



## ROAD MAP for Ensuring Freedoms and Human Rights and Epidemic Well-being for LGBTQI People in Ukraine for 2023

Based on the results of the National Leadership and Expert  
LGBTQI Consultation – 2022 “Ukrainian LGBTQI: War and Life”  
(November 9–11, 2022)

- § 1. During the full-scale unprovoked and unjustified war in Ukraine, which was launched with a massive attack by the armed forces of the Russian Federation on February 24, 2022, the movement for civil equality for LGBTQI people in Ukraine underwent heartbreaking, but also encouraging changes.
- § 2. On the one hand, military and humanitarian challenges became an obstacle for the work of many activists, organizations and initiatives, led to shifts in work priorities and brought to mass displacement of the LGBTQI community people, both within and beyond the country.
- § 3. On the other hand, all the subjects of the organized LGBTQI movement, without exception, stood in solidarity with the state and society actions in general, aimed at protecting the integrity and sovereignty of Ukraine. Many LGBTQI boys and girls ranged up for the defense of the Motherland under the flags of the Armed Forces and the National Guard of Ukraine, joined the ranks of the Territorial Defense Forces of Ukraine in different country regions — from Lviv to Kharkiv.
- § 4. We, the Ukrainian LGBTQI movement, supported Ukraine’s application for the EU accession. It was exactly the European integration process that opened new windows of opportunity for us, made it possible to initiate new areas of work, and fueled our hope for a better future for Ukraine and everyone who lived here.
- § 5. The large-scale support of LGBTQI communities in Ukraine by our multiple friends and partners from abroad has strengthened our work foundation in the current most tough times.
- § 6. We felt a prevailing understanding of our issues from decision-makers and state power institutions. We can state with caution that the power entities demonstrate the political will to make changes for the better in legislation and society, considering the LGBTQI people’s legal rights and interests.
- § 7. Having held under the said conditions on November 9–11, 2022, the National Leadership and Expert LGBTQI Consultation “UKRAINIAN LGBTQI: WAR AND LIFE” (hereinafter — the “National Consultation”), that de facto was conducted instead of the XV National LGBTQI Conference of Ukraine, we consider it necessary to define the following **priorities** for a joint work of the LGBTQI movement, our partners and allies for 2023:

### 1. Legislative Priorities

#### 1.1. Hate speech.

- § 8. It is the right time for a legal **ban on the dissemination through the media of calls for discrimination** and oppression of individuals and groups of individuals to be based on a wide list of grounds, with mandatory inclusion of sexual orientation and gender identity in that list.
- § 9. In this regard, we propose to concentrate efforts on finalizing and supporting the Draft Law of Ukraine #2693-d “On Media” dated July 2, 2020, which has already incorporated the fundamentally required innovations, though still needs certain adjustments, particularly, for harmonizing with the acts of common EU law.
- § 10. We immediately warn that excessive restriction of freedom of speech is unacceptable, and the prohibition list of information dissemination through the media should be characterized by legal

certainty to ensure the possibility of all participants of information relations to foresee the legal consequences of their actions in broadcasting and information dissemination.

**§ 11.** We see the **development of criteria for public information belonging to the category of inadmissible** according to a wide list of protected signs, specifically, SOGI signs, as one of the ways of forming such legal certainty.

**§ 12.** Meanwhile, both an external response system and improved corporate ethics and professional standards in information dissemination should be created to prevent the spread of calls to discrimination based on the SOGI grounds through the media.

### 1.2. Intolerance-motivated crimes.

**§ 13.** Adding the grounds of intolerance, such as sexual orientation and gender identity, to the already existing grounds, envisaged by the Criminal Code of Ukraine, has remained the need of the hour for many years in a row.

**§ 14.** We generally welcome a **Governmental [Draft Law #5488](#)** dated May 13, 2021 — [#ANTIHAATE\\_UA](#) “On Amendments to the Code of Ukraine on Administrative Offenses and the Criminal Code of Ukraine as for Combating Manifestations of Discrimination” — that was developed taking into account the LGBTQI community expert opinion. We also urge the Parliament, and especially the main Parliamentary Committee on Law Enforcement, to pass the Draft Law in 2023, from its first reading to adoption as a whole, and the President to endorse it.

### 1.3. Registered civil partnership ([#PLII](#)).

**§ 15.** We welcome the Government’s decision to include measures for developing a draft law on civil partnerships in the Government’s Action Plan for implementing the National Human Rights Strategy for 2021–2023. At the same time, we draw the attention of a wide range of governmental and non-governmental partners that to complete a task for introducing the partnership by the set deadline of December 2023, **work on the governmental draft law should be started at the very beginning of 2023.**

**§ 16.** For this purpose, it is considered appropriate to create an intersectoral working group inviting to its composition the leadership/staff of the Ministry of Justice of Ukraine, the office of the Ukrainian Parliament Commissioner for Human Rights (Ombudsperson), lawyers from the Expert Platform “Struggle for Health,” which is a program activity of the CO “100% Life,” specialists of international technical assistance projects and, certainly, experts from non-governmental organizations based on the significant participation of LGBTQI communities.

**§ 17.** The **fact that our sworn brothers and sisters are at the front line**, while their partners remain in the civil sector, and in such cases, they have no legal guarantees as those provided for heterosexual spouses in a similar situation, is a special argument for the immediate start of work on the legalization (introduction into the legal field) of civil partnerships between persons of the same assigned sex in Ukraine.

