

February 15, 2019, Kyiv

Prime Minister of Ukraine  
V.B. Hroisman  
12/2 Hrushevskoho St., Kyiv, 01008

*Copies:*

Ministry of Justice of Ukraine  
Ministry of Health of Ukraine  
Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM)  
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**Dear Mr. Prime Minister!**

After the Revolution of Dignity, 2014, (also known worldwide as Euromaidan) the President of Ukraine approved the National Strategy on Human Rights, and the Cabinet of Ministers adopted the Action Plan for its implementation for the period until 2020. In particular, Action 6 of Paragraph 105 of the Action Plan provided for ***development and submission to the Cabinet of Ministers of Ukraine a draft law on legalization in Ukraine of registered civil partnership for opposite-sex and same-sex couples taking into consideration property and non-property rights, in particular to own and inherit property, to support one partner by the other in case of incapacity for work, the constitutional right not to testify against the partner***<sup>1</sup>.

This task was to be fulfilled by the Cabinet of Ministers as far as in 2017. Unfortunately, this did not happen, and now the Ministry of Justice actually proposes to refuse completely to implement this provision of the Action Plan, referring to numerous appeals whose authors oppose equal rights for LGBT persons and instead propose to adopt laws that directly contradict the Constitution and laws of Ukraine as well as its international obligations.

In the official report on implementation of the Action Plan in 2018<sup>1</sup>, published by the Ministry of Justice of Ukraine, the comment on this issue states: **"The implementation is impossible." This is the only such a statement among hundreds of commitments on human rights which were undertaken by our state.**

Ukrainians belonging to the LGBT community are the same citizens of Ukraine as the rest. They also pay taxes, have allegedly equal constitutional rights, are involved in the development of our country and its defense against Russian aggression. However, in practice they cannot enjoy these rights and is not equal to the rest of the citizens due to the lack of relevant legislation. The Family Code of Ukraine denies same-sex couples even the rights that unmarried heterosexual couples have (Articles 74, 91, 211). The absence of any form of legal recognition of same-sex couples deprives them of all rights available for spouses, family members, or close relatives, particularly in the areas of social and economic issues, pensions, inheritance, housing, important medical issues, employment, legal representation of and the right not to testify against the partner, protection from domestic violence, immigration and citizenship issues, etc.



We should also remind you that this question applies not only to human rights and non-discrimination, but is also directly related to health issues, particularly to combatting the epidemic of HIV / AIDS. In support of this we can cite the current program of the financial assistance to our country from the international community through the Global Fund to Fight AIDS, Tuberculosis and Malaria "Accelerating Ukraine's progress towards sustainable public health response to TB and HIV"<sup>2</sup>. On behalf of Ukraine this project was approved by the Public Health Center of the Ministry of Health of Ukraine.

One of the planned interventions is **"Addressing stigma, discrimination and violence against MSM. The intervention embraces advocacy activities aimed at protecting the rights of MSM including monitoring of violations of the sexual minorities rights, awareness-building, analysis and update of the national legislation. The ultimate goal of all these activities is the legalization of same-sex relationships that directly affect the level of stigma and discrimination in the society."**

In order to demonstrate the relevance of these problems and demands, our organization has appealed to Ukrainian gay, lesbian, bisexual and transgender people calling on them to send personal applications to the Cabinet of Ministers of Ukraine. In a very short period of 10 days we collected over five hundred of such letters which we handed over to the government on February 12.

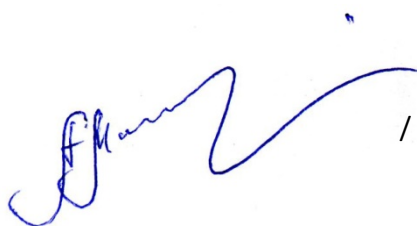
Equality of the rights for LGBT people has become a fundamental principle of all the modern free world. The vast majority of European and American countries have already recognized either same-sex marriages or civil partnerships. The European Court of Human Rights has repeatedly pointed out that the lack of legal recognition of any form of same-sex family partnership violated human rights guaranteed by the European Convention on Human Rights and might not be reasoned by "the protection of the traditional family."

