

Brussels, 20 March 2024

Volodymyr Zelenskyy,
President of Ukraine

Subject: Support for two draft laws - 9103 on registered partnership and on hate crime

Dear
President Volodymyr Zelenskyy,

(Cc:
Speaker of the Rada Ruslan Stefanchuk,
Head of Servant of the People faction, David Arakhamia,
Head of Voice faction, Oleksandra Ustinova,
Co-Head of European Solidarity faction, Artur Herasymov,
Co-Head of European Solidarity faction, Iryna Herashchenko,
Head of Motherland faction, Yulia Tymoshenko,
Head of Trust group, Oleh Kulinich,
Head of For future group, Taras Batenko,
Head of Platform for life and peace group, Yuriy Boiko,
Head of Restoration of Ukraine, Antonina Slavytska,
Head of the legal affairs committee, Denis Maslov,
Head on law enforcement activities, Serhiy Ionushas,
Head of the Committee on National Security, Defense and Intelligence, Oleksandr Zavitnevych,
Head of the Committee on Human Rights, Deoccupation and Reintegration of the Temporarily Occupied Territories of Ukraine, National Minorities and International Relations, Andrii Zadorozhnyy,
Head of the Budget Committee, Roksolana Pidlasa,
Head of the Committee on anti-corruption policy, Anastasiia Radina,
Head of the Committee on European Integration Ivanna Klympush-Tsintsadze)

We address you today as Members of the European Parliament, to convey our support for two draft laws currently in the Ukrainian Parliament, which would significantly improve the lives of LGBTI people in Ukraine and, if adopted by the Parliament, would mark two very significant steps along the path to EU integration.

The first of these aforementioned draft laws is bill 9103 on legal recognition of same-sex partnerships.

Already in 2022 the EU made clear the importance of the legal recognition of same-sex partners as part of Ukraine's accession to the EU. In question 198 of the questionnaire given to Ukraine by European Commission President Ursula Von der Leyen, the Commission asked about the access of same-sex couples to the right to partnership. Furthermore, in the most recent EU Enlargement Progress Report of November 2023,¹ the Commission highlighted the importance of improving the rights of LGBTI people in Ukraine, noting that the majority of the Ukrainian public support registered partnership for same-sex couples, and acknowledges the draft law 9103 currently in Parliament while highlighting the European

¹ See page 51 of the Ukraine chapter of the European Commission's 2023 Enlargement Progress report https://neighbourhood-enlargement.ec.europa.eu/document/download/bb61ea6d-dda6-4117-9347-a7191ecef3f_en?filename=SWD_2023_699%20Ukraine%20report.pdf

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Court of Human Rights (ECtHR) judgement of 1 June 2023 in the case of MAYMULAKHIN AND MARKIV v. UKRAINE,² where Ukraine was found in violation of Article 14 ECHR in conjunction with Article 8 for the lack of legal recognition for same-sex couples.

Prospective EU members must adhere to EU legislation and acquis, including the principle of non-discrimination based on sexual orientation as laid out in the Article 19 of the Treaty on the Functioning of the European Union (TFEU) and Article 21 of the Charter of Fundamental Rights (CFR) – two fundamental laws of the EU. EU accession also requires candidates to adhere to relevant international human rights standards of the United Nations and Council of Europe, of which various mechanisms have repeatedly called for member states to adopt frameworks to legally recognise same-sex partners. Importantly, the case law of the ECtHR continues to rule that a lack of such a framework is in violation of Article 8 of the European Convention on Human Rights (ECHR), as reconfirmed by the judgement of 1 June 2023 in the aforementioned MAYMULAKHIN AND MARKIV v. UKRAINE case. As part of the standards related to rights of LGBTI people, registered partnership is a key element and is supported by the EU as part of the framework for fundamental rights and non-discrimination. Notably, 22 of 27 EU Member States currently have registered partnership laws for same-sex couples, with draft laws currently pending in two of the remaining five EU Member States without such a legal framework. It is clear that eventually all EU Member States will recognise same-sex partnerships.

The second of these laws is a law on protection against hate crimes, which includes protection from violence based on grounds of race, skin colour, political, religious and other beliefs, gender, sexual orientation, gender identity, nationality, ethnic, social or foreign origin, age, state of health, disability, family and property status, family rights and responsibilities, place of residence, language, occupation or on other grounds.

