

# A NEW BEGINNING

LGBTI SITUATION IN UKRAINE IN 2016



LGBT Human Rights Nash Mir Center

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**LGBTI situation in Ukraine in 2016**

Kyiv

2017

УДК 316.343-055.3(477)"2016"

ББК 60.56(4Укр)

**H73 A New Beginning. LGBTI situation in Ukraine in 2016 / Nash Mir Center. - K. : Nash Mir Center, 2017. – 56 pages.**

The publication presents information that reflects the social, legal and political situation of the LGBTI (lesbian, gay, bisexual, transgender and intersex) community in Ukraine in 2015. It contains data and analysis of the issues related to LGBT rights and interests in legislation, public and political life, public opinion, provides examples of discrimination on ground of sexual orientation and so on.

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The authors express their gratitude to All-Ukrainian NGO Gay Alliance Ukraine, ILGA-Europe, individual LGBT activists, and all active participants of e-mailing lists and Facebook groups who collect and exchange up-to-date information on various aspects of the LGBT situation in Ukraine.

This report was prepared by Nash Mir Center with support of the Norwegian Helsinki Committee (project "Support for human rights and the rule of law for LGBT people in Ukraine" funded by the Ministry of Foreign Affairs of Norway) and the British Embassy in Ukraine (project "DEFENDING THE RIGHTS OF LGBT PEOPLE IN UKRAINE: To support implementation of the elements of the National Strategy on Human Rights which defend the rights of Lesbian, Gay, Bisexual, and Transgender (LGBT) people").

The opinions of the report's authors may not reflect the position of the donors – the Governments of Norway and the United Kingdom.

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The report (in Ukrainian and English) is available on the website of Nash Mir Center.

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## **SUMMARY**

The Action Plan to Implement the National Strategy for Human Rights, adopted by the Ukrainian government in 2015, became the guiding light to reform the Ukrainian legislation, particularly in protection of LGBTI people's rights and interests in the coming years. However, the experience of legislative and policy development in the first year of its realisation has shown this: the authorities responsible for implementation of the agreed reforms in this field more often try to avoid their fulfilment than to implement them in full by the fixed date anticipated.

Among the issues related to LGBTI people, protection of the freedom of assembly and implementation of the Action Plan on Human Rights were the main problems that the Ukrainian authorities faced in 2016. While representatives of the central executive authorities of Ukraine demonstrated, in general, a tolerant attitude towards LGBTI issues and rather constructive cooperation with civil society in this respect, the policy of local governments has hardly changed since the administration of Yanukovych-Azarov, and has remained mostly homophobic.

Broad Ukrainian society and many political forces in 2016 showed gradual changes in their attitudes to LGBTI issues, although, in general, they still do not consider them important and relevant to Ukraine and try to distance themselves from them. No parliamentary political force voiced its attitude to LGBTI issues in 2016, as the opinions of some individual politicians may not be considered to be the official position of their parties and movements. The Kyiv Equality March 2016 and other LGBTI actions attracted great attention by Ukrainian society and led to the widening of public discussion on LGBTI issues. Public events in support of "traditional family" and "traditional values" organised in response to these actions have not caused any significant interest in society.

Leading Ukrainian churches have almost ceased to call openly for discrimination against LGBTI people at the national level, although their branches in major cities traditionally oppose holding public LGBTI

events. Instead, in 2016 the main efforts of the Ukrainian churches regarding LGBTI issues were focused on the so-called "protection of traditional family" and fight against "gender ideology" that they tried to support through appeals to society and the lobbying efforts of friendly politicians and their representatives in the bodies of power.

A fundamental change of attitude towards LGBTI issues by Ukrainian authorities and the start of real reforms within the framework of European integration notably increased the activity and visibility of the Ukrainian LGBTI community. The 2016 Equality March in Kyiv proved to be very successful, several Ukrainian cities hosted Equality Festivals, and active LGBTI community centres have been opened and operated. However, a high level of homophobic aggression by radical nationalist groups, which was continuously observed in recent years, increases the risks and hinders the activities of LGBTI organisations. Consequently the LGBTI community and the police have been to resort to extraordinary measures of protection even in cases of closed LGBTI events that heretofore usually occurred without interference.

In 2016 Nash Mir Center documented 276 cases of actions on grounds of homophobia and transphobia – violence, discrimination and other violations of LGBTI people's rights in Ukraine. This number is significantly higher than the corresponding figures for previous years (71 cases in 2015, and 54 in 2014) due to a significant expansion of the monitoring networks, the use of new technology to collect cases via the Internet, as well as the advertising of our online survey on dating sites for gay men.

Neither the Ukrainian government nor international organisations have direct leverage to influence the situation of LGBTI people in the territories of Ukraine occupied by Russia – Crimea and southern Donbas. The difference between these two territories is only that no law at all acts in occupied Donbas while in Crimea the occupation regime combines informal repressions with strict application of homophobic Russian legislation.

By adopting the Action Plan to Implement the National Strategy on Human Rights until 2020, the Ukrainian government undertook

obligations to develop legislation and state policies to address discrimination and inequality of LGBTI people in Ukraine. We can only wish that they reach the planned objectives as well as adopt all legal documents which have to be worked out under the Action Plan.

## 1. LEGISLATION AND JUSTICE

*The Action Plan to Implement the National Strategy for Human Rights, adopted by the Ukrainian government in 2015, became the guiding light to reform the Ukrainian legislation, particularly in protection of LGBTI people's rights and interests in the coming years. However, the experience of legislative and policy development in the first year of its realisation has shown this: the authorities responsible for implementation of the agreed reforms in this field more often try to avoid their fulfilment than to implement them in full by the fixed date anticipated.*

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In 2016 the Action Plan provided for implementation of 18 LGBTI measures (fully or partially), of which, according to our estimates, 4 were actually realised, and 2 measures realised in part.<sup>1</sup> The realised measures related to implementation of the policy on prevention of discrimination (in law enforcement, border guards, as well as in training programmes to prepare lawyers) and to the rules of gender reassignment for transgender persons. Not developed and adopted are any changes to the laws in the field of LGBTI rights that were scheduled for 2016 – in particular, to the Law of Ukraine "On Principles of Prevention and Combating Discrimination in Ukraine" regarding prohibition of discrimination on grounds of sexual orientation and gender identity; or to the Criminal Code of Ukraine to ensure punishment for crimes committed under motives of intolerance on grounds of sexual orientation and transsexuality.

Some measures, the implementation of which is the responsibility of the Ministry of Health (particularly, access to obtain medical aid for persons who are diagnosed as intersex) also remained unrealised. During the first three quarters of 2016 (until the appointment of Minister Uliana Suprun) representatives of the Ministry of Health generally refused even to provide information on the implementation of the Action Plan. However, the situation in the Ministry began to change rapidly after the appointment of a new minister: public

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<sup>1</sup> Центр "Наш світ", *Звіт про виконання Плану дій з реалізації Національної стратегії у сфері прав людини (ЛГБТІ компоненти)*, 2016, [gay.org.ua](http://gay.org.ua).

discussions and development of the relevant documents started then, giving hope that the situation will improve soon. In particular, the Ministry of Health fulfilled, albeit belatedly, the item of the Action Plan which provides for the establishment of new standards of medical care for transgender persons. MoH Order 1041 of 05.10.2016 cancelled the previous rules and set the new biomedical and socio-psychological indications to gender reassignment. Further, Order 972 of 15.09.2016 approved the Unified Clinical Protocol of primary, secondary (specialised) and tertiary (highly specialised) medical care of "Gender Dysphoria". Together, these documents provide a fundamentally new order of medical care for transgender persons by cancelling most of the previous unduly strict restrictions. In particular, they abolish such requirements upon a patient for official recognition of gender reassignment as absence of children aged under 18, absence of official marriage, irreversible sterilisation. Instead, the Unified Clinical Protocol pays special attention to reproductive capabilities of transgender patients, emphasizing that "Patients with gender dysphoria should not be denied the possibilities of reproduction. And if reproduction is impossible due to a medical intervention – even adoption of a child." However, it should be noted that indeed the very Ministry of Health has still not lifted the ban on adoption of children by transgender persons as stipulated in the Action Plan.

Meanwhile, the Ukrainian legislation still retains provisions overtly discriminating against LGBTI people. In particular, Article 74 of the Family Code "The right to property of a woman and a man who live as one family, but are not married to each other or are not in another marriage" and Article 91 of the same Code "The right to have support for a woman and a man who are not married to each other", as well as Article 211 "Persons who can be adoptive parents" – all openly discriminate against same-sex couples that are de facto married in comparison with similar heterosexual couples. The absence of any legal form of recognition of same-sex couples in Ukraine generally puts them at a disadvantaged position compared to heterosexual spouses. Also the discriminatory ban on adoptions for transgender persons remains

in place (MoH Order 479 of 20.08.2008 "On approving the list of diseases having which disables a person to be an adoptive parent").

The Criminal Code of Ukraine considers only motives of racial, national or religious hatred as aggravating circumstances when committing crimes, and also prohibits the incitement of such hatred only on these grounds, completely ignoring motives of hatred on grounds of sexual orientation and gender identity. Although the Action Plan envisaged in 2016 to develop and consider by the Cabinet of Ministers a draft law on amendments to the relevant articles of the Criminal Code (Articles 67, 115, 121, 122, 126, 127, 129, 293), which would criminalize hate crimes on a number of grounds (including sexual orientation and transsexuality), the Ministry of Interior has not worked out a corresponding bill in due time, and instead proposed to make some unspecified changes only to Article 67 of the Criminal Code.<sup>2</sup>

Similarly, the Ministry of Justice of Ukraine actually refused to make amendments envisaged in the Action Plan to the Law of Ukraine "On Principles of Prevention and Combating Discrimination in Ukraine", namely the explicit prohibition of discrimination on grounds of sexual orientation and gender identity. This ministry failed to prepare and submit to the Parliament the respective amendments in time, while a group of deputies registered Bill 3501 which does not fully comply with the provisions of the Plan. The Ministry argues its position (not to develop an agreed bill and to focus on supporting Bill 3501) by taking recourse to the regulations of the Verkhovna Rada of Ukraine on the process of draft legislation passing, and to the supposition that Ukraine allegedly already complied with this provision of the Action Plan by adoption of the anti-discrimination amendment to the Code of Labour Laws in November 2015.<sup>3</sup> Thus, this code remains the only law of Ukraine that contains direct and explicit prohibition of discrimination on SOGI grounds.

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<sup>2</sup> Департамент формування політики щодо підконтрольних Міністрові органів влади та моніторингу МВС України, Лист № 14/22зі,23зі від 15.07.2016 р., 2016, архів Центру "Наш світ".

<sup>3</sup> Міністерство юстиції України, Лист № 10339/6642-0-33-16/7.1 від 29.03.2016, архів Центру "Наш світ".

