening this venue in communal property (<http://ukranews.com/ru/news/ukraine/2012/03/29/67238>).

In December 2011 a representative of the Kyiv City Council promised to the Ukrainian Bible Society not to permit a Gay Pride march in the city (<http://www.islamsng.com/ukr/news/3751>).

Subsequently, in May 2012 in fact the Kyiv City State Administration did not oppose such an event in the capital. A representative of the administration informed (rather vaguely) the organisers of the march that “they took a political decision up there” not to prohibit the event – apparently with the purpose of representing Ukraine more positively to the international community on the threshold of the 2012 European Football Championship. Whether such policy will continue it is hard to say, but this 2012 decision set a precedent and should be interpreted as a credit to the Ukrainian authorities.

3. NON-GOVERNMENTAL AREAS

3.1. Society's attitude

Discussions in mass media, positions of various churches, political and social forces relating to Bills 8711 and 10290 ("on prohibition of propaganda of homosexuality") and Kyiv Gay Pride march – all have further polarised attitudes of Ukrainian society towards LGBT persons in 2011-2012.

A poll at the site *Objective*. conducted just after adoption of Bill 8711 in first reading, has revealed that 63% of those polled supported "prohibition of propaganda of homosexuality", 33% did not support it, and 4% was not sure (<http://www.objectiv.tv/021012/75472.html>).

Of course, this result is not sociologically representative but it does show that comparatively few Ukrainians have undeveloped stances towards LGBT issues; and the prevailing majority shares an attitude that is predictably homophobic. A survey of Ukrainian youth conducted by the Gorshenin Institute has shown that 48% of respondents are strictly against same-sex marriages (<http://life.comments.ua/2012/03/30/331082/ukraintsi-boyatsya-bit.html>). A prominent sociologist Dr. Iryna Bekeshkina believes that the problem is the quite close patriarchal Ukrainian society that is intolerant to anything different from its traditional standards: *"Sex minorities can expect tolerant reaction only when our people will more often travel abroad, observe similar actions, and start to see it as given reality"* (<http://www.segodnya.ua/regions/kiev/v-kieve-shectero-muzhchin-zhectoko-izbili-nohami-lidera-hej-parada.html>)

3.2. Mass media

In 2011-2012 media coverage of LGBT issues has been in general ongoing, adequate and unbiased. Media coverage evinced even more importance because of public interest in discussions around proposed homophobic draft laws and Kyiv Pride 2012. These focal developments led to the dissemination of a considerable number of print, radio, TV and Internet materials through outlets. Unfortunately, these materials about the subjects discussed were usually illustrated with photos and videos from Western events that seldom correspond to the originating Ukrainian realities and content.

A whole number of prominent Ukrainian journalists have expressed their opinions on these issues; almost all of them quite decidedly condemned homophobic attitudes.

Vitalii Sych, Chief Editor of the very popular *Korrespondent* magazine, in the April 2012 issue formulated the policy of that edition by writing: *"... we support political competition, free mass media, tolerance towards ethnicity, faith and – oh my God – sexual orientation"*. In October 2012 he spoke about the authors of the Bill 8711, *"Please tell me, do we really carefully choose most stupid, most ignorant, most provincial deputies in the Parliament? [...] Somebody has to explain to our deputies that people cannot be condemned and, moreover, jailed for just being different"* (<http://blogs.korrespondent.net/journalists/blog/vitaliysych/a79261>).

Journalist Mustafa Naiem, famous in Ukraine, has expressed similar feelings: *"It quite could be called another idiocy of Viktor Fedorovich [Yanukovich] time. But this is the case when the opposition tangibly and 'successfully' had a hand in another nonsense of our age. I speak about the law on prohibition of homosexuality"*

(<http://blogs.pravda.com.ua/authors/nayem/506b9bfd83e8b>).

Very popular TV host Savik Shuster in his interview to *Segodnia* daily paper said, *"If the Parliament adopts decision on prohibition of propaganda of homosexuality, for instance, and I understand that nobody in studio would not oppose it, because it is not useful for election campaign, then I would take this role myself, because I consider it very wrong, non-European,*

uncivilised” (<http://www.segodnya.ua/life/interview/Savik-SHuster-Ambicii-vozglavit-kanal-est-a-predlozheniy-net.html>).

3.3. Churches

In patriarchal Ukrainian society the church has become perhaps the main source of homophobia. Homosexuality is one of a very few issues that unite all major confessions and religious and church-affiliated organisations.

