

POLICY BRIEF

On the introduction of registered (civil) partnership for same-sex couples in Ukraine

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1. LEGISLATIVE REGULATIONS

The main document regulating family relations in Ukraine is the Family Code of Ukraine (hereinafter – the FCU). Article 3 "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 "family is founded on the basis of marriage, blood ties, adoption, or on other grounds not prohibited by law and not contradicting the morals of society" (Part 4). Thus, theoretically, same-sex partners who live together as a couple may fall under this definition. However, the presence of a disclaimer about the "grounds not contradicting the morals of 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 other articles of the FCU regulate relations not between members of a family in general, but rather between concrete family members and close relatives – for example, between parents and children, brothers and sisters, spouses, adoptive parents and the adopted.

Article 21 of the Family Code of Ukraine defines marriage as "the union of a woman and a man", thus effectively making a marriage between people of the same sex impossible. However, the FCU recognizes the actual family relationships even between heterosexual cohabitants who are not married (to each other or to others): Article 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 marriage" envisages that "property acquired by them during the period of living together belongs to them as joint common property", as if they were legally married; Article 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 spouses in the issue of receiving support in case of disability. Finally, Article 211 "Persons who may be adoptive parents" allows them joint adoption of children. However, the FCU does not contain any mention of same-sex family partners, and Article 211 expressly provides that "adoptive parents may not 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 society" when defining "close relatives and family members", among whom it includes "persons who live together, have a joint household, mutual rights and obligations, including persons who live together but are not married" (Article 3, Part 1, Paragraph 1). In theory, this definition can include same-sex family partners, although, as far 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 relatives according to Article 63 of the Constitution of Ukraine, and this definition also applies in all cases involving close relatives and family members in the criminal law. Anyway, it should be noted that absence of concepts like "same-sex family partner" and "same-sex family partnership" in Ukrainian legislation leads to the situation when any recognition of such relationships requires a decision of a competent authority or an official in each individual 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 situation with the recognition of same-sex marriages concluded abroad is rather complicated. While registered partnership has no analogue and is never mentioned in Ukrainian legislation – accordingly, there is no legal basis to recognize it in Ukraine – the procedure for recognition of marriages concluded outside Ukraine in accordance with foreign law is prescribed in the Law of Ukraine "On International Private Law", namely Article 58 "Validity of marriage concluded outside Ukraine." Part 2 of this article states that "marriage between foreigners, marriage between foreigners and persons without citizenship, marriage between persons without citizenship concluded under the law of a foreign state is valid in

Ukraine" – that is, same-sex marriages concluded abroad between non-citizens of Ukraine are valid in Ukraine without any restrictions. Part 1 of this article stipulates that "a Ukrainian citizen must comply with the requirements of the Family Code of Ukraine concerning the grounds for nullity of marriage" for recognition of a marriage concluded under foreign law, in which at least one spouse is a citizen of Ukraine. The legal grounds for nullity of marriage is set out in Articles 38-41 of the Code, while Article 38 states that "The ground for nullity of marriage is a violation of the requirements established in Articles 22, 24-26 of the Code." None of these articles contains direct and explicit prohibition of marriage between persons of the same sex, so we may suppose that same-sex marriages of Ukrainian citizens concluded under foreign law, in principle, should be valid in Ukraine – at least unless the Constitutional Court of Ukraine (which, under Article 147 of the Constitution of Ukraine, "provides the official interpretation of the Constitution and laws of Ukraine") decides otherwise. To our knowledge, there are no precedents of both recognition or denial of recognition by the Ukrainian authorities of a Ukrainian citizen's same-sex marriage concluded under foreign law.

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-рп/99 from 03.06.1999 made a notation of this fact and stated that "Regarding the notion of a "family member" the Constitutional Court of Ukraine proceeds from the objective differences of its content depending on the branch of law." When providing an official interpretation of the term "a member of a military, police, the State Fire Service officer's family", 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 provided by the Family Code, the Ukrainian legislation has many provisions on spouses and other family members and close relatives which are enshrined in other laws. It is impossible to provide an exhaustive list of them, but one can note that they, inter alia, 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 the family supporter 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 officer to have vacation at the time convenient for them, the right to have a leave to take care of sick relatives etc.;
- representation of interests and the right to refuse to testify about a close relative in the law enforcement and judiciary authorities;
- a simplified procedure for immigration and obtaining citizenship for those 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 so serious complications when exercising them that the Family Code 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 Measure 6 "Drafting a bill on legalization of registered civil partnership in Ukraine for different-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", with the implementation deadline being the II quarter of 2017.

