



Home Office

Country Information and Guidance

Ukraine: Sexual Orientation and Gender Identity

Version 1.0

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Preface

This document provides country of origin information (COI) and guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained with this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the [European Asylum Support Office’s research guidelines, Country of Origin Information report methodology](#), dated July 2012.

Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please [e-mail us](#).

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy.

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Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

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Guidance

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1. Introduction

1.1 Basis of Claim

1.1.1 Fear of persecution or serious harm by the state and/or non-state actors because of the person's actual or perceived sexual orientation and/or gender identity.

1.1.2 For the purposes of this instruction, unless specified, the above are collectively referred to as 'Lesbian, Gay, Bisexual and Transgender (LGBT) persons'.

1.2 Other Points to Note

1.2.1 In addition to the guidance in this section, decision makers should also refer to the Asylum Instructions on [Sexual Identity Issues in the Asylum Claim; Gender Identity Issues in Asylum Claims; and Gender Recognition in Asylum Claims](#).

1.2.2 Where a claim falls to be refused, it must be considered for certification under section 94 of the Nationality, Immigration and Asylum Act 2002 as Ukraine is listed as a designated state.

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2. Consideration of Issues

2.1 Is the person's account a credible one?

2.1.1 For information on assessing credibility, see sections 4 and 5 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).

2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

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2.2 Do LGBT persons constitute a particular social group (PSG)?

2.2.1 LGBT persons in Ukraine form a particular social group (PSG) within the meaning of the Refugee Convention because they share a common characteristic that cannot be changed and have a distinct identity in Ukraine which is perceived as being different by the surrounding society.

2.2.2 Although LGBT persons in Ukraine form a PSG, this does not mean that establishing such membership will be sufficient to make out a case to be recognised as a refugee. The question to be addressed in each case will be

whether the particular person will face a real risk of persecution on account of their membership of such a group.

- 2.2.3 For further guidance on particular social groups, see section 7.6 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#) and also the [Asylum Instruction on Gender issues in the asylum claim](#).

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2.3 [Are LGBT persons at risk of persecution or serious harm?](#)

- 2.3.1 Decision makers must establish whether or not the person, if returned to their country of origin, will live freely and openly as an LGBT person and this involves a wide spectrum of conduct which goes beyond merely attracting partners and maintaining relationships with them. If it is found that the person will in fact conceal aspects of his or her sexual orientation or modify their behaviour if returned, decision makers must consider why the person will do so. If this will simply be in response to social pressures or for cultural or religious reasons of his or her own choosing and not because of a fear of persecution, then they may not have a well-founded fear of persecution. But if the reason why the person will resort to concealment is that they genuinely fear that otherwise they will be persecuted, it will be necessary to consider whether that fear is well founded (see Section 3.2 of the [Asylum Instruction on Sexual Identity Issues in the Asylum Claim](#)).

[State treatment](#)

- 2.3.2 Consensual same sex activity was legalized in Ukraine in 1991 and, although sexual orientation is not specifically mentioned, the Constitution states that citizens are equal before the law.
- 2.3.3 The Association Agreement with the EU placed on Ukraine a clear commitment to prohibit discrimination on the ground of sexual orientation in employment. However the ensuing amendments to anti-discrimination legislation which theoretically facilitate the possibility of overcoming unequal treatment towards LGBT persons have not as yet led to significant change in the law's practical application (see [Legal Context](#)).

[Societal treatment](#)

- 2.3.4 There is a widespread negative societal attitude towards LGBT persons. A 2013 survey in Ukraine showed that two-thirds of people thought homosexuality was a perversion (see [Societal attitude/treatment](#)). There are several documented incidents of homophobic violence. Many victims of attacks do not report incidents or seek recourse from the authorities for fear of their sexual orientation becoming public and the resulting reprisal and general societal hostility towards them (see [State attitude/protection/treatment](#)).
- 2.3.5 Many LGBT persons in Ukraine are said not to live openly for fear of societal hostility. However, gay clubs and businesses exist in Ukraine (see [Societal attitude/treatment](#)) and there are highly visible LGBT events such as annual Pride marches – which observers have said draws a remarkable level of support - and an annual LGBT film festival, for which thousands of tickets are sold each year (see [State attitude/protection/treatment](#)). The Ukrainian

President has publicly voiced support for sexual minorities and there is said to be a gradual shift in public opinion on LGBT rights, despite right-wing hate-mongering (see [Societal attitude/treatment](#)).

- 2.3.6 Although some LGBT persons suffer discrimination and ill-treatment from the general public, and in some cases from rogue state agents, in general LGBT persons are not subject to action on the part either of the populace or the authorities which would amount to persecution or serious harm.
- 2.3.7 However personal circumstances may place some LGBT persons at risk from state and non-state actors. For further guidance on assessing risk, see section 6 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).
- 2.3.8 The situation is however different in Crimea where after its annexation by Russia in 2014, the existing laws of Russia came into force including the highly discriminatory anti-gay propaganda law which forbids any public advocacy or portrayal of LGBT life or rights. Similarly under Russian influence, the so-called Luhansk and Donetsk People's Republics restrict LGBT people's rights (see [Position in society](#) and country information and guidance on [Ukraine: Crimea, Donetsk and Luhansk](#)).

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2.4 [Are those at risk able to seek effective protection?](#)

- 2.4.1 There is evidence of the authorities being willing and able to offer protection. For example after the June 2015 Kiev Pride march, far-right groups attacked participants; a dozen participants and several police officers were seriously hurt. Approximately 30 attackers were arrested for their part in the attack on the participants in the Pride march; most identified as belonging to nationalist groups. Given that these events only took place recently, not all of those charged have as yet appeared in court (see [State attitude/protection/treatment](#)).
- 2.4.2 On the other hand there are also less specific reports that some law enforcement officials have failed to protect sexual minorities from foreseen violent situations or pursue investigations of hate crimes committed against LGBT individuals, and that some members of the judiciary have failed to adequately punish perpetrators (see [State attitude/protection/treatment](#)).
- 2.4.3 There are a number of non-governmental organisations in Ukraine which are active in LGBT issues and who can potentially assist the person to avail themselves of the protection of the state (see [Civil society organisations](#)).
- 2.4.4 Where the person's fear is of ill treatment/persecution at the hands of non state agents - or rogue state agents - then effective state protection may be available.
- 2.4.5 In the case of Crimea and the so-called Luhansk and Donetsk People's Republics, where LGBT rights have been severely restricted, the person would be unable to avail themselves of the protection of the authorities (see country information and guidance on [Ukraine: Crimea, Donetsk and Luhansk](#)).