At the same time, the Ukrainian government is trying to harmonize other legislation on employment with the anti-discrimination amendment to the Code of Labour Laws. In December 2016 the Cabinet of Ministers submitted to the Parliament Bill 5511, which proposes to include direct and explicit prohibition of discrimination on SOGI grounds in the Laws of Ukraine "On Employment" and "On Advertising" (on ads for job vacancies).

It should be noted that the Action Plan provides not for adopting appropriate laws but only for developing bills and passing them to the Cabinet of Ministers (for approval and subsequent submission to the Verkhovna Rada of Ukraine). So even in case of the fulfilment of these items of the Action Plan, their final approval by the Parliament as laws is not guaranteed. There is no doubt that any draft laws aimed at protecting the legitimate rights and interests of Ukrainian LGBTIs will face opposition by the majority of MPs that can be overcome only through joint efforts of civil society, the government of Ukraine and its international partners, as was demonstrated by adoption of the anti-discrimination amendment to the Code of Labour Laws in November 2015. An example of how members of the Ukrainian parliament treat such documents is the past attempt to ratify the Convention on Combating Violence against Women and Domestic Violence, also known as the Istanbul Convention. The deputies refused to make the necessary changes to Ukrainian legislation (and therefore to ratify the Convention which Ukraine signed in November 2011) merely because its text contains the terms "gender" and "sexual orientation", even though these terms have already existed in the Ukrainian national legislation for many years.<sup>4</sup>

On May 16, 2016, the Kherson District Administrative Court considered the Case 821/665/16 under the suit of the Executive Committee of the Kherson City Council to the head of a human rights civil initiative Ye. Rudenko, I. Usachova, involving a third party – the National Police Directorate in Kherson oblast. The matter concerned restriction of the

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<sup>4</sup> Верховна Рада України, офіційний веб-портал, *Стенограма пленарного засідання Верховної Ради України*, 17.11.2016, [iportal.rada.gov.ua](http://portal.rada.gov.ua).

right to peaceful assembly (a civil activist Yevhen Rudenko submitted to the Kherson City Council a notification on a peaceful march devoted to the International Day against Homophobia). The plaintiff did not provide any evidence to support banning peaceful assembly. The court, considering the failure to prove a real threat to national security and public order, the danger of disorders or crime, threats to public health or the rights and freedoms of other persons during a peaceful assembly by respondents on 05.17.2016, concluded that the claims were unsubstantiated. The court denied satisfaction of the claim and allowed the peaceful event to be conducted. Meanwhile, in a quite similar situation, under separate suits of the respective city councils, on March 19, 2016, the Lviv District Administrative Court banned conducting a peaceful public event on that day on Liberty Avenue in front of the Opera within the Equality Festival (Case 813/913/16); and on August 11, 2016, the Odesa District Administrative Court banned holding the Equality March in the city on August 13 (Case 815/3936/16). The courts argued for their decision by citing threats against the organisers of the mentioned LGBTI actions from local radical homophobic groups that could lead to violations of public order.

## 2. STATE AUTHORITIES AND LAW ENFORCEMENT, LOCAL SELF-GOVERNMENT

*Among the issues related to LGBTI people, protection of the freedom of assembly and implementation of the Action Plan on Human Rights were the main problems that the Ukrainian authorities faced in 2016. While representatives of the central executive authorities of Ukraine demonstrated, in general, a tolerant attitude towards LGBTI issues and rather constructive cooperation with civil society in this respect, the policy of local governments has hardly changed since the administration of Yanukovich-Azarov, and has remained mostly homophobic.*

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The beginning of 2016 was marked by a scandal around the establishment of the office of the Government Commissioner on Family Issues. Trying in November 2015 to persuade MPs to vote for an anti-discrimination amendment to the Code of Labour Laws, the Head of the Parliament Volodymyr Hroisman promised that the Verkhovna Rada would never allow same-sex marriages in Ukraine, and instead would "affirm family values" for which the government may create a position of commissioner on family and family values. This position was indeed introduced by the Cabinet decision of 24 February 2016. On March 2 the Ukrainian government decided to appoint Adrian Bukovynskyi, the President of Family Charity Foundation, to this post, but on March 8 this decision was changed and an open contest for the position of the Government Commissioner on Family Issues was declared.<sup>5</sup> This happened after the National LGBT Portal of Ukraine had found an overtly homophobic speech of Mr. Bukovynskyi from 2013, in which he compared homosexuals with paedophiles, necrophiles and zoophiles, and stated that "Gay culture leads to the destruction of the world."<sup>6</sup> Eventually, after the dismissal of Prime Minister Arsenii Yatsenyuk, in August 2016 the decision to create the position of Government Commissioner on Family Issues was abolished by the new

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<sup>5</sup> Департамент інформації та комунікацій з громадськістю Секретаріату КМУ, Ганна Онищенко: Уряд оголосить конкурс на посаду уповноваженого з питань сім'ї, 08.03.2016, [kmi.gov.ua](http://kmi.gov.ua).

<sup>6</sup> Адріан та Марія Буковинські, *Саміт Україна – ЄС: Чи є шляхи зближення з Європою без пропаганди гомосексуалізму в Україні*, 2016, [www.bukovynski.com](http://www.bukovynski.com).

government headed by the same Volodymyr Hroisman who had proposed the establishment of this post.<sup>7</sup>

During the year, Ukrainian state institutions and local governments had to respond somehow to the problem of ensuring the freedom of peaceful assembly associated with the protection of LGBTI rights. The position of the Ukrainian government has been rather restrained but clear – thus, Deputy Prime Minister for European Integration Ivanna Klympush-Tsintsadze stated: "On Maidan, people of different ages, different sexes, different religions, political beliefs and different sexual orientations defended the rights of all Ukrainian society. Now we have to ensure the same rights for each citizen;"<sup>8</sup> Interior Minister Arsen Avakov noted: "Every person has the right to protest and express viewpoints. And meanwhile it should be safe;"<sup>9</sup> Foreign Minister Pavlo Klimkin wrote in his Twitter account: "[I] condemn the attack on LGBTI activists in Lviv. Hatred undermines the unity of Ukraine. Tolerance and non-discrimination make Ukraine stronger."<sup>10</sup>

The beginning of reforms in line with the European integration of Ukraine, especially implementation of the Action Plan on Human Rights, has demonstrated that the Ukrainian government, in principle, is ready to establish interaction and collaboration with the LGBTI community. Deputy Justice Minister Serhii Pyetukhov became the first Ukrainian high official who in March 2016 took part in the public discussion of the problems of Ukrainian LGBTI people (at the international conference "LGBTI Issues and European Integration of Ukraine"); also very constructive cooperation during 2016 was established with leadership and some units of the National Police of Ukraine, and with the Ministries of Interior and Health (after the appointment of Minister Uliana Suprun). The new policy of the

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<sup>7</sup> Кабінет Міністрів України, *Постанова № 564 "Про затвердження структури Секретаріату Кабінету Міністрів України"*, 23.08.2016.

<sup>8</sup> Офіс віце-прем'єра з питань європейської та євроатлантичної інтеграції, 09.06.2016, [facebook.com/UA.EU.NATO](https://www.facebook.com/UA.EU.NATO).

<sup>9</sup> Міністерство внутрішніх справ України, *Глава МВС назвав посягання на мирні зібрання "елементами гібридної атаки"*, 14.04.2016, [mvs.gov.ua](https://mvs.gov.ua).

<sup>10</sup> Павло Клімкін, 19.03.2016, [twitter.com/PavloKlimkin](https://twitter.com/PavloKlimkin).

Ukrainian government to protect LGBTI rights is fully consistent with the strategic direction of integration in modern Europe that was again confirmed by this statement of the President of Ukraine Petro Poroshenko at the Munich Security Conference 2016: "[...] Europe is associated with values, and the biggest danger for us is the alternative values which bring now isolationism, intolerance, disrespect of human rights, religious fanaticism, homophobia".<sup>11</sup>

However, not all high-ranking government officials demonstrate respect for the rights of LGBTI people and an unbiased approach to LGBTI Ukrainians. For instance, the Head of the Kyiv-Svyatoshyn District State Administration in Kyiv oblast Myroslava Smirnova on April 20, 2016, participated in the "action of protest in front of the Verkhovna Rada building against legalisation of same-sex marriages". Further, she published on the official Internet resources of the Kyiv-Svyatoshyn DSA an appeal to the members of Parliament that expressed her concern over intention to legalise "same-sex marriages" in Ukraine (apparently referring to the item on registered partnership of the Action Plan on Human Rights). She as well embarked on lengthy arguments about the sinfulness of homosexuality in terms of the Bible, concluding that "Of course, the European vector of development has always been a priority for us, but today we have to take from Europe the best that is there, yet stay Ukrainians, for whom, as both Slavs and Christians, such a model of behaviour is not typical."<sup>12</sup>

While the central government is still trying to stick to the standards of modern Europe, the local authorities mainly have shown more traditional Ukrainian attitudes towards LGBTI issues. As mentioned above, the city councils of Kherson, Lviv and Odesa in 2016 appealed to the courts for bans on LGBTI public actions in their cities. The Zaporizhzhya Oblast Council on October 31 approved an appeal to the

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<sup>11</sup> Адміністрація Президента України, *Виступ Президента України на Мюнхенській безпековій конференції 2016*, 13.02.2016, [youtube.com](https://www.youtube.com/watch?v=...).

<sup>12</sup> Сайт Києво-Святошинської районної державної адміністрації, *Голова РДА звернулася до народних депутатів щодо перегляду затвердженого урядом плану дій з реалізації Національної стратегії у сфері прав людини в частині легалізації одностатевих шлюбів*, 20.04.2016, [www.ks-rda.gov.ua](http://www.ks-rda.gov.ua).

supreme state leadership calling to eliminate the ban on discrimination on grounds of SOGI in the Ukrainian labour legislation and to stop the execution of LGBTI components of the Action Plan on Human Rights.<sup>13</sup> The Lviv City Council and Mayor Andrii Sadovyi himself personally, despite calls by the organisers of the Equality Festival, kept themselves aloof from aggression by radical nationalist groups that led to the disruption of the event. In his comments, Mr. Sadovyi abstractedly condemned the violence but actually put the attackers on a par with the victims of the homophobic attack.<sup>14</sup> Meanwhile, the Mayor of Chernivtsi Oleksii Kaspruk strongly condemned the aggressive radicals who disrupt screening of a documentary film about LGBTI people in Ukraine, and presented his official apologies to the victims.<sup>15</sup>

The office of the Ukrainian Parliamentary Commissioner on Human Rights very actively worked in 2016 for the protection of LGBTI Ukrainians' rights – particularly, in support of the Equality March in Kyiv and other LGBTI events across the country, the introduction of the necessary legislative changes and more.