2. SOCIAL SITUATION

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 same-sex

families in Ukraine, they are being formed and existing simply because homosexual people feel the need for the family life.

Since, at the moment, there is no reliable actual data either about the number of LGBTI people in Ukraine in general or about the number of families they have created, we may only rely on rough estimates made on the basis of common notions of modern science about same-sex relationships in society. Although the exact percentage of LGBT people in the population is unknown, various scientific studies estimate it at 2-10%.¹ Taking into account that the population of Ukraine aged over 14 (excluding occupied Crimea) constitutes about 36 million, one can estimate that 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 result by Nash Mir Center in 2009, the number of same-sex couples in Ukraine can already be 100-200 thousand.²

A high level of homophobia in Ukrainian society is a separate problem which 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, 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).³ Some 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 those around them 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 homophobia in Ukraine, since the churches consistently object to any attempts to recognize and protect LGBT interests on both legislative and socio-political levels.⁴

Because quantitative sociological data of other researchers on the Ukrainian LGBT community is virtually absent, Nash Mir Center collects and analyses respective information independently. In 2009, in cooperation with NGO Donbas-Socproject, it conducted the first survey of same-sex partnership in Ukraine.⁵ In late 2016 and in January 2017 Nash Mir Center conducted another online survey among Ukrainian LGBTs on issues of same-sex family partnership. Most participants in this survey were users of the most popular among Ukrainians dating websites for gays – *bluesystem.org* and *qguys.ru*. Unfortunately, there are no specialized Internet sites popular among Ukrainian lesbians, so the attention of homo- and bisexual women to the survey was attracted mostly through regional lesbian groups and individual activists. Below are presented the results of this survey that forms for us a picture of the current situation with social aspects of same-sex partnership in Ukraine.

The survey involved 1519 people – 1263 men and 250 women; 6 people, answering the questions about their gender, chose the answer "other". Less than 2% of those who participated in the survey were aged below 18, 25.6% – from 18 to 25, 41.1% - from 26 to 35, 27.3% - from 36 to 50, and 4.2% of respondents were aged over 50.

Answers on the maximum duration of same-sex relationships among respondents who had experience of those distributed as follows: from 1 month to 1 year – 21.4% of respondents, from 1 to 2 years – 24.2%, from 2 to 5 years – 32.4%, from 5 to 10 years – 14.7%, more than 10 years – 7.7%. In the group of respondents aged over 50, 22.8% had same-sex partnerships which lasted 5-10 years, 28.1% – more than 10 years. However, even in this age group were 15.8% of them who never had relationships which lasted over a year.

The respondents of the Internet poll in 2017 thus described the character of their relationship with the partner (the question allowed a choice among multiple answers):

¹ Please see, for instance, G.J. Gates, *How many people are lesbian, gay, bisexual, and transgender?*, April 2011, williamsinstitute.law.ucla.edu.

² А.Ю. Маймулахин, М.Г. Касянчук, Е.Б. Лещинский, *Однополое партнерство в Украине: отчет о проведенном исследовании*, 2009, р. 25, gay.org.ua.

³ І. Волосевич, С. Герасимчук, Т. Костюченко, *Молодь України – 2015*, 2015, с. 8, www.gfk.com.

⁴ 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.

⁵ See note 2.

- 52.5% (of the total number of those who had the experience of partnership) met regularly, sometimes slept together;
- 28.4% met regularly and, though not living together, shared in common large expenses;
- 47.3% (men – 44.6%, women – 59.8%) lived together and had a common household, shared in common expenses;
- 9.8% jointly owned real estate or other valuable property such as a car.

According to the survey in 2009, 15.9% of respondents had children, and another 56.7% would like to have them. Among those respondents who had experience of same-sex partnerships, 11.1% (9.3% of men and 23.0% of women) reported that they participated in child-rearing (of their own or partner's children) during same-sex partnership. Among the total number of respondents (including those who have never had a permanent same-sex partner), this percentage equalled 9.1%.⁶

The results of the Internet survey of 2016-2017 in the part addressing child-rearing by same-sex partners significantly differ from the previous study. Overall, only 4.2% of the respondents who had same-sex partner answered yes to the question of co-parenting in their partnerships (12.1% among women, and only 2.5% among men). The largest share of those who had experience of raising children in same-sex partnerships was observed in the age group from 36 to 50 – it amounted to 6.6%. One should take into account a peculiarity of this study which consists in this: the respondents were sought through online advertising, and most of those who responded to the advertisement were visitors of dating websites for gay men. Obviously, those male and especially female couples who were raising kids together were unlikely to be looking for dating over the Internet; that may explain such large differences from the results of the previous survey.

