

March for Equality, Kyiv, 2013



Situation of LGBT people in Ukraine in 2014

«It is better to allow gay parades once a year than to expect Russian tanks every day»

Yurii Lutsenko, a Ukrainian politician



Russian tank, Donetsk region, 2014

Situation of LGBT people in Ukraine

Along with Ukraine's approach to Association and Visa Liberalization agreements with the EU in 2013 there was a significant increase of social and political debates around LGBT issues in the nation. Despite the obvious desire of Ukrainian politicians to avoid discussing these issues, they had to respond to pressures from their Western partners and the overall increase in attention to LGBT issues in the world, particularly due to adoption of several relevant laws in some countries. Concurrently, the Ukrainian parliament was also considering a few draft laws relating to LGBT rights. Among the most important should be mentioned Bills 0945 (formerly 8711) and 1155, proposing to limit freedom of speech in order to "prohibit promotion of homosexuality"; and 2342, which proposes to prohibit discrimination based on sexual orientation in employment.

The events after the Vilnius Summit (so-called Euromaidan, removal from power of President Yanukovich, the Russian occupation of Crimea, the separatist conflict in the east of Ukraine) have removed LGBT problems in Ukraine from the public field of vision and put

them among the lower priority second-grade political issues of the relations between Ukrainian authorities and their Western partners. The current Ukrainian Government adheres to the policy of their predecessors: avoiding public discussions of those problems, – and the Ukrainian

Parliament still consists of the same politicians who failed to adopt any document protecting interests of LGBT Ukrainian citizens.

Official government representatives over the last year have refrained from expressing any support or condemnation of discrimination on grounds of sexual orientation or gender

identity, while representatives of local authorities and MPs have repeatedly expressed openly homophobic views, except for the UDAR party. However, in

August 2013 one of the informal leaders of the opposition Yuriy Lutsenko said: "It is better to allow gay parades once a year than to wait every day for Russian tanks."

The difference, compared with the situation of the previous year, consists in the change of attitude that currently all noticeable political and public figures as well as state officials in Ukraine refrain from any mentioning of LGBT issues at all. Leading Ukrainian churches, which openly declared their homophobic



stance towards anti-discrimination initiatives in 2013, are also following this manner of refraining. The Ukrainian authorities, politicians, and churches have apprehended with relief and joy the decision of the European Commission to approve the completion of the first phase of the Visa Liberalization Action Plan without explicit legal prohibition of discrimination on ground of sexual orientation in employment. They obviously interpret the indistinct position of the EC in this issue as their own opportunity to put off realization of this obligation of Ukraine before the EU for the indefinite future.

Using Ukraine's currently hard situation as an excuse, the Ukrainian Government (namely, the Ministries of Justice and Foreign Affairs) lately had decided to imitate some activity around this issue by sending an official request to the High Specialized Court on Civil and Criminal Cases. Their request was for legal interpretation of already existing text wording in the Ukrainian legislation anti-discrimination provisions – whether they imply sexual orientation as a protected ground implicitly. Responding to the request, the High Specialized Court issued a letter to the heads of appellate courts wherein the Court literally repeated the text of the mentioned request in an affirmative manner: yes, according to Ukraine's

national legislation and its international agreements, discrimination on ground of sexual orientation in employment is prohibited. The problem remains that such kind of a letter is not an official interpretation of the law; only the Constitutional Court of Ukraine may effect officializations. State bodies do have the right to request the Constitutional Court about such official interpretations

but they instead preferred to apply for a legally non-binding document. Besides, neither this opinion of the High Specialized Court nor the official position of the Ministry of Justice in this issue has been widely publicized. Official representatives of the Ukrainian authorities still diligently refrain from any public condemnation of homophobic

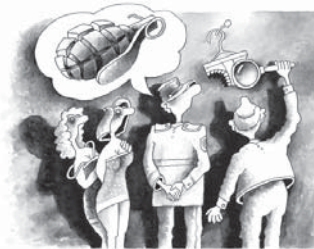
and transphobic discrimination and violence in Ukraine. The recent change-of-government has changed nothing in this regard.

