

FREE VOICES

LGBT+ Rights
in Eastern Europe



projekt:polska

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Breaking the Shackles

written by

Miłosz Hodun

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First non-communist government after the WWII

In 1989, Poland, as the first country in Eastern Europe, broke the shackles of communism. In autumn and winter 1988, the culmination of strikes forced communist leaders to start conversations with the democratic opposition. The Round Table negotiations began, and as a result, a partly free election took place in Poland and the first non-communist government after the Second World War was established, with Prime Minister Tadeusz Mazowiecki. The events in Poland gave rise to changes in the entire region. The Autumn of Nations began. Already in October 1989, Hungary passed a new Constitution. In Czechoslovakia, the Velvet Revolution was successful. In Bulgaria, Todor Zhivkov was forced to step down. In the German Democratic Republic, Egon Krenz opened the border with FRG. The Wall fell. Then the revolution reached Romania. The Soviet Union ceased to exist, and the Republics of Yugoslavia were proclaiming their independence.

The Autumn of Nations

Eastern Europe exploded. Democratisation was no longer a dream – it became a reality. After a few decades of authoritarian rule behind the Iron Curtain, constitutions were changed, public institutions were created, and systems based on the rule of law were built. Comrades, whose value was based on their position in the party, formally became equal citizens. They gained rights and mechanisms of protecting them. New countries generally rejected the dogma of homogeneity and shyly noticed the diversity of their citizens. Minorities began to mark their existence.

The 1990s were the new stage in the fight for LGBTIQ+¹ rights in Eastern Europe. When the Western world was already at the end of the 1960s watching the events in New York, which began the revolution for the freedom of non-heteronormative people, the East was dealing with the consequences of the Warsaw Pact intervention in Czechoslovakia. While in the West, the symbol of 1969 was Stonewall, in the East, it was Jan Palach's self-immolation in protest against the restriction of civil liberties. In the East, LGBTIQ+ people were

1 "No term is perfect or perfectly inclusive", wrote a National Academies of Sciences, Engineering and Medicine committee in a 2020 report. In the publication terms LGBT+, LGBTQ, LGBTIQ, LGBTQIA, LGBTIQ+ are used interchangeably, as an umbrella terms

for the same community, having regard to preferences of all the authors, reflecting their identities and respecting their individuality. If other, in particular narrower, terms are used, e.g. LGB, LGBT, it is done for a specific purpose or derived from a certain source.

still invisible, although, in the 1980s, LGBTIQ+ organisations were quietly established.

Only the fall of the Iron Curtain brought awareness, visibility and rejection of the status quo. The early 1990s became the beginning of a new era. Twenty years after Stonewall, Eastern Europe joined the global movement fighting for equal rights. Nobody had any illusions that this would be an easy road. But the changes were noticeable. The process of democratisation was accompanied by the process of positive change in the protection of LGBTIQ+ rights and the fight against discrimination. It seems that where the creation of modern institutions according to the rule of law and building civil society is successful, the situation of LGBTIQ+ people improved.

Changes
in the region

The region was always varied. Each country differed already at the starting point, for example, Poland decriminalised homosexuality already in 1932, and Azerbaijan only in 2000. They also chose various roads of development. This will become obvious after the first optimistic years. In none of the countries in the region, the situation became ideal, or even very good, but some differ significantly from the rest - in plus, just like Estonia, which looks to Scandinavia; and in minus, like Russia, which systematically propagates hate and violence towards LGBTIQ+ people. The processes that started in Central Europe have been particularly interesting and illustrate the entire region.

Poland and Hungary became symbols of homophobic and transphobic change. From the beginning of the 21st century, in entire Europe, the struggle of LGBTIQ+ people for civil partnerships or prohibition of discrimination were more often called 'cultural wars'. In Central Europe, it fell on particularly rich political soil. With the rise of populists to power, two decades of slow legal and social change for LGBTIQ+ rights have been lost. The right-wing populists who have gained power in Warsaw and Budapest have decided to sacrifice minorities on the altar of their own electoral goals. They have knowingly chosen LGBTIQ+ people as enemies of the country and the nation, started persecution, the long-term effects of which are difficult to foresee (although we know that they will be destructive).

In both countries, the amount of freedom decreases. The political parties PiS and Fidesz, instead of fighting hate speech, promote it to achieve a new, unknown before level of societal polarisation, which is necessary to maintain full authority. Dehumanisation has

Dehumanisation

become an official doctrine of the state apparatus controlled by the ruling parties. The situation of LGBTIQ+ people has been constantly becoming worse, which is visible in international rankings. Poland's place in the Rainbow Europe ranking is an excellent example. From the first time it was published till 2011, Poland was systematically increasing its place, but since 2015, when Jarosław Kaczyński came into power, it fell to the very bottom, winning in 2021 the title of the most homophobic country in the European Union.

It's important to note that homophobic rhetoric is entering the mainstream also in other countries of the region. Slovenia, Romania, Bulgaria, and even the Czech Republic are no longer free of anti-LGBTIQ+ rhetoric, which is promoted by the most important participants of the public political debate, including Prime Ministers and Presidents. The hate is boiling and spreading throughout the region. What is more, it is very well organised hate. Groups such as the World Congress of Families or Ordo Iuris establish their branches in capitals of the region and vehemently fight against what they call genderism or LGBT+ ideology, using money from Kremlin and radical groups.

Right-wing
populists

Homophobia mixes here with a general hostility towards the West, Europe, Germany, elites, with xenophobia, nationalism, antisemitism, hate towards Romani people. Eastern Europe became a battlefield, where right-wing populists experiment with various techniques of disinformation and manipulation. It is especially visible on the Internet, where more and more entries describe LGBTIQ+ as a new form of cultural colonisation, created by liberals and the left to destroy Catholicism and tradition. It is particularly noticeable in Baltic states, but also the Czech Republic and Slovakia. Another - evil - communication strategy used to fight against LGBTIQ+ rights is propaganda about children's rights and attacks on traditional families. Agitated emotions find fertile ground and transform themselves into aggression, verbal and physical, towards individuals and entire groups.

For the Eastern European right, the nominal and populist ones, negative attitudes towards LGBTIQ+ people became an inherent part of their identity. It differentiates the politics of Eastern Europe from Western Europe. In the Netherlands, it was a gay - Pim Fortuyn who began the far right's march towards their first successes, and a lesbian - Alice Weidel is one of the leaders of AfD in Germany...

* * *

Most countries of the region took the pro-European course. Membership in the European Union became the main goal of their foreign affairs, but also a driving force of domestic reforms and the basis of political consensus among practically all political forces. Societies supported their governments, as they saw hope for security and prosperity in European integration. Out of 28 states between the Oder and the Caspian Sea and between the Gulf of Finland and Greece, eight became members of the European Union in 2004. In the following years, three more joined.

Fundamental
rights in the EU

The European Union is not only a source of funds for increasing the quality of life and economic development, but it also guarantees respect for human rights. Equality and lack of discrimination are the most important rules in the EU, included in the Treaties and Charter of Fundamental Rights. In recent decades, legislative changes, case-law and political initiatives have improved the lives of many people and helped to build more equal and welcoming societies. During the 1990s, the EU gradually started to recognise sexual orientation as a cause of discrimination. The adoption of the Roth Report and the resulting Resolution on Equal Rights for Homosexuals and Lesbians in the European Community (A30028/94) marked a critical step in the EU's recognition of gay and lesbian rights. In 1997, Article 13 of the Treaty of Amsterdam included sexual orientation in the list of reasons for discrimination against which the EU could take action. In 2000, this article was implemented by Directive 2000/78/EC, which is binding for the Member States.

Article 13
of the Treaty
of Amsterdam

In Eastern Europe, European institutions are trusted more than state institutions, and Brussels is expected to be a spokesperson and lawyer for LGBTIQ+ people. European Commission, European Parliament, European Committee of the Regions stand for the rights of all citizens of the EU. In 2021, EC took legal steps against Hungary and Poland on account of the violation of the fundamental rights of LGBTIQ+ persons. 'Europe will never allow parts of our society to be stigmatised: be it because of whom they love, because of their age, their ethnicity, their political opinions, or their religious beliefs,' said Ursula von der Leyen.

European institutions are boldly opposing institutional homophobia in member states. They take symbolic steps, for example, proclaim

Economic cost
of discrimination

the entire EU an LGBTIQ Freedom Zone, but also undertake practical steps using the only language that populists understand - money. Orbán and Kaczyński reduce the EU to a bag full of cash; they need it to finance their electoral promises, thanks to which they win the elections. Financial pressure makes sense. When Warsaw understood that Brussels was not joking in the case of 'LGBT-free zones', it ordered its councillors to revoke the discriminatory resolutions. Unfortunately, it seems that right-wing populists will not understand anytime soon that discrimination against lesbian, gay, bisexual and transgender people costs Eastern European countries billions of euros, almost 2% a year in economic growth².

Democratic
façades

It seems that European institutions regret that protection of LGBTIQ+ rights was not a part of the accession process when 11 states from Eastern Europe were joining the EU. Clearly, before the Big Bang enlargement of 2004, economic aspects were prioritised over political and social rights, as many authors have already pointed out, while issues of gender equality and the fight against discrimination generally played a marginal role until the end of the process. As a result, today, the institutions are emphasising them in their negotiations with countries that strive for membership. In 2013, the EU started taking into account respect for LGBTIQ+ rights, especially state policies and legislative reforms, treating them as benchmarks in the context of the Western Balkans enlargement. In Ukraine, Moldova and Georgia, the adoption of anti-discrimination laws, which cover discrimination on the grounds of sexual orientation and gender identity, was a fundamental criterion for the ratification of Association Agreements and visa liberalisation regimes with the EU. Thanks to Brussels' pressure, Montenegro has become a regional leader in the Rainbow Europe ranking (with a score at the level of Spain and Sweden), and Bosnia and Herzegovina, Kosovo, Albania and Serbia are placed together with the Czech Republic and Estonia.

Unfortunately, these are often only successes on paper meant to cover up the lack of real action on behalf of minorities. Anything can be put on paper, and it adds points on the European Commission's tables. Pride parades play a similar role - they are organised once a

2 Miller, J., Parker, L. *Strengthening the economic case*. Open for Business

Neither marriage nor civil partnerships

year under police or military protection and are supposed to confirm that 'all is good here'. It creates a façade, and the house is crumbling behind it. In some countries with membership ambitions, there seems to be a tendency among local media and liberal civil society to discard anti-LGBT groups as Kremlin provocateurs to externalise responsibility. Such attitudes cause real issues to fade from view and groups sowing hatred to grow underestimated.

Currently, six EU countries have neither marriage nor civil partnerships for same-sex couples. These are Lithuania, Latvia, Poland, Slovakia, Romania and Bulgaria. In Estonia and the Czech Republic, it is possible to register a civil partnership that offers limited rights. However, the Member States whose laws do not provide for same-sex unions must submit to the case-law of the Court of Justice of the EU, which can order the recognition of such a union concluded in another EU country. In 2018, there was a precedent-setting judgment on this issue. The Court ordered the Romanian authorities to recognise the marriage of a Romanian citizen concluded in Belgium with a US citizen. Legislation in these critical areas for LGBTIQ+ people is a national competence. The EU does not have the tools to change family law, but the European Parliament and the Committee of the Regions are rightly pressing for common standards to be enforced, at least in cross-border situations.

However, the European Union still has a huge role to play in fighting discrimination and promoting the rights of LGBTIQ+ people. Above all, it is responsible for ensuring that the fundamental principles of European integration are respected throughout the EU. None of the Member States should be able to overtly (or covertly) ignore fundamental European values. Discrimination against LGBTIQ+ people in just one corner of the EU - unacceptable in itself - threatens the rights and freedoms of all EU citizens and residents, as well as the entire European rule of law system. Letting go of LGBTIQ+ rights in one country will cause the rest to fall like a house of cards. The success of several generations could quickly be lost. European institutions should not sponsor regimes that violate human rights and infringe treaties. Not a single cent of EU money should go to those who spread homophobia and transphobia.

