

OPEN LETTER TO THE GOVERNMENT OF UKRAINE REGARDING POLICE INTIMIDATION AND ABUSE OF SEX WORKERS IN KIROVOGRAD, UKRAINE AND THE ILLEGAL ARREST AND DETENTION OF AN OUTREACH WORKER IN KIROVOGRAD, UKRAINE IN SEPTEMBER 2009

January 2010

Mr. Lutsenko Yurii, Minister of the Interior of Ukraine
Mrs. Karpacheva Nina, Commissioner on Human Rights at High Rada of Ukraine

Dear Minister and Commissioner:

The undersigned, supporters and representatives of sex workers and organizations and individuals advocating for human rights, strongly condemn the police intimidation and abuse that sex workers are currently facing in Kirovograd, Ukraine. We also denounce the illegal arrest and detention of Natalia Isaeva, an outreach worker at Return to Life, and are deeply concerned by reports that the anti-trafficking department has since publicized her personal health information without her consent.

Background

On the afternoon of 10 September 2009, Natalia Isaeva, an outreach worker for Return to Life, an organization offering services to sex workers, was arrested, detained and threatened by three police officers Alexandr Gonchar, Roman Vysokovskii and Vitalii Ivanchenko in Kirovograd, Ukraine, ostensibly because of her first-hand knowledge of police violence and extortion against sex workers in Kirovograd.

Upon her arrest, Natalia was transported to the local anti-trafficking department where those officers searched her bags, accessed her mobile phone and contacted individuals whose telephone numbers were recorded in her notebooks. The police carried this out without informing Natalia why she was being detained, registering her detention, or allowing her access to a lawyer. During the entire period of her detention, only one other witness, a staff member of the anti-trafficking department, was present.

While detained, the police officers refused to allow Natalia to sit, verbally abused her, accused her of prostitution, and pressured her to provide information about individuals who provide sex services in Kirovograd. Natalia was further pressured to sign an administrative protocol confessing to prostitution. When she refused, the officers threatened Natalia with criminal charges for pimping, punishable for between two and seven years imprisonment. After several hours, Natalia was not charged with any offence and was released that evening.

The following day, Natalia filed a formal complaint with the Department of Homeland Security of the Ministry of the Interior of Kirovograd region and the Prosecutor's Office of Kirovograd about her illegal arrest and detention. She has yet to receive any resolution to the complaint, such as a formal apology. While the anti-trafficking department has not been able to substantiate any charges against Natalia, it has resorted to publicizing her personal health information in Kirovograd.

Natalia believes she was arrested and detained because she had previously observed the three police officers who arrested her regularly extort money from sex workers in Kirovograd and

force them to sign administrative protocols confessing to prostitution. Women who refused to pay were subject to violence and faced fabricated criminal and administrative charges. Not an isolated incident, the practice of Ukrainian police engaging in extortion and bribery of sex workers in Lvov region, Ukraine has been reported by the Ukrainian media.¹

In particular, Natalia suspects those officers' involvement in the death of Yulia, a sex worker who had participated in outreach work with Return to Life and who had refused to submit to police extortion, culminating in a public argument with the three officers.² On the night of her death, she is reported to have said to an employee of a bar where she was at that she had been raped by the police. Yulia was found dead in the summer of 2008. The police concluded she had committed suicide.

Because the sex worker community in Kirovograd suspect Yulia's death is connected with local police extortion, sex workers have become even more fearful of police violence. As a result, they have continued to pay the police and are reluctant to make complaints about police mistreatment.

Human rights and public health concerns

The actions of police officers and the government towards sex workers in Kirovograd, Ukraine are blatant violations of human rights protected under Ukrainian and international law and are inconsistent with sound, ethical public health practice.

The *International Covenant on Civil and Political Rights* (Article 9), the *European Convention on Human Rights* (Article 5) and the *Constitution of Ukraine* (Article 29) prohibit the state and its officials from engaging in **arbitrary arrest or detention**. State actors are not permitted to deprive anyone of her liberty except on such grounds and in accordance with such procedure as are established by law. Moreover, individuals who have been arrested or detained also have the right to be informed, at the time of arrest, of the reasons for their arrest as well as of any charges against them. The police in this case clearly contravened Natalia's right to liberty by arresting and detaining her without legal grounds, and further violated Natalia's rights to be informed of the reason for her arrest and detention, to be apprised of her rights, and to have access to a lawyer.

Both the *International Covenant on Civil and Political Rights* (Article 7) and the *European Convention on Human Rights* (Article 3) prohibit the state and its officials from engaging in **inhuman or degrading treatment or punishment**, as does the U.N. *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Article 16). These prohibitions encompass not only acts that cause physical pain, but also those that cause mental suffering to the victim.³ There is no permissible limitation on the right to be free from inhuman or degrading treatment or punishment. Similarly, the *Constitution of Ukraine* guarantees the right to dignity and prohibits torture, cruel, inhuman or degrading treatment or punishment (Article 28). The conduct of police in this case, encompassing their humiliation of Natalia and their threat to lay false criminal charges against her, constitute the intentional

¹ "V Lvove militsionery usilenno zanimaytsya seksom," *UA Reporter.com*, 12 December 2009. Accessible via www.ua-reporter.com/novosti/71628.