Nevertheless, the general turn of Ukrainian state politics and public opinion, to a course towards favoring integration with the EU, lets us hope for the better. One positive sign is that official representatives of the Ukrainian Government repeatedly confirmed its intent to mention explicitly sexual orientation as a protected ground in the Labour Code, and to withdraw all homophobic bills from the parliament.



At the time we write this, Bill 1155 has already been removed from consideration under a formal pretext (its author openly betrayed Ukraine and was unseated from the Verkhovna Rada). The necessary amendment to the Labour Code is promised to be made in accordance with the Ukraine-EU Association Agreement (i.e. at a time four years after its entry into force).

On the threshold of the early presidential elections in May 2014, Amnesty International polled all candidates about their views in the field of human and civil rights and their plans on necessary reforms in Ukraine. Only ten candidates replied, including two main would-be principals – Yulia Tymoshenko and Petro Poroshenko. The eighth item in the questionnaire asked to choose the position of a candidate on prohibition of discrimination on ground of sexual orientation and gender identity (SOGI) in Ukraine from these proposed variants: 1. It must be legally banned in all spheres; 2. It must be legally banned only in employment; 3. There have to be other, non-legislative



mechanisms of protection from it; 4. Discrimination on ground of SOGI needs no special prohibition because it is already banned; 5. This problem does not exist; 6. It is hard to answer; 7. Other variant (specify). The answers for this issue revealed the most varied spectrum of candidates' opinions in this survey – for instance, Yulia Tymoshenko, Anatolii Hrytsenko and Oleh Tyahnybok chose variant 4. Only Petro Poroshenko answered that discrimination on ground of sexual orientation and gender identity in Ukraine must be legally banned in all spheres [of life]. **We hope that the new-elected President Poroshenko will remember and implement this declaration of his.**

The monitoring of discrimination and violence against LGBT people in Ukraine in 2013 has shown that the general situation remains analogous to the previous years. An Internet survey among LGBT community conducted by Nash Mir Center in August 2013 revealed that 65% of the respondents faced infringements of their rights on ground of sexual orientation in 2012-2013.

Overall, for the period from

September 2012 to August 2013 Nash Mir Center documented 50 detailed cases of human rights violations and discrimination on grounds of sexual orientation or gender identity. More than half of them are associated with hate-motivated actions towards LGBT persons, including physical violence and threats of its use (20), disclosure of sexual orientation of victims or threats of disclosure (8), and damage to property (4). In almost all cases insulting remarks were observed about sexual orientation or gender identity of the victims.

Despite the severity and multiplicity of various violations of Ukrainian LGBT people's rights, in our experience we find that they very rarely complain about such actions and do not wish to assert their rights. Ineffective investigations of illegal acts and the threat of disclosure of information about their sexual orientation, even without malicious intent, make defending their rights for them almost as dangerous as their violation.

During the days of Euromaidan in Kyiv (late November 2013 – February 2014) there were several attempts of pro-Russian and anti-European political forces to organize provocations against Euromaidan under the false disguise of 'being' the Ukrainian LGBT community,

using homophobic sentiments of the general public and especially Ukrainian Nationalist groupings. All those attempts were foiled by joint efforts of Ukrainian LGBT organizations and the Maidan leadership.

Though main Ukrainian Nationalist political forces repeatedly declared adherence to their homophobic stance, recently they have refrained from violence and open calls for discrimination. Instead, the situation for LGBT people has substantially worsened in occupied Crimea and territories under control of separatists. Thus, in Crimea came into action the Russian law "on prohibition of homosexual propaganda" that effectively bans all public LGBT activity; and in Donetsk the gay club Babylon experienced an anti-gay raid by local pro-Russian separatists, after which it was forced to close down.

According to the National estimation of the HIV/AIDS situation in Ukraine by beginning of 2013, the annual number of new HIV infection cases for a predictable period has a trend for stabilization and decrease; however, among men who have sex with men (MSM) it will raise. Thus, the problem of the ongoing HIV epidemic in Ukrainian gay and bisexual community will likely become more important in the near future.



