Herman Van Rompuy
President of the European Council
Rue de la Loi / Wetstraat 175
B-1048 Bruxelles / Brussel
Belgium

Dear President Van Rompuy,

Re: EU-Ukraine Summit on 25 February 2013 in Brussels and Draft Law 0945 (formerly Draft Law 8711) on the prohibition of “promoting homosexuality”

I write on behalf of The Equal Rights Trust (ERT) to express our serious concern about the Draft Law 0945 which was introduced before the Verkhovna Rada of Ukraine on 12 December 2012, and to urge the European Union to condemn the draft law and use the occasion of the upcoming EU-Ukraine summit on 25 February to call for the withdrawal of the draft law. ERT is an independent international organisation whose purpose is to combat discrimination and promote equality as a fundamental human right and a basic principle of social justice. Established as an advocacy organisation, resource centre and think tank, ERT focuses on the complex and complementary relationship between different types of discrimination, developing strategies for translating the principles of equality into practice.

ERT has been closely following developments in relation to Draft Law 0945 and has undertaken a detailed analysis of the draft law and its compatibility with Ukraine’s obligations under international and European human rights law in relation to the rights to equality and non-discrimination, our particular area of expertise. On the basis of our analysis, we conclude that the draft law, if adopted, would violate both international human rights law and the European Convention of Human Rights. In the attached legal brief, ERT presents substantive legal arguments which establish the conclusion that Draft Law 0945 would violate:

- Articles 2(1), 19 and 26 of the International Covenant on Civil and Political Rights;
- Articles 2(1), 13, 17 and 24 of the Convention on the Rights of the Child; and
- Articles 10 and 14 of the European Convention on Human Rights.

ERT notes the ongoing discussions of an Association Agreement between the European Union and Ukraine and the hope that Ukraine will sign the Agreement at the Eastern Partnership (EaP) summit in Vilnius in November 2013. ERT understands that advancing the required reforms under the Agreement will be one of the three key issues discussed at the upcoming EU-Ukraine summit in Brussels on 25 February.

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1 Проект Закону 0945 про внесення змін до деяких законодавчих актів (щодо захисту прав дітей на безпечний інформаційний простір).
Article 1 of the Agreement provides that one of the aims of Association is “to enhance cooperation in the field of Justice, Freedom and Security with the aim of reinforcing the rule of law and the respect for human rights and fundamental freedoms”.

ERT also bears in mind the EU-Ukraine Visa Liberalisation Action Plan which commits Ukraine, *inter alia*, to:

- The adoption of comprehensive anti-discrimination legislation, as recommended by UN and Council of Europe monitoring bodies, to ensure effective protection against discrimination;
- Actively pursue the specific recommendations of UN bodies, OSCE/ODIHR, the Council of Europe/ECRI and international human rights organisations in implementing antidiscrimination policies, protecting minorities and combating hate crimes; and
- The Ratification of relevant UN and Council of Europe instruments in the fight against discrimination.

In this context, ERT shares the “deep disappointment and concern” expressed by the European Commissioner for Enlargement and European Neighbourhood Policy, Štefan Füle, and the belief that the adoption of Draft Law 0945 would stand “in contradiction to the requirements of the relevant benchmarks of the action plan.”

On the basis of the legal analysis presented herein and in the anticipation of the egregious discrimination, stigmatisation and harm that LGB people and others will suffer if the draft law is adopted, we urge you to condemn Draft Law 0945 in its entirety and to call on the government of Ukraine to declare its firm opposition to the Draft Law.

Yours sincerely

Dr Dimitrina Petrova,
Executive Director
The Equal Rights Trust

cc:
José Manuel Barroso, President of the European Commission
Baroness Catherine Ashton, High Representative of the Union for Foreign Affairs and Security Policy
Viviane Reding, European Commissioner for Justice, Fundamental Rights and Citizenship
Štefan Füle, European Commissioner for Enlargement and European Neighbourhood Policy

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2 Article 1(2)(e) of the Association Agreement between the European Union and its Member states, of the one part, and Ukraine, of the other part.

3 Response to question tabled by Michael Cashman (S&D), Ulrike Lunacek (Verts/ALE), Sophia in ’t Veld (ALDE), Raúl Romeva i Rueda (Verts/ALE), Sirpa Pietikäinen (PPE), Cornelis de Jong (GUE/NGL), and Marije Cornelissen (Verts/ALE), E-009050-12, 5 December 2012, available at: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2012-009050&language=EN.