- 2.4.6 Decision makers need to consider each case on its facts. The onus is on the person to demonstrate why they would not be able to seek and obtain state protection.
- 2.4.7 For further guidance on assessing the availability or not of state protection, see section 8.1 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.5 [Are those at risk able to internally relocate?](#)

- 2.5.1 Where the threat is from the state, internal relocation is not a relevant or reasonable option.
- 2.5.2 Homophobic attitudes are prevalent throughout the country. Where a LGBT person does encounter local hostility they may be able to avoid this by moving elsewhere in Ukraine, but only if the risk is not present there and if it would not be unduly harsh to expect them to do so.
- 2.5.3 Decision makers must however take into account that the Supreme Court in the case of HJ (Iran) made the point that internal relocation is not the answer if it depends on the person concealing their sexual orientation in the proposed new location for fear of persecution.
- 2.5.4 Decision makers must give careful consideration to the relevance and reasonableness of internal relocation on a case-by-case basis taking full account of the individual circumstances of the particular person.
- 2.5.5 For further guidance on considering internal relocation and the factors to be taken into account, see section 8.2 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#)
- 2.5.6 For guidance on relocation from Crimea, Luhansk or Donetsk see country information and guidance on [Ukraine: Crimea, Donetsk and Luhansk](#)).

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2.6 [If refused, is the claim likely to be certifiable as 'clearly unfounded'?](#)

- 2.6.1 Where a claim falls to be refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002. This is because the claim, even when taken at its highest, is unlikely to be so clearly without substance that it is bound to fail.
- 2.6.2 For further information on certification, see the [Appeals Instruction on Certification of Protection and Human Rights claims under Section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

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3. [Policy summary](#)

- 3.1.1 Consensual same sex activity was legalized in Ukraine in 1991 and the Constitution states that all citizens are equal before the law.

- 3.1.2 There is a widespread negative societal attitude towards LGBT persons. The Ukrainian President has publicly voiced support for sexual minorities and there is said to be a gradual shift in public opinion on LGBT rights, despite right-wing hate-mongering.
- 3.1.3 Although some LGBT persons suffer discrimination and ill-treatment from the general public, and in some cases from rogue state agents, in general LGBT persons are not subject to action on the part either of the populace or the authorities which would amount to persecution or serious harm.
- 3.1.4 The authorities in Ukraine are in general likely to be able to provide effective protection. The onus will be on the person to demonstrate why they would not be able to obtain such protection.
- 3.1.5 The situation is however different in Crimea and the so-called Luhansk and Donetsk People's Republics, where LGBT rights have been severely restricted. LGBT persons in those areas would be unable to avail themselves of the protection of the authorities.

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4. Background

4.1 Position in society

4.1.1 The Equal Rights Trust concluded in its report published August 2015 about the situation for LGBT people in Ukraine that:

'LGBT persons in Ukraine experience severe and systematic discrimination and inequality, as a result of high levels of stigma and a weak legal framework. While Ukraine was the first former Soviet state to decriminalise same-sex sexual activity, in 1991, social intolerance has gradually increased since that time, particularly since the beginning of the century. Recent surveys indicate that up to three-quarters of Ukraine's population have a negative attitude towards LGB persons, while transgender persons also experience stigmatisation. The Ukrainian legislature has consistently resisted calls to enact legislation explicitly prohibiting discrimination on the basis of sexual orientation and gender identity, and on the contrary adopted a number of laws directly or indirectly discriminate against LGBT persons. There are significant problems with the law enforcement agencies, ranging from abuse, harassment, blackmail and extortion to a failure to protect from discriminatory violence. In this legal and social context, many LGBT persons choose not to disclose their sexual orientation or gender identity, because evidence collected for this report suggests that those who do this experience discrimination in employment, education and healthcare.'¹

4.1.2 The ILGA-Europe Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2015, published May 2015, noted:

'The 2013-2014 crisis led to increased geopolitical tensions and a year of civil unrest, as Ukraine was torn between pro-European and pro-Russian forces. Both sides of the conflict targeted LGBTI people; although, ironically, the unrest led to fewer legislative and policy attempts to restrict LGBTI rights. In order to make way for an association agreement amid the conflict, the European Union softened its earlier demands that homophobic discrimination be outlawed in employment, accepting longer-term commitments in this area. Under new Russian influence, the so-called Luhansk and Donetsk People's Republics and the Republic of Crimea restricted LGBTI people's rights. The party that won the October [2014] elections made positive commitments against discrimination, including new employment legislation.'²

¹ Equal Rights Trust. 'In the Crosscurrents: Addressing Discrimination and Inequality in Ukraine', p85/6, dated August 2015. <http://www.equalrightstrust.org/sites/www.equalrightstrust.org/files/ertdocs/In%20the%20Crosscurrents%20Addressing%20Discrimination%20and%20Inequality%20in%20Ukraine.pdf> Date accessed: 10 September 2015

² ILGA-Europe. 'Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2015,' published May 2015 <http://www.ilga-europe.org/resources/rainbow->

4.1.3 The Nash Mir Centre report of 2015, 'From Hope to Despair: LGBT situation in Ukraine 2014', noted:

'The political life of Ukraine in 2014 was characterized above all by transition of ideological confrontation between the "Russian World" and modern West in the public consciousness to a real, bloody conflict. This process began in the events of the so-called Euromaidan in late 2013-early 2014, and continued with the Russian occupation of Crimea and southern Donbas. Issues related to LGBTs faded away against the backdrop of these more encompassing events, becoming only a symbolic marker within the Russia/EU geopolitical choice. In such circumstances, Ukrainian politicians, who support a European future for Ukraine, divided into two groups: conservative, declaring tolerance towards LGBT people but not ready to give them equal rights, and liberal, rejecting any discrimination.

'...The difficult situation in the country in 2014 (political, economic and social crisis; occupation of Crimea; the war in Donbas) generally distracted the attention of the media and Ukrainian society from the rest of the topics, including issues related to LGBT life – all the more so since this situation has led to a noticeable decrease in public activity of the Ukrainian LGBT community. However, both the national media and the general public could not overlook paying some attention to the dramatic changes that took place during 2014 in relation to LGBT people around the world, especially, in the countries of the Western civilisation.

'Leading Ukrainian churches noticeably reduced their homophobic activity back in 2013, and in 2014 this trend remained. Perhaps not wanting to look like defenders of "The Russian World traditional values", they have moved from outright incitement of general hostility and hatred against LGBT people and calls for their discrimination, to a more moderate condemnation of LGBT organizations' public activism and criticism of the worldwide trend towards recognition of same-sex marriage and adoption of children by same-sex couples.

'...However the situation of LGBTs worsened during the last year in Ukraine in general, it cannot be compared with the more dire situation in the occupied territories: that is, in Crimea, and especially in the area of the anti-terrorist operation (ATO) in Donbas. In each of these regions the situation exhibits great local peculiarities. The one characteristic that unites them is the fact that any social activities -- and even the social visibility of LGBT people -- have become forbidden and dangerous for LGBTs' existence.'³

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5. Legal Context

5.1 Protections and Limitations

5.1.1 The Equal Rights Trust noted in its report on discrimination in Ukraine, published in August 2015, that: 'Many provisions in Ukrainian law

[europe/2015](#) Date accessed: 23 July 2015

³ Nash Mir Centre. 'From Hope to Despair: LGBT situation in Ukraine 2014', published in 2015. <http://www.munichkievqueer.org/wrdps/wp-content/uploads/2015/03/LGBT-situation-in-Ukraine-in-2014-Report.pdf> Date accessed: 23 July 2015

discriminate on grounds of sexual orientation. Article 51 of the Constitution and Article 21 of the Family Code define marriage as a union between one man and one woman, thus excluding same-sex couples from marriage...