All EU accession countries, with the exception of Turkey, have adopted hate crime legislation with sexual orientation and gender identity as protected grounds, including Moldova and Georgia. Hate crime legislation which includes aggravated grounds addressing the particular targeting of a group or individual based on bias or prejudice is a key requirement for building a legal framework which tackles discrimination and upholds fundamental rights. As a result, it is an important milestone for a prospective EU Member State to achieve in the process of aligning its legislation with EU acquis. The new law currently pending in the Verkhovna Rada will not only improve the investigation of and accountability for hate crimes, but will also reduce violence against LGBT people in general, as well as all the other groups covered by the aforementioned list of grounds, acting as a prevention tool against bias and prejudice and thereby encouraging Ukrainian society to be more equal and inclusive. This draft law has been drawn up within the framework of EU agreements and having taken into account recommendations of international organisations, including the UN and the Council of Europe. The European Commission, in its 2023 Enlargement Progress Report, specifically highlighted the recommendation of the European Commission against Racism and Intolerance (ECRI) to Ukraine to adopt a hate crime law which includes the grounds of sexual orientation and gender identity. Furthermore, the European Commission notes that the draft law currently pending in parliament would fulfil this recommendation, and that it has been stuck in parliament since 2021.³

² European Court of Human Rights (2023), MAYMULAKHIN AND MARKIV v. UKRAINE <https://hudoc.echr.coe.int/fre#{%22tabview%22:%22document%22,%22itemid%22:%22001-224984%22}}>

³ See page 47 of the Ukraine chapter of the European Commission's 2023 Enlargement Progress report https://neighbourhood-enlargement.ec.europa.eu/document/download/bb61ea6d-dda6-4117-9347-a7191ecef3f_en?filename=SWD_2023_699%20Ukraine%20report.pdf



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Ukrainian legislation is undergoing a process of screening and assessment for compliance with EU law, which is one of the key stages of the negotiation process for Ukraine's accession to the EU. In the calendar plan of the Verkhovna Rada, bill 5488 is marked as a Euro-integration bill,⁴ so it is important to bring it to a vote and adopt it in a timely manner.

States have a positive obligation under international and regional human rights law to protect all individuals within their jurisdiction from violence, discrimination, and other human rights abuses. Adopting SOGI-inclusive hate crime laws is consistent with this obligation and demonstrates a commitment to upholding the principles of equality and non-discrimination enshrined in international treaties and conventions. It would also bring Ukraine in line with the case law of the ECtHR, which has long demonstrated that Council of Europe Member States should adopt SOGI-inclusive hate crime laws in order to comply with the European Convention on Human Rights.⁵

Over the past years the Ukrainian government has shown a clear commitment towards EU integration and taken concrete measures to strengthen its democratic safeguards, for example in combating corruption. What is needed now is that the fundamental rights of vulnerable groups, including LGBTI people, become an integral part of Ukraine's efforts to improve its democratic and human rights standards, as well as respect for and protection of the rule of law. We, the undersigned Members of the European Parliament, therefore call on the Ukrainian deputies to adopt draft laws 9103 and 5488 without delay, in order for Ukraine to move further along its path to EU integration by enhancing rights and equality for all its people.

Yours sincerely,

MEP Marc Angel
MEP Kim van Sparrentak
MEP Maria Walsh
MEP Malin Björk
MEP Pierre Karleskind
MEP Fabio Massimo Castaldo
MEP Cyrus Engerer
MEP Dietmar Köster
MEP Brando Benifei
MEP Radka Maxová
MEP Pierre Larrourou
MEP Matjaž Nemec
MEP Aurore Lalucq
MEP Christophe Clergeau
MEP Silvia Modig
MEP Saskia Bricmont
MEP Rasmus Andersen
MEP Sara Matthieu
Mónica Silvana González
MEP Frances Fitzgerald
MEP Catharina Rinzema

⁴ See line 62 of the Plan of the legislative work of the Verkhovna Rada
<https://zakon.rada.gov.ua/laws/show/3561-20#n17>

⁵ See, for example, ECtHR cases related to sexual orientation which resulted in the requirement to adopt hate crime legislation including sexual orientation as a protected ground:
https://www.echr.coe.int/documents/d/echr/fs_sexual_orientation_eng



The European Parliament's

Intergroup on LGBTI Rights

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MEP Michael Kauch
MEP Thijs Reuten
MEP Cyrus Engerer
MEP Terry Reintke
MEP Robert Biderón
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MEP Rosa D'Amato
MEP Maria Manuel Leitão Marques
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