



# NOTHING TO BE PROUD OF

DISCRIMINATION AGAINST LGBTI  
PEOPLE IN UKRAINE

**AMNESTY**  
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Photo on the cover:  
Svyatoslav Sheremet, one of the organizers of Pride march on 20 May 2012, is being beaten by 7 men

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# INTRODUCTION

Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) people in Ukraine continue to face discrimination, and many are targeted for violence and abuse by public officials and members of the public.

International and European human rights law prohibits discrimination - when someone is treated differently, in law or in practice, in a way that impairs or nullifies the enjoyment of their rights - because of a characteristic such as ethnic origin, religion, sexual orientation or gender identity. These characteristics are described as 'prohibited grounds for discrimination' under international law.

Ukraine is failing to protect the basic rights of LGBTI people such as the right to be free from discrimination, the right to security of person and the rights to freedom of peaceful assembly and expression. Ukraine has an international obligation to uphold the principle of non-discrimination and ensure that all individuals, including LGBTI people, are treated equally irrespective of their sexual orientation and gender identity in both law and fact.

Amnesty International has documented several violent attacks against LGBTI people, some carried out by public officials, and some by members of the public. In some cases such attacks have resulted in death. Yet the authorities fail to investigate these crimes promptly, thoroughly, effectively and impartially, and, moreover, fuel the pervasive negative stereotypes about LGBTI people in Ukrainian society which underpin the attacks.

To date, no Pride march has taken place in Ukraine. In 2012 a Pride march planned for 20 May was cancelled by the organisers because they had received multiple violent threats from various individuals and groups and because the Kyiv police failed to guarantee the safety of the demonstrators, telling them 'people would get hurt'. Other public events by LGBTI groups have been attacked by extremists, while police were present and LGBTI activists have been prosecuted for exercising their right to freedom of peaceful assembly.

If the government of Ukraine is to succeed in its ambition to achieve association and visa liberalisation with the European Union (EU) it must ensure that its legislation is in line with European human rights standards, and must implement international and regional human rights agreements including by upholding the principle of non-discrimination and ensuring that all individuals, including LGBTI people, are treated equally in both law and fact.

Attempts to bring Ukraine into line with European standards on preventing discrimination on grounds of sexual orientation and gender identity have unleashed vociferous opposition from religious and conservative groups in society. In February 2013 the law "On Principles of Prevention and Combating Discrimination in Ukraine" was passed by parliament. In March 2013, the government presented parliament with amendments to the law that only prohibited discrimination on the basis of sexual orientation in relation to employment.

Even this limited attempt to bring the law closer to international and European human rights standards gave rise to strong opposition and is still under discussion. At the same time parliament is discussing two draft laws that threaten to seriously limit the enjoyment of human rights of LGBTI people. In October 2012 parliament passed the first reading of draft law 8711 (now 0945), which would ban any production or publication of products "promoting homosexuality", including through media, television or radio broadcasting; printing or distribution of publications; import, production or distribution of creative writings, cinematography or video materials. The law foresees fines or prison sentences of up to five years. Another draft law (No. 1155, formerly 10290) would introduce measures "to protect the rights of children, ensure the healthy moral, spiritual and psychological development of children", promote the idea that a family consists of "a union between a man and a woman" and to "overcome the demographic crisis". The law would ban positive or neutral information about consensual adult same-sex relationships, and provides an exhaustive list of activities that would fall under the ban, including meetings, parades, actions, pickets, demonstrations and other mass gatherings aimed at disseminating non-critical information about same-sex consensual conduct. The law also bans any educational activities regarding homosexuality or, presumably, the lives of LGBTI individuals, and any messages, articles or appeals in the media. Both laws would, if passed, contribute to perpetuate negative stereotyping about LGBTI people, discriminate against LGBTI people and severely limit their rights to freedom of expression, and assembly, as well as limit the rights of children to access information.