'... Article 212, paragraph 1, subparagraph 8 of the Family Code prohibits the adoption of children by persons suffering from diseases specified on a list produced by the Ministry of Health. An order of the Ministry of Health (No. 479 of 20 August 2008) includes transsexuality on the list of diseases, thus directly discriminating against persons on ground of gender identity.'⁴

5.1.2 The undated GlobalGayz Ukraine profile noted:

'In Ukraine homosexual sex was legalised and the age of consent equalized in 1991 but there is no recognition with respect to gay marriage or civil unions and there are no anti-discrimination laws. For better or worse, gay Ukrainians have been ignored by the political establishment. The country is conservative, mainly Orthodox Christian. The Constitution states that citizens are equal before law, but sexual orientation is not specifically mentioned. However, the list of grounds of discrimination includes an "on other basis", which could be used for gay protection, but it has never been tested in court...

'...For LGBT citizens in the southern peninsula of Crimea everything changed in 2014 when Russia forced its way into the area and then imposed a referendum that was approved by most people (ethnic Russians) to become a province of Russia. This meant that the existing laws of Russia came into force including the highly discriminatory anti-gay propaganda law which forbids any public advocacy or portrayal of LGBT life or rights. The quiet tolerance of gay citizens became an intolerance and many gay Crimeans moved away to the Ukrainian mainland where they could at least breathe more freely without police intervention in their lives.'⁵

5.1.3 The Nash Mir Centre report of 2015, 'From Hope to Despair: LGBT situation in Ukraine 2014', noted:

'In 2014, the law relating to LGBT interests in Ukraine has undergone some changes. Amendments to anti-discrimination legislation theoretically facilitate the possibility of overcoming unequal treatment towards LGBTs, and the Association Agreement between Ukraine and the EU placed on our state a clear commitment to prohibit explicitly discrimination on the ground of sexual orientation in employment. However, these legislative changes only created the opportunity for further reform of Ukrainian legislation and implementation of European standards, but they led to no significant changes in the law's practical application. We noted both a (hopefully temporary) refusal by the new Ukrainian government to include sexual orientation and gender identity explicitly in the list of grounds protected from discrimination, and a quiet

⁴ Equal Rights Trust. 'In the Crosscurrents: Addressing Discrimination and Inequality in Ukraine', p71/2, August 2015.
<http://www.equalrightstrust.org/sites/www.equalrightstrust.org/files/ertdocs/In%20the%20Crosscurrents%20Addressing%20Discrimination%20and%20Inequality%20in%20Ukraine.pdf> Date accessed: 10 September 2015

⁵ GlobalGayz. Ukraine Profile, undated <http://www.globalgayz.com/europe/ukraine/> Date accessed: 23 July 2015

abolition of all homophobic draft laws which were previously introduced before Parliament.’⁶

- 5.1.4 A Truthout report of 14 April 2015, ‘Amid Conflict Worsening Discrimination Makes It Harder to Organize for LGBT Rights in Ukraine’, noted: ‘On March 23 [2015] the Ukrainian Ministry of Justice released the final draft of Ukraine’s National Human Rights Strategy. This draft law, which will guide Ukrainian human rights policy until 2020, offers no protection for lesbian, gay, bisexual and transgender people from discrimination on the basis of their sexuality or gender identity.’⁷
- 5.1.5 The US State Department 2014 Human Rights Practices Report, released 26 June 2015, noted: ‘Human rights experts and the LGBT community criticized amendments to antidiscrimination legislation passed by parliament in May [2014] because it did not explicitly prohibit discrimination due to sexual orientation and gender identity.

‘The country’s two largest Orthodox churches opposed adoption of any law extending discrimination protections to LGBT persons, asserting such laws would “encourage citizens to engage in same-sex relationships.”

‘On May 7, the High Specialized Court issued a letter to appellate courts stating discrimination based on sexual orientation in employment is illegal in the country. The LGBT community asserted the letter had virtually no effect on the overall situation with regard to the protection of LGBT rights in the country.’⁸

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6. State attitude/protection/treatment

- 6.1.1 The US State Department 2014 Human Rights Practices Report, released 26 June 2015, noted in generic terms:

‘Civilian authorities maintained control over law enforcement agencies and took action to investigate and punish abuses committed by security forces. During the first two months of the year, the Ministry of Internal Affairs, the SBU [the Security Service of Ukraine], and other law enforcement agencies often acted with impunity and violence to suppress the antigovernment demonstrations on the Maidan to maintain President Yanukovich’s authority. In the months after the new government took power, charges of impunity and abuses by security forces decreased, according to the parliamentary ombudsman for human rights.’⁹

⁶ Nash Mir Centre. ‘From Hope to Despair: LGBT situation in Ukraine 2014’, published in 2015. <http://www.munichkievqueer.org/wrdps/wp-content/uploads/2015/03/LGBT-situation-in-Ukraine-in-2014-Report.pdf> Date accessed: 23 July 2015

⁷ Truthout. ‘Amid Conflict Worsening Discrimination Makes It Harder to Organize for LGBT Rights in Ukraine’, dated 14 April 2015 <http://www.truth-out.org/news/item/30191-amid-conflict-worsening-discrimination-makes-it-harder-and-more-necessary-to-organize-for-lgbt-rights-in-ukraine> Date accessed: 10 September 2015

⁸ US State Department. ‘Country Report on Human Rights Practices for 2014,’ released 26 June 2015 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dldid=236588> Date accessed: 10 September 2015

⁹ US State Department. ‘Country Report on Human Rights Practices for 2014,’ released 26 June 2015 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dldid=236588> Date

6.1.2 The Nash Mir Centre report of 2015, 'From Hope to Despair: LGBT situation in Ukraine 2014', noted: '...the Ukrainian police are typically inactive in cases where homophobic groups disrupt LGBT events or activities of LGBT organizations, and are inactive, too, in pursuing further investigation of these cases: the police simply refused to see violations done by attackers and do not wish to conduct proper investigations.'¹⁰

6.1.3 An undated Stiftung report, 'Situation of LGBT people in Ukraine', noted: '...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...

'...We are 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.'¹¹

6.1.4 A Heartland Alliance report of July 2013, 'Human Rights Violations of Lesbian, Gay, Bisexual and Transgender (LGBT) People in Ukraine: A Shadow Report', noted: 'There are several documented incidents of homophobic violence in Ukraine. Furthermore, law enforcement officials have failed to protect sexual minorities from foreseen violent situations or pursue investigations of hate crimes committed against LGBT individuals, and the judiciary has failed to adequately punish perpetrators.