In 2016 the attitude of the reformed Ukrainian police to LGBTIs substantially changed – at least, in Ukraine's capital. Unlike previous years, the Kyiv police leadership did not attempt to dissuade the organisers of the Equality March from conducting that event and did not refuse to provide security. On the contrary, the new police used unprecedented and effective security measures with the direct involvement of the senior management of the Ministry of Interior,

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<sup>13</sup> Запорізька обласна рада, *Про звернення депутатів Запорізької обласної ради до Президента України, Кабінету Міністрів України, Міністерства юстиції України, Міністерства закордонних справ України, керівників депутатських фракцій Верховної Ради України, голови Комітету Верховної Ради України з питань сім'ї, молодіжної політики, спорту та туризму, голови Комітету Верховної Ради України з питань правової політики та правосуддя, голови Комітету Верховної Ради України з питань соціальної політики, зайнятості та пенсійного забезпечення, голови Комітету Верховної Ради України з питань європейської інтеграції щодо захисту інституції сім'ї в Україні*, 31.10.2016, [rada.zp.ua](http://rada.zp.ua).

<sup>14</sup> Андрій Садовий, 20.03.2016, [facebook.com/andriy.sadovyi](https://www.facebook.com/andriy.sadovyi).

<sup>15</sup> Олексій Каспрук, 19.10.2016, [facebook.com](https://www.facebook.com).

including the Head of the National Police of Ukraine Hatiya Dekanoidze. Meanwhile, the command team of the Lviv city police, though allocating the required number of personnel to evacuate the participants of the Equality Festival from the siege by violent youths, together with the local authorities demonstrated extreme passivity and kept themselves aloof from securing this event as a whole. The city police did not detain the attackers and have not opened criminal proceedings addressing obvious and indisputable violations of law. As was shown by the experience of the Equality March in Odesa, the major problem in such cases is not a lack of strength or skills on the part of police personnel but the presence of political will of its leadership. At first, the Directorate of the National Police in Odesa oblast recommended that the Odesa City Council appeal to the court for restriction of public events in the city, but after the March organisers secured legality of its holding, the police quite effectively provided protection against its aggressive opponents.<sup>16</sup>

Although the leadership of the Ministry of Interior recently spoke about LGBTI people and events mostly in a neutral tone, the loud and scandalous activities of the former Head of the Department for Combating Drug Crimes Illya Kyva represented an exception. He has repeatedly expressed his aggressive homophobic views in public, and on March 21, 2016, commenting on the events around the Equality Festival in Lviv, he quoted a passage from the Bible that instructs to kill men for homosexual relations. He added: "Read the Bible, trust the Lord!" In their responses to the numerous complaints of NGOs, the Prosecutor's Office and Ministry of Interior informed complainants about the absence of *corpus delicti* in this call for murder and incitement to hatred against LGBTI people. Eventually, Mr. Kyva was dismissed as the Head of the Department for Combating Drug Crimes, though the Interior Minister Arsen Avakov did not expel him from the ranks of the Ministry of Interior but only transferred him to another position in the National Guard.

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<sup>16</sup> Аліса Пивоварчик, *Маршем по скрепам*, 21.08.2016, [petrimazepa.com](http://petrimazepa.com).

Quite unexpectedly, the Main Investigation Department of the Ministry of Interior in 2016 started to collect information on hate crimes motivated by homophobia / transphobia, even though they are currently not considered in Ukrainian legislation.<sup>17</sup> The ministry also in principle supported the reform of the Criminal Code in order to legitimize such motives as aggravating circumstances in the commission of crimes and to prohibit incitement to hostility and hatred on SOGI grounds.

Since early 2016 the leadership of the newly formed patrol police, and later the entire central leadership of the National Police of Ukraine, started to build relationships and to establish cooperation with Ukrainian LGBTI organisations and the LGBTI community as a whole. During the year the National Police, especially the newly established Department on Human Rights, participated in meetings with representatives of the local communities, trainings on combating hate crimes, including crimes perpetrated on the grounds of homophobia and transphobia, as well as in other events of LGBTI organisations. However, noteworthy is the absence of any Ministry of Interior's general policy in this area: while in Kyiv and some regions such cooperation has been quite fruitful, in other cities the local police leadership has not always wanted to establish relations with human rights defenders and the local communities, including LGBTI ones.

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<sup>17</sup> Головне слідче управління Національної поліції України, *У Нацполіції створено контактний пункт від України з питань злочинів, учинених на ґрунті ненависті*, 26.02.2016, [pri.gov.ua](http://pri.gov.ua).

### 3. POLITICS AND SOCIETY<sup>18</sup>

*Broad Ukrainian society and many political forces in 2016 showed gradual changes in their attitudes to LGBTI issues, although, in general, they still do not consider them important and relevant to Ukraine and try to distance themselves from them. No parliamentary political force voiced its attitude to LGBTI issues in 2016, as the opinions of some individual politicians may not be considered to be the official position of their parties and movements. The Kyiv Equality March 2016 and other LGBTI actions attracted great attention by Ukrainian society and led to the widening of public discussion on LGBTI issues. Public events in support of "traditional family" and "traditional values" organised in response to these actions have not caused any significant interest in society.*

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An openly hostile and aggressive stance on LGBTI issues is currently shared only by some radical nationalist groups – mostly the Right Sector and Brotherhood of Dmytro Korchytskyi as well as their affiliated structures. They threatened to block the Equality March in Kyiv and, according to the Right Sector's spokesperson Artem Skoropadskyi, to make it a "bloody mess."<sup>19</sup> Svoboda Party as a whole in 2016 refrained from loud statements regarding LGBTI events. A non-aggressive yet definitely hostile attitude towards the LGBTI community was demonstrated by representatives of the former Party of Regions that now joined the Opposition Bloc and other opposition parties. For instance, Andrii Shypko, a representative of Vidrodzhennya ("Revival") parliamentary group told in an interview that he would lie down

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<sup>18</sup> This section covers the activities of Ukrainian politicians who are not public officials. We do not consider members of parliament and local councils as public officials since they represent not the state but their voters, but we mention the heads of these bodies because they represent the state body or local government as a whole; respectively, the activity of the Verkhovna Rada is highlighted in the previous section, and MPs – in this one.

<sup>19</sup> Артем Скоропадский, 29.05.2016, [facebook.com/skoropadsky](https://www.facebook.com/skoropadsky).

(apparently to block a possible vote) and pull down a stand in the Verkhovna Rada not to allow same-sex marriages in Ukraine.<sup>20</sup>

Representatives of most political forces either did not formulate their attitudes to LGBTI issues or spoke mostly with caution, avoiding specifics. Only a few MPs expressed their unequivocal support to LGBTIs – mostly members of the inter-factional association Eurooptimists. Seven young members of parliament (5 of Petro Poroshenko Bloc (PPB), Olena Kondratyuk from Batkivshchyna ("Fatherland"), and unaffiliated Victoriya Ptashnyk) took part in the Kyiv Equality March. (The previous year's march were attended by just two MPs – Serhii Leshchenko and Svitlana Zalishchuk of PPB, who also attended this year's event). Having significant political differences with their "elders", some of these deputies moved to the Democratic Alliance Party – in particular, Svitlana Zalishchuk, Serhii Leshchenko, Mustafa Nayyem and Victoriya Ptashnyk. This party was, among other things, known because in 2014 it rejected membership to LGBTI activist Bohdan Hloba because of its own Christian Democratic ideology. In 2016, however, after the mentioned liberal MPs joined the Democratic Alliance, an extraordinary party congress approved a policy statement that replaced Christian Democracy with "humanistic values".<sup>21</sup>

Amid the lack of clearly articulated party policies on LGBTI issues, members of the leading parliamentary parties have instead been formulating their attitudes to these issues based on their personal beliefs, which might be completely opposite within the same political force. For example, while the leader of Samopomich Party ("Self-help"), Lviv Mayor Andrii Sadovyi, condemned holding an open LGBTI event in Lviv (for some reason considering it a provocation against the city and city management) the head of Samopomich faction in the Verkhovna Rada Serhii Husovskyi stated this regarding the responsibility of local authorities for observance of human rights: "I think it's a job for all segments of authority in the city. A joint activity should secure free

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<sup>20</sup> Слово і Діло, Нардеп Шипко: моя роль як депутата – домогтися того, що не може зробити місцева влада, 05.05.2016, [slovoidilo.ua](http://slovoidilo.ua).

<sup>21</sup> Демократичний Альянс, Програмна заява з'їзду Політичної партії "Демократичний Альянс", 2016, [dem-alliance.org](http://dem-alliance.org).

speech for people, as we remember that freedom of a person ends where freedom of another person begins."<sup>22</sup>

The focal event, clearly highlighting all the complex problems that are generated by the lack of parliamentary parties' policies on LGBTI and gender issues, was an unsuccessful attempt of the Verkhovna Rada to ratify the Convention on Combating Violence against Women and Domestic Violence (also known as the Istanbul Convention ). Despite the fact that this convention was signed by Ukraine in 2011, and the Ministry of Social Policy of Ukraine at the proper time prepared the necessary draft laws agreed upon with the Council of Europe's experts – on November 17, 2016, members of the Parliament refused to approve these bills until they no longer contain the unacceptable to them terms "sexual orientation" and "gender." The relevant draft laws were adopted in the first reading only after excluding these terms from them (that is contrary to the basic text of the Istanbul Convention), even though the terms have been in existence for many years in the Ukrainian legislation. Characteristically, debates around the controversial decision were launched even among MPs who belong to the same parliamentary factions. Thus, MPs from Petro Poroshenko Bloc Iryna Herashchenko and Volodymyr Aryev strongly supported the modern European standards, while their colleagues in PPB faction Iryna Lutsenko and Yuri Solovey appealed to some special Ukrainian "Christian values."<sup>23</sup>

Similarly, there were also discussions of LGBTI issues among members of local councils in various regions of Ukraine: the pro-European minority emphasized the need for urgent modernisation of Ukrainian society while the conservative majority called for the literal observance of the biblical commandments. For instance, commenting on the failure to screen a film on LGBTI topics in Chernivtsi, head of the Batkivshchyna faction in the city council Oleksandr Purshaha stated: "As a believer, I want to reiterate that showing this film – it's wrong,

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<sup>22</sup> Національний ЛГБТ-портал України, *Лідери "Самопоміч" прокоментували події у Львові*, 22.03.2016, [lgbt.org.ua](http://lgbt.org.ua).

<sup>23</sup> Please see note 4 above.