Furthermore, the EU should continuously act on behalf of LGBTIQ+ people, particularly when their safety is at risk. The EU has

instruments at its disposal to support local authorities and organisations working on behalf of minority rights and can create educational and informational campaigns on respect for diversity (for children, young people and adults) that are so important today. It is also crucial to actively fight against disinformation and manipulation by increasing digital literacy and limiting the possibilities available to extremist organisations. The EU must also remain a leader in promoting human rights beyond its borders, especially in the neighbouring countries.

Thirty years after the beginning of the democratisation process, Eastern Europe still differs significantly from Western Europe in its approach to LGBTIQ+ rights. These differences run deep. Twenty years lost through isolation and oppression behind the Iron Curtain have proved impossible to make up. Most importantly, these differences concern not only legislation and the views of the elite but also the general population. The majority of people in Western European countries support gay marriage. It has been legalised in twelve EU countries. In Central and Eastern European countries, public sentiment is vastly different. A majority of the population in almost every country opposes allowing gay and lesbian couples to marry. In some cases, these views are almost universal. For example, exactly nine out of ten Russians oppose gay marriage. By contrast, similar majorities in the Netherlands, Denmark and Sweden support allowing gay and lesbian couples to marry. Unfortunately, this divide also applies to younger Eastern and Western Europeans. A Pew Research survey shows that ‘for example, 61% of younger Estonians (aged 18 to 34) oppose legal gay marriage in their country. Among those aged 35 and older, the figure is 75%. Thus, young Estonians are six times more likely to oppose gay marriage than older adult Danes (10%). This pattern holds true across the region. Young adults in almost every country in Central and Eastern Europe have much more conservative views on the issue compared to younger and older Western Europeans.’ There is still long, arduous work ahead of us.

Eastern Europe is not an area of homophobia, and its citizens are not homophobic. Eastern Europe is an area of a young democracy, and there is a constant struggle between the lawful and the populists. It is currently an uneven fight because in some countries the populists have the entire administrative and media apparatus of the state on their side. In others, they are supported by the financial and

propaganda machine linked to authoritarian regimes. In such difficult circumstances, it is challenging to successfully conduct systematic advocacy for minority rights, convincing the unconvinced. However, the campaign that has been ongoing since the early 1990s is continuing. Its outcome will determine not only the safety and standards of living of LGBTIQ+ people in the region but also the belonging of individual countries to Europe. Because there is no such thing as Europe without respect for minority rights.

* * *

This publication is an attempt to describe the situation of LGBTIQ+ people in Eastern Europe, thirty years after the process of transformation began in the region. For a better understanding of the political and social differences in this part of the world, the publication has been divided into six chapters presenting six various subregions. Three of them include groups of states which became members of the European Union, that is Visegrád Group, Baltic states, as well as Bulgaria and Romania. Two are groups of states which are not a part of the EU and stand no chance of joining in the foreseeable future due to their geopolitical situation - countries of South Caucasus, Russia, Ukraine, Belarus and Moldova. The last subregion consists of states which set their course for the EU and currently are at various stages of integration - former Yugoslavia and Albania - which in the publication are called West Balkans.

Six subregions

In the publication each subregion is represented by an analysis coming from one of the countries that belong to this subregion.

In the first chapter, liberal MP from Silesia Monika Rosa reasons that the entire Visegrád Group has come to a standstill when it comes to LGBTIQ+ rights, and during the last thirty years, almost nothing has happened. Some Central European states have moved only slightly forward, while others took one step forward, three steps back. The last opinion concerns Poland especially. Rosa enumerates all legal challenges LGBTIQ+ people have to face and points out lost chances for changing the legislation for the better. She focuses on the particularly difficult situation of transgender people. She describes extremely hateful initiatives of Polish populists, symbolised by the so-called 'LGBT-free zones', but also does not spare previous governments and their lack of any courageous action. 'Even though we reclaimed our

freedom of choice and democracy in 1989, the rights of the LGBTIQ+ community are marginalised, ignored or (as it is happening since 2015 when Law and Justice became the ruling party) seen as an “ideology” and used in political fights. Until 2015, not much was happening for the LGBT+ community in the legal area, regardless of the ruling party – left, right or centre’, writes Rosa. Her article, however, is not only reproachful but also full of hope. This hope comes from the energy and creativity of people fighting for LGBTIQ+ rights, from organic work, which has been carried out for years by advocacy groups, minority rights organisations, support groups, parent’s organisations... Polish society is becoming more open, and the democratic political class – ready for momentous changes. In Rosa’s opinion, there is a chance that the populists’ loss will bring about changes long-awaited by LGBTIQ+ people and allies.

Lawyer Denitsa Lyubenova and activist Veneta Limberova work on the front line of the fight for the rights of rainbow families in Bulgaria. They brought the case of the stateless baby Sara to the Court of Justice of the European Union. They prove that LGBTIQ+ rights in Europe are a supranational issue and discrimination in one of the Member States affects not only its citizens but all citizens of the EU. The refusal of the competent Bulgarian authorities to issue a Bulgarian birth certificate on the basis of the Spanish birth certificate, which includes two persons of the same gender, deprives a child of European citizenship, thus restricting the right to free movement of an EU citizen due to restrictions in the legislation of one of her parent’s country of origin, which constitutes a violation of Articles 20 and 21 TFEU. Lyubenova and Limberova reason that ‘[t]he lack of legal regulation of same-sex couples’ family relations, as well as legal regulation for recognising the legal consequences of same-sex marriage, concluded abroad, constitute legally-established discrimination and affect disproportionately the rights and freedoms of LGBTI people in Bulgaria. All EU and third-country nationals who come/want to reside in Bulgaria are also affected. These legislative shortcomings put LGBTI people and their families at risk and undermine their human dignity.’

A journalist from Montenegro, Damira Kalač, reveals to readers the reasons for her country’s rise in the Rainbow Europe ranking. She confronts the position of the regional LGBTIQ+ rights protector

Lack of legal regulations

with reality. Kalač quotes an activist from local NGO, John Barac, who states that '[t]he legislative framework related to LGBTI issues in Montenegro is very well aligned with the relevant standards at the EU level, but its implementation is much worse, which causes several problems that LGBTI people face almost every day,' and adds: 'the mapping methodology reveals that only the parameters related to the current legislative framework are considered, without taking into account the rate of homo/bi/transphobia, the number of cases of violence, social distance...' An article on the Western Balkans shows how pro-LGBTIQ+ legislation in the countries aspiring to become members of the European Union is influenced by Brussels and what impact this has on the lives of the citizens.

Kristiāns Vasiļevskis from the liberal Latvijas attīstībai party, which is currently part of the government in Riga, describes the difficult road of the Baltic states to marriage equality. A very long road, as it begins in the Soviet Union, where gay sexual relations were prohibited, and for now ends partly successful in only one of the three states in the subregion. Vasiļevskis explains why marriage and civil partnerships are so vital for the LGBTIQ+ community, both in practice and symbolically. He also points out extreme discrimination in the status quo – for example, under the current law, same-sex couples are forced to pay 60 times higher inheritance tax than married heterosexual couples. In the article about Lithuania, Latvia and Estonia, the story of the fight in courts and parliaments is intertwined with the history of LGBTIQ+ movements, especially Pride parades and Baltic Pride, which systematically change how LGBTIQ+ people are seen and gather societal support for full equality.

An independent researcher of far-right movements and gender issues from Kyiv, Hanna Hrytsenko, took up the topic of state-sponsored homophobia in Russia. She describes how Vladimir Putin's rule has evolved throughout the years towards ultra-conservatism and nationalism. Hrytsenko provides examples of initiatives supported by Russia's ruler, which were aimed at the LGBT+ community, for instance, the notorious law prohibiting 'promotion of homosexuality'. 'The new legislation launched a dramatic increase in violation of the LGBTQ community's human rights, making it virtually impossible to hold public events aimed at protecting LGBTQ rights and leaving LGBTQ adolescents without any possibility to seek help and advice.

From USSR
to EU

A number of activists were fined just for single-person street rallies. Numerous and often successful attempts to disrupt the actions of LGBTQ people by homophobic activists (some have become infamous) followed,' comments Hrytsenko. She pints out the disastrous social effects of successive laws, including an increase in violence. She does not omit the tragic events in Chechnya, where the authorities approved of murdering non-heteronormative people. The article clearly states that homophobia has become one of the main export 'goods' of the Russian regime and the source of the Kremlin's soft power. Through the network of Moscow-sponsored organisations, the hate towards LGBTIQ+ people is spreading through Ukraine, Belarus and Moldova.

The last chapter brings us to the South Caucasus. There, at the very end of Europe, is Azerbaijan, the worst state on the continent for LGBTIQ+ people to live in. Activist Lili Nazarov gives us a glimpse of local realities, describes the small successes of the local LGBTIQ+ rights movement and the everyday pains of non-heteronormative citizens. Nazarov also reminds us about brutal events Europe does not know or remember about: 'In 2017, horrific events known as "the anti-gay crackdown" targeting gay and bisexual men and transgender women took place in Baku. [...] Human Rights Watch reported that Azerbaijani police were lawlessly detaining and torturing transgender women and men suspected to be gay or bisexual. The detainees were made to pay bribes, tortured by beatings and electric shocks, and forced to disclose the identities of their gay, bisexual, and transgender acquaintances.' We can also read how the Covid-19 epidemic made the already difficult situation in the country even worse. The author presents the connection between systemic discrimination and authoritarian regime, corruption, and the absence of a proper free electoral system, indicating democratisation to be the most important tool of improving the issue of human rights.

Apart from the analyses, each chapter includes an interview. Journalist and reporter Joanna Łopat interviewed eight people from the region: gays, lesbians, bisexual, intersex and non-binary persons. Married couples, activists, parents, a journalist, a therapist, a student, a teacher. Each of the conversations shows how law, political atmosphere and public sentiment influence the everyday life of people in Eastern Europe, how decisions made (or not) in offices translate to

security, the well-being of individuals and families, and unfortunately, sometimes lead to tragedies. Each interview demonstrates that 'LGBT ideology' does not exist – people exist.

The chapters are preceded by three introductory texts written by liberal politicians from across Europe, currently working on behalf of LGBTIQ+ people at various levels of government. There is the voice of Dutch MEP Liesje Schreinemacher, who is involved in the European Parliament's draft resolution to declare the entire EU an 'LGBTQI freedom zone'. There is also a text by Tomas Vytautas Raskevičius, activist and the first openly gay MP in Lithuania, about the need to reach out to those discriminated against and the need for politicians to set a positive example. The introduction ends with a call for support for diversity at the local and regional level written by Kate Feeney, Irish councillor and rapporteur on the LGBTIQ strategy in the European Committee of the Regions.

Liberal voices

quote

The early 1990s became the beginning of a new era. Twenty years after Stonewall, Eastern Europe joined the global movement fighting for equal rights. Nobody had any illusions that this would be an easy road. But the changes were noticeable.

LGBTI Freedom Zone to Protect Freedom of Our People

written by **Liesje Schreinemacher MEP**

Trained lawyer in private law from The Netherlands, currently serving as Member of the European Parliament. She is vice-president of the LGBTI-Inter-group on behalf of the liberal group Renew Europe and fighting for equal rights for the LGBTIQ+ community throughout the EU and beyond.

This year my colleagues and I declared the European Union an 'LGBTI Freedom Zone'. It was a much-needed response and reference to the dozens of Polish regions, counties and municipalities that have declared themselves free from LGBTIQ 'ideology'. According to the resolutions they have adopted, local governments should refrain from encouraging tolerance towards LGBTIQ people and withdraw financial assistance from organisations promoting non-discrimination and equality. A serious attack on freedom. On the freedom to be who you are and love whom you want.

