



## ON THE THRESHOLD

The situation of LGBT people in Ukraine in 2013



## **On the Threshold. The situation of LGBT people in Ukraine in 2013.**

This publication provides information that reflects the social, legal and political situation of LGBT (lesbian, gay, bisexual and transgender) people in Ukraine in 2013. Here are to be found data and analyses on issues related to the rights and interests of LGBT persons in legislation, public and political life, public opinion, and examples of discrimination on ground of sexual orientation etc.

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The authors would like to thank all active participants in the LGBT Leaders e-mailing list who collect and exchange relevant information on various aspects of the situation of LGBT people in Ukraine.

This report "On the Threshold. The situation of LGBT people in Ukraine in 2013" is prepared by the Nash Mir Center with the support of the Democracy Grants Program of the U.S. Embassy in Ukraine. The views of the authors do not necessarily reflect the official position of the U.S. Government.

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The report (in Ukrainian and in English) is available on the Internet at <http://www.gay.org.ua>

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## 1. Summary

The legal situation regarding the rights and interests of LGBT people in Ukraine has not changed compared to 2012, except for the ratification and entry into force in Ukraine of two international conventions which prohibit discrimination on ground of sexual orientation in relation to victims of certain actions – the Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health (also known as MEDICRIME) and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. However, given the highly technical and framework nature of these documents, they have no practical impact on the situation of LGBT people in Ukraine. Meanwhile, all previous shortcomings of the Ukrainian legislation, that virtually ignores the rights and interests of LGBT people, are fully preserved.

Overall, in 2013, there was observed a clear reduction in the incidence of – and mitigation of – the homophobic rhetoric stemming from both local authorities' representatives and especially state bodies. Local and state authorities in general have refrained from actions that would have openly homophobic coloration. Instead, for the first time in the history of Ukraine, one could hear words from representatives of the authorities recognizing the actuality of LGBT problems in Ukraine.

The political situation around LGBT issues in Ukraine in 2013 was determined by the struggle between two contesting directions, two trends of development: the expansion and deepening of LGBT emancipation in the West, especially in the EU, and the strengthening of homophobic tendencies favoured by all kinds of governmental support in Russia and countries under its influence. Suddenly for Ukrainian politicians and the general public, but quite expectedly for the Ukrainian LGBT community, such issues have become visibly relevant and actively debated in national society and politics.

Legislative initiatives and socio-political events in Ukraine and abroad in 2013 forced Ukrainian society to pay attention more than previously to issues related to LGBT people. This has led to a revival of public debate on these issues, though they are still of minor importance to the public. Ukrainians in general demonstrate a high level of rejection of homosexuality – thus, in the sociological poll of GfK Group on May 17, 2013, almost 80% of the respondents aged over 16 years stated that they are against any sexual relations between people of the same sex. More than half of the respondents also said that they opposed any homosexuals being allowed to enter into Ukraine<sup>1</sup>.

Nash Mir Center has prepared a separate detailed report on hate incidents and crimes against LGBT people in Ukraine in 2012-2013<sup>2</sup>, so in this document we present only summary data on the observed current (2013) situation in this field and the more recent cases that were not included in the mentioned report. As regards discrimination on grounds of sexual orientation or gender identity, this year we did not conduct a special survey on the subject, so very few cases have been reported. In this connection one should take into account that Ukrainian LGBT people very rarely report violations of their rights on their own initiative; violations are widely detected only during special surveys by human rights organizations. In general, the data for 2013 show that the situation in the field of human rights of LGBT people in Ukraine virtually has not changed since the previous year – regarding both the total number of cases recorded and their statistical distribution.

Summarizing and analysing facts and observations presented in this report, we conclude that in 2013 both the Ukrainian LGBT community and Ukrainian society as a whole found themselves on the threshold of swift and irreversible changes on the path towards modern European standards of social and political life.

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<sup>1</sup> GfK Ukraine, *Українці не підтримують узаконення одностатевих шлюбів*, 17.05.2013 (in Ukrainian) [http://www.gfk.ua/public\\_relations/press/press\\_articles/010992/index.ua.html](http://www.gfk.ua/public_relations/press/press_articles/010992/index.ua.html)

<sup>2</sup> Nash Mir Center, *Преступлення на почве ненависти против ЛГБТ в Україні. Отчет за 2012-2013 гг.* (Nash Mir Center, Kyiv, 2013) (in Russian)

## 2. Legislation

The legal situation regarding the rights and interests of LGBT people in Ukraine has not changed compared to 2012, except for the ratification and entry into force in Ukraine of two international conventions which prohibit discrimination on ground of sexual orientation in relation to victims of certain actions – the Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health (also known as MEDICRIME) and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. However, given the highly technical and framework nature of these documents, they have no practical impact on the situation of LGBT people in Ukraine. Meanwhile, all previous shortcomings of the Ukrainian legislation, that virtually ignores the rights and interests of LGBT people, are fully preserved.

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As before, the Ukrainian legislation has no any direct and explicit ban on discrimination against citizens of Ukraine on grounds of sexual orientation or gender identity; does not it consider malefactor's motives of homo- or transphobia as aggravating circumstances in the commission of crimes; does not provide effective mechanisms for establishing the facts of discrimination, compensation for it, and prevention of subsequent cases. Also there remains direct discrimination of gay couples compared with heterosexual ones: the current Ukrainian legislation does not provide any form of recognition of same-sex partnerships, and deprives same-sex unregistered partners even those rights (in relation to common joint ownership of property) which are provided by the Family Code to unregistered opposite-sex couples (Article 74). There remain an unduly harsh and restrictive procedure for gender reassignment (the Order of the Ministry of Health No. 60 dated 03.02.2011 "On the improvement of medical care to persons in need of change (correction) of their sex") and a discriminatory ban on adoption of children for transgender people (the Order of the Ministry of Health No. 479 dated 20.08.2008 "On approval of the list of diseases under which a person may not be an adoptive parent").

In 2013 not a single bill was adopted of those suggesting some changes in the legislative situation of LGBT people in Ukraine. Ignoring homophobic initiatives of members of the Verkhovna Rada (the Ukraine's parliament) can be considered as positive inaction in this area. First of all, it concerns Bill 0945 (formerly known as Bill 8711) "On Amendments to Some Legislative Acts (Regarding Protection of Children's Rights to Safe Information Environment)." Although it had been adopted by the previous convocation of the Parliament in the first reading, the parliamentary Committee on Freedom of Speech and Information of the present convocation, under the influence of an extremely negative reaction to the bill by international organizations and public opinion, has recommended to remove it from consideration. Now the bill is suspended: it is not removed officially from consideration, but if not voted upon before the end of the current Parliament's convocation, would be automatically rejected. Another similar Bill 1155 "On Prohibition of Propaganda of Same-sex Sexual Relations Aimed at Children," which was proposed by Vadym Kolesnichenko MP (Party of Regions) in 2013, has a similar fate: even though it was approved by the parliamentary Committee on Legislative Support of Law Enforcement Activity, it did not get into the session agenda.

Among other topical homophobic initiatives in the Ukrainian parliament, worth noting is the work of People's Deputies (members of the Ukrainian parliament) Ihor Miroshnychenko and Oleksandr Myrnyi (Svoboda Party). They have drawn up and submitted to the Parliament two openly discriminatory draft laws. The first of these is Bill 2133 "On Amendments to Certain Legislative Acts of Ukraine (to Prevent Adoption of Ukrainian Citizens by Persons Who Are in Same-sex Marriages)." Its essence is clear from the title of this document. It has received the generally negative opinion of the Central Scientific Expert Department of the Verkhovna Rada, stating that the matter is already settled in applicable Ukrainian legislation, and this bill has not even been discussed in the relevant parliamentary committee. Another bill of the same authors, No. 2342-1 "On Amendments to Certain Legislative Acts of Ukraine on Prevention and Combating Discrimination in Ukraine," explicitly excludes sexual orientation from the list of grounds on which discrimination is prohibited in Ukraine. This bill received a negative assessment of the relevant parliamentary committee and has still not been considered at a session of the Verkhovna Rada.

However, it should be noted that the Parliament also ignores the main Bill 2342 "On Amendments to Certain Legislative Acts of Ukraine on Prevention and Combating Discrimination in Ukraine," which was submitted by the Cabinet of Ministers of Ukraine within the state's obligations under the EU-Ukraine Visa



Liberalization Plan. The stumbling block in the adoption of this bill is the sole line in Article 1 adding sexual orientation to the list of grounds on which discrimination is prohibited explicitly in Article 21 of the Code of Labour Laws. This bill has caused a very lively discussion and heated debates among members of the Parliament and in Ukrainian society as a whole, drawing public attention to LGBT issues in Ukraine and current trends on relevant issues around the world, especially in the European Union and post-Soviet countries. For more details please see in Chapter 4 "Politics" of this report. Deputies of the Verkhovna Rada have not been able to reach any other agreement on this bill than to postpone its consideration indefinitely.

Finally, it is worth mentioning that this year an extraordinary fact was discovered, which so far has eluded the attention of both legislators and the general public. It was found that in 2009 Ukraine signed an agreement with Spain to regulate labour migration between these two countries, which had entered into force in 2011 after its ratification by the Rada. This agreement provides, among other things, a ban on discrimination on ground of sexual orientation in employment in respect of Ukrainian citizens in Spain and Spanish citizens in Ukraine. Thus, it turns out, Ukraine **has already adopted** the same legal provision that has caused such a resistance to the adoption of the mentioned Bill 2342 – but only for citizens of Spain. In the light of facts now revealed, Ukrainian lawmakers willingly gave foreigners the rights which they denied and still deny today to their fellow citizens.

### 3. State and Local Government

Overall, in 2013, there was observed a clear reduction in the incidence of – and mitigation of – the homophobic rhetoric stemming from both local authorities' representatives and especially state bodies. Local and state authorities in general have refrained from actions that would have openly homophobic coloration. Instead, for the first time in the history of Ukraine, one could hear words from representatives of the authorities recognizing the actuality of LGBT problems in Ukraine.

In particular, these problems were first mentioned in the 2013 annual report of the Commissioner of the Verkhovna Rada of Ukraine for Human Rights on the situation of human and civil rights and freedoms<sup>3</sup>. Moreover, Ukrainian Ombudsman Ms. Valeria Lutkovska, both in this report and in other documents and speeches, repeatedly supported passing laws against hate crimes, including those regarding LGBT<sup>4</sup>. Meanwhile, the Commissioner has strongly opposed the so-called laws banning "propaganda of homosexuality" as legally illiterate and leading to discrimination and violation of the fundamental human right to freedom of expression<sup>5</sup>.