I'm an opponent of such deeds, I pity that today we are talking about this. I think we have a lot more problems, not what we are discussing – some films, people incomprehensible for me... There are biblical laws that clearly say what we may do and what we may not. I urge everybody to live by biblical laws – this is our Constitution." His colleague from public movement "People's Control" Ivan Honcharyuk did not agree with him: "The situation with the film's screening, in my view, is outrageous. Because we pursue the goal of going to the civilised world, and such actions, which occur, reject us back to the past. Every person is entitled to self-expression and nobody has the right to impede this."<sup>24</sup>

A sociological survey, which was conducted in early 2016 by the Kyiv International Institute of Sociology at the request of Nash Mir, showed that 60% of Ukrainians have negative attitudes to LGBTI people, and only 4% – positive ones; 45% believe that there should be some restriction of their rights. However, it is worth noting that almost a third of the respondents regard LGBTI people with indifference, i.e. in a neutral way; and a third of the respondents, in principle, support equal rights for LGBTI people.<sup>25</sup> The nationwide sociological survey "Human Rights in Ukraine", conducted in autumn 2016 by the Ilko Kucheriv Democratic Initiatives Foundation and the Ukrainian Sociology Service at the request of the UN Development Program in Ukraine, showed similar results: 46% of the respondents supported restricting the rights of "sexual minorities" while 41% opposed such restrictions.<sup>26</sup> A large-scale national research on the problems of discrimination conducted by Maidan Monitoring Information Center and the Research Bureau Sociologist found, in particular, that only 11% of Ukrainians believe that

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<sup>24</sup> Ініціатива 42, "Біблія – то наша Конституція". Депутати воліли б скромно мовчати про зірваний показ про ЛГБТ-спільноту, 30.10.2016, 42.cv.ua.

<sup>25</sup> Київський міжнародний інститут соціології, *Ставлення до людей гомосексуальної орієнтації: лютий 2016 р.*, 2016, gay.org.ua.

<sup>26</sup> Фонд "Демократичні ініціативи імені Ілька Кучеріва", *Громадська думка про права людини в Україні*, 08.12.2016, dif.org.ua.

our society is ready to legalise same-sex marriages while 65% agree that schools may dismiss homosexual teachers.<sup>27</sup>

After the scandalous statements of Ivano-Frankivsk Mayor Ruslan Martynuk that a patriot of Ukraine has to be a Christian and may not be gay, local civil activists asked citizens about their views on the matter. As it turned out, the majority of respondents did not support a conviction of their mayor. As one casual passer-by said, "Regardless of who has what religion or which orientation, if he is fighting at the front and defending the Motherland, then surely he is a patriot."<sup>28</sup> The winner of the Eurovision 2016 contest, famous Ukrainian singer Jamala, repeatedly called for tolerance and publicly supported LGBTs: "I truly believe that we are all equal no matter what is our ethnicity, religion or sexual orientation. That is why I support LGBT people and would like to protect them from aggression."<sup>29</sup> Zaporizhzhya City Council's member Andrii Sohorin, who in 2016 served in the Anti-terroristic Operation zone as the commander of a Special Forces platoon, stated on his Facebook account: "I am for registration of same-sex marriages." He explained his idea: "I am the Head of the Commission on Legality of the Zaporizhzhya City Council, and our duties include, among others, international cooperation and the protection of human rights. It was hard to read the comments of Europeans after the events in Lviv. For them, we looked like complete savages – the same as people in Africa and backward countries of Asia look to us. My own personal outrage was caused by thugs in balaclavas beating innocent people," referring to the neo-Nazi attack on the Equality Festival in Lviv.<sup>30</sup>

The problem of homophobia in Ukraine's society attracted the attention of some prominent Ukrainian intellectuals who entered into

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<sup>27</sup> Інформаційний центр "Майдан Моніторинг", *Ландшафты дискриминации в Украине: гендер и пол*, 15.04.2016, [maidan.org.ua](http://maidan.org.ua).

<sup>28</sup> Oleksandr Fomichov, *Чи може гей бути патріотом України?*, 02.04.2016, [youtube.com](http://youtube.com).

<sup>29</sup> Гей-Альянс Україна, *Джамала: "Я підтримую ЛГБТ і хотіла б захищати їх від агресії"*, 27.07.2016, [urogai.org](http://urogai.org).

<sup>30</sup> Гей-Альянс Україна, *Запорозький депутат Андрей Согорин: "Хватит быть дикарями!"*, 13.04.2016, [urogai.org](http://urogai.org).

the public debate on this issue with representatives of the churches. Famous writer Taras Prokhasko, when commenting on the protests of church leaders against the possible legalisation of same-sex marriages in Ukraine, in particular, noted: "Ultimately, the changes which Ukraine is proposed to make in the Constitution, are now vital. Because our country has not so much to choose among. It cannot expect that it will cope alone. And to survive even in some way, it has to hold on to this sinful Europe. And do not pretend that we can save it with our immaculate spirituality, but rather ask that we were allowed in and sheltered. And at least promise that we will behave well. [...] After all, Jesus spoke little about justice. But a lot about compassion."<sup>31</sup> Known widely in Ukraine, historian Yaroslav Hrytsak, a professor at the Ukrainian Catholic University and Lviv National University, asked the question "What should we do with our homosexuals?" and answered it this way: "As a Greek Catholic, I in this matter have no need to discover America. For me it was discovered by 'my' Pope Francis. When asked about his attitude towards gays, he answered the question with the question: 'Who am I to judge them?' [...] I assure you that I am talking about things more important: as a Ukrainian – about Ukraine's success, and as a human – about the world where, according to the same Francis, will be more tolerance and less condemnation."<sup>32</sup>

In 2016 the Equality March in Kyiv was for the first time held as an open event – to participate in it one did not have to register anywhere, and the place and time of its being conducted were known in advance. Similar to in previous years, the media and social networks displayed lively discussions on its being held, reviewing which commentator could notice a significant increase in support for this event compared with previous years, and including comments on the part of ordinary Ukrainian citizens. Many people wrote that they feel it is their human and civic duty to defend the values that the Revolution of Dignity had

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<sup>31</sup> Taras Prokhasko, *Аби собі не подумали*, 14.01.2016, *zbruc.eu*.

<sup>32</sup> Ярослав Грицак, *Що нам робити з нашими гомосексуалістами?*, 24.06.2016, *gazeta.ua*.

championed.<sup>33</sup> As a result, the number of marchers amounted, according to the police, to around 1,500 people, at least five times more than the number of participants in the previous year's event, which was a closed march: to take part in that one required prior registration for marchers.

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<sup>33</sup> Національний ЛГБТ-портал України, *Гетеросексуали обіцяють прийти на Марш Рівності у відповідь на погрози радикалів*, 30.05.2016, [lgbt.org.ua](http://lgbt.org.ua).

#### 4. CHURCHES AND RELIGIOUS ORGANISATIONS

*Leading Ukrainian churches have almost ceased to call openly for discrimination against LGBTI people at the national level, although their branches in major cities traditionally oppose holding public LGBTI events. Instead, in 2016 the main efforts of the Ukrainian churches regarding LGBTI issues were focused on the so-called "protection of traditional family" and fight against "gender ideology" that they tried to support through appeals to society and the lobbying efforts of friendly politicians and their representatives in the bodies of power.*

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Although Ukrainian churches in 2016 largely refrained from direct incitement to discrimination against LGBTI people, they still traditionally resorted to homophobic rhetoric. The Administrator of the Ukrainian Orthodox Church (Moscow Patriarchate) Metropolitan Anthony stated that the upcoming Kyiv Equality March "challenges the spiritual values of our people", and that his church condemns this event,<sup>34</sup> and Bishop Alexis of Voznesensk published on the website of his diocese a detailed statement on this "parade of sodomites who gathered with the support of our government, our deputies, those in power."<sup>35</sup> The Chairman of the Synodal Department of the UOC (MP) on Family Issues, Archbishop Panteleimon, denounced the working out of governmental bills that contain the prohibition of discrimination on grounds of sexual orientation and gender identity, and the very use of these concepts in Ukrainian legislation, which he considers as a manifestation of some "gender ideology". Instead, he suggested to use "ideologically neutral" concepts of sex and sexuality. It should be noted that none of these terms is equivalent to the concepts of sexual orientation and / or gender identity.<sup>36</sup>

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<sup>34</sup> Союз православных журналистов, *Взгляд Церкви: проводить марш ЛГБТ неуместно и кощунственно*, 11.06.2016, [uoj.org.ua](http://uoj.org.ua).

<sup>35</sup> Вознесенская епархия УПЦ, *Епископ Вознесенский и Первомайский Алексей о прошедшем в Киеве т.н. "Марше равенства"*, 12.06.2016, [voznensensk-church.in.ua](http://voznensensk-church.in.ua).

<sup>36</sup> Українська Православна Церква, Синодальний інформаційно-просвітницький відділ УПЦ, *Голова сімейного відділу УПЦ про просування інтересів ЛГБТ Кабміном: "Держава таким чином заохочує своїх громадян до одностатевих сексуальних стосунків"*, 2016, [news.church.ua](http://news.church.ua).

The Ukrainian Greek Catholic Church at the national level kept silent on LGBTI events, but on the eve of the Equality Festival in Lviv Metropolitan Ihor addressed the city mayor with an open letter in which he repeated the homophobic theses of his church and called "to prevent provocations that could lead to bloodshed, mass disturbances, defamation of the city in the eyes of world public opinion." Similar statements were made also by the local bishops of the Ukrainian Orthodox Church – Kyiv Patriarchate and the UOC (MP).<sup>37</sup> Mayor Sadovyi and other representatives of the city authorities and politicians clearly understood these words as a call to ban rather than to protect the LGBTI festival.

A more cautious stance on Equality March in Kyiv was taken by the Ukrainian Orthodox Church – Kyiv Patriarchate. The statement of its press service on the eve of the March also repeated the homophobic theses traditional for this church, yet did not contain any, even hidden, calls to ban the event, as was the case in previous years; the UOC-KP only called for non-use of violence.<sup>38</sup> Unlike the central authority of his church, Bishop Mark of Odesa and Balta (UOC-KP), as in the previous year, did not refrain from public homophobic statements and incitement to discrimination. Together with representatives of the Moscow Patriarchate, UGCC, Seventh Day Adventists and Pentecostals, he took part in a joint press conference of the city clergy where he stated that "A gay march is unacceptable for our city. Neither children, nor residents of Odesa have to see a herd of sinners on a central street."<sup>39</sup> As noted above, the Odesa City Council willingly supported the view of the city clergy and asked the court to ban the Equality March.

In their turn, representatives of churches and religious organisations prepared and led counter-marches in support of "traditional family

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<sup>37</sup> Релігія в Україні, *ЛГБТ-квест у Львові зірвано після протесту Церков*, 21.03.2016, [religion.in.ua](http://religion.in.ua).

<sup>38</sup> Прес-центр Київської Патріархії, *Церква не схвалює ані пропаганди гомосексуалізму, ані насильства проти її прихильників*, 10.06.2016, [cerkva.info](http://cerkva.info).

<sup>39</sup> Одесса-медиа, *Одесские священнослужители и общественники против проведения гей-парада*, 05.08.2016, [odessamedia.net](http://odessamedia.net).

values" that took place in Kyiv,<sup>40</sup> Odesa,<sup>41</sup> Khmelnytskyi,<sup>42</sup> Lutsk, Chernivtsi, Ivano-Frankivsk, Zaporizhzhya.<sup>43</sup>

On December 3, 2016, the Synod of the Ukrainian Greek Catholic Church announced its policy-making "Message on the Dangers of Gender Ideology", in which the senior management of the UGCC described some fictitious, bizarre "gender ideology" and called on "statesmen and legislators [...] to watch out so that uncertain and untested concepts of human identity or family and gender education principles will not be introduced in the legislation of Ukraine."<sup>44</sup>

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<sup>40</sup> Українські новини, *У Києві пройшов марш на підтримку традиційної сім'ї і проти абортів*, 04.06.2016, [ukranews.com](http://ukranews.com).

