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THE GEORGIAN AUTHORITIES SHOULD NOT WATER DOWN THE COUNTRY'S FIRST ANTI-DISCRIMINATION BILL

Amnesty International calls on the Georgian authorities to ensure that the country's first anti-discrimination bill becomes an effective tool to combat discrimination.

The bill, drafted by the Ministry of Justice of Georgia, defines different forms and grounds of discrimination and prohibits all types of discrimination in Georgia. Passage of the bill is an important step towards fulfilling Georgia's international legal obligation to combat discrimination, and a pre-condition for Georgia to fulfil the requirements of the visa liberalization program with the EU.

The initial draft of the bill envisaged creation of the institution of an Inspector as the implementation mechanism of the new law. It envisaged that the Inspector would have the authority to receive and review complaints, investigate allegations of discrimination, impose certain sanctions against those responsible, as well as refer cases to criminal prosecution authorities for further action.

The initial draft of the bill was endorsed by Georgian civil society organizations and representatives of different minorities in the country, as well as by the international organizations and experts.

The Georgian government decided to amend the draft shortly before it was officially introduced to the Parliament. The changes substantively altered the bill, significantly reducing its ability to effectively enforce anti-discrimination law.

The institution of the Inspector has been removed from the bill and instead, the already existing national human rights institution of Georgia – the Public Defender – is designated as the body responsible for overseeing implementation of the new law. The Public Defender does not have the authority to impose any penalties or obligatory measures and is restricted to only recommendatory functions. No additional financial and other resources have been dedicated to the Public Defender to carry out its work as the anti-discriminatory implementation mechanism. This change therefore raises concerns that the right to non-discrimination envisaged in the bill will not be enforceable in practice.

Prior to the submission of the draft bill to the parliament, a special clause has been introduced in it regarding the Georgian Orthodox Church. The clause reads that none of the articles of the anti-discrimination law should be interpreted contrary to the 2002 Constitutional Agreement between Georgia and the Georgian Orthodox Church. The 2002

Constitutional Agreement gives a legal grounding to the relationship between the state and the Church, and refers to a “special role” which the Church has played in the history of Georgia. It grants the Georgian Orthodox Church certain privileges, including tax privileges, as well as a special advisory role with the government, and is widely seen as discriminatory vis-à-vis other religions groups in the country. Leaders of the Church have been cited as making discriminatory remarks with regard to various minorities, and have also spoken of the need to “protect the [Christian Orthodox] majority”.

It is important that the new anti-discrimination law is effective, since discrimination has been a significant problem in Georgia. During the last two years there have been cases of attacks on and discrimination against members of religious minorities and the lesbian, gay, bisexual, transgender and intersex (LGBTI) community in the country.

The recent changes in the draft bill also come at a time when the Prime Minister of Georgia introduced a plan to outlaw same-sex marriage in the Constitution of Georgia.

Currently, the Civil Code of Georgia defines marriage as an institution between a man and a woman only, however, the Constitution does not specify such a discriminatory restriction. The Georgian government should take into consideration the concerns of civil society and offer a bill that would not only outlaw discrimination on paper, but would also enforce prohibition of all forms of discrimination in practice.