

PUBLIC

AI Index:

EUR 50/06/99

Date:

29 June 1999

## UKRAINE: OFFICIAL PERSECUTION OF GAY AND LESBIAN CENTRE *NASH MIR (OUR WORLD)*

According to *Nash Mir* (Our World) Gay and Lesbian Centre, a non-governmental Ukrainian organization, it applied for official recognition as a public organization on 6 January 1999. All relevant documents required for legalization were submitted by the three co-founders of the organization to the Regional Department of Justice in the Lugansk Region of Ukraine.

Amnesty International is further informed that on 11 March 1999 two co-founders of the *Nash Mir* Centre were told at the Legal Information Department of the Regional Department of Justice of the Lugansk Region that their documents had been forwarded to the Ukrainian Ministry of Justice for further consideration and that registration had been postponed until a decision is reached at the Ministry of Justice.

Amnesty International wrote to the Ministry of Justice of Ukraine on 18 March 1999, stating the concern that if the Ministry of Justice decides not to recognize and register the *Nash Mir* Centre as an official public organization, based on the sexual orientation of its members, their further activities would be considered illegal under the provisions of Article 27(3) of the Ukrainian Law Concerning Citizen's Associations and such activities would be subject to criminal prosecution under Article 187(8) of the Criminal Code of Ukraine, which carries a punishment of up to five years' imprisonment. Article 187(8) (Infringement of the law of citizens' associations) states: "The leaders of a citizens' association that was not registered in a legal way or was denied registration, or that was forcibly disbanded under court decision yet carries on activity, as well as the very participation in the activity of such associations that took place during a year after imposition of administrative sanctions for the same offences - are punishable with imprisonment for the term up to five years".

Amnesty International received a reply from the Ministry of Justice of Ukraine, dated 5 April 1999. The letter reads:

*"The Ministry of Justice of Ukraine has examined your letter regarding the registration by the Lugansk Justice Directorate of the 'Our World' centre as a town public organization and wishes to state as follows:*

*"Article 36 of the Constitution of Ukraine guarantees the citizens of Ukraine the right to freedom of Association in political parties and civil organization for the realization and*

*protection of their rights and freedoms and the enjoyment of political, economic, social, cultural and other interests with the exception of restrictions imposed by law in the interest of national security and public order; health considerations of the population and the protection of the interests of the rights and freedoms of other people.*

*"Besides, according to Article 3 of the 'Law on the Association of Citizens', a public organization is an association of citizens for the enjoyment and protection of their lawful social, economic, literary, secular, national-cultural, sport and other social interests.*

*"It is evident from the aims of the work of 'Our World' centre that it is protecting the human rights and freedoms of homosexuals, the improvement of their legal protection in the country, but not just the rights and freedoms of members of this centre which is contrary to the above-mentioned Law.*

*"In the event of the aims of 'Our World' centre being brought into conformity with the Law of Ukraine 'On the Association of citizens', the Lugansky Justice Directorate shall consider the issue of registering 'Our World' centre.*

*"For your information, we wish to let you know that the all-Ukrainian public organization 'Hanimed', whose objectives are to assist in the study of the issue of male and female homosexuality, was registered at the Ministry of Justice on 13 May 1994.*

*"L.M. Gorbunova  
Deputy Minister"*

Subsequently, on 23 April 1999, *Nash Mir* received official confirmation that their request for registration as a public organization had been turned down by the Lugansk Regional Department of Justice. The official denial stated that:

*"...a purpose of the public organization - assistance for improvement of the social and psychological state of people of homosexual orientation and simultaneous reduction of the social tension towards this group of people in Ukrainian society - does not meet the requirements of the law currently in force, namely Article 3 of the Law of Ukraine 'About citizen's associations'".*

*Nash Mir* maintains that the denial of registration has no basis in law and is in fact due to lack of willingness to recognize an organization that works for the rights of gays and lesbians.

It was reported to Amnesty International that the two members of the *Nash Mir* Gay and Lesbian Centre on one of their visits to the Regional Department of Justice in Lugansk were allegedly shown a letter (No. 1/12-311 of 2 March 1999) by one of the officials, V.N. Chikun, head of the Legal Information Department, which he told them was sent to the Ministry of Justice regarding the registration of the *Nash Mir* Centre. The letter allegedly requested the Ministry of Justice "to decide upon the legality of citizens with an anomalous sexual orientation", in order to establish whether registration of the organization could be granted. Amnesty International is concerned that such alleged statements by government bodies and officials in Ukraine appear to discriminate against a group of citizens only on the basis of their sexual orientation.

Amnesty International considers that official persecution of people based solely on their sexual orientation or the use of "sodomy" laws in different countries to detain and imprison gay men and lesbian women is a grave violation of human rights, including the rights to privacy, to freedom from discrimination and freedom of expression and association, protected in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR), to which Ukraine is bound as a successor state of the USSR.

Amnesty International is concerned that such statements by Ukrainian government officials are also in contradiction to Ukrainian national laws. We would like to remind the

government of Ukraine that Article 122(1) of the Criminal Code of Ukraine was abolished in December 1991 and Ukraine became the first state among the former Soviet Union republics to decriminalize consensual same-sex relations in private between adult men.

According to our information, *Nash Mir* Centre is the first of its kind in Ukraine supporting the human rights of gay men and lesbian women. In August 1998 the Dutch Section of Amnesty International invited representatives of the *Nash Mir* Gay and Lesbian Centre of Lugansk to Amsterdam, in order to learn more about the human rights situation of lesbian women and gay men in Ukraine.

**Amnesty International's recommendations:**

- ↯ Amnesty International is calling on the Ukrainian Ministry of Justice to take all measures in its power to ensure that the *Nash Mir* Gay and Lesbian Centre in Lugansk is registered as an official non-governmental organization, in accordance with the requirements of international law concerning the right to freedom of association. Given the authorities refusal to recognise *Nash Mir* as an official organization, Amnesty International will consider as a prisoner of conscience any member of *Nash Mir* Gay and Lesbian Centre who may be detained and charged under Article 187(8) of the Ukrainian Criminal Code for peacefully exercising their right to freedom of association.
- ↯ Amnesty International is urging the Ukrainian authorities to ensure that nobody in Ukraine in the future is subjected to persecution based on their sexual orientation, in accordance with Article 26 of the ICCPR, which states: "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". In March 1994 the Human Rights Committee, created by the ICCPR to oversee states parties' adherence to their obligations under the Covenant, noted that, in its view, the prohibition of discrimination on grounds of "sex" referred to in Articles 2 and 26 of the ICCPR "is to be taken as including sexual orientation".