RECOMMENDATIONS

In the opinion of Nash Mir Center, the core problem in prevention and counteraction to discrimination and hate crimes against LGBT persons in Ukraine is the total absence of the state authorities' reaction to homophobia prevailing in Ukrainian society. Thus, it is crucially important that the **Ukrainian Government take decisive steps towards assuring and implementing equal civil rights for LGBT people** – to send a distinct sign to society of changed intentions and attitude at the official level. The first and most obvious of such steps would be **explicit legal prohibition of discrimination on grounds of sexual orientation and gender identity** in all spheres of social and political life – including, but not restricted by, employment. It should be followed by such evidently necessary legislative initiatives as **criminalization of hate crimes** and **provision of family rights for same-sex partners equal to those enjoyed by unregistered opposite-sex couples**. These legislative provisions must be accompanied by development and implementation of relevant policies in the sphere of **education** and further training: providing pupils, students, legal profession members, educational staff and officers of law enforcement agencies with correct modern information on LGBT issues and the promotion of tolerance and respect for the dignity and human rights of LGBT people. **The Ukrainian LGBT community needs empowerment and assistance to overcome social stigma and obtain possibilities to represent and protect their interests as equal members of society.**



About NASH MIR Center

OUR HISTORY

“Nash Mir” (Our World) Gay and Lesbian Centre was established in Luhansk in Southeastern Ukraine in 1997 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.

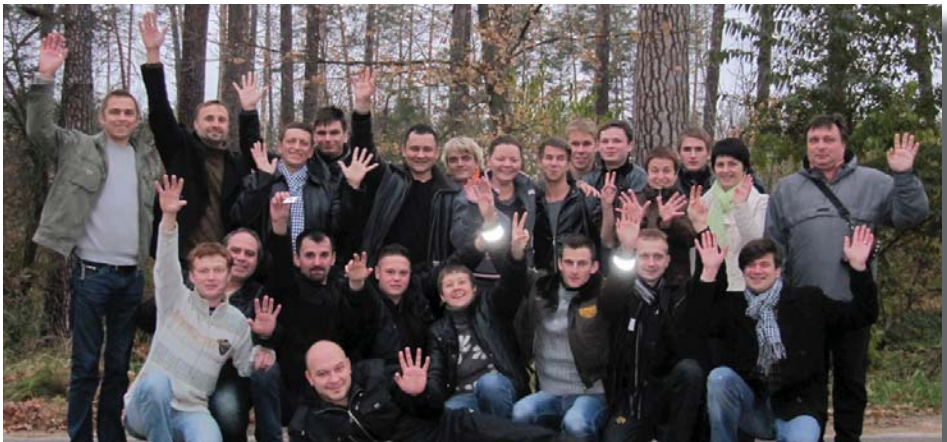
This is the situation in Ukraine we discovered: there “wasn’t a problem with homosexuality” as long as it went unseen. At first, local judiciary officials simply did not know what to do with our organization! Interviewed by a national newspaper, one official said, “How can we recognize them [the organization] 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.
- Upbringing of self-consciousness of LGBT as equal and valuable members of society.



OUR CURRENT ACTIVITIES

Our projects are aimed at Ukrainian LGBT community and society in general. At present we focus our activities at:

- Monitoring violations of LGBT rights.
- Legal assistance and counselling for victims of discrimination and hate crimes based on SOGI.
- Legal education of LGBT community.
- Joint actions with other organisations to advocate for full LGBT rights on legislative and political levels.
- Activities aimed at improving Ukrainian anti-discrimination legislation and policies.
- Supporting grassroots groups in their work of mobilising the LGBT community on the local level.

Nash Mir Centre's publications include reports of research projects we realised, literature on legal education, legislative analyses, and booklets on HIV/AIDS awareness, tolerance, educational materials, and periodicals.

Information provided by Nash Mir Centre has been used in Ukrainian mass media publications as well as in reports of the Council of Europe Commissioner for Human Rights, U.S. Department of State's Reports 2007-2013, OCSE, UN Periodical Reviews 2008/2012, UN Human Rights Committee 2013 and by many other organisations and institutions.

Nash Mir Centre is a founding member of the Council of LGBT Organisations of Ukraine (at present 26 NGOs are members) and the Coalition for Combating Discrimination in Ukraine.

LGBT Human Rights NASH MIR Center

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