<sup>41</sup> Православна Одещина, *"Марш традиційних цінностей"*, 2016, [cerkvainfo.od.ua](http://cerkvainfo.od.ua).

<sup>42</sup> Всім, *Хмельничани пройшли маршем та помолились за сім'ю*, 15.05.2016, [vsim.ua](http://vsim.ua).

<sup>43</sup> Рівненське обласне об'єднання церков евангельських християн-баптистів, *Хода за християнські сімейні цінності*, 25.05.2016, [baptist.rv.ua](http://baptist.rv.ua).

<sup>44</sup> Офіційний інформаційний ресурс Української Греко-Католицької Церкви, *Послання Синоду Єпископів Києво-Галицького Верховного Архієпископства УГКЦ стосовно небезпеки гендерної ідеології*, 03.12.2016, [news.ugcc.ua](http://news.ugcc.ua).

## 5. LGBTI COMMUNITY

*A fundamental change of attitude towards LGBTI issues by Ukrainian authorities and the start of real reforms within the framework of European integration notably increased the activity and visibility of the Ukrainian LGBTI community. The 2016 Equality March in Kyiv proved to be very successful, several Ukrainian cities hosted Equality Festivals, and active LGBTI community centres have been opened and operated. However, a high level of homophobic aggression by radical nationalist groups, which was continuously observed in recent years, increases the risks and hinders the activities of LGBTI organisations. Consequently the LGBTI community and the police have been to resort to extraordinary measures of protection even in cases of closed LGBTI events that heretofore usually occurred without interference.*

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The main LGBTI event of 2016 was certainly the Equality March that took place in Kyiv on June 13th. Unlike in previous years, the organisers of the March structured it as an open event and informed the public in advance when and where it was to be held; this allowed almost all comers to take part. The somewhat changed attitudes towards LGBTI issues of the central and Kyiv city governments made this possible. Another influential possibility is that the victory of Ukrainian singer Jamala at Eurovision 2016 played a contributing role: the Ukrainian authorities now had to think about their public image in the eyes of an international audience at the next contest. So too did the police, being obliged now to plan ahead to demonstrate its effectiveness in ensuring Eurovision 2017, required to take place in Ukraine. The command of the new National Police of Ukraine as well as city officials did not try to persuade the Equality March organisers against its holding, as they did in all previous years; in good time they came to agreement with them about all controversies and necessary security measures. As in previous years, the organisers of the peaceful march to protect LGBTI rights received threats from some radical nationalist groups. But this year the presence of political will on the part of leadership of governmental and law enforcement agencies ensured the effective protection of citizens' rights to peaceful assembly. The Equality March took place without any significant incidents; the police strictly yet correctly blocked all

thwarting attempts to impede it by aggressive homophobic groups and individual violators of public order. The March was attended by about one and a half thousand demonstrators, including seven members of Ukraine's Parliament.



*Figure 1. Equality March 2016 in Kiev was held with unprecedented security measures.*

Also in 2016, the Equality March in Odesa was held for the first time. Unlike Kyiv, in Odesa the local authorities and police management tried to prohibit this action through the courts. But the organisers managed to circumvent the court's injunction to prevent public events in the planned place. Organisers did this by submitting a notification defining another place and time which the Odesa City Council was not able or inclined to contest in court. As a result, the March passed through the historic city centre from the monument to Duke de Richelieu up to the stairs of City Hall. The police, despite threats from radical homophobic groups and previous statements of its leadership, turned out to be capable of ensuring public order effectively, detaining about twenty violent opponents of the peaceful March.



*Figure 2. In 2016 the Equality March was first held in Odesa.*

Notable for the general public were also events around the Equality Festivals held in cities such as Lviv, Dnipro, Odesa, Zaporizhzhya. By themselves, these events would have been unlikely to have attracted such a degree of attention as they did, but for scandalous attempts to wreck them. Especially high-profile events unfolded in March 2016 in Lviv, where hundreds of aggressive neo-Nazi young men blocked participants of the festival in a hotel while the police were just watching helplessly for a long time, not daring to put an end to this overt violation of public order.<sup>45</sup> As a result of local police and authorities' inaction, the main festival events were disrupted, but the publicity about these events in the media allowed attention to be drawn to the problem of homophobic violence in the country, and many public figures as well as ordinary citizens of Ukraine were forced to speak out on the subject. The Festivals in Zaporizhzhya and Odesa took place without any significant obstacles, but in Dnipro the management of the central city library, where the festival events had to take place, eventually refused to host the event for fear of provocations and attacks by homophobic forces as happened in Lviv

<sup>45</sup> ZAXID.NET, *Шторм у "Дністрі". У Львові праворадикали закидали камінням автобуси з представниками ЛГБТ*, 19.03.2016, [zaxid.net](http://zaxid.net).

and Kyiv. The events within the Equality Festival in Dnipro happened on time, but in a different location.<sup>46</sup>

Besides large-scale events such as festivals, LGBTI organisations and initiative groups across the country also conducted many other activities aimed at development and the needs of the local LGBTI communities, particularly in cities such as Chernivtsi, Kherson, Mykolayiv, Zaporizhzhya, and Mariupol. Such developed and prominent Ukrainian LGBTI organisations as Gay Alliance Ukraine and LiGA supported and expanded their networks of regional offices and community centres. Also worth noting is the active and successful functioning of Gender Zed Charitable Foundation in Zaporizhzhya. Along with the Kyiv public organisations Insight, Fulcrum, and Nash Mir Center, they continue to make up the most active and significant part of the Ukrainian LGBTI movement. Three of the above mentioned organisations dedicated a great part of their activities to advocacy issues, trying to represent and protect the interests of the Ukrainian LGBTI community in general, both at the national and international levels. They paid particular attention to monitoring the Action Plan on Human Rights and other political and legal issues related to LGBTIs. On the eve of a referendum in the Netherlands on ratification of the Association Agreement between the EU and Ukraine, representatives of these organisations scheduled a series of meetings with the Dutch public and political figures as well as representatives of the EU, and the Council of LGBTI Organisations of Ukraine appealed to the Dutch LGBTI community and society in general to support this agreement.

The International Conference "LGBTI issues and European integration of Ukraine", which was conducted by Nash Mir in March 2016, witnessed fundamental changes in attitudes towards LGBTI issues from the Ukrainian authorities. For the first time official government representatives noted the importance and necessity to address LGBTI issues within the process of modernisation and integration of Ukraine into the European community without any reservations about

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<sup>46</sup> Радіо Свобода, *У Дніпрі вперше провели Фестиваль рівності*, 17.06.2016, [radiosvoboda.org](http://radiosvoboda.org).

"traditional values" and "national peculiarities"; it also demonstrated the interest in these issues by liberal forces in the Ukrainian Parliament, and the lawyers' and academic circles.<sup>47</sup>

The second International Conference of parents of LGBTIQ children "Our Society: Understanding, Acceptance and Support", which was organised by the Ukrainian parent movement Tergo and All-Ukrainian Charitable Organisation Fulcrum, took place in Kyiv on 4-5 November.



*Figure 3. International Conference "LGBT issues and European integration of Ukraine" (Kyiv, March 2016).*

Further development demonstrated by transgender activism (NGO Insight and Civil Initiative T-ema in 2016) was supplemented with international trans-feminist initiative Adamant\*. The advocacy activity and cooperation of the transgender organisations with the Ministry of Health helped to develop and adopt the new rules of gender reassignment in Ukraine. Quite successful was the establishment of

<sup>47</sup> Центр "Наш світ", Міжнародна конференція "ЛГБТ питання та європейська інтеграція України", 17.03.2016, [gay.org.ua](http://gay.org.ua).

contacts between local LGBTI communities and the police – particularly during a number of training sessions organised by Nash Mir to combat hate crime based on homo / transphobia.

These events, however, also resonated the deep distrust of Ukrainian LGBTI people to all law enforcement agencies including the new police. According to Nash Mir's trainers, in some regions many LGBTI people, who were invited to such meetings, refused to participate when they learned that they would also be attended by police officers.

This attitude of the Ukrainian LGBTI community to law enforcement appears quite justified if one takes into account the factual story of how the police for nearly two years sabotaged the investigation of a homophobic attack on a gay man, who had been defending the Motherland in the anti-terrorist operation zone.<sup>48</sup> The ongoing war in the East of the country brings even more stories of how the Ukrainian LGBTI community contributes to the joint national resistance to the



*Figure 4. One of the meetings of the new National Police of Ukraine with the LGBT community.*

<sup>48</sup> Олег Шинкаренко, *Поки поліція зволикає зі слідством про побиття гея, він рік прослужив в АТО*, 29.08.2016, [hromadskeradio.org](http://hromadskeradio.org).

aggressor.<sup>49</sup>

But, of course, LGBTI people are also visible in regular peaceful life when they accept the risk and stop diligently hiding their personal life from the public. Thus in this connection, publicity was gained by the story of Ahata Vilchyk, a semifinal contestant of the popular vocal show Voice of the Country, who became the first openly homosexual participant in this project.<sup>50</sup>



Figure 5. One of the billboards on LGBTI topics in the streets of Kyiv.

LGBTI people and topics gradually have become a routine part of Ukrainian public discourse. In particular, in 2016 one could repeatedly see in Kyiv's streets and public transport posters and other advertising materials campaigning for KyivPride and other LGBTI events, for

<sup>49</sup> Національний ЛГБТ-портал України, *Український гей, який воював на Донбасі: в армії краще не говорити про гомосексуальність*, 02.06.2016, [lgbt.org.ua](http://lgbt.org.ua).

<sup>50</sup> Голос країни, *Агата Вільчик*, 2016, [golos.1plus1.ua](http://golos.1plus1.ua).

introduction of registered partnerships for same-sex couples, in support of LGBTI children in families and more.<sup>51</sup>

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<sup>51</sup> Гей-Альянс Украина, *В Киеве появились билборды в поддержку ЛГБТ*, 06.04.2016, [progay.org](http://progay.org).

## 6. DISCRIMINATION AND VIOLENCE AGAINST LGBTIS

*In 2016 Nash Mir Center documented 276 cases of actions on grounds of homophobia and transphobia – violence, discrimination and other violations of LGBTI people's rights in Ukraine. This number is significantly higher than the corresponding figures for previous years (71 cases in 2015, and 54 in 2014) due to a significant expansion of the monitoring networks, the use of new technology to collect cases via the Internet, as well as the advertising of our online survey on dating sites for gay men.*

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Information on specific violations came from several types of sources: directly from the very victims or witnesses themselves, through a network of regional monitors of the LGBTI organisations Nash Mir Center and Gay Alliance Ukraine, and through a special online form for documenting cases which was advertised several times on gay dating websites and through social networks.<sup>52</sup> The total number of reported cases and the number of detected violations of LGBTI human rights may differ because some cases include more than one violation.