In addition, for the first time in the nation's history a record of the Ukrainian LGBT movement appeared in the Annual Address of the President of Ukraine to the Verkhovna Rada of Ukraine, and in a very positive context – it was described as active, long-term, organized and human rights protecting<sup>6</sup>.

The Cabinet of Ministers of Ukraine, within the Action Plan on visa liberalization with the EU, has developed and submitted to the Parliament the above-mentioned Draft Law 2342 "On Amendments to Certain Legislative Acts of Ukraine on Prevention and Combating Discrimination in Ukraine." Although it still has not been considered at a session of the Ukrainian parliament because of the reluctance of most deputies to protect Ukrainian citizens against discrimination based on sexual orientation, in their many statements representatives of the Ukrainian Government stressed the importance of its adoption<sup>7</sup>.

<sup>3</sup> Щорічна доповідь Уповноваженого Верховної Ради України з прав людини про стан дотримання прав і свобод людини і громадянина (Secretariat of the Ukrainian Parliamentary Commissioner for Human Rights, Kyiv, 2013), pp. 198, 199, 202, 203, 205 (in Ukrainian) [http://www.ombudsman.gov.ua/images/stories/062013/Dopovid\\_062013.pdf](http://www.ombudsman.gov.ua/images/stories/062013/Dopovid_062013.pdf)

<sup>4</sup> Ibid., p. 205

<sup>5</sup> Ibid., p. 202, 203

<sup>6</sup> Про внутрішнє та зовнішнє становище України в 2013 році. Щорічне Послання Президента України до Верховної Ради України (National Institute for Strategic Studies, Kyiv, 2013), pp. 293, 294 (in Ukrainian) <http://www.president.gov.ua/docs/poslannia2013.pdf>

<sup>7</sup> Please see, for instance, the interview with Prime Minister of Ukraine Mykola Azarov by UNIAN News Agency 24.06.2013 (in Ukrainian) [http://www.kmu.gov.ua/control/publish/article?art\\_id=246465663](http://www.kmu.gov.ua/control/publish/article?art_id=246465663)

While in 2012 the State Committee for Television and Radio Broadcasting of Ukraine confirmed to Nash Mir Center that this governmental body fully supports homophobic Bill 8711 (currently - 0945)<sup>8</sup>, by contrast in May 2013 it told us that *"the State Teleradiocommittee of Ukraine does not support the indicated bill, of which [decision] the Cabinet of Ministers of Ukraine was informed by the letter dated 03.11.2013 No. 1492/8/11"*<sup>9</sup>. Deputy Minister of Justice Andrii Sedov also informed Nash Mir Center that *"this draft Law is not supported by the Ministry of Justice because it is primarily contrary to the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms, in particular Article 10, and the practice of the European Court of Human Rights"*<sup>10</sup>. Government Agent for the European Court of Human Rights Nazar Kulchytskyi, responding to requests for the 108<sup>th</sup> session of the UN Committee on Human Rights, said that the Ukrainian government realizes the incompatibility of the so-called laws banning "propaganda of homosexuality" with the international obligations of Ukraine, but if they are approved by the Parliament, the President would impose on them a veto<sup>11</sup>. However, at the meeting of the UN Human Rights Council in March 2013, Mr. Kulchytskyi informed it that Ukraine, among others, rejects the recommendations on LGBT issues made within the framework of monitoring its observance of human rights. He said, *"We proceeded from real opportunities to perform any particular recommendation. It would be irresponsible to accept all the recommendations that have been proposed, and then not be able to meet them"*<sup>12</sup>.

The double and inconsistent attitude of the Ukrainian authorities to LGBT issues is well illustrated by the March of Equality held within the framework of the LGBT Forum Festival *KyivPride 2013*. The organizers of the event – a peaceful march in support of tolerance and respect for LGBT equality – previously submitted to the Kyiv City State Administration notification of this event on Khreschatyk Street on May 25, 2013. After some reflection, the KSCA offered applicants to change the place of the march to Chervonoarmijska Street, some distance away from the city centre. The organizers agreed to these terms<sup>13</sup>, but a month after that and five days before the scheduled event the KSCA suddenly offered organizers to abandon also this site as well as the date of the march; eventually the KSCA filed suit in the Kyiv District Administrative Court demanding the prohibition of any public events not associated with the celebration of the Day of Kyiv on May 25 in the city centre. During the trial it was found that Chervonoarmijska Street lies outside the officially designated city centre; then the KSCA expanded their demands to include a ban on holding any public events at this and surrounding streets. The court, as always, satisfied the requirements of the KSCA in full<sup>14</sup>, but the city administration clearly did not want a loud international scandal, and so, after brief consultation, it agreed with the organizers of the event upon a new site – Pobedy Avenue nearby Dovzhenko Film Studio. Despite fierce resistance of several homophobic groups trying to disrupt the event, it was safely held under the protection of the police special forces. Due to the urgent relocation of the march and attempts to keep it secret from offensive homophobic attack, the number of participants was quite small and significantly fewer than the number in the protection force. It should be noted that the professionalism and efficiency of the Kyiv police's actions did not allow very aggressive opponents of the march to prevent the march from being conducted, and the police arrested 13 violators of public order<sup>15</sup>.

Talking about the course of events on the Russian radio "Ekho Moskvu", Head of the Kyiv City State Administration Oleksandr Popov said that Kyiv has not, and in the near future cannot, hosted a *"gay parade"* because the majority of Ukrainians and he personally are against *"such a movement"*; however he is ready to ensure carrying out *"small meetings"* for *"wanting persons"*<sup>16</sup>. In another interview, he described the conduct of the March of Equality (again calling it a *"parade"*) on Khreschatyk (in fact, the

<sup>8</sup> Letter of 26.04.2012 No. 2098/35/5 signed by First Deputy Chairman of the State Committee of Ukraine A.L. Murakhovskiy

<sup>9</sup> Letter of 14.05.2013 No. 3091/35/11 signed by Deputy Chairman of State Committee of Ukraine D.V. Kravchenko

<sup>10</sup> Letter of 04.25.2013 No. 01/04/13-08 signed by Deputy Minister of Justice of Ukraine A. Sedov

<sup>11</sup> Videos of 108<sup>th</sup> session of the UN Committee on Human Rights <http://www.treatybodywebcast.org/hrctte-108-ukraine/>

<sup>12</sup> Українська Правда, *Україна заявила, що з правосуддям у неї все добре, і відхилила рекомендації ООН*, 14.03.2013 (in Ukrainian) <http://www.pravda.com.ua/news/2013/03/14/6985586/>

<sup>13</sup> Information from the organizers of the March of Equality

<sup>14</sup> Новини Києва, *Суд заборонив гей-парад у День Києва*, 23.05.2013 (in Ukrainian)

<http://topnews.kiev.ua/other/2013/05/23/4200.html>

<sup>15</sup> Кореспондент.net, *МВС: Охорону порядку під час проведення Маршу рівності в Києві забезпечували близько 500 міліціонерів*, 25.05.2013 (in Ukrainian) <http://ua.korrespondent.net/kyiv/1563080-mvs-ohoronu-poryadku-pid-chas-provedennya-marshu-rivnosti-v-kyevi-zabezpechuvai-blyzko-500-milicioneriv>

<sup>16</sup> Эхо Москвы, *Город за спиной*, 19.10.2013 (in Russian) <http://echo.msk.ru/programs/gorodunderhand/1180184-echo/>

street at issue was Chervonoarmijska) on the Day of the City as "malicious insults over the people of Kyiv."<sup>17</sup> The organizers of the march did not submit to the public authorities' obstructions to exercising their constitutional rights, and filed an appeal against the decision of the Kyiv District Administrative Court. As one would expect, the appellate court did not uphold this suit, so the applicants lodged a cassation appeal against this decision to the High Administrative Court of Ukraine and at the same time a complaint to the European Court of Human Rights. At the time of drafting this report, the cassation appeal has been left unsatisfied, and the ECHR has not yet examined the suit<sup>18</sup>.

In the absence of any defined state policy regarding the rights and interests of LGBT people, it is not surprising that local authorities in such matters act entirely at their own discretion, being guided by their bizarre distorted perceptions of LGBT persons and the European experience of protection against discrimination. In November 2013 the head of the Party of Regions' faction in the Donetsk Oblast Council Mykola Zagoruyko said in an interview, *"Not all integration values are acceptable to me. [...] Regarding that issue, I am a normal man, so I go to my work, and there are two queers there and a faggot as a chief. Why do I need this? This is discrimination to me and many others. Then a factory director would come with rouged lips. I can imagine how humiliating it would be."*<sup>19</sup> This humiliating and insulting vocabulary towards his LGBT fellow citizens, and coming from the mouth of a representative of the ruling party and local government, clearly illustrates the current state of public policy in this matter.

#### 4. Politics

The political situation around LGBT issues in Ukraine in 2013 was determined by the struggle between two contesting directions, two trends of development: the expansion and deepening of LGBT emancipation in the West, especially in the EU, and the strengthening of homophobic tendencies favoured by all kinds of governmental support in Russia and countries under its influence. Suddenly for Ukrainian politicians and the general public, but quite expectedly for the Ukrainian LGBT community, such issues have become visibly relevant and actively debated in national society and politics.

The main factor that drew public attention to the subject was Bill 2342, which has been developed and submitted by the Cabinet of Ministers of Ukraine to the Verkhovna Rada under the Action Plan on visa liberalization between Ukraine and the EU. This Plan provides, inter alia, to adopt and implement in Ukraine a comprehensive anti-discrimination legislation in line with the recommendations of the UN and the Council of Europe's monitoring bodies. According to the recommendations of the Council of Europe's experts and the EU Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, the European Commission has prefigured its demands so that the Ukrainian legislation would include, at a minimum, a direct and explicit ban on discrimination on ground of sexual orientation in employment law. The mentioned bill, among other things, complies with this requirement by adding sexual orientation to the list of grounds on which discrimination is explicitly prohibited in the Code of Labour Laws of Ukraine (Article 21).

