



ПРАВОЗАХИСНИЙ ЛГБТ ЦЕНТР «НАШ СВІТ»

LGBT HUMAN RIGHTS NASH MIR CENTER

1 November 2018
Kyiv, Ukraine

Dear Supporters of LGBT Rights,

I am writing to you to ask for your attention and support – **because LGBT human rights are now under serious renewed threat in Ukraine at this watershed moment.**

As you undoubtedly recall, following the historic uprising here known as ‘Euromaidan’ – the mass public protests in 2014 against pro-Russian politicians and resulting in the celebrated ‘Revolution of Dignity’ – the Ukrainian people made its final choice for integration with modern Europe. This choice was and is even more crucial for the LGBTI community throughout the nation because it ‘opened the door’ at last for positive changes in state policy towards the LGBTI community. We were so inspired, and encouraged by supporters also uplifted by events!

In 2015 the President of Ukraine adopted the planful National Human Rights Strategy. The same year, the Ukrainian government adopted the Action Plan on the Strategy’s Implementation until 2020. In particular the NHRS includes development of legislation on combating hate crimes on various grounds, including SOGI (required to have been implemented in 2016) – and the working out of legislation on registered partnership for same-sex couples (required to have been implemented in 2017).

Unfortunately, up till now the responsible Ukrainian authorities have not achieved any demonstrable progress in realizing these important, accepted, and obligatory tasks.

Moreover, shortly the Ukrainian government is going to so-called ‘update’ the Human Rights Action Plan which – if adopted – will exclude any real steps in favour of improving LGBTI community members’ rights (*please see Annex below*). Proposed changes either cross out explicit mention of SOGI from state obligations (hate crime legislation), or outright exclude some components from NHRS (development and adoption non-discrimination policy in government institutions) and/or even propose additional options for discrimination (*please see explanations in [our letter regarding draft Bill Nr.3501](#)*).

In this crucial watershed moment we address all of you supporters – **please support our demand to the Ukrainian government officials – for them not to renege on their already previously acknowledged obligations to promote LGBTI rights aligning with the National Human Rights Strategy.** A huge regressive misstep backward from the people’s hard-won national pro-European position must be prevented by united action now. Timely modernization is overdue and LGBTI citizens are suffering for it.

Please send your letters of protest to:

Pavlo Petrenko
The Minister of Justice of Ukraine
13 Horodetskogo Str., Kyiv, 01001, Ukraine

E-mail list: themis@minjust.gov.ua, social@minjust.gov.ua, coordinator@gay.org.ua

We’ll highly appreciate your financial support, please click [DONATION](#). Thank you for your valued support.

Sincerely yours,

Andriy Maymualakhin,
Coordinator



Annex

Action Plan
to implement Ukrainian National Human Rights Strategy for the period until 2020 (some selected items concerning LGBTI issues)

Expected result (according to the National Strategy): item 105. To ensure fullness and coherence of legislation on preventing and combating discrimination, to implement relevant and timely positive actions at the national and local levels in regard to prevention and combating discrimination, to ensure effective and timely response of the state to new challenges.

Activity approved by the Cabinet of Ministers of Ukraine on 23 November 2015	Current status of implementation according to Ministry of Justice of Ukraine and proposed amendments (November 2018)	Comments by Nash Mir Center
<p>1) Development and submission to the Cabinet of Ministers of a bill to amend the law of Ukraine “On Principles of Prevention and Combating Discrimination of Ukraine” regarding:</p> <p>Harmonization of the list of grounds on which discrimination is prohibited with the EU legislation, <u>including non-discrimination on grounds of sexual orientation and gender identity</u>, expanding the list of the forms of discrimination (victimization), regulating the issue of prohibition of multiple discrimination and discrimination by association, clarifying the scope of law.</p> <p>Extending provisions, which regulate the determination of special legal relations, which cannot be considered discriminative (exceptions).</p>	<p>Implemented (<i>according to official Report on implementation of Action Plan in III Quarter 2018</i>).</p> <p>Draft bill Nr. 3501 was developed and passed first reading in the Parliament of Ukraine.</p>	<p>1) Draft bill Nr. 3501 <u>does not include</u> non-discrimination on grounds of sexual orientation and gender identity.</p> <p>2) Concurrently, one of the proposed Articles reads: “<i>Situations resulting from implementation by an individual and / or a group of persons of their rights to freedom of thought and speech, free expression of views and beliefs, and freedom of creed and conscience are not considered as discrimination</i>”.</p> <p>This amendment flagrantly contradicts the recommendations of the European Union and the Council of Europe in this sphere, thus violating the letter and the meaning even of this bill's name, not to mention its essence. For additional explanation please refer to our letter regarding draft Bill Nr.3501).</p>
<p>3) Development and submission to the Cabinet of Ministers of a bill to amend the</p>	<p>Implementation is ongoing (<i>planned deadline expired in 2016</i>).</p>	<p>Proposed amendments to the Action Plan exclude explicitly mentioning the initially identified protected grounds,</p>