We emphasize that this report presents data on cases that were identified by Nash Mir Center in 2016 but took place in 2014-2016. The use of online advertising greatly improved access to the Ukrainian LGBTI community; respectively, it increased the number of human rights violations reported. Unfortunately, due to a lack of popular Internet resources for Ukrainian lesbians and transgender persons, the vast majority of cases that were received through the Internet concerned only violations of rights suffered by homo- or bisexual men. During the survey, we gathered information about violations in the previous three years that enabled us to obtain additional information about the incidents which occurred in 2014 and 2015 (but which were not reflected at the time in the reports of Nash Mir covering these

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<sup>52</sup> More detailed information on online survey and analysis of the data on hate crimes and incidents for 2014-2016, which were obtained with its help, can be found in the report of Nash Mir Center *The Face of Hatred. Crimes and incidents motivated by homophobia and transphobia in Ukraine in 2014-2016*, 2016, [gay.org.ua](http://gay.org.ua).

exact years.) Overall, the distribution of the collected cases, shown by year, is as follows:

- events that occurred in 2014 – 3 cases;
- events that occurred in 2015 – 127 cases;
- events that occurred in 2016 – 146 cases.

The distribution of cases by regions are presented in Table 1:

*Table 1. The distribution of cases of LGBTI people's human rights violations by region in Ukraine.*

<b>Region</b>	<b>Number of cases</b>
Vinnitsya and oblast	15
Lutsk and Volyn oblast	6
Dnipro and Dnipropetrovsk oblast	29
Donetsk oblast	13
Zhytomyr and oblast	11
Zaporizhzhya and oblast	33
Ivano-Frankivsk and oblast	6
Kyiv	53
Kyiv oblast	4
Kropivnytskyi and Kirovohrad oblast	3
Lugansk oblast	5
Lviv	8
Mykolayiv	4
Odesa and oblast	27
Poltava	3
Rivne	1
Sumy and oblast	6
Ternopil and oblast	2
Uzhhorod	2
Kharkiv and oblast	18
Kherson	2
Khmelnitskyi and oblast	3
Cherkasy	3
Chernihiv and oblast	2

Chernivtsi and oblast	6
The territories beyond the control of Ukraine (Donbas, Crimea)	11

Traditionally, most homophobic / transphobic aggression, discrimination and other violations affect representatives of the LGBTI community in big cities, where they are most visible and LGBTI activism noticeably exists – such as in Kyiv, Kharkiv, Odesa, Dnipro, Kryvyi Rih, and Zaporizhzhya. However, thanks to our survey via the internet we were enabled to receive information on violations from such "closed" to LGBTI activism regions as Khmelnytskyi, Transcarpathian, Sumy, Rivne, Poltava, Chernihiv and Kirovohrad oblasts, as well as the territories currently beyond the control of Ukraine.

### 6.1. Acts of hatred towards LGBTIs

Actions motivated by homophobia / transphobia and hate speech from persons not vested with official authority (ordinary citizens) were reported in 206 cases. 136 of them (2 in 2014, 64 in 2015, and 70 in 2016) can be described as *hate crimes*, and 67 (1 in 2014, 25 in 2015 and 41 in 2016) – as *hate incidents*. In 12 cases manifestations were recorded of *hate speech* (italicized terms used here conform to OSCE / ODIHR classification).

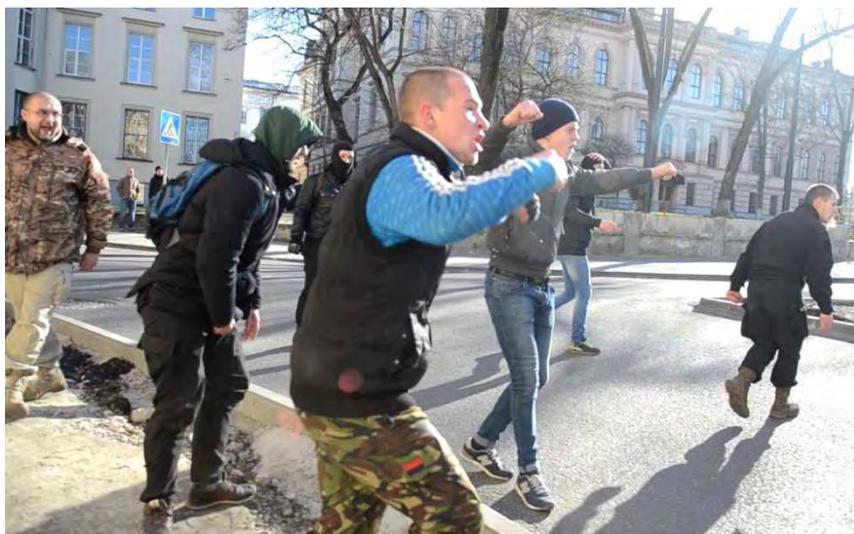
The following types of violations were noted:

*Table 2. The number of different kinds of LGBTI people's human rights violations in 2016.*

Types of violations	Number
Insults, humiliation of human dignity	170
Physical abuse of various degrees of severity	125
Illegal collection, disclosure, or threat of disclosure of confidential information	32
Robbery	24
Extortion and blackmail	15
Homophobia in the family	13
Sexual violence and rape	10
Threats and application of weapons	9

Attacks on LGBTI centres and activities	7
Damage to property	5
Torture and inhuman treatment	3

Despite the growing number of cases documented in 2016 compared to 2014 and 2015, it is worth noting some reduction in serious crimes against LGBTI people, such as murder and causing grievous bodily harm, use of explosives, and attacks on LGBTI organisations and events. As for the blocking of LGBTI events by various kinds of far-right groups, only the actions of radicals during the attack on the Equality Festival in Lviv in March 2016 were marked with particularly provocative brutality. The attempts to hold like festivals in other cities of Ukraine, as well as other LGBTI events including the screening of an LGBTI-themed film in Chernivtsi in October 2016, faced only "polite" (meaning without bloodshed) blocking, threats to mine the place with explosives, or "work" with the owners of such premises to result in denial of the event's being held.



*Figure 6. Attackers on Equality Festival in Lviv (March 2016).*



*Figure 7. Disruption of showing of the film "It's a gay propaganda" in Chernivtsi (October 2016).*

Holding of the main 2016 LGBTI event – the Equality March in Kyiv – for the first time in many years went without significant incidents albeit attended by an unusually large number of participants; obviously, nothing untoward happened thanks to the effective work of the Kyiv police.

At the same time, there remained the shameful phenomena of actions perpetrated by organised homophobic groups like Modnyi Prigovor ("Fashion verdict") or Naslediye ("Heritage") from Zaporizhzhya. These rowdy groups specialised in "hunting" for homosexuals "with live bait" so to speak in order to torment them, and also by some youth gangs who chose gays as easy targets to rob and blackmail.

Homophobia in the family takes different manifestations: from insults and attempts to "fix" the situation to physical violence and actual expulsion from home. It has especially negative consequences for young homosexual and transgender persons who are totally dependent on their parents and / or other relatives.

*Case 850*

In August 2016 Serhii and his boyfriend were attacked by several young men aged 18-25 in Lutsk: "They came towards us. When we passed by each other, they started throwing stones and loudly insulting us: fags, queers. A stone hit me in the head."

*Case 852*

In March 2015, 22-year-old Oleksandr from Kharkiv was beaten and subjected to extortion because of his sexual orientation. He describes what happened in this way: "One guy called me and proposed to meet, drink coffee and more... We met, went for a drive. This guy said he would not go for coffee, the better to make sex... We departed to the outskirts of the city. 'And so that you're not worried take 100 hryvnia and drink coffee yourself,' he said. At this point the guy left the auto to retrieve a condom, because they were in the trunk. Meanwhile two young men came and put handcuffs on me, shook everything out of a bag, beat me, humiliated me, focusing on the fact that I am a slut and a fag. Then they began to demand money. They threatened that unless I gave them 50 thousand hryvnias they would stealthily plant some drugs on me, and I would be jailed for eight years. At that juncture, they did have a bag of some white powder. It lasted almost 4 hours. I gave the attackers the money so that they returned my passport and other documents to me which they had taken at the beginning. As a result – a concussion of my brain, a cracked bone above my eye leading to headaches and migraines, bruising, and loss of ability to work for a month."

*Case 862*

In January 2016, 34-year-old Mykola, living in the city of Khrustalnyi (former Krasnyi Luch) located in the occupied part of Luhansk oblast, was humiliated, beaten and raped by a group of militants from the so-called "People's Militia of the Luhansk People's Republic" who accidentally learned of his sexual orientation .

*Case 863*

In August 2016, 31-year-old Eugene, a resident of a small town of Donetsk oblast, which is located in the territory beyond the control of Ukraine, was subjected to these insults by several young men aged 20-

25: "queer", "holed", "puncher", "your place is in a rooster-house"<sup>53</sup>". They also tried to beat him.

#### *Case 792*

In early December 2016 homophobic and neo-Nazi inscriptions appeared on the walls of the building where the Mariupol art platform "TYU!" is placed.



*Figure 8. Neo-Nazi and homophobic graffiti on the facade of the art platform "bye!" (Mariupol, December 2016).*

The founder of the institution Diana Berh, known for her tolerant attitude towards LGBTI people, commented about it: "Juvenile Nazis rise from their knees, Azov's<sup>54</sup> youth never sleeps."

#### *Case 870*

At the end of December 2016, 21-year-old Volodymyr met on the social network VKontakte a guy and arranged a personal meeting with him at

<sup>53</sup> "Rooster" is an offensive nickname for gays in the modern Russian culture.

<sup>54</sup> Many servicemen of regiment Azov (the National Guards of Ukraine) are famous for their neo-Nazi views.

the nearby Kyiv metro station "Osokorki". But at the meeting he faced several homophobic minded young people who started to insult Volodymyr due to his sexual orientation; they pushed him and tried to take away his phone and money. Volodymyr ran away from them, but they overtook him and pushed him off a cliff – resulting in the breaking of his arm.



*Figure 9. The bruised body of an LGBTI activist after a homophobic attack (Korostyshiv of Zhytomyr oblast, December 2016).*

#### *Case 871*

At the end of December 2016, LGBTI activist Ivan was beaten by unknown persons in Korostyshiv of Zhytomyr oblast. He describes the incident in this way: "When I was heading home from the store, I was approached by two young men. First, they began to question what my [sexual] orientation is. I replied that it is normal for myself. Then one of them pushed me, I fell on the road, and they started kicking me. Fortunately, the beating did not last long, because the headlights of a

passing car scared the attackers and they fled. But their mood was quite resolute, and unless this car had appeared, then I do not know how everything would have ended." As a result of the attack Ivan suffered bruises all over his body.