On 10 April 2012 the heads of Ukrainian churches handed to the President of Ukraine their joint letter on the inadmissibility of any public actions of LGBT community in Kiev

(http://www.irs.in.ua/index.php?option=com_content&view=article&id=1035%3A1&catid=34%3Aua&Itemid=61&lang=uk).



Ukrainian Orthodox Church (Moscow Patriarchate): Bishop Iona, Head of the Synodal Department on Youth Issues, made an appeal to the Kyiv City Council to use all power for prohibition of gay pride parade and similar “forums” and to initiate adoption of corresponding legal acts (<http://apologet.in.ua/documents/dokumenty-apologeticheskogo-tsentra/2887-zvernennya-yepiskopa-oni-z-prochannyam-zaboroniti-provedennya--v-mst-kiiev--geji-paradu.html>).

Ukrainian Orthodox Church – Kyiv Patriarchate: Patriarch Filaret has asked President Yanukovich not to permit same-sex marriages in Ukraine: “This is a great sin for Christian civilisation [...] Christians forget for what sin the Lord has burned Sodom and Gomorrah” (<http://ubr.ua/ukraine-and-world/power/filaret-prosil-ianukovicha-pomilovat-timoshenko-i-lucenko-163682>).

Ukrainian Greek Catholic Church: Newly elected Head of UCGC, Major Archbishop Sviatoslav, at his web-conference stated that “...sin of homosexuality in its gravity is equal to murder, so speaking about right on homosexuality, then we speak about right on murder” (<http://www.youtube.com/watch?v=7ZQKh-GAKXQ>).

Charismatic churches and affiliated organisations: These religious groups for a long time have tried to lead the “struggle against homosexuality” in Ukraine. Recently they started to clone various homophobic organisations – trying to create an overall impression of a mass anti-homosexual movement. On 19 April 2012 the organisations *Restored Life*, *Golden Autumn*, *Healthy Family – Success of the Nation*, and notorious religious commune *Embassy of God* carried out in Kherson an action against “promotion of homosexuality”. It assembled about ten people (<http://khersonline.net/3911-v-hersone-segodnya-protestovali-protiv-gomoseksualizma-i-gej-paradov.html>). A similar small action took place on the same day in Kiev in Sofievka Square.

3.4. Culture

Irena Karpa, writer, singer and journalist, has made her comments at Gazeta.Ua on the failure of the Kyiv Pride 2012 march because of homophobic aggression: “... this [Gay Pride march] is actually a statement about themselves. A statement that they exist. This is normal component of

any democratic country where civil society is being built. This is the same as racial intolerance” (<http://gazeta.ua/ru/articles/irena-karpa/437175>).

Alexander Roitburd, a famous modern Ukrainian painter, has said about Bill 8711, “... the path to Fascism always begins from bans which are introduced basing on morality. Such an outrageous law pushes Ukraine into archaic, essentially non-European civilisation, to where we are already going” (<http://hrabro.com/21657>).

From Oleh Pinchuk, a sculptor, we have: “It is impossible to change sexual orientation by propaganda. [...] It cannot be cured and cannot be changed. It has to be taken as reality, and one should live with it. I see nothing bad that people, unlike me, have different orientation, this is their right. This is like skin colour, like ethnicity. A man is not taught it in school, it is inborn feature. So it is necessary to learn being tolerant” (<http://www.from-ua.com/news/1dae39e2247c6.html>).

3.5. Business

As the state holding to status quo dissociates itself from the struggle against discrimination, particularly in employment, the Ukrainian business sector by contrast is taking some first steps toward self-organisation in this direction. In our report for 2011 we mentioned a number of companies signed the *Declaration on responsible business partnership* that provides prohibition of discrimination (particularly on grounds of sexual orientation) in employment. Further, this year we learned about internal provisions of the Platinum Bank, one of the Declaration’s signatories, which in particular state that

- Human Resource actions will be carried out by all authorized personnel without regard to race, color, religion, gender, age, sexual orientation, ethnic or national origin, disability.

- Managers are expected to comply fully with this policy and to take appropriate steps to provide equal opportunity and equality of treatment

(http://www.platinumbank.com.ua/upload/files/equality_bilingual.pdf).

The distinction should be noted, though, that practically all companies that signed the Declaration are international, so they have more easily than national companies been in a position just to transfer established modern Western standards of employment to the Ukrainian market.

