

Draft

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**The LGBT component in the Action Plan (2016 – 2020) to the National Strategy on Human Rights**

| result | The initial situation  | Measures to implement the expected result  | The risks (obstacles)  | Performance indicator  | Deadline                  | Responsible performer  | Funding sources            |  | Author     |
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|        |  |  |  |  |                           |  | State budget               | Funds of International technical assistance, other |            |
| 1.     | Currently there is no law on freedom of peaceful assemblies in Ukraine, which could regulate this legislative area, so representatives of the Ministry of Interior use internal instructions, which were developed at the Ministry of Interior. These instructions were developed long time ago and do not comply fully with international standards and norms.  | To adopt or to revise departmental instructions on the protection of peaceful assemblies in accordance with best international practice considering specificity of the controversial assemblies, including measures of the LGBT community.   | The lack of desire to change the instructions by the representatives of the Interior Ministry.<br><br>The lack of funding. The lack of international experts on these issues, which could help in the development of instructions. | International experts and representatives of NGOs involved to develop the instructions<br><br>Instructions was adopted | Third quarter 2016        | The Ministry of Interior<br>The Ministry of Education and Science<br>The Ministry of Emergency Situations<br>The Security Service of Ukraine (by consent) and other concerned CEB<br>EU advisory mission in Ukraine (by consent) |                            |  |            |
| 2.     | Ukraine has a framework law "On Principles of Prevention and Combating Discrimination." Despite the fact that its provisions are in line with best international practice, it is necessary to ensure its proper implementation and further improvement of a number of its provisions.<br><br>One of the main problems in enforcement of the Law is the lack of practical mechanisms to respond violations of the law in this area, as the Codes of Ukraine that regulate criminal, administrative and civil liability don't have clear sanctions for the | Development and introducing amendments of the Law of Ukraine "On Principles of Prevention and Combating Discrimination in Ukraine" to the Verkhovna Rada of Ukraine on:<br><br>-bringing the list of grounds on which discrimination is prohibited in line with the regulations of EU law, including the prohibition of discrimination on grounds of sexual orientation and gender identity, expanding the list of forms of discrimination (victimization), clarifying the scope of the law; | Amendments to the Law, which brings the regulations into line with EU legal acts, are non-traditional for legal regulation in Ukraine and require a broad outreach;  | Adding the draft law to the Verkhovna Rada   | The first quarter of 2016 | The Ministry of Justice, The Ministry of Social Policy, The Parliamentary Commissioner for Human Rights (by consent), the Parliamentary Committee on Human Rights (by consent)   | With funds of State budget |  | Collective |

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|    | <p>fact of discrimination. Hence the need to harmonize conceptual apparatus of these Codes and establishing a clear mechanism for sanctions for violation of legislation in this area. These changes will create an appropriate mechanism to respond to violations of the law in all areas of life. Besides, there is a need of general improvement of legislation for harmonizing its provisions fully in line with best international practice and obligations of Ukraine.</p> | - expansion of provisions governing the cases of a special relationship that cannot be considered discriminatory (exceptions)  |   |   |                     |  |   |  |            |
| 3. |  | <p>Development and introducing amendments of the Criminal Code to the Verkhovna Rada of Ukraine on:</p> <p>1) removal of the Art. 161 part concerning criminal liability for discrimination (direct or indirect restriction of rights or direct or indirect privileges on grounds of ...) - together with the appropriate amendments to the Administrative Code and the Civil Code of Ukraine, providing for fines, damages, etc.</p> <p>2) the penalty for crimes committed for reasons of intolerance on the following grounds: race, color, religious beliefs, sexual orientation, transsexualism, disability, language, (changing to claim. 3, Art. 67, ch. 2, Art. 115, Part 2 of Art. 121, p. 2, Art. 122, p. 2, Art. 126, p. 2, Art. 127, Part 2 of Art. 129, p. 293)</p> <p>3) Work to decriminalization of infection with HIV and other</p> | Bills will be not putting on the agenda of Verkhovna Rada or will not take enough votes | Presentation of the draft law to the Verkhovna Rada | Second quarter 2016 | The Ministry of Interior<br>The Ministry of Justice,<br>The Ministry of Health<br>The Ministry of Social Policy, the Parliamentary Commissioner for Human Rights (by consent), the Parliamentary Committee on Human Rights | 0 |  | Collective |

