



Home Office

# **Country Policy and Information Note**

## **Ukraine: Sexual orientation and gender identity**

**Version 2.0**

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# Preface

This note provides country of origin information (COI) and policy 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 policy guidance contained with this note; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

## Country information

COI in this note has been researched in accordance with principles set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#) and the [European Asylum Support Office’s research guidelines, Country of Origin Information report methodology](#), namely taking into account its relevance, reliability, accuracy, objectivity, currency, transparency and traceability.

All information is carefully selected from generally reliable, publicly accessible sources or is information that can be made publicly available. Full publication details of supporting documentation are provided in footnotes. Multiple sourcing is normally used to ensure that the information is accurate, balanced and corroborated, and that a comprehensive and up-to-date picture at the time of publication is provided. Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source is not an endorsement of it or any views expressed.

## Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email [the Country Policy and Information Team](#).

## 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. IAGCI may be contacted at:

Independent Chief Inspector of Borders and Immigration,

5th Floor, Globe House, 89 Eccleston Square, London, SW1V 1PN.

Email: [chiefinspector@icinspector.gsi.gov.uk](mailto:chiefinspector@icinspector.gsi.gov.uk)

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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# Policy guidance

Updated: 30 June 2017

## 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.

### 1.2 Points to note

1.2.1 This note provides policy guidance on the general situation of gay men, lesbians, bisexuals and transgender persons. They are referred collectively as 'LGBT persons', though the experiences of each group may differ.

1.2.2 Unless otherwise stated, this note refers to the position with regard to the treatment of LGBT persons in the government-controlled areas of Ukraine. For the situation in Crimea and the Donbas, see the country policy and information note on [Ukraine: Crimea, Donetsk and Luhansk](#).

1.2.3 Where a claim is 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.

1.2.4 Decision makers must also refer to the Asylum Instructions on [Sexual Orientation in Asylum Claims](#) and [Gender identity issues in the asylum claim](#).

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## 2. Consideration of issues

### 2.1 Credibility

2.1.1 For information on assessing credibility, see the Asylum Instructions on [Assessing Credibility and Refugee Status](#) and [Sexual Orientation in Asylum Claims](#).

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 Particular social group

2.2.1 LGBT persons in Ukraine form a particular social group (PSG) within the meaning of the Refugee Convention because they share an innate characteristic or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to their identity or conscience that they should not be forced to renounce it, and have a distinct identity which is perceived as being different by the surrounding society.

- 2.2.2 Although LGBT persons in Ukraine form a PSG, establishing such membership is not sufficient to be recognised as a refugee. The question to be addressed is whether the 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 the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.3 Assessment of risk

### a. General points

- 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 a LGBT person. 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/identity if returned, decision makers must consider why the person will do so.
- 2.3.2 If this will simply be in response to social pressures or for cultural or religious reasons of their own choosing and not because of a fear of persecution, then they may not have a well-founded fear of persecution. Decision makers should also consider if there are individual or country specific factors that could put the person at risk even if they choose to live discreetly because of social or religious pressures.
- 2.3.3 But if a material reason why the person will live discreetly is that they genuinely fear that otherwise they will be persecuted, it will be necessary to consider whether that fear is well founded.
- 2.3.4 For further guidance, see the Asylum Instruction on [Sexual Orientation in Asylum Claims](#).

### b. State treatment

- 2.3.5 Consensual same sex activity was decriminalised in Ukraine in 1991 and, while sexual orientation is not specifically mentioned, the Constitution states that citizens are equal before the law (see [Constitution](#) and [Legislation](#)).
- 2.3.6 Although employment law prohibits workplace discrimination on the basis of sexual orientation and gender identity, other laws do not contain equivalent provisions. Reports suggest that Ukraine has a weak legal and policy framework in place to combat discrimination on the basis of sexual orientation and gender identity (see [Legislation](#)).
- 2.3.7 A National Strategy for Human Rights was established by Presidential Decree in 2015, and provides a five-year roadmap to address human rights issues including the protection of LGBT person's rights and interests. Under the strategy, bills will be developed and passed to Ministers and subsequently Parliament. Although some measures have been implemented, civil society groups report that progress to date has been slow (see [National Strategy for Human Rights](#)).
- 2.3.8 Despite a decline in homophobic state rhetoric from some church branches and from some leading political figures, the situation showed signs of

institutional homophobia with regards to all high-ranking government officials and local government figures (see [Homophobic rhetoric](#)).

- 2.3.9 There have been a few reported incidents of LGBT persons facing harassment by some members of the police including insults, threats and humiliation; blackmail; illegal detention; physical violence; extortion of a bribe, as well as violation of procedural rules and failure to protect (see [Police: abuse](#)).
- 2.3.10 According to reports, transgender people in general face discrimination on the basis of their gender identity. Trans-sexuality is still viewed as a psychiatric disorder (see [Specific Issues Affecting Transgender Persons](#))
- 2.3.11 Considering the number of LGBT persons in the country against the relatively low number of reported incidents, in general the risk of LGBT persons being abused by the police is statistically very low.
- 2.3.12 In general LGBT persons in Ukraine are not subject to treatment by the state which would be persecutory or cause serious harm. However, decision makers must consider whether there are particular factors specific to the person which would place them at real risk. The onus is on the person to demonstrate they would be at real risk on return.

#### c. Societal treatment

- 2.3.13 Ukraine is a conservative country and mainly Orthodox Christian. Although societal attitudes towards LGBT persons are said to be improving, what is acceptable in large cities may not be in smaller communities. LGBT issues are still a taboo subject in most areas of the country and most LGBT persons are said not to live openly for fear of societal hostility and stigma (see [LGBT community in Ukraine](#), [Societal attitudes](#) and [Gay 'scene' or 'community'](#)).
- 2.3.14 In recent years there has been an increase in aggressive behaviour and threats to the LGBT community by non-state actors, including the family but especially from right wing nationalist groups (see [societal attitudes](#) and [Violence and discrimination](#)).
- 2.3.15 Most homophobic aggression and threats to the LGBT community are reported to be in big cities where LGBT persons are more visible and LGBT activism noticeably exists. It mainly occurs around organised events such as conferences and marches. For example, in cities such as Kiev attacks are reported to be uncommon, except when the annual Pride approaches (see [Violence and discrimination](#)).
- 2.3.16 Some ultra-right youth groups reportedly organise "gay safaris", where they use social media to lure members of the LGBT community to attack and shame them (see [Societal attitudes](#)).
- 2.3.17 In general, the level of societal discrimination and abuse faced by LGBT persons in Ukraine is not sufficiently serious by its nature and repetition as to amount to persecution or serious harm.
- 2.3.18 However, decision makers must consider whether there are particular factors relevant to the person which might make the treatment serious by its nature and if there is a risk of repetition. For example, previous physical attacks which are reasonably likely to continue on return or those who report

incidents to the police which has exposed them to further risk. Each case must however be considered on its facts with the onus on the person to demonstrate that they would be at real risk on return.

- 2.3.19 For further guidance on assessing risk, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).
- 2.3.20 Decision makers must also refer to the Asylum Instructions on [Sexual Orientation in Asylum Claims](#) and [Gender identity issues in the asylum claim](#).

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## 2.4 Protection

- 2.4.1 Where the person's fear is of persecution or serious harm at the hands of the state, they will not be able to obtain protection.
- 2.4.2 If the person is at risk of persecution or serious harm from a non-state actor, effective protection is likely to be available from the state.
- 2.4.3 There is evidence of the authorities being willing and able to offer protection. For example the authorities have brought prosecutions for hate crimes directed at members of the LGBT community (see [Hate crimes](#)) and there are cases where the police and local officials deployed adequate resources to prevent violence and protect conferences and marches particularly in Kiev, although reportedly some other LGBT events outside the capital have been threatened or attacked with inadequate police response and protection (see [Pro-LGBT marches/gay pride](#)).
- 2.4.4 There are also a number of non-governmental organisations in Ukraine which are active in LGBT issues and who may potentially assist the person to avail themselves of the protection of the state (see [Civil society organisations](#)).
- 2.4.5 A person's reluctance to seek protection does not necessarily mean that effective protection is not available. Decision makers must 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.
- 2.4.6 See also the country policy and information note on [Ukraine: Background information including actors of protection and internal relocation](#).
- 2.4.7 For further guidance on assessing the availability of effective protection see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.5 Internal relocation

- 2.5.1 Where the threat is from the state, internal relocation is not a reasonable option.
- 2.5.2 Where the threat is from a non-state actor, decision makers should consider each case on its individual circumstances to ascertain if the threat is local and could be removed by internal relocation.
- 2.5.3 There is freedom of movement throughout the country, other than movement into and out of the Russian occupied Crimea and the conflict affected area in the eastern part of the country where restrictions are in place (see the



country policy and information note on [Ukraine: Background information including actors of protection and internal relocation](#)).