3.6. Sports

The monitoring of the CMCE Recommendation’s implementation has shown that issues of discrimination on the grounds of sexual orientation or gender identity are still absolutely taboo in the Ukrainian sports sphere. Moreover, the Ukrainian authorities have not answered any concrete questions in their reply to the information enquiry on sport issues within the framework of this monitoring (www.gay.org.ua/publications/report2012-u.pdf).

Nevertheless, LGBT issues were still mentioned in connection with European Football Championship 2012. The campaign *Respect Diversity*, one of the social projects of UEFA, intended to create zones of tolerance in Ukrainian and Polish cities which had to welcome all football fans regardless of their sexual orientation in particular. Unfortunately we cannot prove existence of such zones in Kiev or other Ukrainian cities but some media reported that this campaign had indeed taken place (http://mn.ru/sports_football/20120615/320674217.html).

Antonio Cassano, a forward of the Italian national team, had to present his public apologies for homophobic remarks that he made during the championship; and Cesare Prandelli, the trainer of the team, has compared manifestations of homophobia in sports to racism and has called on football players not to be afraid of declaring their orientation

(<http://korrespondent.net/sport/echampionship/1360413-forwarda-sbornoj-italii-obvinili-v-gomofobii>).

4. OPINIONS OF UKRAINIAN POLITICIANS

In this section we present opinions on LGBT issues made by visible, noteworthy Ukrainian political and public (but non-governmental) figures. Except for a few, the opinions expressed may be characterised as “either bad or vacuous”. Unfortunately, no important political force has expressed its official stand towards these issues in 2012. Even a direct question concerning their attitude to homophobic aggression towards organisers of Kyiv Pride march 2012 has not been answered either by the ruling Party of Regions and the People’s Party or by the “pro-European” United Opposition Batkivshchyna, UDAR Party and Civic Position.

When commenting about a report of Freedom House on Ukraine, the leader of the People’s Party, the head of the parliamentary Committee on Human Rights, Oleh Zarubinskii said, *“Maybe, somebody likes possibility to adopt children by same-sex couples? If it is a Western ideal, then I don’t want such Western ideal [...] there are good Western ideals, and there are those which never shall set foot on my threshold”* (<http://www.from-ua.com/news/30f4c972a3cfd.html>).

Volodymyr Oliinyk, a member of the Parliament (Party of Regions), after parliamentary discussion on public morality has said, *“Well, let’s introduce gays, permit same-sex marriages. Where are we moving to? If this is freedom, then I don’t need it, [...] everybody says that the best [...] is faith, religion. We will be guided by it”* (<http://www.bagnet.org/news/politics/166599>).

Volodymyr Stretovych, a member of the Parliament (Nasha Ukraina), believes that support of equality for LGBT can lead to degeneration of society: *“I consider myself as the enemy No. 2 of this direction [LGBT equality; Mr. Stretovych has not indicated the enemy No. 1] [...] If we are a Christian state, Sodom’s sin is intolerable. Its acceptance will sooner or later lead to degeneration of society. We can lose the greatest value – love that let us express feelings towards our neighbours”* (http://lb.ua/news/2012/05/18/151673_stretovich_podderzhka_seksualnih.html).

Mykhailo Chechetov, the Deputy Chairman of the Party of Regions’ faction in the Parliament, said in May 2012, *“You cannot count on my applauses towards gay parades. And we will come to Europe through front doors but not through back-way”* (<http://www.nr2.ru/kyiv/387651.html>).

The intellectual level of Bill 8711’s authors is worthy of special attention. Non-partisan deputy of the Verkhovna Rada Taras Chornovil declared that *“any propaganda of sexism, which is totally prohibited in Ukrainian laws, relates also to homosexuals”* (<http://ru.tsn.ua/ukrayina/ukrainskim-geyam-zapretili-mitingovat-i-reklamirovatsya.html>). This member of Parliament evidently has not got the slightest idea about the legal terms he misuses. Another MP and Bill 8711 author, Lilia Hryhorovych (Nasha Ukraina), has stated that children of 8-10 years old should not be told about homosexuality because *“in this age they are not conscious of their gender”*

(<http://ua.euronews.com/2012/10/03/landmark-law-set-for-ukraine-to-ban-promotion-of-homosexuality/>). Comments are unnecessary.

Kateryna Samoilyk, a member of Parliament from the Communist Party, is troubled with global problems of humanity: *“Same-sex couples must never obtain right to adopt children. Imagine please that they will educate a child the same way and a same-sex family will carry on. Thus we will essentially head for extermination of mankind”* (<http://wek.com.ua/article/65604/>).