'...Many victims of attacks...do not report incidents or seek recourse for fear of their sexual orientation becoming public and the resulting reprisal and general societal hostility towards them. Those that do report these incidents are often ignored by state authorities or ridiculed with more anti-gay hostility. The true extent of violence against LGBT individuals in Ukrainian society is difficult to ascertain due to the lack of reporting through official government channels...Individuals are being denied the right to effective remedies and recourse by Ukraine because of its failure to investigate these crimes, and hold the perpetrators accountable. Additionally, government has not

accessed: 24 July 2015

¹⁰ Nash Mir Centre. 'From Hope to Despair: LGBT situation in Ukraine 2014', published in 2015. <http://www.munichkievqueer.org/wrdps/wp-content/uploads/2015/03/LGBT-situation-in-Ukraine-in-2014-Report.pdf> Date accessed: 24 July 2015

¹¹ Stiftung. 'Situation of LGBT people in Ukraine', undated http://www.stiftung-evz.de/fileadmin/user_upload/EVZ_Uploads/Publikationen/Studien/Uebersicht-gefoerderte-Studien/Stop-Hate-Crime/situation-of-lgbt-people-in-ukraine.pdf Date accessed: 24 July 2015

provided police trainings or instituted policies that would address high incidents of violence against sexual minorities.’¹²

6.1.5 The Equal Rights Trust noted in its report on discrimination in Ukraine, published in August 2015, that: ‘LGBT persons in Ukraine face significant problems when interacting with the law enforcement agencies. Problems include the agencies’ non-compliance with legal procedure; abuse, threats, blackmail and extortion; and the refusal to protect LGBT persons from homophobic or transphobic crimes.’¹³

6.1.6 The same report also noted that: ‘In recent years, a new pattern has appeared in the Ukrainian police’s activities towards LGBT persons: the police have moved beyond the unlawful collection and use of information on local LGBT communities that come to their attention and begun proactively searching for gay men through the internet...

‘...There is evidence that information gathered in this way is used by the police to blackmail gay men, extorting money in return for not initiating criminal or administrative proceedings, and forcing them to collaborate with the police to identify new victims among the local LGBT community...

‘...There are also cases in which policemen enter websites as clients, correspond with gay men, expose them and attempt to extort money...

‘...It is extremely difficult for people to prove their innocence when accused by the police; in the case of LGBT persons, the difficulties are compounded by widespread homophobia. Fearful of their sexual orientation being disclosed, LGBT persons rarely seek to defend themselves.’¹⁴

6.1.7 A report by the OHCHR published in November 2014 noted that:

‘The prevalence of negative stereotypes vis-à-vis LGBTI remains quite high. For example, on 22 September, an NGO from Lviv informed the HRMMU [the United Nations Human Rights Monitoring Mission in Ukraine] that it had recently exposed a social network that requested users to share information about LGBTI members, sex workers and drug dealers in the town and to vote as to whether such people should be attacked and beaten. The NGO also reported a case of police officers collecting information about LGBTI persons and extorting UAH 3,000 (approx. USD 230) from each, threatening to otherwise reveal their sexual orientation to their family and friends. The

¹² Heartland Alliance. ‘Human Rights Violations of Lesbian, Gay, Bisexual and Transgender (LGBT) People in Ukraine: A Shadow Report’, dated July 2013 <http://www.heartlandalliance.org/gishr/iccpr-lgbtshadow-report-ukraine.pdf> Date accessed: 24 July 2015

¹³ Equal Rights Trust. ‘In the Crosscurrents: Addressing Discrimination and Inequality in Ukraine’, p72, dated August 2015. <http://www.equalrightstrust.org/sites/www.equalrightstrust.org/files/ertdocs/In%20the%20Crosscurrents%20Addressing%20Discrimination%20and%20Inequality%20in%20Ukraine.pdf> Date accessed: 10 September 2015

¹⁴ Equal Rights Trust. ‘In the Crosscurrents: Addressing Discrimination and Inequality in Ukraine’, p75-77, dated August 2015. <http://www.equalrightstrust.org/sites/www.equalrightstrust.org/files/ertdocs/In%20the%20Crosscurrents%20Addressing%20Discrimination%20and%20Inequality%20in%20Ukraine.pdf> Date accessed: 10 September 2015

LGBTI community is often reluctant to report threats and violations of their rights.¹⁵

6.1.8 A Vice News report of 11 June 2015, 'Ukraine's LGBT Community Is Fighting for Visibility in a Time of Revolution and War', noted: 'The dangerous reality came into focus again this weekend, at the second ever Kiev Pride march, where far-right groups attacked the small crowd of about 150 marchers, sending at least one police officer to the hospital.

'That they were marching at all could be seen as a watershed moment, of sorts. After Kiev's mayor initially refused to provide police protection and called on Pride organizers to cancel the demonstration, Ukrainian President Petro Poroshenko effectively overruled him and declared his support for the community's right to demonstrate, and the state's obligation to protect that right.

'It was the first such statement of support for LGBT people from a major political figure in Ukrainian history. But while this turnaround is historic, Ukraine's LGBT community has had ample evidence over the past year that their government is not on their side in their struggle for equal rights. And though the attacks on Kiev Pride have drawn significant international media attention, it was an attack on another event that put the local media spotlight on the dangers faced by the LGBT community.

'Last October, arsonists associated with an extreme right group set fire to the Zhovten Cinema — the oldest cinema in Ukraine — during the screening of a gay-themed film as part of the queer "Sunny Bunny" program of the Molodist Film Festival, one of Eastern Europe's most important cinema events. No one was injured, but the historic cinema was destroyed.

'Molodist's Sunny Bunny Program, founded in 2001, is actually Ukraine's most high-profile and popular annual LGBT event. Thousands of tickets are sold each year and in 2014, 17 queer features from around the world were screened at Sunny Bunny.

'Despite the massive property damage and the grievous risk to hundreds of ticket holders, the arsonists, who reportedly admit that they set off firecrackers in the theatre because they hate LGBT people and wanted to disrupt the event, were given a slap on the wrist. No attempted murder charges. No hate crime charges. Not even arson charges were laid. The duo were charged with simply "disturbing the peace."

'...Homophobia runs deep in Ukrainian society, with the public presence of LGBT people routinely sparking shocking violence, like the beating of gay activist Svyatoslav Sheremet before the cancelled 2012 Kiev Pride march. Shocking, that is, to outsiders when it's caught on video and distributed online. In Ukraine, it's considered normal.

'Despite the routine violence, Kiev police refuse to provide protection to gay establishments and events, even when clear threats are issued against them.

¹⁵ UN Office of the High Commissioner for Human Rights (OHCHR). 'Report on the human rights situation in Ukraine,' paragraph 105, dated 15 November 2014. <http://www.refworld.org/docid/546ef1a94.html> Date accessed 13 September 2015

'...Ukraine's LGBT people seem caught in a Catch-22: Without police protection, hate crime laws, and comprehensive anti-discrimination protection, it's dangerous for LGBT people to come out of the closet. But without a visible LGBT community, their needs are easily ignored by government and society.'¹⁶

- 6.1.9 A Voice of America News report of 3 July 2015, 'Ukraine LGBT Activists Worry About Future', noted: '...last month's LGBT Equality March in Kyiv — the first since the Euromaidan* protests that led to the ouster of a pro-Russia government and brought in a government that pledges to lead the country based on Western values of liberal democracy, tolerance and human rights.