- 2.5.4 The onus is on the person to demonstrate why they are unable to internally relocate to a part of the country where they would not face difficulties without concealing their sexual orientation in the proposed new location.
- 2.5.5 Internal relocation will not be an option if it depends on the person concealing their sexual orientation and / or gender identity in the proposed new location for fear of persecution.
- 2.5.6 For further guidance on internal relocation, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.6 Certification

- 2.6.1 Ukraine is listed as a designated state under section 94 of the Nationality, Immigration and Asylum Act 2002. However where a claim made on the basis of the person's sexual orientation is refused, it is unlikely to be certifiable because in general the claim when taken at its highest is unlikely to be so clearly without substance that it is bound to fail.
- 2.6.2 For further guidance on certification, see [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 decriminalised in Ukraine in 1991 and the Constitution states that all citizens are equal before the law. However, reports suggest Ukraine has a weak legal and policy framework in place to combat discrimination on the basis of sexual orientation and gender identity.
- 3.1.2 Although both state and societal attitudes towards LGBT persons are said to be improving, there is a widespread negative societal attitude towards LGBT persons.
- 3.1.3 Although some LGBT persons suffer discrimination and ill-treatment from the general public, most homophobic aggression and threats to the LGBT community are reported to come from right wing nationalist groups and, in the main, occur around organised events in big cities.
- 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 Internal relocation to another area of Ukraine is generally reasonable but will depend on the nature and origin of the threat as well as the person's individual circumstances.
- 3.1.6 When a claim is refused it is unlikely to be certifiable as 'clearly unfounded'.

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# Country information

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## 4. Demography

### 4.1 LGBT community in Ukraine

#### 4.1.1 According to the Equal Rights Trust in 2015:

'As in other countries, the number of lesbian, gay, bisexual and transgender (LGBT) persons in Ukraine is unknown. The high level of stigma faced by LGBT persons in Ukraine means that the majority keep their sexual orientation and gender identity hidden. As a result, estimates of the number of LGBT persons in Ukraine are extremely difficult to make. Estimates from other countries of the number LGBT people, however, suggest that the total number falls somewhere between 1.6% and 6.0% of the population which, in Ukraine, would represent between 734,400 and 2,754,000 people.'<sup>1</sup>

#### 4.1.2 An article in International Business Times in February 2017 stated: 'There hasn't been any data recorded on how many people in the country identify as gay, lesbian, bisexual or transgender, according to Andrii Maymulakhin, the head coordinator of Nash Mir, a national LGBT advocacy group based in Kiev. Maymulakhin has estimated that in any human society, about four percent of men are exclusively homosexual in their lifetimes.'<sup>2</sup>

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## 5. Legal context

### 5.1 Constitution

#### 5.1.1 According to a GlobalGayz Ukraine profile: '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.'<sup>3</sup>

#### 5.1.2 Article 24 of the Constitution of Ukraine states:

'Citizens shall have equal constitutional rights and freedoms and shall be equal before the law.

'There shall be no privileges or restrictions based on race, skin colour, political, religious, and other beliefs, gender, ethnic and social origin, property status, place of residence, linguistic or other characteristics.

<sup>1</sup> Equal Rights Trust. 'In the Crosscurrents: Addressing Discrimination and Inequality in Ukraine,' (section 2.2 Discrimination on the Basis of Sexual Orientation and Gender Identity). August 2015. <http://www.equalrightstrust.org/ertdocumentbank/In%20the%20Crosscurrents%20Addressing%20Discrimination%20and%20Inequality%20in%20Ukraine.pdf> Accessed: 9 May 2017

<sup>2</sup> International Business Times. 'Amid Battle With Pro-Russian Separatists, Ukraine Accused Of LGBT Discrimination Despite Promises To European Union'. 12 February 2017 <http://www.ibtimes.com/amid-battle-pro-russian-separatists-ukraine-accused-lgbt-discrimination-despite-2490369> Accessed: 11 May 2017.

<sup>3</sup> GlobalGayz – Ukraine Profile, undated <http://www.globalgayz.com/europe/ukraine/> Accessed: 9 May 2017

‘Equality of the rights of women and men shall be ensured by providing women with opportunities equal to those of men in public, political and cultural activities, in obtaining education and in professional training, in work and remuneration for it; by taking special measures for the protection of women’s health and occupational safety; by establishing pension benefits; by creating conditions that make it possible for women to combine work and motherhood; by adopting legal protection, material and moral support of motherhood and childhood, including the provision of paid leave and other privileges to pregnant women and mothers.’<sup>4</sup>

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## 5.2 Legislation

5.2.1 According to the GlobalGayz Ukraine profile: ‘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.’<sup>5</sup>

5.2.2 An August 2015 report by Equal Rights Trust stated:

‘Until 2012, Ukraine had no comprehensive anti-discrimination legislation. That year, however, the Verkhovna Rada passed the Law of Ukraine “On Principles of Prevention and Combating Discrimination in Ukraine” which prohibits discrimination on a large number of grounds in various areas of life. In addition, there is also a specific law on gender equality, the Law of Ukraine “On Equal Rights and Opportunities for Women and Men”. There is also a law which is designed to protect the rights of persons with disabilities which, while not strictly a piece of anti-discrimination legislation, nonetheless does prohibit discrimination against persons with disabilities. Finally, there are also standalone provisions which either prohibit discrimination or guarantee equal rights in a number of other pieces of legislation regulating specific fields.

‘The Law of Ukraine “On Principles of Prevention and Combating Discrimination in Ukraine” is a short framework law which came into force on 7 September 2012 for the purpose of complying with one of the criteria set down in the EU-Ukraine Visa Liberalisation Action Plan. The law was rushed through the Verkhovna Rada, without considerations of the views of the European Union, experts from the Council of Europe and Ukrainian or international NGOs. As such, the original law contained a number of gaps, deficiencies and weaknesses which were highlighted [...] The Equal Rights Trust also provided a critical analysis and a set of recommendations. The Law was amended significantly in May 2014, addressing some, but not all of these issues.’<sup>6</sup>

5.2.3 According to Equal Rights Trust:

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<sup>4</sup> Constitution of Ukraine, 28 June 1996, available at: <http://www.refworld.org/docid/44a280124.html> Accessed: 11 May 2017.

<sup>5</sup> GlobalGayz, Ukraine Profile, undated <http://www.globalgayz.com/europe/ukraine/> Accessed: 9 May 2017

<sup>6</sup> Equal Rights Trust. ‘In the Crosscurrents: Addressing Discrimination and Inequality in Ukraine,’ (section 3 Discrimination law). August 2015. <http://www.equalrightstrust.org/resources/crosscurrents-addressing-discrimination-and-inequality-ukraine> Accessed: 9 May 2017

[...] Ukraine has a weak legal and policy framework in place to combat discrimination on the basis of sexual orientation and gender identity, compared to other grounds of discrimination. These characteristics are not included as explicitly protected grounds of discrimination in the Constitution or the Law of Ukraine “On Principles of Prevention and Combating Discrimination in Ukraine”. However, both instruments use open-ended lists of grounds, with an explicit list of characteristics followed by the words “or other characteristics”, thus allowing for the possibility for these grounds to be protected through judicial interpretation.<sup>7</sup>

- 5.2.4 The Human Rights Watch, ‘World Report 2017’ published in January 2017 stated: ‘Since 2014, the government has introduced several progressive policies supporting lesbian, gay, bisexual, and transgender (LGBT) people, but anti-LGBT sentiment remains strong among high-level government officials and the public.’<sup>8</sup>
- 5.2.5 The US State Department 2016 Human Rights Practices Report, released in March 2017, stated:
- ‘The labor code prohibits workplace discrimination on the basis of sexual orientation and gender identity. No law, however, prohibits such discrimination in other areas. LGBTI groups, along with international and domestic human rights organizations, criticized the lack of such language in the National Human Rights Strategy, although the action plan for implementation included provisions for incorporating LGBTI rights.’<sup>9</sup>
- 5.2.6 A copy of Ukraine [Law No. 5207-VI of 2012 On the Principles of Prevention and Counteracting Discrimination](#) is available on UNHCR’s RefWorld site.<sup>10</sup>

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### 5.3 Hate crimes

#### 5.3.1 Article 161 of the Ukraine Criminal Code states:

‘Article 161. Violation of citizens’ equality based on their race, nationality or religious preferences

‘1. Willful actions inciting national, racial or religious enmity and hatred, humiliation of national honor and dignity, or the insult of citizens’ feelings in respect to their religious convictions, and also any direct or indirect restriction of rights, or granting direct or indirect privileges to citizens based on race, color of skin, political, religious and other convictions, sex, ethnic and social origin, property status, place of residence, linguistic or other

<sup>7</sup> Equal Rights Trust. ‘In the Crosscurrents: Addressing Discrimination and Inequality in Ukraine,’ (section 2.2 Discrimination on the Basis of Sexual Orientation and Gender Identity). August 2015. <http://www.equalrightstrust.org/resources/crosscurrents-addressing-discrimination-and-inequality-ukraine> Accessed: 9 May 2017

<sup>8</sup> Human Rights Watch, ‘World Report 2017 – Ukraine’, 12 January 2017, <https://www.hrw.org/world-report/2017/country-chapters/ukraine> Accessed: 9 May 2017

<sup>9</sup> United States Department of State, ‘2016 Country Reports on Human Rights Practices – Ukraine’, (Section 6. Discrimination, Societal Abuses, and Trafficking in Persons). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265484> Accessed: 9 May 2017

<sup>10</sup> Ukraine: Law No. 5207-VI of 2012, On the Principles of Prevention and Counteracting Discrimination in Ukraine [Ukraine], 4 October 2012, available at: <http://www.refworld.org/docid/54a2b8824.html> Accessed: 9 May 2017

characteristics, shall be punishable by a fine up to 50 tax-free minimum incomes, or correctional labor for a term up to two years, or restraint of liberty for a term up to five years, with or without the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

‘2. The same actions accompanied with violence, deception or threats, and also committed by an official, shall be punishable by correctional labor for a term up to two years, or imprisonment for a term up to five years.

