

Situation of LGBT people in Ukraine

1. When Ukraine was part of the former Soviet Union, there existed criminal prosecution concerning sexual acts between adult men punishable by up to one year in prison or exile for a term of up to three years. Sexual contact between women officially was not prosecuted, but lesbian women faced forced mental health treatment because of their sexual orientation as well.
2. Although gay sex was decriminalized in Ukraine on December 12, 1991, at present, homosexual citizens do not have the same rights under the law as their heterosexual fellow citizens, because they are not protected from discrimination or hate motivated crimes based on sexual orientation under any law that is on the books. This sends the clear message that Ukrainian authorities do not consider LGBT rights to be an important issue and that they do not want to take steps to improve protections against discrimination or combat hate motivated crimes stemming from sexual orientation.
3. Moreover, the attitudes that justify laws supporting the persecution of homosexuals continue to predominate Ukrainian society. Indeed, various surveys indicate that Ukrainians have negative attitudes towards gays and lesbians and, based on my experience and observation, the situation has substantially worsened in recent years:
 - In March 2007 at the request of Nash Mir, the TNS Ukraine sociological company conducted a national poll of the Ukrainian population on their attitudes towards granting equal rights to Ukrainian homosexuals. A similar poll was taken in March, 2002. A comparison of the results shows an increased polarization of negative attitudes towards the GLBT community. Over the past five years, the number of people who support granting equal rights to homosexual citizens has *decreased* from 42.5 % to 34.1 %. The number of people who think that homosexual citizens should have the right to register their relations as a conventional couple, has decreased from 18.8 % to 15.8 %. The number of people who think that homosexual citizens have a right to raise children, has decreased from 21.5 % to 17.1 %.
 - 65% of the residents of Kyiv, Ukraine's capitol and largest city, considered homosexuality a perversion or a mental disease when polled in 2010¹; and
 - 72% of Ukrainians in 2010 have negative attitudes towards sexual minorities.²
4. In these social conditions, LGBT people often face physical violence, sexual assaults, hate motivated crimes, and discrimination on the basis of sexual orientation. In 2005, Nash Mir questioned more than 900 gay people across Ukraine in an attempt to ascertain statistical information and identify the most serious problems facing homosexuals. 54.4% of respondents reported acts of prejudice and discrimination against them on the basis of their sexual orientation. Among those respondents who do not try to conceal their sexual orientation the number reporting discrimination and abuse was much higher: more than 76%. Problems of discrimination and abuse were reported in the work place, in social and educational institutions and with representatives of law enforcement bodies. Most respondents noted problems of discrimination in situations which cannot be easily qualified within a legal framework – with relatives, acquaintances and simply with strangers in the street.

¹ Conducted by the Socis Sociological Center, September 2010.

² Conducted by the Gorshenin Institute, December, 2010.

For example, in April 2010, a gay man was severely beaten by police officers in the hall of the city police department in the presence of a dozen witnesses for simply requesting that the policemen observe the proper procedures for placing him in detention. He was subsequently forced to abandon his attempt to defend his rights because he and his mother were subjected to threats by police officers. He was also forced to sign a document attesting that he had no complaints against the police. In October 2009, militants from a nationalist organization physically assaulted and insulted participants at a gay poetry presentation. Seven months after a Ukrainian LGBT organization filed a complaint with the police, the police claimed no crime was committed and refused to bring a criminal case against the assailants.

