

Annex I

Letter from Human Rights Watch to the Constitutional Council of the Republic of Kazakhstan

June 16, 2015

Rogov Igor Ivanovich
Chairman of the Constitutional Council of the Republic of Kazakhstan
Kunaev 39
010000 Astana
Kazakhstan

Dear Mr. Igor Ivanovich,

On behalf of Human Rights Watch, please accept our regards.

As you may know, Human Rights Watch is an international nongovernmental organization that investigates and reports on human rights abuses in over 90 countries. Human Rights Watch has been monitoring the situation in Kazakhstan for approximately 20 years. We work on a range of human rights issues, including freedom of expression and the media, children's rights, and the rights of lesbian, gay, bisexual and transgender (LGBT) people in countries worldwide.

We are currently preparing a report on LGBT rights in Kazakhstan. In March, colleagues in our LGBT program and Europe and Central Asia division travelled to Kazakhstan and spoke to a range of LGBT people and relevant human rights and health experts to gather information about this issue.

Human Rights Watch makes every effort to ensure that our findings include the government's perspective. We are thus writing to inquire about two bills that had passed the upper house of Kazakhstan's senate, and which were reviewed and ultimately rejected by Kazakhstan's Constitutional Council.

These are “On Protecting Children from Information Harmful to their Health and Development” and “On Amendments and Additions to several legal acts of the Republic of Kazakhstan concerning the protection of children from information harmful to their health and development.” There was no transparency in the process by which the bills moved from the Senate to the Constitutional Council and, to date, there are no publicly accessible versions of the final copy of the bills or the Constitutional Council’s decision.

On March 26, 2015, we sent a letter to the Presidential Administration inquiring about the content of the final drafts of the above-mentioned two bills and expressing our serious concern that they appeared to contain discriminatory provisions that, if adopted, would violate Kazakhstan’s constitution and international legal obligations. Regrettably, we did not receive a response to our letter.

A government website indicates that on April 29, the draft laws were with the Constitutional Council. According to limited publicly available information, the Constitutional Council announced on May 26, 2015, that the pending legislation was unconstitutional because of the bills’ vague wording. Media reports quoting Constitutional Council officials reiterate that the Council’s findings are narrowly limited to the vagueness of the legislation.⁸³ While the Constitutional Council took an important decision in rejecting the propaganda bills, we remain concerned that the decision does not address the discriminatory elements of the bills and potentially leaves open the possibility that such bills could be considered in the future.

During our research on the human rights situation for LGBT people in Kazakhstan, we interviewed people who expressed intense fears of how such laws would sanction hatred, discrimination, and violence against the LGBT community in Kazakhstan. We interviewed victims of violence who had been unable to achieve appropriate redress for the abuses they had suffered because of hateful attitudes and discriminatory behavior on the part of police and social service providers. We heard from LGBT people and public health practitioners how readily-available public information about sexual orientation and gender identity in Kazakhstan was already harmfully distorted, and would only become more restricted and inaccurate if a so-called “propaganda” law came into effect.

⁸³ <http://www.buzzfeed.com/susiearmitage/kazakhstans-constitutional-council-rejects-gay-propaganda-bi#.ehzPIZZRgx>

We seek clarification about the content of the final drafts of the bills as they were reviewed by the Constitutional Council, and the official analysis of the Council in finding the legislation unconstitutional. Could your office kindly provide Human Rights Watch a copy of the final drafts of the bills, as well as a copy of the decision of the Constitutional Council announced on May 26, 2015?

We would also be happy to receive any additional relevant information or materials you wish to provide on these issues.

Thank you for your attention to this letter. We look forward to your reply by July 1, 2015 so that we may accurately reflect the government of the Republic of Kazakhstan's perspective in our forthcoming report. We can be reached at:

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10178 Berlin, Germany
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350 5th Avenue, 34th Floor
New York, NY 10118, USA
FAX: +1-212-736-1300

Sincerely,

Hugh Williamson
Director
Europe and Central Asia Division

Graeme Reid
Director
Lesbian, Gay, Bisexual and Transgender Rights Program

Annex II

Letter from the Constitutional Council of the Republic of Kazakhstan to Human Rights Watch

Received July 13, 2015.

STATE INSTITUTION “CONSTITUTIONAL COUNCIL OF THE REPUBLIC OF KAZAKHSTAN”
39 Kunaev St., Astana 010000, Kazakhstan
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To: Hugh Williamson
Director, Europe and Central Asia Division
Human Rights Watch

Graeme Reid
Director, Lesbian, Gay, Bisexual, and Transgender Rights Program
Human Rights Watch

Dear Sirs,

We are referring to your letter of June 16, 2015.

Indeed, on May 18, 2015 the Constitutional Council of the Republic of Kazakhstan at its open meeting reviewed and made its final decision on the submission by the Chairman of the Senate of the Parliament of the Republic of Kazakhstan who asked to check conformity of the Kazakhstan’s laws “On Protecting Children from Information Harmful to their Health and Development” and “On Amendments and Additions to several legal acts of the Republic of Kazakhstan concerning the protection of children from information harmful to their health and development” to the Kazakhstan’s Constitution and the request by the Chairman of Mazhilis of