



On prohibition of the Equality March in Kyiv (Ukraine), 2013

*Statement of the All-Ukrainian Initiative "For Peaceful Protest!"
including All-Ukrainian Youth NGO "Foundation of Regional Initiatives")*

On May 23, 2013, Kyiv district court prohibited citizens to conduct any kind of assembly in the center of Kyiv, except for official events under the program of the Day of Kyiv celebration. The lawsuit was initiated by the main department of Ministry of Internal Affairs of Ukraine in Kyiv and was filed in the court by Kyiv city administration.

Police and local governments explained that lawsuit referring to the national security and public order. The court satisfied the claim in order to protect citizens that would be in the center of Kyiv on May 25, 2013. The court found threats that there would be fights in case of conduct of the march to be convincing.

The real reason of the Equality March restriction, though, was discrimination by the city government of LGBT community, willing to conduct this march in order to have equal rights and possibilities for all Ukrainians, regardless their sexual orientation and other features.

We claim that the main department of Ministry of Internal Affairs of Ukraine in Kyiv, Kyiv city administration and Kyiv district administrative court violated the Constitution of Ukraine and the Convention for the Protection of Human Rights and Fundamental Freedoms, namely:

Art. 21 of the Constitution of Ukraine which states that all people are free and equal in their dignity and rights.

Art. 24 of the Constitution of Ukraine which prohibits restrictions of rights and freedoms based on various characteristics.

Art. 39 of the Constitution of Ukraine which guarantees freedom of peaceful assembly in Ukraine.

Art. 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms which guarantees each person freedom of peaceful assembly.

Art. 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms which prohibits any discrimination.

We also declare that Kyiv district administrative court neglected a provision of the Ukrainian legislation stating that decisions of the European Court of Human Rights are the source of law in Ukraine. In particular, the European Court of Human Rights decision in the case “*“Ärzte für das Leben” v. Austria*” stated:

“A demonstration may annoy or give offence to persons opposed to the ideas or claims that it is seeking to promote. The participants must, however, be able to hold the demonstration without having to fear that they will be subjected to physical violence by their opponents; such a fear would be liable to deter associations or other groups supporting common ideas or interests from openly expressing their opinions on highly controversial issues affecting the community. In a democracy the right to counter-demonstrate cannot extend to inhibiting the exercise of the right to demonstrate”.

Thus, the court did not have any grounds for prohibiting neither the Equality March, nor demonstrations of opponents to the Equality March. Instead, Kyiv city administration and police were supposed to ensure public order *“to protect demonstrations from those wishing to interfere with or disrupt them”* during such assemblies (*““Ärzte für das Leben” v. Austria*”), according to positive obligations of the state on protection of rights and freedoms of citizens.

We also remind that the European Court of Human Rights has ruled earlier that prohibition of LGBT peaceful assemblies in Poland and Russia (in the case *“Alekseyev v. Russia”*) violates freedom of peaceful assembly.

The decision of Kyiv district administrative court that prohibited the Equality March and all non-governmental assemblies in Kyiv on May 25, 2013 was not the first violation of right to peaceful assembly guaranteed by the Constitution of Ukraine and the European Convention. In April 2013, the European Court of Human Rights in the case *“Verentsov v. Ukraine”* ruled that police and courts violated the Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

The All-Ukrainian Initiative “For Peaceful Protest!” promise to provide any necessary assistance to the Equal March, and everyone else, whose right to peaceful assembly has been violated, in particular to opponents to the Equal March, now and in the future.

We also encourage executive bodies of Ukraine, police and courts to stop the humiliating practice of violation of the Constitution of Ukraine and the Convention for the Protection of Human Rights and Fundamental Freedoms, and to fulfill the obligations on protection of human rights, rights to freedom of peaceful assembly for all citizens, even if they differ somehow from the majority.