Earlier this year, the Ukrainian parliament almost unanimously failed to include consideration of the government bill on the agenda<sup>20</sup>. MPs of all factions, except the UDAR Party, do not skimp on expressing their negative attitude to this document exactly for reason of the inclusion of the aforementioned prohibitions. Unambiguous rejection of the bill and the very idea to ensure equal rights for LGBT people at least in labour law was clearly expressed by parliamentary factions of the Communist Party of Ukraine<sup>21</sup> and the Svoboda Party<sup>22</sup>, which otherwise are irreconcilable political enemies. Leaders of the Party of

<sup>17</sup> Українська правда, *Попов назвав гей-парад знуцанням, обіцяє не допустити*, 24.05.2013 (in Ukrainian)

<http://www.pravda.com.ua/news/2013/05/24/6990667/>

<sup>18</sup> Information from the organizers of the March of Equality

<sup>19</sup> Комментарии: Донецк, "Регионал": *из ЕС на донецкие заводы придут "гомики с накрашенными губами"*, 28.11.2013 (in Russian) <http://donetsk.comments.ua/news/2013/11/28/125115.html>

<sup>20</sup> Коммерсантъ Украина, *Режим ожидания*, 02.07.2013 (in Russian) <http://www.kommersant.ua/doc/2224212>

<sup>21</sup> Please see, for instance, *Голос.уа, Калетник: Під приводом євроінтеграції в Україні хочуть узаконити одностатеві відносини*, 15.05.2013 (in Ukrainian)

[http://ua.golos.ua/politika/13\\_05\\_15\\_kaletnik\\_pod\\_predlogom\\_evrointegratsii\\_v\\_ukraine\\_hotyat\\_uzakonit\\_odnopolyie](http://ua.golos.ua/politika/13_05_15_kaletnik_pod_predlogom_evrointegratsii_v_ukraine_hotyat_uzakonit_odnopolyie)

<sup>22</sup> Please see, for instance, *Цензор.нет, Кабмин хочет легитимизировать гомосексуализм в учебных заведениях*, - *Мирошниченко*, 14.05.2013 (in Russian)



Regions and Batkivshchyna's factions were more reserved in their comments, not formulating an official position of their parties and allowing members of their factions to make their own decisions on the matter<sup>23</sup>. The UDAR Party of Vitalii Klychko at the beginning of 2013 did not express their official attitude to the proposed draft law, but some of its representatives sometimes called upon the Parliament to meet the requirements of the European Union<sup>24</sup>.

This situation began changing with the approaching summit in Vilnius, at which, among other matters, the EU was to assess the implementation by Ukraine of its obligations under the Plan on visa liberalization. When it became clear that without the implementation of the anti-discrimination requirements Ukraine probably would not get a visa-free regime with the EU, first the UDAR Party, and then also some representatives of Batkivshchyna and even the Party of Regions, began voicing increasingly louder claims that Ukraine must comply with requirements of the European Union, particularly in matters of human rights and the prohibition of discrimination, at least with the purpose of rapid integration with the EU that can solely protect it from neo-imperialistic politics of Russia. Most vividly this idea was formulated by a leader of the "Orange Revolution", former political prisoner and Minister Yuriy Lutsenko, in a speech at the Tenth World Ukrainian Congress in Lviv: "It is better to allow gay parades once a year than every day expect Russian tanks like in Georgia of 2008"<sup>25</sup>. Even Oleksandr Yefremov, the head of the Party of Regions' faction in the Verkhovna Rada, said that although members of his faction mostly do not support Bill 2342, but *"From my perspective it is nothing terrible in it. [...] The adoption of this law would help us in Vilnius. [...] I don't know whether it would affect adversely or not, but if we wouldn't vote, we do not enlist more MEPs on our side, that's for sure"*<sup>26</sup>.

Much further than her faction's leader went the MP from the Party of Regions Iryna Berezhna, who suddenly launched a real advocacy and lobbying campaign in support of Bill 2342 as a prerequisite for Ukraine's visa-free regime with the EU. In particular, she initiated parliamentary hearings on November 6, 2013, "Visa-free regime between Ukraine and the EU: Prospects and opportunities for citizens of Ukraine"<sup>27</sup>. At this and other events her position was also openly and actively supported by MPs Iryna Herashchenko (UDAR), Valerii Patskan (UDAR), Hrygorii Nemyria (Batkivshchyna), and Borys Tarasiuk (Batkivshchyna).

However, it should be noted that none of the party factions in the Verkhovna Rada decided on solidarity vote on the bill. Even in the UDAR Party, which presents itself as a modern European liberal political force, according to its leader Vitalii Klychko, each MP will personally determine whether to vote on the bill on the protection of labour rights of sexual minorities<sup>28</sup> that in fact does not differ from the similar decisions of the Party of Regions and Batkivshchyna. So far, no known Ukrainian politician has spoken directly and unequivocally against homophobic violence and in support of full equal rights for LGBT people. Also, none of them voiced their own views on homophobic prejudices and incitement to enmity and hate towards LGBT people – the most positive statements were only those supporting some uncertain "European values", and common words on tolerance and that the absence of a law banning discrimination harms relations with the EU.

The above-mentioned positive trends in Ukrainian politics, however, draw attention primarily because they are in sharp contrast with the usual homophobic rhetoric of most prominent political figures. Most persistent in their dislike of anything related to LGBT people, as has been noted, are representatives of irreconcilable political opponents – the ultra-nationalist Svoboda Party and the Communist Party of

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[http://censor.net.ua/news/241476/kabmin\\_hochet\\_legitimizirovat\\_gomoseksualizm\\_v\\_uchebnyh\\_zavedeniyah\\_miroshnichenko](http://censor.net.ua/news/241476/kabmin_hochet_legitimizirovat_gomoseksualizm_v_uchebnyh_zavedeniyah_miroshnichenko)

<sup>23</sup> Коммерсантъ Украина, supra note 20

<sup>24</sup> Please see, for instance, *Голова Комітету: закон про секс-меншини все одно доведеться ухвалити*, 15.05.2013 (in Ukrainian)

<http://www.unian.ua/news/570742-golova-komitetu-zakon-pro-seks-menshini-vse-odno-dovedetsya-uhvaliti.html>

<sup>25</sup> Українська правда, *Луценко: Краще гей-паради раз на рік, ніж щодня чекати російські танки*, 21.08.2013 (in Ukrainian)

<http://www.pravda.com.ua/news/2013/09/3/6997160/>

<sup>26</sup> Українська правда, *На поточному тижні заплановані 6 еврозаконопроектів – Єфремов*, 03.09.2013 (in Ukrainian)

<http://www.pravda.com.ua/news/2013/09/3/6997160/>

<sup>27</sup> The transcript of the parliamentary hearing (in Ukrainian) is available at [http://static.rada.gov.ua/zakon/new/par\\_sl/SL061113.htm](http://static.rada.gov.ua/zakon/new/par_sl/SL061113.htm)

<sup>28</sup> News24.ua, *Кличко рассказал, как "УДАР" проголосует по секс-меньшинствам*, 03.09.2013 (in Russian)

<http://news24ua.com/klichko-rasskazal-kak-udar-progolosuet-po-seks-menshinstvam>

Ukraine. As in the political process in general, representatives of the Communist Party in their homophobic rhetoric show far less activity than their opponents do. In general, they express their opinion on the subject only in line with criticism of Western society and in support of the Russian government. For example, Oksana Kaletnyk, an MP from the Communist Party, believes that the agreement with the EU would destroy Ukraine, for *"we shall have to implement anti-discrimination laws that is homosexual laws"*<sup>29</sup>; and the Communist Party of Ukraine's newspaper "Communist" published an article devoted entirely to condemnation of the contemporary attitudes towards homosexuality in Western Europe in the harshest terms (*"sodomites", "perversion", "degradation", "madness"* etc.)<sup>30</sup>.

Unlike the Communists, Svoboda formally supports Ukraine's European integration, so they try to refrain from openly anti-European rhetoric. However, positioning themselves as fighters for the moral purity of the Ukrainian nation, they use any opportunity to oppose tolerance towards LGBT people in Ukraine. Thus, the head of the Svoboda's Kyiv organization Andrii Illienko MP on May 25, 2013, led about 200 of his aggressively disposed supporters to prevent carrying out the *"gay parade"* of *"sexual perverts"* (as in Svoboda they described the above-mentioned March of Equality)<sup>31</sup>. Another MP from Svoboda, Ihor Miroshnychenko, on the eve of the March of Equality has published a statement *"against propaganda of perversions which are imposed on us by the EU [...] as Bill 2342"* and corresponding *"homodictatorship"*<sup>32</sup>.

Members of the largest factions of the Parliament – of the ruling Party of Regions and of the opposition Batkivshchyna – are also trying to keep up with the homophobic rhetoric and proposals of their smaller political partners. For example, Vladyslav Lukianov, an MP from the Party of Regions, has recalled the already almost forgotten anti-gay Bill 8711 (currently Bill 0945), which had been adopted in first reading by the previous Parliament and has drawn very negative backlash from leading international organizations. According to this MP, he will work hard to ensure that this legislation be considered and ultimately adopted by the Ukrainian parliament, and that anti-discrimination Bill 2342, on the contrary, be rejected because it forces the Ukrainian people *"to go against our Orthodox faith"* and would *"discriminate against other members of our society"*<sup>33</sup>. A particularly active homophobic position is taken by Vadym Kolesnichenko, an MP from the Party of Regions, who is also the chief "Russian compatriot" in Ukraine<sup>34</sup> actively lobbying the closest integration of Ukraine with Russia. Although he calls himself a "human rights defender" and constantly talks about struggle against intolerance and discrimination, in his thoughts these do not apply to the rights and interests of LGBT people<sup>35</sup>. This MP is always very interested in homosexual topics, and the fight against "propaganda of homosexuality" has become one of the major areas of his activity: for the last two years he introduced before the Parliament two bills on this subject.

