

## Questionnaire

Information requested by the European Commission to the Government of Ukraine for the preparation of the Opinion on the application of Ukraine for membership of the European Union

### Part I

*181. What are the competences of the NHRI/Ombudsperson's institution in the field of human rights and what type of recommendations can it hand down? Does the Institution have special competences regarding the rights of women, rights of children, rights of older persons, rights of persons with disabilities, rights of LGBTIQ persons, or protection of minorities (including ethnic, racial or religious minorities)? Can the NHRI / Ombudsperson's institution have investigation power? Can the NHRI / Ombudsperson act ex officio?*

- We can confirm that the Commissioner for Human Rights of the Verkhovna Rada of Ukraine has competences to protect the rights of LGBTIQ persons and actively uses them.

*184. Do police, prison and border guards and other law enforcement officers receive training on human rights, including training on the rights of women, rights of the child, rights of older persons, rights of persons with disabilities, persons belonging to minorities, LGBTIQ persons?*

- Theoretically, yes, relevant issues should be present in law enforcement training courses, but in practice these issues are given little attention, especially regarding LGBTIQ persons.

*191. What actions have been taken to ensure effective investigation of all ill-treatment allegations and strengthening internal control services dealing with such allegations, including cases targeting women, children, LGBTIQ persons, persons with disabilities and members of minorities?*

- We do not see effective investigation and punishment of guilty law enforcement officers in cases of violation of LGBTIQ rights.

*198. Elaborate how the right to marry and the right to found a family are protected within the domestic legislation, including partnerships open to same-sex couples.*

- Ukrainian legislation does not provide for any form of legal recognition of same-sex couples and contains provisions that directly discriminate against same-sex couples, even compared with unmarried same-sex couples. Same-sex partners are not recognized as family members and do not have the appropriate rights.

*226. What are the legislative and policy instruments in place to prevent and tackle discrimination based on membership of a national minority, ethnic or social origin, sex, gender, race, colour, genetic features, language, religion or belief, political or any other opinion, property, birth, disability, age or sexual orientation? Has a general anti-discrimination law been adopted and when? Is there an overall anti-discrimination strategy in place?*

- The general anti-discrimination law was adopted in 2012, however, despite numerous recommendations from international and human rights organizations, sexual orientation and gender identity are still not included in the list of protected grounds. Anti-discrimination issues were included in the Action Plans for the implementation of the National Strategy for Human Rights for the periods up to 2020 and 2021-2023, but most of them remained unfulfilled. In particular, sexual orientation and gender identity were not included in the list of protected grounds in the law "On Principles of Preventing and Combating Discrimination in Ukraine" and no amendments were made to the Criminal Code to criminalize hate crimes on these grounds.

*234. Does Ukraine ensure legally and in practice the respect of the principle of non-discrimination on the basis of sexual orientation?*

- Discrimination on ground of sexual orientation is directly prohibited only in employment. We are aware of the only case in which a victim of such discrimination went to the court to defend his rights, but the courts of first and appellate instance denied him a claim on dubious formal grounds. In other spheres of life, there have been no cases of sexual discrimination lawsuits, but victims have sometimes sought

protection from the management of respective enterprises / institutions in order to protect their violated rights. In most cases, such appeals were unsuccessful.

*235. Is any legal measure in place regarding gender identity? Is legal gender recognition in place? If so, what provisions apply to legally change one's gender marker in identity documents?*

- Ukraine has legal procedures for gender reassignment and change of the gender specified in the documents of transgender people. Changes to the procedure of gender reassignment made in 2016 removed the vast majority of unreasonable restrictions and difficulties that existed before. At present, such a procedure, in general, meets modern standards in this area. Change of the gender in identity documents is carried out after a person has been diagnosed with "transsexualism" and "gender dysphoria" by doctors of the medical advisory commission of the primary health care center. The extent of the required medical intervention is determined by the patient.

*236. Has Ukraine taken measures to align with 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 of the Council of Europe?*

- Until 2015, Ukraine did not take any steps to implement this Recommendation, even its translation into Ukrainian and dissemination in official sources. In 2015, the Action Plan for the Implementation of the National Strategy for Human Rights until 2020 was adopted, within the framework of which steps were taken to implement certain provisions of this Recommendation. The gender reassignment procedure for transgender people has been significantly simplified. Organizations representing the interests of the LGBTIQ community have become involved in the process of developing and implementing state measures that affect the rights of LGBTIQ persons. Law enforcement and public authorities have begun to ensure the right to freedom of peaceful assembly without discrimination on grounds of sexual orientation and gender identity, although problems with violence by far-right organizations remain. Discrimination on grounds of sexual orientation or gender identity in the field of employment was prohibited.

The vast majority of other measures provided for in the Recommendation have not been implemented.

Part II

### **C. Employment and Employment Protection**

*11. Are there specific anti-discrimination provisions (racial ethnic origin, religion or belief, disability, age or sexual orientation)?*

- Yes, discrimination on ground of sexual orientation in the field of employment is prohibited (Article 2-1 of the Code of Labour Laws of Ukraine).

### **II. HEALTH PROTECTION**

*15. Is universal health coverage provided in in Ukraine? What measures are in place to allow the poorest people, those in rural and remote areas, people with disabilities, people living with HIV, children, elderlies and adults who use drugs, prisoners, women in prostitution, LGBTI, internally displaced persons, and Roma access to healthcare?*

- Ukrainian medicine does not single out LGBTIQ people as a group in need of specific medical care. In practice, transgender persons face significant problems in the medical field due to the lack of relevant specialists everywhere except the country's largest cities and expensive treatment that is not covered by universal health insurance.