

# Situation of LGBT people in Ukraine in 2015

## Summary

Information prepared by

**LGBT Human Rights NASH MIR Center**

Website: [www.gay.org.ua](http://www.gay.org.ua)

Postal address: P.O. Box 173, Kyiv, 02100, Ukraine

Contact person: Andriy Maymulakhin, Coordinator

E-mail: [coordinator@gay.org.ua](mailto:coordinator@gay.org.ua)

Tel. / Fax: +380 44 2963424, Mobile: +380 50 4438064

***Overall, the situation of the LGBT community in Ukraine in 2015 may be characterized as having contradictory trends: on the one hand, there was some improvement in the attitude of broad society, a lack of homophobic rhetoric from the churches and leading social and political figures, and support from some new members of the Verkhovna Rada. On the other hand, the level of homophobic aggression by radical nationalist groups has significantly increased, and government agencies tried to avoid any discussion on the problems of LGBT people in Ukraine.***

### 1. Generalized social and political situation

In the **legislative** sphere since the beginning of 2015 occurred continued development and public discussion of important documents which directly touch the problems and interests of LGBT people. But it was only by the end of the year – with extra-large efforts and only through the continuous pressure of civil society and the Western partners of Ukraine – that the first Ukrainian legal act was adopted that directly and explicitly prohibits discrimination on grounds of sexual orientation and gender identity. This was the Law of Ukraine "On Amendments to the Code of Labour Laws of Ukraine Concerning Harmonization of Legislation in the Sphere of Preventing and Combating Discrimination with Law of the European Union". This new law added to Article 21 of the Code a number of protected grounds, including the aforementioned SOGI. It is difficult to overestimate the importance of this breakthrough legislation: it became the first significant step towards obtaining effective equality for LGBT people in Ukraine after the abolition of criminal liability for consent sex between men in 1991, and it was adopted despite fierce resistance from very influential Ukrainian churches.

It should be noted that this amendment was introduced specifically to the current Code of Labour Laws of Ukraine which is largely preserved since Soviet times and in the near future is to be replaced by the new Labour Code. The rest of Ukrainian legal provisions discriminatory to LGBT people have remained unchanged and in force.

All the numerous recommendations of non-governmental and international organizations intended to include LGBT issues in the National Strategy on Human Rights have been ignored both by the Cabinet of Ministers and by the Administration of the President. On November 23 the Ukrainian government adopted the Action Plan to the National Strategy on Human Rights until 2020, however, for some obscure reasons it was published only by the very end of 2015. Civil society took an active part in drafting this document, and almost all proposals of Ukrainian LGBTI and human rights organizations were included in its text – even provisions on researching the problem of intersexuality. In addition, the Action Plan particularly includes:

- working out legislation prohibiting discrimination on grounds of sexual orientation and gender identity (SOGI) in all spheres of life regulated by law;
- working out legislation on registered partnership for same-sex couples;

- working out new rules for change (correction) of sex for transgender persons;
- adding the motive of hatred on grounds of SOGI as an aggravating circumstance in the Criminal Code;
- lifting the ban on adoption of children for transgender persons.

It is worth noting that even full implementation of this document will not mean making all necessary changes in Ukrainian legislation – it will depend on the Parliament – but adoption of this surprisingly progressive document at least shows a radical change of the Ukrainian government's policy, which since Ukraine got independence has consistently tried to ignore all proposals on the rights and interests of Ukrainian LGBT people.

In 2015 transgender persons won three lawsuits against the Ministry of Health of Ukraine concerning the abolition of certain provisions of Order No. 60 from 03.02.2011 which regulates the change of sex designation, but these decisions were challenged by the Ministry of Health on appeal. However, according to information from transgender activists, the ministry has started working on a new document to replace the mentioned Order. Some transgender persons do take part in drafting this document, thus we may hope that it will meet modern approaches and will no longer contain those provisions of the Order which caused criticism related to violation of transgender people's rights and interests.

The Working Group on Human Rights within the Constitutional Commission, which is creating a new draft Constitution of Ukraine, after a long discussion with the participation of professional lawyers and civil society activists, eventually decided not to mention explicitly sexual orientation and gender identity among grounds protected from discrimination in Article 42 "Prohibition of discrimination" of the draft Constitution. The Chairperson of the Working Group, Professor Volodymyr Butkevych, however, promised that this issue would be considered again in the process of reforming the Ukrainian anti-discrimination legislation. In our opinion, a public and a detailed discussion of this problem at this level is already a positive fact by itself, though we cannot agree with the decision not to mention SOGI as protected characteristics, even in the open list. On the other hand, we cannot but welcome a gender-neutral wording of Article 28 "Right to marry" in the draft Constitution of Ukraine produced by the Working Group, which, in principle, allows in the future to extend the scope of this legal institution to same-sex couples.

