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For immediate release

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## **Ukrainian authorities try to smother newspaper for sexual minorities**

### **PRESS-RELEASE**

Since 2003 Nash Mir has continuously published *Gay.Ua* newspaper, a unique periodical for gays and lesbians throughout Ukraine. The newspaper is registered as an "information, for leisure, and erotic" edition. *Gay.Ua* publishes articles about the life of homosexuals, provides legal and psychological counseling, places personals from gays and lesbians, and also has erotic pictures and articles. This newspaper is the only one for sexual minorities in Ukraine, and has been well-received and praised by its readers.

The newspaper is distributed mainly to readers within gay-community. In a focused way, it addresses the needs of subscribers who require such specialized information. *Gay.Ua* is not accessible nor intended for wider readership.

In December 2007 the National Expert Commission of Ukraine on the Issues of Public Morality (operating in accordance with Law of Ukraine "About protection of public morality"), made a ruling that *Gay.Ua* newspaper is a 'pornographic' product. According to the National Expert Commission, a picture of an adult man with erected penis and a story on a sexual subject are pornography.

Nash Mir tried to contest the ruling of the National Expert Commission in a judicial order. During 2007 we submitted 8 lawsuits and complaints. Our arguments are based on the premise that Constitution of Ukraine does not foresee prohibition of circulation of erotic (or pornographic) products in Ukraine. Thus, norms of Law "About protection of public morality" as well as a criminal Article on distribution of pornography are unconstitutional. These baseless and insupportable legislative 'norms' violate the received and established right of freedom of speech and free access to information.

However, not one court accepted a consideration of our lawsuit's basis: referring to various and contradictory norms of legislation. This recurrently proved the ineffectiveness of the juridical system of Ukraine and the unwillingness of judges to deal with a 'dubious' issue. Nor have instances of our appeals at the supreme juridical levels, including Constitutional Court and Supreme Court of Ukraine, brought any results.

At the same time, at newspaper kiosks a person can readily buy print media materials – for heterosexual men – containing various erotic information, including explicit female photos and sexual articles. These outlets have an "OK" from National Expert Commission. Is it possible that this type of material when published through heterosexual outlets is erotica, but when published in *Gay.Ua* newspaper for gays – is misjudged as pornography?! The conclusion is evident: factual prohibition of publication of the unique newspaper for gays *Gay.Ua* is clearly discriminatory towards its editorial staff and readers.

Recently Ukrainian authorities pressed their attack, aiming to smother the newspaper and punish its editorial staff. On February 22, 2008 Kyiv Office of Public Prosecutor instigated a criminal case "on the fact of distribution of pornography" against the staff of Nash Mir Center. They impute a prior compact for publishing and distribution of pornographic products that falls under action of part 3 of Article 301 of the Criminal Code of Ukraine which foresees imprisonment of from 3 to 7 years.

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By comparison, in modern civilized countries the products of erotic (or, depending on definitions, pornographic) character have rights to existence, although the legislation regulates the sphere of its distribution. The decisions of the European Court on Human Rights showed that adult citizens are capable and can determine for themselves what is acceptable for their morality.

In the case of Ukraine the state continues to interfere in the private life of citizens. Moreover, it pursues a discriminatory policy in regard to one of the most vulnerable groups of the population – people of homosexual orientation. This conclusion arises not only in connection with situations around *Gay.Ua*. In Ukraine one can hear homophobic statements by politicians, and anti-gay demarches of religious fanatics. Discrimination towards gays and lesbians is widespread – all this being done with the secret support or connivance of those in power.

We call for Ukrainian authorities to close the ill-considered criminal case against the editorial staff of *Gay.Ua* and to stop putting pressure upon this newspaper. We address Ukrainian and international human rights organizations with a strong appeal for them to come forward at once in protecting the editorial staff of *Gay.Ua* newspaper in the continuing performance of its necessary and legal activities.

Additional information could be found at <http://www.gay.org.ua/gayua/>

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Nash Mir Center is the oldest Ukrainian human rights organization, advocating the rights of lesbian, gay, bisexual and transgender people in Ukraine, and providing them various legal, social, psychological, information counseling and support. We stand up for building a modern European state with equal rights for all citizens in Ukraine.

Please send your letters of protest to:

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