The leader of the far-right nationalist party Svoboda Oleh Tiahnybok, as well as his political force in its entirety, takes a steadfast homophobic stand. In his interview in December 2011 he said, *“[...] they try to impose on us not the best European values, which we would like to implant in Ukraine, but some moments of pseudotolerance. That you cannot, God forbid, criticise him because he’s gay and there are some absolutely perverted gender issues. I don’t want such Europe here in Ukraine, when they bring various perversions and tell that this is the largest appearance of Europeaness”* (<http://obkom.net.ua/articles/2011-12/05.1113.shtml>).

Recently Mr. Tiahnybok specified his position on LGBT citizens: *"I am not against existence of such people. [...] I am against that they would be persecuted, but I am also against that they would promote their perverted views [...] to all Ukrainian society..."*

(<http://www.pravda.com.ua/rus/news/2012/12/26/6980566/>).

Iuri Bublik, a newly elected MP from Svoboda, has declared that he will vote for homophobic Bill 8711; and commented thus on the tough reaction of the EU to this draft law: *"I would spit upon reaction of the West. There must be Ukrainian traditions in Ukraine, traditional Ukrainian family that doesn't include homosexuality and other non-traditional for Ukraine things"* (<http://glavcom.ua/news/97289.html>).

The leader of the UDAR Party Vitalii Klychko has stated that he will not expel homosexuals from his party in the eventuality that they be revealed. When a journalist asked him more precisely if such people may be in the UDAR Party, Mr. Klychko affirmed, *"They may. That's their own business"* (<http://www.nr2.ru/kyiv/388532.html>). On his personal attitude towards sexual minorities Vitalii Klychko has informed others that, *"I belong to conservative Ukrainian politicians who have traditional sexual orientation. Yet to meddle and tell them how to live is inadmissible, that's their right. My attitude to promotion of such relations is conservative but bans lead to nothing"* (http://lb.ua/news/2012/05/26/153156_tv_kakom_yazike_govorit.html). He has also commented on the issue of same-sex marriages, *"That is own business of an individual. We have to think about it with understanding. I am not adherent of same-sex marriages, it is none of my business. That is personal business of those people who decide to enter into such marriages and we should not infringe their wishes"* (<http://kp.ua/daily/193911/307166>).

The former Chairman of the parliamentary Committee on Freedom of Speech and Information Iuri Stets (Nasha Ukraina) has said on the issue of Kyiv Pride march 2012, *"We cannot forbid any movements including sex minorities' one. We have to treat religions, any organisations, sex minorities' movement in particular, with tolerance. It is not even demand, it is just signs of good manners of a person. But I think that Ukraine is not ready to that. I think that there will be some provocations, collisions because our society is not yet ready to that"* (<http://from-ua.com/news/442c5f80aec95.html>).

Iulia Liovochkina, a member of the Parliament from the Party of Regions and sister of Serhii Liovochkin, the influential Head of the Administration of the President, has similarly commented on issues of LGBT equality, *"I think that Ukrainian society for the most part will not accept such things. But it does not mean that we have somehow to restrict people who choose same-sex relations"* (http://www.og.com.ua/Oksana_Shkoda_terniy_Evropa.php).

Her parliamentary faction colleague Dmytro Shpenov does not agree and zealously supports Bill 8711: *"I hasn't examine details but I'm convinced judging already by its [informal] name that it must be adopted. I guess that this is one of a few instances when we don't have to follow the way of Europe. I support this proposal even if the document for some extent will infringe rights of minorities. I think that society will understand us"* (http://www.zib.com.ua/ru/10691-ukraina_ne_dolzhna_idti_po_puti_evropi_v_otnoshenii_geev_-_s.html).

5. ANALYSIS OF THE DOCUMENTED CASES OF DISCRIMINATION, INFRINGEMENT OF RIGHTS, HATE CRIMES AND INCIDENTS ON GROUNDS OF SEXUAL ORIENTATION AND GENDER IDENTITY

In the period from November 2011 until December 2012, 86 cases were documented. Most violations fall within the City of Kiev (16); others within the Oblasts (regions) of Donetsk (15) and Dnipropetrovsk (13); the Cities of Zaporizhzhia (8), Chernivtsi (7) and Kharkiv (6).

Like previous years, the most cases of violation happened in relation to private persons (50) and law enforcement bodies (33). In the fields of employment and education, cases that were similar in characteristics to other observed violations comprised 10 in total and were documented.

