

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Statement of GYLA in reaction to the Draft Law on Amendments to the Law on Higher Education

Analysis of practice of adoption of laws by the parliament throughout the recent period illustrates that draft laws are considered and adopted in violation of the standards of transparency and with lack of involvement of stakeholders, which GYLA released a [public statement](#) about on December 20. This is particularly problematic in light of the fact that the legislative authorities are considering several important draft laws in expedited manner, and the decision to commence the procedure of consideration of these draft laws was made only last Tuesday.

Among the draft laws under the parliament's consideration, the one envisaging substantial changes in the Law of Georgia on Higher Education is particularly important. [Current formulation of the draft law](#) has been revised but a number of problems remain.

The draft determines status and regulations of Orthodox theological higher education institutions, stipulating that these institutions are essentially religious in nature and must conduct their activities on the basis of religious principles. The draft law draws a line between theological schools and public schools, leaving the former outside the scope of the state's control/regulation. This is in line with the requirements about the state's non-interference with theological schools; however, the draft law raises serious questions with regards to the principle of equal treatment of other religious confessions. In particular, the law envisages a possibility to set up a theological school of higher education to which certain favorable conditions apply but this pertains only to schools established by Apostolic Orthodox Church, putting other religious groups at a disadvantage. Notably, such approach is a continuation of the state policy of leaving other religious organizations outside the scope of specific regulations, without applying corresponding benefits and guarantees to them.

Current formulation of the draft law no longer includes a provision about scholarships for students of theological schools, which is an important step in avoiding spending of budgetary resources for solely religions (an more importantly, in favor of one religious group only), non-secular purposes. Such approach is important for protecting the principle of interdependence between the state and the church, and secularism, recognized by the Constitution of Georgia, including under the Constitutional Agreement. With this respect, it must be noted that stipulation of para.3, Article 5 of the Constitutional Agreement that the state must promote operation of educational institutions established by church may not entail funding of theological schools and

activities with state finances. Although the draft law introduces corresponding regulation, we believe that the law should expressly stipulate the prohibition to allocate state finances in any other form for funding the operation of these institutions, in order to rule out directing of budgetary sources for funding theological schools, which does not constitute a common interest and an object of state funding.

Further, there are certain question marks about contents of theological curriculum and quality of corresponding diploma. In particular, the draft law does determine whether some of the academic disciplines in theological curriculum (e.g. theology, psychology) are theological in nature or also entail secular disciplines giving graduates of theological schools (e.g. specialists of Orthodox theology, Orthodox psychology) an opportunity to get respective jobs and enjoy equal conditions on the job market in comparison to other specialists. As the draft law provides for favorable conditions for enrolling in theological schools and theological curriculum falls outside the scope of the state's regulation/standardization, such practice is unacceptable as it violates the principle of equality (in comparison to other students) and provision of quality education. Therefore, the law should duly and expressly regulate the issue.

GYLA calls on the parliament of Georgia to vote against adoption of the draft law with the third hearing but rather, to return it for consideration with the second hearing and put it on vote only after representatives of religious minority, civil society and other stakeholders are allowed to duly participate in public discussions about the proposed regulations.