**§ 18.** We consider it expedient to officially introduce a draft law on registered civil partnership (or several alternatives) for consideration by the Parliament during 2023. To do this, we call on the solidarity of sympathetic MPs (both men and women), as well as government institutions, through the legislative initiative of the Cabinet of Ministers of Ukraine.

### 1.4. SOGI signs as a component of anti-discrimination legislation.

**§ 19.** When introducing national anti-discrimination legislation in the early 2010s, the Government ignored our demands to include SOGI signs in a list of clearly indicated anti-discrimination grounds of the that-time-new Law of Ukraine “On Principles of Prevention and Counteraction of Discrimination in Ukraine.” Now is the high time to change that. We draw the attention of the Government, the



Parliament, and the Ombudsperson to the **need for updating fundamentally the basic anti-discrimination law**, including the mandatory addition of SOGI signs to the discrimination prohibition grounds, innovations to strengthen the institution of the Ukrainian Parliament Commissioner for Human Rights, up to endow him/her with a legislative initiative right.

**§ 20.** Meantime, we draw the legislator's attention to the **need to improve a large number of anti-discrimination provisions in the current codes and laws of Ukraine** by bringing them to a certain national standard ("cliché of anti-discrimination signs"), which should be included in the basic anti-discrimination law. The anti-discrimination sphere is one of those that should adapt to the needs of the times as promptly as possible because the landscape of those areas with flourishing discrimination is a reflection of the vivid challenges in society.

### 1.5. Implementation of the Istanbul Convention.

**§ 21.** The Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence ([Istanbul Convention](#)) dated May 11, 2011, which entered into force for Ukraine on November 1, 2022, recognizes sexual orientation and gender identity as essential personal features. As can be seen from the expert-legal analysis of the Convention, it is inclusive in preventing domestic violence, which is committed both in LGBTQI families and against LGBTQI children in heterosexual families. In this regard, we draw the attention of the Government, the Parliament, and the Government Commissioner for Gender Policy to the **need to consider the LGBTQI/SOGI context when developing changes to legislation, by-laws and specific measures aimed at the deep implementation of the Istanbul Convention in the national legal system**.

### 1.6. Reduction of barriers for MSM/LGBTQI in obtaining public health services.

**§ 22.** An MP legislative initiative in the form of [Draft Law #6364](#) dated December 1, 2021 — "On Amendments to the Law of Ukraine 'On Combating the Spread of Diseases Caused by the Human Immunodeficiency Virus (HIV), and the Legal and Social Protection of People Living with HIV' as for the Use of Modern Approaches to the HIV infection Prevention, Testing and Treatment based on WHO Guidelines" — is under consideration in the Parliament.

**§ 23.** Unfortunately, at the time of the National Consultation, this Draft Law does not stipulate the legalization of the right of trained non-medical personnel to conduct rapid testing of people from key groups, particularly MSMs, for HIV antibodies. Rather in the war and humanitarian crisis conditions, **it is extremely significant to reduce the barrier for key groups in receiving HIV infection prevention services**, primarily HIV testing services.

**§ 24.** Given the above, we address the key stakeholders: the Ministry of Health of Ukraine, the Public Health Center of the Ministry of Health of Ukraine, the Committee of the Verkhovna Rada of Ukraine on National Health, Medical Assistance and Medical Insurance, the author and developer of the Draft Law of Ukraine, MP — Lada Valentynivna BULAKH — with a request to revise the vision of state policy in combating the spread of HIV and agree to the position of unblocking the right to perform rapid HIV testing by non-medical personnel, specifically consultants working on the "peer-to-peer" principle, simultaneously strengthening the institutional capacity of primary health care to work with the general population and key groups to prevent the HIV spread.

### 1.7. Decriminalization of HIV infection.

**§ 25.** Article 130 of the Criminal Code of Ukraine, which envisages responsibility for putting another person at HIV infection risk, is archaic in its essence and actually ineffective. According to men and women lawyers working in the field of public health, HIV nosology, in general, should be brought beyond the scope of the Criminal Code of Ukraine, since its mentioning is a factor of additional stigma for people living with HIV.



**§ 26.** Given that, we ultimately support the previously submitted legislative initiatives for the consideration of the Parliament regarding the revision of the Criminal Code of Ukraine in the specified part (particularly, Draft Laws ##[5488](#), [6365](#)). Meanwhile, we suggest that partners also **consider the possibility of submitting a fundamentally new well-elaborated draft law to the Verkhovna Rada of Ukraine in 2023**, which would conceptually transfer criminal liability for intentional HIV infection to the category of crimes involving bodily harm (harm to health).

#### 1.8. Regulation of circulation of intimate content among adult audiences.

**§ 27.** De facto, Ukraine is among the top 20 countries in terms of consumption of explicit digital content, so-called “pornography.” It is time to **decriminalize the distribution (production, consumption, monetization) of pornographic content** if such a distribution occurs in compliance with the generally recognized restrictions on distribution channels and audiences in line with the best global practices. In the war conditions, when loved ones are separated by the will of fate, the private exchange of intimate content between them should definitely be excluded from the Criminal Code — and this is only one of the many reasons to decisively reform national legislation in protecting public morals.

