



28th UPR – October 2017
Summary of Recommendations to Ukraine
By LGBT Association 'LIGA'

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Hate Crimes and Violence against the LGBT People

In 2015, Ukrainian police has registered 3 cases of physical assault on LGBT people, and the civil society has recorded 57 violent attacks and 2 threats based on bias on sexual orientation and gender identity. For example, perpetrators invite gay and bisexual men for a date and start videotaping them. Afterwards they blackmail the victim by threatening to share the video with the victims' friends, relatives or employers.

Many people are scared to report cases to the police, because of distrust LGBT have towards law enforcement officers. Most violence cases fall under the hooliganism law, because there is no legislation or article to protect the LGBT persons from hate crimes or hate-based violence specifically.

Recommendations:

1. **Enact legislation on hate crimes based on sexual orientation or gender identity and thoroughly investigate and prosecute all acts of violence against vulnerable groups, including lesbian, gay, bisexual, transgender and intersex persons.**
2. Ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence;
3. **Implement awareness programs and sensitivity trainings on violence and discrimination based on sexual orientation and gender identity to law enforcement, judicial and other authorities.**

Non-Discrimination

In May 2013, the government has adopted the Law of Ukraine on Principles of Preventing and Combatting Discrimination, which was amended and adopted in May 2014. Neither of the adoptions contains sexual orientation and gender identity as grounds for discrimination.

Despite recommendations contained in the 2000 PACE Recommendation No. 1474 "*Situation of lesbians and gays in Council of Europe member states*" and the 2010 Recommendation CM/Rec(2010)5 of the Committee of Ministers of the Council of Europe, as well as recommendations made to the Ukrainian government after previous UPR cycle, namely, (1) *enact legislation that explicitly protects LGBT persons from discrimination [...]*; (2) *adopt a comprehensive anti-discrimination law that addresses the worrying trend of incidents based on gender, sexual orientation, [...]*; (3) *implement the recommendation issued in 2010 by the Committee of Ministers of the Council of Europe on measures to combat discrimination based on sexual orientation or gender identity* none of these provisions presently provides for explicit

protection against discrimination on the grounds of sexual orientation and gender identity. Furthermore, the Ukrainian government persists in the opinion that sexual orientation and gender identity do not need a special mention as they are implied in the category “other grounds” in the principal legislation of Ukraine – the Constitution as well as the abovementioned anti-discrimination law.

Recommendations:

4. Include sexual orientation and gender identity into the list of characteristics under the article on prohibition of discrimination in the Constitution of Ukraine;
5. Implement human rights awareness and anti-discrimination education programs, particularly with respect to ending discrimination on the basis of sexual orientation

The Right for Registered Union and to Found a Family

The Family Code of Ukraine (art. 21) provides for marriage only between one man and one woman. Same-sex couples are deprived of any form of legal recognition and, thus, deprived of any rights as a family even if they cohabit and *de facto* constitute a family. The Code, while denying same-sex couples family rights, provides unmarried opposite-sex cohabitants with property rights (art. 74). In addition, same-sex couples are not allowed to jointly adopt children (art. 211 of the Code).

Ukrainian law does not recognize any parental or custodial rights and obligations for a partner in a same-sex couple in relation to the child of the other partner and prohibits second-parent adoption of the child. This amounts to restriction of the rights of the child and an unreasonable interference with private and family life by the government.

Recommendations:

6. Develop and adopt legislation to establish an officially recognized form of same-sex unions and provide same-sex partners with equal marital rights and obligations

The Right to Freedom of Association and Peaceful Assembly

In 2016, LIGA has conducted an analysis of the situation of the freedom of association and peaceful assembly of LGBT people in Ukraine. The analysis shows recent trends, especially after 2013, when local governments in different regions ban public events of the LGBT community (KyivPride 2013, banning bike rally in Mykolaiv in 2015, bans of Equality Festival in Lviv and equality march in Kherson in 2016).

A few cases happened in Mykolaiv back in 2008 and 2009 when the local court prohibited public actions for the International Day against Homophobia (IDAHO) of the LGBT Association ‘LIGA’.

Recommendations:

- 7. Ensure that human rights defenders, including groups campaigning for equality and against discrimination based on perceived sexual orientation and gender identity, are allowed to carry out their work, guarantee adequate protection, and ensure that the rights to freedom of expression and association are respected in line with international human rights standards.**