

საქართველოს ახალგაზრდა იურისტთა ასოციაცია
GEORGIAN YOUNG LAWYERS' ASSOCIATION



საქართველოს
ახალგაზრდა
იურისტთა
ასოციაცია

**საია დისკრიმინაციულ,
ადამიანის უფლებების და
დემოკრატიის წინააღმდეგ
მიმართულ საკანონმდებლო
ცვლილებებს ეხმაურება**

**The Georgian Young Lawyers'
Association responds to the
legislative changes that undermine**

human rights, democracy, and protections against discrimination.

On September 17, 2024, the Georgian Parliament adopted the Law of Georgia "On Family Values and Protection of Minors" and a related package of amendments after the third hearing. This law contradicts both national and international human rights standards, resulting in the unjustified restriction of fundamental rights, including freedom of expression and assembly. It introduces censorship of activism, creative, and scientific activities, while promoting homophobia and transphobia. The legislative amendments include administrative and criminal sanctions, effectively criminalizing certain forms of activism, professional work, and healthcare services.

The law is entirely based on false, hateful narratives, thus in effect fueling hate-motivated violence.

It should be noted that the governing party has also initiated a package of constitutional amendments with similar content. The adoption of these amendments would strip several rights enshrined in the Constitution of Georgia of their substantive meaning, rendering the Constitution inconsistent with universally recognized human rights and freedoms. This would undermine the Constitution's fundamental obligation to protect these rights, as stipulated within its provisions ¹.

The legal issues violated by the current legislative changes are outlined below

- **Violation of the right to privacy**

Sexual orientation and gender identity are key aspects of an individual's personal life and are protected under Article 8 (the right to respect for private life) of the European Convention on Human Rights². According to established case law of the European Court of Human Rights, when differential treatment is based solely on a person's sexual orientation, it constitutes discriminatory treatment³. **While human rights**

law already does not impose an obligation on states to recognize same-sex marriage, the state is required to ensure that all individuals are afforded

the minimum guarantees necessary for the protection of private life⁴.

At a time when the protection of the personal lives of LGBTQI+ community members in Georgia is already fragile and problematic, the Parliament, through the recently adopted legislative package, further fuels the stigmatization of LGBTQI+ individuals. These laws impose additional restrictions on rights that LGBTQI+ people already do not have in Georgia. The legislation perpetuates the false notion that protecting family values is incompatible with safeguarding the privacy and rights of LGBTQI+ individuals, reinforcing harmful misconceptions.

According to the practice of the European Court of Human Rights, gender identity is a fundamental part of personal identity and is protected under Article 8 of the Convention⁵. The legislative changes not only significantly worsen the already inadequate respect for private life of transgender individuals, which is inconsistent with international standards⁶, **but also criminalize trans-specific healthcare, including hormone therapy. Denying access to such essential services can lead to significantly worsened mental health outcomes for trans people, which can be life-threatening⁷.**

- **Restriction of freedom of expression and censorship**

Freedom of expression is an essential condition for the free development of individuals and is crucial for any society⁸. The discussions about human rights, as well as various artistic expressions, form an integral part of this fundamental right⁹. The state is obligated to protect freedom of expression without discrimination based on sexual orientation and gender identity. This protection includes the freedom to disseminate opinions and receive information, ensuring that all individuals can freely express themselves and access diverse perspectives¹⁰.

The law, in fact, prohibits the dissemination of such information that relates to LGBTQI+ issues. This applies to both activism, creative, scientific and academic activities. There is no reason to impose such a restriction on the grounds of protection of minors¹¹.

This restriction will have a chilling effect on activists, artists, scientists, law enforcement, and academics. **A similar ban in Russia has already resulted in the removal of books, films, and other works of art from circulation, further restricting the freedom of expression for artists and the media. It has also led to widespread self-censorship among publishing houses and artists, driven by fear of sanctions. This stifling environment undermines creativity, academic freedom, and open discourse, which are essential to a democratic society¹².**

- **Restriction of freedom of assembly**

In international human rights law, there is no ambiguity regarding the right of LGBTQ+ individuals to openly express their sexual orientation and to advocate for their rights, including through assembly and demonstration, regardless of whether there is consensus on these rights¹³. It is inconsistent with the spirit of human rights to have the enjoyment of rights for a minority¹⁴ contingent upon the acceptance of the majority. Such a reality would render the rights to assembly and expression for any minority a mere theoretical concept¹⁵.

Significant challenges to the right to assembly and demonstration already exist in Georgia, this right is particularly inaccessible for LGBTQI+ individuals ¹⁶. Instead of safeguarding the standards of assembly and demonstration established by the Constitution and international law, the state is seeking to adopt new restrictions that will substantially worsen the legal situation regarding the right to assembly in Georgia . This approach not only undermines the rights of marginalized communities but also erodes the fundamental principles of democracy and human rights.

- **Encouraging hate-motivated violence**

LGBTQ+ people are one of the most vulnerable and stigmatized groups in Georgia ¹⁷. The law further reinforces existing misconceptions and hatred towards LGBTQI+ people ¹⁸.

