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May 14, 2009

Your Excellencies:

For the second year in a row, Ukrainian authorities are denying the fundamental rights to free expression and assembly of the members and supporters of the Ukrainian Association LiGA from Mykolayiv. We are writing to you on behalf the International Gay and Lesbian Human Rights Commission (IGLHRC) to ask that you uphold their rights and allow the Rainbow Spring Festival, including all of its outdoor events, to take place as scheduled on May 15-17, 2009.

On May 6, 2009, LiGA received a letter from the Mykolayiv City Council banning any public event organized as a part of their Rainbow Spring Festival. The letter stated that while city authorities do not consider LiGA's activities to be illegal, they have to take into account the "interests, rights, religious and ethical beliefs of all residents of the city." The letter also referred to messages from religious groups and other civic groups urging them to prevent the festival from taking place in the street because it would have a "negative impact on the moral and spiritual atmosphere of the city." Fearing "civic unrest" and possible "mass disorder and conflict," the Council said that events associated with the Rainbow Spring Festival could only take place indoors.

On May 12, 2009, LiGA received a summons from the Mykolayiv City Court announcing the city's lawsuit against LiGA to prevent them from holding the festival altogether—indoors or outdoors. On May 13, 2009, LiGA was invited to the court for the official announcement of the decision, only to be pushed back until May 14, 2009, when LiGA learned that the court has banned the entire festival. This delay has made it very

difficult for LiGA to appeal the court's decision in adequate time for the festival to take place this weekend.

We are also very concerned that the staff of LiGA have received phone calls threatening violence and that unidentified persons attempted to enter their office. LiGA has had to arrange twenty-four hour security for the office.

Ukrainian legislation on freedom of assembly requires that those wishing to conduct a public assembly inform the relevant authorities; however, it does not require them to obtain permission. In this case, city authorities acted on a letter received from opposition groups, before LiGA had the chance to inform them about this public event, and without requesting that LiGA provide additional information concerning the festival.

The City authorities cannot act against Ukrainian and international human rights law. As a member of the Council for Europe, Ukraine needs to implement the European Convention of Human Rights, including the decision of the European Court of Human Rights in *Baczowski and Others v. Poland* (2007). The European Court found Poland in violation of the European Convention because the Mayor of Warsaw did not authorize a LGBT march (violations of Art. 11 on freedom of association and assembly, Art. 13 on the right to an effective remedy, and Art. 14 on non-discrimination). In *Plattform Artze fur das Leben v. Austria* (1985), the European Court explicitly stated its principled position that: “A demonstration may annoy or give offense 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.”

Demonstrations, marches, and other public events are organized by LGBT people and supporters in many parts of the world as a means to claim their space in civil society and to draw attention to the human rights violations they regularly confront. Through such public events the majority in society learns about differences in general, and different sexualities and gender identities in particular. Little by little, prejudice and misconceptions about LGBT people diminish. LGBT people who live in fear because of their difference can see not only that their opponents may voice ideas in the street, but also that their supporters may exercise the same rights; this way, LGBT people can regain their confidence, dignity, and hope. They take part in building their community.

We ask the city authorities and the executive government of Ukraine to allow LiGA to hold its Rainbow Spring Festival, and protect the participants in the festival for all indoor and outdoor events. In so doing, the authorities will honor Ukraine's obligations under the European Convention of Human Rights to ensure that all people, irrespective of sexual orientation or gender identity, have the same right to free expression and assembly.

As the European Court stated, the reasons of public order, public morality, public health or public security should not be used to restrict any peaceful assembly, simply because it affirms the diversity of sexual orientations and gender identities.

Sincerely,

A handwritten signature in dark ink, appearing to read "C. A. Johnson". The signature is fluid and cursive, with the first name "Cary" and last name "Johnson" clearly distinguishable.

Cary Johnson,
Executive Director

The International Gay and Lesbian Human Rights Commission (IGLHRC)'s mission is advancing human rights for everyone, everywhere to end discrimination based on sexual orientation, gender identity and gender expression. IGLHRC has offices in New York, Buenos Aires, and Cape Town. www.iglhrc.org