**§ 28.** In this regard, we state that the very Law of Ukraine “On Protection of Public Morals” as of the 20s of the XXI century is morally outdated and artificially inhibits the modernization of national legislation based on the vital needs of living people. In our opinion, morality, particularly public morality, should primarily be considered as a socially conditioned phenomenon, which is characterized by dynamic development and cannot a priori be reduced to a certain legislative denominator. We see that the best way to unblock the development of the national legal system on public morality is the **complete abolishment of the Law of Ukraine “On Protection of Public Morality” with the transfer of its provisions that are still relevant to other legislative acts.**

#### 1.9. Assisted reproductive technologies (ART).

**§ 29.** The vision of LGBTQI communities is to **fundamentally improve the legal framework for the use of ART in Ukraine**, moving away from the philosophy of purely medical indications and introducing a philosophy of responding to the social causes of childlessness and/or unmarried status.

**§ 30. The equality of rights and opportunities for single (unmarried) women and single (unmarried) men** must be ensured in the ART sphere, and SOGI signs and their corresponding lifestyle should cease to be a factual obstacle to the legal use of ART services in Ukraine.

**§ 31.** The LGBTQI movement subjects testify their readiness to continue participating in the national dialogue on reforming the ART legislation and urge the Parliament, which is considering a number of draft laws on this matter, to refrain from hasty decisions and to **use the principle of inclusiveness for the ART legislation taking into account the needs and social profile of Ukrainian LGBTQI citizens.**

#### 1.10. Revocation (withdrawal from consideration) of homophobic initiatives.

**§ 32.** As of 2022, institutional (state-approved) homophobia is an essential trait of the “Russian world.” Attempts to “foist” institutional homophobia and transphobia into Ukrainian legislation are a blow to the Ukrainian state human rights values, sabotage of the European integration course, diversion of the resources of state institutions to the formalized elaboration of relevant draft laws and, of course, inheriting the worst Russian practices. Nevertheless, as of November 2022, **the following four initiatives remain under the Parliament’s consideration** — draft laws and regulations registered under numbers: 3916, 6325, 6327 and 6473:



- a) Draft Law of Ukraine [#3916](#) "On Amendments to Certain Legislative Acts of Ukraine on Protection of Family, Childhood, Motherhood and Fatherhood" dated July 22, 2020;
- b) Draft Law of Ukraine [#6325](#) "On Amendments to Certain Legislative Acts of Ukraine on Bringing Provisions on the Protection of Family, Childhood, Motherhood and Fatherhood into Compliance with the Constitution" dated November 19, 2021;
- c) Draft Law of Ukraine [#6327](#) "On Amendments to the Code of Ukraine on Administrative Offenses as for Liability for Propaganda of Deviations from the Constitutional Provisions of Family, Childhood, Motherhood and Fatherhood" dated November 19, 2021;
- d) Draft Decree of the Verkhovna Rada of Ukraine [#6473](#) "On an appeal to the Cabinet of Ministers of Ukraine and other state authorities as for canceling state support for the production of certain moves for the protection of public morals" dated December 28, 2021.

**§ 33.** Given that none of these draft laws and regulations was considered even at the first reading, we call on the Parliament Apparatus to **withdraw them from consideration**, as established by the Regulations, during forming the agenda of the regular 9<sup>th</sup> session of the Verkhovna Rada of Ukraine of the 9<sup>th</sup> convocation, which should begin in February 2023.

**§ 34.** We inform our Parliamentary partners that **the LGBTQI movement subjects will continue to carefully monitor legislative initiatives for their non-discrimination based on SOGI signs**, and if such initiatives are detected, they will use counter-advocacy measures aimed at their promptest possible revocation (withdrawal from consideration).

**§ 35.** In this connection, we consider it appropriate to state that all previous legislative initiatives, without exception, aimed at limiting the free circulation of information about LGBTQI in Ukraine (i.e., banning the so-called "propaganda of homosexuality"), were canceled in various ways. We are convinced that such initiatives will receive a less political perspective with more time passed.

## **2. Development of partnership with the Parliament (Verkhovna Rada of Ukraine) and the Government of Ukraine**

**§ 36.** The LGBTQI civil equality movement in Ukraine has gained enough momentum and expertise to consider partnership (interaction, communications) with the Government in the broadest sense of the word as a specific element of its activity. During the full-scale war, an additional convergence of the positions of the Government and the LGBTQI human rights movement in the context of Ukraine's European integration aspirations occurred. Taking this into account, communications with the following institutions will be of priority in 2023:

### **2.1. Verkhovna Rada (Parliament) of Ukraine.**

**§ 37.** As of the 4<sup>th</sup> quarter of 2022, men and women parliamentarians have actually formed a group in the current 9<sup>th</sup> convocation Parliament that shares valuable positions regarding full civil equality for LGBTQI people in Ukraine and are ready to support, submit for consideration, and ensure the promotion of relevant legislative acts. The personal participation of a number of Ukrainian MPs in our consultation clearly confirms this fact.

**§ 38.** The following are profile Parliamentary institutions, interaction with which is a priority for us:

- a) The Committee of the Verkhovna Rada of Ukraine **on National Health**, Medical Care and Medical Insurance — in the context of changing the public health legislation, particularly on issues of the national response to the HIV spread;
- b) The Committee of the Verkhovna Rada of Ukraine **on Human Rights**, Deoccupation and Reintegration of the Temporarily Occupied Territories of Ukraine, National Minorities and International Relations — in the context of improving anti-discrimination legislation, primarily the Law of Ukraine "On Principles of Prevention and Counteraction to Discrimination in Ukraine;"



- c) The Committee of the Verkhovna Rada of Ukraine **on Law Enforcement Activities** — in the context of introducing liability for homophobia and transphobia-motivated crimes, decriminalizing HIV infection, legalizing regulated circulation of intimate content, and all other issues related to amending the Criminal Code of Ukraine;
- d) The Committee of the Verkhovna Rada of Ukraine **on Humanitarian and Information Policy** — in the context of improving the family policy legislation, the scope of which is assigned to the Committee's mandate, specifically on recognizing civil partnerships as a form of family relations in Ukraine;
- e) the Apparatus of the Verkhovna Rada of Ukraine — in the context of forming the priorities of the Parliamentary lawmaking activities for the next year, the agendas of the Parliamentary sessions, regulatory withdrawal of individual draft laws from consideration.