In general, the attitude of Ukrainian politicians to LGBT issues is determined, first of all, by their position on European integration of Ukraine, and varies with the fluctuations of this position. When the government decided to suspend the signing of the Association Agreement between Ukraine and the EU, Prime Minister Mykola Azarov has said publicly that to conclude this agreement, *"We must meet a number of conditions. [...] We need to legalize gay marriages, we have to adopt a law on the equality of sexual minorities. Is our society prepared to this? Our churches are totally against it, both the Orthodox Church of the Kyiv Patriarchate and the Greek Catholic Church and the Orthodox Church of the Moscow Patriarchate. All priests, all believers are against it. One must work, must negotiate, but now we are not ready for this"*<sup>36</sup>. In

<sup>29</sup> ТВі, *Цю угоду з ЄС підписувати не можна, – КПУ*, 21.11.2013 (in Ukrainian)

[http://tvi.ua/new/2013/11/21/cyu\\_uhodu\\_z\\_ues\\_pidpysuvaty\\_ne\\_mozhna\\_kpu](http://tvi.ua/new/2013/11/21/cyu_uhodu_z_ues_pidpysuvaty_ne_mozhna_kpu)

<sup>30</sup> Комуніст, *Тест на європейськість*, 26.05.2013 (in Ukrainian)

[http://www.komunist.com.ua/index\\_u.php?news\\_id=13853&searchterm=%F1%EE%E4%EE%EC%B3%F2](http://www.komunist.com.ua/index_u.php?news_id=13853&searchterm=%F1%EE%E4%EE%EC%B3%F2)

<sup>31</sup> Українська правда, *"Свободівці", що записалися на гей-парад, приписали собі розгон "шабашу збоченців"*, 25.05.2013 (in Ukrainian)

<http://www.pravda.com.ua/news/2013/05/25/6990731/>

<sup>32</sup> Свобода, *Ігор Мірошніченко: "Українське суспільство має твердий імунітет проти пропаганди збочень"*, 24.05.2013 (in Ukrainian)

<http://www.svoboda.org.ua/diyalnist/novyny/039400/>

<sup>33</sup> ТСН, *Нардеп считає пропаганду гомосексуальних отношений аморальною і неприемлемою*, 02.10.2013 (in Russian)

<http://ru.tsn.ua/politika/pr-schitaet-propagandu-gomoseksualnyh-otnosheniy-amoralnoy-i-nepriemlemoy-326849.html>

<sup>34</sup> Російськомовна Україна, *Вадим Колесніченко: "Всеукраїнська Координаційна рада організацій російських співвітчизників: реалії сьогодення та перспективи майбутнього"*, 06.12.2010 (in Ukrainian)

<http://ua.r-u.org.ua/?p=332>

<sup>35</sup> Please see, for instance, Кореспондент.net, *Щоб зберегти українську родину потрібно внести зміни до Угоди з ЄС*,

27.11.2013 (in Ukrainian)

<http://blogs.korrespondent.net/celebrities/blog/3333rem/a125719>

<sup>36</sup> Українська правда, *Азаров розказав мітингарям від ПР про одностатеві шлюби*, 14.12.2013 (in Ukrainian)

<http://www.pravda.com.ua/news/2013/12/14/7006832/>

this speech, the Ukrainian Prime Minister spoke, of course, about the same anti-discrimination Bill 2342 that was written, approved and sent to the Parliament after being signed by himself, Mr. Azarov, and in which there is not a single word either about gay marriage or about "sexual minorities" at all. The words of Mykola Azarov, who is also the formal leader of the ruling Party of Regions, about allegedly such requirements of the EU to Ukraine were immediately rebutted by the Head of the EU Delegation in Ukraine, Mr. Jan Tombiński<sup>37</sup>. By his next loud statement the Ukrainian Prime Minister clearly and plainly showed that Ukrainian politicians see problems in the requirement to combat discrimination and not in this very phenomenon: "Finally, we must adopt this law with the euphonious title "On equality of sexual minorities." [...] Well, on absence of discrimination. [...] if to talk about my point of view [...], then I am for it, that it does not hinder us. [...] We will not travel [to the EU without visas] until realize a whole number of very complex, costly, including in moral terms aggravating, circumstances. Yet we have taken the commitments themselves – certainly, we will realize them", – said the Prime Minister when commenting on position of the EU concerning the Visa Liberalization Agreement on Shuster Live TV show on December 20, 2013<sup>38</sup>. Therefore, morality for Mr. Azarov is burdened not by homophobia, but by prohibition of discrimination.

As in the Party of Regions, in the Batkivshchyna Party coexist diametrically opposite views on LGBT issues. Because of their reluctance to put themselves in opposition to the overwhelming attitudes and tendencies in Western society on LGBT issues, most of its party members try in every possible way to avoid discussing such topics; some, as noted above, dare talk about following western standards, but others do not hide their personal homophobic prejudices. This subject was repeatedly mentioned, for example, by Volodymyr Arieiev, an MP from Batkivshchyna, when describing the voting on PACE Recommendation 2021(2013) "Tackling discrimination on the grounds of sexual orientation and gender identity"<sup>39</sup> (he and another representative from his faction voted against it, another one abstained, representatives from the Party of Regions also voted against)<sup>40</sup>. He actively supports the proposal of Batkivshchyna's leader Arseniy Yatseniuk to withdraw anti-discrimination Bill 2342 from consideration. The idea of Mr. Yatseniuk and his associates is that, supposedly, any discrimination in Ukraine is already prohibited by the Constitution, so there is no need of any specific laws on the subject, but instead it would be sufficient to have an official interpretation of the relevant legal provisions by the Constitutional Court. At that, the appeal to the Constitutional Court for an official interpretation of the Constitution for some reason has to be submitted by the Parliamentary Commissioner for human rights, and not MPs who have such a right<sup>41</sup>. Therefore, it appears that the Batkivshchyna Party, while calling itself "the united pro-European opposition", is just trying to absolve itself from responsibility for implementation in Ukraine of the necessary legislative reforms – they do not mind that discrimination on ground of sexual orientation in Ukraine was banned even at the constitutional level in all spheres of life, not only in employment, but they do not want to be involved personally. It is very typical that Batkivshchyna's leader Arseniy Yatseniuk has developed Bill 2427 "On Amendments to the Code of Ukraine on Administrative Offences (to Strengthen the Responsibility of Employers for Discrimination in Employment)," which lists up to 21 grounds on which it proposes to prohibit explicitly discrimination in employment – from race to the place of residence – but sexual orientation and gender identity are predictably absent in the list.

## 5. Society

Legislative initiatives and socio-political events in Ukraine and abroad in 2013 forced Ukrainian society to pay attention more than previously to issues related to LGBT people. This has led to a revival of public debate on these issues, though they are still of minor importance to the public. Ukrainians in general demonstrate a high level of rejection of homosexuality – thus, in the sociological poll of GfK Group on May 17, 2013, almost 80% of the respondents aged over 16 years stated that they are against any sexual

<sup>37</sup> ZAXID.NET, *ЄС не вимагає легалізації одностатевих шлюбів, – Томбінський*, 14.12.2013 (in Ukrainian) [http://zaxid.net/home/showSingleNews.do?yes\\_ne\\_vimagaye\\_legalizatsiyi\\_odnostatevih\\_shlyubiv\\_tombinskiy&objectId=1299235](http://zaxid.net/home/showSingleNews.do?yes_ne_vimagaye_legalizatsiyi_odnostatevih_shlyubiv_tombinskiy&objectId=1299235)

<sup>38</sup> Video is available at <http://3s.tv/news/20-nojabrja-v-2030-v-efire-telekanala-inter-programma-shuster-live/>

<sup>39</sup> <https://www.facebook.com/volodymyr.ariiev/posts/529128650483329>

<sup>40</sup> <http://assembly.coe.int/nw/xml/Votes/DB-VotesResults-EN.asp?VoteID=34694&DocID=14618&MemberID=&Sort=2>

<sup>41</sup> Коммерсантъ Украина, *Конституции на всех хватит*, 10.07.2013 (in Russian) <http://www.kommersant.ua/doc/2230266>

relations between people of the same sex. More than half of the respondents also said that they opposed any homosexuals being allowed to enter into Ukraine<sup>42</sup>. Similar results were also obtained in the joint study of NGO Gay Alliance Ukraine and the Centre of Social Expertise of the Institute of Sociology, which was held in September and November of 2013 – so, in particular, only a fifth of those surveyed agreed with the fact that homosexuality is a sexual orientation that has the right to exist<sup>43</sup>.

### 5.1. Homophobic groups

The possibility that the phrase "sexual orientation" can appear in a basic legal act of Ukraine has acted on Ukrainian politics, the public, and especially upon religious figures, like a red rag to a bull. The vast majority of those professing homophobic prejudices did not even try to understand what is really written in that bill, instead eagerly objecting to provisions which are not contained in it and with which it has nothing to do – namely, same-sex marriage, adoption of children by same-sex couples, mythical "propaganda of homosexuality" and a "ban" on the promotion of homophobia<sup>44</sup>. It should be noted that out of the four-page text of Bill 2342 just a single line applies to the mentioned anti-discrimination provision, and the rest in no way touches sexual orientation. Another important irritating factor, that has made civic activity burst out around LGBT issues, was the holding of the said Marsh of Equality on May 25, 2013, in Kyiv.

**УВАЖАЕМЫЕ ГРАЖДАНЕ!**

**25 мая 2013 г. в Киеве планируется акция против проведения гей-парада**, который извращенцы хотят устроить в поддержку закона №2342 о легализации гомосексуализма. Своими бесстыдным действием, так называемое «сексуальное меньшинство» плюет на наши нравственные устои и веру, тем самым проверяют наш дух на прочность. Если мы сегодня равнодушно пройдем мимо этого события, и не помешаем случиться этой мерзости, завтра вновь принятые законы сотрут понятия о традиционной семье, нормальном воспитании, и неизвращенном обучении детей в школе. Это коснется каждого. Нам нельзя допустить принятие закона №2342, уравнивающего права сексизвращенцев с нормальными людьми. Никому не понравится, если бок о бок с ним будут работать пидоры, а детей в детсаде будут воспитывать извращенцы. Какое тогда будущее ждет нашу страну?

Обращаемся к вам, кому не безразлична судьба наших детей! 24 мая 2013г, вечером, организуется выезд в г. Киев для пресечения гей-парада. План действий:

1. Ночевка в г. Киев.
2. Марш по улице Киева согласно маршруту организаторов программы.
3. Посещение Киево-Печерской Лавры.

**Проезд в автобусах БЕЗ ОПЛАТЫ**

Звонить по телефону:

0500750281	Олег Николаев
0500750281	Олег Николаев
0500750281	Олег Николаев
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0500750281	Олег Николаев

*095054441947  
Телефон*

**Дорогие братья и сестры!**

25 мая содомиты намерены осквернить гей-парадом Киев – колыбель Святой Руси! В нем примут участие извращенцы и политики из многих стран. Успеху этой богоборческой затеи придается огромное значение. Ведь затем можно будет сказать: Украина приветствует гей-ценности. Это даст основание принять уже подготовленный специальный законопроект (№2342). После этого наказанию могут быть подвергнуты родители, протестующие против пропаганды среди детей содомских отношений, или священники, называющие их грехом.

Сегодня от каждого требуются сугубые усилия и молитвы, чтобы Господь оградил нас от этой пагубы.

**Призываем всех присоединиться к молитве по соглашению** (текст на обороте), которую предлагается совершать ежедневно (по 25 мая включительно) в 8.00, 12.30, 21.00 (по киевскому времени), а также во время ночных молитв (по возможности) в 1.00.

**Предлагаем принять участие в мирных акциях в защиту традиционных христианских ценностей** против узаконивания пропаганды содомского греха.

**Они начнутся в Киеве 25 мая в 9.00 на Майдане Незалежности.**

Власти и незваные заморские «гости» должны осознать, что нас – большинство и что мы готовы защищать будущее наших детей от содомской проказы.