**The state and local authorities**, continuing as in recent years, have largely ignored the interests of the LGBT community, although they hardly interfere in the activities of LGBT organizations. In 2015, the Kyiv City State Administration did not seek to ban the Equality March in Kyiv, although the city Mayor and Chairman of the KCSA Vitalii Klychko, like last year, opposed the holding of this event. However, in August 2015, the Executive Committee of the Odesa City Council appealed to the Odesa District Administrative Court to prohibit Odesa Pride 2015 LGBT Festival. Despite the apparent illegality of the plaintiff's demands, the court satisfied them in part, prohibiting holding of the Equality March in Odesa (but refusing to ban the other activities within the festival).

The only public institution that collects information on LGBT rights violations and attempts to provide their protection, remains the Parliamentary Commissioner for Human Rights. The latest annual report of the Commissioner on the situation of human rights in Ukraine contains a section on discrimination on grounds of sexual orientation and gender identity. However, it should be noted that the Commissioner, Ms. Valeriya Lutkovska, shares Ukrainian authorities' general views of the inexpediency of prohibiting discrimination on these grounds in any direct and explicit way in the Ukrainian legislation and government policies.

Representatives of the Ukrainian authorities largely refrained from public statements on LGBT issues – of either a homophobic or a friendly character. A rare exception was the words of President Poroshenko on holding the March of Equality in Kyiv on 6 June 2015: "I treat the March of Equality as a Christian and as a European president. These things may be combined. I will not participate in it, but I see no reason for anyone to prevent it because it is a constitutional right of every Ukrainian citizen [...] I have my own Christian values, on which I was brought up and on which my children are

brought up, but I do not share the indignation of some political forces which want to make PR for themselves; in fact, it is not a case for PR." Perhaps, it was the position of the President of Ukraine that made the Kyiv authorities and police ensure the holding of this event.

**The law enforcement agencies** in 2015 have still tried in every way to ignore homophobic motives during investigation of crimes, even if they are obvious. Also, the Ukrainian police do not want to provide security of public LGBT events from homophobic aggression. The command of the Kyiv Police Department for a long time refused to protect the March of Equality in Kyiv, and only long-term and persistent efforts of NGOs and foreign diplomatic missions made them fulfill their direct duties. Despite sufficient strength and time to develop a protection plan for the event, the police still failed to prevent attacks by organized homophobic groups against its participants, totally ignored protection of participants who were dispersing after the march, and reportedly are investigating the actions of the attackers with extreme negligence. According to many messages of civic activists, in the last year in several Ukrainian cities, police personnel strength was reinforced with radical Ukrainian nationalists who profess homophobic views and tend rather more to cover up crimes against LGBT people than to help in protecting reputed victims. In August 2015, the police in Kryvyi Rih refused to document the homophobic attack on a closed gay disco; and one of the attackers openly boasted about his acquaintances in the police, whom he, in his words, summoned to halt this activity (for details please see page 4 of this document).

The state does not make any effort properly to investigate these crimes and bring perpetrators to justice. In particular, motives of homophobia and transphobia are not considered by Ukrainian law as aggravating circumstances. Moreover, it seems that **Ukrainian courts** (in those few criminal cases which come to them), tend to regard a homophobic motive rather as mitigating circumstances – at least this is evidenced by the sentences passed in October and November of this year in the case of arson of Zhovten cinema in Kyiv and the case of murder of a gay man in Kharkiv. In both cases, convicted persons received a minimum possible sentence, regardless of the severity of the crimes and their proven homophobic motives.

