

**Statement from No Borders Project and Eastern Partnership Minorities Network regarding developments in the field of minorities' rights in Ukraine, particularly in relation to hate crimes and state response. HDIM, Warsaw, September 24, 2013.**

No Borders Project (NBP) takes this opportunity to compliment Ukraine on its recent work on developing Roma Protection and Integration Strategy and Action Plan for it. At the same time, we regret to recognize complete lack of any effective measures towards other minorities in Ukraine. The need for development of the state policy to ensure minorities' rights protection had been missing and ignored in Ukraine for years. NBP is urging Ukraine to start immediate work on fulfilling its obligations under the human rights treaties and EaP agreements; to develop a legal framework for minorities' rights protection and prevention of their violation; and to ensure that minorities are actively enrolled in the process.

Besides these legislative needs, there are other issues that cause severe concerns when it comes to minority rights. Despite many comments from experts and international institutions in relation to hate crimes in Ukraine and their investigation as well as provision of effective remedies to victims, nothing has been done by the State in this area in the last year. Minorities and vulnerable groups remain unprotected from bias-motivated violence and abuses, as well as feel lack of effective investigation mechanisms.

According to the latest report from the Ministry of Interior, out of 4 cases qualified as hate crimes, only one case was sent to a court so far, and 3 more cases were qualified as violation of equality of citizens due to their racial, ethnic or religious origin (Article 161 of the Criminal Code of Ukraine). No information was provided as to the outcomes of any of these cases. Most of violent crimes motivated by xenophobia, and particularly racism, however, are still classified with the possible bias motivation ignored. This sad tendency is a vicious circle where the lack of adequate investigation and qualification of the case by the police leads to lower reporting rates, as the victims do not approach police due to both fear of repeat victimization and the lack of motivation stemming from unlikelihood of success. Therefore, official data sources on this issue present a distorted picture of current situation and provide no basis for adequate policy decisions. Meanwhile, according to results of hate crime monitoring by civil society organizations, the actual number of violent racist incidents can in no way be compared to the incredibly small number of violent attacks that were classified under Article 161. It is also noted that in most of such cases racist motivation was dismissed from the outset and not even investigated by law enforcement authorities. Such insufficient police performance can be explained both by insufficient understanding of the hate crimes nature and by lack of special attention and prevention measures regarding such crimes, adopted by the state authorities. On the contrary, there are cases when victims of hate crimes become defendants in the course of investigation of hate crimes. An infamous case of African student Olaolu Femi, who was accused of attempted murder after he defended himself and his friend from the attackers, is a sad, but not a

unique example. Mr. Olaolu's story is quite illustrative in demonstrating the selective approach of Ukrainian Justice, and it is not a sole standing incident.

**No Borders Project has a number of recommendations for the State and urges member-states to continue monitoring Ukraine's progress in implementation of the following:**

1. Reform relevant legislation and implementation mechanisms to ensure access to redress for victims of all kinds of discrimination including hate crimes.

2. The State must ensure access to the fair justice in courts, as well as for free legal assistance, for all victims of discrimination.

3. Provide human rights trainings for the police, prosecutors, border guards, staff of temporary detention facilities and judiciary, as well as facilitate the reporting of cases when Roma people are abused due to their ethnicity, as well as when it happens to other persons of different ethnic origin, or LGBT persons: effectively investigate complaints and bring those found guilty of such acts to justice.

4. Develop dialogue with the civil society organizations aimed at improvement of reporting and investigation practices, as well as at building cooperation mechanisms for better provision of services.5. Take measures to effectively identify and ban illegal profiling practices within law enforcement authorities and establish independent mechanism of complaints on human rights abuses committed by police.