‘3. Any such actions as provided for by paragraph 1 or 2 of this Article, if committed by an organized group of persons, or where they caused death of people or other grave consequences, shall be punishable by imprisonment for a term of two to five years.’<sup>11</sup>

- 5.3.2 The website of the Organization for Security and Co-operation in Europe (OSCE) contains information submitted by the Ukrainian authorities on hate crimes recorded by the police. In 2015, the latest year for which figures were given, 157 hate crimes were recorded by the police, 79 were prosecuted and 3 sentenced. Of the hate crimes recorded by the police during 2015, 9 concerned bias against LGBT persons – 3 involving physical assault and 3 disturbance of the peace, 1 incitement to violence, 1 damage to property, 1 theft/robbery<sup>12</sup>

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## 5.4 National Strategy for Human Rights

- 5.4.1 The UN Human Rights Monitoring Mission in Ukraine (HRMMU), described the National Strategy for Human Rights which was established by Presidential Decree in 2015, as follows:

‘This comprehensive document provides a five-year roadmap to address both decades-old, systemic human rights issues and more recent conflict-related challenges that have followed Maidan's "Revolution of Dignity".

‘The Strategy contains 24 strategic areas that span the whole spectrum of human rights. They include preventing and investigating torture and ill-treatment, fighting impunity, increasing efficiency of the law enforcement and the judiciary, ensuring the right to a fair trial, combating discrimination, promoting the rights of national minorities and indigenous peoples, ensuring gender equality, supporting human rights in the territories not controlled by Ukraine, safeguarding the rights of internally displaced persons; ensuring the right to health care and upholding the fundamental freedoms of expression, assembly, association, and religion. The elaboration of the Strategy is the result of collaborative efforts that have involved, since November 2014, the Government, civil society groups, the institution of the Ombudsperson and international organizations working under the auspices of the Ministries of Justice and Foreign Affairs. The United Nations, in particular UNDP and OHCHR, have cooperated with the Government in the preparation of the

<sup>11</sup> Ukraine: Criminal Code, 1 September 2001, available at: <http://www.refworld.org/docid/4c4573142.html> Accessed: 11 May 2017.

<sup>12</sup> Organization for Security and Co-operation in Europe (OSCE), Office for Democratic Institutions and Human Rights (ODIHR). ‘Hate Crime Reporting: Ukraine’. Undated. <http://hatecrime.osce.org/ukraine> Accessed: 11 May 2017.

Strategy by providing expert support, convening platforms to ensure inclusiveness of the process and ensuring that the Strategy reflected the human rights concerns identified by UN human rights mechanisms during their reviews of Ukraine's policies.<sup>13</sup>

5.4.2 The Ukrainian Helsinki Human Rights Union (UHHRU), reporting on the first year of implementation of the National Strategy for Human Rights in December 2016 quoted Valeriia Lutkovska, the Ukrainian Parliament Commissioner for Human Rights, as saying 'Given that we are the authors of the Strategy, we have to take responsibility for the process of its implementation. If the authorities do not work well in terms of finalizing the execution of certain tasks mentioned in the Action Plan, our task is to push them to do it.'<sup>14</sup>

5.4.3 The US State Department 2016 Human Rights Practices Report, released in March 2017, noted that during 2016:

'International and domestic human rights groups collaborated with the government to draft the National Human Rights Strategy and related action plan in 2015. During the year civil society closely monitored implementation and expressed concern about government progress on the action plan. Representatives from the human rights ombudsman's office noted that, as of September 23, the strategy remained largely unimplemented and cited concerted resistance from certain ministries, including the Ministries of Justice and Health, to cooperating with the office on implementation. Human rights groups described particular government resistance to implementing points in the plan that related to the rights of IDPs. The HRMMU [UN Human Rights Monitoring Mission in Ukraine] stated that, in the Ministry of Justice's first progress report on the plan, some activities marked as completed were implemented only partially or not in substance.

'The Ministry of Justice, the Office of the Human Rights Ombudsman's, and civil society groups such as the Ukrainian Helsinki Human Rights Union participated in open hearings in December to mark the one-year anniversary of the action plan. Nongovernmental representatives reported slow progress and weak intragovernmental coordination, but both government representatives and human rights activists indicated progress in justice sector reform and the provision of social services.'<sup>15</sup>

5.4.4 The Nash Mir Centre in their report of February 2017 said:

'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

<sup>13</sup> UN Human Rights Monitoring Mission in Ukraine. 2015 Human Rights Strategy. Undated. <http://www.un.org.ua/en/publications-and-reports/un-in-ukraine-publications/3707-human-rights-strategy> Accessed: 9 May 2017

<sup>14</sup> Ukrainian Helsinki Human Rights Union (UHHRU), 'The First Year of Implementation of the National Strategy for Human Rights.' 13 December 2016. <https://helsinki.org.ua/en/articles/the-first-year-of-implementation-of-the-national-strategy-on-human-rights-conclusions-and-remarks/> Accessed: 11 May 2017

<sup>15</sup> United States Department of State, '2016 Country Reports on Human Rights Practices – Ukraine', (Section 6. Discrimination, Societal Abuses, and Trafficking in Persons). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265484> Accessed: 9 May 2017

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.

'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. 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 trans-sexuality.

'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 antidiscrimination 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>16</sup>

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## 6. State attitudes and treatment

### 6.1 Public statements by government officials

- 6.1.1 The US State Department 2016 Human Rights Practices Report, released in March 2017, noted that during 2016 there had been a 'decline in homophobic rhetoric from churches and leading political figures, and increasing numbers of Verkhovna Rada members voiced support for LGBTI

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<sup>16</sup> Nash Mir Centre. 'A New Beginning: LGBTI situation in Ukraine in 2016'. (1 Legislation and justice). 6 February 2017. [http://gay.org.ua/publications/lgbt\\_ukraine\\_2016-e.pdf](http://gay.org.ua/publications/lgbt_ukraine_2016-e.pdf) Accessed: 9 May 2017.

rights. Seven Verkhovna Rada members participated in the June equality march in Kyiv.<sup>17</sup>

6.1.2 Nash Mir Centre in their report of February 2017 said:

‘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.

‘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 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".

‘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.’<sup>18</sup>

6.1.3 In its annual report covering 2016 the International Lesbian, Gay, Bisexual and Trans and Intersex Association (ILGA) reported that

‘LGBTI NGOs also experienced frustration with government ministries when following up on the contents of the human rights action plan. Specific anti-discrimination law references to sexual orientation and gender identity, envisaged in the action plan, appeared not to be a priority – despite the fact that protection for LGBTI people remains extremely limited outside the employment provisions of the 2015 labour law. In one particularly positive development, work on reforming the legal gender recognition procedure in Ukraine (that had started in 2015) brought its first results. The work of Trans activists was not completely finished by the end of the year, but the revision

<sup>17</sup> United States Department of State, ‘2016 Country Reports on Human Rights Practices – Ukraine’, (Section 6. Discrimination, Societal Abuses, and Trafficking in Persons). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265484> Accessed: 9 May 2017

<sup>18</sup> Nash Mir Centre. ‘A New Beginning: LGBTI situation in Ukraine in 2016’. (2. State authorities and law enforcement, local self-government). 6 February 2017. [http://gay.org.ua/publications/lgbt\\_ukraine\\_2016-e.pdf](http://gay.org.ua/publications/lgbt_ukraine_2016-e.pdf) Accessed: 9 May 2017.



did make essential changes to the gender recognition progress for the first time in several decades.<sup>19</sup>

## 6.2 Homophobic rhetoric

### 6.2.1 The February 2017 Nash Mir Centre report stated:

'[...] 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>20</sup>

### 6.2.2 The same report also noted:

'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.'<sup>21</sup>

### 6.2.3 The Human Rights Watch, 'World Report 2017' published in January 2017 stated: 'anti-LGBT sentiment remains strong among high-level government officials and the public.'<sup>22</sup>

### 6.2.4 The US State Department 2016 Human Rights Practices Report, released in March 2017, noted that 'Although leading politicians and ministers condemned attacks on LGBTI gatherings and individuals, local officials

<sup>19</sup> ILGA-Europe. 'State-Sponsored Homophobia 2017: Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2017', 17 May 2017, [http://ilga.org/downloads/2017/ILGA\\_State\\_Sponsored\\_Homophobia\\_2017\\_WEB.pdf](http://ilga.org/downloads/2017/ILGA_State_Sponsored_Homophobia_2017_WEB.pdf), Accessed 25 June 2017

<sup>20</sup> Nash Mir Centre. 'A New Beginning: LGBTI situation in Ukraine in 2016'. (2. State authorities and law enforcement, local self-government). 6 February 2017. [http://gay.org.ua/publications/lgbt\\_ukraine\\_2016-e.pdf](http://gay.org.ua/publications/lgbt_ukraine_2016-e.pdf) Accessed: 9 May 2017.

<sup>21</sup> Nash Mir Centre. 'A New Beginning: LGBTI situation in Ukraine in 2016'. (4 Churches and religious organisations). 6 February 2017. [http://gay.org.ua/publications/lgbt\\_ukraine\\_2016-e.pdf](http://gay.org.ua/publications/lgbt_ukraine_2016-e.pdf) Accessed: 9 May 2017.

<sup>22</sup> Human Rights Watch, 'World Report 2017 – Ukraine', 12 January 2017, <https://www.hrw.org/world-report/2017/country-chapters/ukraine> Accessed: 9 May 2017

sometimes voiced opposition to LGBTI rights and failed to protect LGBTI persons.<sup>23</sup>

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### 6.3 Police: treatment of LGBT community

6.3.1 For information about the police more generally, see the country information and policy note on [Ukraine: Background including actors of protection and internal relocation](#).