88.9% of those who participated in the survey indicated as a problem the "Necessity when dealing with outsiders to impersonate those whom you are not" – virtually nearly equal portions among men (89.2%) and women (87.2%). This answer revealed no significant dependence on the age of the respondents, nor on the nature or length of their relationships: the proportion of those for whom this was an important issue in all cases ranged from 82% to 92%.

15.7% of the respondents (13.8% of men, and 25.6% of women) faced problems with ownership rights to the jointly acquired valuables, and 13.1% of the respondents (12.2% of men, and 18.0% of women) – with registration of real estate joint ownership; it seems that female couples significantly more often want to share ownership than male ones. Difficulties with inheritance were indicated by 11.2% of the respondents (12.2% of men, and 10.4% of women).

Expectedly, the difference in answers on the issues of property (respondents could choose multiple answers) depended on the character of the respondents' relations in their same-sex partnership. The most representative in terms of property issues is the group of partners who jointly owned real estate and valuables. In this group 52.2% faced problems with joint ownership of movable property, and 42.3% had problems with registration of joint ownership of real estate.

It is interesting to track how respondents answered questions on issues of a material nature, depending on the duration of their relationships in same-sex partnership. The number of property problems increased dramatically for partnerships that lasted more than five years, and in the group of the respondents who had experience of their partnerships lasting more than 10 years, a third of the respondents faced problems with registration of joint ownership of real estate and inheritance, while 36.2% had problems with ownership of jointly acquired valuables.

12.3% of all who participated in the survey indicated that they were denied permission to adopt a child (among women the figure was 22.0%, among men – 10.5%).

A very important topic for same-sex couples raising children is the right to take leave to care for a sick child of their partner. In 2009 it was listed as a problem by 7.8% of the respondents while in the study of 2017 – by 9.3% of all respondents (6.1% of men, and 25.6% of women). Among those who together with a same-sex partner brought up children, 50.9% recognized it as a problem.

⁶ See note 2, p. 15. Some data are taken from the unpublished working materials of the research.

The impossibility of using the constitutional right not to testify against a close relative in case of a same-sex partner was indicated by 10.2% of the respondents in the 2009 survey, and by 12.6% (12.4% among women and 12.5% among men) in the survey of 2017.

Among other problems, the study participants in 2017 often noted those associated with health care (access to the sick partner in a hospital, making decisions involving medical issues).

In the survey of 2017 the respondents were asked a question about how they solve all the above-mentioned problems. The answers were as follows (the respondents could choose multiple answers):

- They found the opportunities provided by the Ukrainian legislation, although it took a longer time and cost more – 31.4% of the respondents (33.3% of men, and 21.6% of women).
- They used illegal methods (submitted false information, used a bribe) – 22.5% of the respondents (21.5% among men, and 28.0% among women).
- They just reconciled themselves to their inability to solve the problem, even at the expense of their own interests – 59.1% of the respondents (57.6% among men, and 66.0% among women).

In the study of 2017 the respondents, in particular, were asked about what would be most important for them in the law on same-sex registered partnership (they could choose multiple answers). For most respondents this appeared to be the moral side of the issue: 70.4% of all who participated in the survey indicated that it would be "Recognition of your family, albeit with somewhat limited rights compared with ordinary marriage, by the state" (67.2% of women, and 71.0% of men). The biggest portion of such respondents were among those who brought up children together – 78.9%.

Second place importance was occupied by property issues. "The ability to decide easily on joint ownership of property, the right to inherit from a partner" seemed important to 45.2% of the respondents (43.2% among men, and 55.2% among women). Among those who lived and kept the household together with a partner, the importance of property rights was reported by 56.7%, and among those who jointly owned real estate and valuables with a partner – by 64.9%.

The answer "The ability to have other social and economic rights and duties of ordinary marriage" was chosen by 48.9% of the respondents (in particular, 61.0% of those living with a partner, 70.9% of those who jointly owned property, 63.2% of women, and only 46.0% of men).