По вопросу организованного выезда из Сум автобусом (в ночь на 25 мая, возвращение в этот же день) обращаться по телефону 095-25-77-108. Звоните не откладывая. Количество мест ограничено.

Дополнительная информация <http://vk.com/id211602370>.

It is not within possibility to describe all the actions that took place around these two events – they were

#### *Examples of leaflets with calls against the March of Equality*

held not only in the capital but also in other cities of Ukraine, and had largely homophobic and religiously-coloured characteristics. Among the main organizers of these events there should be mentioned, first of all, such groups as Batkivskiy Komitet (*Parent Committee*), the movement of Viktor Medvedchuk Ukrainskii

<sup>42</sup> GfK Ukraine, supra note 1

<sup>43</sup> Гей-альянс Украина, "Гей-альянс Украина" публикует результаты исследования общественного мнения о восприятии ЛГБТ в украинском социуме, 25.12.2013 (in Russian) [http://upogau.org/ru/inform/ournews/ournews\\_606.html](http://upogau.org/ru/inform/ournews/ournews_606.html)

<sup>44</sup> Please see, for instance, Церква.info, *Звернення Патріарха Київського і всієї Руси-України Філарета до віруючих та всього українського народу*, 22.05.2013 (in Ukrainian) <http://www.cerkva.info/uk/patrosplannia/3471-zvern-patr.html>



Vybor (*Ukrainian Choice*), Narodnyi Sobor: Ukraina, Lyubov proty homoseksualizmu (Love Against Homosexuality), Orthodox Greek Catholic Church (also known as Byzantine Universal (Catholic) Patriarchate, or the Dohnal group, the Dohnalites etc.). None of these movements can be called popular, but they received the support of many (though also small) radical-nationalist, religious, conservative, pro-Russian (so-called Cossacks etc.) groups. Their activity was expressed particularly in distributing leaflets with homophobic propaganda and calls to protest against Bill 2342, and in holding relevant public events. The largest number of such events took place in Kyiv in front of the Parliament building<sup>45</sup>, but some actions occurred in many other cities, including Lviv<sup>46</sup>, Poltava<sup>47</sup>, Luhansk<sup>48</sup>, Zhytomyr<sup>49</sup>, Odesa<sup>50</sup>, Dnipropetrovsk<sup>51</sup>, Simferopol<sup>52</sup> and so on. Most events were sparse in attendance numbers and peaceful, but protests against the March of Equality collected, on the whole, up to several thousand participants and were accompanied by aggressive actions against advocates of LGBT rights, and clashes with the police. Sometimes, as in Luhansk, such actions also were accompanied by calls for discrimination and violence (even to "destroy" and "throw stones") against LGBT people<sup>53</sup>. Especially large scale outright calls and preparation for violence against LGBT persons obtained on the Internet, where there were created numerous groups in social networks (VKontakte, Facebook), within which their participants held discussions of specific plans and actions in this regard<sup>54</sup>. None of these events and incidents caused significant public interest or open condemnation from government officials, local authorities or politicians.

## 5.2. LGBT community

Despite the persistent homophobic prejudice of Ukrainian society, in 2013 the LGBT community in Ukraine – primarily because of some still relatively liberal public attitudes and thanks to continued assistance and support from international organizations, governments and society in Western countries – significantly expanded its visibility, influence and activity.

Among the major achievements of this year, we would like to note a few events. First of all, the year's holding, albeit in a very modest form, the first march for equal rights of LGBT people on May 25 in Kyiv<sup>55</sup>. At the least, this has created a precedent for similar events across the country: a Gay Pride took place, and nothing terrible happened. The proliferation of the LGBT community's activity led to the stepping forward of the first national non-LGBT organization to support and advocate the interests of gay and transgender Ukrainians – All-Ukrainian Parental Initiative Tergo created by parents of LGBT children<sup>56</sup>. Finally, the beginning of public and policy makers' awareness of the necessity to achieve modern Western standards of the right to equality and combating discrimination was clearly witnessed during the parliamentary hearings "Visa-free regime between Ukraine and the EU: Prospects and opportunities for citizens of Ukraine" on November 6, 2013. This date marked when for the first time an openly gay person, LGBT activist Bohdan

<sup>45</sup> Please see, for instance, Тві, *Пікетувальники під Радою не хочуть втратити право дискримінувати геїв*, 14.05.2013 (in Ukrainian) [http://tvi.ua/new/2013/05/14/piketuvalnyky\\_pid\\_radoyu\\_ne\\_khochut\\_vtratyty\\_pravo\\_dyskryminuvaty\\_geyiv](http://tvi.ua/new/2013/05/14/piketuvalnyky_pid_radoyu_ne_khochut_vtratyty_pravo_dyskryminuvaty_geyiv)

<sup>46</sup> LTDaily, *Під міською радою Львова знову пройшла акція проти "гендер-гей" законодавства*, 22.04.2013 (in Ukrainian) <http://ltdaily.info/lviv/pid-miskoyu-radoyu-lvova-znovu-projshla-aktsiya-proty-hender-hej-zakonodavstva>

<sup>47</sup> Полтавщина, *Дождь с градом не остановили митинг против гомосексуализма в Полтаве*, 25.05.2013 (in Russian) <http://www.poltava.pl.ua/news/22387/>

<sup>48</sup> 0642.ua, *"Смерть пи\*\*\*\*сам!". В Луганске провели митинг и марш против гомосексуализации Украины*, 19.05.2013 (in Russian) <http://www.0642.ua/news/318610>

<sup>49</sup> Житомир.info, *Организация «Я - мама!» начала сбор подписей в Житомире против разрешения гомосексуалистам усыновлять детей*, 11.05.2013 (in Russian) [http://www.zhitomir.info/news\\_122286.html](http://www.zhitomir.info/news_122286.html)

<sup>50</sup> Комментарии, *В Одессе и Днепропетровске геев изгоняли метлами, подписями и танцами*, 26.05.2013 (in Russian) <http://comments.ua/life/404600-odessa-dnepropetrovske-geev.html>

<sup>51</sup> Ibid.

<sup>52</sup> Новости Крыма – В городе, *В Симферополе устроили марш против однополых браков и порвали флаг гей-движения*, 13.05.2013 (in Russian) <http://crimea.vgorode.ua/news/172618-v-symferopole-ustroyly-marsh-protyv-odnopolykh-brakov-y-porvaly-flah-hej-dvyzheniya>

<sup>53</sup> Video of such calls is available at <http://www.youtube.com/watch?v=w-AdjQ8dxt8>

<sup>54</sup> In particular, <http://vk.com/stopgaypride>, [http://vk.com/kiev\\_protiv\\_pederastov](http://vk.com/kiev_protiv_pederastov), <http://vk.com/club34879601>, <http://vk.com/public52931994>

<sup>55</sup> Кореспондент.net, *Під охороною міліції. У Києві пройшов гей-парад*, 25.05.2013 (in Ukrainian)

<http://ua.korrespondent.net/kyiv/1563125-pid-ohoronoyu-miliciji-u-kyevi-projshov-gej-parad-fotoreportazh>

Терго, *Громадську організацію "Батьківська Ініціатива "ТЕРГО" офіційно зареєстровано!*, 17.09.2013 (in Ukrainian) [http://tergo.org.ua/news/show\\_19/](http://tergo.org.ua/news/show_19/)



Hloba, spoke in the Parliament about his personal experience of egregious problems which inevitably face every Ukrainian gay or transgender person<sup>57</sup>.

On 15-18 August, 2013, Kyiv hosted the VI Forum of LGBT Christians in Eastern Europe and Central Asia. For Ukraine, where all notable Christian churches profess views openly hostile to LGBT people, it has become a significant event that attracted attention of not only Ukrainian LGBT Christians, but also the leading religious editions of the country<sup>58</sup>, and contributed to discussions in religious circles about the attitude of Christianity towards homosexuality. There were also ordained priests for LGBT Christians in Ukraine and Belarus at the forum<sup>59</sup>.

Besides the March of Equality, which has attracted common attention, in Kyiv and many other cities of Ukraine there were held smaller local actions of local LGBT and friendly organizations and individual activists. In particular, the Russian Embassy in Kyiv was picketed by protesters against the persecution of LGBT people in Russia<sup>60</sup>; in Zaporizhzhia took place a flash mob for the World Day against Homophobia and Transphobia<sup>61</sup>; in Simferopol they protested against homophobia and discrimination<sup>62</sup>. However, provocations also happened – obviously trying to use the homophobic prejudice of Ukrainian society to spread pro-Russian attitudes and counteract European integration – when unknown groups (allegedly commissioned by NGO Ukrainian Choice of Viktor Medvedchuk) organized a few deliberate scandalous shows that had to cause negative emotions in the general public. In particular, known for his wildly absurd protests Man in Thong and a couple of unknown guys, who acted on behalf of the unknown (and probably non-existent) organization Creative Youth Plus, undressed in Kyiv under the Arch of Peoples' Friendship ostensibly in support of Bill 2342<sup>63</sup>; during the Euromaidan crisis in Kyiv a group of people, who looked like homeless beggars, tried to join the general protest against the government under the rainbow flags of the LGBT community<sup>64</sup>.

### 5.3. Media

In 2013 the trend has remained of a mainly neutral or positive coverage of issues related to LGBT in the Ukrainian press, a trend which became apparent already in May 2012 in the wake of the events surrounding the then (unsuccessful) march for equal rights for LGBT people. However, a wave of articles and discussions in the pages of Ukrainian mass media, covering Bill 2342 and the signing of the Association Agreement with the EU, highlighted two main issues specific to our journalism in general: poor knowledge of the subject under discussion, and an uncritical attitude towards the sources of information.

As a result, while some Ukrainian media tried to publish objective and comprehensive information on the subject under discussion, others spread outright misinformation about "the bill concerning the right to same-sex marriage." It hardly ever occurred to any one of the non-LGBT journalists (when reporting about cases of clearly inappropriate, provocative, questionable actions made supposedly on "behalf" of the LGBT community) actually to fact-check at source whether or not the subject mouth-piece organizers were indeed the approved representatives they announced themselves to be. So the remiss media spread misinformation based on undoubtedly forged actions, without any reservations.