LGBTI
Freedom Zones

Unfortunately, these anti-LGBTIQ actions are not isolated incidents but part of a broader problem. We have watched increasing discrimination and attacks on the LGBTIQ community, such as hate speech by elected officials, public authorities and pro-government media. The Polish President has even gone so far as to say that the promotion of LGBTIQ rights is an ideology that is more destructive than communism. A comparison that is as insane as it is dangerous. Moreover, this anti-LGBTIQ rhetoric is very obviously used to distract attention away from domestic problems.

Besides Poland, we witness similarly worrying pushback of LGBTIQ rights in Hungary. After the continuous stigmatising and discriminating of the community in the past years, a new line was crossed in June when the Fidesz party compared LGBTIQ identity to paedophilia, and the Hungarian Parliament voted in favour of banning LGBTIQ-themed educational programs and public service advertisements. Another attack on the freedom of their citizens. By taking away young people's access to information about all forms of sexuality, their opportunity to recognise themselves in mainstream media and their own path of development, you take away their freedom to be themselves.

Respect for
human rights

Some people may think, 'But isn't Hungary a sovereign country that should be able to decide on its laws?' To these people, I say yes, Hungary is a sovereign country that has in all its sovereignty decided to join the European Union. And by joining the EU it has signed up to our treaties, our principles and our values. The treaties say that the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of people who belong to minorities. These provisions are not an à la carte menu. When you become a member

of the EU, you sign up for all of them. So, if you then adopt a law that goes against this, against everything we stand for, there will have to be consequences. And this Hungarian anti-LGBTIQ law does just that. This is why the European Parliament has called on the European Commission to launch an accelerated infringement procedure - which it has - to immediately trigger the Rule of Law Conditionality Regulation to protect the EU budget and on the Council to move forward with a so-called Article 7 procedure as soon as possible.

Unfortunately, it does not end with these two member states. We see spill-over effects of this anti-LGBTIQ movement throughout Europe. Bulgaria, Romania and Slovenia are just some of the other countries where homophobic hate speech is rapidly increasing, and the government is acting more hostile towards the LGBTIQ community. The Romanian government has still to implement the 2018 ruling of the European Court of Justice in the *Coman* case, which basically assigns family rights to same-sex couples. And even a Member State that is considered fairly liberal, such as the Czech Republic, has a President that recently stated that he believes transgender people to be 'disgusting'. If this doesn't leave you enraged, I don't know what will.

The *Coman* case

Infringement
procedures

This brings me to the immediate action that we need to take to counter the anti-LGBTIQ violence and rhetoric that is spreading throughout Europe. We have to hit these leaders where it hurts, bring these Member States to court, repeal their voting rights and ensure that EU funds do not end up in their pockets.

The Commission has already started infringement procedures against the Hungarian anti-LGBTIQ law and the local homophobic declarations in Poland. Last year the Commission rejected European funds to six Polish towns that had declared themselves an 'LGBTIQ-free zone'. Two of them subsequently withdrew their anti-LGBTIQ policy. The European Commission should extend this policy to include funds at a national level. We also have to include LGBTIQ rights in all EU monitoring exercises on Democracy, Rule of Law and Fundamental Rights. Finally, we have the strongest weapon, the Article 7 TEU procedure, which can eventually lead to the revoking of voting rights in the Council. However, this remains a dead-end road, as long as leaders are protecting each other in the Council. Aside from these legal procedures, we have to educate people. I believe this is the best

way to build true solidarity and acceptance. It also means helping the activists and people fighting this fight on a daily basis.

The idea that the wave of revolutions following the fall of the Berlin wall, bringing new freedoms and visibility to the LGBTIQ community in former communist countries, was a movement that could only move forward has been a misguided and perhaps naïve assumption. It seems difficult to imagine now, but Hungary had already legalised same-sex registered partnerships in 2009 and look where they are now.

Doing nothing
means backsliding

This is one of the most important and painful lessons I have learned since working on these issues in the European Parliament. When it comes to LGBTIQ rights, doing nothing does not mean keeping a status quo, it means backsliding. This is why we have to keep fighting. Keep addressing these issues. Because this is about protecting what is most precious, the freedom of our people.

We Are People, Not Propaganda: LGBT+ Human Rights in Lithuania

written by **Tomas Vytautas Raskevičius MP**

Politician, Member of the Parliament of the Republic of Lithuania, chair of the Human Rights Committee and LGBT+ rights activist. His political agenda is focused on human rights, including legal recognition of same-sex relationships through the legislation on registered partnerships.

Diverse region

As a region, Eastern Europe is nothing less than a complex one. On the one hand, it is a region of countries that have been the lighthouse of emerging and consolidating democracies in modern history. On the other hand, it still faces many challenges in protecting its citizens and ensuring human rights. In most countries of the region, LGBT+ citizens are not protected enough - there is no legal recognition of same-sex relationships and in some of them discriminatory laws are still valid. Eastern European countries that are part of the European Union have more legal protection of LGBT+ citizens as it is partly regulated by the Union itself. But there is little progress in other parts of the region. Even though the societies are generally becoming more accepting towards LGBT+ individuals, the nationalist and populist movements are gaining in power as well.

It is so important to understand that Europe as a whole is as strong as its smallest members. It is crucial to protect the rights of minorities in order to ensure the democratic and prosperous future of Europe. In this rapidly changing and turbulent world, we must continue to fight for the protection of basic human rights - a right to get one's relationships legally recognised, to be safe and to simply be themselves.

Law on Equal Treatment

According to the annual Rainbow Europe Map by the ILGA-Europe,¹ Lithuania ranked 34th among 49 European countries in terms of legal protections for LGBT+ persons in 2020. The last legislative initiative to improve legal protections of LGBT+ persons, namely the *Law on Equal Treatment*,² was adopted in 2003 in order to transpose Employment Equality Framework Directive 2000/78/EC in preparation for Lithuania's accession to the European Union in 2004. Despite the fact that public attitudes have developed towards more acceptance and inclusion of LGBT+ persons ever since, local politicians remain reluctant in demonstrating political leadership and adopting necessary decisions. As a result, legal recognition of same-sex families, legal gender recognition, effective response to homo- and transphobic hate crimes and so-called "homosexual

1 ILGA-Europe (May 2021). *Rainbow Map Europe. Country Ranking*. Retrieved from <https://rainbow-europe.org/country-ranking>

2 Law on Equal Treatment of the Republic of Lithuania, No. IX-1826, 18 November 2003, last amendments on 1 July 2019. Retrieved from <https://www.e-tar.lt/portal/lt/legalAct/TAR.OCC6CB2A9E42/asr>

propaganda” legislation remain the most pressing legal issues for the LGBT+ community in Lithuania.

Lithuania remains one of a few jurisdictions in the EU without any legal recognition of same-sex relationships. In 2017, the Lithuanian Parliament not only dismissed a bill on introducing gender-neutral registered partnerships,³ but also proposed to regulate same-sex relationships through so-called “cohabitation agreements” which would strip same-sex partners of family status altogether.⁴ The national migration authorities’ failure to recognize same-sex marriages concluded abroad for the purposes of immigration resulted in a case before the Constitutional Court. In 2019, the Constitutional Court decided that exclusion of same-sex spouses for migration purposes is unconstitutional.⁵ Despite the fact that the Constitutional Court deliberated on a very narrow legal issue, it did not miss an opportunity to provide more detailed explanations regarding LGBT+ human rights. According to the Constitutional Court, the Constitution directly prohibits discrimination on grounds of sexual orientation and (or) gender identity, LGBT+ human rights cannot be made conditional upon the preferences of majority and same-sex partners (families) fall under the ambit of the constitutional concept of “family life”. In May 2021, the Lithuanian Parliament voted on the Partnership Bill again. The bill was rejected by the margin of two votes, as 63 MPs voted in favour, seven MPs abstained and 58 MPs voted against.⁶ Despite the fact that the Partnership Law would tackle a specific legal problem, it has become a symbolic token of legally acknowledging the local LGBT+ community. The division in the Parliament clearly indicates that society and politicians are still sharply divided over the issue.

Cohabitation
agreements

3 “29 Lithuanian MPs Vote in Favor of Same-Sex Partnership as the Proposal Gets Rejected” (2017, June 15). *lgl.lt*. Retrieved from <http://www.lgl.lt/en/?p=17529>

4 Civilinio kodekso 6.589, 6.969, 6.971, 6.973, 6.978 straipsnių pakeitimo įstatymo projektas, No. XIII P-750, 23 May 2017. Retrieved from <https://e-seimas.lrs.lt/portal/legalAct/lt/TAP/2eed4fd03fbc11e7b8e5a254f4e1c3a7>

5 Constitutional Court of the Republic of Lithuania, Judgment No. KT3-N1/2019, Case No. 16/2016, 11 January 2019. Retrieved from <https://www.lrkt.lt/en/court-acts/search/170/ta1915/content>

6 “Lithuania parliament votes against debating same-sex partnership bill” (2021, May 25). *Reuters.com*. Retrieved from <https://www.reuters.com/world/europe/lithuania-parliament-votes-against-debating-same-sex-partnership-bill-2021-05-25>

L. v. Lithuania

A similar political reluctance in tackling specific LGBT+ legal issues applies to the issue of legal gender recognition. Although the Civil Code includes the right for a person to change their gender, the specific law outlining the conditions and procedure for legal gender recognition has not been adopted yet. In 2007, the European Court of Human Rights (ECtHR) in the case *L. v. Lithuania* concluded that non-existent legal regulation amounts to a violation of the right to respect for private life.⁷ The Lithuanian authorities are yet to adopt the required legislation. For a long time, identity documents for transgender persons were replaced only after a gender reassignment surgery, which in turn implied forced sterilisation. This situation turned in 2017 when national courts ordered legal gender recognition based solely on a psychiatrist's diagnosis.⁸ This precedent resulted in a consistent national jurisprudence. Following this progressive jurisprudence, nearly 50 transgender persons have already received their new identity documents in Lithuania.

*Beizaras and
Levickas
v. Lithuania*

Despite the fact that hate crimes and hate speech on the grounds of sexual orientation are explicitly criminalised through the national criminal law, the Lithuanian authorities systematically failed to effectively respond to this negative phenomenon. While the official statistics provide only a few recorded instances of hate crimes and hate speech on the grounds of sexual orientation, international surveys and opinion polls indicate that hate-motivated incidents are widespread in Lithuanian society. In 2020, in the case *Beizaras and Levickas v. Lithuania*, the ECtHR concluded that an effective legal remedy for combating homophobic hate speech in Lithuania does not exist.⁹ The Strasbourg court arrived at this conclusion due to the biased position taken by the national authorities - not investigating complaints about anti-LGBT+ hate speech, as well as flawed national jurisprudence, insisting on the local LGBT+ community "to respect the views and traditions of others when exercising their own rights." In order to implement this judgment effectively, not only the national law enforcement authorities and prosecutors will have to change their

7 *L v. Lithuania* (Application No.27527/03, ECtHR), 11 September 2007. Retrieved from <http://hudoc.echr.coe.int/eng?i=001-82243>

8 Vilnius City District Court, Case No. e2YT-5329-934/2017, 7 April 2017

9 *Beizaras and Levickas v. Lithuania* (Application. no. 41288/15, ECtHR), 14 January 2020. Retrieved from <http://hudoc.echr.coe.int/fre?i=001-200344>

practices, but also the national courts will have to reconsider their jurisprudence to match the ECtHR's standards.