5.1 Relations with private persons

This sphere includes hate crimes (12 cases) and hate incidents (38 cases) -- 50 cases in all. Since Ukrainian law does not contain definitions of either hate crime or hate incident, to classify cases we used the approach of OSCE to the issue.

Table 1 contains data on the number of cases by types of violation considered in this section.

Table 1

| <i>The victims has experienced:</i> | <i>Number of cases:</i> |
|---|-------------------------|
| Insults, threats | 36 |
| Physical violence | 29 |
| Damage to property | 5 |
| Disruption of LGBT events | 3 |
| Robbery | 3 |
| Threats of outing | 3 |
| Compulsion from relatives to leave home | 3 |
| Attempts from relatives to deprive of parental rights | 2 |
| Rape | 1 |
| Use of traumatic weapon | 1 |
| Blackmail | 1 |

In 16 cases the victims tried to bring violators to admit responsibility and succeeded in 5 cases.

Cases 401 and 403:

On 20 May 2012 a group of unknown young persons severely beat two of the Kyiv Pride 2012 organisers, Sviatoslav Sheremet and Maksim Kasianchuk. This incident happened right after the victims' improvised press conference on disruption of the Pride, directly in front of many journalists. The group, containing about 10 persons with masked faces, attacked the victims in an uncrowded place close to Darnytsia metro station. Beyond any doubt the circumstances of the assault indicate the homophobic motives of the crime (<http://lgbt.dp.ua/napadenie-na-organizatorov-kievprajda-2012-video>).

Nobody has taken responsibility for this attack but monitoring of far-right Internet sites and networks (http://vk.com/video122842911_161810479) leads us to assume that it was an action of far-right extremists. Andrii Illenko, one of the leaders of the far-right nationalist party Svoboda, declared in an over-simplification that merely "unknown heroes" from Ukrainian nationalists disrupted the Gay Pride march in Kiev (<http://glavcom.ua/news/80229.html>).



*The assault upon S. Sheremet, 20 May 2012.
©Reuters*



T. Karasiichuk after attack. ©HRW

On 22 June 2012 another “unknown patriot” severely beat another organiser of Kyiv Pride 2012, namely organiser Taras Karasiichuk near his home. In both cases the assaulters first asked their victims if they are queers.

Unfortunately, the Kyiv police have yet not found the violators in question. In the Karasiichuk case policemen did not even want to come to the hospital to register the application of a crime. In both cases these crimes were investigated as if they were usual common hooliganism. The police have refused to institute an investigation under Art. 161 of the Criminal Code that would allow categorising these assaults as hate crimes despite their obviously homophobic nature.

The seriousness of these cases is increased by the fact that on the day of Kyiv Pride march at the first-planned site of the event the police found an explosive device. Currently the Kyiv branch of the Security Service of Ukraine is investigating this fact; and one of their lines of inquiry is that the found device may have been instrumental in a planned act of terror against participants of the LGBT event.

Case 366:

In January 2012 Denis (24, living in Kremenchuk, Poltava Oblast) was severely beaten by his stepfather because of his homosexual orientation. The court sentenced the violator to a fine of 51 Ukrainian hryvnias (about €5) and 40 hours of community work.

Case 402:

Four unknown persons had beaten and robbed Fedir in Kyiv. The cause of assault was the “gay” appearance of the victim. Later they were identified and arrested. In May 2012 the court sentenced them to various terms of imprisonment.

In the opinion of Evhen Zakharov, a famous Ukrainian human rights defender and Director of Kharkiv Human Rights Group, sexual minorities (along with persons of non-European appearance, and ethnic and national minorities) become victims of hate crimes in Ukraine most often (<http://vecherniy.kharkov.ua/news/62797/>).

5.2 Relations with law enforcement bodies

There are 33 documented cases in this sphere. Thus the police force is still the state body that infringes human rights of Ukrainian LGBT persons most often, meanwhile these infringements are the most brutal. Table 2 contains data on the number of cases, by types of violation, stemming from police behaviour.

Table 2

| <i>Infringed rights (with what actions):</i> | <i>Number of cases:</i> |
|--|-------------------------|
| Freedom and personal immunity (illegal detention, blackmail, insults, compulsion to cooperate) | 22 |
| Observance of privacy (illegal collecting of confidential information, threats of outing and disclosure of confidential information) | 12 |
| Effective legal remedies (denial of legal protection, belated response) | 9 |
| Freedom of peaceful assembly (denial to ensure safety of peaceful action, ungrounded detention of peaceful action's participants) | 3 |
| Prohibition of tortures and inhuman or humiliating treatment (long deprivation of water and food, physical violence) | 2 |

Ukrainian LGBT people mostly do not even entertain a hope of defending their rights when faced with violations from the police. Only 6 attempts have been documented and only 2 of them were successful.