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|    |  | <p>infectious diseases (Art. 130, 133 of the Criminal Code of Ukraine) and the need for selection of these diseases among other types of injury in the norms of the Criminal Code of Ukraine</p> <p>5) a reconciliation of the conceptual apparatus of the Criminal Code of Ukraine in qualification of various forms and manifestations of intolerance. Unification of terminology using the term "intolerance"</p>  |        |  |                           |  |  |  |                      |
| 4. | <p>Normative legal acts are not prohibited discrimination against people grounded on sexual orientation or gender identity in the field of labor relations. However, evidence of such discrimination has place.</p>  | <p>Development and submit to the Verkhovna Rada of Ukraine the draft of legislative act to amend the Labour Code of Ukraine on:</p> <ul style="list-style-type: none"> <li>- Comply with the provisions of the EU Directive №78 / 2000 minimum non-exhaustive list of grounds on which discrimination is prohibited, including the prohibition of discrimination on grounds of sexual orientation</li> <li>- Including the Code provisions concerning impossibility of recognition establish of special requirements in a certain kind of employment (exceptions) as discriminatory.</li> </ul> | absent | Presentation of the draft law to the Verkhovna Rada          | The first quarter of 2016 | The Ministry of Social Policy                          |  |  | Collective           |
| 5. | <p>Ukraine has not provided the right of same-sex couples to resolve their property and non-property relationships as well as relations with the state. This contradicts to recent decisions of ECHR which is the source of law in Ukraine. Example of case: Vallianatos and Others v. Greece (case 32684/09</p> | <p>Development and submitting to the Verkhovna Rada a draft law on the legalization of civil partnerships in Ukraine for heterosexual and to same-sex couples considering related institute economic and moral rights (including ownership and inheritance of property, the</p>   |        | Draft Law was developed and registered in the Verkhovna Rada | The first quarter of 2017 | The Ministry of Justice, The Ministry of Social Policy |  |  | Alexander Zinchenkov |

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|    | № 29381/09, decision from November 7 2013) and Oliari and others vs Italy (decision from 2015).   | maintenance of one partner by another in the event of disability, constitution right do not testify against his partner, etc.).  |  |   |                            |  |   |   |               |
| 6. | Today the law is enshrined discriminatory and unjustified ban on adoption of children for a number of categories of persons   | To develop and adopt changes to the order of the Ministry of Health № 479 of August 20 2008 that will eliminate the discriminatory ban on adoption of children, including HIV-positive people, people with disabilities and transgender people.  | Lack of political will   | Amended the order of the Ministry of Health № 479 of August 20 2008 | The fourth quarter of 2016 | Ministry of Health, The Ministry of Social Policy  | 0 | 0 | Collective    |
| 7. | Now, changes in the record of transgender persons for further changes in the identity documents, due to the change (correction) sex, are possible only after undergoing a series of surgeries (actual sterilization) and long and high-cost medical tests, during the passage of which most transgender persons are subjected to humiliation and discrimination.  | 1. Create a working group with assistance of international experts to draft Procedure for replacing the official documents of persons with clinical diagnosis of "transsexualism" and prepare appropriate amendments to other regulations.   | unwillingness of the government to change the existing procedure | A working group is created  | The first quarter of 2016  | The Ministry of Health, The Ministry of Interior, The Ministry of Justice, NGO "Insight" | 0 | 0 | NGO "Insight" |
| 8. | The current regulatory framework does not comply with the requirements of the Council of Europe and the UN Committee on Human Rights which apply to Ukraine. Thus, in Resolution 2010 of the Parliamentary Assembly of the Council of Europe (№1728) were appealed to Member States to guarantee in law and in practice the right of transgender people to obtain official documents reflecting preferred gender identity, without the obligation of passing sterilization. | Development of the Procedure for replacing the official documents of persons with clinical diagnosis "transsexualism" and prepare appropriate amendments to other regulations, drafting proposals for amending the Order of the Ministry of Health of Ukraine №60 and Section 2 of Rules Amendments to the record of civil status, approved by the Ministry of Justice of Ukraine 12.01.2011 №96 / 5 and registered with the Ministry of Justice of Ukraine 14.01.2011 №55 / 8793. | unwillingness of the government to change the existing procedure | Relevant acts are accepted  | The second quarter of 2016 | The Ministry of Health, The Ministry of Interior, The Ministry of Justice, NGO "Insight" | 0 | 0 | NGO "Insight" |
| 9. | The access to donor blood and its components has a discriminatory   | To amend the document "The list of diseases  | Prejudgment  | Appropriate changes were  | The second                 | The Ministry of Health of Ukraine  | 0 | 0 | Alexander     |

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|     | attitude towards people who can practice "risky" behavior. The procedures for checking of certain person practicing "risky" behaviors do not exist, and the assumption that the person may have some kind of disease is discriminatory and should be checked by medical means in each case. | contraindications to donation and forms of risky behavior" - Annex 3 to the Procedure for medical examination of donors of blood and (or) its components, approved by order of the Ministry of Health of Ukraine from August 1 2005 № 385 "About infectious safety of donor blood and its components "- by deleting paragraph 1.3 "forms of risky behavior." |                               | made.  | quarter of 2016 |   |  |  | Zinchenkov |
| 10. | The state ignores the existence of people from a number of vulnerable groups, including LGBT, in the social work with children and young people   | Development and implementation of standards of social work (with an emphasis on school psychologists, social workers) with teenagers and young people belonging to minorities (namely - migrants, refugees, ethnic minorities, IDPs, LGBT) and provide them with social and psychological services with mandatory inclusion of resettlement                  | Not understanding the problem | The relevant standards are adopted and implemented | 2018            | The Ministry of Education, The Ministry of Youth and Sports and other interested organs |  |  |            |