**We, Ukrainian LGBT people, urge our government not to change its commitment to drafting a law on legalization in Ukraine registered civil partnership under the Action Plan for the Implementation of the National Strategy on Human Rights for the Period until 2020, and to fulfill this task.**

Given the fundamental importance of this issue, we have to apply to the Global Fund, its donors and international human rights organizations for the support of our demands.

Sincerely,

Coordinator of Nash Mir Center



/ Andriy Maymulakhin /

<sup>1</sup> <https://minjust.gov.ua/files/general/2018/11/15/20181115095239-37.docx>

<sup>2</sup> [http://old.moz.gov.ua/docfiles/tha\\_mt\\_20170518\\_01\\_2\\_2Funding\\_Request.pdf](http://old.moz.gov.ua/docfiles/tha_mt_20170518_01_2_2Funding_Request.pdf)

Annex: Policy brief on introduction of a registered (civil) partnership for same-sex couples in Ukraine.

## POLICY BRIEF

### on introduction of a registered (civil) partnership for same-sex couples in Ukraine

#### 1. LEGISLATIVE REGULATION

The main document regulating family relations in Ukraine is the Family Code of Ukraine (hereinafter – the FCU). Article 3 entitled "Family" of this Code states that "family is composed of persons who live together, have a joint household, mutual rights and duties" (part 2) and that "the family is founded on the basis of marriage, blood ties, adoption, or on other grounds not prohibited by law and those that do not contradict the morals of the society" (part 4). Thus, theoretically, same-sex partners, who live together as a couple, fall under the definition of the family. It is worth to note that Ukrainian courts have already taken decisions on recognition of de facto family relations between same-sex cohabitants (both women and men), although the presence of a disclaimer about the "grounds that do not contradict the morals of the society" allows arbitrary interpretation and leads to legal uncertainty regarding this provision, because there is no law that would specify what exactly these grounds embrace. There is no practical significance of this definition of the family anyway since the remaining articles of the FCU regulate the relations not between the members of the family in general, but rather between specific family members and close relatives - for example, between parents and children, brothers and sisters, spouses, adoptive parents and the adopted.

Art. 21 of the Family Code of Ukraine defines marriage as "the union of a woman and a man", thus actually making a marriage between people of the same sex impossible. However, the FCU recognizes certain family rights even for heterosexual cohabitants who are not married: Art. 74 "The right to property of a woman and a man who live as one family, but are not married to each other or are not in another other alliance by marriage" envisages that "property acquired by them during the period of living together belongs to them as joint property", as if they were legally married; Art. 91 "The right of a woman and a man who are not married to each other to receive support from each other" equates such permanent family partners to legally married partners on the question of receiving support in case of disability; finally, Art. 211 "Persons who can be adoptive parents" allows them joint adoption of children. However, the FCU does not contain any mentions of same-sex family partners, and Art. 211 expressly provides that "adoptive parents cannot be persons of the same sex" (part 3), thus establishing direct discrimination against same-sex de facto family partners.

The Criminal Procedure Code of Ukraine (the CPCU), which was adopted in 2013, in contrast to the Family Code does not refer to "the morals of the society" when defining "close relatives and family members", among which there is a mention of "persons who live together, have a joint household, mutual rights and obligations, including persons who live together but are not married" (Art. 3, part 1, paragraph 1). In theory, this definition could include same-sex family partners, although, as we know, it has never been tested in practice. The definition of "close relatives and family members" in the CPCU is of great practical importance because it, in particular, allows persons listed in the mentioned article of the Code, to refuse to testify or provide statements against their close persons according to Art. 63 of the Constitution of Ukraine and this definition also applies in all cases involving close relatives and family members in the criminal law.

In any case, it should be noted that absence of concepts like "same-sex family partner" and "same-sex family partnership" in the Ukrainian legislation leads to the situation when any recognition of such relationships requires a decision of a competent authority or an official in each case. Similarly, absence of any form of state registration of same-sex family partnerships requires additional proof of the actual presence of family relationships in all cases involving the recognition of any rights and obligations of such partners.