It is important to note that the state policy of Georgia has been marked by a tolerance of violence motivated by homophobia and transphobia ¹⁹. For instance, in 2021, [the European Court indicated](#) in its decision that the unprecedented scale of violence against LGBTQI+ individuals is influenced by the government's inaction, which failed to conduct timely and objective investigations into past attacks on the community. The Court referenced the case "Identoba and Others v. Georgia," in which it found violations in 2015, underscoring the ongoing issues related to the protection of LGBTQI+ rights in the country.

At a time when members of the LGBTQI+ community frequently face violence both within families and in broader society, and when transgender individuals are particularly vulnerable to hate-motivated violence, the introduction of discriminatory legislative initiatives and the spread of false, hateful rhetoric by state representatives **further endanger LGBTQI+ individuals** ²⁰. **Additionally, the harmful effects of such legislative measures extend beyond specific groups, contributing to a deterioration of the overall human rights landscape and fostering an environment that encourages hate-motivated violence in society** ²¹.

The day after the adoption of the homophobic and transphobic legislative package, on September 18, the murder of transgender woman Kesaria Abramidze served as a stark reminder of the severity of hate crimes. Unfortunately, the state's recent hate campaign is exacerbating the threats faced by women and LGBTQ+ individuals. It is crucial for investigative agencies to accurately assess the hate motives behind such acts of violence and to inform the public about what law enforcement agencies knew regarding prior incidents of violence and why they were unable to prevent yet another case of femicide.

Harmful impact of the law on children's rights

Linking sexual orientation and gender identity to attacks on children's rights is a clear attempt to use the language of human rights to promote discriminatory policies that are contrary to international human rights law ²².

Although the title of the law includes the phrase "on the protection of minors," it exposes children to various risks of rights violations, including increased risk of violence and bullying. Furthermore, it is noteworthy that the UN Committee on the Rights of the Child has specifically urged Georgia to reject the draft constitutional law with similar content ²³.

We call on

To the President of Georgia:

Veto the package of amendments "On Family Values and Protection of Minors".

Parliament of Georgia:

Reject discriminatory, hateful and anti-human rights initiatives. If the President vetoes the package of amendments "On Family Values Protection of Minors", it should not be overridden.

To representatives of all branches of government:

Not to spread hateful, discriminatory narratives and to take care within their competence to promote equality and protect human rights.

1 see Article 4 of the Constitution of Georgia.

2 CASE OF BEIZARAS AND LEVICKAS v. LITHUANIA, [41288/15](#), 2020, პარ. 109; CASE OF A.P., GARÇON AND NICOT v. FRANCE, [79885/12](#), [52471/13](#), [52596/13](#), 2017, პარ. 123.

3 CASE OF E.B. v. FRANCE, [43546/02](#), 2008, პარ. 93.

4 FEDOTOVA AND OTHERS v. RUSSIA, [40792/10](#), [30538/14](#) and [43439/14](#), 2023.

5 GARÇON AND NICOT v. FRANCE, [79885/12](#), [52471/13](#), [52596/13](#), 2017, პარ. 123.

6 A.D. and Others v. Georgia, [57864/17](#), [79087/17](#), [55353/19](#).

7 ILGA-Europe statement, 18.09.2024, <https://www.ilga-europe.org/news/statement-the-president-of-georgia-must-not-sign-on-family-values-and-the-protection-of-minors-legislative-package-into-law/>, [19.09.2024].

8 Human Rights Committee, General comment No. 34, para 2, <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>, [19.09.2024].

9 Ibid., par 11.

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10 Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity, par 13-16, https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cf40a, [19.09.2024].

11 CASE OF ALEKSEYEV v. RUSSIA, [4916/07](#), [25924/08](#), [14599/09](#), 2010, პარ. 86.

12 Euronews, From museums to book publishing: How Russia's new anti-LGBTQ laws will impact culture, 2022 <https://www.euronews.com/culture/2022/12/06/from-museums-to-book-publishing-how-russias-new-anti-lgbtq-laws-will-impact-culture>, [19.09.2024].

13 CASE OF ALEKSEYEV v. RUSSIA, [4916/07](#), [25924/08](#) and [14599/09](#), 2010, პარ 84.

14 Ibid para 81

15 Ibid.

16 For example see: CASE OF IDENTOBA AND OTHERS v. GEORGIA, [73235/12](#), 2015, ასევე CASE OF WOMEN □ INITIATIVES SUPPORTING GROUP AND OTHERS v. GEORGIA, [73204/13](#), [74959/13](#), 2021.

17 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Brussels, SWD(2023) 697 final, 8.11.2023, 40.

18 Venice Commission, OPINION ON THE DRAFT CONSTITUTIONAL LAW ON PROTECTING FAMILY VALUES AND MINORS, CDL-AD(2024)021, 2024, 13, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2024\)021-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2024)021-e) [19.09.2024].

19 For example, the organizers of the July 5, 2021 violence have not been punished to date.

20 Gyla, State Response to Gender-Based Violence in Georgia: An Analysis of Legislation and Practice, 2024, 60-61.

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21 Ibid

22 European Parliament resolution of 8 July 2021, para. 17.
https://www.europarl.europa.eu/doceo/document/TA-9-2021-0362_EN.html,
[19.09.2024].

23 Committee on the Rights of the Child, Concluding observations on the combined fifth and sixth reports of Georgia, 30.05.2024, CRC/C/GEO/CO/5-6, par. 16.
<https://documents.un.org/doc/undoc/gen/g24/088/87/pdf/g2408887.pdf>, [19.09.2024].