'After the march ended, scores of people attacked participants; a dozen participants and several police officers were seriously hurt....

'...Activists question the police commitment to keeping LGBT activists safe. 'Although almost 30 attackers were arrested — most identified as belonging to nationalist groups — police have yet to bring all of the suspects to court. 'LGBT activists doubt the official investigation will yield results. Olena Shevchenko, who co-organized Kyiv Pride in previous years, suspected that law enforcement might be complicit in the attacks.

"It was the police that suggested a new location for the march at the last minute," Shevchenko told VOA via Facebook. "We see the same situation each year — the far-right somehow always gets information about the location of the march despite last-minute changes.

"They also got to the place right on time. So we witness a situation where many LGBT persons and supporters have no idea about the event location, but the far right are well-informed."

'Another activist at the march confirmed to VOA that the police "wouldn't let the participants use the [originally] agreed-upon evacuation route and basically directed them straight toward the aggressive-right groups."

'Police spokeswoman Yulia Mustash dismissed the possibility that law enforcement would provide information to attackers.'¹⁷

[* Euromaidan – 'At first, the political crisis and social upheaval in Ukraine that led to several weeks of protest on the Maidan Nezalezhnosti (Independence Square) in central Kyiv—or Euromaidan [originally in November and December 2013], as it came to be referred to because of the sympathies of the demonstrators—looked to many observers like yet another manifestation of the ongoing struggle for ideological and geopolitical hegemony between Russia and the West. While it certainly was that, it also, and more critically, marked a new stage in the evolution of Ukraine as an independent and sovereign state, and produced a new form of protest—not

¹⁶ Vice News. 'Ukraine's LGBT Community Is Fighting for Visibility in a Time of Revolution and War', dated 11 June 2015. <https://news.vice.com/article/ukraines-lgbt-community-is-fighting-for-visibility-in-a-time-of-revolution-and-war> Date accessed: 24 July 2015

¹⁷ Voice of America news. 'Ukraine LGBT Activists Worry About Future', dated 3 July 2015 <http://www.voanews.com/content/ukraine-lgbt-activists-worry-about-future/2848680.html> Date accessed: 24 July 2015

another color revolution but a self-organized, self-regulated zone physically located in the center of the capital city.’^{18]}

- 6.1.10 The UN Office of the High Commissioner for Human Rights (OHCHR) noted in a report published in August 2015 events that took place in 2015:

‘On 6 June, the March of Equality in Kyiv which brought together representatives of the LGBTI community and civil society activists was attacked by a group of people who threw firecrackers and smoke grenades filled with shrapnel. Ten participants and nine police officers were injured. Seven attackers were charged under article 296 (hooliganism) of the Criminal Code. On 13 August, the Odesa Circuit Administrative Court prohibited an Equality March, which was planned by the local LGBTI community within the Equality Festival, motivating its decision by security concerns and the inability of the police to ensure the security of participants. On 15 August, activists of the political party Svoboda wearing masks attacked a local LGBTI community center with fire crackers. The police intervened and detained ten activists who were charged under article 173 (minor hooliganism) of the Code of Administrative Offences.’¹⁹

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7. Judiciary

- 7.1.1 The US State Department 2014 Human Rights Practices Report, released 26 June 2015, noted: ‘While the constitution provides for an independent judiciary, courts remained vulnerable to political pressure and corruption and were inefficient. Confidence in the judiciary remained low.

‘In April parliament approved a law to restore public confidence in the judiciary. The Law on Restoration of Confidence in the Judiciary mandated a review of the judgments and background of all judges. The local chapter of the Helsinki Human Rights Union said the law undermined the principle of the presumption of innocence. Following the review, however, 80 percent of judges remained in place.

‘The new law on the judiciary also established an interim commission to investigate complaints about judges. As of December citizens submitted 541 complaints, of which authorities investigated 82 cases. On September 24, the commission issued its first decisions, determining six judges had violated their oath of office.

‘Judges continued to complain about deterioration in the separation of powers between the executive and judicial branches of government. Some judges claimed high-ranking politicians pressured them to decide cases in their favor, regardless of the merits. Other factors also impeded the right to a fair trial, such as lengthy court proceedings, particularly in administrative courts, inadequate funding, and the inability of courts to enforce rulings.

¹⁸ World Affairs Journal. ‘Euromaidan: Ukraine’s Self-Organizing Revolution.’ March/April 2014. <http://www.worldaffairsjournal.org/article/euromaidan-ukraine%E2%80%99s-self-organizing-revolution> Date accessed: 24 July 2015

¹⁹ UN Office of the High Commissioner for Human Rights (OHCHR). ‘Report on the human rights situation in Ukraine, 16 May to 15 August 2015,’ paragraph 77, dated 15 August 2015. Available at: <http://www.refworld.org/docid/55efe41f4.html> Date accessed: 13 September 2015

According to the parliamentary human rights ombudsman, authorities fully executed only 40 percent of court rulings.’²⁰

7.1.2 The Heartland Alliance report of July 2013, ‘Human Rights Violations of Lesbian, Gay, Bisexual and Transgender (LGBT) People in Ukraine: A Shadow Report’, noted: ‘There are several documented incidents of homophobic violence in Ukraine. Furthermore, law enforcement officials have failed to protect sexual minorities from foreseen violent situations or pursue investigations of hate crimes committed against LGBT individuals, and the judiciary has failed to adequately punish perpetrators.’²¹

7.1.3 The Equal Rights Trust noted in its report on discrimination in Ukraine, published in August 2015, that:

‘Many criticisms have been made of the judiciary in Ukraine.... Despite these reforms, in 2013, the HRC [Human Rights Committee] reiterated its concern that “judges still remain vulnerable to outside pressure due to insufficient measures to guarantee the security of their status” and that Ukraine “still does not fully ensure the independence of judges from the executive and legislative branches of government and that their status is not adequately secured by law”.’²²

7.1.4 The Freedom House 2015 Nations in Transit Report, released 6 June 2015, noted:

‘The deadly crackdowns of the Euromaidan period highlighted major flaws in Ukraine’s judicial and law enforcement systems that were inconsistent with the standards of a democratic state. Important reform processes were initiated in many areas, but substantial progress had yet to materialize at year’s end. Some legislation was drafted, the new ruling coalition that formed after the parliamentary elections included judicial reform as one of its top priorities, and Poroshenko established a council for judicial reform with the deputy head of the presidential administration as its coordinator. At the same time, the Russian annexation of Crimea and the war in the Donbas presented new legal problems involving war crimes and occupation.’²³

7.1.5 A Ukraine Today report of 27 June 2015, ‘Poroshenko announces dismissal of about 300 judges in Ukraine’, noted: ‘After the High Council of Justice began work and after the inspections it has already conducted, about 300 judges should be dismissed, according to Ukrainian President Petro Poroshenko.’