The Family Code regulates various aspects of family relationships, such as: right of spouses to maternity/paternity; right to adopt children (by one person or by a couple together); to change names after

the marriage; to have common and personal property for spouses; to receive support in case of disability; rights and duties of parents and children towards each and more.

Although numerous references to "family members" and "close relatives" are scattered throughout many Ukrainian laws, a uniform definition of these concepts does not exist in the national legislation. The Constitutional Court of Ukraine in its decision No 5-пн/99, d/d June 03, 1999 made a notion of this fact and stated that "With respect to the notion of a "family member" the Constitutional Court of Ukraine takes into account its objective content differences depending on the area of law. When providing an official interpretation of the term "family member of a military man, militia officer, the personnel of the State Fire Service", the Court applied the analogy of law and found that the first group of family members includes a husband/wife, parents and children, and the second group includes "other persons permanently residing with them and having a joint household".

In addition to the rights and duties that are provided by the Family Code, the Ukrainian legislation has many provisions on the spouses and other family members and close relatives that are enshrined in other laws. It is impossible to provide an exhaustive list of them but one can see that they, among others, relate to areas such as:

- socio-economic issues - such as social assistance for a family, bank loans (including mortgages for young families), pension or compensation after losing a family provider etc.
- intestate succession and compulsory share of inheritance;
- healthcare, such as deciding on important health issues and the right to access a sick close relative;
- employment – for example, the right of a wife/husband of a military man to have vacation at the time convenient for them, the right to have a leave to take care of sick relatives by blood or by marriage, etc.;
- representation of interests and the right to refuse to testify about a close relative in the law enforcement and judiciary authorities;
- simplified procedure for immigration and obtaining citizenship for those who are married to a citizen of Ukraine.

In the absence of any form of legal recognition, same-sex couples are either completely deprived of these rights or face such severe complications when exercising them that such exercise loses any practical value. It should be noted that in late 2015 the Ukrainian government formally acknowledged the existence of this problem and the need for its fast resolution by adopting the Action Plan for the National Strategy on Human Rights, in which Clause 105 provides for Action 6 – "Development and submission to the Cabinet of Ministers of Ukraine of a Draft Law on legalization of registered civil partnerships for opposite-sex and same-sex couples in Ukraine with taking into account property and non-property rights, including ownership and inheritance of property, support of one partner by the other in the event of disability, a constitutional right not to testify against your partner", with the implementation deadline being the II quarter of 2017. However, within three years since adoption of the Action Plan, no government body has begun implementing this action. Due to the uncertainty of the specific agency responsible for carrying out this action (the Action Plan mentions as responsible the Cabinet of Ministers as a whole), both of the possible executors – the Ministry of Justice and the Ministry of Social Policy – have refused to implement this provision, shifting responsibility for this one to each other, and the Cabinet of Ministers shirked from resolving this issue. The Ministry of Justice, when reporting on the implementation of the Action Plan in 2018, mentioned the impossibility to implement this action due to numerous appeals from local councils and the public against any steps to protect the rights and interests of LGBT persons, in particular against the introduction of a registered civil partnership.<sup>1</sup>

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<sup>1</sup> Міністерство юстиції України, *Звіт за 2018 рік про виконання плану заходів з реалізації Національної стратегії у сфері прав людини на період до 2020 року*, 2018, с. 291, minjust.gov.ua.

## 2. PUBLIC POSITION

Legal institutions like marriage in their essence only legalize the existing social relations; they do not create a new reality but, rather, only reflect it. Despite the absence of legislative recognition of the same-sex families in Ukraine, they are formed and exist simply because gay people feel the need for the family life.

