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27 February 2006

### UKR100976.E

Ukraine: Treatment of homosexuals in Kiev; availability of state protection for homosexuals in Kiev (February 2006)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

#### Societal Treatment of Homosexuals in Kiev

According to the executive director of the Kiev-based Ukrainian Helsinki Group for Human Rights (UHGHR), in Kiev, the population is generally divided into those people (usually older people) who reject homosexuality and discriminate against gays and lesbians, and those (most often younger people) who accept homosexuality and are tolerant of gays and lesbians (UHGHR 31 Jan. 2006). In the opinion of the programs director for Eastern Europe at the International Lesbian and Gay Association (ILGA), Ukrainian society is generally "homophobic," but attitudes towards homosexuals are improving (ILGA 2 Feb. 2006). Despite acknowledging that "aggressive homophobia has been gradually dwindling," Andrey Kravchuk, a member of Nash Mir (Our World) Gay and Lesbian Center, a Ukraine-based non-governmental organization, which is "working toward achieving comprehensive equality and social comfort for lesbians, gays, bisexuals and transgender people" in Ukraine (GlobalGayz.com n.d.) countered the idea of an improvement in society's attitudes towards homosexuals, and wrote about "the existence of militant homophobia and its inseparable connection with other forms of xenophobia" (Nash Mir 6 Oct. 2005).

Nash Mir conducted a study in 2005 on "discrimination [against] Ukrainian citizens on the basis of sexual orientation," which included the completion of 330 questionnaires and 575 interviews of members of the gay, lesbian, bisexual and transgender communities throughout Ukraine (ibid. 2005, 23). Approximately 70 per cent of all respondents were homosexuals (ibid., 31). One of Nash Mir's conclusions was that "[i]n general ... Ukrainians display rude and prejudiced behaviour towards others on the basis of sexual orientation" (ibid., 96). Furthermore, such behaviour occurred mainly at "the level of interpersonal interactions" (ibid., 40) and was encountered primarily in relations with, in descending order of frequency, family members, passers-by, friends, colleagues and police officials (ibid., 41). Nash Mir also found that nearly 60 per cent of all homosexual respondents had experienced prejudice or discrimination on the basis of sexual orientation (ibid., 31). In Kiev, where 11 per cent of all respondents resided (ibid. 2005, 25), this prejudice or discrimination against homosexuals was manifested in being asked to leave a restaurant (ibid., 81), being groundlessly evicted from place of residence (ibid., 76), being refused service (ibid., 77) and being physically assaulted (ibid., 72). Nash Mir also concluded that the less informed people are about the sexual orientation of a

given person, the less likely that person is to be subject to discrimination based on their sexual orientation (ibid., 27).

Several sources indicated that the most recent and prominent case of homosexual discrimination in Kiev was that of a homosexual student at the Interregional Academy of Human Resources (IAHR), who was expelled for "submitt[ing] an incomplete set of documents to the admissions office" after distributing leaflets encouraging homosexuals to be more open and asking other students to be more tolerant of homosexuals (ibid. 2005, 90; ibid. 26 Jan. 2006; ILGA 2 Feb. 2006; UHGHR 31 Jan. 2006). The leaflets also contained the telephone number of the college psychologist, who was asked to resign after refusing to submit a list of homosexual students to the president of the college (Nash Mir 2005, 91).

However, both Nash Mir and ILGA stated that the situation for gays and lesbians in Kiev is "better" than in other areas of Ukraine (ILGA 2 Feb. 2006; Nash Mir 26 Jan. 2006). Gays and lesbians "feel quite comfortable living, studying and working" there (ibid.) as there are several social clubs open to receiving homosexual clientele, "significant" action around HIV/AIDS prevention, general mobilization of both the gay and lesbian communities, and European Union-funded projects to combat discrimination against homosexuals in Ukraine carried out by gay and lesbian organizations (ILGA 2 Feb. 2006). In October 2005 in Kiev, Nash Mir hosted an international conference on issues surrounding sexual orientation (GlobalGayz.com n.d.), and although the coordinators had been worried about negative reactions from the government and society regarding this conference, neither government officials nor members of society expressed any opposition to the conference (Nash Mir 26 Jan. 2006).

Information on the lesbian community in Kiev was scarce among the sources consulted for this Response; however, the following information on treatment of lesbians in Ukraine may be helpful. A 2005 media article quoted a lesbian activist as stating that "[p]eople [in Ukraine] are not tolerant of minorities" and lesbians are "totally excluded from Ukrainian politics" (*The Gully* 28 Jan. 2005). Similarly, in its 2002 study entitled "Byt' lesbiyankoy v Ukraine" (Being a Lesbian in Ukraine), Zhenskaya Set' (Women's Network), "the only ... women's organization ... or project ... in Ukraine that focus[es] on lesbian women's problems from the position of human rights and gender equality" (Zhenskaya Set' n.d.), concluded that "Ukrainian society is homophobic; it accepts lesbians until their identities are disclosed. In [the] case of disclosure, lesbians face various social sancations (e.g. violence, psychological pressure, material pressure)" (ibid. 2002b). Zhenskaya Set' also concluded that lesbian communities in Ukraine are diverse, and have had different experiences (ibid.). They face both tolerant and intolerant attitudes at work, with the most tolerant workplaces being international companies, enterprises with young personnel, and organizations associated with the arts and journalism (ibid. 2002a, 29). The study documented one case of a lesbian journalist who worked at a "western" organization in Kiev, and who responded that most of her colleagues were informed about her sexual orientation and that all colleagues treated her well (ibid.).