## 6.2. Relations with the law enforcement authorities

In 31 cases abuses by law enforcement agencies were reported (1 – in 2014, 18 – in 2015, and 12 – in 2016). Most often the old militia and the new police violated the following rights:

*Table 3. Violations of LGBTI rights in 2016 by the police.*

<b>Violated rights (by what actions)</b>	<b>Number</b>
The right to liberty and personal security (violation of procedural rules, illegal detention, physical violence, extortion of a bribe)	18
Freedom from discrimination (insults, threats and humiliation of human dignity, complicity with offenders)	18
The right to an effective remedy (failure to protect the rights, improper performance of duties to protect the rights)	11
The right to respect for private life (blackmail, threats of disclosure and disclosure of confidential information)	7

The duties of law enforcement regarding the protection of LGBTIs' peaceful assembly and public actions were faultlessly implemented only in respect to the Equality March in Kyiv. Especially noteworthy is the total passivity of the police during the disruption of the Equality Festival in Lviv in March 2016, and the screening of the film "It's a gay propaganda" in Chernivtsi in October 2016. The leadership of the Odesa police in August 2016 tried to ban the Equality March in the city rather than to ensure its protection.

In a few cases where victims of crimes motivated by homophobia and transphobia appealed for help to the police, for the most part they were met with misunderstanding and reluctance by law enforcement personnel to protect their rights – often accompanied by homophobic jokes and ridicule. In the cases occurring during 2015 numerous

instances were noted when police officers abused their official positions. Such abuse was expressed by the outright exceeding of their authority and the extortion of bribes.

#### *Case 609*

In August 2015 37-year-old Dmytro met through the Internet a guy and arranged a personal meeting with him. However, at the meeting place he was attacked by a group of youths from Zaporizhzhya group Nasledie who insulted and beat him. They filmed this process, and then posted the video on the internet. Once the attackers recorded the video, they brought Dmytro to Ordzhonikidzevskyi District Police Department of Zaporizhzhya. There he again was shot with the camera. According to the victim's account, after the camera was turned off, they knocked him to the floor with a blow and started beating him. Some police officers watched what was happening but did not intervene. A little later at some time Dmytro was approached by the Deputy Chief on Public Security, saying: "Do not hit him, what will I do if you kill him?" The police told Dmytro to write a statement that he has no claims against the attackers. Dmytro was dismissed from the police office and handed a summons to the military registration and enlistment office.

#### *Case 638*

In April 2015 police officers in Mariupol under the guise of gay dating proposed via the internet to meet with 24-year-old Oleksii. The victim describes the further developments in this way: "At the meeting they unlawfully detained me, then I was taken to the district police office, where, after illegally finding out my personal information (where I live and work), they extorted money in the amount of 8000 UAH. Or they would report to my work, parents and neighbours about my sexual orientation. I was forced to pay."

In February 2016 Mariupol LGBTI activist Oleksandr reported on this police issue in the following account: "Police officers, under the guise of various persons communicate within the VKontakte groups on sex dating, proposing to exchange intimate photographs. Then they invite you to a meeting, where they catch you and bring you to the office, and begin to "press down" [exert pressure] stating that you can be

convicted for the distribution of pornography or you may pay off with 10 thousand hryvnias. This has already happened to about 20 gays over the past three years. When communicating and using psychological pressure, the police have repeatedly mentioned the abnormality of the victims. The victims do not want to take any action to defend themselves – everyone is afraid of punishment for distributing porn and especially of uncovering information about their sexual orientation"(case 652).

#### *Case 662*

In March 2015, 20-year-old student Illya was extorted for money by the Lutsk police. "They threatened that they would tell everything [about me] in the university unless I paid 600 USD. They were three police officers aged 35-45. They dragged me to the basement in the regional police department and bullied me."

#### *Case 667*

In May 2015, officers of the Ivano-Frankivsk police met through a dating website for gay men 24-year-old Serhii. The victim gave his descriptive account in this way: "They put me in the car, brought me to some office, and extorted money -- otherwise they would disclose me as gay. They said, "You fag, everyone will know." I gave them 2,400 hryvnias."

#### *Case 682*

On 3 May 2016, 34-year-old Andrii stayed the night at his friend's. The next day he returned home since the old lady, with whom he lived in the same apartment, had called the police because Andrii had not slept at home. The police proposed to him that he write an explanation about why he was not at home. At this moment Andrii's telephone rang. Answering the call, he said: "I cannot talk, the apartment is full of garbage."<sup>55</sup> He was accused of insulting the police and told to get to the office. Andrii tried to apologize. He was put in the car and taken to the police station. On the way one of the police officers said they suspected that Andrii was of "non-traditional" sexual orientation, and informed him that he would have to pass a test in order to determine

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<sup>55</sup> Musora ("the garbage") is a traditional insulting nickname for the police in Ukraine.

this. Arriving at the Zavodskiy District Police Department, a police officer brought Andrii into the corridor and told everybody that he had brought in "a faggot" (there were heard rebukes and humiliation from other officers). The policeman humiliated Andrii, insulted and beat him. None of the other police officers tried to stop this treatment. Then Andrii was recorded on the camera with his confession that he had insulted the police officers, and released.

By evening, Andrii felt a pain in the impact sites. He called the hotline of the Ministry of Interior; in an hour investigators arrived who began to dissuade Andrii from giving testimonies. On May 6 Andrii went to the main police station in order to give testimony and accept an assignment to go to the forensic medical expertise. He was denied to get the assignment. On May 7 he passed a forensic medical expertise at his own request. On May 10 Andrii's statement was submitted to the oblast Public Prosecutor's Office, but the investigator strongly avoided contact with the victim and refused to accept the statement that the actions of the police were committed on ground of hatred.

### **6.3. Employment**

38 cases of violations of LGBTI human rights (23 – in 2015, and 15 – in 2016) were recorded in this sphere. In 28 of them were noted violations from the administration or company owner, or institution which were expressed in insults, threats, denial of employment, uncovering of private information, reduction or non-payment of wages, demotion, compulsion to leave the job "voluntarily" or in discharge. In 11 cases were noted instances of insults, ostracism or harassment from fellow workers that often forced the victim to resign "voluntarily".

#### *Case 600*

In December 2015, 29-year-old Anton had to leave his work in one of the Odesa furniture salons because of open harassment by the owner and the director of the company who accidentally saw his private Facebook page and so learned of his homosexual orientation. In addition, they told all the company's employees about Anton's "abnormality". The victim reported that within two days everybody

knew about this, even the cleaners. The director told Anton: "Were my son gay, I would strangle him myself... Such as you have to be killed".

The owner, who is married to a senior officer of the Odesa police, also warned Anton: "If you show up somewhere in Odesa and dare to work – everyone knows that you worked for me – I will never let you do that and will 'pull the plug'. You know who my husband is." As a result, Anton not only had to leave his high-paying job, but had to move to another city.

#### *Case 637*

In September 2015, 34-year-old Oleksandr was fired from one of the capital's supermarkets Silpo because of the homophobic attitude of its manager.

#### *Case 659*

In the winter of 2016, 53-year-old Yurii, an employee of one of the government agencies in Zhytomyr, was subjected to a next, subsequent wave of harassment from his colleagues. The victim described it in this way: "Employees giggle when I enter the room, whisper to each other, turn on the song "The Blue Moon" on their mobile phones, and also had given me the nickname of Blue Moon.<sup>56</sup> They do not call me so to my face, but between themselves they speak loudly enough so I can hear. For a while I was thinking that it was not done on purpose, but was just some of the negative manifestations that happen in every collective. But since it continued more than a month, my nerves had reached their limit. I think this next round of conflict is connected with the fact that at the beginning of January I refused to go to a meeting with my colleague's female friend, to whom she had decided to marry me off."

#### *Case 690*

In June 2016 the owner of a trade salon in Vyshneve (Kyiv oblast) learned from the Facebook page of one of his employees that he lives with another man. The salon owner demanded that the employee, Vitalii, explain the details of his personal life. After Vitalii refused, he

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<sup>56</sup> "The Blue Moon" is a popular song of Russian gay singer Boris Moiseev. The colour blue in Russian and Ukrainian cultures is also associated with male homosexuality.

was immediately dismissed. The victim did not try to protect his rights because he was not officially employed.

#### *Case 730*

In early August 2016 Rimma, a transgender person aged 23, was actually dismissed from the post of cashier in the supermarket Velmart (259 Moscovskii Ave., Kharkiv) because of her transgenerness, namely due to the perceived discrepancy between her appearance and documents, as well as because of management's (notional) ideas on how a cashier has to look. Then she tried several times to find a job in other places, but everywhere she was denied employment without explanation. Once she applied to the municipal enterprise Trolleybus Depot No. 3 of Kharkiv City: Rimma was denied, but the same day her friend got the same position without any problems.

#### **6.4. Access to goods and services**

In this sphere 8 cases were documented of discriminatory treatment from service personnel or other persons providing services. In three cases landlords refused to provide any premises for LGBTI events such as the Equality Festivals in Lviv, Dnipro and Zaporizhzhya. Also noted were such infringements as insults, denial of hotel service or accommodation, and physical violence.

#### *Case 812*

Oleh, aged 25, gave this account: "On August 28, 2016, I along with my friends were resting on Otrada beach in Odesa. The beach has long been famous as a favourite resting spot of the LGBT community and for the tolerant attitudes of its other visitors. The beach was totally filled, including some companies of LGBTs. All behaved decently. A gay couple was going to leave, and when they got up and walked to the exit, someone declared from the rescue tower with a megaphone to the entire beach the following: 'We are told that the beach is full of fags, and so, dear, remember: no queer will pass here, this is not Europe, and we do not need faggots! Be ashamed – children are resting here. If you cannot understand, we will explain in a more accessible way.' Well, then a lecture in that spirit for 20 minutes."

*Case 858*

In September 2015 18-year-old Andrii, a resident of Dnipro City, called a taxi and had the imprudence to say goodbye too warmly to his boyfriend before he got into the car. His boyfriend described the subsequent events in this way: "After Andrii sat in the car, the taxi driver rudely asked him about his sexual orientation because he was accompanied by a guy. Andrii answered to the driver that it was none of his business. Then, insulting Andrii verbally, the taxi driver hit him in the face, and when he wanted to respond to the insult, sprayed gas in his face. Then he continued with the words "If you attempt to do something, I will call for backup and say that you attacked me... And never show you up to my face anymore, for I will tell everybody about you fags, and we will take your heads off". Then he got in the car and drove away. Realising our rejection by society and its negative attitudes towards same-sex relationships, we decided not to report the incident to the police, although the bruises on Andrii's face came off only more than a week later".

**6.5. Education**

Violations in this sphere were recorded in 7 cases (2 – in 2015, and 5 – in 2016). In two cases, the victims suffered discrimination by the administration of educational institutions, and in five – insults and harassment from fellow students.