Since, at the moment, there is no feasible actual data either about the number of LGBT people in Ukraine in general, or about the number of families they have created, therefore, we can only rely on rough estimates, made on the basis of common ideas of the modern science about same-sex relationships in the society. Although the exact percentage of LGBT people in the population is unknown, various scientific studies estimate it at 2-10%.<sup>2</sup> Taking into account that the population of Ukraine over 14 years old (excluding occupied Crimea) constitutes about 36 million, it is possible to estimate the total number of LGBT adult population of Ukraine varies from 720,000 to 3.6 million people. According to a very rough estimate provided in a research by Nash Mir Center in 2009, the number of same-sex couples in Ukraine can already be 100-200 thousands.<sup>3</sup>

As it has already been noted, the Ukrainian legislation does not regulate the relations of same-sex couples who de facto have all features of stable and lasting family relationships. This means that from the point of view of the law, partners in same-sex families are actually viewed as strangers to each other. They do not have the right to joint ownership of marital property if it was acquired or registered by only one of them. Thus, for example, in the case of a death of the partner, who was registered as the sole owner of the property, the other partner may just be left on the street without anything. All these problems intensified and emerged full blown in connection with the Russian occupation of the Crimea and the anti-terrorist operation (ATO) in the Donbas region. Since they are not regarded as families by the society and the State, same-sex partners are not even eligible to get a joint temporary asylum if they become internally displaced persons (IDPs). Other painful problems include the absence of state aid in the event of the death of a partner (for example, a soldier in the zone of ATO), the absence of opportunity to make vital decisions on behalf of his partner, freely dispose of the joint property, to inherit from him without a will, etc.

Children who are being raised by same-sex family couples are a separate topic. Without mentioning the topic of joint adoption of children, it should be noted that the joint upbringing of children of one of the partners by same-sex partners is common, and in the case of female couples it has become a commonplace. The inability to formalize family relations between the partners and a complete ban on the adoption of children by same-sex persons leads to blatant discrimination against such children by the state. A partner who is not the biological father of the child, is not only deprived of his parental rights and benefits, but also obligations and opportunities related to the child - for example, he cannot receive state aid for the child's upbringing or get a child-care leave if needed. In the case of the death of child's biological mother, if the child was brought up together with her partner, the child is actually deprived of both parents at the same time.

The 2009 research by Nash Mir Center established that about 2/3 of the respondents had same-sex partners,<sup>4</sup> and that approximately half of these couples were living together and had a joint household.<sup>5</sup> About 1/10 of the respondents were upbringing children together with a partner (women twice as often as men).<sup>6</sup> In general, approximately 1/6 of the respondents had children, and a little more than a half did not

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<sup>2</sup> Please see, for instance, G.J. Gates, *How many people are lesbian, gay, bisexual, and transgender?*, April 2011, [williamsinstitute.law.ucla.edu](http://williamsinstitute.law.ucla.edu)

<sup>3</sup> А.Ю. Маймулахин, М.Г. Касянчук, Е.Б. Лещинский, *Однополое партнерство в Украине: отчет о проведенном исследовании*, 2009, с. 25, [gay.org.ua](http://gay.org.ua)

<sup>4</sup> See above, note 2.

<sup>5</sup> *Ibid.*, p. 34.

<sup>6</sup> *Ibid.*, p. 39.

have children, but would have liked to have.<sup>7</sup> In their life as same-sex couples, the respondents have encountered problems such as:

- inability to get a loan together, or ownership of a property – 17%;
- inability to resolve property disputes when divorcing a partner in a lawful way – 11%;
- absence of the right not to testify against a partner – 10%;
- inability to inherit after the death of a partner – 10%;
- inability to adopt a partner's child – 8%;
- denial of social assistance to take care of the partner's child in case of a necessity – 8%;
- denial of a house lease – 7%.<sup>8</sup>

If there was some form of state registration of same-sex couples in Ukraine, 77% of the respondents would like to formalize their relations,<sup>9</sup> in particular, 83% of those who already have a permanent partner, and 66% of those who do not have.<sup>10</sup> 51% of the respondents believed that it should be allowed for people of the same sex to enter a regular marriage, 38% agreed on the introduction of registered (civil) partnerships for same-sex couples.<sup>11</sup>