## UKRAINE'S INTERNATIONAL OBLIGATIONS

Ukraine is party to several human rights treaties prohibiting discrimination. These include the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the UN Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

Although discrimination on the grounds of sexual orientation is not specifically mentioned in the non-discrimination provisions of the ICCPR, the ICESCR and the ECHR, the provisions are explicitly meant to cover all grounds of discrimination, even those not mentioned. The European Court of Human Rights has clarified that the list of prohibited grounds included in Article 14 of the ECHR should be interpreted as covering sexual orientation,<sup>1</sup> and the Human Rights Committee has reached the same conclusion with respect to the non-discrimination provisions of the ICCPR.<sup>2</sup> Similarly, the Committee on Economic, Social and Cultural Rights has clarified that gender identity is a prohibited ground of discrimination.<sup>3</sup>

The Human Rights Committee has also affirmed that the exclusion of sexual orientation and gender identity as expressly stated categories of non-discrimination does not exclude them from the protection of Article 2 of the ICCPR, or Article 26, on equality before the law and right to be free from discrimination.

## HATE CRIMES

Violence against a person that is motivated, fully or partially, by the real or perceived ethnicity, race, religion, sexual orientation, gender identity or any other prohibited ground of the target, are among the most insidious manifestation of intolerance and discrimination. The Organization for Security and Co-operation in Europe (OSCE) has defined hate crimes as “*criminal offences, including offences against persons or property, where the victim, premises or target of the offence are selected because of their real or perceived connection, attachment, affiliation, support or membership of a group*”.<sup>4</sup>

States must combat all forms of discrimination, including hate crime. They must not only ensure that officials and representatives do not discriminate but also exercise due diligence to prevent and combat discrimination from non-state actors.

The European Court of Human Rights has found that states have the duty to take all necessary steps to unmask any alleged hate bias on which a crime may be perpetrated.<sup>5</sup> It also found that crimes perpetrated with a hate bias cannot be treated as common crimes because they are particularly destructive of fundamental rights.<sup>6</sup>

With regard to racist hate crime, the European Commission against Racism and Intolerance (ECRI) of the Council of Europe has addressed the role of the police in combating racist offences and monitoring racist incidents, which it defines as any incident, not necessarily a crime, perceived as racist by the victim or any other person. In its General Policy Recommendation No. 11, ECRI calls on the governments of Council of Europe member states to:

- ensure that the police thoroughly investigate racist offences, including by fully taking the racist motivation of ordinary offences into account;
- establish and operate a system for recording and monitoring racist incidents, and the extent to which these are brought before prosecutors and are eventually qualified as racist offences;
- encourage victims and witnesses of racist incidents to report such incidents.

The same standards should be applied to hate crimes motivated by other protected characteristics such as religion or belief, age, disability, sexual orientation or gender identity. Concerning hate crimes against LGBTI people, the Committee of Ministers of the Council of Europe, in its recommendation to combat discrimination on grounds of sexual orientation and gender identity, called on Council of Europe Member States to tackle hate crimes. They recommended doing so by ensuring effective, prompt and impartial investigations into alleged cases of crimes particularly when committed by law enforcement officials, and ensure that the bias motive related to sexual orientation and gender identity is taken into account when determining sanctions.<sup>7</sup>

Amnesty International therefore recommends that the Ukrainian government take negative stereotypes and hatred against LGBTI people on the grounds of sexual orientation and gender identity into account in the investigation, prosecution and sentencing of hate crimes.

## HATE CRIMES BY NON-STATE ACTORS

The non-governmental organization (NGO) Nash Mir received 29 reports of violent attacks against LGBTI people by members of the public in Ukraine in 2012, and 36 reports of threats of violence. The NGO told Amnesty International that hate motivated violence is increasing in Ukraine as more LGBTI individuals publicly demand respect for their rights while making clear their own sexual orientation or gender identity.