**Ukrainian politicians** mainly are still trying to distance themselves from LGBT issues. An openly homophobic and usually aggressive stance is taken only by radical Ukrainian nationalists such as members of Svoboda Party, the Right Sector, and Ihor Mosiichuk, an MP from the Radical Party of Oleh Lyashko. However, among the new young MPs who were elected in the recent (early) elections, appeared some who openly and actively are supporting the protection of LGBT rights. Thus, Serhii Leshchenko MP attended the March of Equality in Kyiv this year. He along with Svitlana Zalishchuk and Mustafa Nayyem MPs (all from the Petro Poroshenko Bloc) worked out and registered in the Verkhovna Rada an amendment to the draft Labor Code that prohibits discrimination, in particular, on grounds of SOGI. Among the experienced politicians, the protection of LGBT people's rights has repeatedly drawn the attention of Hryhorii Nemyrya, the Chairman of the Parliamentary Committee on Human Rights, Deputy Head of Batkivshchyna Party.

**The mass media** in Ukraine in recent years have demonstrated, in general, understanding and support of the LGBT community's interests; also evident is the increasing professionalism of their coverage of issues relating to LGBTs. The vast majority of materials disseminated on LGBT issues through leading media outlets are balanced, neutral, or positive in character regarding LGBT people.

**Ukrainian churches and religious organizations** retain their hostile attitude towards LGBT people, but after Euromaidan they have mostly refrained from homophobic statements and appeals. Thus, officials of the Ukrainian Orthodox Church of the Moscow Patriarchate and the UOC-KP this year did neither condemn nor support holding of the March of Equality in Kyiv; representatives of the UGCC just refused to provide their comments on the event. However, the leaders of all major Christian churches in Odesa (UOC (MP), UOC-KP, UGCC, Roman Catholic Church, Protestant denominations) sent an open letter to the Mayor of Odessa with a call to prevent the March of Equality that was filled with openly homophobic statements. After the adoption of the anti-discrimination amendment

to the Code of Labor Laws, All-Ukrainian Council of Churches and Religious Organizations, which brings together all the major churches of Ukraine, categorically condemned the bill and asked the President to refrain from signing it.

According to our observations, **Ukrainian society** as a whole last year has shown a marked decrease in homophobic attitudes and a strengthening of neutral or positive attitudes towards the LGBT community. This is argued for, first of all, by the necessity to meet modern European standards in this field and to differ from Russia. Thus, in social networks there were lively discussions around holding the March of Equality in Kyiv -- discussions during which many non-LGBT people expressed their desire to take part in it, whereas this event was actively opposed mainly by people with radical nationalist views. Markedly reduced were the numbers of homophobic comments appealing to religious provisions and "Ukrainian traditions." However, it should be emphasized that this is just a value judgment perceived but not yet supported by data of sociological surveys.

**The Ukrainian LGBT community**, which in recent years has been becoming more visible, now faces new challenges, foremost of which is the sharp rise in homophobic violence and the reduction of funding of LGBT initiatives by donors, especially in the field of combating HIV / AIDS among men who have sex with men. A very large impact increasing the growing visibility and public interest in LGBT issues was made by holding the March of Equality in Kyiv – and the prohibition of a similar event in Odesa, also by media coverage of issues concerning protection of LGBT rights, gay marriage, etc. in the West.

## **2. Violence, discrimination and other violations of LGBT people's rights<sup>1</sup>**

During the time period January through December 2015 Nash Mir Center documented 71 cases of **discrimination, incidents and crimes motivated by homo- and transphobia**. The largest number of cases was recorded in Kyiv (17), Zaporizhzhya (11), Odesa (12), Dnipropetrovsk (8), Zhytomyr (6) and in Kharkiv (5). In addition, in Ivano-Frankivsk, Chernivtsi and Vinnitsa were recorded 2 incidents in each city, and 1 incident in Lviv, Kherson, Cherkasy, Chernihiv and Poltava oblasts and in occupied Luhansk.

### **Actions motivated by hatred towards LGBT people**

In 2014 and 2015 the number of acts of hatred towards LGBT people significantly increased, mostly due to grave crimes, particularly murder, acts causing severe and moderate bodily injuries, and attacks on LGBT events and community centers with the use of weapons and explosives. Gay men again often became victims of robbery. In many big cities youth groups exist that lured through the internet gay men for dating and then "punished" them. Unfortunately, for various reasons the vast majority of victims do not want to stand up for their rights.

The largest public response was caused by the planned attack of several dozen young men on the March of Equality and the protective police forces on June 6, 2015. As a result of the use of explosives by the assailants, about 10 police officers were affected, and 9 marchers suffered from being hunted by the assailants after the demonstration.