A high level of homophobia in the Ukrainian society is a separate problem that cannot be resolved by legislative measures. A sociological survey "Youth of Ukraine 2015", conducted by GfK Ukraine in 2015 showed that among the Ukrainian youth aged 14 to 35 years old, 45% would not want to live next door to homosexuals (to compare: 54% would not want to live next to Roma; 33% – next to HIV-positive people, 19% – next to Muslims).<sup>12</sup> Several participants of focus groups, conducted by the Nash Mir Center in 2015, said that they could not afford to openly enter into same-sex partnership due to the fear of a negative reaction from others and possible problems in this regard. In our opinion, the position of the leading churches is the most significant among the factors that have the greatest impact on the preservation of the homophobia in Ukraine, since the churches consistently object to any attempts to recognize and protect LGBT interests on both the legislative, and the socio-political level.<sup>13</sup>

### 3. INTERNATIONAL EXPERIENCE

As of February 2019, twenty eight countries in the world had the legislation on customary marriages, which also extended on same-sex couples; Israel did not allow people of the same sex to enter into the marriage, but recognized such foreign marriages formalized abroad under the laws of other countries. Fourteen more countries, while not allowing to conclude customary marriage between same-sex persons, introduced for such couples the registration of marital relations in a legal form, alternative to customary marriage (in different jurisdictions it is called differently: the registered partnership, civil union, domestic partnership, life partnership, etc.). In federal and decentralized countries, where family relations are regulated at the local level, there may be a situation where same-sex marriages or partnerships are only registered in certain jurisdictions (and recognized either throughout the country, or only in those jurisdictions). In Europe, same-sex marriages were possible in 16 countries, and also in some of them registered partnerships were available as an alternative to marriage. Only same-sex partnerships but not marriages were available in 12 countries of Europe. Some countries that in due time introduced the registered partnership, and then allowed same-sex couples to enter into a customary marriage, either automatically converted concluded

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<sup>7</sup> *Ibid.*, p. 16.

<sup>8</sup> *Ibid.*, p. 53.

<sup>9</sup> *Ibid.*, p. 61.

<sup>10</sup> *Ibid.*, p. 62.

<sup>11</sup> *Ibid.*, p. 67.

<sup>12</sup> І. Волосевич, С. Герасимчук, Т. Костюченко, *Молодь України – 2015*, 2015, с. 8, [www.gfk.com](http://www.gfk.com)

<sup>13</sup> Please see, for instance, Всеукраїнська Рада церков і релігійних організацій, *Декларація ВРЦіРО про негативне ставлення до явища гомосексуалізму та так званих одностатевих шлюбів*, 15.05.2007, [vrciro.org.ua](http://vrciro.org.ua)

partnerships into marriages, or simply stopped registering new partnerships, but kept the already registered ones in the same status (Denmark, Norway, Sweden, Iceland); while others have retained both forms of marital status registration – as marriages and partnerships, with the possibility of converting the partnership into a marriage. Typically, in countries that recognize registered same-sex partnerships, but not same-sex marriages, such marriages if carried out abroad are recognized as same-sex partnerships in accordance with the local legislation.

The registered (civil) partnership was originally invented as a form of registration of de facto marital relationships of same-sex couples (Denmark, 1989), who could not conclude a customary marriage, but the Netherlands in 1998 adopted a law on registered partnerships, that same-sex and heterosexual couples could enter into. It turned out to be in demand by heterosexual couples – within the first three years of its validity about a third of the partnerships were concluded between people of opposite sexes. Over time, several other countries followed the example of the Netherlands by introducing civil unions that were available for both same-sex and opposite-sex couples (e.g. France and Estonia). It is also interesting to note that in the UK one opposite-sex couple from England unfolded a public campaign and filed an action to the court regarding the extension of the scope of the registered partnership (which in England and Wales were only available to homosexual partners) to heterosexual couples, in spite of the great similarity of these two legal institutions in this country. From the viewpoint of this campaign's supporters, registered partnership constituted more modern and equal for man and woman institution as compared with customary marriage. In 2018 this campaign succeeded, and the British Parliament made possible to register civil partnerships for opposite-sex couples in England and Wales.