6.3.2 The US State Department Human Rights report covering events in 2016 stated:

‘The Ministry of Internal Affairs is responsible for maintaining internal security and order. The ministry oversees police and other law enforcement personnel. [...] Civilian authorities generally had control over law enforcement agencies but rarely took action to punish abuses committed by security forces.

‘Impunity for abuses by law enforcement remained a significant problem frequently highlighted by the HRMMU in its reports and by other human rights groups. [...] While authorities sometimes brought charges against members of the security services, cases often remained under investigation without being brought to trial, while authorities allowed alleged perpetrators to continue their work.

‘Security forces generally prevented or responded to societal violence. At times, however, they used excessive force to disperse protests and, in some cases, failed to protect victims from harassment or violence.

‘Security forces failed to take action against right-wing groups that “went on safari,” seeking persons suspected of being LGBTI for attack throughout the next day.’<sup>24</sup>

6.3.3 The Nash Mir Centre noted:

‘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, 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

<sup>23</sup> United States Department of State, ‘2016 Country Reports on Human Rights Practices, (Section 6. Discrimination, Societal Abuses, and Trafficking in Persons). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265484> Accessed: 9 May 2017

<sup>24</sup> United States Department of State, ‘2016 Country Reports on Human Rights Practices – Ukraine’, (Section 1 Role of the police). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265484> Accessed: 9 May 2017.

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>25</sup>

- 6.3.4 In their report, the Nash Mir Centre provided detailed information about abuses of LGBT persons by law enforcement agencies in 2016. Nash Mir Centre state that 31 cases abuses by law enforcement agencies were reported in 2016 (1 – in 2014, 18 – in 2015, and 12 – in 2016). Most often the old militia and the new police violated the following rights:<sup>26</sup>

<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

- 6.3.5 The same report continued:

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

<sup>25</sup> Nash Mir Centre. 'A New Beginning: LGBTI situation in Ukraine in 2016'. (Section 2. State authorities and law enforcement, local self-government). 6 February 2017. [http://gay.org.ua/publications/lgbt\\_ukraine\\_2016-e.pdf](http://gay.org.ua/publications/lgbt_ukraine_2016-e.pdf) Accessed: 9 May 2017.

<sup>26</sup> Nash Mir Centre. 'A New Beginning: LGBTI situation in Ukraine in 2016'. (Section 6.2 Relations with the law enforcement authorities). 6 February 2017. [http://gay.org.ua/publications/lgbt\\_ukraine\\_2016-e.pdf](http://gay.org.ua/publications/lgbt_ukraine_2016-e.pdf) Accessed: 9 May 2017.

police officers abused their official positions. Such abuse was expressed by the outright exceeding of their authority and the extortion of bribes.’<sup>27</sup>

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## 6.4 Ombudsman/Complaints mechanism(s)

### 6.4.1 A Radio Free Europe news report in March 2016 stated:

‘Ukraine’s government has retracted the recent appointment of Adrian Bukovynskiy to the post of family ombudsman after activists complained he is biased against homosexuals.

‘Bukovynskiy’s appointment to the post had been announced on February 24 [2016].

‘But the Ukrainian government’s website announced on March 8 [2016] that Prime Minister Arseniy Yatsenyuk was reopening a search to fill the post.

‘The website said Bukovynskiy was never confirmed as the government’s family ombudsman because he failed to pass a background check.

‘Bukovynskiy’s nomination sparked harsh criticism from gay rights activists in Ukraine who compiled material from 2013 showing he had publicly expressed "homophobic" views.

‘Those statements included calls to defend "traditional values," as well as condemnation of laws protecting the rights of gays in the European Union and the United States.

‘Bukovynskiy also publicly defended legislation in Russia banning what lawmakers there have deemed as "gay propaganda."

‘Bukovynskiy had said he would endorse a similar law in Ukraine.’<sup>28</sup>

### 6.4.2 The US State Department 2016 Human Rights Practices Report, released in March 2017, stated: ‘Under the law members of the Verkhovna Rada have authority to conduct investigations and public hearings into law enforcement problems. The human rights ombudsman may also initiate investigations into abuses by security forces.’<sup>29</sup>

### 6.4.3 The same report also noted: ‘Valeriya Lutkovska served as parliamentary ombudsman for human rights during the year, and observers considered her office an effective promoter of human rights. The office was a partner with leading domestic human rights groups and an advocate on behalf of Crimean Tatars, IDPs, Roma, persons with disabilities, LGBTI individuals, and prisoners.’<sup>30</sup>

<sup>27</sup> Nash Mir Centre. ‘A New Beginning: LGBTI situation in Ukraine in 2016’. (Section 6.2 Relations with the law enforcement authorities). 6 February 2017. [http://gay.org.ua/publications/lgbt\\_ukraine\\_2016-e.pdf](http://gay.org.ua/publications/lgbt_ukraine_2016-e.pdf) Accessed: 9 May 2017.

<sup>28</sup> Radio Free Europe. Ukraine Retracts Appointment Of 'Homophobic' Family Ombudsman. 8 March 2016. <http://www.rferl.org/a/ukraine-family-ombudsman-bukovynskiy-homophobic/27598649.html>

<sup>29</sup> United States Department of State, ‘2016 Country Reports on Human Rights Practices – Ukraine’, (Section 1 Role of the police). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265484>

<sup>30</sup> United States Department of State, ‘2016 Country Reports on Human Rights Practices – Ukraine’, (Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of

- 6.4.4 Nash Mir Centre in their February 2017 similarly reported: ‘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.’<sup>31</sup>

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## 6.5 Specific Issues affecting transgender persons

- 6.5.1 According to a 2015 Equal Rights Trust report:

‘Homophobia and transphobia are closely linked in Ukraine, with the result that many of the problems affecting LGB persons which are described above also impact upon transgender persons. However, our research has found a number of problems which specifically affect transgender persons in Ukraine, many of which are even less visible to society than those affecting LGB persons. There is no official information on the numbers or experiences of transgender persons in Ukraine, but the NGO Insight conducted a study in 2010 which found that without exception, all transgender Ukrainians face problems of discrimination on the basis of their gender identity.

‘Most significantly, it is not possible to secure official recognition of a sex change (and the corresponding change of name in official documents) without complex and costly surgical procedures. Although the relevant legislation – the Law of Ukraine “Fundamentals of Legislation of Ukraine on Healthcare” – contains no requirement for there to be surgery before a medical certificate certifying a change of sex can be issued, such a requirement has been introduced through secondary legislation. As such, a transgender person who does not wish to undergo corrective surgery, or whose financial position or health condition makes such surgery impossible, is forced to live with official identity documents which do not match their gender.

‘Even a transgender person who has received permission for, and has the means to undergo, corrective surgery may be forced to live for years with official documents stating their previous gender and corresponding name, as there are lengthy waiting times for sex change procedures.’<sup>32</sup>

- 6.5.2 The US State Department 2016 Human Rights Practices Report, released in March 2017, stated:

‘Transgender persons continued to face discrimination and stereotyping in media. Medical policies towards transgendered persons improved somewhat, as, individuals no longer had to undergo sex reassignment surgery to change their names and genders officially and could do so with

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Alleged Violations of Human Rights). 3 March 2017.

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265484>

<sup>31</sup> Nash Mir Centre. ‘A New Beginning: LGBTI situation in Ukraine in 2016’. (Section 2. State authorities and law enforcement, local self-government). 6 February 2017.

[http://gay.org.ua/publications/lgbt\\_ukraine\\_2016-e.pdf](http://gay.org.ua/publications/lgbt_ukraine_2016-e.pdf) Accessed: 9 May 2017.

<sup>32</sup> Equal Rights Trust. ‘In the Crosscurrents: Addressing Discrimination and Inequality in Ukraine,’ (section 2.2 Discrimination on the Basis of Sexual Orientation and Gender Identity). August 2015.

<http://www.equalrightstrust.org/resources/crosscurrents-addressing-discrimination-and-inequality-ukraine> Accessed: 9 May 2017.

counseling and hormone therapy. This procedure was approved by the Ministry of Health and registered with the Ministry of Justice during the year. Regulations still prevent reassignment for married individuals and those with minor children. Transgender persons claimed to have difficulty obtaining official documents reflecting their gender.’<sup>33</sup>

6.5.3 An article published by EuroVisionary in February 2017 stated: ‘[...] while gender reassignment surgery is legal in Ukraine, transsexuality is still classed as a psychiatric disorder and someone wanting reassignment surgery must spend 30 days in a psychiatric hospital amongst the mentally ill before this is considered.’<sup>34</sup>

6.5.4 In its submission to the UN Committee on the Elimination of Discrimination Against Women (CEDAW), a group of NGOs noted that

‘Legal recognition of gender for trans people in Ukraine required establishing a diagnosis ‘transsexualism’ (according to the Order of Ministry of Health No. 60 operative until 30/12/2016) and currently requires establishing a diagnosis “gender dysphoria”. The procedure for legal gender recognition remains non-transparent and creates space for abuse and corruption from medical experts and governmental agencies. Previously, the State Evaluation Commission which was the only agency authorized to give permission for the change of documents only met twice a year in Kyiv and evaluated maximum 20 Trans people a year. Trans people report having spent between 1 to 4 years in the process. The diagnosis ‘transsexualism’ is considered a psychiatric disorder and partially deprives trans people of their legal capacity. For instance, a person with a diagnosis ‘transsexualism’ is legally prohibited to be a guardian of a child. The procedure for legal gender recognition remains inaccessible for many trans people thus leaving them with a state issued ID with gender marker that does not correspond to their appearance. Trans people who are unable, or have to wait long periods in order, to obtain legal gender recognition encounter difficult situations with the police, employers, travel, banks and other institutions that require official identification.’