The head of Donetsk Oblast charity foundation Zdorovia natsii ("Health of the Nation") Iurii Osipov has told of cases when policemen blackmailed citizens with threats of outing:

Police officers visit [Internet dating] sites as clients. They would meet people, "expose" them and demand money. In Makeevka and Donetsk there were recorded four cases when people of non-traditional sexual orientation were demanded from 3 to 12 thousand hryvnias that nobody would know about their orientation at their work, among relatives. These are only the cases that I know, there may be more. And in a case some guy said, "Well, OK, everybody at my work already knows". Instead of 8 thousand which the police demand, he has paid a fine of 450 hryvnias. He was charged, as everybody was, with distribution of pornographic photos (<http://korrespondent.net/ukraine/events/1408882-vvs-ukrayina-doneckie-gei-zhaluyutsya-na-politikov-i-miliciyu>).

Case 349:

Ihor, a resident of Zhytomyr, in November 2011 was entrapped into admitting responsibility for self-prostitution. In October 2011 a few police officers acting as agents provocateurs and using illegal methods (without setting up the case as investigative), met Ihor on the Internet at a specialised gay dating site and proposed to him to meet in person and pay money for sex. At the meeting Ihor was detained, illegally photographed and his telephone address book was copied. He was also insistently asked about gay meeting places in the city and it was proposed that he cooperate with the police as their informer – in exchange for absolution from administrative responsibility. Ihor refused the proposal.

Despite the fact that he had not gotten money for "prostitution" (hand-over of money being required under law for the committal of said offence), Zhytomyr City Administrative Commission considered him guilty and issued a warning to him instead of a fine that the police demanded. Ihor has decided not to appeal the decision.

Case 383:

Volodymyr, a resident of Donetsk, in May 2012 was sentenced by the court to 2 months of detention for distribution of pornography.

In November 2010 at a specialised Internet gay dating site Volodymyr had met “a guy” for a date and invited him to his home. Instead of “the guy” he faced two policemen who burst into his apartment without warrant and searched it without any witnesses as required by law. As was revealed later, the provocation on the Internet was also illegal, without an investigative case having been set up. Volodymyr was charged with placement of his allegedly pornographic photos on site at his Internet account. The police threatened him with outing at his work if he would not agree to plead guilty; they later did out him at work. Eventually Volodymyr had to leave his job. In February 2012 he was arrested for evading an investigation although, according to his words, he fulfilled all demands of the investigator. He was detained pre-trial for 3 months in prison – more incarceration time than he was finally sentenced to – but has decided not to appeal his sentence.

5.3. Employment

5 cases of discrimination in this area have been documented: 3 cases included unlawful dismissal, 3 cases were non-payment of wages or refusal to return a service record book, 2 were disclosure of confidential information; and in one case a victim was insulted by managers on grounds of sexual orientation.

In 3 cases victims tried to bring violators to admit responsibility, and in 2 cases they partially succeeded. In both the partially successful cases the victims have managed to protect their material interests but have failed to prove the discriminatory character of dismissal, because witnesses were co-workers of the victims and do not want to testify against their bosses.

Case 352:

Tetiana, a resident of Pavlograd, Dnipropetrovsk Oblast, in November 2011 was forced to leave her job after resisting sexual assaults of her director by reason that she is lesbian. Besides, the director used to insult her in connection with her sexual orientation, particularly in the presence of other employees. When dismissing her, the director refused to pay her monthly wage and to return her service record book.

Tetiana complained to the Public Prosecutor’s Office and succeeded in asserting her material rights – she has got her wage and labour document. However, she failed to prove discrimination because her co-workers feared to bear witness against their director.

5.4. Education

5 cases have been documented in this sphere. All of them included harassment from schoolmates of the victims, in one case even including physical violence. In another case the victim has also undergone discrimination from teachers: it consisted of under-estimations of performance and mockery.

Although the character of discrimination in this area is quite similar to that in employment, no victim has wanted to defend his/her rights in this sphere.

Case 375:

Taras, a graduating student of a college in Lutsk, has been insulted and mocked by his classmates ever since his second year when they learned about his homosexual orientation. He had tried to seek protection from the college administration but the dean disregarded his complaints.