Homophobic groups attacked employees and offices of LGBT organizations in Odesa and Kryvyi Rih. In these cities closed venues for gays and lesbians were also attacked. Thus, on July 20 a grenade was detonated under the door of Libertine bar in Odesa, and in late August visitors at a gay party in Kryvyi Rih were beaten by two dozen young men in masks, whose leader, by contrast, did not conceal his face: he was Anton Kravchenko, a leader of Kryvyi Rih "Automaidan" (one of the movements which opposed the regime of former President Yanukovich).

---

<sup>1</sup> *In this chapter number of documented cases and sum of identified spheres of violation may differ because some cases cover more than one sphere of violation.*

In 2015 at least six murders have occurred motivated by homophobia in Ukraine, and more than dozen gay men received injuries of various severity. The perpetrators arranged acquaintance with gay men in social networks under the guise of being gays themselves and during the date robbed and beat (or killed) their victims. Thus, in January two gay men were murdered in Kharkiv and Kyiv, and in May – another gay man in Zhytomyr.

As in the previous years, the largest number of cases (53) relate to actions motivated by hatred towards LGBT persons. 45 of them may be described as *hate crimes*, and 8 others as *hate incidents*. Six of these cases include manifestations of *hate speech* (Note: italicized terms are used in accordance with the OSCE classification). These cases include the following violations (please see Table 1):

Table 1.

Types of violations	Number
insults, humiliation of human dignity	29
physical violence of varying severity	32
sexual abuse	2
robbery	11
robbery with violence	1
extortion, blackmail	5
unlawful collection, disclosure and threats of disclosure of confidential information	15
murder	6
threats of murder	1
threatening with weapons	1
attacks on LGBT events and venues	6
terrorism	1
damage to LGBT organizations' property	2

#### Relations with law enforcement agencies

During 2015 Nash Mir recorded 18 cases that show violations of LGBT people's rights by law enforcement personnel. Most police infringed such rights (please see Table 2):

Table 2.

Violated rights (by what actions)	Number
right to liberty and security (violation of procedural rules, physical violence, extortion, abuse of power and authority)	9
freedom from discrimination (insults and humiliation of human dignity)	7
right to respect for private life (illegal gathering of confidential information and its dissemination)	4
right to effective remedy (failure to protect rights, improper performance of functions for protection of rights)	10
torture	1

One of the common types of violations by the police regarding LGBTs was the refusal to protect rights or properly to perform their duties. Thus, during the attack on a gay party in Kryvyi Rih, the police present at the site took no action in order to stop violence against the event's visitors, and according to Gay Alliance Ukraine's website, the leader of the attackers Anton Kravchenko even said that he informed the police about this "operation".

**The right to a fair trial** was by-passed at least twice. In one case, the Odesa District Administrative Court took a deliberately unlawful decision, prohibiting in August the conduct of all activities within Odesa Pride 2015 Festival. In another case, which occurred in Pryluky (Chernihiv oblast), a gay man accused of distributing pornography (following the police's entrapping provocation) was deprived of a public defender during the investigation and trial that lasted until March 2015.

In **employment** there were recorded four cases of LGBT people's rights violations. In all cases, the victims suffered from a biased attitude by management because of their sexual orientation and were forced to leave their jobs. In one of these cases gay man face long-lasting harassment from his colleagues.

Three cases of discrimination were recorded in **education sphere** – in one case on the part of students, in one case on the part of teachers, in one case on the part of students and teachers. At the beginning of 2015 a case was documented of transphobic harassment in one of the higher education institutions of Dniprodzerzhynsk. First, a transgender student (MtF) for several months was subjected to harassment by her fellow students (for instance, directly in the classroom they set fire to her hair, and the teacher pretended not to notice it). When she complained to the director of the institution, he, knowing about the conflict, said: "You have to change. They do not like such as you. You are just sick." As a result, the victim was forced to change her place of study.

In the **medical sphere** 2 cases were reported related to the insulting of homosexual people by health care workers. In January 2015, the deputy chief physician of the Chernivtsi AIDS Center publicly insulted a gay man because of his homosexual orientation, thus disclosing the patient's personal information.

Three cases of discriminatory attitudes towards LGBT were recorded in **consumption sphere**. It was based on homophobic attitude of the service personnel and owner of the premises towards the LGBT event.

*Document of 4 January 2016.*

*For more information on the situation of LGBT people in Ukraine (news, annual and thematic reports) please visit Nash Mir Center's website [www.gay.org.ua](http://www.gay.org.ua)*