

საქართველოს ახალგაზრდა იურისტთა ასოციაცია
GEORGIAN YOUNG LAWYERS' ASSOCIATION



ORGANIZATIONS AND ACTIVISTS WORKING ON THE RIGHTS OF PERSONS WITH DISABILITIES RESPOND TO THE DRAFT LAW ON RIGHTS OF PERSONS WITH DISABILITIES

Organizations working on the rights of persons with disabilities, organizations of parents of persons with disabilities and independent activists respond to the draft law of Georgia on the Rights of Persons with Disabilities. The development of this type of draft law should aim at the implementation of the UN Convention on the Rights of Persons with Disabilities and the creation of relevant legislative and institutional frameworks. However, except for a few positive changes, the draft law does not change the legal status of persons with disabilities and in some cases, contradicts the convention and is worsening the protection standards of the legal status of persons with disabilities.

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The process of developing the draft law by the Ministry of Justice has been challenged. The agency was unable to ensure active and effective involvement of persons with disabilities and organizations working on their rights in this process. On the one hand, some of the organizations and activists were able to participate in the review of the draft law only once and to submit oral and written comments. On the other hand, only a small part of the recommendations was included in the final version of the draft law and it was not essentially changed. We believe that while the central authority was developing the legislative package that essentially covers all areas of the life of persons with disabilities, it was not enough to ensure the involvement of service providers organizations in this process. The process should have been inclusive and should become part of the public discussion throughout Georgia, taking into account the opinions and recommendations of persons with disabilities living in the regions.

The draft law includes some positive news, such as the requirement to protect the physical and mental integrity of persons with disabilities, assistance to persons with disabilities in the course of legal proceedings, concepts of reasonable accommodation and universal design, as well as the definition of a special plaintiff. However, these innovations do not substantially improve the legal status of persons with disabilities and the quality of their independent lives because of the shortcoming or/and setting law standard on the standard defined by the Convention. Also, transitional provisions of the draft law include the obligation to set important local standards, however, the time frame for their adoption and enforcement are long, which delays the fulfillment of obligations taken by state under the Convention and making it impossible to improve the rights of persons with disabilities.

An important challenge is the declarative and abstract nature of the draft law, which fails to set legal standards and, in case its entry into force, it fails to provide real guarantees for the protection of persons with disabilities. The draft law does not take into account specific and effective levers of implementation of the Convention. It recognizes the protection of the rights of persons with disabilities as goodwill of the State and instead of imposing the obligation to ensure the rights of persons with disabilities, it introduces a lower standard – "promoting the rights of this group".

Alongside the declarative nature, some rights and challenges for persons with disabilities prescribed by the Convention stay beyond on the draft law. While hundreds of persons with disabilities live in large-scale boarding houses and

psychiatric institutions, the draft law does not outline the State's obligations in the field of mental health and deinstitutionalization. The draft law does not include rights such as legal capacity, liberty of movement, freedom of expression and belief. There is no separate provision in the draft law about the obligation of protection of the rights of women with disabilities.

Together with standards establishing rights, the draft law fails to create a precondition for persons with disabilities to access relevant services. It introduces a personal assistant program as a specific service, while it is not the only important service for people with disabilities. Together with the services, we consider it essential for the effective implementation of public policy, on the one hand, for the smooth functioning of the institutional framework (Bodies of Implementation, Coordination, and Monitoring of Convention), and on the other hand, for the creation of appropriate legal guarantees for the production of comprehensive statistics.

The draft law contradicts the Convention concerning certain rights and concepts and worsens the legal status of persons with disabilities. In particular, although the draft law declares invalid Law of Georgia on Social Protection of Persons with Disabilities, the counterbalance to this is not the introduction of the new, Convention-compliant mechanisms, which result in remaining persons with disabilities without significant social security guarantees. There are also significant shortcomings in the introduction of the social model. Specifically, the draft law discusses only with the assessment approach (biopsychosocial assessment), which is still linked to the person's health status.

Due to the challenges in the draft law, organizations and individual activists signing the statement will address the Parliament of Georgia with the following recommendations:

Ensure maximum involvement of persons with disabilities and organizations working on issues related to persons with disabilities, including the timely and effective dissemination and handing over the information to all potential interested persons and organizations about the review of the draft law;

Ensure compliance of the legislative changes with the Convention on Persons with Disabilities;

Meet with interested persons before committees hearings and ensure that the

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committee hearings address the problems described in the statement, where persons with disabilities and organizations working on issues of persons with disabilities are allowed to present their position and argument in detail;

Ensure that the text of the draft law is changed so that it becomes a real instrument of protection for persons with disabilities, so wording of the articles where it is concerned with the promotion of the realization of the right by the State to be replaced by the obligation of realization of the right;

The draft law should reflect all the rights prescribed in the Convention that the current version does not include or does not adequately include and define mechanisms for their effective enforcement;

To reflect the notion of a social model, enforcement mechanisms following international standards, and to ensure that the model is implemented under strict time constraints.;

Establish effective legislative safeguards for the implementation of services and regulate specific services for persons with disabilities in a relevant normative framework.

Accessible Environment for Everyone

Partnership for Human Rights (PHR)

Human Rights Education and Monitoring Center (EMC)

Sachkhere's Registered Union of persons with disabilities

Georgian Young Lawyers' Association (GYLA)

Global Initiative on Psychiatry -Tbilisi

The coalition of Organizations of Persons with Disabilities and Their Parents "Movement for Changes".

Families against Discrimination (FAD)

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Union "Collaboration for Equal Rights"

Georgian Down Syndrome Association

Union Woman and Reality

The platform for New Opportunities

Partnership for Social Welfare

Wolfram Syndrome - Georgia

Foundation Aures

NGO "To make Friend"

Movement "Inclusive society – Georgia"

Every Tenth of Us

Association of Parents of Children with Nervous Diseases

Goga Gogatishvili – Activist of the rights of persons with disabilities

Davit Bibileishvili - Activist of the rights of persons with disabilities

Gela Beradze – Independent Activist

Esma Gumberidze - Activist of the rights of persons with disabilities

Koba Nadiradze - Activist of the rights of persons with disabilities

Giorgi Alavidze - Activist of the rights of persons with disabilities

Natia Gogolashvili – Independent activist

Leila Khahapuridze - Wolfram Syndrome - Georgia

Gia Jvarsheishvili - Activist of the rights of persons with disabilities

Mariko Kobakhidze - Activist of the rights of persons with disabilities

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Shorena Kravelidze – Independent Activist