**§ 39.** We urge each of the mentioned structural subdivisions of the Parliament to continue developing two-way communications with our organizations and experts, engaging our potential in lawmaking, conducting legislative activities based on inclusiveness and sensitivity to the needs of people from Ukrainian LGBTQI communities.

## 2.2. Institution of the Ombudsperson — Ukrainian Parliament Commissioner for Human Rights.

**§ 40.** Appointment in 2022 of a new person to the Ombudsperson position and changes of a considerable number of his representatives has resulted in the need to establish interaction between the LGBTQI movement organizations, on the one hand, and the new appointees of the Ombudsman institution, on the other hand. We welcome the process of forming a powerful pool of advisory and expert councils initiated by Ombudsperson, Dmytro LUBINETS, and emphasize the significance of including LGBTQI movement representatives in their compositions.

**§ 41.** We appeal to the Ombudsperson to:

- a) Keep the reports about the facts of human rights violations in Ukraine based on sexual orientation and gender identity, as well as public calls for restrictions on the LGBTQI community rights, in the area of close attention;
- b) Resolutely respond to the practice of appeals and statements of local councils, still entrenched at the municipal level, which resort to stigmatization (social stamping), humiliation of the human dignity of LGBTQI communities, try to extinguish legislative progress in ensuring human rights and freedoms for LGBTQI with the "traditional values" sledgehammer;
- c) Pay attention to the geopolitical significance of the homophobia factor under the circumstances of the war waged against Ukraine by the Russian Federation, the persecution and defamation of LGBTQI communities in the territories temporarily occupied by the Russian Federation, particularly in Crimea, and in the occupied parts of the Donetsk, Zaporizhzhia, Luhansk, and Kherson oblasts;
- d) Refer to the monitoring data and expert potential of the LGBTQI organizations, when developing a section on violations of LGBTQI rights in Ukraine for the Annual Report of the Ukrainian Parliament Commissioner for Human Rights on the State of Observance and Protection of Human and Citizen Rights and Freedoms in Ukraine for 2022;
- e) Emphasize, among other things, the recommendations of the Commissioner from previous years that have not yet been implemented or have been under-implemented, even if they have already been incorporated in official government plans, when formulating recommendations to state authorities on the need to ensure civil equality for LGBTQI in Ukraine as a part of the Annual Report for 2022;



- f) Actively participate in the development of the draft law on civil partnerships for implementing the 33<sup>rd</sup> activity specified in the Government's Action Plan for implementing the National Human Rights Strategy for 2021–2023, for which the Commissioner is designated as co-responsible (under his consent) together with the Ministry of Justice of Ukraine.

### 2.3. Cabinet of Ministers of Ukraine.

**§ 42.** During the war, the Ukrainian Government decently performs most of its critical functions to ensure vital state activities and maintains leadership in filling the European integration and Euro-Atlantic course of Ukraine with practical content.

**§ 43.** Since the beginning of the European integration track in 2022, our organizations have stood side by side with the Government's European integration team, providing the required expertise and setting to the attention of the Government priorities for the expected modifications from the position of the LGBTQI communities.

**§ 44.** In 2023, we consider the key governmental processes coordinated by the Cabinet of Ministers of Ukraine to be as follows:

- a) **European integration** — We appeal to the Office of the Deputy Prime Minister for European and Euro-Atlantic Integration of Ukraine to continue to consider the vision of LGBTQI communities regarding the priorities of the European integration course, specifically on legislative innovations. Granting the sign of European integration to certain legislative initiatives significantly accelerates their implementation and increases the quality of their legal processing.
- 1) One of the draft laws that has already been granted the status of European integration, is Draft Law #5488 — and we call on the Government's European integration office to take additional actions for its consideration and adoption by the Parliament as soon as possible.
  - 2) In our opinion, the introduction in Ukraine of at least some form of legal recognition of civil partnerships between persons of the same assigned sex — and now, we are talking about introducing the institution of registered civil partnership ([#ПЦП](#)) fully corresponds to two of the seven common values defined in the preamble of the [Association Agreement](#) between the European Union and the European Atomic Energy Community and their member states, of the one part, and Ukraine, of the other part. Specifically, they are "respect for human rights and fundamental freedoms, ... as well as non-discrimination of persons belonging to minorities" and "respect for diversity." Thus, we suggest considering the introduction of a registered civil partnership in Ukraine as a step intended to implement the Association Agreement.
- b) **Implementation of the National Human Rights Strategy and the Action Plan for its implementation for 2021–2023** — The said Government's Action Plan, drawn up considering the proposals of LGBTQI communities, contains many objectives aimed at ensuring civil equality for LGBTQI. We believe that the one year left for its implementation is a critical short term to ensure that all relevant actions are executed in a timely and high-quality manner. Given the above, we call on the Cabinet of Ministers of Ukraine to make organizational adjustments to the Action Plan from the beginning of 2023 and revise partly its substantive part, primarily in connection with the intensive European integration process. We believe, under such conditions, the *said Action Plan can be extended at least for the entire 2024*, which will ensure an additional impetus to the full implementation of its activities.
- c) **State family policy** — Despite the positive developments in the protection of LGBTQI human rights and freedoms in Ukraine, despite decisive steps to ensure the rights and freedoms of a number of minorities and communities, particularly national ones, the attention of the state and Government to family policy is at an insufficient level.
- 1) Particularly, the heterocentrism paradigm prevails in family policy to this day, when families based on a partnership between two people of the same assigned sex, including same-sex partnerships with children, are actually excluded from the state's area of view in general



and social services in particular. At the same time, during the war, the impact of military and humanitarian factors on the population significantly (critically) increased.

