

Blog

Discrimination Is Not A Tradition: Case of Poland

Leila Institorisova



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Poland is violating the EU's fundamental principles, including the rights of LGBTIQ+ people. The rights of LGBTIQ+ people are far from equal to their non-LGBTIQ+ co-citizens. They are losing their jobs, being excluded from local communities, and physically or verbally attacked in their hometowns. Human rights have not always been respected in Poland. The European Court of Human Rights stated that Poland violated human rights in more than one thousand cases in 1959-2021, however, the most valid cases are since Poland became a free country.¹ According to ILGA-Europe², the current situation in Poland is the worst among all the Member States regarding violation of human rights and discrimination. Non-discrimination and equality are core values in the EU, preserved in its Treaties and the Charter of Fundamental Rights.

However, since 2019, up to one hundred Polish regions and municipalities (mainly catholic) have self-proclaimed status as an "LGBT-ideology free zone."³ Rulings by the Polish Constitutional Court stated that national law may take precedence over the EU law, increasing tensions with Brussels and encouraging the EU to take legal action. The European Commission considers these declarations as a violation of EU law regarding non-discrimination based on sexual orientation. As a result, the European Commission has rejected the towns' applications for grants under the EU's town twinning programme in July 2020. Nonetheless, most regions kept their status as an "LGBT-ideology free zone."⁴

In March 2021, the European Parliament declared the EU to be LGBTIQ+ Freedom Zone, which means that all LGBTIQ+ people should enjoy freedom to live and show their sexual orientation and gender identity without fear of tolerance or discrimination. Authorities at all

¹ https://echr.coe.int/Documents/Overview_19592021_ENG.pdf

² <https://www.ilga-europe.org/rainboweurope/2021>

³ <https://www.bbc.com/news/world-europe-58714658>

⁴ <https://www.ilga-europe.org/sites/default/files/Poland-Anti-LGBT-Timeline.pdf>





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levels should promote equality and fundamental rights of all, including LGBTIQ+ people. Imposing gay marriages was probably one of the core arguments presented by the Polish government to justify its veto against the proposed mechanism of LGBTIQ+ Freedom Zone.

On 15 July 2021, the European Commission launched a proceeding against Poland (and Hungary) due to violations of the fundamental rights of LGBTIQ+, where Warsaw had two months to provide an "LGBT-ideology free zone" explanation to the Commission. The European Commission would conduct a legal analysis of these resolutions based on this explanation. However, Poland failed to respond fully and appropriately what the impact of "LGBT-ideology free zones" is to the European Commission Thus, the European Commission accused Warsaw of not fulfilling the treaty obligations that require sincere cooperation. The Treaty on European Union defines the EU principle of sincere cooperation as "the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties."⁵

As Ursula von der Leyen stated, "LGBTIQ-free zones are humanity free zones, and they have no place in our union."⁶ In October 2021, the Polish parliament addressed a new law proposal called "Stop LGBT."⁷ This law proposal appears after four Polish regions backtracked on LGBTIQ-free zones plans because the European Commission threatened to block up to 126 million euros to fund their local governments. Nevertheless, this is not the first attempt to register this proposal. Approximately 140,000 signatures have been collected the second attempt, and when the new proposed law enters into force, public pride marches, same-sex

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62016CC0620>

⁶ <https://www.theguardian.com/world/2020/sep/16/ursula-von-der-leyen-says-polands-lgbt-free-zones-have-no-place-in-eu>

⁷ <https://www.zycierodzina.pl/stop-lgbt/>





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marriages or civic partnerships, the idea of non-biological gender, and adoption of children by same-sex couples will be illegal.

The main objectives of the law proposal "Stop LGBT" are to stop "homosexual propaganda in public space, promoting sexual orientations other than heterosexuality, challenging marriage as a union between a man and a woman, promoting sexual activity among children and adolescents under the age of 18."⁸ The authors of the law proposal terms 'promoting' to cover all forms of dissemination, agitation, lobbying, and recommendations of sexual orientations other than heterosexuality.

The prominent leading campaigner for "Stop LGBT" is Kaja Godek, a Polish ultra-conservative activist and leader of the foundation *Życie i Rodzina*. One of the main reasons used on the campaign's website is that "more people are fed up with the LGBTIQ+ aggression and want to stop it."⁹ Last year, Kaja Godek won a court case against gay activists who accused her of using offensive language, describing homosexuals as "perverts."¹⁰ A similar law called "gay propaganda law" has existed in Russia since 2013¹¹, and a similar proposal is being discussed in Hungary¹².

On the other hand, homosexuality in Poland was decriminalized in 1932, decades before most European countries. Today, Poland does not legally recognize same-sex relationships and bans the adoption of children by same-sex couples. Moreover, if a person wants to adopt a child as

⁸ <https://www.zycierodzina.pl/stop-lgbt/>

⁹ <https://www.zycierodzina.pl/stop-lgbt/>

¹⁰ <https://newsbeezer.com/polandeng/the-stop-lgbt-law-is-their-initiative-who-is-kaja-godek/>

¹¹ <https://www.theguardian.com/world/2013/jun/11/russia-law-banning-gay-propaganda>

¹² <https://www.bbc.com/news/world-europe-57761216>





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a single parent, the adoption process is precisely controlled; when a person is in a same-sex relationship, he or she will be held criminally liable for starting the adoption procedure.

Comparative studies of Poland and other post socialist countries show that such resolutions against LGBTIQ+ ideology were created based on traditional family values and Catholic religiosity, which are the foundation of the Polish state and its membership in the European community. Polish Justice Minister Zbigniew Ziobro from the ruling Law and Justice party (PiS) called EU's pressure an "attack on Poland and its local governments."¹³

The EU is in a long-running dispute with Poland over the rule of law since the Law and Justice Party created policies that weaken independent courts. Unfortunately, this fight is set to intensify, as Von der Leyen would not back down on linking EU funds to financial probity. The exclusion of LGBTIQ+ people can only be neutralized by the resolutions of European Parliament and by the reactions of European Commission, which included the withdrawal of funds for the communities that enforced these resolutions. An LGBTIQ+ person is a concrete bearer of an identity, and therefore he or she cannot be excluded. However, discrimination against LGBTIQ+ people prevails not just in Poland but in Hungary and throughout the EU, which is why the EU has to spare no effort to protect LGBTIQ+ people's rights.

¹³ <https://www.bbc.com/news/world-europe-58714658>





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Contact

Web: europeum.org

Prague Office address: Staroměstské náměstí 4/1, 110 00, Praha 1

Tel.: +420 212 246 552

E-mail: europeum@europeum.org

Brussels Office address: 77, Avenue de la Toison d'Or. B-1060 Brusel, Belgie

Tel: +32 484 14 06 97

E-mail: brussels@europeum.org

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