Another important aspect, defining the legal realities of LGBT+ persons in Lithuania, is the so-called "homosexual propaganda" legislation. Article 4.2.16 of the *Law on the Protection of Minors against the Detrimental Effect of Public Information* stipulates that "[i]nformation adversely affecting minors shall include the following public information: [...] which expresses contempt for family values, encourages the concept of entering into a marriage and creation of a family other than stipulated in the Constitution of the Republic of Lithuania and the Civil Code of the Republic of Lithuania."¹⁰ Despite the fact that this legal provision is a "dead law" (i.e. it has not been applied in practice since 2014), its discriminatory application with the view of censoring LGBT+-related public information has caused a chilling effect not only among the media but also among civil society organizations. At the moment the ECtHR is considering the case *Neringa Dangvydė Macatė v. Lithuania*, which is going to check the legal provision's compatibility with the European Convention on Human Rights (ECHR).¹¹

Despite many legal challenges, there are some positive developments as well. In the general elections in October 2020 the newly established Freedom Party (Laisvės partija), i.e. the only political party fully embracing LGBT+ human rights agenda and advocating for marriage equality in Lithuania, received more than 9% of the popular vote and got 11 seats in the Lithuanian Parliament (out of 141). I have been elected to the national Parliament as the first openly LGBT+ politician, campaigning on the human rights agenda. Our political group will continue to fight for human rights based on human dignity for all Lithuanian citizens, regardless of their sexual orientation or gender identity. This political agenda might prove extremely difficult to fulfil, requiring a principled stance, continuous

10 Law on the Protection of Minors against the Detrimental Effect of Public Information, No. IX-1067, 10 September 2002, last amendments on 1 February 2021. Retrieved from <https://www.e-tar.lt/portal/lt/legalAct/TAR.817CC58C1A54/asr>

11 *Neringa Dangvydė Macatė v. Lithuania* (Application No. 61435/19). Retrieved from <http://hudoc.echr.coe.int/eng?i=001-203664>

commitment and not-so-easy compromises. However, there is a simple idea that keeps us going.

When I was a teenager, discovering my identity as a gay man, it seemed that I am the only person of this kind in the whole wide world. There were no openly gay individuals around me. It was alienating. It would have been so much easier if I had a chance to see someone like me at the highest political position in my own country. To see that I was not alone. To see someone that was going through the same challenges that I was, but not giving up and fighting for a better future. And only if I can be that example for someone else in my capacity as a member of the Parliament today, this political journey will make an impact. It has already made that.

First openly
LGBT+ Member
of Parliament

Embracing Diversity

written by

Kate Feeney, Fianna Fáil councillor

Chartered Accountant, a local councillor for the Dún Laoghaire-Rathdown County Council and member of the Renew Europe Group in the European Committee of the Regions since 2015. As CoR Rapporteur Kate shaped the position of European local and regional authority representatives on the EU's first ever LGBTIQ Equality Strategy.

One of Ireland's political giants, John Hume, once said, 'Difference is of the essence of humanity. Difference is an accident of birth, and it should therefore never be the source of hatred or conflict. The answer to difference is to respect it. Therein lies a most fundamental principle of peace: respect for diversity.'

I often think of these words in my political work. In a world that is becoming increasingly polarised on many issues, political leadership is needed more than ever to bridge communities and foster an atmosphere of respect.

In 2015 my country, Ireland, became the first in the world to legalise same-sex marriage by referendum. This was a remarkable generational shift and achievement - from a country once dominated by the Catholic Church to one leading the way in equality. This was not an overnight revolution, but it followed decades of incremental change. In 1993, 10 years after Ireland's first pride parade, legislation was introduced which finally decriminalised homosexuality after 140 years. Between 1993 and 2015, numerous pieces of legislation were passed, and they strengthened the protections and rights of LGBTIQ people. All of them laid the path for the positive vote in 2015. However, even with this, we have still not finished our journey towards eliminating discrimination.

With this in mind, I am particularly conscious of the lack of progress and even regression in other EU member states. A closer look at the data reveals that there are large disparities not only between one country to another but also between municipalities and regions.

As decision-makers, we can't shy away from discussing and tackling these issues. We need to stand up and say that this isn't good enough. We are all part of a European community and family. This brings freedoms and rights, but also responsibilities - it's on all of us to call out actions that fall below the European standards. More so, local authorities don't have to wait for national parliaments to act, we can take action on our own. I am proud to be part of a group of liberal Mayors and regional representatives that submitted a resolution, backed by the ALDE Party Congress, calling on all Liberal Mayors and ALDE representatives to demonstrate the benefits of inclusiveness and embracing diversity as a recipe for success.

As rapporteur on the LGBTIQ strategy in the European Committee of the Regions, I focus on the essential and tangible role local and

The first to legalise same-sex marriage by referendum

European Committee of the Regions

regional authorities can play in improving the lives of the LGBTIQ+ community: they play a key role in building a European society that is based on the inclusion of all citizens, rather than the exclusion of some.

Role of local
authorities

At a basic level, we need to combat all forms of violence against LGBTIQ+ people, especially online hate speech, while recognising the importance of freedom of expression. A huge benefit of EU membership is free movement, however differences in family law across Member States, mean that the family ties of rainbow families often cease to be recognised when crossing the EU's internal borders and many LGBTIQ+ persons are not recognised in law or in practice, such as transgender and intersex people. This is a challenge, but across Europe there are examples of local authorities taking on this challenge and showing leadership. Just look at the Italian city of Turin, which stepped up by recognising same-sex couples before this was legislated for nationally. This action was powerful, not only in showing members of the LGBTIQ+ community in Turin that they are welcome but also in normalising rainbow families. For those of us who are often frustrated waiting for national parliaments to act, it showed that change can come from the bottom up.

Youth
homelessness

Helping our LGBTIQ+ youth is another focal point of the opinion. LGBTIQ+ young people are particularly vulnerable, for instance, in homelessness, where young people identifying as LGBTIQ+ are hugely over-represented. We need to raise the visibility of youth LGBTIQ+ homelessness as the ultimate form of social exclusion and develop youth care centres and shelters in our communities, following the examples of Kraków and Berlin.

Since March 2019, more than 100 Polish regions, counties and municipalities have adopted resolutions declaring themselves free from LGBTIQ+ 'ideology'. Rather than allowing countries like Poland and Hungary to take the lead in creating these so-called LGBT-free zones, we need to look at local and regional authorities who are taking courageous initiatives we can all learn from, such as Barcelona, Ljubljana, Budapest, The Hague, Mechelen or Łódź.

I would like to call on all liberal local politicians across Europe and beyond to follow in the steps of the European Parliament that declared the whole of the EU an LGBTIQ+ Freedom Zone. Make your community a landmark of inclusion by joining with my local authority and the many others who have declared our communities

LGBTIQ+
freedom cities

LGBTIQ+ freedom cities. The choice is simple. Local authorities can either choose to embrace equality - a fundamental value of the EU - and diversity and prosper as a result, or they can choose to create a climate of fear and intimidation that deprives large groups of people of their rights.

In 2021, when across the world social unrest seems to always be bubbling just underneath the surface, those words of John Hume seem just as relevant... 'most fundamental principle of peace: respect for diversity.'

I Visegrad Group

text title

Living in a LGBT-free Zone

written by

Monika Rosa

MP. Member of the Board of the Polish liberal party Nowoczesna, and its leader in Silesia. Member of the Standing Committee of National and Ethnic Minorities. A volunteer and expert of various non-governmental organizations, including Projekt: Polska.

'All persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities.

No one shall be discriminated against in political, social or economic life for any reason whatsoever.'

The Constitution of the Republic of Poland, Article 32

'Let's end the discussion about these disgusting LGBT things, homosexuality, bisexuality, pride parades. [...] Let's protect families from this kind of corruption, depravity, absolutely immoral conduct, let's protect ourselves from LGBT ideology and let's stop listening to this idiocy about some human rights or some equality. These people aren't equal with normal people, and let's end this discussion.'

Przemysław Czarnek, MP from PiS, current Minister of Education and Science, statement from Studio Polska programme on TVP INFO, 13 June 2020¹

'Ladies and gentlemen, they're trying to make us believe that these are people. But it's just an ideology.'

Andrzej Duda, President of Poland, during a political rally, June 2020²

'As long as we govern, no one will impose anything on us. All those who want to live in a normal world, a world in which a woman is a woman, a man is a man, and nobody talks about a woman as a "person with a uterus". If we want to live in a society that recognises the obvious, it is necessary to support our party. We guarantee it. We'll defend it fiercely and uncompromisingly.'

Jarosław Kaczyński, leader of PiS, Deputy Minister of Defense, de facto leader of the ruling majority, without whom nothing can happen; April 2021³

1 Studio Polska (June 13, 2020). *TVP1* Retrieved from <https://vod.tvp.pl/video/studio-polska,13062020,48197016>

2 "Andrzej Duda o LGBT: Próbuja mówić, że to ludzie. To ideologia" (June 13, 2020). *Rzeczpospolita*. Retrieved from <https://www.rp.pl/wydarzenia/>

art8909311-andrzej-duda-o-lgbt-probuja-wmowic-ze-to-ludzie-to-ideologia
3 „Jarosław Kaczyński o LGBT: Póki rządząmy, nikt nie narzuci” (April 1, 2021). *Rzeczpospolita*. Retrieved from <https://www.rp.pl/polityka/art199631-jaroslaw-kaczynski-o-lgbt-poki-rzadzimy-nikt-nie-narzuci>

'The position is adopted which expresses opposition to the promotion and affirmation of the ideology of the so-called LGBT movements [...] Driven by the common good, concern for family and children and respect for the principles of the Constitution of the Republic of Poland, the Sejmik of the Podkarpackie Voivodeship expresses its opposition to activities aimed at promoting the ideology of the so-called LGBT movements, the aims of which remain in deep contradiction with the principle of freedom, traditional Christian values and the natural law.'

Resolution No. VIII/140/19, Sejmik of Podkarpackie Voivodeship, 27 May 2019; on the adoption of the position by the Sejmik of Podkarpackie Voivodeship expressing opposition to the promotion and affirmation of the ideology of the so-called LGBT movements

'neither the Act [concerning equal treatment] nor Penal code provides adequate and specific protection against discrimination on the grounds of sexual orientation [...]

UN Committee against Torture
regarding the situation in Poland

Introduction

In the 2021 ILGA-Europe ranking, Poland placed 43rd out of 49 European countries and last among the EU states (Poland scored 13% of the total points)⁴. Polish law was deemed one of the most homophobic and transphobic in the EU (before Hungary passed an Act banning 'promotion and presentation' of homosexuality).

In Poland, same-sex partners cannot marry, marriage equality and adoption for same-sex couples raise strong objections from politicians and a large part of society, the law protecting against homo- and transphobic hate attacks is weak, the gender recognition procedure is inhumane, anti-discrimination and sexual education, if there was any, became the enemy number one of the Polish right-wing, and

4 <https://www.rainbow-europe.org/#8653/0/0>

so-called conversion practices are still allowed. Not to mention resolutions discriminating against the LGBTIQ+ community passed by local authorities. In electoral and political campaigns, the LGBTIQ+ community has become an 'ideology', and it is fought by the government, Polish President, TVP (Polish television financed from the state budget), as well as chosen Catholic Church hierarchs.

For years (since 2015, the first time I was voted for) as a member of the Sejm (lower chamber of the Parliament), I have been fighting for legal equality regardless of sexual orientation and gender identity. This article is based on multiple reports from NGOs fighting for the rights of the LGBTIQ+ community, speeches of the Commissioner for Human Rights, actions of activists, and thanks to many conversations and stories. Thanks to the bills submitted to the Sejm 'in my time' and much earlier, when I wasn't considering such political involvement. The fight for equality in Poland has been going on for years. The number of organisations, people, activities, leaders, parades, marches, manifests, protests, as well as promotional, educational and legal campaigns, etc., is enormous - it is virtually impossible to mention them all.

1989-2015

Even though we reclaimed our freedom of choice and democracy in 1989, the rights of the LGBTIQ+ community are marginalised, ignored or (as it is happening since 2015, when Law and Justice [*Prawo i Sprawiedliwość, PiS*] became the ruling party) seen as an 'ideology' and used in political fights. Until 2015, not much was happening for the LGBTIQ+ community in the legal area, regardless of the ruling party - left, right or centre. However, the last few years of the PiS rule have seen a degradation of the LGBTIQ+ community's rights to an unprecedented scale in all areas of life.

Unfortunately, since 2015 there has been no chance for any legal change to broaden the human rights sphere. We can only hope for the government to shift and the LGBTIQ+ community to stop being the aim of persecution by the authorities. We can also fight for positive attitudes, education and society's understanding for the rights of more than two million Polish citizens (this is the estimated size of the LGBTIQ+ community in Poland).