After teaching staff had also learned about his sexual orientation, Taras started to be harassed by them too. He said, *“Some teachers told their opinion to my face, some just jeered during lectures, it varied”*. He thinks that such attitude on their parts led to the underrating of his marks and, as a consequence, his deprivation of a scholarship.

5.5. Social sphere and consumer rights

Altogether, 8 cases have been documented in these spheres, in particular 3 cases of hate crimes. Apart from that, in 2 cases customers were refused provision of services, in 2 cases they underwent insults from service personnel, in one case the right to respect for private life was infringed, and in one case aggrieved tenants underwent forced eviction.

Victims tried to institute criminal proceedings against violators in 2 cases of hate crimes.

Case 380:

In June 2011 in Kyiv, Svetlana was raped by a taxi driver when he was bringing her home. The pretext for his insults and violence was her “wrong” (in his opinion) sexual orientation, which he had inferred from Svetlana’s fond farewell to her girlfriend before she got into the car.

5.6. Judiciary sphere

The right to a fair trial was infringed in 3 cases along with other rights.

Case 383:

In February 2012 the Kyivskyi District Court of Donetsk City groundlessly, in our opinion, authorised the punishment of preventative detention for a person under criminal investigation related allegedly to distribution of pornography. As a result, the detained man spent in pre-trial detention a longer term that he has subsequently been sentenced to. This case is already mentioned above in section **Relations with law enforcement bodies** of this report.

Case 398:

In May 2012 the Krasnoperekopsk City Court has sentenced a man to 3 years restraint of liberty with a probation period of 2 years for (allegedly) distribution of pornography. In the opinion of this man’s lawyer the court of first instance has committed gross violations – groundlessly deprived his client of a legal defender during the trial, has not examined his testimonies, has not summoned witnesses, and has not assigned a legal expert. By the time of this report’s completion the case will have been appealed and directed for further investigation.

Case 431:

In this case the Circuit Administrative Court of Kiev City had groundlessly forbidden a peaceful public LGBT action in December 2012 dedicated to International Human Rights Day; and later a few of its participants and one of the organisers had been groundlessly brought to admit administrative responsibility by the Shevchenkivskyi District Court of Kyiv City. See also this case in the next section of the report.

5.7. Right to peaceful assembly



Attack of Svoboda's on LGBT peaceful picket outside the Ministry of Foreign Affairs.

©news.tochka.net

3 cases have been document of this right's violation.

Case 401:

On 20 May 2012 the Kyiv city authorities and police were not able to safeguard a peaceful march within the framework of Kyiv Pride 2012 events. Thirty minutes before its planned start the police command informed organisers of the event that they could not ensure security, and advised cancellation of the march. In such circumstances the organisers decided not to risk the safety of the participants and cancelled the event. Before this occurred, one of the high-ranking Kyiv police officers told the Pride organisers that he was not ready to expose his men to risk for the sake of LGBT people (<http://www.amnesty.org.ua/node/247>).

Case 425:

In July 2012 LGBT activists picketed Ukrainian Ministry of Foreign Affairs in connection with Bill 8711 ("on prohibition of propaganda of homosexuality"). The picketing was disrupted by a group of young aggressive adherents of the Svoboda party. A police special squad, which was present nearby the event, did not react in any way to protect picketers from violence (<http://news.tochka.net/122837-berkut-polyubovalsya-stychkoy-geev-i-svobodovtsev-foto/>).

Case 431:

In December 2012 the LGBT organisation Insight carried out a peaceful public action on International Human Rights Day. Initially this action was prohibited by the Circuit Administrative Court of Kiev City under the standard pretext of "safeguarding law and order, preventing crimes, protecting rights and freedoms of Kyiv residents and guests" according to the lawsuit of the Kyiv City State Administration. The administration's arguments were that in the same place and time there would be some "national celebration" (of course an evident lie). Nevertheless, the organisers of the event had time to inform the city authorities about another place the action was to take place so it was legal.

During the action, event participants underwent assault and provocations from several militant adherents of the Svoboda party who sprayed tear gas on participants and tried to tear off their banners

(http://society.lb.ua/life/2012/12/08/181783_kieve_podralis_storonniki.html?utm_source=lbua&utm_medium=link&utm_campaign=mainfeedbold).



*Journalist Olesia Harai from the Svoboda's party paper is spraying tear gas on the action's participants
©LB.ua*

Later, Svoboda openly assumed responsibility for this assault at its website, even specifying the names of “hero patriots” (<http://svoboda.org.ua/diyalnist/novyny/034872>).