In 2008 the Parliament of Greece adopted a law on civil unions only for opposite-sex couples (as an alternative to the customary marriage), which eventually was appealed to the European Court of Human Rights (ECHR) as violating the right to respect for private and family life, and leading to discrimination between opposite-sex and same-sex couples, whilst harming the latter. In 2013, in the judgment *Vallianatos and Others v. Greece*, the ECHR agreed with the arguments of the plaintiffs and decided that the State had violated article 14 ("Prohibition of discrimination") in conjunction with Article 8 ("The right to respect for private and family life") of the European Convention on Human Rights (ECHR). In 2015, the Greek Parliament extended the registered partnership on same-sex couples. In 2015, when considering the case *Oliari and Others v. Italy*, the ECHR emphasized that "same-sex couples, in the same way as heterosexual couples, are capable of entering into a stable and committed relationship, and that they are in a situation, which is very similar to that of an opposite-sex couple when it comes to legal recognition and protection of their relations", and ruled that the refusal of the Italian authorities to introduce any form of the legal recognition of such relationship violates article 8 of the ECHR. In 2016 the Italian Parliament adopted the law on registered partnership for same-sex couples.

By analyzing these and other recent cases on same-sex couples, it can be concluded that the case law of the ECHR now believes that the absence of any form of recognition of same-sex couples in the national legislation is a violation of a state's obligations under the European Convention on Human Rights. In such circumstances, a same-sex couple in a member state of the Council of Europe that complains to the ECHR on the inability to legally formalize their marital relationship in a situation where a similar heterosexual couple has such opportunity, has an almost guaranteed chance to win the case and get compensation for the damage caused to them. In 2014, two same-sex couples have filed a lawsuit against Ukraine and are now awaiting consideration of their applications.

The scope of rights and duties offered by the registered partnership varies in different countries, from being almost the same as a customary marriage has (e.g., the Netherlands) to a noticeably more limited – mainly in financial and property questions and the status of a family member (e.g., France). It is noteworthy that in all countries where registered partnership for same-sex couples significantly limited partnership rights and responsibilities compared to ones in a customary marriage, the relevant legislation gradually was

reformed in the direction of approaching the customary marriage by the registered partnership, or the former would become available also for same-sex couples. Comparing the status of registered same-sex partners in different countries, one can conclude that at present the "standard" same-sex partnership significantly differs from the "standard" marriage, mainly in the matters of joint adoption of children and procedures for the conclusion and termination of the partnership/marriage. Civil partners are usually allowed to adopt the biological children of their partners or children who were adopted before the conclusion of a partnership, but often are not allowed to have a joint adoption of children by third parties; with regard to the procedure of concluding and terminating partnerships, it is often more simple when compared to the respective provisions for marriages (in particular, they do not provide for the court's involvement when terminating the partnership). The remaining differences between partnership and marriage vary a lot from country to country and, in general, are not associated with the family law, but rather with certain rights, which spouses have in other spheres – for example, a simplified procedure for immigration, pension schemes, and so on.

Statistics of conclusion of registered partnerships shows that they make up a few percent of the total number of marriages in a given period of time in a given country, which roughly corresponds to the estimated number of homosexuals in the society – for example, in Ireland the number of registered partnerships (same-sex) was 1.6% in 2013, and in 2014 – 1.8% of the total number of marriages (heterosexual);<sup>14</sup> in Finland, the same data amounted to about 1.4% in both years.<sup>15</sup> Countries in which there is registered partnership for both same- and opposite-sex couples show that it is quite popular among heterosexual partners as well – in particular, in France in 2013 there were 162,698 civil unions (representing 72% of the concluded marriages in the same year), of which heterosexual partnerships amounted to 96%; the same data for 2014 amounts to 173,728 civil unions (77% of the total number of marriages), of which the heterosexual unions also made 96%.<sup>16</sup> In the Netherlands, 9445 partnerships (14.6% of the number of marriages) were registered in 2013, of which opposite-sex partnerships made 96%, as in France.<sup>17</sup> It should be noted that the conclusion of registered partnership in the Netherlands entails practically the same legal consequences as a marriage, whereas in France couples, who have entered into "Civil Solidarity Pact", have significantly fewer rights and responsibilities than spouses in an ordinary marriage.