We can often hear that Poland is a homophobic country. I strongly wish to rectify this opinion - the Polish government, the majority in the Sejm, leaders of national and right-wing media are homophobic. Polish society is much more open and tolerant. Unfortunately,

homophobia is allowed in the public and political spheres. And for some politicians and leaders, hate is a reason to be proud.

The situation of transgender people is especially difficult. It is due to a lack of proper legal regulations. Research shows that the knowledge about the situation trans people are in is minimal, which results in a lack of understanding and dislike. They encounter it at home, school and in contact with the administration. The last one can be illustrated by particularly foolish recent words of the Children's Ombudsman, Mikołaj Pawlak (nominated by PiS), about sexual educators: "They catch a child that is shaken and uncared for, give them some kind of drugs to change their gender without their knowledge and agreement from parents and doctors⁵."

In this article, I'll describe the legal and practical situation of LGBTIQ+ communities in the past and now, in Poland and a broader perspective of Central Europe; I'll also present social activities supporting equality and introduce specific and necessary legal regulations.

Expectation for mythological 'maturity of society'

Life in a legal vacuum

In Poland, same-sex couples live in a legal vacuum. They are unable to formalise their relationship. In the eyes of the law, they remain strangers to each other. For example, they cannot inherit, include their partner in health insurance, pay taxes together, refuse to testify in court against each other, decide about the hospitalisation of an unconscious partner or bury them after their death. Poles who entered into a partnership abroad are stripped of all their rights in Poland. Polish law does not even recognise that they are parents in such cases. Unfortunately, it is a norm to refuse to transcribe a foreign birth certificate if the parents are the same gender. However, for the child to receive a passport, identity document and PESEL (national identification number), as well as access to free education and healthcare financed from public funds, parents must transcribe

5 „Edukatorzy seksualni dają dzieciom środki na zmianę płci - twierdzi Rzecznik Praw Dziecka. Nie ma dowodów” (September 1, 2020). *Konkret24.pl*. Retrieved from [https://](https://konkret24.tvn24.pl/polska,108/edukatorzy-seksualni-daja-dzieciom-srodki-na-zmiane-plci-twierdzi-rzecznik-praw-dziecka-nie-ma-dowodow,1028522.html)

konkret24.tvn24.pl/polska,108/edukatorzy-seksualni-daja-dzieciom-srodki-na-zmiane-plci-twierdzi-rzecznik-praw-dziecka-nie-ma-dowodow,1028522.html

the birth certificate⁶. And in the case of marriage to a national of a country outside the European Union, such a couple might not be able to cross the Polish border together.

There are ca. two million LGBTIQ+ people living in Poland. According to the estimates in *Tęczowe rodziny w Polsce (Rainbow Families in Poland)* report created by Campaign Against Homophobia (*Kampania Przeciw Homofobii, KPH*), there are more than 50.000 children raised by same-sex parents in Poland⁷, and they face fear and uncertainty every day. In March 2021, Minister of Justice Zbigniew Ziobro announced that his department is preparing a bill banning adoption by same-sex couples⁸. Currently, Polish law does not allow it anyway, so the Minister's announcement was definitely meant to scare the LGBTIQ+ community and escalate the social conflict. Unfortunately, government representatives regularly make statements aimed at creating fear and insecurity. Two main "risks" are presented in public debate – won't children raised by a same-sex couple have problems determining their own identity and orientation? (plainly speaking: people are wondering if a gay couple would raise a child to

6 Children of same-sex couples born outside Poland receive a birth certificate issued by the authorities of the country of birth. In countries where the parenthood of same-sex couples is recognised, the first and last names of mothers or fathers are entered in the 'parents' column. For the child to receive a Polish passport/ID/PESEL, it is necessary to transcribe the birth certificate. Unfortunately, register offices refuse such transcription because having parents of the same gender in the documents is against Polish law.

Until now, the lack of a transcription of a foreign birth certificate has made it impossible for a child brought up in a rainbow family to obtain a passport or identity document. Consequently, the child could not, for example, leave their country of birth or make use of Polish health services. Officials at consulates and register offices did not consider applications for passports without a Polish birth certificate. According to a resolution of the Supreme Administrative

Court (*Naczelny Sąd Administracyjny, NSA*), transcribing a foreign birth certificate of a child with same-sex parents is against the law. At the same time, the NSA believes that offices should issue passports and assign PESEL numbers to children from rainbow families based on a foreign birth certificate, even though the obligation to transcribe a birth certificate issued abroad has not been repealed. The authorities are being cautious in taking such decisions.

7 Zima, M. (2010). *Tęczowe rodziny w Polsce. Prawo rodziny gejowsko-lesbijskie. Raport 2009*. Warsaw: KPH. Retrieved from https://kph.org.pl/publikacje/raport2010_teczowe_rodziny.pdf

8 Zygiel, A. (March 11, 2021). Ziobro: Przygotowaliśmy projekt zakazujący adopcji dzieci przez pary homoseksualne. *RMF FM*. Retrieved from https://www.rmf24.pl/fakty/polska/news-ziobro-przygotowalismy-projekt-zakazujacy-adopcji-dzieci-prz,nld,5100372#crp_state=1

be gay) – this concern has been dispelled by scientists. The second one is about bullying by other children and families because the child has two mothers or fathers. Right-wing groups launch further cruel and ignorant arguments against – considering homosexuality as an illness or perversion, they declare that they are protecting children and families from such deviancy and ‘ideology’. In extreme cases, they equate homosexuality with paedophilia.

But before 2015 happened and PiS won the election, civil partnerships had been a topic of heated and substantive discussions. The first draft of the law on civil partnerships appeared in the proceedings of the upper house of the Parliament, the Senate, in 2003 (Democratic Left Alliance, *Sojusz Lewicy Demokratycznej*, SLD); it passed the Senate legislative path and was sent to the Sejm, where it was not considered further. There was even a Senate initiative to withdraw this bill in connection with... the death of John Paul II and the need to pay tribute to him (yes, it is bizarre). Further drafts appeared in 2011 (project by SLD reviewed only until the Parliament’s end of term). In 2012, there were three bills on civil partnership (by Palikot’s Movement [*Ruch Palikota*], SLD, Civic Platform [*Platforma Obywatelska*, PO]), and all of them were rejected by vote at the beginning of 2013 (it was the time of PO-PSL government led by Donald Tusk). In 2018, so already during the rule of Jarosław Kaczyński and his entourage, a bill (including the possibility of adoption) was submitted by the liberal political party Modern (*Nowoczesna*). The project wasn’t included in any parliamentary proceedings. In the next term of the Sejm (2019 election, again won by PiS), the Left (*Lewica*) submitted a bill on civil partnership and marriage equality.

The opponents of civil partnerships and marriage equality who at least try to pretend to hold factual discussions quote Article 18 of the Polish Constitution: ‘Marriage, being a union of a man and a woman, as well as the family, motherhood and parenthood, shall be placed under the protection and care of the Republic of Poland.’ They declare in no uncertain terms that all statutory regulations in this area are incompatible with the Constitution. Nevertheless, we can state with full responsibility that this provision does not close the way to either equality or unions. Voivodship Administrative Court (*Wojewódzki Sąd Administracyjny*, WSA) in Warsaw declared that Polish Constitution does not prohibit same-sex marriages. According to the

First drafts of
the law on civil
partnerships

WSA's justification, 'it is not so much the constitutional understanding of the institution of marriage that derives from the above constitutional principle as the guarantee that the institution of marriage is subject to special protection and protection of the state, but only on the assumption that it is a union of a man and a woman. Therefore, the content of Article 18 of the Constitution could not constitute in itself an obstacle to the transcription of a foreign marriage certificate if the institution of marriage as a union of persons of the same sex were envisaged in the national order. However, this provision does not prevent the legislators from institutionalising, through ordinary laws, the status of same-sex or opposite-sex couples who, for reasons known to themselves, do not wish to contract marriage in its traditional sense⁹.'

This view has been shared for years by Ewa Łętowska, PhD (an authority in legal matters, in 1999-2002 judge in the Supreme Administrative Court of Poland, in 2002-2011 judge in Constitutional Tribunal): 'this provision takes as the main problem, meaning, purpose of its operation the principle of protection and care of the state over marriage and family, over hetero marriage. But tell me, how does a ban on other marriages, not to mention unregistered unions other than hetero, follow logically from this? [...] I agree with the privileged place of heterosexual marriage. It follows from Article 18. However, it does not, in any logically coherent way, mean that other unions are prohibited "by law"¹⁰.'

Therefore, no constitutional provisions stand in the way of equating the rights of same-sex and heteronormative couples or at least regulating the establishment of civil partnerships. Unfortunately, during the PO-PSL rule, it was not possible to pass such a law (although PO supported the idea of unions during the campaign). Why? It seems that it was never a priority, more of a 'minority' topic, there was a fear of conflict with the far-right and expectation for mythological 'maturity of society'. The fact is that the lack of previous regulations

9 https://kph.org.pl/wp-content/uploads/2019/02/wyrok_sadu_ws_jakuba_i_dawida.pdf

10 Łętowska, E. (July 10, 2017). Konstytucja nie zakazuje małżeństw homoseksualnych [Interview by Puławski, Ł.]. *Kultura Liberalna*. Retrieved from <https://kulturaliberalna.pl/2017/07/10/konstytucja-nie-zakazuje-malzenstw-homoseksualnych/>

Mythological
'maturity of society'

has clear consequences today – the role of politicians and lawmakers is to care for the rights of all citizens, to be a leader. If the legal decisions had been made earlier, the situation of LGBTIQ+ people under PiS rule would be definitely easier; it would be harder to scare and manipulate by making 'LGBT ideology' the axis of political dispute.

I am glad that finally we can see the difference in the approach and declarations of politicians from the largest party among the opposition, the Civic Platform. Finally, they are saying clearly that the question of partnerships needs to be regulated. I hope that after the government changes, this issue will be equally clear.

Social research
on marriage equality

While the public and most opposition parties seem to have worked through the topic of civil partnerships quite well worked, the situation is different in the case of marriage equality and adoption by same-sex couples. According to social research, the last issue stirs vehement resistance. Below I present a few examples from a wide range of commissioning organisations over several years (we know full well that the commissioning organisation and the questions asked matter).

1. IBRiS survey commissioned by *Rzeczpospolita*, December 2019¹¹

A vast majority of respondents (75,8%) agree with the introduction of civil partnerships for opposite-sex couples; in the question about same-sex couples, 50% is against it; the opinion about same-sex marriages is as follows – 64,6% is against, 27.2% - in favour. Respondents are also definitely against adoption by same-sex couples. 73,1% answered 'no', 16,7% 'yes', and more than 10% did not have an opinion.

2. IBRiS survey commissioned by *Rzeczpospolita*, July 2019¹²

Introduction of civil partnerships for same-sex couples: 44% in favour, 46% against, 10% - no opinion; same-sex marriage: 32% in

11 „Sondaż: Polacy nie chcą adopcji dzieci przez pary jedнопłciowe” (December 9, 2019). *Rzeczpospolita*. Retrieved from <https://www.rp.pl/spoleczenstwo/art991541-sondaz-polacy-nie-chca-adopcji-dzieci-przez-pary-jedнопłciowe>

12 „Sondaż: Adopcja dzieci nie dla gejów i lesbijek, śluby też wykluczone” (July 30, 2019). *Rzeczpospolita*. Retrieved from <https://www.rp.pl/kraj/art1208121-sondaz-adopcja-dzieci-nie-dla-gejow-i-lesbijek-sluby-tez-wykluczone>

favour, 56% against, 12% - no opinion; adoption: 12% in favour, 76% against, 12% - no opinion.

'Adoption of children by same-sex couples is untouchable for any politician who wants to enter the Sejm,' comments Rafał Chwedoruk, PhD, a political scientist from the University of Warsaw. 'It seems that a politician can, without much risk, refer affirmatively or critically to moral issues, as long as they do not touch the issue of children's rights,' says Chwedoruk, and adds that if one wanted to look for cultural axes of differentiation in society, the basis of the division would sooner turn out to be abortion or the attitude towards the institution of the Church.

