

27 September 2013

Statement from the Coalition for Combating Discrimination in Ukraine to the systemic violations of the right to peaceful assembly

First of all, we would like to share our appreciation for that this year, in May 2013 the first gay pride took place in Ukraine. We believe that was not an achievement of local or law enforcement authorities, but an achievement of Ukraine's developing civil society.

Civil society in Ukraine many times drew attention to systemic violations of the right to freedom of peaceful assembly in Ukraine.

The Coalition for Combating Discrimination in Ukraine would like to draw attention of OSCE member states by making this statement to the systemic violations of right to freedom of peaceful assembly of one particularly marginalized group in Ukrainian society - LGBTI persons.

During 2012-2013 several attempts of LGBTI NGOs to conduct peaceful assemblies were met by the City administrations' successful attempts to secure a court ban on those events. Such actions from the City Administrations can not be recognized as reasonable, pursuing legal aim and appropriate in the democratic society. The only reasons used to justify such approach to ban LGBTI public peaceful assemblies are those based on authorities understanding of so-called moral, traditional and religious values.

Though recognizing the importance of so-called morality and traditional values, as well as religious beliefs in modern discourse in Ukrainian society, the Coalition finds it totally impossible to use such reasons for mass limitation or actually ban of all peaceful assemblies for whole LGBTI community, as well as other marginalized communities in Ukraine which are protected by law from all forms of discrimination and should fully enjoy their rights, including the right to peaceful assembly.

On December 8, 2013 NGO "Insight" planned public rally in support of human rights (dedicated to the Universal Human Rights Day) and condemning homophobia. The Kyiv City Administration first went to court to secure a ban of the assembly; the argument behind such decision was that the place chosen for the event would be too crowded. When the place was changed, the police failed to ensure security of participants and ignored mass requests of the participants to ensure their safety from provocateurs recognized by participants as right-wing activists. On the contrary, the police illegally arrested LGBTI-activists some of whom were later recognized not guilty in court. The assembly's organizer was later found guilty in violation of rules of peaceful assemblies.

A March for Equality was planned for 25 May as a public human rights rally demanding equal rights and opportunities for members of Ukraine's LGBT community. In this case a number of reported counterdemonstrations was enormous - the opponents reported more than 10 thousands of counterdemonstrants. The Kyiv city administration again went to court to ensure the March is banned in order not to fulfill the city's obligations of civil order guarding. . By doing so city authorities clearly showed their limited understanding of human rights, equality principals and its role in providing non-discriminatory approach to ensuring freedom of peaceful assembly for all groups and communities.

In compare, almost each month only in Kiev an anti-LGBTI event takes place, with no banning attempts from the city's administration side. Accompanied by homophobic discourse flourishing in political sphere the facts above are clearly showing that the practice of violations the right to assemble peacefully is even more spread towards LGBTI-activists due to discrimination of this marginal group. What is worse, unpunishment of provocateurs during such events encourages them to continue illegal activities and to attack activists after assemblies.

The Coalition stresses that neither KCSA nor opponents of the LGBT community are entitled to seek bans on peaceful assemblies just because they don't like the views or sexual orientation of its organizers. The Law on Countering and Preventing Discrimination bans all forms of discrimination, including discrimination based on sexual orientation and gender identity.

When discrimination of vulnerable groups is an everyday occurrence in Ukrainian society and efforts to counter them and protect individuals are insufficient and ineffective, such public events in support of equality and the principle of non-discrimination are extremely important and should be supported.

The holding of the Equality Marchs or other peaceful assemblies by different marginalized groups in a safe and transparent manner is part of the dialogue about human rights for each of us irrespective of features like age, social status; skin color; religious convictions; gender identity or sexual orientation.

Safety depends in the first instance on the organizers and transparent actions of the authorities, and chiefly the police. The authorities should take all measures to safeguard public order and the safety of participants, and not use their inability in order to ban the March.

The Coalition is asking member states to continue monitoring of Ukraine obligations under human rights acts and democracy principals in order to ensure that the state is protecting the right to peaceful assemble for all groups and takes measures to ensure safety of its participants.

The Coalition also urges the OSCE institutions as well as the member states to recommend Ukraine to adopt effective legislation concerning fulfillment of peaceful assembly right according to the general principles developed by ODIHR.

We also encourage the OSCE and ODIHR in particular to do all best to empower Ukraine's and other eastern European countries civil society and marginalized groups in particular in order to achieve more results in local lobbying of effective securing the right to assemble peacefully.