²⁰ US State Department. ‘Country Reports on Human Rights Practices for 2014,’ released 26 June 2015 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236588> Date accessed: 27 July 2015

²¹ Heartland Alliance. ‘Human Rights Violations of Lesbian, Gay, Bisexual and Transgender (LGBT) People in Ukraine: A Shadow Report’, dated July 2013 <http://www.heartlandalliance.org/gishr/iccpr-lgbtshadow-report-ukraine.pdf> Date accessed: 10 September 2015

²² Equal Rights Trust. ‘In the Crosscurrents: Addressing Discrimination and Inequality in Ukraine’, p313, dated August 2015. <http://www.equalrightstrust.org/sites/www.equalrightstrust.org/files/ertdocs/In%20the%20Crosscurrents%20Addressing%20Discrimination%20and%20Inequality%20in%20Ukraine.pdf> Date accessed: 10 September 2015

²³ Freedom House. ‘Nations in Transit 2015,’ dated 6 June 2015 https://freedomhouse.org/sites/default/files/NIT2015_Ukraine.pdf Date accessed: 27 July 2015

'...According to Poroshenko, the Prosecutor General's Office (PGO) is going to ask the Ukrainian parliament to strip several judges of their immunity from prosecution on Tuesday and to authorize their arrest, according to online publication Ukrainska Pravda. What is more, Poroshenko announced he knew that the PGO was "preparing quite a lot of requests" to strip some lawmakers of their parliamentary immunity. In his words, public officials' immunity is a vestige modern Ukrainian society must get rid of.'²⁴

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8. Societal attitude/treatment

8.1 General Societal attitude/treatment

8.1.1 The UN Human Rights Council noted in a report dated 19 September 2014 that:

'The HRMMU [the United Nations Human Rights Monitoring Mission in Ukraine] continues to receive reports from the LGBT community regarding lack of tolerance and daily discrimination based on their sexual orientation and gender identity, mainly bullying at school/university, difficulties in finding and/or preserving employment especially when persons disclose their sexual orientation and gender identity; access to health services, particularly for transgender people; and physical attacks.'²⁵

8.1.2 An Inter Press News Agency report of 15 March 2015, 'Mixed Prospects for LGBT Rights in Central and Eastern Europe', noted: 'Deeply negative attitudes towards homosexuals are widespread in some societies. A 2013 survey in Ukraine showed that two-thirds of people thought homosexuality was a perversion...'²⁶

8.1.3 Voice of America noted in a report dated 3 July 2015 that: 'In a poll conducted in 2013, 79 percent of Ukrainians vehemently opposed any sexual relations between members of the same sex; 16 percent said they did not support same-sex marriage but thought that same-sex couples should have the right to live in a civil union; and 40 percent said that homosexuality ran against religious norms.'²⁷

8.1.4 The Equal Rights Trust noted in its report on discrimination in Ukraine, published in August 2015, that:

²⁴ Ukraine Today. 'Poroshenko announces dismissal of about 300 judges in Ukraine', 27 June 2015 <http://uatoday.tv/news/poroshenko-announces-dismissal-of-about-300-judges-in-ukraine-446631.html> Date accessed: 27 July 2015

²⁵ UN Human Rights Council. 'Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Ukraine', paragraph 128, dated 19 September 2014, A/HRC/27/75. Available at: <http://www.refworld.org/docid/5436a7dd4.html> Date accessed: 13 September 2015

²⁶ Inter Press News Agency. 'Mixed Prospects for LGBT Rights in Central and Eastern Europe', 15 March 2015 <http://www.ipsnews.net/2015/03/mixed-prospects-for-lgbt-rights-in-central-and-eastern-europe/> Date accessed: 24 July 2015

²⁷ Voice of America news. 'Ukraine LGBT Activists Worry About Future', 3 July 2015 <http://www.voanews.com/content/ukraine-lgbt-activists-worry-about-future/2848680.html> Date accessed: 10 September 2015

'The high levels of stigma and prejudice and the failure of the legal framework to provide protection from discrimination has resulted in particularly high levels of discrimination against individuals on the basis of their sexual orientation or gender identity. In 2011, Nash Mir undertook a comprehensive survey of LGBT people and the various forms of discrimination which they faced. The survey revealed that 89% of respondents whose same sex sexual orientation or minority gender identity (e.g. as trans, or intersex) was known by others had faced discrimination or some other violation of human rights on at least one occasion, during the preceding three years. Discrimination against LGBT persons takes place in almost every area of life; however, LGBT organisations in Ukraine consider it to be most frequently encountered in employment, education, healthcare and treatment by law enforcement agencies.'²⁸

- 8.1.5 The same report noted that: 'In recent years, all of the major churches in Ukraine have made homophobic statements, particularly in response to legislative proposals. The consistent homophobic messages from the major churches, coupled with their increasing influence in society, indicates that the churches have been one significant factor in fostering increased homophobia and transphobia in Ukraine.'²⁹

8.2 Attacks and Hate Crime

- 8.2.1 A Truthout report of 14 April 2015, 'Amid Conflict Worsening Discrimination Makes It Harder to Organize for LGBT Rights in Ukraine', noted: 'Discrimination and homophobia is a serious problem for the LGBT community in Ukraine. In 2013, polls found that 63 percent of Ukrainians thought homosexuality was a mental illness, and 79.4 percent were opposed to homosexual relationships. Gay clubs and businesses in Kiev have been repeatedly attacked, and activists have been stalked, threatened and beaten.

'...Even in government-controlled Ukraine, verbal and physical violence against LGBT people is increasing. Between October 2013 and December 2014, the Nash Mir Center, or Our World Center, documented 54 cases of abuse against LGBT persons across the country, ranging from threats and verbal harassment to brutal physical attacks which left victims hospitalized.

'...a number of recent homophobic attacks have involved gay men being lured to meeting places using social media and dating sites before being beaten or robbed. Similar circumstances in January ended in the murders of two gay men in separate incidents.'³⁰

²⁸ Equal Rights Trust. 'In the Crosscurrents: Addressing Discrimination and Inequality in Ukraine', p61, August 2015.
<http://www.equalrightstrust.org/sites/www.equalrightstrust.org/files/ertdocs/In%20the%20Crosscurrents%20Addressing%20Discrimination%20and%20Inequality%20in%20Ukraine.pdf> Date accessed: 10 September 2015

²⁹ Equal Rights Trust. 'In the Crosscurrents: Addressing Discrimination and Inequality in Ukraine', p64, August 2015.
<http://www.equalrightstrust.org/sites/www.equalrightstrust.org/files/ertdocs/In%20the%20Crosscurrents%20Addressing%20Discrimination%20and%20Inequality%20in%20Ukraine.pdf> Date accessed: 10 September 2015

³⁰ Truthout. 'Amid Conflict Worsening Discrimination Makes It Harder to Organize for LGBT Rights in

- 8.2.2 The ILGA-Europe Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2015, published May 2015, noted:

'Gay-friendly venues were the targets of several attacks. In June, a group of individuals with machine guns beat up and robbed patrons of the Vavilon gay club in Donetsk. In July, a group of unidentified hooligans attacked the Pomada gay club in Kyiv. In October, two individuals set fire to Kyiv's Zhovten cinema while an LGBTI-themed movie was playing. No one was hurt, but the historic venue was permanently damaged. Two days later, a dozen men in military clothing tried to stop another LGBTI movie screening in a private venue, shouting abuse. In November, twenty masked young people, armed with baseball bats, brass knuckles, and knives, attempted to enter Domino, the gay club in Odesa; they left after struggling with bouncers for an hour (the police didn't intervene, despite the club's close proximity to a station).'³¹

- 8.2.3 A Radio Free Europe Radio Liberty report of 10 June 2015, 'Ukraine Clashes Spotlight Deep Rifts Over Gay Rights', noted: 'Petro Poroshenko made history last week by becoming Ukraine's first president to publicly voice support for sexual minorities. Speaking at a news conference ahead of a gay-pride march in Kyiv on June 6, he said it should go ahead as planned and upheld "the constitutional right of every citizen of Ukraine" to participate.