3. IPSOS survey for *OKO.press*, August 2019¹³

Same-sex civil partnerships - 60% in favour; marriage equality - more than 40% in favour; adoption - ca. 20% in favour. Since June 2017, when *OKO.press* asked Poles for the first time about their attitude towards LGBT rights, more than half of respondents have been consistently in favour of civil partnerships (the support has increased by 8% in two years). There are still more people against marriage equality than in favour of it - the support has stabilised at more than 46%.

Support for marriage equality in Poland has increased

4. It is interesting to compare the results of the 2015 and 2019 Eurobarometer surveys.

49% believe that homo- and bisexual people should have the same rights as the rest of society, while 45% absolutely disagree with this view, and 6% have no opinion. Thus, the percentage of Polish respondents who agree that gays, lesbians and bisexuals should have the same rights as heterosexuals has increased by 12%. Compared to the previous edition, support for marriage equality in Poland has increased by 17%. Although Poland is well below the EU average (45% of respondents believe that same-sex marriages should be allowed in Europe and 50% that they should not), in Central and

¹³ Amborziak, A. (September 25, 2019). Polki i Polacy gotowi na związki partnerskie i równość małżeńską. *OKO.press*. Retrieved

from <https://oko.press/polki-i-polacy-gotowi-na-zwiazki-partnerskie-i-rownosc-malzenska-sondaze-i-eurobarometr/>

Eastern Europe it is the most progressive country, apart from the Czech Republic and Slovenia.

5. In CBOS surveys conducted in 2011, 2013, 2017 and 2019, opponents of the introduction of same-sex partnerships were in a clear majority, with support fluctuating around 30% of respondents.¹⁴
6. Kantar survey for *Gazeta Wyborcza*, August 2019¹⁵

Supporters of same-sex partnerships are in a clear majority – 57% of Poles are in favour, only 38% are opposed. 42% of Poles support marriage (55% are against), 17% – adoption (80% are against).

Society is more open than the current ruling majority

The surveys clearly show that society is far more open than the current ruling majority. Additional support for the LGBT+ community and its rights appears as a response to the homophobic actions of the government and state media. Based on the above surveys, a clear conclusion can be drawn: society does not need to ‘mature’ – civil partnerships are already a matter of course. Other legal solutions depend on the political courage of the current opposition parties.

Family first

Trans parenting in Poland

As I have already mentioned, the situation of trans people is unique and should receive more attention. In 2019, an important publication *Rodzina przede wszystkim – trans rodzicielstwo w Polsce (Family first – trans parenting in Poland)* was published. It is a pioneering research project that looks at the experiences of transgender people, their partners and children. It reaffirms that there are many challenges for trans people – legal, psychological, familial.

14 „Jak wygląda poparcie dla związków partnerskich w Polsce?” (September 17, 2020). *Demagog*. Retrieved from <https://demagog.org.pl/wypowiedzi/jak-wyglada-poparcie-dla-zwiazkow-partnerskich-w-polsce/>

15 Pacewicz, K. (September 24, 2019). Spora większość Polaków chce związków partnerskich. To reakcja na szczucie na LGBT? *Gazeta Wyborcza*. Retrieved from <https://wyborcza.pl/7,75398,25227626,spora-wiekszosc-polakow-chce-zwiazkow-partnerskich-to-reakcja.html>

A person who applies to a court for official gender recognition should be single. In theory, being married makes it impossible to start this procedure. It is due to the lack of provisions allowing marriage between persons of the same gender. And although there is no clear provision in Polish law that mandates divorce, trans people are forced to do so. Otherwise, their gender recognition lawsuits may end unfavourably.

The mere fact of undergoing judicial gender recognition should not in any way affect the scope of parental rights. In practice, however, it is postponed until children reach the age of majority for fear of possible deprivation or limitation of parental authority due to the vague concept of 'child welfare' in Polish law. Furthermore, it can be presumed that in the case of a divorce granted on the grounds that one of the spouses intends to change their gender on the birth certificate, the practice is to place children with the other spouse and not with the transgender one¹⁶.

The vague concept
of 'child welfare'
in Polish law

Polish law fails to recognise the situation in which one or both parents change their gender in documents and the consequences this has for their parenthood (also in the context of the child's birth certificate). A child cannot have two mothers or two fathers. In the absence of relevant provisions in the Family and Guardianship Code (*Kodeks Rodzinny i Opiekunyczny*), the parenthood of a person undergoing judicial gender recognition while retaining the biological functions of their reproductive organs may be unrecognised by the Polish legal system. As a result, their situation will largely depend on registrars from a register office (*Urząd Stanu Cywilnego, USC*) or courts.

These few paragraphs do not, of course, exhaust the challenges faced by trans people in the context of functioning in the family. However, it clearly indicates that the scale of legal negligence, disregard for this type of family, or even failing to notice them translates into real personal, familial and social tragedies.

¹⁶ Jąderek, I., Dynarski, W., Kłonkowska, A.M. (eds) (2019). *Rodzina przede wszystkim - trans rodzicielstwo w Polsce*. Warszawa:

TransFuzja. Retrieved from <https://www.transfuzja.org/publikacje/rodzina-przedewszystkim-raport-z-badań>

A lawsuit against their own parents

The procedure of gender recognition and name change should be efficient, transparent, accessible to the public and respectful of the physical integrity of the transgender person and of their private life – so that it is unnoticeable.

In Polish law, despite legislative initiatives, there are no legal provisions that would allow full gender recognition. That is making appropriate changes to the gender designation on birth certificates and identity documents in a manner consistent with international standards. The only solution available to transgender persons in this situation is to file a lawsuit against their parents based on the Code of Civil Procedure¹⁷. Under its Article 189, the plaintiff may request the court to determine the existence or non-existence of a legal relationship or right, if there is a legal interest. Such a formula of matching the assigned and actual gender by transgender persons was established by the resolution of the Supreme Court of 22 September 1995¹⁸. At the same time, the Supreme Court ruled that when the parents (or one of the parents) are deceased, the action should be brought against the court-appointed guardian¹⁹.

There was a chance to change this situation – the Gender Accordance Law passed at the end of the parliamentary term in 2015. Ultimately it did not enter into force as it was vetoed by Andrzej Duda, the President of the Republic of Poland²⁰.

The long and difficult gender recognition procedure and the invisibility of people in transition revealed additional challenges in 2021. In 2021, the National Population Census, which takes place every ten years, was underway in Poland. Every citizen was obliged

The Gender
Accordance Law

17 Journal of Laws of 2018, item 1360, as amended

18 Uchwała Sądu Najwyższego z dnia 22 września 1995 r. III CZP 118/95. Retrieved from <https://sip.lex.pl/orzeczenia-i-pisma-urzedowe/orzeczenia-sadow/iii-czp-118-95-uchwala-sadu-najwyzszego-520102936>

19 Bodnar, A. (ed) (2019). Sytuacja prawna osób nieheteroseksualnych i transpłciowych w Polsce. *Zasada Równego Traktowania*.

Prawo i Praktyka 6. Retrieved from <https://bip.brpo.gov.pl/sites/default/files/Raport%20RPO%20Sytuacja%20prawna%20osob%20LGBT%20w%20Polsce.pdf>

20 It was his first, and very symbolic, veto. “Pierwsze weto prezydenta. Duda zawetował ustawę o uzgodnieniu płci” (October 2, 2015). *TVN24*. Retrieved from <https://tvn24.pl/polska/pierwsze-weto-prezydenta-andrzej-dudy-ra582369-3313392>

to participate and, of course, provide truthful information. The issue appeared when transgender and non-binary people wanted to provide their information:

Transgender and non-binary people did not have the opportunity to indicate their actual gender identity in the National Census.

Transgender
and non-binary
people in the
National
Census

- A transgender person who did not undergo the process of legal gender recognition was forced to enter their assigned gender that is inconsistent with their actual gender.
- Non-binary persons could not indicate a gender other than 'female' or 'male' – e.g. there was no 'other'.

The most desirable solution, ensuring full respect for the right to privacy and dignity of transgender and non-binary persons, would be to modify the form – allow people to choose a gender other than the one coded in the PESEL number. It would enable transgender persons who have not undergone legal gender recognition procedures to indicate their true gender identity²¹.

Proud of own statistics

As numerous studies indicate, violence against the LGBTIQ+ community in Poland is widespread, but the cases of violence and discrimination are rarely reported. Three out of ten LGBT+ people in Poland have experienced physical and/or psychological violence in the last five years²². On an annual basis, LGBT+ people experience violence two times more often than heterosexuals. Among LGBT+ people, it is transgender people who most often encounter violence – as many as half of them. Despite this, as many as 57,1% of LGBT+

21 Rzecznik Praw Obywatelskich (July 20, 2021). Dane osób transpłciowych i niebinarnych w spisie powszechnym. Wystąpienie RPO do GUS. Retrieved from <https://bip.brpo.gov.pl/pl/content/rpo-gus-spis-powszechny-osoby-transpłciowe-niebinarne>

22 Górska, P., et al (eds) (2016). *Hate No More: raport o Polsce*. Warsaw: KPH. Retrieved from <https://kph.org.pl/wp-content/uploads/2016/08/hnm-raport-pl-www.pdf>

people were discouraged by the police from reporting crimes motivated by homo-, bi- or transphobia²³.

Violence motivated
by homophobia
and/or transphobia

The rate of hate crime reporting is alarming – the most severe cases of violence motivated by homophobia and/or transphobia were reported to law enforcement by only 5,2% of people who experienced them in the past five years. Low trust in the police and courts, as well as the perception of police officers as unmotivated to do their job properly, with little knowledge about violence motivated by homophobia and/or transphobia, and prejudiced against non-heteronormative people, may be responsible for this²⁴.

According to a 2020 study by the European Union Agency for Fundamental Rights, 59% of LGBTI people in Poland have experienced harassment in the past five years. 15% reported having experienced physical or sexual violence²⁵. According to international recommendations, including those of the UN, the Council of Europe and the EU, Poland should actively encourage victims to report crimes motivated by prejudice, thus combating the so-called ‘dark figure’.

Combating
the ‘dark figure’

The amendment of law and active protection of LGBTIQ+ people have become the most important demands in the face of a blatant campaign by the Polish government, right-wing and state-owned media, hierarchs of the Catholic Church and extremely conservative leaders. Calling LGBTIQ+ people an ‘ideology’ has become commonplace. One of the pro-government newspapers, *Gazeta Polska*, printed revolting ‘LGBT-free zone’ stickers in 2019²⁶. Dehumanisation has become an integral part of election campaigns.

Current legislation in Poland does not grant effective and complete protection against hate crimes to all vulnerable groups. In particular, they do not cover disability, age, gender identity, gender expression, or sexual orientation. A draft amendment to the Penal Code in this regard has been submitted twice. In 2016, when it was rejected by the votes of PiS and Kukiz’15, and in 2019 – this one has not been reviewed yet.

23 *Ibid*

24 *Ibid*

25 <https://fra.europa.eu/en/data-and-maps/2020/lgbti-survey-data-explorer>

26 “„Gazeta Polska” drukuje naklejki „Strefa wolna od LGBT”. „Czy ktoś w redakcji słyszał o nazistach?”” (July 17, 2019). *Gazeta.pl*. Retrieved from <https://wiadomosci.gazeta.pl/wiadomosci/7,114883,25004389,gazeta-polska-drukuje-naklejki-strefa-wolna-od-lgbt-czy.html>

Insults

Currently, only insulting another person is an offence. However, it is not an offence prosecuted *ex officio* but only by private prosecution. It means that the burden of gathering evidence, drawing up and supporting an indictment and participating in the legal proceedings rests solely with the victim. All this despite the obviously socially harmful nature of hate crimes motivated by the above-mentioned grounds. Because of the above, it is extremely difficult to investigate and prevent the occurrence of hate crimes. It is, therefore, necessary to amend the Penal Code in the scope of Articles 119, 256 and 257.