<sup>57</sup> The transcript of the hearing, supra note 27

<sup>58</sup> Please see, for instance, Релігійно-інформаційна служба України, Геї, які вважають себе християнами, хочуть у Києві провести міжнародний форум, 14.08.2013 (in Ukrainian) [http://risu.org.ua/ua/index/all\\_news/community/religion\\_and\\_society/53360/](http://risu.org.ua/ua/index/all_news/community/religion_and_society/53360/)

<sup>59</sup> ЛГБТ-Християне України, Завершил работу VI Форум ЛГБТ-христиан Восточной Европы и Центральной Азии – 2013, 21.08.2013 (in Russian) <http://gaycredo.org.ua/index.php/novosti/v-ukraine/87-zavershil-rabotu-vi-forum-lgbt-khristian-vostochnoj-evropy-i-tsentralnoj-azii-2013>

<sup>60</sup> ТСН, Обурені українські ЛГБТ-активісти пікетували посольство Росії за "гомофобний закон", 11.06.2013 (in Ukrainian) <http://tsn.ua/ukrayina/obureni-ukrayinski-lgbt-aktivisti-piketuvali-posolstvo-rosiyi-za-gomofobnij-zakon-297933.htm>

<sup>61</sup> Новый регион, В Запорожье геи и лесбиянки провели тайный флешмоб, 20.05.2013 (in Russian) <http://nr2.com.ua/zaporozhia/439321.html>

<sup>62</sup> Крымская правда, В Симферополе протестовали против гомофобии, 03.08.2013 (in Russian) <http://www.pravda.crimea.ua/news/2013/08/03/v-simferopole-protestovali-protiv-gomofobii>

<sup>63</sup> 20 хвилин, В Києве мужской Фетеп провёл акцию в поддержку курса Азарова в Европу, 25.09.2013 (in Russian) [http://www.20khvlyn.com/news/society/news\\_5926.html](http://www.20khvlyn.com/news/society/news_5926.html)

<sup>64</sup> RegioNews, Безхатьки отримали по 100 грн за прогулянку з ЛГБТ-прапорами, 25.11.2013 <http://regionews.ua/node/121210>

## 5.4. Churches

2013 demonstrated a new trend with respect to LGBT issues from leading Ukrainian churches – some softening of their traditional homophobic rhetoric.

Events of 2012 (the failure of the peaceful march within KyivPride 2012, submission of laws against "propaganda of homosexuality") attracted attention of the Ukrainian Orthodox Church, the Ukrainian Orthodox Church - Kyiv Patriarchate, the Ukrainian Greek Catholic Church and others to LGBT issues. The following year these information events happened even more frequently, not to mention the events abroad (spreading recognition of same-sex marriage in the world, the adoption of Russian anti-gay laws, and debates and reforms regarding LGBT issues in the leading churches of the world), to which Ukrainian churches and individual believers considered they must somehow respond. This leads to that, on the one hand, religious leaders feel the need to formulate a clear attitude to the challenges of the time, but on the other hand, they want to avoid controversial issues and awkward questions. In addition, within Ukrainian churches discussions started concerning the impact of deeper integration with the EU upon the so-called "traditional values", a term which usually refers to homophobic prejudice and gender inequality.

As a result, the UGCC and UOC-KP during 2013 tried mainly to avoid broad discussion of these issues and to refrain from outright calls for discrimination against LGBT people. While in 2011 Major Archbishop of UGCC Sviatoslav carried out active homophobic propaganda, comparing "homosexuality" to the sin of manslaughter<sup>65</sup>, and in 2012 the Ukrainian Greek Catholic Church and the Roman Catholic Church in Ukraine issued a joint statement against the "propaganda of homosexuality"<sup>66</sup>; in 2013 this issue has quietly disappeared from the agenda of both churches – apparently against the background of their official support for European integration and the position on LGBT issues of newly elected Pope Francis. Meanwhile, the Head of the UGCC did not miss opportunities to declare on behalf of his church both the consistent approval of discriminatory laws banning "propaganda of homosexuality" and condemnation of anti-discrimination Bill 2342<sup>67</sup>.

It seems that UOC-KP has tried to conduct a similar policy, but it was hindered by personal homophobic prejudices of its Primate, Patriarch Filaret of Kyiv. He requested of the UOC-KP Local Council its adoption of the special declaration "On the negative attitude towards the sin of sodomy (homosexuality), propaganda of it in society, and so-called gay marriages"<sup>68</sup>, which states two diametrically opposite matters: on the one hand, "*We do not stand for discrimination against persons who consider themselves homosexual,*" and on the other hand, "*The Church is alarmed with attempts to adopt in the Ukrainian parliament a law that would prohibit so-called discrimination on ground of "sexual orientation", and calls on MPs to abstain from the approval of similar legislative initiatives*"<sup>69</sup>. It should be recalled that in 2012 the Patriarch supported openly discriminatory Bill 8711 (currently Bill 0945) banning "propaganda of homosexuality"<sup>70</sup>. On the eve of the March of Equality in Kyiv, the Patriarch even issued a special appeal to believers and all the Ukrainian people, which largely repeated the above-mentioned statement of the Local Council<sup>71</sup>.

Ukrainian Orthodox Church of the Moscow Patriarchate, being under the great influence of his ultra-conservative parishioners and clergy as well as the mother Russian Orthodox Church, also has shown a similar, though less striking, stand on LGBT issues. In particular, its Primate, Metropolitan Volodymyr of

<sup>65</sup> tochka.net, *Блаженнейший Святослав о мире с МП*, 08.11.2011 (in Ukrainian) <http://news.tochka.net/conferences/1637-1-sposite-u-blazhenneyshego-svyatoslava-kak-pomiritsya-s-moskovskim-patriarkhatom/>

<sup>66</sup> Українська Греко-Католицька Церква, *Звернення Католицького Єпископату України: Синоду Української Греко-Католицької Церкви та Конференції Римсько-Католицької Церкви в Україні (про захист подружжя)*, 09.02.2012 (in Ukrainian) <http://www.ugcc.org.ua/2231.0.html>

<sup>67</sup> Please see, for instance, Інститут релігійної свободи, *Глави церков закликають ВР відхилити законопроект № 2342 щодо дискримінації*, 13.05.2013 (in Ukrainian) [http://www.irs.in.ua/index.php?option=com\\_content&view=article&id=1228:1&catid=34:ua&Itemid=61&lang=uk](http://www.irs.in.ua/index.php?option=com_content&view=article&id=1228:1&catid=34:ua&Itemid=61&lang=uk)

<sup>68</sup> Релігія в Україні, *Киевский патриархат ради объединения с УПЦ готов отказаться от своего патриарха? Репортаж с Поместного Собора*, 27.06.2-13 (in Russian) <http://www.religion.in.ua/main/22420-kievskij-patriarhat-radi-obedineniya-s-upc-gotov-otkazatsya-ot-svoego-patriarxa-reportazh-s-pomestnogo-sobora.html>

<sup>69</sup> Церква.info, *Декларація Помісного Собору про негативне ставлення до гріха содомії (гомосексуалізму)*, 27.06.2013 (in Ukrainian) <http://www.cerkva.info/ru/pomestnysobor/3605-sobor2013-deklaracia.html>

<sup>70</sup> Церква.info, *Журнали засідання Священного Синоду 20 жовтня 2012 р., Журнал № 36*, 20.10.2013 (in Ukrainian) <http://www.cerkva.info/uk/synod/2774-synod20-10-12.html>

<sup>71</sup> Церква.info, supra note 44

Kyiv, has officially supported another bill banning "propaganda of homosexuality" by Vadym Kolesnichenko MP (No. 1155)<sup>72</sup>. In addition, on 15 March, 2013, the Synod of the UOC (MP) expressed its concern and called to prevent the adoption of anti-discrimination Bill 2342<sup>73</sup>. Meanwhile, on the other hand, the official speaker of the Ukrainian Orthodox Church Archpriest Heorhii Kovalenko through his Facebook called "*gay parade*" "*a mythical problem*" for society against the backdrop of real threats<sup>74</sup> – thus demonstrates the absence of unanimous opinion within this church on the mentioned issues.

In their rejection of non-discrimination on ground of sexual orientation the Ukrainian Orthodox, Greek Catholic and Roman Catholic were joined by the rest of the noticeable religious organizations in the country, including the Council of Evangelical Protestant Churches of Ukraine<sup>75</sup>, Mufti of the Spiritual Administration of Muslims of Ukraine, Sheikh Ahmed Tamim<sup>76</sup>, as well as the All-Ukrainian Council of Churches and Religious Organizations in full<sup>77</sup>.

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<sup>72</sup> Партия регионов, *Вадим Колесниченко: Православная Церковь поддержала законопроект о запрете направленной на детей пропаганды однополых отношений*, 01.05.2013 (in Russian)

<http://partyofregions.ua/news/blog/5180efd7c4ca42047c000009>

<sup>73</sup> Українська Православна Церква, *Звернення Священного Синоду УПЦ з приводу проекту Закону "Про внесення змін до деяких законодавчих актів України щодо запобігання та протидії дискримінації в Україні"*, 15.03.2013 (in Ukrainian)

<http://orthodox.org.ua/article/звернення-священного-синоду-упц-з-приводу-проекту-закону-«про-внесення-змін-до-деяких-законів-закону>

<sup>74</sup> Українська правда, *В Українській православній церкві закликали боротися не з гей-парадами*, 23.05.2013 (in Ukrainian)

<http://www.pravda.com.ua/news/2013/05/23/6990582/>

<sup>75</sup> Інститут релігійної свободи, *Україна має зберегти традиційні сімейні та моральні цінності, інтегруючись до ЄС – євангельські Церкви*, 04.09.2013 (in Ukrainian)

[http://www.irs.in.ua/index.php?option=com\\_content&view=article&id=1270%3A1&catid=34%3Aua&Itemid=61&lang=uk](http://www.irs.in.ua/index.php?option=com_content&view=article&id=1270%3A1&catid=34%3Aua&Itemid=61&lang=uk)

<sup>76</sup> Духовное управления мусульман Украины, *В Грозном прошел Международный миротворческий форум "Ислам – религия мира и созидания"* (in Russian) <http://www.islamyat.org/novosti/v-groznom-proshel-mezhdunarodnyyi-mirotvorcheskiyi-forum-islam-%E2%80%93-religiya-mira-i-sozidaniya.html>

<sup>77</sup> Всеукраїнська Рада Церков і релігійних організацій, *Звернення Про необхідність відкликання законопроекту № 2342 з метою захисту свободи віросповідання та свободи вираження поглядів*, 26.03.2013 (in Ukrainian)

[http://vrciro.org.ua/index.php?option=com\\_content&task=view&id=202&Itemid=31](http://vrciro.org.ua/index.php?option=com_content&task=view&id=202&Itemid=31)

## 6. Discrimination, incidents and crimes related to sexual orientation or gender identity of victims

Nash Mir Center has prepared a separate detailed report on hate incidents and crimes against LGBT people in Ukraine in 2012-2013<sup>78</sup>, so in this document we present only summary data on the observed current (2013) situation in this field and the more recent cases that were not included in the mentioned report. As regards discrimination on grounds of sexual orientation or gender identity, this year we did not conduct a special survey on the subject, so very few cases have been reported (one should take into account that Ukrainian LGBT people very rarely report violations of their rights on their own initiative; they are widely detected only during special surveys by human rights organizations). In general, the data for 2013 show that the situation in the field of human rights of LGBT people in Ukraine has not virtually changed since the previous year – both the total number of cases recorded and their statistical distribution.