In some cases LGBTI activists have identified their attackers as supporters of the right wing nationalist party Freedom (Svoboda), but they are also attacked by supporters of the Orthodox Church, representatives of para-military groups such as Zaporizhian and pro-Russian Cossacks («Верное Казачество»), or organised gangs linked to football clubs.

Ukraine has been slow to investigate the crimes and certainly does not properly look into discriminatory motives, leading to the conclusion that it is failing to take into account the discriminatory nature of hate crimes against LGBTI people. Amnesty International has previously drawn attention to the inadequacy of hate crime legislation in relation to hate crimes based on race.<sup>8</sup> There is no legislation covering hate crimes based on sexual orientation or gender identity, and the absence of legislation may provide an excuse for police not to adequately investigate or prosecute these acts. However, the key barrier to justice are the pervasive negative stereotypes about LGBTI persons among police, prosecutors, and other public officials and elected officers.

Article 161 of the Criminal Code criminalizes “violations of citizens’ equality by directly or indirectly restricting rights [or granting direct or indirect privileges] on the basis of race, colour, political, religious or other beliefs, gender, ethnic and social origin, property, residence, language or other grounds.” Although part one of the article outlaws “direct or indirect restriction of rights or privileges of citizens” based on race, colour, political or religious conviction, gender as well as ethnic and social origin, it does not explicitly cover violent actions or actions directed against people because of their sexual orientation or gender identity. In the absence of more effective anti-discrimination legislation, victims of crimes that were committed against them because of their sexual orientation or gender identity have requested the use of this article in prosecuting the perpetrators. However, in most cases such crimes are investigated and prosecuted as ordinary crimes such as ‘hooliganism’ or murder and the alleged homophobic or transphobic motive is not recorded or taken into consideration in the investigation and prosecution of these crimes or when sentencing the perpetrators.



Armen Ovcharuk © vk.com

### MURDER

Armen Ovcharuk, a young gay man of partially Armenian ethnic origin, was hit on the head on Kreshchatik Street in Kyiv as he walked from the gay nightclub Pomada to another gay nightclub at approximately 2am on 22 October 2012. Some witnesses called an ambulance shortly after the event and told the ambulance driver that Armen Ovcharuk had been assaulted. It is likely that video cameras on Kreshchatik Street recorded the attack. His friends reported the crime on 23 October and an investigation was subsequently initiated by police officers from Shevchenkivskiy district police station. Ovcharuk died of his injuries on 27 October. An autopsy report revealed that he had been hit on the back of the head with a blunt instrument and that there were scratches and bruises on his body. There are a number of factors that point to the possibility that the attack could have been motivated by the sexual orientation and/or ethnic origin of the victim. Armen Ovcharuk was a gay man, he was visibly Caucasian in appearance, and he was less than 100m from a gay bar and is likely to have been seen leaving it. He had not been robbed and had cash and valuables still on his person. On the night of the event there had been a football match, increasing the chance that there were extremist groups in the area. To date, Amnesty International has received no response from the Ministry of Interior to an enquiry about the progress of the investigation and whether hatred against gay men potentially motivated the crime.

Immediately after the planned Pride march was cancelled in May 2012 and in the months that followed some of the organizers were targeted and violently attacked because of their association with the event. None of these investigations has been concluded although in one case the attack was captured on video.



Svyatoslav Sheremet before and after being beaten on 20 May 2012 ©Gay Forum Ukraine

## ORGANIZERS OF KYIV PRIDE ATTACKED

On 20 May 2012, Svyatoslav Sheremet, the head of the LGBTI organization Gay Forum, was with the organizing committee in the east of Kyiv when they took the decision to abandon the planned Pride march. As they were giving a press briefing, one young man ran up to the group and sprayed them with tear gas and then ran away. Most of the attending journalists and members of the organizing committee left by taxi immediately after the conference, but Svyatoslav Sheremet, Maxim Kasianczuk and some of the journalists including an AFP correspondent remained at the site for a few minutes longer. Svyatoslav Sheremet and Maxim Kasianczuk walked a short distance to a nearby block of flats in order to call a taxi. At this point a group of about 10 to 12 young men approached them, shouted homophobic insults and sprayed tear gas into their eyes. Svyatoslav Sheremet described to Amnesty International how he crouched on the ground to protect himself:

*"We had been instructed that the gas can be extremely poisonous and we knew of other colleagues who had had to undergo lengthy treatment. In this situation, in order to protect yourself, you have to close your eyes at the risk of your safety. I did just that and I hid my face in hands and threw myself to the ground. Then for about 10 – 15 seconds most of the group kicked me on the torso, the head, the sides. When I understood that the poisonous liquid had not got into my eyes I sprang up and they ran away."*

The whole attack was captured on film by a Reuters correspondent, and a representative from the Kyiv City police administration took Svyatoslav Sheremet's statement. An investigation started under Article 296 part 2 of the Criminal Code (Hooliganism committed by a group), but to date Svyatoslav Sheremet has received no information about the progress of the investigation. He subsequently wrote asking for the crime to be additionally classified under Article 161 on the grounds that it was a homophobic attack ("Violations of citizens' equality on the basis of racial, national origin or religious conviction") and on 29 November 2012 he received an acknowledgement of that request, but was not informed whether a case had been opened under that article.

On the night of 21- 22 June 2012, Taras Karasiichuk, the Chair of the Organizing Committee of the Pride March, and President of Gay Alliance Ukraine (Гей Альянс Україна) was physically attacked as he was returning home. He described the attack to Amnesty International:

*"I noticed there was a man leaning against the wall under an arch near my home. He came towards me, called me a 'Pidar' ('faggot') then knocked me off my feet. After that there were several hard blows, and he ran away. There was a woman with a dog who must have seen everything. I don't remember how I got home."*

His jaw was broken in two places and he had to undergo lengthy treatment to have it repaired.

An investigation was started under Article 296 of the Criminal Code (Hooliganism), but there has been no progress with the investigation.

Following this attack, Taras Karasiichuk has faced two occasions on which he was threatened for his active work for LGBTI rights although he was not physically attacked. On 28 December 2012, he was approached in Pomada (a gay night club) in Kyiv by a young man who identified himself as a football hooligan and threatened him saying: *"You should stop what you are doing. Next time it will be more than a broken jaw"*. Four young men approached him on 3 February 2013 when he was returning home. They shouted: *"You are that pederast!"* and ran after him. Taras Karasiichuk ran into a nearby restaurant and one following him in broke the glass door, but then all four ran away.

## BEATEN FOR 'LOOKING GAY'

Mykola Lebed was with friends in a bar in the town of Rivne on 2 March 2013 when he was suddenly assaulted by a group of men at a nearby table who had been drinking heavily. His nose was broken during the attack and he suffered two black eyes. Eyewitnesses told Amnesty International that they immediately called the police, who arrived after the attackers had returned to their table. When the police arrived, they spoke to the attackers but did not arrest them. Instead they led Mykola Lebed and his friends outside. The attackers followed, swearing at him, calling him gay and threatening him for wearing 'tight jeans and an earring'. The police refused to take a statement and reportedly told Mykola Lebed that they would not arrest the assailants because they were part of a 'higher structure' – suggesting that they were officials from the prosecutor's office. Friends of Mykola Lebed believe they have now discovered the identity of at least one of the assailants using social media – in which he is pictured wearing a police uniform.

Following media coverage of the attack, the Prosecutor General's office stated that the case would be given special attention. Despite official enquiries Amnesty International has not received any information about progress in the case.

## DISCRIMINATION BY STATE OFFICIALS

In campaigning against impunity for torture and other ill-treatment by police, Amnesty International has come across cases of violence and abuse committed against individuals because of real or perceived sexual orientation or gender identity.<sup>9</sup> In a meeting with Amnesty International, the head of the human rights department of the Ministry of the Interior described police attitudes towards LGBTI people as "extremely negative". The NGO Nash Mir has documented 49 cases of human rights violations committed by police against LGBTI people including illegal detention, blackmail, torture and other ill-treatment in 2012.