‘Trans people face even grosser violation of their reproductive rights in Ukraine. The notorious Order of Ministry of Health No. 60 operative until 30/12/2016 required forced sterilization of trans people as a part of legal procedure for gender recognition. Current Order of Ministry of Health does not explicitly require coerced sterilization; however, it requires “necessary surgical intervention” which may be interpreted as implicit requirement of sterilization, at the discretion of the respective medical experts.’<sup>35</sup>

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<sup>33</sup> United States Department of State, ‘2016 Country Reports on Human Rights Practices – Ukraine’, (Section 6. Discrimination, Societal Abuses, and Trafficking in Persons). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265484> Accessed: 9 May 2017.

<sup>34</sup> EuroVisionary. ‘How much does Ukraine celebrate diversity?’ 9 February 2017. <https://www.eurovisionary.com/much-ukraine-celebrate-diversity/> Accessed: 12 May 2017

<sup>35</sup> Legalife-Ukraine; Insight; Positive Women; Svitanok. ‘Shadow Report: On the situation of women who use drugs, women living with HIV, sex workers, and lesbian, bisexual women and transgender people in Ukraine’. 2017. [http://www.ecoi.net/file\\_upload/1930\\_1487259781\\_int-cedaw-ngo-ukr-26367-e.pdf](http://www.ecoi.net/file_upload/1930_1487259781_int-cedaw-ngo-ukr-26367-e.pdf), Accessed: 25 June 2017

## 7. Societal attitudes and treatment

### 7.1 Societal attitudes

7.1.1 The US State Department 2016 Human Rights Practices Report, released in March 2017, noted that during 2016 'There was overall improvement during the year in social attitudes towards homosexuality [...].'<sup>36</sup>

7.1.2 The Human Rights Watch, 'World Report 2017' published in January 2017 stated: 'anti-LGBT sentiment remains strong among high-level government officials and the public.'<sup>37</sup>

7.1.3 According to the GlobalGayz Ukraine profile Ukraine is a conservative country and mainly Orthodox Christian.<sup>38</sup>

7.1.4 The Lonely Planet guide on Ukraine, aimed primarily at people visiting the country, stated:

'Ukraine lags behind most of Europe on gay rights, but pride marches do take place, heavily guarded by police and threatened by right-wing thugs. Ukrainian ultra-nationalists in the west and their pro-Russian foes in the east of the country have both been engaged in homophobic rhetoric and attacks on gays. Kyiv appears to have the most enlightened approach to the issue, while Lviv and Kharkiv have shown signs of institutional homophobia.

- 'Homosexuality is legal in Ukraine.
- 'Few people are very out here and attitudes vary – what's acceptable in large cities may not be in smaller communities.
- 'Displays of affection between two men (and perhaps two women) in public could create hostility.'<sup>39</sup>

7.1.5 An article published by EuroVisionary in February 2017 stated: 'LGBT issues are still a taboo subject in most areas of Ukraine. Despite the laws showing signs of promise, the social attitudes are not going away easily.'<sup>40</sup>

7.1.6 SBS, an Australian based media outlet, stated in January 2017 that since the revolution, there has been a surge of anti-LGBT+ attacks, committed by ultra-right nationalists.

'The ultra-right nationalists want an independent, socially conservative Ukraine. Their ideology is rooted in deep mistrust, both toward Russia and western civilisation.

<sup>36</sup> United States Department of State, '2016 Country Reports on Human Rights Practices – Ukraine', (Section 6. Discrimination, Societal Abuses, and Trafficking in Persons). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265484> Accessed: 9 May 2017.

<sup>37</sup> Human Rights Watch, 'World Report 2017 – Ukraine', 12 January 2017, <https://www.hrw.org/world-report/2017/country-chapters/ukraine> Accessed: 9 May 2017

<sup>38</sup> GlobalGayz – Ukraine Profile, undated <http://www.globalgayz.com/europe/ukraine/> Accessed: 9 May 2017

<sup>39</sup> Lonely Planet. 'Gay & Lesbian Travellers'. Undated. <http://www.lonelyplanet.com/ukraine/gay-and-lesbian-travellers> Accessed: 11 May 2017

<sup>40</sup> EuroVisionary. 'How much does Ukraine celebrate diversity?' 9 February 2017. <https://www.eurovisionary.com/much-ukraine-celebrate-diversity/> Accessed: 11 May 2017.

'They believe they're fighting for Ukraine's morality, with some groups organising violent attacks on members of the LGBT+ community.

"They want us to be scared," says local activist Zoryan Kis. "They want us to hide, and they told me: 'We will be attacking every event that you organise because we don't want you on the streets'."

'Some ultra-right youth groups organise "gay safaris", where they use social media to lure members of the LGBT+ community to attack and shame them

'Nikolay Dulsky is the founder of a group called Fashion Verdict, one of Kiev's most notorious groups perpetrating these "gay safaris". He says that the group is rooted in the idea of traditionalism, morality and healthy values, adding that homosexuality and other values are "absolutely foreign to us".

"If we didn't take care of it, it would be scary to have children here," he says adding that his solution is to "shoot them".

'He continues: "How could it be natural when one guy is with another guy? How could it be natural? It's impossible, it's inconceivable."<sup>41</sup>

7.1.7 An article in International Business Times in February 2017 stated:

'Ukraine has been struggling to balance national identity and European values. Insight has monitored hate crimes and discrimination as well as advocates for legislative changes to protect the LGBT community. The organization of five members came up against the traditional value system in Ukraine, a country in which 70 percent of people identify as Orthodox Christian. What's more, a wave of nationalism spread through the country after the revolution and reached extremes among some of the 15,000 pro-Ukrainian volunteers who have been fighting in informal battalions in the East. These battalions have often been affiliated with the far-right and neo-Nazi groups that oppose LGBT rights.'<sup>42</sup>

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## 7.2 Surveys

7.2.1 In their 2016 Global Attitudes Survey published in May 2016, ILGA asked respondents in Ukraine whether they thought being LGBTI should be considered a crime.

13% strongly agreed

9% somewhat agreed

21% neither agreed nor disagreed

12% somewhat disagreed

44% strongly disagreed<sup>43</sup>

<sup>41</sup> SBS. '6 things we learned about Ukrainian LGBT+ culture from this week's Gaycation' 21 January 2017. <http://www.sbs.com.au/topics/sexuality/fast-lane/article/2017/01/21/6-things-we-learned-about-ukrainian-lgbt-culture-weeks-gaycation>, Accessed: 11 May 2017.

<sup>42</sup> International Business Times. 'Amid Battle With Pro-Russian Separatists, Ukraine Accused Of LGBT Discrimination Despite Promises To European Union'. 12 February 2017 <http://www.ibtimes.com/amid-battle-pro-russian-separatists-ukraine-accused-lgbt-discrimination-despite-2490369> Accessed: 11 May 2017.

<sup>43</sup> ILGA, 'ILGA-RIWI 2016 Global Attitudes Survey on LGBTI People' (page 6), 17 May 2016,



- 7.2.2 In the same survey respondents in Ukraine when asked how they would you feel if their neighbour were gay or lesbian,  
59% said they had ‘no concerns’  
22% said they would be ‘somewhat uncomfortable’  
20% said they would be ‘very uncomfortable’.<sup>44</sup>

- 7.2.3 The February 2017 Nash Mir Centre report, ‘A New Beginning: LGBTI situation in Ukraine in 2016’, noted:

‘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.

‘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. 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 our society is ready to legalise same-sex marriages while 65% agree that schools may dismiss homosexual teachers.’<sup>45</sup>

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### 7.3 Violence and discrimination

- 7.3.1 The Freedom House, ‘Nations in Transit 2017’ report noted:

‘Conflicts emerge where different values are at stake: for instance, there is visible conflict between LGBT communities and various right-wing groups claiming to defend “traditional values.” The latter groups are inclined to use violent methods against opponents, as happened in Lviv during an LGBT festival in March 2016. At the same time, KyivPride, another LGBT festival held in Kyiv in June, demonstrated well-organized cooperation of activists with the police, which helped to prevent any violation of the freedom of assembly.’<sup>46</sup>

- 7.3.2 In a December 2016, the UN Office of the High Commissioner for Human Rights (OHCHR) stated:

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[http://ilga.org/downloads/07\\_THE\\_ILGA\\_RIWI\\_2016\\_GLOBAL\\_ATTITUDES\\_SURVEY\\_ON\\_LGBTI\\_PEOPLE.pdf](http://ilga.org/downloads/07_THE_ILGA_RIWI_2016_GLOBAL_ATTITUDES_SURVEY_ON_LGBTI_PEOPLE.pdf). Accessed: 9 May 2017.

<sup>44</sup> ILGA, ‘ILGA-RIWI 2016 Global Attitudes Survey on LGBTI People’ (page 11), 17 May 2016, [http://ilga.org/downloads/07\\_THE\\_ILGA\\_RIWI\\_2016\\_GLOBAL\\_ATTITUDES\\_SURVEY\\_ON\\_LGBTI\\_PEOPLE.pdf](http://ilga.org/downloads/07_THE_ILGA_RIWI_2016_GLOBAL_ATTITUDES_SURVEY_ON_LGBTI_PEOPLE.pdf). Accessed: 9 May 2017.

