

ALL-UKRAINIAN UNION  
**COUNCIL OF LGBT ORGANIZATIONS  
OF UKRAINE**

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*# 01-08/11-P*

**On human rights on LGBT<sup>1</sup> people in  
Ukraine in the context of EU-Ukraine  
Association Agreement**

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**DEAR MR. PAVLO!**

We welcome your efforts with regard to bringing Ukraine closer to the European Union, and we consider your initiative to address Ukrainian NGOs with a question on their position about EU-Ukraine Association Agreement very timely.

Council of LGBT-Organizations of Ukraine is a national association that unites 19 organizations active in the country. One of the Council's goals is to advocate rights, interests and needs of LGBT people at international level.

Let us express our view on the questions asked in your letter.

In our opinion, **internal situation in Ukraine should influence the negotiation process on EU-Ukraine Association Agreement**. In the first place, this is true for human rights situation in the country. A number of Ukrainian and international human rights organizations and media have expressed their concerns regarding these issues. For instance, according to 2011 report of international human rights organization Freedom House, Ukraine's status declined from Free to Partly Free based on political rights and civil liberties rating. In 2011, in our opinion, the situation has worsened.

LGBT rights in Ukraine make no exception. According to our monitoring results, in recent years the LGBT situation in Ukraine has worsened by many indicators. More details can be found in reports on LGBT people in Ukraine prepared by such organizations as Our World Regional Informational and Human Rights Center for Gays and Lesbians<sup>2</sup>, Insight NGO<sup>3</sup>, All-Ukrainian Public Organization "Gay Forum of Ukraine".

Ukrainian state authorities have never paid sufficient attention to violations of LGBT rights and hate crimes against such social group as LGBT people. For instance, for less than a year, nationalist radical groups in Ukraine committed two attacks on LGBT events organized by local NGOs (Kyiv, November 2010; and Donetsk, February 2011). Ministry of Interior has not organized due

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<sup>1</sup> LGBT — lesbian, gay, bisexual and transgender.

<sup>2</sup> See <http://gay.org.ua/annualreports>.

<sup>3</sup> See [http://insight-ukraine.org.ua/media/TRP\\_report.pdf](http://insight-ukraine.org.ua/media/TRP_report.pdf).

investigation of any of these attacks. Besides, annually, our organizations document tens of illegal acts against LGBT people committed on the ground of hatred.

EU-Ukraine Association Agenda to prepare and facilitate the implementation of the Association Agreement has a paragraph that directly deals with LGBT rights in Ukraine:

(c.) *Ensuring respect for the rights of persons belonging to minorities*

- *exchanging best practices on measures to protect minorities from discrimination and exclusion in accordance with European and international standards, with the objective of developing a modern legal framework. Developing close cooperation between the authorities and representatives of minority groups;*
- *cooperate on measures to combat the growth in intolerance and the incidence of hate crimes (whether due to racism, xenophobia, anti-semitism or **homophobia**).*

Based on the guiding principles of the EU-Ukraine Association Agenda, we believe that during the EU-Ukraine Association Agreement negotiations it is important to draw attention of the Ukrainian delegation to the necessity to observe human rights in the country in general and LGBT rights, in particular.

With regard to LGBT people, we would like to emphasize the particularly highlight the following issues:

1. On June 20, 2011, a group of Ukrainian MPs registered a homophobic draft law 8711 “On introducing changes to certain state acts (regarding protection of children’s rights in the safe information sphere)”<sup>4</sup>. Should this law be adopted, it will criminalize “propaganda and cult of homosexuality” in media, film, literature and art. In fact, the law would prohibit providing information about LGBT and homosexuality as well as could deny citizens access to public information according to their interests. In the opinion of Ukrainian human rights defenders and LGBT activists, this legislative initiative is incompatible with the right to free development of his or her personality (Article 23), right to freedom from discrimination (Article 24), right to freedom of speech (Article 34), right to freely collect, store, use and disseminate information (Article 34) guaranteed by the Constitution of Ukraine. We emphasize that this homophobic initiative must not be adopted as it would endanger Ukraine’s path toward integration into Europe.
2. On August 19, 2011, Ukrainian Ministry of Justice presented a draft of the Presidential Decree “On Strategy to Fight Discrimination in Ukraine”<sup>5</sup> for public discussion. This draft was developed to implement point 42 of the national Action Plan to implement Visa Liberalization Action Plan between EU and Ukraine, approved by the Order of the President # 949 as of April 22, 2011. Despite the fact that European Union has many times emphasized the necessity to fight discrimination on the ground of sexual orientation in Ukraine, the list of prohibited grounds in the section “General provisions...” of this Strategy does not include ‘sexual orientation’. However, **it is impossible to improve human rights situation for LGBT people without explicitly indicating sexual orientation and gender identity among the prohibited grounds**. Thus, we emphasize the necessity for Ukraine to explicitly mention sexual orientation and gender identity in **all** national legal acts that deal with human rights and liberties.

<sup>4</sup> Information about the draft law, its text and other related documents can be found at the Parliament website: [http://w1.c1.rada.gov.ua/pls/zweb\\_n/webproc4\\_1?id=&pf3511=40734](http://w1.c1.rada.gov.ua/pls/zweb_n/webproc4_1?id=&pf3511=40734).

<sup>5</sup> All materials can be found at the website of the Ukrainian Ministry of Justice: <http://www.minjust.gov.ua/0/36397>.

3. One of the guiding documents in Europe to work on LGBT equality is Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity<sup>6</sup>. We ask to draw attention of the Ukrainian side to the necessity to urgently and practically implement provisions of this document.

Additionally we inform you:

- a) lesbian, gay, bisexual and transgender (LGBT) community in Ukraine estimates to 800,000 to 1,200 mln of the Ukrainian population<sup>7</sup>;
- b) de-facto same-sex partnerships in Ukraine estimate to 100,000 to 200,000 couples<sup>8</sup>;
- c) according to national research reports, 77 % of Ukrainian homosexual and bisexual citizens wish to have official registration with their same-sex partners<sup>9</sup>.

**In summary, we recommend you to consider the words of the President of Ukraine Viktor Yanukovich** to participants of a special session of the Ukrainian Parliament on occasion of 60<sup>th</sup> anniversary of Convention on Human Rights and Fundamental Freedoms that took place on October 22, 2010: *“I believe that both the Parliament and the Cabinet must complete the unification of national legislation with the European human rights protection standards as soon as possible.[...]We must convince the world of the seriousness and irreversibility of our intentions with real actions.”*<sup>10</sup>.

We hope that the signed Association Agreement will become an effective tool for due and just pressure on Ukrainian authorities in order to stimulate them to observe human rights. We believe that postponing signing the Agreement might have serious negative consequences for further European integration of Ukraine and human rights situation inside the country.

*Sincerely,*

**Andriy Maimulakhin,**  
Co-Chair of the Council,  
Head of the Committee on Human Rights

<sup>6</sup> Official text in English is published at CoE website:

<https://wcd.coe.int/ViewDoc.jsp?id=1606669&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>.

<sup>7</sup> Minutes of the Permanent Referent Group on LGBT Community and MSM-service Projects in Ukraine as of February 18, 2010. # 14, p. 17. — Archive of PRG-Ukraine.

<sup>8</sup> Maimulakhin A. Y., Kasyanchuk M. G., Leschynskiy E. B. Same-Sex Partnership in Ukraine: Research Report / Our World Regional Informational and Human Rights Center for Gays and Lesbians, Donbass-SocProject Public Organization. — Donetsk/Kyiv, “Atopol”, 2009. — P. 22. — Download at: [http://gay.org.ua/publications/same\\_sex\\_partnership.pdf](http://gay.org.ua/publications/same_sex_partnership.pdf).

<sup>9</sup> Ibidem, c. 51.

<sup>10</sup> President's address on occasion of 60<sup>th</sup> anniversary of Convention on Human Rights and Fundamental Freedoms/ Official website of the President of Ukraine Viktor Yanukovich. — 22.10.2010, 14:35. — Download at: <http://www.president.gov.ua/news/18569.html>.