'The brutal assault on the march by antigay activists, however, suggests that Poroshenko faces an uphill battle to foster greater acceptance of homosexuals in the mostly Orthodox Christian, socially conservative country -- including within his own camp.

'...While Right Sector [an ultranationalist movement] has not been explicitly tied to the attack, the Ukrainian media has described assailants as far-right activists.

'They hurled stones and smoke bombs at the march, spat on the participants, ripped posters from their hands, and shouted homophobic slurs. Members of the Orthodox Church and a Cossack group were also present, threatening to whip the marchers. Up to 30 people were detained and several police officers were reportedly injured in the clashes.

'...But, on the whole, gay-rights activists say Ukrainian society has mostly watched on in silence. While few Ukrainians are inclined to publicly slam gays in the way Right Sector does, many Ukrainians still feel LGBT rights are a nonissue in their country.

'...For Ukraine's LGBT community, however, discrimination is very real. ...According to the gay-rights group ILGA Europe, Ukraine ranks 46th out of 49 rated countries in terms of acceptance of sexual minorities.

Ukraine', 14 April 2015 <http://www.truth-out.org/news/item/30191-amid-conflict-worsening-discrimination-makes-it-harder-and-more-necessary-to-organize-for-lgbt-rights-in-ukraine> Date accessed: 24 July 2015

³¹ ILGA-Europe. 'Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2015,' published May 2015 <http://www.ilga-europe.org/resources/rainbow-europe/2015> Date accessed: 10 September 2015

'...Konstantin Gnatenko, an openly gay singer, songwriter and former journalist, says he received SMS threats over his participation in the Maidan protests. He was eventually beaten up. Despite his desire to see Ukraine join Europe, he believes his country has no place in the Western world as long as sexual minorities are persecuted. "We are a homophobic country and it's right that we are not being granted a visa-free regime," he says. "We don't deserve it."' ³²

- 8.2.4 Radio Free Europe reported on 15 August 2015 that: 'Gay rights activists in the Ukrainian port city of Odesa says they will not go ahead with a planned gay-pride festival after a local court banned the event...The gay-pride event was blocked on August 13 by a local court in the Black Sea port city which argued it could lead to violence.

'Two months after far-right activists attacked demonstrators at a small lesbian, gay, bisexual, and transgender (LGBT) march in Kyiv, there had been hopes among organizers and supporters of gay rights that the August 13-16 events would be protected under the city's new pro-Western governor, former Georgian President Mikheil Saakashvili. Saakashvili's administration has said the matter is one for city authorities to handle.'³³

- 8.2.5 An Open Society Foundation report of 10 June 2015, 'Despite Some Violence, Ukraine's LGBTs March Draws Remarkable Support', noted:

'We heard the warnings from the authorities countless times: the Equality March, part of this year's KyivPride forum, would be too risky, too vulnerable to violence. The mayor Vitali Klitschko called it a frivolous celebration, tactlessly scheduled during a time of military aggression in Eastern Ukraine. And indeed, as the march began on Saturday in the city center, masked homophobic extremists attacked the event, beating up several participants and lobbing nail-spiked projectiles that wounded nine policemen, one of them critically.

'Yet when I look back on this week's events and the months of preparation that led up to them, the violence—and the local authorities' reticence to preempt it—is not what I will remember. Instead I'll remember the largest ever LGBTI rights event in my country's history, held just one year after a previous march was canceled altogether because of security considerations.

'A year and a half ago, in the wake of the Maidan protests that helped usher in Ukraine's current government, Ukrainians rose up in revolution to reclaim their dignity. Last weekend, despite skepticism expressed at nearly every official level, the country's remarkable support for a march staged by lesbian, gay, bisexual, transgender, and intersex people showed that Ukrainians are more willing than ever to fight for equality.

³² Radio Free Europe Radio Liberty. 'Ukraine Clashes Spotlight Deep Rifts Over Gay Rights', 10 June 2015 <http://www.rferl.org/content/ukraine-lgbt-rights-rifts/27064176.html> Date accessed: 24 July 2015

³³ Radio Free Europe. 'Gay Activists In Odesa Cancel Gay-Pride Festival After Court Ruling', 15 August 2015, <http://www.rferl.org/content/ukraine-odesa-gay-pride-festival/27190461.html> Date accessed: 10 September 2015

'The march, which consisted of some 300 participants, attracted human- and LGBTI-rights activists, artists, journalists, foreign dignitaries, and two elected officials—a first for Ukraine. Overall, up to half of the attendees were there as allies of the LGBTI community, an impressive achievement in a country where only recently LGBTI activism was a marginal cause. So many people wanted to be a part of the event, in fact, that the organizers had to turn away dozens more eager participants at the urging of the Kyiv police, whose capacity to guarantee marchers' safety was limited.

'Meanwhile, many of Ukraine's major public figures condemned all violence against the marchers. President Petro Poroshenko stated that he didn't see any obstacles to prevent the festival from taking place. It was the first presidential statement of this kind not only in Ukraine, but in most of the post-Soviet region. Suddenly, the Equality March appeared to be sparking exactly the kind of conversations it was meant to.

'This outpouring of support—whether for LGBTI rights explicitly or, more generally, for our right to assemble freely—comes at a time of increasing recognition that homophobia is a systemic problem in Ukraine. While the government has declined to include LGBTI-specific language in its antidiscrimination legislation, or include LGBTI rights in its national strategy, signs point to a gradual shift in public opinion on such rights, despite the more visible right-wing hate-mongering that makes the news.

'For instance, a recent court case brought against the arsonists who burned a popular movie theater in central Kyiv during an LGBTI film festival has elicited widespread outrage, in part because of the way the perpetrators have flaunted their homophobia. Other attacks against LGBTI establishments have received similar attention.

'...[Such] will not change life for same-sex couples unable to marry, adopt children, visit their partners in the hospital, or bury those partners (an increasingly relevant issue in the current conflict), they are an indication that many Ukrainians may be ready for a cultural change. They are also a counterpoint to the Russian state media's allegations that fascism and intolerance permeates the Ukrainian government and the Ukrainian people.'