<sup>45</sup> Nash Mir Centre. ‘A New Beginning: LGBTI situation in Ukraine in 2016’. (Page 18). 6 February 2017. [http://gay.org.ua/publications/lgbt\\_ukraine\\_2016-e.pdf](http://gay.org.ua/publications/lgbt_ukraine_2016-e.pdf) Accessed: 9 May 2017.

<sup>46</sup> Freedom House: Nations in Transit 2017 - Ukraine, 29 March 2017. <https://freedomhouse.org/report/nations-transit/2017/ukraine> Accessed: 9 May 2017.

'OHCHR also notes that during the reporting period people belonging to or sympathizing with the LGBTI community experienced aggressive behaviour and threats from radical groups such as 'Azov' civil corps and 'Right Sector'. For example, members of the 'Azov' civil corps and 'Right Sector' disrupted a film screening on LGBTI issues on 18 October [2016] in Chernivtsi and on 4 November [2016] in Kremenchuk city. Law-enforcement did not intervene to protect the event from disruption.'<sup>47</sup>

7.3.3 The US State Department 2016 Human Rights Practices Report, released in March 2017, stated:

'There was sporadic violence against LGBTI persons. For example, on February 28, hooligans assaulted two persons in Odesa after calling them a derogatory slur. While homophobic threats from right-wing nationalist groups continued, their presence at festivals and marches was often limited to several dozen counter protesters. Although leading politicians and ministers condemned attacks on LGBTI gatherings and individuals, local officials sometimes voiced opposition to LGBTI rights and failed to protect LGBTI persons.'<sup>48</sup>

7.3.4 The same report further stated:

'Nash Mir LGBT Human Rights Center reported 215 instances in which persons allegedly violated the rights of LGBTI persons in the country between January and September [2016], including 133 instances of threats and 79 instances of violence, many related to attacks in and around the Lviv equality festival. Nash Mir stated that while the number of incidents increased, there were no reports of murder or grievous harm done to LGBTI persons in the first half of the year. Crimes and discrimination against LGBTI persons remained underreported, however; and law enforcement authorities only opened 17 cases related to such acts. Nash Mir stated that extortion remained a problem and anti-LGBTI groups employed social media to entrap LGBTI persons.'<sup>49</sup>

7.3.5 Ruslana Panukhnyk, Kiev Pride's executive director, is quoted in an article in the UK's gay magazine 'Attitude' as saying:

'The main factors against LGBT+ issues are the aggressive nationalistic organisations' [...] "They had this resistance movement in the Soviet Union which they are trying to replicate now, linking 'heroisation' with the Maidan revolution, where they were very visible. They have all the ownership in the eyes of the general public. That's where they get their support.'<sup>50</sup>

<sup>47</sup> UN Office of the High Commissioner for Human Rights (OHCHR), 'Report on the human rights situation in Ukraine 16 August to 15 November 2016', (para 154). 9 December 2016, <http://www.refworld.org/docid/584ab7d34.html> Accessed: 10 May 2017.

<sup>48</sup> United States Department of State, '2016 Country Reports on Human Rights Practices – Ukraine', (Section 6. Discrimination, Societal Abuses, and Trafficking in Persons). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265484> Accessed: 9 May 2017.

<sup>49</sup> United States Department of State, '2016 Country Reports on Human Rights Practices – Ukraine', (Section 6. Discrimination, Societal Abuses, and Trafficking in Persons). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265484> Accessed: 11 May 2017.

<sup>50</sup> Attitude, 'What's life really like for Kiev's LGBT community?' 11 May 2017. <http://attitude.co.uk/whats-life-really-like-for-kievs-lgbt-community/> Accessed: 11 May 2017.

### 7.3.6 The article continued:

‘Ukraine’s far right was the subject of international disdain in March 2016 when 200 nationalist activists launched an attack on a venue hosting an LGBT+ festival in Lviv, Western Ukraine’s largest city. Wearing balaclavas, they surrounded the hotel, hurled projectiles, and chanted: “kill, kill, kill.”

‘LGBT+ activists were evacuated by bus, with just one police car turning up to protect them. They’d only attended the festival for film screenings and literary discussions. For the local LGBT+ community, Ukraine’s capital is slightly more accepting compared with the rest of the country, but Kiev is by no means an oasis of equality.

“I guess that the whole of Ukraine is different to Kiev,” says Panukhnyk. “[Attacks] are not common, except when the annual Pride approaches. They try to find [people] to beat up, especially after a successful march. They want to show their aggression. We are trying to inform people not to go out after the march because it’s not safe.”<sup>51</sup>

### 7.3.7 In their report published in February 2017, Nash Mir Centre provided detailed information about documented violations and stated:

‘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.’<sup>52</sup>

### 7.3.8 The Nash Mir Centre report noted that “[t]raditionally, 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.”<sup>53</sup>

### 7.3.9 The report provided the following geographic distribution of documented violations in 2016:<sup>54</sup>

Region	Number of cases
Vinnitsya and oblast	15
Lutsk and Volyn oblast	6
Dnipro and Dnipropetrovsk oblast	29
Donetsk oblast	13

<sup>51</sup> Attitude, ‘What’s life really like for Kiev’s LGBT community?’ 11 May 2017. <http://attitude.co.uk/whats-life-really-like-for-kievs-lgbt-community/> Accessed: 11 May 2017.

<sup>52</sup> Nash Mir Centre. ‘A New Beginning: LGBTI situation in Ukraine in 2016’. (Section 6 Discrimination and violence against LGBTs). 6 February 2017. [http://gay.org.ua/publications/lgbt\\_ukraine\\_2016-e.pdf](http://gay.org.ua/publications/lgbt_ukraine_2016-e.pdf) Accessed: 9 May 2017.

<sup>53</sup> Nash Mir Centre. ‘A New Beginning: LGBTI situation in Ukraine in 2016’. (Section 6 Discrimination and violence against LGBTs). 6 February 2017. [http://gay.org.ua/publications/lgbt\\_ukraine\\_2016-e.pdf](http://gay.org.ua/publications/lgbt_ukraine_2016-e.pdf) Accessed: 9 May 2017.

<sup>54</sup> Nash Mir Centre. ‘A New Beginning: LGBTI situation in Ukraine in 2016’. (Section 6 Discrimination and violence against LGBTs). 6 February 2017. [http://gay.org.ua/publications/lgbt\\_ukraine\\_2016-e.pdf](http://gay.org.ua/publications/lgbt_ukraine_2016-e.pdf) Accessed: 9 May 2017.

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
Khmelnyskyi and oblast	3
Cherkasy	3
Chernihiv and oblast	2
Chernivtsi and oblast	6
Territories beyond the control of Ukraine (Donbas, Crimea)	11

7.3.10 The same report also provided the following information about the nature of the violations in 2016:<sup>55</sup>

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

7.3.11 The Nash Mir Centre report noted:

‘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

<sup>55</sup> Nash Mir Centre. ‘A New Beginning: LGBTI situation in Ukraine in 2016’. (Section 6 Discrimination and violence against LGBTs). 6 February 2017. [http://gay.org.ua/publications/lgbt\\_ukraine\\_2016-e.pdf](http://gay.org.ua/publications/lgbt_ukraine_2016-e.pdf) Accessed: 9 May 2017.

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.’<sup>56</sup>

- 7.3.12 The same report further noted that ‘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.’<sup>57</sup>

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## 7.4 Pro-LGBT marches/gay pride

- 7.4.1 In its annual report covering 2016 the International Lesbian, Gay, Bisexual and Trans and Intersex Association (ILGA) reported that ‘A series of public LGBTI events took place in Ukraine in 2016, many of which were memorable for a variety of reasons. The city of Odesa hosted its first ever Pride March, with participants marching with a sizable police presence for security reasons. Kyiv Pride, which had been violently disrupted in 2015, was also heavily policed. But, in a positive development, it attracted its largest ever attendance. LGBTI activists planning to take part in the Equality Festival in Lviv had a very different experience. The festival was ultimately banned by local authorities. Opposition groups issued threats, venues pulled out of hosting events, and counter-protestors surrounded the participants’ hotel.’<sup>58</sup>

- 7.4.2 The US State Department 2016 Human Rights Practices Report, released in March 2017, stated:

‘Overall, LGBTI groups enjoyed greater freedom to assemble than in past years. In most cases security forces and local officials deployed adequate security forces to prevent violence and protect conferences and marches. For example, security forces provided protection to an equality march in Kyiv on June 6 [2016] and a pride march in Odesa on August 11 [2016]. In the case of the equality march, authorities deployed more than 6,000 security personnel, protecting more than 2,000 marchers including members of parliament. Police also adequately protected the equality festivals in Kyiv in May, in Dnipro in July, and in Zaporizhzhya in September. During an equality festival in Kyiv, right-wing groups telephoned a bomb threat. Instead of

<sup>56</sup> Nash Mir Centre. ‘A New Beginning: LGBTI situation in Ukraine in 2016’. (Section 6 Discrimination and violence against LGBTs). 6 February 2017. [http://gay.org.ua/publications/lgbt\\_ukraine\\_2016-e.pdf](http://gay.org.ua/publications/lgbt_ukraine_2016-e.pdf) Accessed: 9 May 2017.

<sup>57</sup> Nash Mir Centre. ‘A New Beginning: LGBTI situation in Ukraine in 2016’. (Section 6 Discrimination and violence against LGBTs). 6 February 2017. [http://gay.org.ua/publications/lgbt\\_ukraine\\_2016-e.pdf](http://gay.org.ua/publications/lgbt_ukraine_2016-e.pdf) Accessed: 9 May 2017.

