

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Joint Statement of NGOs and Media Organizations about the Draft on Public Calls for Violent Action

The Parliament of Georgia is planning to adopt with first reading a draft of Amendments to the Criminal Code of Georgia, prepared by the Ministry of Internal Affairs of Georgia and initiated by the Government of Georgia. One of the aims of the draft is to criminalize public calls for violent action. According to Article of the 2391 of the draft, public calls for violent action for the purpose of instigating conflict between different racial, religious, national, regional, ethnic, social, political, language and/or

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other groups will be punishable by up to two years in prison. Even though the draft law was modified to a certain extent after it was initiated, in particular [] it now includes an indication about clear, direct and essential threats, it still contains serious risks to freedom of expression, and in view of the existing context, the state [] declared motivation to criminalize such action lacks credibility.

The state [] policy towards violent and hate crimes committed against vulnerable groups of the society and minorities is clearly ineffective and in some cases even repressive. The state has demonstrated absolutely no effort to restore rights that have been violated and prevent any future violations. Therefore, it seems hard to believe that placement of restrictions on freedom of information aims at protection of discriminated groups. Even though crime motivated by discrimination constitutes aggravating circumstances under para.31, Article 53 of the Criminal Code of Georgia, the provision has been rarely invoked in practice, and the state lacks statistics as an instrument for combatting hate crimes. The state failed to effectively investigate or prosecute hate crimes, including the May 17, 2013 case. Moreover, open loyalty of the state to dominating religious group and prevailing morale, and diversion from the principles of secular state makes hard to believe that the state is interested in protecting discriminated groups. These suspicions are further reinforced by open support of the draft law by groups that are advocating for criminalization of blasphemy.

In addition, there are certain risks associated with not only the context of using the norm but also with the concept of the norm as well as ambiguous formulation. Terms used in the norm [] for violent action A [] of conflict A between groups allows for broad interpretation and arbitrary use. This, in view of the fact that the norm envisaged deprivation of freedom as punishment, provides the state with an opportunity to implement punitive measures. Unlike international standards against racism and xenophobia, the norm does not view vulnerable groups of the society as objects of protection against hostile, discriminatory and violent treatment but rather, it provides ambiguous regulation of conflict between groups, which in our view illustrates true intentions of authors of the draft law [] place unjustified restrictions on freedom of expression and critical opinion. Abuse of the norm and its wrong interpretation puts freedom of expression by media representatives, non-governmental organizations, religious and ethnic groups, as well as political opponents at risk, which is a step backwards on the way to democratic development and formation of open society, especially considering that the proposed draft

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envisages sanction to liquidate media outlets and other legal entities, which is disproportionately high penalty.

Further, in view of the fact that freedom of expression is one of the fundamentals of a democratic society, state [] efforts to place legal restrictions on freedom of expression must be discussed broadly and with active involvement of stakeholders.

In this light, we urge the parliament of Georgia to adequately realize the importance of democratic and pluralist values in view of the existing context, and to vote down the bill. It is also important that instead of elaborating new regulation, the state pursue effective policy for enforcement of existing legal norms, for effective investigation of hate crimes and steadfast support of the right of vulnerable groups of the society.

Georgian Young Lawyers' Association

Identity

Human Rights Education and Monitoring Center

Tolerance and Diversity Institute

Journalistic Ethics Charter

International Society for Fair Elections and Democracy

Transparency International – Georgia

Democratic Initiative of Georgia

Article 42 of the Constitution

Institute for Development of Freedom of Information

Media Development Foundation

Human Rights Centre