- 2) Given the above, we repeat the previously provided recommendations to the Government *on establishing a department within the system of central executive bodies, the area of competence of which would include the issue of population, including migration, demographic and family policy*. We call on the specialized governmental agency, the Ministry of Social Policy of Ukraine, the profile Parliamentary Committee on Humanitarian and Information Policy (family policy is their mandate), as well as the United Nations Fund for Population Activities (UNFPA) to solidarize with such a managerial step. For their part, our organizations are ready to take an active expert part in elaborating an *updated paradigm of state policy in caring for Ukrainian families in all their diversity* under the auspices of the newly created department.
- d) **Gender equality and gender sensitivity policy** — We welcome the long-term efforts of the Government Commissioner for Gender Policy and her office to fill Ukraine with the real content of the policy of equal opportunities for men and women. The personal participation of the Commissioner in the 2022 National Consultation testifies the Government's great attention to the gender dimension of LGBTQI issues in Ukraine.
  - 1) Taking this into account, we highlight that the further implementation of the policy of equal opportunities for men and women in Ukraine should be based on LGBTQI-sensitive principles, with respect for both the cisgender and transgender identities of our fellow citizens, and the applicability of new provisions in gender equality to LGBTQI communities should be modeled in advance while drawing up the policy.
  - 2) Hence, we insist on full consideration of SOGI signs as essential personal features on the track of implementing the Istanbul Convention in our country.
  - 3) We see a strategy of introducing these principles in the educational sphere as the next step in establishing gender equality and gender sensitivity.

#### 2.4. Office of the Prosecutor General of Ukraine.

**§ 45.** Acknowledging the decisive role of the Office of the Prosecutor General in maintaining law and order in Ukraine, we

- a) welcome the inclusion of representatives of LGBTQI organizations in international expert and working groups at the Office;
- b) urge you to continue to consider the LGBTQI/SOGI context in the work of the Interdepartmental Working Group on Investigating Crimes Committed during the Armed Conflict ("International Council of Experts on Investigating Crimes Committed during the Armed Conflict") at the Office of the Prosecutor General of Ukraine, particularly, **pay due attention to recording and investigating of crimes containing elements of sexual violence** — with simultaneous psychological support and rehabilitation of victims, specifically those from among LGBTQI people;
- c) propose to deepen communication and strengthen the interaction between the relevant structural and territorial divisions of the Office, on the one hand, and subjects of the LGBTQI rights protection movement, on the other hand; primarily at the ground level, to systematically improve the disclosure of old and new crimes motivated by intolerance, namely, crimes obstructing the legal activities of LGBTQI community non-governmental organizations.

#### 2.5. Ministry of Health of Ukraine (MoH of Ukraine).

**§ 46.** 2023 should be the year of implementation of the new [Law](#) of Ukraine "On the Public Health System."

**§ 47.** Furthermore, at the end of 2022 — at the beginning of 2023, we anticipate the Parliament to adopt significant amendments to a basic HIV law — the Law of Ukraine "On Countering the Spread





of Diseases Caused by the Human Immunodeficiency Virus (HIV), and Legal and Social Protection of People Living with HIV.”

**§ 48.** Given the above, we appeal to the MoH and the State Institution “Public Health Center of the MoH of Ukraine” with the proposals to:

- a) Include representatives (men and women) of LGBTQI communities in a national public health coordination council, the formation of which is envisaged in clause 17, part 1, Article 8 of the Law of Ukraine “On the Public Health System;”
- b) Change the term “high-risk group for HIV infection” to the term “key group in the HIV spread prevention” in the secondary legal and regulatory framework, the publication of which falls under the MoH competence, and approve a list of the specified key groups with mandatory inclusion of MSM and transgender people to them; determine the criteria for a person’s belonging to a certain key group, repealing accordingly the MoH [Order](#) #104 “On Approval of the List and Criteria for Determining High-Risk Group for HIV Infection” dated February 8, 2013;
- c) Focus on the prompt implementation of the 11<sup>th</sup> release of the International Statistical Classification of Diseases and Related Health Care Problems (ICD-11) in Ukraine, which contains principally novel approaches to the phenomena of gender dysphoria and transgenderism compared to the still valid ICD-10.

## 2.6. Ministry of Justice of Ukraine (MinJust).

**§ 49.** We consider the leading topic for communications with the MinJust throughout 2023 to include introducing the institution of registered civil partnerships ([#PLUП](#)) in Ukraine, which is directly stipulated by the 33<sup>rd</sup> activity of the Government’s [Action Plan](#) for implementing the National Human Rights Strategy for 2021–2023 with a deadline of December 2023.