### **Treatment of Homosexuals in Kiev by State Authorities**

According to an undated Gay.ru report, "gays in Kiev remain exposed to the arbitrary rule of the power[s]-[that]-be as the recent police raid on a gay club demonstrated" (Gay.ru n.d.).

In its 2005 study, Nash Mir found that

[o]ne of the areas where the out [gay lesbian bisexual transgender] society most frequently encounters discrimination is with law enforcement agencies. Of 283 respondents who recognized they had encounters with law enforcement over the past few years, 61.5% noted some violation of their rights (Nash Mir 2005, 35).

Furthermore, the "most typical violations are violations of procedure during interrogation, [such as being asked to] draw ... up ... lists of other people of homosexual orientation, ... [and] the use of torture during interrogation" (ibid., 36). Nash Mir documented one case in Kiev, in which two homosexual men were physically assaulted (ibid., 72). When the men reported this incident to the police, the police ridiculed them, held them in a holding cell for approximately 14 hours and revealed the sexual orientation of one of the men to his father, who the police had summoned to the police station (ibid.).

Several sources consulted for this Response indicated that the police in Ukraine maintain files with information on people of homosexual orientation (ibid.; ibid. n.d.b; ILGA 2 Feb. 2006; Nash Mir 2005; ibid. n.d.; KHPG 1 Feb. 2006), though only one source stated that such files existed in Kiev (ibid.). Although these sources had not seen any such files themselves, they believed them to contain the names, addresses (ILGA 2 Feb. 2006; UHGHR 31 Jan. 2006) and photographs of homosexuals (ibid.; Nash Mir n.d.b). UHGHR explained that such files exist because the authorities consider homosexuals "socially dangerous," a notion which stems from the perception that homosexuals are linked to narcotics and prostitutes (UHGHR 31 Jan. 2006). Similarly, ILGA stated that the police consider homosexuals a threat to national security (ILGA 2 Feb. 2006). Furthermore, in an essay on lesbian identity in Ukraine, representatives of the Kievskaya Laboratoriya Gendera (Kiev Laboratory of Gender) explained that despite being legal, homosexuality is "presented as a social deviation that threatens the Ukrainian state" (KLG 2003, 12).

According to the ILGA, the police have used files on homosexuals to intimidate the homosexual community in Ukraine (ILGA 2 Feb. 2006). Corroborating information on the use of such files in Kiev could not be found among the sources consulted for this Response. However, the following information regarding the use of such files in other areas of Ukraine may be helpful.

ILGA explained that persons on the police authorities' lists of homosexuals have been summoned to police stations without reason and have been interrogated, fingerprinted and photographed (ibid.). They have also allegedly been blackmailed by police who reportedly have threatened to reveal their sexual orientation to members of the general community (ibid.). ILGA explained that the police in eastern Europe "enjoy harassing" homosexuals since they are considered to be of a lower class than the rest of the population (ibid.). According to ILGA, those who have developed a gay or lesbian identity and are part of the homosexual community are less vulnerable to such treatment than are those who have not yet revealed their sexual orientation but who are suspected of being homosexual (ibid.).

Similarly, in the report on their study " Byt' Lesbiyankoy v Ukraine ", Zhenskaya Set' printed part of an interview with a lesbian who described the police harassment she experienced in Dnepropetrovsk (Zhenskaya Set' 2002a,

27). The woman was apparently brought to the police station without reason, where she was kept from morning to evening, and threatened and interrogated about her sexual orientation, and about a recent murder (ibid.). This woman also revealed that other homosexuals in Dnepropetrovsk had been detained for three days, forced to sign confessions, fingerprinted, recorded on video and photographed (ibid.). This information was corroborated by a Nash Mir news article (Nash Mir n.d.b).

ILGA stated in a telephone interview with the Research Directorate that although the police know the addresses of social clubs that admit homosexual clientele and the locations of meeting places for homosexuals in Kiev, these venues are able to operate openly, and the police do not harass the owners of these venues (ILGA 2 Feb. 2006).

