

URGENT ACTION

BAN ON SAME-SEX MARRIAGE PENDING APPROVAL

Amendment XXXIII, currently pending before the Parliament of the former Yugoslav Republic of Macedonia, will discriminate against lesbian, gay, bisexual, transgender and intersex (LGBTI) people in the enjoyment of their family life and all the reproductive and social rights associated with marriage. If adopted, the Constitution will define marriage as the exclusive union between a man and a woman.

On 1 July the government of Macedonia submitted a set of seven draft constitutional amendments to the parliament, among others Amendment XXXIII. In its current form, this amendment would define marriage restrictively as a union between a woman and a man. On 27 August the text of all the drafts was debated and adopted by a majority. The amendments are expected to be put to a final vote at the end of October.

A previous version of Amendment XXXIII included a restrictive definition of registered cohabitation, or any other form of registered partnership, as a union solely between a woman and a man. However on 16 October, following the publication of the Venice Commission's Opinion on the draft amendment, the Minister of Justice announced that this part would be taken out of the proposal. A decision to amend the Constitution has to obtain the support of at least two-thirds of all the Members of Parliament, which is likely to occur as the main opposition party, which is currently boycotting the parliament, has less than one-third of all the seats.

Amendment XXXIII was drafted with the intention to constitutionally determine the status of marriage in a way "in which the interests of the spouses, family and society are realized". However, by limiting marriage to different-sex couples, Amendment XXXIII directly discriminates against LGBTI people, who live or wish to live in a same-sex union, in the enjoyment of their right to family life and all the reproductive and social rights associated with marriage.

Please write immediately in English or your own language:

- Urging the Minister of Justice to withdraw Amendment XXXIII;
- Expressing concern at the possible introduction of a restrictive constitutional definition of marriage, that would effectively discriminate against same-sex partners;
- Welcoming the withdrawal of the restrictive definition of registered cohabitation from the proposal;
- Urging the Minister of Justice and the President of the Assembly to respect, protect and fulfil the right to family life of all people in Macedonia without discrimination.

PLEASE SEND APPEALS BEFORE 3 DECEMBER 2014 TO:

Minister of Justice

Mr Adnan Jashari
Jurij Gagarin 15
1000 Skopje
Macedonia
Email: cabinet@mjustice.gov.mk

Salutation: Dear Minister

President of the Assembly

Mr Trajko Veljanoski
11 Oktomvri 10
1000 Skopje
Macedonia
Email: pretседател@sobranie.mk

Salutation: Dear President of the Assembly

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date.

**AMNESTY
INTERNATIONAL**



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ADDITIONAL INFORMATION

Article 2 of the International Covenant on Civil and Political Rights sets out that states may not discriminate with regards to any of the rights set out under the Covenant, including the right to marry and the right to found a family in Article 23.

The Venice Commission – the Council of Europe's advisory body on constitutional matters – issued its opinion on the proposed amendments with regards to their compatibility with the European Convention on Human Rights (ECHR). Referring to a recent case against Greece (*Vallianatos and Others*), the Commission recalled that the Grand Chamber of the European Court of Human Rights “examined a complaint from several same-sex couples who lived in stable relationships but were not allowed access to a legal status of partnership, which would be accessible to them if they were different-sex couples. The fact that the partnership legislation did not cover same-sex couples was found by the Court to be discriminatory, i.e. contrary to Article 14 of the ECHR, taken in conjunction with Article 8 thereof.” The Venice Commission argued that the Court’s ruling implied that where a state “gives legal recognition to an “intermediate” form of personal union (i.e. a status falling short of marriage), it needs very serious reasons not to give same-sex couples access to such a status.”

Although Macedonian law does not currently recognize same-sex marriages, explicitly banning them would run counter to current European and international law and would prevent the legislature from extending the institution of marriage to include same-sex couples.

According to the current legislative framework, same-sex partners have no right to register and exercise the right to family life to the same extent as different-sex couples. LGBTI activists in the country have campaigned against the proposal, fearing that a constitutional restriction will entrench the discrimination same-sex couples experience in everyday life.