Religious leaders and elected government officials frequently make openly discriminatory and misleading statements. In January 2013, commenting on the foundation of an LGBTI organization in the Zaporizhiya region, Archbishop Luka of the Ukrainian Orthodox Church in Zaporizhiya and Meilipotol said:

*"We don't interfere with their private life, but don't let them interfere with our values. They say that they are fighting AIDS, although they are spreading it themselves. They give out free condoms, and as a doctor, I can say that condoms don't help."*

In May 2012, Gennadiy Moskal, a member of parliament for the opposition block Our Ukraine – People's Defence (Наша Україна - Народна Самооборона) and head of the parliamentary committee on fighting organized crime and corruption, commented on the cancellation of that year's Gay Pride:

*"We have not yet reached that level of legal culture, when a politician can calmly announce his non-traditional sexual orientation. Unfortunately, Ukraine is too conservative in this matter, and there is no need yet to hold parades of gays, lesbians, paedophiles, and necrophiliacs"*

State officials, including governmental representatives and holders of elected positions, bear responsibility to refrain from making public statements that could fuel or condone discrimination. Such statements can lead to a climate where grave human rights abuses are perpetrated and tolerated. They must publicly acknowledge the seriousness of discrimination affecting LGBTI people in Ukraine and the need to take concerted action to address it.

## FREEDOM OF ASSEMBLY

International human rights law imposes an obligation on states to respect and fully protect the rights of all individuals to assemble peacefully without discrimination. International standards permit states to place certain restrictions on the exercise of the rights to freedom of expression and freedom of peaceful assembly, but any such restrictions must be provided by law, must be only for one of the legitimate purposes set out in international law – that is, the protection of certain public interests (national security or public safety, public order, public health or morals) or the rights and freedoms of others, and any restrictions must be necessary and proportionate to the aim sought. The UN Special Rapporteur on the rights to freedom of peaceful assembly and association has underlined that this means there must be a “pressing social need” for any interference in this right by states.<sup>10</sup>

Furthermore, the right to freedom of expression embraces even expressions that may be regarded as deeply offensive;<sup>11</sup> similarly the European Court of Human Rights has repeatedly ruled that it applies not only to “information and ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population.”<sup>12</sup> International human rights standards require states to exercise broadmindedness and to respect plurality.

The right to freedom of peaceful assembly is guaranteed by the Ukrainian constitution (Article 39), which requires that organizers notify local authorities of public events in advance and that this right can only be restricted “*in the interests of national security and public order, for the purpose of prevention of disturbances or crimes, protection of the health of the population, or protection of the rights and freedoms of other persons.*”

However, there are no other laws regulating freedom of assembly in Ukraine and consequently it is unclear what the procedures are for holding public demonstrations. In the absence of a national law on freedom of assembly, courts in Ukraine refer to local authority regulations or to the Decree of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics (USSR) of 28 July 1988 on the procedure for organising and holding meetings, rallies, street marches and demonstrations in the USSR. The Decree is not in line with international standards on freedom of assembly according to which state authorities should only be notified by the organizers of a peaceful assembly and not asked for an authorization and also contradicts the Constitution. It requires organizers to apply for permission, rather than notify the authorities, and requires that applications must be submitted 10 days in advance.