Hate crimes

In its opinion of 31 January 2020, on the opposition deputies' bill amending the Penal Code, the National Council of the Judiciary²⁷ (politicised by PiS) expresses the following (negative) assessment: 'In the Council's view, it would be equally possible and useful to distinguish between groups with natural differences, such as baldness, short-sightedness, deafness, etc., and those with differences of taste or habit, such as alcoholics, promiscuous people, gamblers, cat owners, etc. It is clear that these groups are also vulnerable to acts or omissions that constitute violence or unlawful threats²⁸.'

The Law and Justice's position on the amendment is clear - they will not support it. After all, they do not want to be convicted for overt hate speech against the LGBTIQ+ community.

Supranational
legislation and
case law

The Polish system of protection against discrimination does not function in a legal vacuum and must be assessed in the context of legislation and case-law of a supranational nature. The European Court of Human Rights (ECtHR), in its rulings on hate crimes or crimes motivated by prejudice, points out that the prohibition of discrimination expresses fundamental values of democratic societies and states making up the Council of Europe (e.g. § 155 of the ECHR judgment of 6 July 2005, *Nachova and Others v. Bulgaria*, Application nos. 43577/98 and 43579/98). The ECtHR has ruled that legal characterisation of crimes motivated by prejudice as devoid of such motivation renders the law enforcement response inadequate, reduces

27 E.g. Wachowiec, P., Rutynowska, E., Tatała, M. (2020). *Rule of law in Poland 2020*. Warsaw: FOR. Retrieved from <https://for.org.pl/en/publications/for-reports/rule-of-law-in-poland-2020-international-and-european-responses-to-the-crisis>

28 <https://orka.sejm.gov.pl/Druki9ka.nsf/O/B1041E56A848D2CBC1258505004B020E/%24File/138-004.pdf>

prevention and confidence in the state authorities as defenders of victims (ECtHR judgment of 14 December 2010, *Milanović v. Serbia*, application no. 44614/07).

Amendments to
the Criminal Code

In the context of specific demands, the Committee Against Torture recommended introducing amendments to the Criminal Code to punish hate crimes as acts of discrimination and violence based on sexual orientation, disability and age²⁹. The Human Rights Committee recommended amending the Penal Code as well. In its opinion, a definition of hate speech should be introduced, and acts motivated by hatred based on sexual orientation or gender identity should be considered crimes³⁰. Amending the Criminal Code to include hate speech and crimes motivated by racism, xenophobia, and homophobia is also one of the recent recommendations of the Committee on the Rights of the Child³¹.

Independent
research vs govern-
ment statistics

Government representatives often refer to their own statistics conducted by the Ministry of the Interior and Administration and the Police Headquarters for the needs of the hate crimes register. The register records inscriptions and symbols, threats, violation of bodily integrity, shouts, gestures, flags or banners, etc. Proceedings are analysed according to the perpetrator's motivation (race/skin colour, national and ethnic origin, religion, sexual orientation and gender identity, world view, disability). According to their statistics, the number of crimes based on sexual orientation or gender identity was 4 in 2018 and 16 in 2019³². These statistics are a source of pride for the government and a justification for announcing that the problem of homo- and transphobia does not exist in Poland. As I pointed out above, real, independent research indicates otherwise.

29 Point 25 of the final recommendations on Poland's combined fifth and sixth periodic report on the implementation of the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 19 November 2013

30 Point 8 of the final remarks of the Human Rights Committee to Poland's sixth periodic report on the implementation of the provisions of the International Covenant on Civil and Political Rights of 26 October 2010

31 Point 17b of the recommendations of the Committee on the Rights of the Child of 2 October 2015

32 "MSWiA: Spada liczba przestępstw z nienawiści" (September 15, 2020). *Dziennik Gazeta Prawna*. Retrieved from <https://www.gazetaprawna.pl/wiadomosci/artykuly/1490894,mswia-przestepstwa-z-nienawisci-rasizm.html>

These government statistics are also referred to in the National Action Programme for Equal Treatment 2021-2030³³. Interestingly enough, neither the word transgender nor the term LGBT appears in the programme. There are references to non-discrimination on the grounds of sexual orientation and gender identity, as well as an indication of the need to combat hate speech and promote respect. At the same time, no real actions are proposed. The programme does not refer to the experiences, reports and analyses of non-governmental organisations in this field, and it does not present any diagnosis. Many opinions were provided (and ignored) during the development of the programme. For example, the comment from the Commissioner of Human Rights concerned the inclusion of active anti-discrimination measures and legislative changes³⁴. As an MP, during the consultations, I drew attention to the so-called anti-LGBT resolutions, which have been adopted at the local government level and directly proclaim discrimination based on sexual orientation and gender identity. The remark was not taken into account but left with a comment: 'In the context of local resolutions, it follows from the case-law of the independent courts that these acts do not constitute binding acts of local law and therefore do not impose rights and obligations, do not violate the rights and do not change the legal situation of LGBT people, but can only be an expression of opinion³⁵'.

In conclusion, in the context of the fight against hate speech and acts of hatred in Poland, we need:

1. Amendment of the Penal Code regarding hate crimes and hate speech - violence and incitement to hatred based on age, gender, sexual orientation, gender identity and disability should be prohibited, prosecuted ex officio and threatened with a higher penalty.
2. Creation and introduction of 'hate speech' and 'hate crime' definitions into Polish law.

33 Krajowy Program Działań na rzecz Równego Traktowania - sprawozdanie z konsultacji publicznych. Retrieved from <https://www.gov.pl/web/rownetraktowanie/>

krajowy-program-dzialan-na-rzecz-rownego-traktowania

34 *Ibid*

35 *Ibid*

3. Introduction of so-called John Doe Lawsuit³⁶ to the Polish legal system to effectively combat hate speech.
4. Anti-discrimination education.

A forbidden ground for discrimination

In 2020, for the first time in Polish jurisprudence, there was also confirmation that the prohibition of discrimination on the grounds of gender equals the prohibition of discrimination on the grounds of gender identity. A transgender person employed in security under a contract of employment was required to work in a male uniform – even though she functioned in accordance with her perceived female gender. As her gender recognition process was pending at the time, she formally used an identity document indicating her gender as male. The claimant – Ms Joanna – refused to work in a male uniform. She sued the employer for breach of the principle of equal treatment on the grounds of gender identity. The Court of Second Instance agreed with the position of the claimant, represented by Campaign Against Homophobia and the Commissioner for Human Rights – who joined the proceedings. The Court upheld the claim, changing the contested first instance judgment. That is the first case in which Polish courts have considered an allegation of a violation of the equal treatment principle on the grounds of gender identity under the so-called Equal Treatment Act. The Act of 3 December 2010 on the implementation of certain provisions of the European Union on equal treatment does not expressly prohibit discrimination on the grounds of gender identity. However, on this basis, unequal treatment based on gender is prohibited – also in all forms of employment. It is clear from the case-law of the Court of Justice of the European Union and the soft law papers of international organisations that the prohibition of discrimination on grounds of gender extends to gender identity. However, this has not been confirmed before in the jurisprudence

Discrimination
on the grounds of
gender identity

³⁶ *John Doe Lawsuit* is a lawsuit in which the defendant cannot be identified by the plaintiff before it is commenced.

of Polish courts. In this context, the final judgment of the Regional Court is precedential.

Of course, nothing is simple in Poland – Minister Zbigniew Ziobro intervened in the case. As Campaign Against Homophobia reported, the Minister, who is also the Prosecutor General, has filed an extraordinary complaint to one of the new (PiS-created) Chambers of the Supreme Court: ‘The case is an example where, by referring to the anti-discrimination law and human rights related to ensuring equality, a situation has been created in which the employer (entrepreneur) has been restricted in his constitutional freedoms and rights related to the conduct of his business activity, despite the fact that he has not actually engaged in any discriminatory actions,’ the justification reads. The Prosecutor General said that in fact there was no discrimination, only a misunderstanding during the recruitment. It was Ms Joanna who allegedly misled the employer by using a female name because ‘until the actual gender change, she had no right to use the name Joanna and declare a gender different from the one legally indicated³⁷’. Therefore, the security company did not violate the principles of equal treatment because it allegedly did not treat Ms Joanna worse – it merely complied with its official duties. As a consequence of the ‘gross violation of regulations’, the company suffered because its freedom of business activity was restricted. Zbigniew Ziobro also questioned the meaning of the ruling: ‘The issue of understanding gender in the context of gender identity remains on the margins of the case. Gender identity is not a criterion mentioned in the anti-discrimination law. Even if it is interpreted following the law of the European Union, it does not allow for departing from the understanding of gender as it arises from the Polish Constitution – Article 33 speaks of a woman and a man. And if the democratic state is to guarantee legal certainty and security of the law, the concepts contained in normative acts, including the Constitution, cannot be relativised and made dependent on subjective interpretations that hinder the application of the law and may lead to its abuse³⁸’. In other

Prosecutor
General’s
extraordinary
complaint

37 Amborziak, A. (July 2, 2021). Nowa idea ministra Ziobry: walczy o prawo do dyskryminacji osób transpłciowych. Złożył skargę. *OKO.press*. Retrieved from <https://oko.press/>

nowa-idea-ministra-ziobry-walczy-o-prawo-do-dyskryminacji-osob-transpłciowych-zlozyl-skarge/

38 *Ibid*

words, the inclusion of gender identity as a premise subject to protection against discrimination (Article 32 of the Constitution) threatens the legal order, claims the Prosecutor General³⁹.

'Healing'

In Polish law, there are currently no legal regulations that ban subjecting LGBTIQ+ people to conversion practices. There are also no legal and institutional solutions that guarantee no such practices are performed as a part of public and private healthcare. The goal of harmful and unethical conversion pseudo-therapies, also called reparative therapies, is to change one's sexual orientation - people are made to believe that, for example, a gay can become a heterosexual man. This lie was disproved by the scientific world long ago. Convincing someone that if they try hard enough, they can change their sexual orientation equals violence. UN calls such pseudo-therapies torture⁴⁰.

Conversion
therapies

In Poland, there are still a few institutions that openly use conversion practices. These are mostly religious centres, for example, *Odwaga* (Courage) in Lublin or *Pomoc 2002* (Help 2002) in Radom. These centres practice their own 'healing' methods, including prayer, physical activity, close physical contact (during which it sometimes comes to sexual violations) or even financial penalties. Conversion practices in Poland do not occur only in these kinds of centres, though. Some psychotherapists and doctors share stereotypical and prejudiced opinions about homosexual and transgender people, which means that they offer to 'heal homosexuality' as a part of psychotherapy in private and public doctor's offices, some of which are financed by the National Health Fund. This is indicated by the accounts of those who took part in the study on the social situation of LGBT+ people in Poland in 2015-2016⁴¹.

39 *Ibid*

40 Amborziak, A. (September 26, 2018). ONZ upomina Polskę ws. leczenia z homoseksualności. PiS nie widzi problem. *OKO.press*. Retrieved from <https://oko.press/onz-upomina-polske-ws-leczenia-z-homoseksualnosci-pis-nie-widzi-problemu/>

41 [https://orka.sejm.gov.pl/Druki8ka.nsf/Projekty/8-O20-1241-2019/\\$file/8-O20-1241-2019.pdf](https://orka.sejm.gov.pl/Druki8ka.nsf/Projekty/8-O20-1241-2019/$file/8-O20-1241-2019.pdf)

chapter no.

In 2019, for the first time in history, a bill banning such practices was submitted to the Sejm⁴². The bill, prepared by Modern (*Nowoczesna*) and Campaign Against Homophobia, would introduce a ban on using, offering to use, promoting or advertising conversion practices and on naming persons or entities offering, using, advertising or promoting such practices - punishable by a fine of no less than PLN 1.000. Professionals, e.g. psychotherapists, doctors, psychologists, would be punished more severely - with a fine of no less than PLN 2.000. The court would notify the appropriate local authorities, associations or other organisations to which the professional belongs about the punishment to enable these entities to initiate disciplinary proceedings against the punished person. The bill also introduced definitions of such concepts as 'sexual orientation', 'gender identity', 'gender recognition' or 'gender expression' into the Polish legal order.