**§ 50.** Taking it into account, we address the Ministry of Justice with the following messages:

- a) According to the latest sociological [surveys](#), as of the beginning of 2022, the majority of the population (53% of the country in general) supports the introduction of direct prohibitions on discrimination based on sexual orientation and the establishment of legal liability for hate speech against gays and lesbians. It follows that a need to overcome institutional discrimination in Ukraine based on sexual orientation and establish social justice is the best communication argument for the general public on introducing the institution of registered partnerships for people of the same assigned sex;
- b) To ensure effective leadership in implementing registered civil partnerships, it is necessary to combine efforts with a wide range of stakeholders: other government agencies (particularly, the Ministry of Foreign Affairs), intergovernmental organizations (particularly, UNDP), academic legal community, LGBTQI organizations, research institutions, as well as with Ukrainian Parliament Commissioner for Human Rights.

## 2.7. Ministry of Foreign Affairs of Ukraine (MFA).

**§ 51.** Expressing our gratitude to the Ministry for the personal participation of the MFA representative in the National Consultation, we draw the MFA’s attention to the following objectives, which, from the point of view of LGBTQI organizations, are priorities during 2023:

- a) Recognizing in Ukraine the validity of partnerships/marriages effected in other state jurisdictions by two persons of the same assigned sex, provided that one partner holds /both partners hold/ Ukrainian citizenship;
- b) Providing further consistent support in international policy and the global dimension of decisions, documents, measures aimed at overcoming stigma and discrimination on the grounds of SOGI signs, ensuring practical equality for LGBTQI on all continents, in all regions and countries of the world;



- c) Ensuring the leadership in the preparation of new bilateral and multilateral international treaties, ratification of international treaties previously signed by Ukraine, which would contain (contain) provisions on preventing discrimination on the SOGI grounds;
- d) Introducing by the state of Ukraine the official recommendations addressed to it by international and foreign institutions on the implementation and promotion of human rights for LGBTQI people, specifically the recommendations of the Independent Expert on Protection from Violence and Discrimination based on Sexual Orientation and Gender Identity stated in the [Report](#) dated April 27, 2020, and presented at the 44<sup>th</sup> Session of the Human Rights Council of the UN General Assembly (June-July 2020);
- e) Essentially populating with practical content, the paragraph on “*combating racism, xenophobia, anti-Semitism and discrimination, including against ... members of the LGBTQI+ community*” from the U.S.-Ukraine [Charter](#) on Strategic Partnership dated November 10, 2021.

## 2.8. Ministry of Internal Affairs of Ukraine (MIA).

**§ 52.** Expressing our gratitude to the Ministry as a whole and the Human Rights Monitoring Department, particularly, for the personal participation of the Department representatives in the National Consultation, we draw the attention of the leading institution in the system of central executive bodies, entrusted with “forming and implementing the state policy in the protection of citizens’ rights and freedoms,” to the following:

- a) In 2023, the major joint task on the LGBTQI track remains a **proactive promotion** of the **Draft Law 5488**, which was previously developed under the MIA leadership considering the position of the general public. We plan to ensure such a promotion of the Draft Law of Ukraine #5488 “On Amendments to the Code of Ukraine on Administrative Offenses and the Criminal of the Code of Ukraine as for Combating Manifestations of Discrimination” dated May 13, 2021, by proposing to include it to the Legislative Agenda of the Parliament for 2023, ensuring its systematic support on behalf of the Government during consideration at the level of the core profile Parliamentary Committee — the Committee of the Verkhovna Rada of Ukraine on Law Enforcement — and further, at its first and following readings;
- b) In 2023, a separate important benchmark for improving the MIA’s practical activities should include **increasing the competence of operative personnel to detect (identify), record and investigate crimes motivated by intolerance**, specifically homophobia and transphobia, even within the limits of current legislation, under Article 161 of the Criminal Code of Ukraine — “Violation of the equal rights of citizens based on their race, nationality, regional affiliation, religious beliefs, disability and on other grounds”:
  - 1) to conduct such work, LGBTQI organizations may offer to the MIA for receiving the required technical assistance to establish cross-sectoral cooperation with certain international agencies, leading human rights institutions of partner foreign governments;
  - 2) it is also considered expedient to develop within the system of MIA educational institutions fundamentally updated methodological recommendations on crimes motivated by intolerance based on a wide list of signs, particularly of SOGI ones. Plus, such an activity can be assisted by the LGBTQI movement experts;
- c) To properly investigate crimes committed on the homophobia and transphobia grounds, **we recommend that the MIA, through its territorial divisions, establish direct communications with local subjects of the LGBTQI movement** (organizations and their territorial branches) for engaging expert assistance and acquiring assistance to investigators as far as permitted by the legislation;
- d) We emphasize **the importance of a preventive function of the internal affairs bodies in preventing violations of public order, specifically due to homophobia and**



**transphobia.** In this connection, we draw the attention of the MIA to the fact that usually those groupings associated with the facts of public order violations are known, especially since their publicly expressed negative, reprehensible attitude towards LGBTQI. And it, in our opinion, simplifies the tasks of preventive work for the internal affairs bodies;

- e) We draw the attention of the MIA to the **significance of using politically correct language and terminology in public and private communications**, specifically to the need to avoid expressions such as "sexual minorities," "traditional/non-traditional orientation," instead to use "LGBTQI+ community," "LGBTQI+ people from among," "SOGI [sexual orientation and gender identity] signs," "homosexuality," etc. (a terminological guide can be created at the MIA request and provided for use in its work);
- f) Given that many people from LGBTQI communities work directly within the system of the Ministry of Internal Affairs of Ukraine, we call on the Ministry to **improve its corporate policies to encourage diversity and support staff** regardless of SOGI signs. Furthermore, we draw attention to the fact that due to the significant stigma of LGBTQI people in law enforcement agencies, a corporate policy of equality must be implemented even in the visible absence of LGBTQI: representatives of LGBTQI will be able to visibly demonstrate their presence within the internal affairs system only provided that such a policy is implemented.