<sup>58</sup> ILGA-Europe. ‘State-Sponsored Homophobia 2017: Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2017’, 17 May 2017, [http://ilga.org/downloads/2017/ILGA\\_State\\_Sponsored\\_Homophobia\\_2017\\_WEB.pdf](http://ilga.org/downloads/2017/ILGA_State_Sponsored_Homophobia_2017_WEB.pdf), Accessed 25 June 2017

cancelling the event, security forces cleared the building, allowing the event to continue.

‘One notable exception was the Lviv equality festival on March 19 [2016]. Hotels and conference spaces refused to honor reservations made by the festival, allegedly under pressure from city officials, who then banned all public gatherings. After the festival relocated to another hotel, security officials allowed right-wing radicals to threaten participants. After a bomb threat cancelled the conference, security forces evacuated participants on buses and took no action to prevent attacks from radicals, who threw rocks and firecrackers. Security forces failed to take action against right-wing groups that "went on safari," seeking persons suspected of being LGBTI for attack throughout the next day. According to civil society groups, assailants injured five persons after the festival.’<sup>59</sup>

#### 7.4.3 Human Rights Watch’s ‘World Report’ published in January 2017 stated:

‘In March 2016, about 200 anti-gay, far-right supporters attacked a venue in Lviv hosting a LGBT equality festival, eventually causing the event to be cancelled. The Kyiv LGBT Pride march held in June [2016] took place without the violence against participants that had marred it in previous years. Ultra-nationalist groups had threatened to make the march a "bloody mess." Around 6,000 police officers protected the 1,500 march participants.

‘The first LGBT Pride march took place in Odesa in August [2016]. Local authorities initially attempted to ban it, but relented when organizers changed the route. Police arrested four ultra-nationalists who attempted to disrupt the event.’<sup>60</sup>

#### 7.4.4 Freedom House’s ‘Freedom in the World 2017’ report noted:

‘Strong protection from security forces ensured that a Kyiv LGBT (lesbian, gay, bisexual, and transgender) pride parade could proceed without violence in June, though some other LGBT events outside the capital were threatened or attacked.

‘The constitution guarantees the right to peaceful assembly but requires organizers to give the authorities advance notice of any demonstrations. While officials generally create an open environment for public gatherings in practice, Ukraine lacks a law governing the conduct of demonstrations and specifically providing for freedom of assembly. Moreover, threats and violence by nonstate actors sometimes prevent certain groups from holding events, particularly those advocating equal rights for LGBT people.’

‘The LGBT community also faces bias and hostility in Ukraine. A June 2016 pride parade in Kyiv proceeded without violence thanks to strong protection from the security forces, though the heavy police presence made the march almost inaccessible. Public events on LGBT issues were disrupted in Zaporizhyya, Odesa, and Lviv, through either violence or pressure by right-wing groups. Incidents of homophobic and transphobic violence are rarely

<sup>59</sup> United States Department of State, ‘2016 Country Reports on Human Rights Practices – Ukraine’, (Section 6. Discrimination, Societal Abuses, and Trafficking in Persons). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265484> Accessed: 9 May 2017.

<sup>60</sup> Human Rights Watch, ‘World Report 2017 – Ukraine’, 12 January 2017, <https://www.hrw.org/world-report/2017/country-chapters/ukraine> Accessed: 9 May 2017.

investigated or prosecuted by the authorities, and there is no effective hate-crime legislation in place.’<sup>61</sup>

7.4.5 The Amnesty International Report 2016/17 stated:

‘On 19 March [2016], a court in Lviv, western Ukraine, banned the holding of the LGBTI Festival of Equality in the street due to public safety concerns. The organizers moved the event indoors, but on 20 March the venue was attacked by a group of masked right-wing activists. No injuries were reported but the organizers were forced to cancel the event.

‘An LGBTI Pride march, supported by the Kyiv authorities and heavily protected by police, was held in central Kyiv on 12 June [2016]. With around 2,000 participants, it became the largest-ever event of its kind in Ukraine.’<sup>62</sup>

7.4.6 In a release at the time of the Kyiv Pride march, Amnesty International said:

‘Amnesty International welcomes the cooperation and protection provided by the National Police of Ukraine and the Kyiv City State Administration during a successful lesbian, gay, bisexual, transgender and intersex (LGBTI) Pride march which took place in Kyiv, Ukraine on 12 June [2016]. In contrast to previous years, Ukraine upheld its international obligation to protect the rights to freedom of expression and peaceful assembly for LGBTI people. This was an important step to combat discrimination on the grounds of sexual orientation and gender identity.’<sup>63</sup>

7.4.7 On 18<sup>th</sup> May 2017 Radio Free Europe/Radio Liberty reported that ‘Assailants attacked gay and transgender rights activists and torched a rainbow flag at a small rally in the Ukrainian city of Kharkiv. Law enforcement officials said on May 18 that two police officers were hospitalized after police tried to disperse a group of about 30 assailants in the center of the eastern city.’<sup>64</sup>

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## 7.5 Gay ‘scene’ or ‘community’

7.5.1 An article in International Business Times in February 2017 contained an interview with two women, aged about 30, have been lesbian partners for more than five years and who relocated to the Kiev suburbs after fleeing the conflict in eastern Ukraine. Both women said they still must be very careful in public because of possible retribution for being in a same-sex relationship.

“On the street, we can hold hands and kiss each other,” said Lemischenko, 29. “But quickly, so that we don’t draw attention to ourselves,” finished Kostetska, 31, who said she can’t be open with her sexuality at work.

<sup>61</sup> Freedom House, ‘Freedom in the World 2017 – Ukraine’, January 2017.

<https://freedomhouse.org/report/freedom-world/2017/ukraine> Accessed: 9 May 2017.

<sup>62</sup> Amnesty International, ‘Amnesty International Report 2016/17 – Ukraine’, 22 February 2017, <https://www.amnesty.org/en/countries/europe-and-central-asia/ukraine/report-ukraine/> Accessed: 9 May 2017.

<sup>63</sup> Amnesty International, ‘Ukraine: Kyiv Pride: A genuine celebration of human rights. 14 June 2016, Index number: EUR 50/4258/2016 <https://www.amnesty.org/en/documents/eur50/4258/2016/en/>

<sup>64</sup> Rado Free Europe/Radio Liberty, ‘Assailants Attack Ukrainian LGBT Activists, Police In Kharkiv, Burn Rainbow Flag’, <https://www.rferl.org/a/ukraine-lgbt-activists-attacked-violence-kharkiv/28495206.html>, 18 May 2017

'Fearing stigmatization, discrimination and hate crimes, the homosexual and transsexual population in Ukraine has remained largely undercover.'<sup>65</sup>

7.5.2 An April 2017 article in Gay Times noted that 'Although homosexuality isn't prohibited by law, public attitudes are less tolerant than in the UK and public displays of affection may attract negative attention.'<sup>66</sup>

7.5.3 The Lonely Planet guide on Ukraine, aimed primarily at people visiting the country, stated: 'Ukraine's gay scene is largely underground, but gay clubs do exist in big cities. The biggest scene is in Kyiv, but Kharkiv and Odesa have one or two clubs.'<sup>67</sup>

7.5.4 An article in the gay magazine, Attitude, stated:

'In both Kiev and rural Ukraine, the LGBT+ community remains quite closeted. Safe spaces - where members of the queer community can meet - are at a premium, while Kiev has only two gay night clubs, LIFT and Pomada (which translates as Lipstick). There's little respite to be found on dating apps and websites, with numerous cases of infiltration by the far right.

"There are cases where far-right radicals meet with guys and beat them up just for fun," says Yuri Yoursky, the programme director at Gay Alliance Ukraine (GAU), one of the country's largest LGBT+ advocacy organisations. "Last year we also saw attacks on community LGBT+ centres."<sup>68</sup>

7.5.5 In April 2017 the Human Rights Information Centre reported that: 'In anticipation of the Eurovision, the public organization KyivPride prepared a map of places friendly to lesbian, gay, bisexual, transgender and intersex people. The places are, in particular, restaurants, cafes, shops and clubs in Kyiv, which hosts an international song contest this year.'<sup>69</sup> A copy of the map can be accessed at: [https://kyivpride.org/netcat\\_files/userfiles/buklet/A4\\_2falcl.pdf](https://kyivpride.org/netcat_files/userfiles/buklet/A4_2falcl.pdf)

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## 8. Access to services

### 8.1 Accommodation

8.1.1 The February 2017 Nash Mir Centre report noted three cases where landlords refused to provide any premises for LGBTI events such as the Equality Festivals in Lviv, Dnipro and Zaporizhzhya. Also noted were such

<sup>65</sup> International Business Times. 'Amid Battle With Pro-Russian Separatists, Ukraine Accused Of LGBT Discrimination Despite Promises To European Union'. 12 February 2017 <http://www.ibtimes.com/amid-battle-pro-russian-separatists-ukraine-accused-lgbt-discrimination-despite-2490369> Accessed: 12 May 2017

<sup>66</sup> Gay Times. 'Destination Kyiv: advice for LGBT+ Eurovision fans heading to Ukraine'. 19 April 2017. <http://www.gaytimes.co.uk/travel/69647/destination-kyiv-advice-lgbt-eurovision-fans-heading-ukraine/> Accessed: 12 May 2017

<sup>67</sup> Lonely Planet. 'Gay & Lesbian Travellers'. Undated. <http://www.lonelyplanet.com/ukraine/gay-and-lesbian-travellers> Accessed: 11 May 2017.

