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Venice Commission of the Council of Europe

1188/2024

Georgia - Opinion on the draft constitutional law on the “protection of family values and minors”

06/2024

Requested by: Council of Europe, Parliamentary Assembly, President of the Monitoring Committee

Recommended Measures:

The Venice Commission recommends carrying out a thorough and well-substantiated analysis of the impact of the new provisions on the national system, prior to their adoption, involving all segments of society and especially the representatives of sexual and gender minorities, as well as experts and professionals in the relevant sectors (law, health, education, social care, etc.). Such analysis should be made public and be carried out in a period of time that is propitious for a genuine and unbiased consultation, allowing for an honest and impartial assessment of the issues at stake. The Commission thus recommends the Georgian authorities to reconsider this legislative proposal entirely and to not proceed with its adoption. However, if the draft Constitutional Law were maintained, the Venice Commission recommends: - modifying Article 1.1 of the draft Constitutional Law in a way that allows for the legal recognition of same-sex couples. - repealing the words “genetically” in Article 1.1. of the draft. - replacing the word “heterosexual” with the term “single” or “individual” in Article 1.2 of the draft Constitutional Law. - deleting Article 1.3 of the draft Constitutional Law. - deleting the first phrase (in compliance with genetic data) of Article 1.4. of the draft Constitutional Law and establishing a sufficiently detailed and precise law, providing quick, transparent and accessible procedures for changing the registered sex marker of transgender people. - deleting Article 1.5 of the draft Constitutional Law or rephrasing it to ensure compliance with standards of non-discrimination. - deleting Articles 1.6, 1.7 and 1.8 of the draft Constitutional Law, while regulating incest separately, under criminal law.

Measures taken: At its 139th Plenary Session of June 2024, the Venice Commission adopted the Opinion on the draft constitutional law on Protecting Family Values and Minors, that analyses the above-mentioned draft constitutional law which seek to restrict legal relationships other than those between an assigned man at birth ("genetically male") and an assigned female at birth ("genetically female"), the right to adoption or foster care of single persons and all gender identities other than those of a (biological) woman and a (biological) man. The text also prohibits acts, gatherings and the dissemination of information or products that challenge this concept or promote incest. The Venice Commission regretted that a constitutional amendment on sensitive issues be proposed in a turbulent time, few months before the elections, without a proper impact analysis nor involving the relevant stakeholders. In light of the well-established ECtHR case-law on the matter and previous Venice Commission opinions, the Commission considered that the compliance of the provisions at stake with European and international standards could not be established and the mere proposal of adopting this text risked to (further) fuel a hostile and stigmatising atmosphere against LGBTI people in Georgia. The Commission recommended reconsidering this legislative proposal entirely and to not proceed with its adoption. If the project had to be maintained, the Commission provided a list of specific recommendations to be addressed. While the constitutional amendments were not put forward for adoption in parliament, a package of legislative amendments, modifying several laws along the lines of the draft constitutional amendments assessed by the Opinion, was adopted in September 2024.

RELATED CONTENTS

25/06/2024 - Georgia - CDL-AD(2024)021 - Georgian

Georgia - Opinion on the draft constitutional law on Protecting Family Values and Minors, adopted by the Venice Commission at its 139th Plenary Session (Venice, 21-22 June 2024)

25/06/2024 - Georgia - CDL-AD(2024)021 - English

Georgia - Opinion on the draft constitutional law on Protecting Family Values and Minors, adopted by the Venice Commission at its 139th Plenary Session (Venice, 21-22 June 2024)

25/06/2024 - Georgia - CDL-AD(2024)021 - French

Géorgie - Avis sur le projet de loi constitutionnelle sur la protection des valeurs familiales et des mineurs, adopté par la Commission de Venise lors de sa 139e session plénière (Venise, 21-22 juin 2024)

07/11/2024 - Georgia - CDL-PI(2024)030 - Engl./Fr.

Georgia - Information on the follow-up to the Opinion on the draft constitutional law on Protecting Family Values and Minors (CDL-AD(2024)021) / Géorgie - Information sur les suites données à l'avis sur le projet de loi constitutionnelle sur la protection des valeurs familiales et des mineurs (CDL-AD(2024)021)

13/05/2024 - Georgia - CDL-REF(2024)020 - English

Georgia - Draft Constitutional Law of Georgia on Amending the Constitution of Georgia and Draft Constitutional Law of Georgia on Protecting Family Values and Minors

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