### **State Protection of Homosexuals in Kiev**

The student of the Interregional Academy of Human Resources (IAHR) who was expelled from IAHR after distributing leaflets promoting tolerance towards and equal treatment of homosexuals, filed a lawsuit against the college requesting reinstatement as a student (ibid. 2005, 91). The court ultimately recognized his dismissal as illegal, and the student was awarded monetary compensation (ibid. 26 Jan. 2006; ibid. 12 Aug. 2005; ibid. 2005, 91), as well as the right to return to the college (ibid. 12 Aug. 2005; ILGA 2 Feb. 2006; UHGHR 31 Jan. 2006). However, the student refused to return to the college (ibid.; Nash Mir 12 Aug. 2005) on account of openly negative and prejudiced treatment from administrative personnel (ibid.).

According to Nash Mir, such cases are not always successful (ibid. 2005, 44). As well,

[e]ffective mechanisms ... within Ukraine for the protection [of] the rights of people with non-traditional sexual orientation are virtually non-existent, and, as a result, in more than a third of the cases of discrimination against [gays, lesbians, bisexuals and transgender people], even if they try to take action, any attempt to stand up for their rights is unsuccessful (ibid. 2005, 44).

Nash Mir contends the situation is further complicated since Ukrainian legislation lacks a definition of the term "sexual orientation" (ibid., 64), and as a result, "there are insufficient procedures within existing Ukrainian legislation for the protection or the restitution of violated rights of members of [the gay, lesbian, bisexual and transgender] community" (Nash Mir 2005, 66).

According to ILGA, many homosexuals abstain from reporting cases of harassment, discrimination or assault to the police since such reports entail revealing their sexual orientation, and since there is general mistrust of the police in Ukraine (ILGA 2 Feb. 2006). In the opinion of Nash Mir, police for the most part treat homosexuals claiming to be victims of a crime as such, and follow the required procedures for conducting an investigation (Nash Mir 26 Jan. 2006). Furthermore, the sexual orientation of a complainant does not usually affect the timing and quality of the police response, though there have, nevertheless, been incidents of police refusing to help or failing to follow the required procedures reportedly because of the sexual orientation of the complainant (ibid.).

Homosexuals may file reports of violations against them with the national

ombudsman (ILGA 2 Feb. 2006). However, according to ILGA, since approximately 2000, the gay and lesbian communities in Ukraine have submitted a number of complaints to the ombudsman, but the office has failed to take action on them (ibid.). Nash Mir stated, though, that since 2003, the issues of homosexuals in Ukraine have been included in the annual report of the ombudsman to the Ukrainian parliament (Nash Mir 26 Jan. 2006).

Homosexuals in Kiev may appeal to Nash Mir (ILGA 2 Feb. 2006) or to UHGHR (UHGHR n.d.) for protection with regard to violations they believe they have suffered. Nash Mir provided legal and moral support to the abovementioned expelled student (Nash Mir 12 Aug. 2005), and also provides victims with psychological support and counselling on sexual orientation (ibid. n.d.a).

### **Attempts by Homosexuals to Seek Protection**

In its 2005 study, Nash Mir found that nearly half of those homosexuals who believed their rights had been violated tried to seek protection, while the other half took no action to address the perceived violation of their rights (ibid. 2005, 42). According to Nash Mir, "[m]any respondents answered that they felt there was no point in taking action, or that they did not know to whom to appeal for the rectification of the situation" (ibid., 43). Of those who sought restitution, approximately 20 per cent applied to the police, 10 per cent applied to the establishment or enterprise that had violated their rights, 11 per cent filed a lawsuit or a complaint, almost 10 per cent appealed to "social organizations" and 27 per cent employed "other methods," including physical violence, persuasion and avoidance (ibid. 2005, 42-43). Nash Mir concluded that "it is obvious that not everyone is aware of the existence of [social] organizations or the services they offer" (ibid., 42). As a result, cases of ill-treatment of homosexuals are undocumented and therefore not discussed (ILGA 2 Feb. 2006). UHGHR also commented that acts of discrimination against gays and lesbians in Ukraine are rarely documented or publicized (UHGHR 31 Jan. 2006).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

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#### Additional Sources Consulted

**Oral sources:** Several unsuccessful attempts were made to contact the Gender Laboratory in Kiev and the Ukrainian Gay and Lesbian Association in Odessa.

**Internet sources, including:** Amnesty International; Amnesty International Lesbian, Gay, Bisexual and Transgender Network; British Broadcasting Corporation (BBC); *Country Reports on Human Rights Practices*; Courier International; European Country of Origin Information Network (ECOI); Factiva; Freedom House; Gay Forum Ukraine; *Gay, Lesbian, Bisexual, Transgender (GLBT) World Wide News Digest* [Toledo, Ohio]; Gay and Lesbian Review Worldwide; Gay.org.ua; Human Rights First; Human Rights Watch; Ingenta; International Committee of the Red Cross; International Gay and Lesbian Human Rights Association; International Helsinki Federation for Human Rights; International Lesbian and Gay Association of Europe; Lesbi.org.ua; *No Nonsense Guide to Sexual Diversity*; Radio Free Europe/Radio Liberty; Ukrainian Gay and Lesbian Association; Ukrainian Journal; *Zerkalo Nedeli* [Kiev, Ukraine].

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