



**The main issues of implementation of the Association Agreement:
Analysis of the Human Rights Agenda
for the participants of EU Ukraine Human Rights Dialogue**

July 6-7, 2015, Brussels

1. Ratification of the Rome Statute of the International Criminal Court:

January 20, 2000 Ukraine signed the Rome Statute of the International Criminal Court (hereinafter also - Statute) according to the Order of the President of Ukraine of December 11, 1999 № 313/99-пп. According to the Conclusion of the Constitutional Court of Ukraine on July 11, 2001 № 3-В/2001 the Rome Statute of the International Criminal Court does not confirm to the Constitution of Ukraine in the part concerning the provisions of paragraph ten of the preamble and article 1 of the Statute, according to which "the International Criminal Court ... complements the national criminal justice authorities." Therefore, the adding of one technical and legal sentence to Article 124 of the Constitution of Ukraine must precede the ratification of the Statute.

After the failure of the political regime of Viktor Yanukovich in the confrontation at the Maidan and the escape of the later to the Russian Federation in the Parliament of Ukraine of the previous convocation there was registered bill number 4873, which offered technical and legal editing to Article 124 of the Constitution of Ukraine. In the Parliament of Ukraine of current convocation a nearly identical in content bill with registration number 1788 was also registered. Unfortunately, the bill number 1788 repeated the fate of the previous one, and has not been submitted to the consideration of the Committee on Legal Policy and Justice, which is the relevant committee. Instead the public statements with the attempt to justify the postponement of ratification of the Rome Statute are heard from leaders of the biggest factions.

Human rights organizations encourage the Parliament of Ukraine to urgently adopt bill number 1788 and fulfil one of the requirements of the EU Association Agreement on the ratification of the Rome Statute.

2. Reforming of internal affairs authorities:

The events of a year ago when during Euromaidan, in particular criminal misuse of police power, clearly indicated the need for radical reform of the law enforcement system in Ukraine. Recently the Ministry of Internal Affairs of Ukraine has prepared a package of bills on reforming the internal affairs authorities, which the society has been expecting for a long time. Unfortunately, the participation of civil and international experts in development of these documents was limited, therefore, many innovative proposals were not taken into account

Despite the positive novels in the adopted in the first reading draft law "On the national police" with registration number 2822, the bill contains a number of systemic shortcomings that violate the principles of the internal affairs authorities development - demilitarization, transparency and personnel professional training. In particular, the bill does not provide mandatory competition for the appointment to the post, creating conditions for corruption. There are no changes of police professional training system, their insurance and medical care. At the same time, the

Soviet system of special ranks is preserved that prevents moving away from inherited from the USSR militarized model of building service provision, task of which is to serve the society.

In view of the passing of this and other bills from the package to plenary consideration, human rights organizations are aware that at this stage, the community can only influence some elements of the legislative framework for police activities, so now it is important to create the conditions to influence the further stages of the reform, and for that the institutional prerequisites should be laid. Therefore, one of our main requirements is to expand opportunities for police accountability to society at large, local communities, citizens. In particular, through expanding the functions of police commissions and providing them access to the official inspections, presentation and public discussion of the final report at the local council, development of an annual plan of local priorities of police work following consultations with local authorities, civil society organizations and others.

3. The approval of the National Human Rights Strategy:

Ministry of Justice of Ukraine and the Ministry of Foreign Affairs with the active participation of the civil society have carried out a lot of work to prepare the document. However, during the discussion of the document at hearings of the Committee for Human Rights, National Minorities and International Relations human rights organizations expressed a number of remarks taking into account that the final decisions on its contents were made almost exclusively by specialists of the ministries.

It is clear, that the Strategy must define key priorities of the state policy in the sphere of human rights for the next few years and is not intended to list all existing rights and freedoms. The criteria for defining of such priorities are set out in the "General provisions" section of the draft document. However from the text it is not clear how these criteria were applied in the selection of certain rights. For example, the draft provides ensuring rights of national minorities, while it contains no mention of indigenous peoples, including Crimean Tatar, who are subject to the persecution by the occupation authorities. It is also important to note that the draft text must comply with the principles of specificity and feasibility and measurability of strategic objectives. In a number of clauses these principles are just not respected, that can not but affect the quality of the document. Although the steps for implementation of the Strategy will be written in detail in the future Action Plan, such level of formulation of the Strategy leaves wide extend for ambiguous interpretation of and makes impossible assessment of the real effectiveness of its implementation. One of the significant shortcomings of the Strategy is the dependence of its implementation on financial resources. Therefore, in the absence of resources, such strategy can be reduced to nothing. Instead Strategy should contain the declared political will, set force by the law, according to which, a human, his rights and freedoms, honor and dignity should be a core value of the state. This principle must be a cornerstone of the Strategy and its real ultimate outcome.

Currently, at the Presidential Administration the working group with representatives of organizations-participants of "Human Rights Agenda" Platform was established. After finalization of the text of the document it is planned to approve the text of the Strategy in the Parliament as a law.

4. The issue of non-discrimination, gender equality, the rights of people with disabilities and rights of national minorities.

The fourth periodic report of the European Commission also refers to the obligations to ensure the principle of equality and non-discrimination for all groups in all spheres of civic life.

Although in recent years Ukraine has made significant progress in this direction, there is still a considerable amount of work for the practical implementation of its obligations in this area. So, a significant success was the approval and introduction of amendments to the Law of Ukraine "On Principles of Prevention and Counteraction against Discrimination in Ukraine", but the next step will be to harmonize this law with other regulations, including the Law of Ukraine "On ensuring equal rights and opportunities for women and men" and the Law of Ukraine "On the basis of social protection of people with disabilities in Ukraine", making relevant amendments to other regulations, including the Labour Code, clearly and unequivocally providing therein sexual orientation as a prohibited ground. One more important issue is making changes to protection against discrimination. Today inconsistency in the regulations of administrative and criminal codes in order to create an effective system of documents and criminalizing of discrimination established by article 161 of the CCU (that is, at a minimum, an example of out of proportion punishment and ineffective means of defence), create legal uncertainty that doesn't conduce to the formation of judicial practice. One more paramount step of the State in the direction against discrimination should be the development of the national plan of action to prevent discrimination, which would create the basis for systematic and coordinated work of all state bodies and local authorities. The basis for writing such a plan can be the Human Rights National Strategy.

The issue of reforming of existing legislation on national minorities and its extension to ensure the rights of indigenous peoples, despite the huge relevance, during the last period has not been droved from the point of "discussion only". The Verkhovna Rada of Ukraine was not made any specific proposal. The national concept of national ethnic policy was not finalized either, which in view of the situation in the country is extremely important. The only progress in the area of human rights of national minorities can be considered the Strategy of integration of Roma minority by 2020, but to this document the civil society have certain questions about the presence of clear assessment indicators, its formal execution by state and local authorities, as well as lack of budget funding of most items in it.

For reference: "Human Rights Agenda" Platform is a non-formal coalition of human rights organizations working in the area of monitoring, analysis and development of legislation in accordance with the principles of human rights and fundamental freedoms. Participants of the Platforms are the Ukrainian Helsinki Human Rights Union, the Kharkiv Human Rights Group, Centre for Civil Liberties, Amnesty International in Ukraine, Information Centre on Human Rights, Centre of Law Enforcement Activities Research, Human Rights House - Kyiv, "Social Action" Centre, "Without Borders" project, Euromaidan SOS.

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