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Совет по правам человека

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**Поощрение и защита всех прав человека,
гражданских, политических, экономических,
социальных и культурных прав,
включая право на развитие**

Письменное представление Украины: Уполномоченный Верховной Рады Украины по правам человека*

Записка секретариата

Секретариат Совета по правам человека настоящим препровождает сообщение, представленное Украиной: Уполномоченный Верховной Рады Украины по правам человека** и воспроизводимое ниже в соответствии с правилом 7 b) правил процедуры, содержащихся в приложении к резолюции 5/1 Совета, согласно которому участие национальных правозащитных учреждений основывается на процедурах и практике, согласованных Комиссией по правам человека, включая резолюцию 2005/74 от 20 апреля 2005 года.

* Национальное правозащитное учреждение с аккредитационным статусом категории «А», присвоенным Глобальным альянсом национальных учреждений, занимающихся поощрением и защитой прав человека.

** Воспроизводится в приложении в полученном виде только на том языке, на котором оно было представлено.

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Просьба отправить на вторичную переработку



Annex

Submission by Ukraine: Ukrainian Parliament Commissioner for Human Rights

Written statement on report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (A/HRC/44/53/Add.1)

1. The results of the monitoring of the state of ensuring the rights and freedoms of LGBT persons conducted by me have shown that in recent years, the situation in the field of preventing and combating discrimination on the grounds of sexual orientation and gender identity has undergone some individual positive changes. The Ukrainian society is becoming more aware of the real problems and needs of its LGBTI compatriots, more tolerant of manifestations of homosexuality and transgender.
2. The Kiev Equality March 2019 became unprecedented not only in the 2-number of participants, but also in their composition: for the first time, an official delegation of a government institution - the Public Health Center of the Ministry of Health of Ukraine - took part in it, columns of LGBTI persons - veterans and volunteers, who resisted the aggression of the Russian Federation, were formed for the first time, and also people with disabilities who promoted equality. Furthermore, law enforcement bodies showed a high level of readiness for cooperation with civil society and provided fairly reliable protection from homophobic aggression for LGBT events.
3. At the same time, despite the measures taken to improve the situation of LGBT persons, increasing the level of tolerance towards them in society, a number of problematic issues remain unresolved.
4. In particular, it requires the development and improvement of legislation that would properly regulate the issues of ensuring the rights and freedoms of LGBT persons and would help reduce the number of manifestations of discrimination against them in society.
5. The Action Plan for the implementation of the National Strategy for Human Rights until 2020, approved by the Cabinet of Ministers of Ukraine No. 1393-r dated November 23, 2015, provides for establishment of an effective system to prevent and combat discrimination, including on grounds of sexual orientation and gender identity. Despite the fact that I have repeatedly sent letters to the responsible bodies indicating the need for effective measures to implement the Plan, the status of its implementation in terms of counteracting discrimination on the grounds of sexual orientation and gender identity (SOGI) is unsatisfactory.
6. The spread of hate speech against the LGBT community in the media, the Internet, the violation of the right to personal integrity, respect for human dignity, freedom of speech and peaceful assembly, as well as the commission of intolerance crimes based on sexual orientation and gender identity, is a cause of concern.
7. The legislative gap is the issue of including sexual orientation and gender identity as signs into the first and the second paragraphs of Article 161 of the Criminal Code of Ukraine, as well as in all aggravating circumstances for offences, so as in the general provision on aggravating circumstances in accordance with the first and the third paragraphs of Article 67 of the Criminal Code of Ukraine.
8. Unfortunately, it is still common practice when authorized bodies investigate violations related to discrimination based on sexual orientation and gender identity, evading qualification of offenses under Article 161 of the Criminal Code of Ukraine, which provides for liability for violation of the equal rights of citizens on the ground of their racial, nationality, religious preferences, disability, and other characteristics.
9. Although the Commissioner is sending letters of response to law enforcement bodies regarding committed offenses indicating the need for proper qualifications and ensuring an

effective investigation of offenses in order to confirm or deny of a motive of intolerance towards representatives of the LGBT community in those cases in which there are reasons that directly or indirectly indicated.

10. A positive legislative initiative aimed at combating hate crimes, including on the basis of sexual orientation and gender identity, is the development of the Draft Law of Ukraine “On Amendments to the Criminal Code of Ukraine (regarding the streamlining of liability for crimes committed on the grounds of intolerance) (registration No. 3316-2 of 04.24.2020), which provides for the settlement of the issue of bringing to responsibility for hate crimes and supplementing the list of signs with SOGI signs.

11. In the annual report of the Ukrainian Parliament Commissioner for Human Rights “On the status of observance and protection of human rights and freedoms of citizens of Ukraine” (2019), I made a number of recommendations to the authorities, in particular:

(a) on necessity of the legalization of registered civil partnership in Ukraine for heterosexual and same sex couples;

(b) on expansion of the full list of categories of persons who are considered to be discriminated against, in particular on the basis of sexual orientation and gender identity, to the Law of Ukraine «On the Principles of Prevention and Countering Discrimination in Ukraine»;

(c) on ensuring that LGBTI people are able to exercise their legally guaranteed rights in particular, freedom of expression and personal inviolability, right to freedom from inhuman or degrading treatment, freedom of peaceful assembly; and

(d) on strengthening awareness-raising activities aimed at raising citizens’ legal understanding of issues relevant to preventing and combating discrimination on the basis of sexual orientation and gender identity.

12. The challenge for the whole society, including the LGBT community, was the introduction of an emergency situation regime in the country in connection with the spread of COVID-19. However, this was another reason to unite to solve pressing problems, including informing the general public of the need to be tolerant and not indifferent to the problem of discrimination. On June 21, 2020, an all-Ukrainian online equality march was held, during which online viewers could leave their own tags on Google maps with slogans for LGBT+ rights, photographs of posters and various other messages.

13. The issues of ensuring the equal rights and freedoms of representatives of the LGBT community as one of the most vulnerable categories of citizens are under my constant control.