² To protect the privacy of her family, Yulia's last name will remain confidential.

³ U.N. Human Rights Committee, General Comment 20: Article 7 (prohibition of torture and cruel, inhuman or degrading treatment or punishment), 1992.

infliction of mental suffering. As such, it violated her right to dignity and right to be free from degrading treatment and punishment.

The conduct of the anti-trafficking department further violated Natalia's **right to privacy**. The *International Covenant on Civil and Political Rights* (Article 17) prohibits arbitrary interference with a person's privacy. The *International Covenant on Economic, Social and Cultural Rights* (Article 12) guarantees protection of the confidentiality of personal health information, as part of the right to the highest attainable standard of health. The *European Convention on Human Rights* (Article 8) guarantees the right to respect for private and family life, and further prohibits any public authority from interfering with this right except as is necessary in a democratic society in order to achieve such objectives as protection of health or protection of the rights and freedoms of others. The *Constitution of Ukraine* guarantees the protection of personal and family life (Article 32), and further guarantees that "the collection, storage, use and dissemination of confidential information about a person without his or her consent shall not be permitted, except in cases determined by law, and only in the interests of national security, economic welfare and human rights." (Article 32).

Disclosing Natalia's personal health information without her consent was a violation of her right to privacy and exposes her to potential stigma, discrimination and violence. Such an excessive invasion of privacy served no legitimate objective and was presumably motivated by the intention to alienate and silence Natalia, given her knowledge of extensive police abuse and possible involvement in the murder of Yulia.

In Kirovograd, Ukraine, it is clear that police abuse the fact there are criminal charges for involvement in prostitution to engage in extortion of, discrimination against and abuse of sex workers. This is particularly the case when police enjoy impunity for abuses against sex workers.

In recent research conducted by the Sex Workers' Advocacy Network of Central and Eastern Europe and Central Asia (SWAN), sex workers in Ukraine reported extremely high rates of physical abuse and sexual assault by police, and only 15 per cent of the sex workers interviewed felt they could report violence against them to the police.⁴

International health and human rights bodies have acknowledged that criminalizing sex workers can increase their risks of HIV and other sexually transmitted infections by driving sex work underground and limiting the choice of working conditions and the choice of clients. This has been noted by the Office of the U.N. High Commissioner for Human Rights and UNAIDS in the *International Guidelines on HIV/AIDS and Human Rights*, in which they recommend to governments that,

[w]ith regard to adult sex work that involves no victimization, criminal law should be reviewed with the aim of decriminalizing, then legally regulating occupational health and safety conditions to protect sex workers and their clients, including support for safe sex during sex work. Criminal law should

⁴ Sex Workers' Advocacy Network of Central and Eastern Europe and Central Asia, *Arrest the Violence: Human rights abuses against sex workers in Central and Eastern Europe and Central Asia*, report forthcoming 2009.

not impede provision of HIV prevention and care services to sex workers and their clients.⁵

All people, including sex workers, are entitled to their basic human rights, including the rights to freedom of expression and association (*International Covenant on Civil and Political Rights*, Articles 19 and 22) and the rights to the highest attainable standard of health and to safe and healthy working conditions (*International Covenant on Economic, Social and Cultural Rights*, Articles 6, 7 and 12). The *Constitution of Ukraine* recognizes a number of these rights and further stipulates that all Ukrainians “are free and equal in their dignity and rights.” (Article 21).

Police extortion of and violence against sex workers fuels the widespread stigmatization and demonization of sex workers, contributing to a climate that only encourages further abuse and violence, and in some cases, may lead to sex workers’ death. Furthermore, police targeting of sex workers contributes to higher HIV risk in many ways, such as making sex workers reluctant to carry condoms if these will be used as evidence to support prostitution charges, forcing sex workers to rush negotiations with clients which can lead to unsafe sex, or compelling sex workers to accept unsafe sex demanded by clients in order to pay off fines or respond to police extortion.

The actions of the police and the anti-trafficking department of the Ministry of the Interior in Kirovograd and Kirovograd region — extortion, violence, criminal prosecutions and violation of privacy — undermine not only sex workers’ basic human rights but also public health objectives, by impeding voluntary testing for HIV and by increasing stigma and discrimination against those most vulnerable to sexually transmitted infections.

Action needed now

Therefore, we call upon the Ukrainian Government to:

- investigate the causes, procedures and consequences of the arrest and detention of Natalia Isaeva and ensure those responsible are held accountable for her illegal arrest and detention;
- investigate the anti-trafficking department’s disclosure of Natalia’s personal health information and ensure that policies are in place to prevent and punish future disclosure of confidential health information;
- ensure the physical safety of Natalia Isaeva;
- investigate the allegations of police abuse and intimidation of sex workers in Kirovograd, Ukraine and ensure those responsible for such abuse and intimidation are held accountable;
- ensure, on an ongoing basis, that incidents of violence or mistreatment of sex workers, including by police, are actively investigated and the perpetrators sanctioned appropriately; and

⁵ Office of the High Commissioner for Human Rights and UNAIDS, *International Guidelines on HIV/AIDS and Human Rights, consolidated version*, 2006, para 8(c).