There is no evidence that introduction of the registered (civil) partnership or customary marriage for same-sex couples in any country has caused notable legal or social problems. In turn, the studies conducted in different countries have revealed that the legal and social recognition of the same-sex registered partnership or marriage has a positive effect on the health and general well-being of LGBT people.<sup>18</sup>

#### 4. CONCLUSIONS AND RECOMMENDATIONS

Summarizing the said above, we can make several conclusions:

- LGBT persons (homosexuals, bisexuals and transgender people) who need to have their de facto family relationships formalized as same-sex family partners constitute a certain share of the population of Ukraine.
- Ukrainian legislation does not provide for any form of legal recognition of such relationships and, instead contains provisions directly discriminating against same-sex family partners, even compared to unmarried opposite-sex family partners.

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<sup>14</sup> Central Statistics Office, *Marriages and Civil Partnerships 2014*, 31.05.2015, *cso.ie*

<sup>15</sup> Statistics Finland, *Fall in the number of marriages contracted tapered off*, 21.04.2015, *stat.fi*

<sup>16</sup> Institut National d'Etudes Démographiques, *Marriages, divorces, civil unions (PACS)*, 2013, 2014, *ined.fr*

<sup>17</sup> Statistics Netherlands, *Marriages and partnership registrations; key figures*, 11.09.2014, *statline.cbs.nl*

<sup>18</sup> Please see, for instance, W.C. Buffie, *Public Health Implications of Same-Sex Marriage*, *American Journal of Public Health*, 2011 June, 101(6), pp. 986–990.



- International, and particularly European, trends as well as the case law of the European Court of Human Rights, point to the need for legislative regulation of the legal status of same-sex families and resolution of their immediate problems.
- The vast majority of the Ukrainian society has a negative attitude towards LGBT people in general and towards the effective implementation of their human rights, in particular, the right to private and family life. However, a modern democratic state has a duty to take into account, where possible, the interests of all social groups and combat manifestations of intolerance against these vulnerable groups – in particular, homophobia, as stated in many international instruments related to Ukraine.
- Ukrainian authorities will recognize this duty, as evidenced by the governmental Action Plan for the National Strategy on Human Rights until 2020. Among other things, it provides for "development and submission to the Cabinet of Ministers of Ukraine of a Draft Law on legalization of registered civil partnerships for opposite-sex and same-sex couples in Ukraine with taking into account property and non-property rights, including ownership and inheritance of property, support of one partner by the other in the event of disability, a constitutional right not to testify against one's partner" by the end of the II quarter of 2017 (clause 105, event #6).
- International experience shows that the legal recognition of same-sex couples does not cause significant social and legal problems on the scale of the whole society and at the same time helps to resolve similar problems of these couples. The expected number of registered same-sex family couples ranges from a few tenths to a few percent of the total number of customary marriages concluded in the same period of time. The registered partnership as an alternative form of recognition of marital relations is also in demand by heterosexual couples who for various reasons do not want to enter into a customary marriage.
- The main differences between a customary marriage and a registered partnership concern a simplified procedure for concluding and terminating the latter, as well as the matters of adoption of children. Registered partners often are not allowed to jointly adopt children of the third persons, but they are allowed to adopt children of their partners that they are upbringing together.

Considering the said above, we recommend the Ukrainian authorities to ensure the adoption of the legislation for the purpose of introduction of the registered (civil) family partnership in Ukraine between two people of either sex, that would be like a customary marriage in general terms, and that would follow the examples of the similar legislation in the developed countries. Legal provisions relating to marital and family rights and responsibilities are found in many laws of Ukraine, therefore, the introduction of registered (civil) family partnership requires a comprehensive reform of the Ukrainian legislation with the aim to take into account the status of a family member/a close relative that registered family partners should get.

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