In April 2013 the European Court of Human Rights found that Oleksiy Vyerentsov had been deprived of his right to freedom of peaceful assembly when he was imprisoned in Lviv for three days in 2010 for breaching the procedure for holding and organizing a demonstration and for ignoring the demands of the police to stop the demonstration. The European Court deplored the absence of legislation on public events in Ukraine, and found that:

*“In the absence of clear and foreseeable legislation laying down the rules for the holding of peaceful demonstrations, his (Oleksiy Vyerentsov’s) punishment for breaching an inexistent procedure was incompatible with Article 7 of the Convention.” (No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed.)<sup>13</sup>*

In their annual report on the state of human rights in Ukraine in 2012 the Ukrainian Helsinki Union found that when local authorities applied to courts to bar specific peaceful assemblies from taking place, a very high percentage of such applications were successful. During the first half of 2012, 92.5 per cent of such applications by local authorities were successful, and in 2011 89.4 per cent were successful. Among the reasons given by courts for banning actions were the existence of simultaneous meetings, potential damage to public areas, traffic jams, interference in rest and leisure of the public, the fact that “not everyone shares the views expressed by the organizers.” International standards are clear that some disturbance to normal traffic flow must be expected with assemblies, and that this is not sufficient grounds to restrict peaceful gatherings. Further, authorities cannot restrict peaceful assembly solely with reference to public opinion of the organisers’ views.<sup>14</sup>

LGBTI activists very often find that their right to freedom of peaceful assembly is restricted. When faced with the threat of counter demonstrations by violent and vociferous religious and conservative activists, the police and local authorities often seek to try and discourage such demonstrations, rather than planning to protect the demonstrators from violence and abuse, and very often resort to the courts to ban them.

On 20 May 2012 LGBTI activists planned to hold the first ever Pride March in Kyiv. The event was called off just 30 minutes before it was due to start after police advised activists that “there will be victims on both sides”. The organiz-

ers reported negative attitudes from police officers, and a senior Kyiv police official reportedly told pride organizers that he was not prepared to put his officers in harm's way for the LGBTI community. This is contrary to the obligation of the police to ensure adequate police protection of the rights of participants to demonstrate peacefully. The lack of professionalism of the police by failing to adequately protect participants and organizers of Kyiv pride amounted to a violation of the participants' right to freedom of peaceful assembly.

Following the decision to cancel the event, the police took some measures to protect the LGBTI activists as they dispersed, but some people suffered physical attacks as described above.



Olena Shevchenko, the Head on Insight, at the public action on 8 December 2012 © Insight

## BANNED FOR BEING PROVOCATIVE

In December 2012 the LGBTI NGO Insight, notified the Kyiv authorities that they were going to hold a demonstration on Khreshchatyk street to protest against new draft legislation banning “propaganda of homosexuality”. The action was planned for 8 December, and on 7 December Olena Shevchenko, the Head of Insight, had a conversation with the Kyiv city authorities who advised her not to hold the demonstration. When challenged on the basis of the Constitution, the Kyiv authorities agreed with her arguments, but said that the demonstration would very probably not take place. Later that day Olena Shevchenko received a summons to the Kyiv Administrative Court, and found out that the police had applied to the court to ban the demonstration. During the court session, which started at 10pm, the judge ruled that the demonstration should not take place because:

*“the mass action may be viewed as provocative by conservative minded citizens and groups which could lead to the threat of conflict between the demonstrators and the conservative minded citizens and also with the police which could create a serious situation”*

Suspecting that the action may be banned by a court, and knowing that the court decision would apply to the precise location in the notification, Olena Shevchenko also notified the authorities during the afternoon of 7 December of another location. On the 8 December when the demonstrators arrived at the second location they found that the police were already at the location. Initially they surrounded the demonstrators, but a number of counter demonstrators were able to cross the police cordon, some by showing press cards, and some of them sprayed the demonstrators with tear gas from spray cans. The police arrested seven of the demonstrators and about five of the counter demonstrators. On 13 December 2012, Olena Shevchenko was convicted under Article 185-1 of the Administrative Code for “having violated the regulations for the conduct of meetings” and handed down a fine. Four of the other detainees were subsequently fined for hooliganism. At least one of the counter demonstrators was fined for hooliganism. Olena Shevchenko appealed against the conviction, but on 18 January 2013 the appeal court rejected her appeal.