The online survey revealed that about 65% of the total number of 499 people (mostly young gay men of the major cities of Ukraine) over the last year at least once faced manifestations of homo- or transphobia. The most common were cases of verbal or symbolic insults (35%), illegal disclosure of confidential information on sexual orientation (24%), threats of violence (15%), violence (11%), extortion (7%)<sup>79</sup>.

The largest number of violations towards the respondents was made by strangers acting on their own behalf and not related to the victim – 35% of cases. Also among the biggest offenders were indicated co-workers or classmates in schools – 21%; the police and other law enforcement agencies – 20%; organized aggressive homophobic groups ("Gopniks", "Pedofilyay", radical nationalists etc.) – 18%<sup>80</sup>.

Given the general lack of citizens' confidence in the law enforcement agencies<sup>81</sup> and the actually detected high level of LGBT human rights' violations on their part<sup>82</sup>, it is not surprising that victims rarely dare to contact them for help when facing a violation of their rights<sup>83</sup>. Nash Mir Center, trying to compensate somehow for community members' inability to obtain protection of LGBT rights by the state, on a regular basis provides legal advice to victims of violence and discrimination. As the statistics of such applications in the past three years show, the largest number (29 cases) classifies as violations by the police, in the second place are hate crimes (23 cases), and then come hate incidents (13). The most frequent violations by the police are illegal detention (20 cases) and provocation of crimes and offenses (16)<sup>84</sup>. A typical example is the recent incident reported to us by a middle-aged gay man in April 2013:

*A dating on the [web]site. A request to show hidden photos. A proposal to meet. At the meeting two men turned out to be police officers. [They] block me in the car and take [me] to the [police] department. I am charged with distribution of pornography. [They] try to find out my marital status, place of work. [They] inform me on punishment provided for distribution of pornography. [They] make hints about possibility to pay me off or just extort a bribe. Very many gays in the city have suffered and paid lots of money.*

In addition to the aforementioned online poll, Nash Mir Center in 2013 also constantly monitored violations of human rights of LGBT people in Ukraine through its monitoring network of activists across the country. In total for 2013 we received 37 reports of such incidents, covering events that occurred from December 2012 to December 2013. The greatest numbers of violations were documented in Lviv (7), Chernivtsi (5), Kyiv, Zaporizhzhia and Donetsk Oblasts (4 cases in each of them). Those cases, about which we were informed at the time of drawing up the aforementioned report on hate crimes and incidents, are given in it on pages 19-27. In this current report we add only descriptions of cases, about which information was submitted to us later, and do statistical analysis of the entire data set (see below).

As in the previous years, the largest number of recorded cases (29) relates to actions motivated by hatred or prejudice against LGBT people. 15 of them can be classified as hate crimes, 14 – as incidents of hate or

<sup>78</sup> Nash Mir Center, supra note 2

<sup>79</sup> Ibid., p. 10

<sup>80</sup> Ibid., p. 11

<sup>81</sup> Главком, *Уровень доверия украинцев милиции упал ниже плинтуса*, 03.04.2013 (in Russian)

<http://glavcom.ua/news/120895.html>

<sup>82</sup> Nash Mir Center, supra note 2, p. 11. See also Центр "Наш світ", *ЛГБТ-вектор України. Положення ЛГБТ в Україні (ноябрь 2011 – 2012)* (Nash Mir Center, Kyiv, 2013), p. 47, 49 (in Russian) <http://gay.org.ua/publications/sbornik2013.pdf>

<sup>83</sup> Nash Mir Center, supra note 2, p. 9 (Figure 18)

<sup>84</sup> Ibid., p. 28

bias (classification of events was carried out according to the rules of the OSCE Office for Democratic Institutions and Human Rights).

The documented cases fall under the following types of violations (see Table 1):

Table 1

Types of violations	Number of cases
Insults	22
Physical violence	17
Threats of physical violence	7
Torture, degrading treatment	5
Damage to property	3
Threats to disrupt public LGBT events	2
Attempts to penetrate into housing	2
Extortion	1
Defamation	1

In addition, violations of the right to respect for private life in the form of disclosure or threat of disclosure of confidential information was recorded in 11 cases.

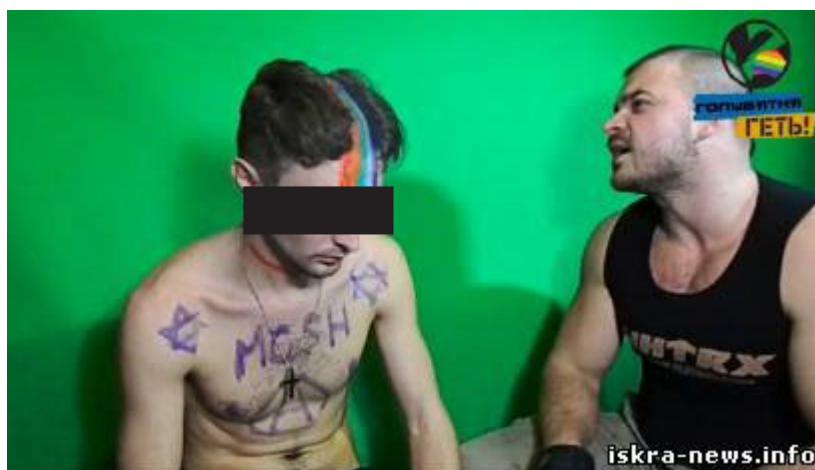
Below we provide descriptions of cases, on which information came to us after the completion of the above-mentioned report on hate crimes and incidents regarding LGBT people in Ukraine in 2012-2013, and therefore was not included in it – but that, in our opinion, are characteristic of the current situation of LGBT people in Ukraine, and thus are noteworthy.

### ***Actions motivated by hate or bias***

#### Case 469

In the second half of 2013, the Russian neo-Nazi Max Martsinkevich nicknamed "Tesak" (*Slasher*), who is hiding from prosecution by the Russian law enforcement authorities, visited Ukraine "inspecting" local groups of "Okkupay-pedofiliay" (self-proclaimed volunteer "fighters with pedophilia" who in the last couple of years became widespread in Russian and Ukrainian cities), whose ideologist and inspirer he is. According to his views, "paedophiles" and "paederasts" are one and the same thing. A few months later Martsinkevich travelled to many Ukrainian cities organizing the bullying of local LGBT communities.

One of the recent (and typical) episodes of his "preventive" actions took place in Sevastopol in late October 2013, when Tesak with his local accomplices tormented a young singer and, as usual, placed the video of their action online. He partly shaved the victim's head, painted it with felt-tip pens, forced him to drink a cup of urine, and poured a few more litres of it over his head, exposing the victim to physical and psychological violence.



This is one of the few cases when any of the victims of the actions of Tesak and Pedofiliay actions applied to the police. The lawyer of the victim believes that the criminal proceeding should be instituted not only upon the factual basis of bullying (as has already been done), but also upon the factual basis of torture.

#### Case 465



In early November 2013, Ihor a 30-year-old gay man also became a victim of Tesak, this time during his "tour" in Lviv. The situation was similar to that described in the previous case. Key actions of humiliation took place in a rented apartment, but this time there were present about a dozen spectators, who paid an entrance fee to the enterprising Russian offender.

The bullying video has also been uploaded onto the Internet. It should be noted that almost all the cases, where hate actions unlawfully forced disclosure of confidential information, were similar.

#### Case 458

In the summer of 2013, Taras, a lecturer in one of the Lviv universities, began to receive threats from relatives of his boyfriend whom he had met a few months earlier, and together with whom he lived and had a common household. The parents of his 18-year-old partner, residing in a Lviv Oblast village, had learned that their son is gay and lives with an adult man. They found out where Taras works and that he is formally registered in the apartment of his old mother. Then Taras began receiving threats from them in the form of phone calls and SMS in which they threatened to hire some guys and physically punish him and his mother, and also to report the sexual orientation of Taras to the university where he works.

#### Case 462

In mid-October 2013 in Kharkiv, Ruslan was attacked by three young men in connection with his sexual orientation. Here is how he described it: *"I went home from my friend and three guys attacked me on the road, knocked to the ground and started to beat me screaming "Beat the fag!" I crawled to the road because there were cars there, shouting "Help!", as I cannot fight. A passer-by helped me, called an ambulance and the police."*

Ruslan explained the assault upon him by the fact that one of the attackers knew that he is gay.



#### Case 457

One August evening in 2013 a company of 6 gays and lesbians, who took a rest at Lviv *pleshka* (a traditional gay cruising place), were attacked by about 15 youths in tracksuits. Three guys were brutally beaten and kicked while applying pepper gas. The girls cried for help, but bystanders silently walked past them or just watched. After the attack an ambulance was called that brought to the hospital victims with injuries of varying severity.

As it turned out, the company of assaulters appeared on scene through no accident. One of them was a boyfriend of a girl who accompanied the victims that evening; and he wanted to beat any gays. He knew that his girlfriend mixed with such people, and had asked her to tell him when and where would be an opportunity for such an attack.

Unfortunately, the victims refused to appeal to the police because they were afraid to encounter more problems over it.

#### Case 455

Denys, a gay and disabled person who lives in Simferopol, met over the Internet with a young man. At a live meeting in August 2013 this guy, using the vulnerability of Denys (mental disorder) forced him to give up all the money that the victim had with him (150 Ukrainian hryvnas) by threatening to disclose information on his sexual orientation to Denys's family. Later, this youth tried to extort extra money from Denys through the Internet.

#### Case 453

On the night of 24-25 May 2013, neighbours of transgender woman Svitlana (MtF) who lives in Kyiv tried to burst in through the door of her apartment with threats of physical violence and insults relating to her gender identity. These neighbours are a heterosexual couple living in a common law marriage. Svitlana explains their hatred to her as stemming from the prison past of her male neighbour and the fact that they both use drugs.

This is not the first case of their aggressive behaviour against Svetlana. Initially she went to the police to complain about them back in 2011. Since then, the police would regularly come in response to her calls, draw up reports on the violators, and undertake no other actions.