5. We also aware of many cases of the police impeding the constitutional rights of LGBT individuals. For example, it is very common for police officers to improperly detain LGBT people when they have done nothing wrong, and then unlawfully collect and file their personal information, such as telephone numbers, addresses, photos and fingerprints. Then, when some crime occurs in the community, the police consult their files of identified homosexuals, which act as a ready list of “suspects” to target. It is well-known in Ukraine that the police keep files on homosexuals and drug users for this purpose.
6. During recent years, several attempts were made to organize peaceful demonstrations by LGBT groups, but those attempts were either banned by local authorities or attacked by radical groups like nationalists or skin heads. The police usually did not protect LGBT people or investigate such attacks. For example, on November 20, 2010, a non-governmental organization organized events to observe the International Transgender Day of Remembrance. At a movie screening event, about ten men in masks broke into the hall and sprayed tear gas. Several people were injured. The police arrived but did not file a complaint or launch an investigation. The police’s attitude about incidents in the gay community is that if no one is dead, they do not do anything. On December 11, 2010, a few groups, including one LGBT organization, organized a demonstration related to Ukraine’s social policies on LGBT rights, among other topics. At the end of the event, a group of young men calling themselves “Christian youths”, possibly related to the neo-Nazi political party that had threatened to counter-protest, attacked some of the protest participants and screamed homophobic slogans.
7. Ukrainian politicians prefer to keep silent about LGBT issues in public. When the public does hear something, usually they hear anti-gay messages. For example, the former Chairman of the Committee on Human Rights of the Ukrainian Parliament, Mr. Leonid Grach, stated publicly that “homosexuality is an anomaly, which is caused by the amorality and the depravity of man” and “[m]e and my colleagues in the Parliament have to protect the society from infringement upon morality, to prevent penetration into consciousness and souls of people of any age the idea that the state is on the side of people who sow debauchery, promote dissoluteness, sexual permissiveness, bringing abomination of corruption of morals into society.”³ In the opinion of Mr. Grach, “the state must protect the society from evil, from violence, including such evil as homosexuality, lesbianism and such.”⁴ Despite calls from Nash Mir to state and political leaders, no actions were taken to reprimand Mr. Grach for these homophobic statements. This is not surprising since gay bashing and discrimination, both by private and governmental persons, is the norm across Ukraine.

³ Tony Grew, “Ukrainian gays face fight with Parliament,” *Pink News*, February 13, 2007, available at <http://www.pinknews.co.uk/news/articles/2005-3700.html>.

⁴ *Id.*

8. On 20 June 2011 six Ukrainian MPs, covering all the main political parties⁵ tabled a draft law entitled "On amendments to some legislative acts (to protect the right of children to a safe information environment)".

The Explanatory Note accompanying the draft law gives the rationale for the proposal as follows:

"The draft law is designed to strengthen protection from homosexual propaganda in Ukraine and establish the legal framework for the prosecution of violations of the laws which protect public order and morality in Ukrainian society.

The spread of homosexuality is a threat to national security, as it leads to an epidemic of HIV / AIDS, destroys the institution of the family and can cause a demographic crisis."

The draft law seeks to achieve this objective through amendments to five laws addressing three distinct areas, protection of public morals, regulation of the media/publishing, and the criminal code. In each case this is done through simply adding either the promotion of homosexuality or the production/distribution of products which promote homosexuality to the list of prohibited activities in the legislation.

The criminal code carries penalties ranging from a fine to 5 years' imprisonment for the breaching the relevant provision. The other laws on public morality and regulating the media/publishing make provision for various forms of sanction against the entity concerned, or refer to the possibility of administrative or criminal sanctions under other legislation.

9. Over the past few years, the church, including the official Orthodox church and the Catholic church, has become even more anti-gay and vocal about its prejudices. Church officials in Ukraine make public statements condemning gays, and religious organizations collect signatures from people to petition the introduction of criminal punishment for homosexuality. A common view in the church is that Ukrainians cannot accept European human rights values such as protecting the human rights of gays and lesbians because Ukraine has a traditional lifestyle which does not include embracing gays and lesbians.
10. Given the persecution of homosexuals that has predominated Ukrainian culture for decades, most homosexual men and women in Ukraine distrust authorities and the government. Therefore, as a rule, LGBT people do not speak out about violations of their rights, because they are afraid to be open about their sexual orientation as their self-admission can lead to homophobic reactions and even more violence against them.
11. The latest 2009 bio-behavioral study of MSM in Ukraine showed that prevalence of HIV infection in this group averages 8.6%, and in some regions (i.e. Lviv, Odessa and Donetsk oblasts) it reaches up to 20%.

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For more information please see the following documents in English:

http://www.gay.org.ua/publications/gay_ukraine_2010-e.doc

http://www.gay.org.ua/publications/gay_ukraine_2008-e.doc

http://www.gay.org.ua/publications/gay_ukraine_2007-e.pdf

http://www.gay.org.ua/publications/nash_mir_10years-small.pdf

⁵ They represent the following parties/blocks: Communist party, "Our Ukraine People's Self-Defense" block, Yulia Tymoshenko block, Party of Regions, "Reforms for the Future" block.