*Case 701*

In September 2015 Victoria, 20-year-old student and head of the student's self-government in one of the higher educational institutions of Melitopol (Zaporizhzhya oblast), was subjected to harassment from fellow students, especially in social networks, because of her sexual orientation and civil activism. She describes the harassment in her following account of events:

"A community exists in social networks that was created by some university students; there they usually criticise the work of the University students' self-government. In September of the previous year, someone began actively to pay attention to my [sexual] orientation via posts within this group. The administrators willingly

published these posts, and did not stand aside themselves. Usually, posts take this character: she is lesbian here, ugh to her, how one can one live this way. Meanwhile, commentators actively covered my name in mud.

I became the winner of the Mayor's scholarship, and that also began to be discussed. Next came these quotes from the commentators: 'Read the nominations of students, especially where our queen of the LGBT movement is indicated. How can such a person receive a scholarship, especially in the category of 'public figure'? What activity? maybe, a social movement to protect lesbians?' Some more excerpts are: 'There are two kinds of people of non-traditional orientation: (1) Sick by the nature, people born in the wrong body who have problems with their hormonal system and central nervous system; and (2) pretenders;' 'I do not accept queerness! Strict measures are necessary, up to violence;' 'Homosexuality is a disease that has a BIOLOGICAL cause. Cancer is also not transmitted, but it does not cease to be a disease because of this.' It was hard to go to the university, because I saw how people either pointed at me and began to discuss me, or just followed me with their eyes."

#### *Case 775*

In autumn 2016 a transgender woman (MtF) appealed to Nash Mir Center with the following problem: 10 years ago she officially changed her gender to female and got a new passport, and now she appealed to the Kyiv National University, where she previously studied and received a diploma before gender reassignment, with a request to replace the document to match the gender indicated in her new documents, but was refused. Unfortunately, Ukrainian legal provisions on gender reassignment clearly regulate only amendments to the civil status records (per the Ministry of Justice Order 96/5 from 12.01.2011). However, the regulatory documents of the Ministry of Education only mention a possibility to receive a corrected duplicate of diploma in the case of the "change (correction) of the person's gender" (in particular, the Ministry of Education Order 249 from 06.03.2015), but do not oblige educational institutions to do so. This case illustrates the need to

introduce clear legislative regulations on replacing all personal documents and register entries in the case of gender reassignment.

## **6.6. Health**

Two cases of discrimination against LGBTI people were recorded in the medical field (1 case each in 2015 and 2016), both relating to the provision of health services to transgender persons.

### *Case 602*

In August 2015, 26-year-old Hanna, a transgender woman (MtF), appealed to a sexologist in Zaporizhzhya to be registered in connection with the beginning of the procedure for correcting gender (which is a mandatory first step of the procedure), but was refused by the doctor who referred to his "personal professional failure and professional non-compliance with the procedure" (according to the victim).

### *Case 694*

In summer 2016 Serhii, an employee of the Kharkiv Institute of Psychiatry and Neurology, described his impression of one of the institute's specialists, whose responsibility it is to advise people wishing to have gender reassignment: "Watching the institute's staff psychologist, I noticed his open homophobia and violation of medical ethics. After psychological consulting, this psychologist let himself homophobic remarks such as: "Today a fagot was again at the reception...", "I am already sick of their problems... all of them should be treated; hysteric people and psychopaths."

## **6.7. Jurisprudence**

Twice in 2016 Ukrainian courts issued unjust decisions to ban LGBTI peaceful assemblies. The first case occurred in March, when the Lviv District Administrative Court banned a public event within the Lviv Equality Festival (later this decision was reversed by a higher court). The second case occurred in August, when the Odesa District Administrative Court banned the Equality March in their city.

### **6.8. Relations with the military**

In one instance (case 827) a respondent reported the harassment and beating of a local 22-year-old gay man by three soldiers of the Ukrainian army. It happened in August 2016 in one of the settlements of Luhansk oblast in the anti-terrorist operation zone.

## 7. SITUATION IN THE OCCUPIED TERRITORIES

*Neither the Ukrainian government nor international organisations have direct leverage to influence the situation of LGBTI people in the territories of Ukraine occupied by Russia – Crimea and southern Donbas. The difference between these two territories is only that no law at all acts in occupied Donbas while in Crimea the occupation regime combines informal repressions with strict application of homophobic Russian legislation.*

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An Internet poll of the Ukrainian gay community, conducted by Nash Mir Center in August and September 2016, found 15 cases of crimes or incidents of hatred against LGBTIs that occurred in the occupied territory of Ukraine for the last three years. They are not fundamentally different from the problems that LGBTI people face in the territory controlled by the Ukrainian government. For example, in Donetsk a case was recorded in which a gay man was dismissed from his workplace office because the management found out about his homosexuality. The main situational difference between free and occupied Ukraine lies only in the absence of any effective ways to protect the rights of victims of violence and discrimination in the modern Russian reality.

In the spring of 2016 the head of the occupation Russian government of Crimea Sergei Aksyonov pledged once again to prevent "actions aimed at gay propaganda."<sup>57</sup> In the face of fierce repression of any social and political activities which are not sanctioned by the authorities, the very subject of the Crimean LGBTI community has totally disappeared from the peninsula's public life. The situation in Sevastopol is no different from the rest of Crimea: thus, the occupation city government banned, and the local "courts" confirmed the ban, against holding in May 2016 a rally calling for the legalisation of same-sex marriages as well as a peaceful march through the city centre.<sup>58</sup>

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<sup>57</sup> ТАСС, Аксенов выступил против гей-парадов в Крыму, 25.04.2016, [tass.ru](http://tass.ru).

<sup>58</sup> Громадське радіо, Активісти руху ЛГБТ програли суд в окупованому Севастополі, 26.10.2016, [hromadskeradio.org](http://hromadskeradio.org).

## 8. CONCLUSIONS AND RECOMMENDATIONS

*By adopting the Action Plan to Implement the National Strategy on Human Rights until 2020, the Ukrainian government undertook obligations to develop legislation and state policies to address discrimination and inequality of LGBTI people in Ukraine. We can only wish that they reach the planned objectives as well as adopt all legal documents which have to be worked out under the Action Plan.*

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In addition to legislative reforms bringing Ukraine closer to modern European standards protecting the rights and interests of LGBTI people, the problem of homophobic violence needs urgent attention. Law enforcement authorities, within their reformation process, also have to learn experience and attitudes regarding homo-violence from their colleagues in developed Western countries. Overall, our recommendations remain without serious changes, because the only significant step taken in 2016 to protect the rights and interests of LGBTI people was the adoption of a new procedure of gender reassignment for transgender persons. Thus,

1. **The Verkhovna Rada of Ukraine** is recommended to eliminate all provisions in the Ukrainian legislation that lead to discrimination on grounds of sexual orientation or gender identity – in particular, in Article 74 "The right to property of a woman and a man who live as one family but are not married to each other or are not in another marriage" and Article 91 "The right to maintenance of a woman and a man who are not married to each other" as well as the respective clauses of Article 211 "Persons who can be adoptive parents" of the Family Code of Ukraine. We also recommend that the Ukrainian parliament passes a law on registered partnership for same-sex couples. In the process of reforming the Ukrainian legislation, sexual orientation and gender identity should always be mentioned explicitly as characteristics that are protected from discrimination and incitement to enmity and hatred. Homophobic/transphobic motives for committing a crime should be defined as aggravating circumstances in Articles 161, 121, 122, 126, 127, 129, 293, 296 of the Criminal Code of Ukraine.

2. **The President, the Cabinet of Ministers of Ukraine, and the Commissioner of the Verkhovna Rada of Ukraine on Human Rights** are advised to adopt national policies to combat inequality, discrimination, increase tolerance and mutual respect in society, and always explicitly to mention sexual orientation and gender identity in the policies as protected characteristics, and LGBTIs – as a vulnerable group.
3. **The Ministry of Health of Ukraine** is recommended:
  - to amend the MoH Order 479 from 20.08.2008 "On Approving the List of Diseases Having Which Disables a Person to Be an Adoptive Parent" by removing from it the code F64 (item 9 "Gender identity disorders");
  - to organize a revision of all textbooks and other teaching and learning materials for medical schools to bring them into compliance with the ICD-10 with the purpose to eliminate any mentions of homo- and bisexuality as illnesses, mental disorders, sexual perversions etc. In addition, to ensure that new teaching materials are examined for correct coverage of issues of sexual orientation and gender identity.
4. **The Ministry of Education and Science of Ukraine** is recommended to include topics of sexual orientation and gender identity in the school curricula and programmes of universities and professional training of the teaching staff.
5. **The Ministry of Interior of Ukraine** is recommended:
  - regularly to hold educational activities with their staff on the topics of tolerance and inadmissibility of human rights violations regarding LGBTIs, and (together with the prosecutors) thoroughly and impartially to investigate instances of human rights violations of LGBTI people committed by police officers and to bring the guilty persons to liability;
  - to include topics of sexual orientation and gender identity in the programmes of juridical and law enforcement higher schools and in the professional training of the law enforcement staff.

**6. State authorities, local self-governments and their representatives** are recommended:

- to take into account and to be governed in their future activities by the principle enshrined in Article 35 of the Constitution of Ukraine, which states that "church and religious organisations in Ukraine are separated from the state, and schools – from the church" and that "no religion shall be recognized by the State as mandatory";
- to prevent and condemn public manifestations of homophobia, adhere to the principles of respect, equality and non-discrimination for all social groups.

## **9. METHODOLOGY AND THE AUTHORS OF THE REPORT**

The monitoring network of Nash Mir Center and publicly accessible mass media, especially electronic ones, were the main sources of information for this report. Our results cannot be considered statistically representative in terms of quantitative sociological data, but we state that they quite adequately reflect the current situation for LGBTI people in Ukraine, at least from the viewpoint of the Ukrainian LGBTI community. State institutions, except for the Parliament Commissioner for Human Rights, practically neither monitor themselves nor collect information on issues related to the observance of the rights and interests of this social group in Ukraine, therefore, more trustworthy statistics and analysis on these issues other than those published by the Ukrainian LGBTI and human rights organisations and individual activists, simply do not exist. Years of experience of our public work with the Ukrainian LGBTI community, cooperation with leading domestic and international human rights organisations and own life experience as ordinary Ukrainian LGBTI citizens are the guarantees of truthfulness and representativeness of our information – we write about what we feel and see around us in everyday life.

Our activities are aimed at both the LGBTI community and Ukrainian society in general. We are now focusing our efforts on:

- Monitoring violations of LGBTI people's rights.
- Legal aid and counselling for victims of discrimination and hate crimes on grounds of sexual orientation or gender identity.
- Legal education for the LGBTI community.
- Advocacy for the protection of equal rights for LGBTIs on legislative and political levels.
- Strategic litigation.
- Supporting local initiative groups, mobilizing LGBTI communities at the local level.

Nash Mir Center is a co-founder of the Council of LGBT Organisations of Ukraine (which currently brings together the vast majority of Ukrainian LGBTI organisations) and the Coalition for Combating Discrimination in

Ukraine – an association of various non-government organisations and individual activists who seek to promote equality and combat discrimination in Ukrainian society.