### 3. Public Health

#### 3.1. Development of intersectoral cooperation in public health.

**§ 53.** The national coordination mechanism for responding to the spread of HIV, represented by the National Council for Combating Tuberculosis and HIV-infection/AIDS (National TB/HIV Council) and its individual bodies, particularly the Committee on Regional Policy and the Committee on Programmatic Issues, works in Ukraine on the principles of involving in its work authorized representatives of the key MSM group and representatives of trans\*-communities.

**§ 54.** The National TB/HIV Council is a body of intersectoral cooperation, where the voice of key communities is the main way to convey our position on epidemic well-being matters to the Government and international partners. At the same time, in 2022, Ukraine adopted the Law "On the Public Health System," which will be enacted from October 2023, and stipulates the formation of another intersectoral council — a national council of public health.

**§ 55.** Given the above, we draw the serious attention of partners in the national coordination mechanism and in public health, to our following opinions:

- a) The delegation of representatives of the key MSM group to the National TB/HIV Council, envisaged by the national rules and policies of the Global Fund, should be based on the selection of organizations that not only have experience in providing public health services for MSMs but also necessarily established on meaningful community participation;
- b) The new National Coordinating Council of Public Health should be formed as an autonomous consultative body, not affiliated with the National TB/HIV Council; similarly, regional coordination councils of public health provided for by the law should be formed. Meanwhile, it is expedient to envisage the representation of key population groups, which are affected by public health issues, as a matter of priority, in coordination councils of public health of all levels.

**§ 56.** In view of the extremely complicated public health situation caused by the war, specifically in terms of the actual cancellation of the state's obligations to finance activities to prevent the spread of HIV among key groups in Ukraine at the expense of the revenue part of the State Budget at the national level and the cancellation of a similar funding at the local level, we **appeal to the Global Fund** to Fight AIDS, Tuberculosis and Malaria, as an old and reliable partner of Ukraine, with a request to **confirm as soon as possible (before the end of 2022) its readiness to provide**



**Ukraine with the next tranches of financial assistance within the framework of the round for 2024–2026**, with mandatory program components for strengthening community systems, advocacy for progressive legislative changes for an effective response to the spread of HIV, development of national expertise and research, the objects of which are key groups for the prevention of HIV infection in general and MSM and trans\*-persons specifically.

### 3.2. Development of the system of public health services.

§ 57. The full-scale aggression of the Russian Federation against Ukraine, which was waged on February 24, 2022, interrupted the consistent and sustainable development of the system of public health services, especially for key groups in preventing the spread of HIV infection, including MSM and transgender people.

§ 58. It is noteworthy that for many people from key groups, the priority of their own needs has changed: humanitarian needs became first, instead, the priority of caring for their own health and the health of their loved ones has decreased. In the meantime, the key MSM group continues to demonstrate behavioral practices that, in combination with social circumstances (internal and external migration, frequent job losses, reduced incomes, broken old social ties and established new ones, etc.) determine the **preservation of the objective need for providing men who have sex with men, with services in the health care sphere** — both in the interests of MSMs themselves and their loved ones, and also in the interests of public health.

§ 59. In this regard, we state that in the conditions of a full-scale war against Ukraine, MSM and transgender people retain their status as key groups in preventing the spread of HIV infection.

§ 60. At the same time, the social vulnerability of LGBTQI communities in the context of military operations, potential or existing occupation of Ukrainian territories is particularly high due to the institutional promotion of homophobia and transphobia by the aggressor state in its own constitutional territory and the occupied territories of Ukraine.

§ 61. The provision of public health services for MSM and transgender people requires adaptation to the conditions of martial law and humanitarian challenges, namely:

- 1) introduction of the “services follow the person” principle, i.e., reducing binding to the place of previous or current residence — due to the increased mobility of people;
- 2) forming additional motivation to take care of one’s own health due to the prior satisfaction of basic humanitarian needs;
- 3) widely introducing low-threshold social services, specifically relocation services, temporary accommodation (housing), primarily based on shelters, as well as services for assistance in employment and adaptation/integration in a new location/community;
- 4) widely introducing services additional to the state-guaranteed package, primarily services in psychological (mental) health, as well as legal consultations;
- 5) reducing the barrier to receiving services, particularly through regulatory and legal innovations on legalizing the provision of rapid HIV antibody testing services by trained non-medical personnel, including social workers of non-governmental organizations.

§ 62. It is necessary to **study the role of migration, both internal and external, — within key groups of MSM and transgender people**, particularly in the context of the impact of migration on the behavioral profile of people from these key groups.

§ 63. The **update of the estimation of the number of key groups of MSM and transgender people should be approached with special care**, both nationally and regionally. This estimation should consider the mass migration of key groups in the war conditions and a significant decrease in the stability of a certain place of residence (living).



**§ 64.** The sustainability funding public health services for MSM and transgender people in the current conditions with the government-controlled territories of Ukraine can be ensured, in our opinion, even in the full-scale war conditions, primarily by external sources of filling the State Budget.

**§ 65.** The **MSM group** appears to **be facing new health challenges not directly related to the war**, including monkeypox [#mpox](#) and a surge in certain mostly sexually transmitted infections, primarily treponema pallidum. Given this, we recommend the Public Health Center of the MoH consider the possibility of introducing in Ukraine a voluntary, but free for patient, vaccination against the causative agent of monkeypox for monkeypox high-risk groups.