<p>Criminal Code of Ukraine regarding:</p> <p>...</p> <p>Providing punishment for hate crimes under motives of such grounds as race, skin color, religious beliefs, <u>sexual orientation</u>, <u>transsexuality</u>, disability, language (amendments to para. 3 of Article 67, to part 2 of Articles 115, 121, 122, 126, 127, 129, Article 293)</p> <p>...</p> <p>Unification of the terminology relating to the use of the term "intolerance".</p>	<p>National Police proposes new wording:</p> <p><i>"Unification of the terminology relating to the use of the term "intolerance" in Article 67 of Criminal Code of Ukraine and amendments to Articles 115, 121, 122, 126, 127, 129 with the aim of providing punishment for hate crimes".</i></p>	<p>including SOGI.</p> <p>Based on our 20 years' experience in protecting LGBT people from hate crimes we understand that in practice it will result in a very weak legal framework and bids fair to demolish initial plans to improve protection of our community from hate crimes.</p>
<p>4) ...</p> <p>To develop and approve typical equality and non-discrimination policy and to require state authorities, governmental institutions and enterprises to adopt appropriate policies.</p>	<p>This task was not implemented and Ministry of Justice proposes to exclude it from further plans.</p>	<p>Proposition to exclude this task signals that the Ukrainian government does not want real improvements in the area of equality nor non-discrimination in the labor sphere.</p> <p>The victory of including SOGI as protected grounds into anti-discrimination provisions of the Labor Code of Ukraine in 2014 (which became possible only after huge political pressure from the European Union) will be lost if concrete follow-up steps are not done to implement words contained in the Code into everyday state policy.</p>
<p>6) <u>Drafting a bill</u> on legalization of registered civil partnership in Ukraine 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.</p>	<p>Implementation is impossible was stated in the official Report on implementation Action Plan in III Quarter 2018.</p> <p>As grounds for such a statement, officials refer to numerous appeals from religious homophobic organizations and their inspiration from several local councils condemning any measures to improve the situation of LGBTs in Ukraine and calling for the adoption of a law prohibiting the promotion of homosexuality.</p>	<p>In 2017 Nash Mir lodged an Administrative case against Cabinet of Ministers, Ministry of Social Policy and Ministry of Justice to demand implementation of this vital task as the first step towards legalizing same-sex partnership in Ukraine.</p> <p>Unfortunately the government has not even selected a public authority that has to be responsible for the drafting and promotion of the mentioned bill. We made attempts to look into the matter but received quite contradictory answers from two ministries in response to its request. The Ministry of Justice points to the Ministry of Social Policy as responsible for this issue, and the latter in turn points to the former. The</p>

	<p><i>“Having considered all the above-mentioned appeals, taking into account their considerable quantity, and after having analyzed the Constitution of Ukraine, the existing international treaties of Ukraine, other relevant legislation, we consider that sub-item 6 of item 105 of the Action Plan cannot be implemented.”</i></p> <p>In its recent proposed amendments Ministry of Justice suggested new wording of this sub-item: <i>“Conveying a bill on legalization of registered civil partnership in Ukraine 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.”</i></p>	<p>Secretariat of the Cabinet of Ministers has distanced itself from such a “sensitive” issue by noncommittally forwarding our letters to the Ministry of Justice.</p> <p>We consider it absolutely inadmissible that the Ukrainian government actually supports calls for homophobic legislation. We remind all that one of the tasks of the Ukrainian authorities, especially within the context of the process of European integration, is the struggle against widespread homophobia in our society. In this regard, by siding with homophobes and ignoring their own commitments, the Ukrainian government actually undermines this process.</p> <p>What does “conveying a bill” mean for the future? – we ask ourselves and feel that it seems to be a rhetorical question – government institutions tell us that they will not do any active steps even to draft legislation, as was promised initially. Also obvious for us is that officials are solely concerned with putting a good face on a bad game!</p>
11) Amending the list of diseases, contraindications to donation and forms of risky behavior, Annex 3 to the Procedure of Medical Assessment of Donors of Blood and (or) Its Components, approved by Order of the Ministry of Health No. 385 “On infectious safety of donor blood and its components” of 1 August 2005, particularly deleting para. 1.3	<p>Implementation is not relevant (according to official Report on implementation Action Plan in III Quarter 2018. Planned deadline expired in 2016).</p> <p>Proposition – Delete from further plans.</p>	<p>According to Annex 3 to the Procedure of Medical Assessment of Donors of Blood and (or) Its Components any LGBT person is considered prone to risky behavior and accordingly is prohibited from blood donation – even lesbian and bisexual women who undoubtedly do not belong to the groups of risk for HIV infection. In our view this Ministry of Health approach gives an excellent illustration of the widespread stigma and discrimination toward LGBT community members in Ukraine.</p>

For more information about the situation of LGBT community in Ukraine please refer to our reports available at Nash Mir Center’s website <https://gay.org.ua/en/>

[LGBT situation in Ukraine in 2018 \(January – August\)](#)

[The Face of Hatred. Crimes and incidents motivated by homophobia and transphobia in Ukraine in 2014-2017.](#)

[ON THE RISE. LGBT situation in Ukraine in 2017](#)

[A NEW BEGINNING LGBTI situation in Ukraine in 2016](#)