After the action 3 more of its participants had been severely beaten by unknown persons (http://blogs.lb.ua/nadia_parfan/182145_svoboda_naroshchuie_tempi_pokrashchennya.html).

Although the number of police officers at the place of the action was quite adequate, the police failed to protect participants from homophobic assault. The police eventually arrested not only two aggressors but also six victims of aggression for “disorderly conduct”. One of the action’s participants, famous Ukrainian human rights defender Volodymyr Chemerys, described the course of events:

Problems with the police began after actions of provokers. In particular, a representative of Svoboda came to the police commanders and talked to them about something for some time. After these “negotiations” this man from Svoboda started to tear banners out from protesters, scream out abusive words and to push people. The police reacted and began “to regulate the public order”, namely to disperse the meeting and arrest its participants, not disturbing the provoker. In particular, police colonel Paslion tried to arrest me and Serhii Molchan with beating on out feet (<http://www.zmina.org.ua/2012/12/svoboda-proty-prava/>).

After these events one of the action’s organisers, Olena Shevchenko from LGBT organisation Insight, was charged with breach of the order regarding the public action's organisation and conduct.

5.8. Penitentiary system

One case was documented related to restricted access to health service because of the sexual orientation of a prisoner (Case 372).

List of some additional information (in English):

- <http://www.gay.org.ua/documents/upr2012.pdf>
- <http://www.gay.org.ua/publications/report2012-e.pdf>
- <http://www.khpg.org/index.php?id=1337776915>
- <http://www.lgbt-ep.eu/press-releases/meps-condemn-new-ukraine-censorship-law/>
- <http://www.gay.org.ua/allnews/martsenyuk2012.pdf>
- <http://www.opensocietyfoundations.org/voices/lgbti-rights-eastern-europe-between-hope-and-despair>
- <http://www.kyivpost.com/content/kyiv/gay-pride-parade-in-kyiv-cancelled-1-127943.html>
- <http://www.kyivpost.com/content/ukraine/activists-anti-gay-sentiment-rising-in-ukraine-2-310127.html#.UAgQ77TKC3t>

About NASH MIR Centre

OUR HISTORY

“Nash Mir” (Our World) Gay and Lesbian Centre was founded in Luhansk in Southeastern Ukraine in 1998 as a grassroots group. By our initiative we took upon ourselves the responsibility for educating Ukrainian society about homosexuality, toppling recurrent stereotypes and prejudices against gays and lesbians, consolidating lesbian and gay community, and for advocating our rights.

This is the situation in Ukraine we discovered: there “wasn't a problem with homosexuality” as long as it went unseen. At first, local judiciary officials simply did not know what to do with our organization! Interviewed by a national newspaper, one official said, *“How can we recognize them [the organization] on an official level, as a juridical person? There is no legal basis, though this sort of orientation isn't forbidden, but neither are precedents... If I register them, excuse me, wankers will come, and someone else... And what about morality?”* Using far-fetched grounds they refused our registration.

Certainly we did not let ourselves be humbled by such obvious discrimination. Nash Mir was indeed registered at the end of 1999. But successful registration was made possible only as the result of a determined battle by the members of the organization for their legal rights, and the steadfast attention to this issue on the part of some international human rights organizations.

OUR GOALS

- Protection of human rights and freedoms for lesbians, gays, bisexuals and transgender people in Ukraine. Fighting against discrimination based on sexual orientation.
- Improving Ukrainian society’s attitudes towards homosexuality by challenging homophobia in the mass media.
- Supporting LGBT people and their self-consciousness and pride as equal and valuable members of Ukrainian society.

OUR CURRENT ACTIVITIES

Our projects are aimed at Ukrainian gay and lesbian community and society in general. At present we focus our activities on the following:

- Monitoring violations of LGBT rights.
- Initial legal help and counselling for victims of discrimination and hate crimes based on sexual orientation.
- Legal education of LGBT community.
- Joint actions with other organizations to advocate for full LGBT rights on the legislative and political levels.
- Supporting grassroots groups in their work of providing social and psychological services to LGBT, HIV/AIDS prevention among MSM, mobilization of the community on local level.
- Activities aimed at improving Ukrainian anti-discrimination legislation and policies.
- Organizing seminars and conferences.

Nash Mir Centre is a founding member of the Council of LGBT Organizations of Ukraine (at present 26 NGOs are members). Olexandr Zinchenkov, leader of human rights programs of Nash Mir, is Chairperson of the Committee on Human Rights and Advocacy, Co-chair of the Council of LGBT Organizations of Ukraine.