Several questions touched upon the issues of adoption and joint upbringing of children. "The ability to take leave for care of a sick partner's child" was considered important by 20.8% of all the respondents (40.0% of women, and only 16.9% of men – it is clear that most gay men know about this issue rather theoretically). Among those men and women who already had experience of raising children in a partnership, it was indicated by almost half (49.1%).

32.3% of respondents would like to be able to adopt a child of their partner (28.0% of men, and 53.6% of women). 35.1% of the respondents (32.2% of men, and 48.8% of women) expressed a desire to be able to adopt an other person's child together with their partner.

"To have the right not to testify against their loved one" was mentioned by 33.6% of the respondents (32.5% of men, and 38.8% of women). 34.8% (32.8% of men, and 44.4% of women) would like to have "The ability to take the surname of the partner or merge our surnames" – expectedly in our society, women are more likely to choose a common surname for the family.

In the survey of 2017, 44.3% of the respondents chose the answer "Yes, we will register our relationship", 36.7% – "No, I refrain from it for the time being, but I will be glad that this possibility appears", 13.3% – "No, I fear the negative attitude of the homophobic environment", and only 5.7% of the respondents were sure that "No, I personally do not need it."

Women, as was expected, are more likely to register their relationship. Among them, 51.0% are going to register their relationship as soon as possible, 40.0% would be happy if this possibility appears, 6% cannot afford it because of homophobia, and only 3.0% feel no such need.

Among men the willingness to conclude a civil union was declared by 43.0%, 36.0% would welcome such a possibility, 15.0% are too afraid of homophobia in society, and 6.0% do not need formal registration of their relationship.

Thus, sketching a profile of those for whom registration of same-sex partnership is most expected, we form this picture: it is mostly women of homosexual orientation, with at least a two-year experience of same-sex partnership in which they lived together and had a common household, jointly owned property and valuables, and, in many cases, brought up children together. Almost none of them hide their sexual orientation from society.

3. INTERNATIONAL EXPERIENCE

As of March 2017, twenty-three countries in the world had legislation on ordinary marriage which also extended to same-sex couples. In addition, Israel did not allow people of the same sex to enter into marriage yet recognized such marriages if concluded abroad. Thirty-seven countries had legislation providing for the registration of marital relations in a form alternative to regular marriage (in different jurisdictions it is called differently: 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 within those jurisdictions). In Europe, same-sex marriages were possible in 14 countries, and same-sex partnerships – in 23 countries. Some countries, which had introduced the registered partnership and later allowed same-sex couples to enter into a regular marriage, either automatically converted concluded partnerships into marriages or simply stopped registering new partnerships but kept the already registered ones in the same status (Denmark, Norway, Sweden, Iceland, Ireland, Slovenia and more), while others have retained both forms of marital status registration (marriages and partnerships) with the option of converting partnership into marriage (the Netherlands, England and Scotland) or as independent alternative legal forms to recognize marital relationships. Typically, in countries that recognize registered same-sex partnerships but not same-sex marriages, such marriages concluded abroad are recognized as same-sex partnerships in accordance with the local legislation.

The registered (civil) partnership was originally introduced as a form to register de facto marital relationships of same-sex couples (Denmark, 1989) who could not conclude a regular marriage, but the Netherlands in 1998 adopted a law on registered partnerships that was open for both same-sex and heterosexual couples. 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 different sexes. Over time, several other countries followed the example of the Netherlands by introducing civil unions that were available for both same-sex and different-sex couples (e.g. France and Estonia). It is interesting to note that now a public campaign is unfolding in the UK to support extending the scope of registered partnership status (which now is only available to homosexual partners) to heterosexual couples, despite the great similarity of these two legal institutions in this state.

In 2008 the Parliament of Greece adopted a law on civil unions only for different-sex couples (in addition to the regular 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 different-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. 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 are just as capable as different-sex couples of entering into stable, committed relationships, and that they are in a relevantly similar situation to a different-sex couple as regards their need for legal recognition and protection of their relationship", and ruled that the refusal of the Italian authorities to introduce any form of legal recognition of such relationship violates article 8 of the ECHR. In 2016 the Italian Parliament adopted the law on civil union for same-sex couples.

By analysing these and other recent cases on same-sex couples, it can be concluded that the case law aggregate of the ECHR now considers the absence of any form of recognizing same-sex couples in a national legislation as 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 filed a lawsuit against Ukraine and are now awaiting consideration of their applications.