³⁴

- 8.2.6 A Voice of America News report of 3 July 2015, 'Ukraine LGBT Activists Worry About Future', noted: 'The violence against LGBT and human rights marchers in Kyiv has led LGBT activists to reflect on the events of the Euromaidan protests. "Euromaidan brought significant political and social change but failed to change the perception and attitude of society toward the LGBT community," said Gay Alliance Ukraine's Yoursky.

'Euromaidan and the war in eastern Ukraine have fueled support for "far-right organizations, which have carried out attacks on members of the LGBT community in the past," Yoursky said. "These events also triggered the growth of aggression in society and increased the tolerance of violence."

³⁴ Open Society Foundation. 'Despite Some Violence, Ukraine's LGBTs March Draws Remarkable Support', 10 June 2015 <http://www.opensocietyfoundations.org/voices/despite-some-violence-ukraine-s-lgbti-march-draws-remarkable-support> Date accessed: 24 July 2015

'He said he expected that as war rages on, Ukraine's government will choose to preserve the popular image of the infallibility of its front-line defenders — of which the far-right forms a small but ideologically coherent part — at the expense of those targeted by hate groups.

'Ukraine's hate crime legislation is a particular concern for the country's LGBT activists.

'Anti-gay violence is on the rise in Ukraine, said Serhiy Ponomaryov, deputy head of the Department for Non-Discrimination and Gender Equality in the office of the Ukrainian Parliament Commissioner for Human Rights. In the first six months of this year, there were six incidents, not including the attack at the march, Ponomaryov said. He told VOA that a spike in anti-LGBT crimes began last year, but there's no consistent effort to amend the criminal code, which does not consider anti-gay attacks to be hate crimes.'³⁵

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9. Civil society organisations

- 9.1.1 Gay Alliance Ukraine provided an undated online list of 'Ukrainian LGBT organizations' <http://upogau.org/eng/rcenter/organizations>.
- 9.1.2 An Erasing 76 Crimes report of 21 June 2014, 'Amid Ukraine conflict, a new LGBT refugee safe house', noted: 'The Ukrainian LGBT support organization Insight has opened a shelter for LGBT people who have escaped from the conflict-plagued areas of eastern Ukraine and Crimea. Olena Shevchenko, executive director of Insight, said that the organization has opened the shelter in a four-room apartment in a suburb of Kiev.

'It is currently occupied by one lesbian, one gay man and four transgender people, Shevchenko said. Insight, a Ukrainian feminist queer organization that connects LGBT, feminist and anti-censorship movements, provides the refugees with food plus psychological, legal and social support.

'More people would be housed if more resources were available, Insight said. Already an additional four people have sought help and more are expected, Shevchenko said, because the situation for LGBT people in the troubled regions has worsened, seemingly daily. Finding landlords willing to rent for the project has been difficult, because stigma and hate towards LGBT and refugees is high, Shevchenko said.

"...A recent BuzzFeed report on Ukraine stated:

"Ukraine's conservative, industrial east has never been an easy place to be LGBT. In Soviet times, it was a crime. Today many there follow the resurgent Russian Orthodox Church, which condemns homosexuality. In the coal mines that drive the region's failing economy, the worst insults are crude anti-gay slurs. And as eastern cities have slipped out of Kiev's control and casualties mount, many LGBT people feel increasingly under threat.

³⁵ Voice of America news. 'Ukraine LGBT Activists Worry About Future', 3 July 2015 <http://www.voanews.com/content/ukraine-lgbt-activists-worry-about-future/2848680.html> Date accessed: 24 July 2015

” ‘When local law enforcement bodies have stopped their work or gone over to the side of the separatists, local homophobes have worked their way in,’ [one LGBT woman in eastern Ukraine] said. ‘We are afraid to speak to the police and we are afraid to leave the house, insofar as we may not return alive.’

“Like many pro-Russian groups, Donetsk’s separatists see LGBT rights as fundamentally incompatible with a Slavic, Russian Orthodox worldview.”³⁶

9.1.3 The UN High Commission for Refugees (UNHCR) noted in a report dated 15 January 2015, that: ‘Due to broader patterns of discrimination in society, individuals of diverse sexual orientations and gender identities who become internally displaced are likely to face additional barriers in accessing assistance.’³⁷ The same UNHCR report noted in a footnote that: ‘A local NGO reported difficulties in finding housing for IDPs who are LGBT’.³⁸

9.1.4 Al Jazeera noted in a report dated 5 July 2014 that: ‘Like the thousands of others who have fled the military operation and the intimidation of separatists in the east, Oksana [a displaced transgender woman] had a difficult time finding a place to live in Kiev. Their search was made harder by the fact that many volunteers taking in eastern refugees have refused to host LGBT people, even in the more gay-friendly capital.

‘Insight [a Ukrainian LGBT NGO] searched for two weeks for a landlord that would agree to rent an apartment to be used as a shelter for LGBT refugees. It found a four-room apartment in the city’s outskirts that is now housing six people, with several more waiting to get in as soon as space opens up.’³⁹

9.1.5 A 2015 Gay Alliance Ukraine report, ‘LGBT Hotline: How does counselling work?’ noted: ‘Starting from the middle of last October UPO “Gay Alliance Ukraine” (GAU) has been implementing the project “Hotline for LGBT people in Ukraine” under the support of the Embassy of Canada in Ukraine.

‘During this time of work employees of the hotline has (sic) provided 534 telephone counselling sessions...The average duration of the call for informational consultation is around 5-10 minutes. Most of the callers are interested in health services, recreational places and work of the Ukrainian LGBT organizations.’⁴⁰

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³⁶ Erasing 76 Crimes. ‘Amid Ukraine conflict, a new LGBT refugee safe house’, 21 June 2014 <http://76crimes.com/2014/06/21/amid-ukraine-conflict-a-new-lgbt-refugee-safe-house/> Date accessed: 27 July 2015

³⁷ UN High Commissioner for Refugees (UNHCR). ‘International Protection Considerations Related to the Developments in Ukraine – Update II’, paragraph 26, dated 15 January 2015. Available at: <http://www.refworld.org/docid/54c639474.html> Date accessed: 13 September 2015

³⁸ UN High Commissioner for Refugees (UNHCR). ‘International Protection Considerations Related to the Developments in Ukraine – Update II’, footnote 96, dated 15 January 2015. Available at: <http://www.refworld.org/docid/54c639474.html> Date accessed: 13 September 2015

³⁹ Al Jazeera, ‘Despite a move toward Europe, LGBT Ukrainians face new hurdles’, 5 July 2014, <http://america.aljazeera.com/articles/2014/7/5/despite-a-move-towardeuropelgbtukrainiansfacenewhurdles.html> Date accessed: 13 September 2015

⁴⁰ Gay Alliance Ukraine. ‘LGBT Hotline: How does counselling work?’ Published in 2015. http://upogau.org/eng/inform/ournews/pressreleases_1924.html Date accessed: 27 July 2015

Version Control and Contacts

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email [the Country Policy and Information Team](#).

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email [the Guidance, Rules and Forms Team](#).

Clearance

Below is information on when this version of the guidance was cleared:

- version **1.0**
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- this version approved by **Sally Weston, Deputy Director, IBPD**.
- approved on: **22 November 2015**

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