**§ 66.** The **role and importance of remote methods of providing health care services should continue to grow**, including consulting on health issues in general and infectious well-being in particular, specifically using telemedicine methods; sending by postal services and courier services means of HIV infection prevention (condoms, lubricants, in some cases — pre-exposure prophylaxis drugs).

**§ 67.** There is a requirement for the **further development of volunteering** within key groups of MSM and transgender people to provide assistance to existing projects and programs of humanitarian support and public health. Such volunteering is considered, particularly, as a way of socializing individual people from key groups after their relocation within Ukraine.

**§ 68.** Anticipating large-scale resource (financial) support from the Global Fund to Fight AIDS, Tuberculosis and Malaria, we address the National Council for Combating Tuberculosis and HIV-infection/AIDS with a proposal to **prioritize the country's new application to the Global Fund with a block of activities aimed at key groups of MSM and transgender people**, including:

- 1) activities for preventing the spread of HIV, viral hepatitis and STDs, including PrEP (pre-exposure prophylaxis of HIV infection);
- 2) activities for treatment, care and support of MSM and transgender people living with HIV; activities for treatment of viral hepatitis and STDs;
- 3) activities for developing community systems, including institutional development of self-organizations of key communities, leadership support and development of national expertise on MSM/LGBTQI issues;
- 4) activities for improving the political and legal environment, promoting human rights for MSM/LGBTQI, overcoming stigma and discrimination based on sexual orientation and gender identity, eliminating political and legal barriers to access HIV-related services.

### 3.3. Transgender track in 2023.

**§ 69.** The full-scale war that began on February 24, 2022, caused structural changes in the communities of transgender people with Ukrainian citizenship:

- 1) Under the risks of occupation, interruption of vitally necessary hormone replacement therapy (HRT), and feeling unbiased threats to their lives and health, many transgender people left the territory of Ukraine and moved under the protection of the countries of the European Union, where a significant part, and probably most of them, plan to stay forever;
- 2) The management and key personnel of some organizations based on the significant participation of trans\*-persons are located outside the constitutional territory of Ukraine, which objectively weakens the previously achieved level of institutional development and representation of trans\*-communities at the national level;
- 3) The militarization of Ukrainian society narrows the comfort zone for trans\*-people with regard to the free expression of their gender identity, causing trans\*-people to be more closed.

**§ 70.** Nevertheless, in full-scale war conditions, there is a need for such changes and innovations:

- a) **Official transiting** the Medical Statistics System of Ukraine **from** the 10<sup>th</sup> release of the International Statistical Classification of Diseases and Related Health Care Problems (**ICD-10**)



**to the ICD-11 release**, since ICD-11 interprets the issue of gender dysphoria principally differently from the currently valid ICD-10. Given this, it can be recommended:

- 1) Translating ICD-11 into Ukrainian and popularizing among professional circles exactly those parts related to gender identity,
  - 2) Preparing for the information of stakeholders an expert explanation regarding the essential difference in the interpretation of gender identity and gender dysphoria between the 10<sup>th</sup> and 11<sup>th</sup> releases of ICD;
- b) Consultative support of medical and legal orientation in the process of interaction of trans\*-persons with territorial recruitment and social support centers (former military commissariats) and during passing a military medical commission — with the aim of helping to achieve the desired result for a transgender person — recognition as fit for military service for the further mobilization or, on the contrary, to be recognized as unfit with withdrawal from military registration and removal of a travel abroad ban;
- c) **Developing a state-guaranteed package of services for the prevention of HIV infection for transgender persons** and its normative legal formalization — by analogy with how such service packages are defined and consolidated for the three main “high-risk groups of HIV infection”: men who have sex with men (MSM), persons who provide sexual services for pay/sex workers (SW), people who inject drugs (PWID), in the [Order](#) of the Ministry of Health of Ukraine #1606 “On approval of the Procedure for providing services for the prevention of HIV among representatives of the high-risk groups for HIV infection” dated July 12, 2019, that was adopted in implementation of the [Decree](#) of the Cabinet of Ministers of Ukraine #497 “Some matters of providing services to representatives of high-risk groups for HIV infection and people living with HIV” dated June 12, 2019;
- d) **Increasing trans-competence of medical personnel** (medical doctors), including:
- 1) deepening the study of gender dysphoria in medical universities,
  - 2) improving the awareness of family doctors on gender dysphoria,
  - 3) increasing the competence of endocrinologists in HRT,
  - 4) including trans\*-topics in postgraduate medical education curricula.
- e) **Ensuring the availability of HRT for everyone who needs it**, particularly in terms of:
- 1) elaborating prospects for purchasing HRT preparations with the funds from the state budget within the programs of medical guarantees and/or — during the martial law period — with grant financing from the Global Fund,
  - 2) unhindered licensing in Ukraine of foreign-made HRT preparations, which are in demand among trans\*-communities,
  - 3) regulating the possibility of using generics in case of unavailability of the main licensed preparations.
- f) Updating the personal representation of organizations presenting the interests of transgender persons in the National Council for Combating Tuberculosis and HIV-infection/AIDS.



*We address a wide range of our partners with a call to take into account the priorities, reasoning, and proposals outlined in this Road Map, to use them both in planning and within the scope of implementing their activities in Ukraine and at the European and global level for promoting and ensuring the rights and freedoms, public health care and epidemic well-being for LGBTQI person.*