The banning of LGBTI events and the inadequate police protection described above amounted to a violation of the rights to freedom of expression and freedom of peaceful assembly. Although security may be a legitimate aim for restricting such rights, in this case the Ukrainian authorities failed to demonstrate that the banning of the event was proportionate and necessary to achieve that aim. When the demonstration took place, they failed to protect the demonstrators from the counter demonstrators.

# RECOMMENDATIONS

Amnesty International calls on the Ukrainian government to:

## END HATE CRIME

- Ensure that public officials refrain from making negative statements about LGBTI people, or about consensual adult same-sex relationships, that may fuel discrimination, publicly acknowledge the seriousness of discrimination on grounds of sexual orientation and gender identity and the need to take concerted action to address it;
- Amend Article 1 in the Law "On Principles of Prevention and Combating Discrimination in Ukraine" to explicitly include sexual orientation and gender identity as prohibited grounds for discrimination;
- Amend article 161 of the Criminal Code so that any alleged hate motive, including those based on real or perceived sexual orientation and gender identity, associated with all crime is fully taken into account in the phases of investigation, prosecution and sentencing;
- Introduce policies and practices targeting law enforcement and judiciary authorities and aimed at ensuring that any alleged hate motive associated with all crimes, those based on real or perceived sexual orientation and gender identity, are promptly, thoroughly, effectively and impartially investigated and taken into account in the prosecution and sentencing;
- Ensure that specific initiatives are established to tackle discrimination and abuse against people because of their real or perceived sexual orientation and gender identity by the police, including awareness-raising measures and human rights trainings;
- Create a comprehensive data collection system for hate crimes that takes account of the specific discriminatory motive of such crimes at different levels including reporting, investigation, prosecution and sentencing;

## PROTECT THE RIGHT TO FREEDOM OF ASSEMBLY AND EXPRESSION WITHOUT DISCRIMINATION

- Immediately introduce legislation guaranteeing the right to freedom of peaceful assembly in accordance with international human rights standards;
- Guarantee that Ukraine's first LGBTI Pride March in Kyiv in May 2013 is allowed to take place without hindrance and with adequate police protection, to guarantee the rights to freedom of peaceful assembly and to freedom of expression without discrimination.

# END NOTES

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<sup>1</sup> See *L. and V. v. Austria* and subsequent decisions.

<sup>2</sup> See for example, *Young v. Australia*, Communication No. 941/2000, *Toonen v. Australia*, Communication No. 488/1992

<sup>3</sup> General Comment No. 20 CESCR, General comment No.20, on Non-Discrimination in Economic, Social and Cultural Rights (art. 2, para. 2).

<sup>4</sup> OSCE ODIHR : Hate Crime Laws: A Practical Guide, 2009 <http://www.osce.org/odihr/36426?download=true>

<sup>5</sup> See *Nachova and others v. Bulgaria*

<sup>6</sup> See *Šečić v. Croatia*.

<sup>7</sup> Recommendation CM/Rec(2010) 5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity, <https://wcd.coe.int/ViewDoc.jsp?id=1606669>

<sup>8</sup> See *Ukraine: Government must act to stop racial discrimination*, Amnesty International July 2008, <http://www.amnesty.org/en/library/info/EUR50/005/2008/en>

<sup>9</sup> See 'No Evidence of a Crime' – Paying the Price for Police Impunity, Amnesty International, October 2011, <http://www.amnesty.org/en/library/info/EUR50/009/2011/en>

<sup>10</sup> Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai: [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf)

<sup>11</sup> See UN Human Rights Committee General Comment 34, para. 11, <http://www2.ohchr.org/english/bodies/hrc/comments.htm>.

<sup>12</sup> See *Handyside v. the United Kingdom*, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57499#%22itemid%22:%22001-57499%22>].

<sup>13</sup> See *Vyerentsov v. Ukraine*, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-118393#%22itemid%22:%22001-118393%22>]

<sup>14</sup> OSCE ODIHR Guidelines on Freedom of Peaceful Assembly, 2007 <http://www.osce.org/odihr/24523>

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