- re-examine criminal laws on sex work with a view to their human rights implications and in the context of evidence that they affect health and human rights.

Sincerely,

1. SWAN – Sex Workers’ Rights Network in Eastern and Central Europe and Central Asia
2. Aksion Plus, Albania
3. HESED, Bulgaria
4. Rozkos bez Rizika, Czech Republic
5. MPEE, Hungary
6. KOVCHEG, Kazakhstan
7. Tais Plu, Kyrgyzstan
8. DIA+LOGS, Latvia
9. Coalition «I Can Live», Lithuania
10. HOPS, Macedonia
11. STAR – Association for Sex Workers’ Rights, Macedonia
12. Juventas, Montenegro
13. Humanitarian Action, Russia
14. Siberian Initiative, Russia
15. JAZAS, Serbia
16. Odysseus, Slovakia
17. Ukrainian Harm Reduction Association (UHRA), Ukraine
18. Charity organization League Legalife, Ukraine
19. Charity Foundation “Drop-in Center”, Ukraine
20. STRASS, Syndicat du TRAvail Sexuel, France
21. Prostitution Alternatives Counselling & Education (PACE) Society, Canada
22. TAMPEP International Foundation, the Netherlands
23. Global Working Group on HIV and Sex Work Policy, UK
24. Global Network of Sex Work Projects, UK
25. Scottish Prostitutes Education Project, UK
26. International Committee on the Rights of Sex Workers in Europe (ICRSE), the Netherlands
27. Health and Human Rights Division, Human Rights Watch
28. Canadian HIV/AIDS Legal Network, Canada
29. Amnesty for Women, Germany
30. SIO (Sex workers Interest Organization), Denmark
31. Network of Sex Work Projects, UK
32. CARS –Center of AIDS Prevention and Vulnerable Groups, Slovenia
33. Dusan Nolimal, MD. MSPH, national consultant on public healthcare, Slovenia
34. Kirovograd regional charity organization “Open Heart” (“Otkrytoe Serdce”), Ukraine
35. Civil organization “Ruh” , Ukraine
36. “HIV Community in Uzbekistan”, Uzbekistan
37. "Legal Development and Democracy", Azerbaijan
38. Women's Organisation Network for Human Rights Advocacy (WONETHA), Uganda
39. Orel regional civil organization “Fenix Plus” – Russian Association of people with HIV, Russia
40. Kazakh Association “Ravny Ravnomu”, Kazakhstan

41. Legal rights center for LG “Our World, Ukraine
42. Carla Corso, Pia Covre – founders of «Committee for the Civil Rights of Prostitutes», Italy
43. LEFÖ/TAMPEP, Austria
44. The Canadian AIDS Treatment Information Exchange, Canada
45. ProCoRé (prostitution, collectif, réflexion), Switzerland
46. PASTT, France
47. Stella, Canada
48. IUSW (the International Union of Sex Workers)
49. Ionie Whorms, Marginalize and At-Risk population advocate, Jamaica
50. Ambassadors of Change -Ngo from Nakuru, Kenia
51. “USER”, Ukraine
52. World Care Council, France, India, Congo
53. Crimean national unit of “USER”, Ukraine
54. Sampada Grameen Mahila Sanstha (SANGRAM), India
55. Veshya Anyay Mukti Parishad (VAMP), India
56. menZDRAV Foundation - Center for social development and men's health support Foundation, Russia
57. Hungarian Civil Liberties Union, Hungary
58. Association of users of Substitution Therapy Treatment, Ukraine
59. Virtus, Ukraine
60. Sex Workers' Outreach Project-Las Vegas, USA
61. SWOP-Tucson, USA
62. Donetsk regional center “Iskra”, Ukraine
63. Charity Foundation “Ukrainian Network of People living with HIV/AIDS”, Ukraine
64. Jill McCracken PhD, University of South Florida, USA
65. Desiree Alliance, USA
66. Sex Workers Outreach Project USA, USA
67. Asociación de trabajadoras sexuales "Miluska Vida y Dignidad", Peru
68. SWOP, Sex Workers Outreach Project-EAST, USA
69. SWOP-New York City, USA
70. The Center for Women's Global Leadership (CWGL)
71. Best Practices Policy Project (BPPP), USA
72. ASTITVA - An organisation for the Support & Development of Sexual Minorities, India
73. Stepping Stone, Canada
74. The Latin American and Caribbean Network of Sex Workers, Latin America and the Caribbean
75. Council of Altai regional human rights organization “FORPOST”, Russia
76. Dr Anna Shakarishvili, UNAIDS-Ukraine Coordinator
77. Asia-Pacific Network of Sex Workers, Asia Pacific
78. Club "Svitanok", Ukraine
79. RFSU (The Swedish Association for Sexuality Education), Sweden
80. Ann Jordan, USA
81. LACCASO Secretária Regional, Latin America
82. Gestos – HIV+, Comunicação e Gênero, Brasilia
83. The Canadian Treatment Action Council (CTAC), Canada
84. Ibán Álvarez Requejo, Spain