### ***Relations with law enforcement agencies***

The police service still remains the public one from which Ukrainian LGBT people most often suffer violations of their rights. Overall, during the mentioned period 10 such cases have been documented. Below (see Table 2) are indicated LGBT rights that have been violated by the police:

Table 2

<b>Violations of rights (by which actions)</b>	<b>Number of cases</b>
The right to liberty and security of person (violation of procedural rules, provocation to commit a crime, insults and physical abuse)	6
The right to an effective remedy (denial to take an application, non-response to a complaint)	4
The right to freedom from discrimination (insults and intimidation because of sexual orientation)	2
Right to respect for private life (the threat of illegal disclosure of confidential information)	1

As already mentioned, this leads to the fact that in most cases the victims are just afraid to contact the police for help, fearing unlawful actions from their very own Ukrainian law enforcement agencies, relating to their sexual orientation.

### ***The right to a fair trial***

Violations of this right in 2013 were recorded in 4 cases.

In three cases of gay men, who were sentenced to various terms of imprisonment for distributing pornography and procuration by the court of first instance (Shevchenkivskiy District Court of Chernivtsi), their sentences remained unchanged by the Chernivtsi Oblast Court of Appeal. According to their lawyer, *"the court carried out one-sided and incomplete trial [procedures] while considering these cases. The court's conclusions in this trial do not correspond to the actual circumstances of the case that led to the misuse of criminal law and a violation of the criminal procedure law."* At the time of writing this report, a cassation appeal on these cases is being prepared for submission before the High Specialized Court for Criminal Cases.

In the fourth case, the District Administrative Court of Kyiv in an illegal and unjustified way, in our opinion, banned the March of Equality in the capital in May 2013 (please see more details in Chapter 3 "State and Local Government" of this report). The appeal and cassation complaints regarding the unlawful decision of the trial court have not been satisfied. At the time of writing this report a complaint has been made to the European Court of Human Rights (ECHR) on these violations of Articles 10 (freedom of expression), 11 (freedom of peaceful assembly), 13 (right to an effective remedy) and 14 (freedom from discrimination) of the European Convention on Human Rights and Fundamental freedoms.

In addition, since 2011 another trial goes on in the matter of criminal prosecution of citizen X for distributing pornography<sup>85</sup>. In 2013 this case went through all the national courts, which upheld the sentence. The lawyers of citizen X, being dissatisfied with the decision, filed a complaint to the ECHR based on the facts of violation by Ukrainian courts of Article 6 (right to a fair trial) and Article 8 (right to respect for private life) of the said Convention.

<sup>85</sup> Nash Mir Center, supra note 2, p. 53 (case 398)

**Employment**

In this area only 1 case was recorded concerning violation of the right to privacy through the disclosure of confidential information.

**Case 454**

In July 2013 Andrii, who worked as a security guard in a prison establishment of Donetsk Oblast, during an inspection before going on duty had his cell phone temporarily seized. The head of Operative Department, who kept the phone, illegally looked through its stored personal videos and so got to know of Andrii's homosexual orientation. By the end of Andrii's watch his orientation became known to his immediate commander and a few colleagues. Even though the chief (returning the phone with a smile) promised not to disclose information about his orientation -- Andrii realized that he best not work in this collective anymore, and applied for discharge. His chief refused to return to him the memory card with Andrii's personal pictures.

**Education**

One case in this area was also documented, concerning the discriminatory attitude of a teacher.

**Case 467**

In October 2013 the head of one of the departments of Kherson State University prohibited her students from undergoing training in a certain non-governmental organization of the city, after she learned that this NGO is involved in HIV prevention among men who have sex with men. When talking with the head of the organization, she also spoke in an abusive manner of such organizations and the people with whom they work.

## 7. Conclusions and recommendations

Summarizing and analysing facts and observations presented in this report, we conclude that in 2013 both the Ukrainian LGBT community and Ukrainian society as a whole found themselves on the threshold of swift and irreversible changes on the path towards modern European standards of social and political life. The processes of globalization and integration have become obvious and urgent for our country, processes that prefigure and force the state and society to change according to the European course of development. Overcoming homophobic prejudices of Ukrainian society and their effects becomes an imperative not only for LGBT Ukrainians, but also for the country as a whole. At the very least this is true because, as it turned out, such prejudices and effects are almost literally an impenetrable obstacle across borders on the way to Europe: due to its failure to adopt anti-discrimination Bill 2342, Ukraine was unable to proceed to the second phase of the liberalization of the visa regime with the EU.

Although 2013 significantly showed an enlivening of social and political debates on issues related to the LGBT community and formation of the obvious demand for fundamental changes in the current state of things, all this has not yet led to any significant changes when compared with the previous year. Thus, the recommendations formulated in the previous report on the situation of LGBT in Ukraine remain entirely relevant, and it is necessary and worthwhile to make only small refinements and additions to them.

1. **The Verkhovna Rada of Ukraine** is recommended to reject all draft laws giving effect to actual discrimination on grounds of sexual orientation or gender identity; particularly, Bills 0945, 1155, 2133, 2342-1.
2. **The President and the Cabinet of Ministers of Ukraine as well as the Parliamentary Commissioner on Human Rights** are recommended to use all their powers and capabilities to ascertain that these and similar bills would never become applicable laws.
3. **The Verkhovna Rada of Ukraine** is recommended to adopt Bill 2342, which provides for implementation of generally accepted European standards for the prevention and elimination of discrimination in Ukraine.
4. **The Cabinet of Ministers of Ukraine** is recommended to realize priority proposals for implementation of the Recommendation of the Committee of Ministers of the Council of Europe CM/Rec(2010)5 contained in a special report on the results of implementation of this recommendation by Ukraine<sup>86</sup>.
5. In particular, **the Ministry of Health of Ukraine** is recommended
  - to make the necessary changes to the Order No. 60 of 03.02.2011 "On improvement of medical assistance to persons needing change (correction) of sex" and the Order No. 479 of 20.08.2008 "On establishment of the list of diseases which disqualify a person from being an adoptive parent" according to the suggestions of Council of LGBT Organizations of Ukraine set out in a letter to the Minister of Health of Ukraine from 14.11.2012;
  - to organize an examination of all textbooks and other learning and teaching materials for medical schools approved by the MoH to bring them into compliance with ICD-10, especially in matters relating to sexuality in general and homosexuality in particular, to remove references to this phenomenon as a disease, mental illness, sexual perversion, etc. Besides, to ensure that new learning materials, which get the approval of the Ministry of Health of Ukraine, were first tested in terms of correct coverage of issues of sexual orientation.
6. **The Ministry of Internal Affairs of Ukraine** is recommended to conduct regular education of its staff to foster a tolerant attitude and to prevent violation of human rights towards LGBT people; further (in cooperation with the Office of Public Prosecutor) thoroughly and impartially to

<sup>86</sup> Nash Mir Center, *Summary Report on implementation of the Recommendation CM/Rec(2010)5 of the Committee of Ministers of the Council of Europe on measures to combat discrimination on grounds of sexual orientation or gender identity by Ukraine* (Nash Mir Center, Kyiv, 2013), p. 5 <http://gay.org.ua/publications/report2012-e.pdf>

investigate human rights violations against LGBT people by the police; and bring the perpetrators to account.

7. **The public authorities and their representatives** are recommended to consider and be guided in their further activities by the principles enshrined in Article 35 of the Constitution of Ukraine, which states that *"the Church and religious organizations in Ukraine are separated from the State, and the School – from the Church"* and that *"no religion shall be recognized by the State as mandatory."*
8. **Representatives of state and local governments** are advised to avoid public displays of homophobia, adhere to the principles of respect, equality and non-discrimination for all social groups.
9. **Administrative courts of Ukraine at all levels** are encouraged to consider and continue to be guided in their work by Resolution No. 6 of the High Administrative Court of Ukraine's Plenum of 21.05.2012 "On the practice of using legislation by administrative courts when considering and taking decisions regarding realization of the right to peaceful assembly".
10. **Ukrainian media and journalists** are recommended to use illustrative images that correspond to the content of the publication, and also to avoid using incorrect terms (e.g., *homosexualist, homosexuality* in lieu of the correct terms *homosexual, homosexuality*) in the context of LGBT issues. It is also recommended in cases of obviously provocative and controversial actions perceived as taken on behalf of the LGBT community to ascertain the sponsorship of alleged organizers of such events and their actual relation to LGBT people.



## 8. Who composed this report, and how

The main sources of information for this report were the monitoring network of Nash Mir Center, consisting of some dozens of LGBT and human rights activists across the Ukraine, and public media, especially electronic. In addition, this year the Center has conducted an online survey regarding incidents and crimes on grounds of sexual orientation or gender identity of the victim. The results of this study are detailed in a separate publication of our organization, but also were partly used in this report.

Our results cannot be considered statistically reliable in terms of sociology, but we maintain that they adequately reflect the current situation of LGBT people in Ukraine, at least from a viewpoint of the Ukrainian LGBT community. Unfortunately, public institutions do not conduct any monitoring and do not collect any information about issues relating to the rights and interests of this social subgroup within the population, so there do not exist any more reliable statistics and analyses on these issues than those published by Ukrainian LGBT and human rights organizations, and individual activists. The guarantee of the veracity and representativeness of our data is our years of activity spent within the Ukrainian LGBT community, our collaboration with leading national and international human rights organizations, and our own experiences as ordinary Ukrainian LGBT citizens – we write about what we feel and see around us in everyday life.

The authors of this paper are activists of LGBT Human Rights Nash Mir Center – a non-profit Ukrainian NGO whose purpose is implementation and protection of our common rights and freedoms, and satisfaction of public, social, cultural, political, economic and other interests of the Ukrainian LGBT community. Our history dates back to the mid-1990s when a small group of enthusiasts from the eastern Ukrainian city of Luhansk decided that the time had come for such open public activity. In 1999, after almost a year of hard struggle for our legitimate rights, and with constant attention to this issue by various international human rights organizations, we achieved an official state registration of Nash Mir Center as an openly LGBT organization.

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

- Monitoring violations of LGBT rights.
- Initial legal advice and counselling to victims of discrimination and hate crimes on grounds of sexual orientation or gender identity.
- Legal education of the LGBT community.
- Joint actions with other organizations to protect equal rights for LGBT people at the legislative and political levels.
- Supporting local initiative groups in their activities on providing social and psychological support to LGBT people, preventing HIV/AIDS among men who have sex with men, mobilizing the LGBT community at the local level.

Nash Mir Center is a co-founder of Council of LGBT Organizations of Ukraine (currently uniting the vast majority of Ukrainian LGBT organizations). Oleksandr Zinchenkov, a co-founder of the Center, is the Chairman of the Committee of Human Rights and Advocacy and Co-Chair of the Board of this Council. In addition, Nash Mir Centre is a member of Coalition for Combating Discrimination in Ukraine – an association of various non-governmental organizations and individual activists who seek to promote equality and eliminate discrimination in Ukrainian society.