The scope of rights and duties offered by registered partnership varies in different countries, from being almost the same scope as ordinary marriage (the Netherlands, Austria) to one noticeably more limited – mainly by financial and property questions as well as the status of a family member (France). It is noteworthy that in all countries where registered partnership for same-sex couples significantly limits partners' rights and responsibilities compared to ones in regular marriage, the relevant legislation has been gradually reformed toward approaching regular marriage by the registered partnership, or the former becoming 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 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 by one of them before the conclusion of a partnership, but often are not allowed to jointly adopt children of other people. With regard to procedures of concluding and terminating partnerships, often they are more simple when compared to the respective provisions for marriages (in particular, they do not provide for the court's involvement when terminating a partnership). The remaining differences between partnership and marriage vary substantially 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.

The statistics of registered partnerships' conclusion show that they comprise a few percent of the total number of marriages in a given period of time in a given country. This roughly corresponds to the estimated percentage number of homosexuals in society – for example, in Ireland the number of registered partnerships (same-sex) in 2013 was 1.6%, and in 2014 – 1.8% of the total number of marriages (heterosexual);⁷ in Finland, the same data amounted to about 1.4% in both years.⁸ Countries, in which there is registered partnership for both same- and different-sex couples, demonstrate that registered partnership is quite popular among heterosexual partners as well. In particular, in France in 2013, 162,698 civil unions were concluded (representing 72% of marriages concluded 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%.⁹ In the Netherlands, 9445 partnerships (14.6% of the number of marriages) were registered in 2013, of which different-sex partnerships made 96%, as in France.¹⁰ It should be noted that the conclusion of registered partnership in the Netherlands entails practically the same legal consequences as marriage, whereas in France couples, who have entered into "Civil Solidarity Pact", have significantly fewer rights and responsibilities than spouses in ordinary marriage.

There is no evidence that introduction of registered (civil) partnership or regular 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.¹¹

4. CONCLUSIONS AND RECOMMENDATIONS

Summarizing what is said above, we can make several conclusions:

⁷ Central Statistics Office, *Marriages and Civil Partnerships 2014*, 31.05.2015, *cso.ie*.

⁸ Statistics Finland, *Fall in the number of marriages contracted tapered off*, 21.04.2015, *stat.fi*.

⁹ Institut National d'Etudes Démographiques, *Marriages, divorces, civil unions (PACS)*, 2013, 2014, *ined.fr*.

¹⁰ Statistics Netherlands, *Marriages and partnership registrations; key figures*, 11.09.2014, *statline.cbs.nl*.

¹¹ 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.

- LGBT persons, who need to have their de facto family relationships formalized as same-sex family partners, constitute a certain share of Ukraine's population.
- Ukrainian legislation does not provide for any form of legal recognition of such relationships, instead it contains provisions directly discriminating against same-sex family partners even compared to unmarried opposite-sex family partners.
- International, and particularly European, trends as well as the case law aggregate of the European Court of Human Rights point to the need for legislative regulation of same-sex families' legal status and solution of their immediate problems.
- The vast majority of Ukrainian society has a negative attitude towards LGBT people and 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, stemming from homophobia, as stated in many international documents related to Ukraine.
- The Ukrainian authorities recognize this duty, as evidenced by the governmental Action Plan to Implement the National Strategy on Human Rights until 2020. Among other matters, it provides for "Drafting a bill on legalization of registered civil partnership in Ukraine for different-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" by the end of the II quarter of 2017 (Clause 105, Measure 6).
- The international experience demonstrates that the legal recognition of same-sex couples does not cause significant social and legal problems on the scale of whole society, and at the same time helps to solve similar problems of these couples. The expected number of registered same-sex family couples ranges from a few tenths of a percent to a few whole percent of the total number of regular marriages concluded within the same period of time. Registered partnership as an alternative form to recognize marital relations is also in demand by heterosexual couples who for various reasons do not want to enter into an ordinary marriage.
- The main differences between regular marriage and registered partnership consist in 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 third persons but usually are allowed to adopt children of their partners whom they are bringing up together.

Considering what is said above, we recommend the Ukrainian authorities to ensure the adoption of the legislation on registered (civil) partnership in Ukraine between two people of either sex, in general terms similar to regular marriage. Legal provisions relating to marital and family rights and responsibilities are found in many laws of Ukraine, therefore, the introduction of registered (civil) partnership requires a comprehensive reform of Ukrainian legislation with the aim of taking into account the status of a family member / a close relative that registered family partners should get.

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