<sup>68</sup> Attitude, 'What's life really like for Kiev's LGBT community?' 11 May 2017. <http://attitude.co.uk/whats-life-really-like-for-kievs-lgbt-community/> Accessed: 11 May 2017.

<sup>69</sup> Human Rights Information Centre, 'Kyiv Pride presents a map of LGBT-friendly places'. 25 April 2017 [https://humanrights.org.ua/en/material/kijivprajd\\_predstavljaje\\_kartu\\_druzhnih\\_do\\_lgbt\\_misc](https://humanrights.org.ua/en/material/kijivprajd_predstavljaje_kartu_druzhnih_do_lgbt_misc) Accessed: 9 May 2017.



infringements as insults, denial of hotel service or accommodation, and physical violence.<sup>70</sup>

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## 8.2 Education

8.2.1 According to Nash Mir Centre, violations in the education 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.<sup>71</sup>

8.2.2 In its submission to the UN Committee on the Elimination of Discrimination Against Women (CEDAW), a group of NGOs noted that ‘According to Insight, most cases of disclosure of sexual orientation and/ or gender identity take place in educational institutions and in employment. In cases of transgender students undergoing transition who are seeking name change in the students' lists and change of gender pronouns, administration of a university frequently demands a copy of 'transsexualism' diagnosis without providing confidentiality. It is precisely administration and teaching staff who have access to these students' lists who then disclose information about transgender status of a student, and initiate and support bullying and harassment by other students, including cases of life threats and physical violence, which in turn contributes to a high dropout level among transgender students ... Masculine presenting women who have higher education are forced to look for lower paid jobs in sales and service, as those do not require intensive face-to-face job interviews.’<sup>72</sup>

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## 8.3 Healthcare

8.3.1 The Nash Mir Centre reported ‘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.’<sup>73</sup>

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## 8.4 Employment

8.4.1 Human Rights Campaign<sup>74</sup>, reporting on the amendment to the Employment Code in November 2015 to prohibit workplace discrimination on the basis of sexual orientation and gender identity stated:

<sup>70</sup> Nash Mir Centre. ‘A New Beginning: LGBTI situation in Ukraine in 2016’. (6.4. Access to goods and services). 6 February 2017. [http://gay.org.ua/publications/lgbt\\_ukraine\\_2016-e.pdf](http://gay.org.ua/publications/lgbt_ukraine_2016-e.pdf) Accessed: 9 May 2017.

<sup>71</sup> Nash Mir Centre. ‘A New Beginning: LGBTI situation in Ukraine in 2016’. (6.5. Education). 6 February 2017. [http://gay.org.ua/publications/lgbt\\_ukraine\\_2016-e.pdf](http://gay.org.ua/publications/lgbt_ukraine_2016-e.pdf) Accessed: 9 May 2017.

<sup>72</sup> Legalise-Ukraine; Insight; Positive Women; Svitanok: SHADOW REPORT; On the situation of women who use drugs, women living with HIV, sex workers, and lesbian, bisexual women and transgender people in Ukraine, 2017, [http://www.ecoi.net/file\\_upload/1930\\_1487259781\\_int-cedaw-ngo-ukr-26367-e.pdf](http://www.ecoi.net/file_upload/1930_1487259781_int-cedaw-ngo-ukr-26367-e.pdf), Accessed: 25 June 2017

<sup>73</sup> Nash Mir Centre. ‘A New Beginning: LGBTI situation in Ukraine in 2016’. (6.6 Health). 6 February 2017. [http://gay.org.ua/publications/lgbt\\_ukraine\\_2016-e.pdf](http://gay.org.ua/publications/lgbt_ukraine_2016-e.pdf) Accessed: 9 May 2017.

<sup>74</sup> Human Rights Campaign. About Us. Undated. <http://www.hrc.org/hrc-story> Accessed: 12 May 2017

'The legislation was part of a series of reforms that the legislature, known as Verkhovna Rada, has been considering in order to establish visa-free travel throughout the European Union for its citizens. Although the legislation met controversy and required several rounds of voting to pass, this decision is a demonstration of progress for LGBT equality in the nation.

"This is an important step forward for LGBT Ukrainians, and the nation's leaders have affirmed that its LGBT citizens deserve the right to work without discrimination, harassment, or abuse," said Ty Cobb, director of HRC Global. "We congratulate the LGBT activists, advocates, and their allies for this historic victory."

"This is the first time in 25 years where LGBT people in Ukraine have legal protection from discrimination," said Bogdan Globa, founder and executive director of Fulcrum, an LGBT rights advocacy organization in Ukraine. "This vote proves that Ukraine can change, and must change, to welcome and protect its LGBT citizens. The battle for full equality still lies ahead, and we will continue to work for protections from all form of discrimination as part of a free and democratic Ukraine with equal rights for all."<sup>75</sup>

8.4.2 The US State Department 2016 Human Rights Practices Report noted that 'the labour code prohibits workplace discrimination on the basis of sexual orientation and gender identity.'<sup>76</sup>

8.4.3 According to Nash Mir Centre:

'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".'<sup>77</sup>

8.4.4 In its submission to the UN Committee on the Elimination of Discrimination Against Women (CEDAW), a group of NGOs noted that 'There is also a widespread practice of employment termination among lesbians and bisexual women when information about their sexual orientation becomes known to colleagues and employees. This forces many women not to be open about their sexuality at work. Masculine presenting women who have higher education are forced to look for lower paid jobs in sales and service, as those do not require intensive face-to-face job interviews. Furthermore, trans people who do not have ID documents that correspond to their gender

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<sup>75</sup> Human Rights Campaign. 'In A Historic Step, Ukraine Passes Legal Protections for Nation's LGBT Citizens' 12 November 2015 <http://www.hrc.org/blog/in-a-historic-step-ukraine-passes-legal-protections-for-nations-lgbt-citize> Accessed: 12 May 2017

<sup>76</sup> United States Department of State, '2016 Country Reports on Human Rights Practices – Ukraine', (Section 6. Discrimination, Societal Abuses, and Trafficking in Persons). 3 March 2017. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265484> Accessed: 9 May 2017

<sup>77</sup> Nash Mir Centre. 'A New Beginning: LGBTI situation in Ukraine in 2016'. (6.3 Employment). 6 February 2017. [http://gay.org.ua/publications/lgbt\\_ukraine\\_2016-e.pdf](http://gay.org.ua/publications/lgbt_ukraine_2016-e.pdf) Accessed: 9 May 2017.

have little choice but to settle for unofficial low-paid jobs which do not require a copy of an ID.’<sup>78</sup>

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## 9. Civil society organisations

### 9.1 Ukrainian LGBT organisations

9.1.1 Gay Alliance Ukraine provide an extensive list of NGOs active in LGBT matters in Ukraine on their website at: <http://upogau.org/eng/rcenter/organizations/>

9.1.2 According to a GlobalGayz Ukraine profile:

‘In June 2008 three leading gay and lesbian organizations in the Ukraine formed the Union of Gay Organizations of Ukraine (UGOU). The groups’ purpose was to unite activists in three main areas: advocating rights and freedoms of gay people, mobilizing the gay community and improving the effectiveness of HIV-infection prevention among homosexuals. The Gay Alliance, Gay Alliance Cerksy, and Nash Mir Gay & Lesbian Center provide an even wider range of information, advocacy, social, and health protection services.’<sup>79</sup>

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### 9.2 Shelter

9.2.1 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.’<sup>80</sup>

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<sup>78</sup> Legalife-Ukraine; Insight; Positive Women; Svitanok. ‘Shadow Report: On the situation of women who use drugs, women living with HIV, sex workers, and lesbian, bisexual women and transgender people in Ukraine’. 2017. [http://www.ecoi.net/file\\_upload/1930\\_1487259781\\_int-cedaw-ngo-ukr-26367-e.pdf](http://www.ecoi.net/file_upload/1930_1487259781_int-cedaw-ngo-ukr-26367-e.pdf), Accessed: 25 June 2017

<sup>79</sup> GlobalGayz – Ukraine Profile, undated <http://www.globalgayz.com/europe/ukraine/> Accessed: 9 May 2017

<sup>80</sup> 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/> Accessed: 9

9.2.2 An article in International Business Times in February 2017 stated:

‘The Insight shelter was the only one in Ukraine specifically for the LGBT community, said head coordinator Olga Olshanskaya. However, it was struggling financially and has received no funding from the state.

“All of our projects are financed by donor organizations from Europe or America,” she said. “We understand that not a single party in Ukraine supports LGBT rights.” One political party called Democratic Alliance has become an advocate for the community, but it didn't hold seats in parliament.’<sup>81</sup>

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### 9.3 Counselling

9.3.1 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.’<sup>82</sup>

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<sup>81</sup> International Business Times. ‘Amid Battle With Pro-Russian Separatists, Ukraine Accused Of LGBT Discrimination Despite Promises To European Union’. 12 February 2017, <http://www.ibtimes.com/amid-battle-pro-russian-separatists-ukraine-accused-lgbt-discrimination-despite-2490369>

Accessed: 12 May 2017

<sup>82</sup> Gay Alliance Ukraine - ‘LGBT Hotline: How does counselling work?’, 2015 [http://upogau.org/eng/inform/ournews/pressreleases\\_1924.html](http://upogau.org/eng/inform/ournews/pressreleases_1924.html) Accessed: 9 May 2017

# Version control and contacts

## Contacts

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

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

## Clearance

Below is information on when this note was cleared:

- version **2.0**
- valid from **6 July 2017**

## Changes from last version of this note

Update of country information

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