Psychotherapeutic services

The scale of the phenomenon of conversion pseudo-therapies is difficult to determine. The Ministry of Health does not conduct any research on this topic. What is more, the government has no control over the quality of psychotherapeutic services in Poland (you only need to register a business to open a practice, you do not even need professional training). The Commissioner for Human Rights has also clearly stated in his work the need to prohibit such practices⁴³.

A weapon of Marxism

Unfortunately, the Catholic Church is still a powerful and influential political entity in Poland. The apparent alliance of the Church with the ruling party influences current political decisions and the functioning of society. Law and Justice representatives are often 'called on the carpet' by representatives of the clergy, who - in return - openly support the government, take part in electoral campaigns, and the entire organisation reaps great financial benefits. The Polish Church is ossified and backwards, with few exceptions of priests who are

42 <https://monika-rosa.pl/wp-content/uploads/2019/02/2019.02.19-Ustawa-o-zakazie-praktyk-konwersyjnych.pdf>

43 <https://bip.brpo.gov.pl/sites/default/files/Wystapienie%20RPO%20do%20premier%20ows.%20zakazu%20terapii%20konwersyjnych,%208.10.2020.pdf>

text title not afraid to lend their voice to protect human rights. The Catholic Church, and the media associated with it, such as Radio Maryja led by Tadeusz Rydzyk⁴⁴, have undoubtedly influenced the decision about restricting the abortion law in Poland. What is more, its representatives often make trans- and homophobic statements. We should take a closer look...

Stance on LGBT+ issues by Polish Bishops' Conference

Let us start with an official document, *Stance on LGBT+ issues* by Polish Bishops' Conference from July 2020, which, for example, calls for 'treating' homosexual and transgender people⁴⁵:

- 'It is necessary to set up counselling centres (also with the help of the Church or within its structures) to help people who want to regain their sexual health and natural sexual orientation.'
- 'The demand for such counselling centres is in apparent contradiction to official opinions held in LGBT+ circles, positions considered as scientific, and so-called political correctness. However, the testimonies of people who, at some point, have come to realise that their queer sexuality is not some irrevocable judgment or irretrievable coding, but a symptom of wounds on different levels of their personality cannot be ignored.'
- 'The boundaries of due respect are also exceeded by the legalisation of same-sex unions. In the long run, their legal recognition leads to a weakening of the institution of marriage [...] Only a union between a man and a woman, in which fertile love is based on the complementarity of the sexes, constitutes a proper environment for the birth and upbringing of children and thus the foundation of a healthy society.'

These are just a few quotes from the document. But the hierarchs also use less veiled messages, for example Archbishop Marek Jędraszewski:

44 Radio Maryja is the most known ultra-Catholic media outlet in Poland. It openly agitates against the allegedly corrupting influence of the EU and the subversive role of Jews and Freemasons. It is a part of the media empire of Tadeusz Rydzyk (it includes, i.a., a TV station, a newspaper, magazines and a media school).

45 Stanowisko Konferencji Episkopatu Polski w kwestii LGBT+ (2020). Retrieved from <https://www.ekai.pl/dokumenty/stanowisko-konferencji-episkopatu-polski-w-kwestii-lgbt-dokument/>

'If we say that LGBT is an ideology that is a kind of mental plague, then we are stating that it is something that attacks and threatens us and from which we need to save ourselves and others'⁴⁶. The same Marek Jędraszewski became famous for his words about the 'rainbow plague'⁴⁷. He was echoed by Tadeusz Rydzyk: 'Now there is Marxism in the world. LGBT is also a weapon of Marxism. They want to destroy man, his soul, his family. Everything has to be rebuilt'⁴⁸. And finally, I will quote the words of Bishop Ignacy Dec: 'the so-called Pride Parade passed through the streets of Częstochowa. It is, in fact, an affirmation of demoralisation and sinful behaviour of LGBT communities, supported by the offensive of foreign centres trying to impose a neo-pagan gender ideology on Poland'⁴⁹.

Apart from this audible and influential political voice of the Church leaders, there are also Catholic circles that promote and understand the need for equality, such as the magazines *Kontakt* or *Tygodnik Powszechny*. A few courageous priests publicly stand up for the LGBTIQ+ community, for example, Father Wojciech Lemański⁵⁰. He says, "The fact that these people are not a significant part of society does not mean that they do not have the same rights as the majority. We should not fear them. As we know, if only from the recent media reports, a child can be harmed by its heterosexual father or mother. If a man chooses a man as his life partner and a woman chooses a woman as her life partner, that is their business and not others. Nobody in our country is forcing any choices on Christians. It would be good if Christians did not impose anything on anyone either. What

46 "Abp Marek Jędraszewski: „Tęczowa zaraza, jak epidemia cholery”" (December 16, 2019). *Gazeta Wyborcza*. Retrieved from <https://krakow.wyborcza.pl/krakow/7,44425,25517337,abp-marek-jedraszewski-teczowa-zaraza-jak-epidemia-cholery.html>

47 „Arcybiskup Jędraszewski o „tęczowej zarazie”" (September 2, 2019). *TVN24*. Retrieved from <https://tvn24.pl/polska/arcybiskup-marek-jedraszewski-teczowa-zaraza-zamiast-czerwonej-ra957818-2308295>

48 Podolski, M. (July 14, 2021). Ojciec Rydzyk: LGBT jest bronią marksizmu. *Onet*.

pl. Retrieved from <https://wiadomosci.onet.pl/kujawsko-pomorskie/ojciec-rydzyk-lgbt-jest-bronia-marksizmu/kp01pvv>

49 „Wielka Rodzina Radia Maryja na Jasnej Górze" (July 14, 2019). *Jasna Góra News*. Retrieved from <http://www.jasnagora.com/wydarzenie-13035>

50 *E.g.* „Ks. Lemański wspiera osoby LGBT: Mnie się tęczowe aureole podobają" (March 5, 2021). *O2.pl*. Retrieved from <https://www.o2.pl/informacje/ks-lemanski-wspiera-osoby-lgbt-mnie-sie-teczowe-aureole-podobaja-6614801601718912a>

about God? He knows much more, and He will deal with all of us somehow. I am sure of that⁵¹.

'Let us offer each other the sign of peace' from 2016 is also worth mentioning. It was the first social campaign in Poland joined by the representatives of Catholic circles at the invitation of LGBT+ organisations. Apart from KPH, the campaign was co-organised by Grupa Polskich Chrześcijan LGBTQ 'Wiara i Tęcza' (Polish LGBTIQ+ Christians' Group 'Faith and Rainbow') and Stowarzyszenie na rzecz Osób LGBT Tolerado (Association for LGBT People Tolerado). It was under the media patronage of the editors of Catholic magazines⁵².

Despite the strong political position of the Church, the number of people attending mass, declaring themselves Catholic, and of young people attending religion classes is clearly decreasing⁵³. A growing part of the society demands separation of the Church and state, as well as the end to the privileges of the clergy and the Church. The Church is becoming a symbol of greed, egoism, intolerance and backwardness. With the reduction of its political influence, there will be more space for minority rights in Poland.

Schools full of violence

According to research, as many as 70% of LGBT+ adolescents have suicidal thoughts, and nearly half of them struggle with symptoms of depression⁵⁴. We hear more and more often about suicides – young people take their own lives because they cannot stand the hatred and violence. Seven out of ten LGBT+ teenagers in Poland experience

51 Rogowska, B. (July 26, 2019). Lemański: Jak mężczyzna na partnera wybrał mężczyznę, to ich sprawa i postronny nic do tego. *Gazeta Wyborcza*. Retrieved from <https://lodz.wyborcza.pl/lodz/7,44788,25027840,ks-lemanski-jak-mezczyzna-na-partnera-wybral-mezczyzne-to.html>

52 E.g. *Tygodnik Powszechny, Znak, Więź* and *Kontakt*. The *Tygodnik Powszechny* Clubs also declared their support. <https://kph.org.pl/katolicy-i-lgbt-zapraszaja-do-znaku-pokoju-wystartowala-nowa-kampania-spoeczna/>

53 "Coraz mniej uczniów chce chodzić na religię. Rekordowe spadki w niektórych dzielnicach" (December 16, 2020). *Noizz.pl*. Retrieved from <https://noizz.pl/spoleczenstwo/spadek-liczby-uczniow-chodzacych-na-religie-nie-tylko-w-warszawie/2ggppys>

54 Świder, M., Winiewski, M. (2016). *Sytuacja społeczna osób LGBT w Polsce*. Warsaw: KPH. Retrieved from <https://kph.org.pl/wp-content/uploads/2017/11/Sytuacja-spoeczna-osob-LGBT-w-Polsce.pdf>

homophobic and transphobic violence. Violence is present at every turn – at school and home, in public places, in social and traditional media, in the statements of public figures. It is the result of neglecting anti-discrimination and sexuality education, lack of legal regulations, indifference, as well as politicians and right-wing circles fuelling homophobic attitudes. Young people often cannot find support and understanding, not only at school but also at home. 70% of LGBT+ teenagers living in Poland feel alone, only 25% experience full acceptance from their mothers, even less (12%) from their fathers⁵⁵.

Lack of sexuality education

An international report published in 2020 by the European Union Agency for Fundamental Rights shows that the situation of Polish LGBT+ students is significantly worse than their non-heteronormative and transgender peers in other EU countries. 18% of Polish respondents aged 15–17 said that the education system, at least to some extent, addresses LGBT+ issues in a positive or balanced way (the average for the other EU countries is 33%)⁵⁶.

Only one in three LGBT+ adolescents in Poland said that they could count on support and recognition of their psychosexual orientation and gender identity at school. In the rest of the EU, on average, every second student gave such an answer⁵⁷. The data clearly shows how important are: the actions of teachers and organisations, wise education, as well as access to psychological and psychiatric support (the state of Polish child psychiatry is dire⁵⁸). Young people tell stories of violence, fear, exclusion and loneliness.

There are several positive activities coordinated by NGOs that are worth mentioning.

1. ‘Tęczowy Piątek’ (‘Rainbow Friday’) organised by KPH in schools to show acceptance and solidarity⁵⁹

55 *Ibid*

56 FRA (2020). A long way to go for LGBTI equality. Retrieved from <https://fra.europa.eu/en/publication/2020/eu-lgbti-survey-results>

57 *Ibid*

58 Kalan, D. (May 6, 2021). Poland’s health system struggles to care about its young

minds. *Balkan Insights*. Retrieved from <https://balkaninsight.com/2021/05/06/polands-health-system-struggles-to-care-for-its-young-minds/>

59 KPH (2020). Tęczowy Piątek – w tym roku nie tylko w szkole. Znamy datę! Retrieved from <https://kph.org.pl/teczowy-piatek-2020/>

2. 'LGBT+ ja' ('LGBT+ me') - Fundacja Dajemy Dzieciom Siłę (We Give Children Strength Foundation) encourages teenagers to show understanding, support and acceptance of LGBT+ youth⁶⁰
3. Ranking of LGBTQ+ schools created and organised by young people, for young people and created together with young people⁶¹

Non-governmental organisations provide support and organise helplines. Acceptance and openness accompany pride parades, and there are more of them every year in various towns and cities⁶².

This attempt to build safety and protection for young LGBTIQ+ people is regularly torpedoed by the Minister of National Education, Przemysław Czarnek. I do not hesitate to call him the country's leading homophobe, as he has been punished for his statements by the MP Ethics Committee. Minister Czarnek and his department, together with the appointed school commissioners, aim to eliminate diversity, knowledge-based sexual and anti-discrimination education, as well as shape young people according to a national, Catholic, patriarchal model. Teachers and headmasters are threatened with the formal consequences of cooperating with equality organisations. Introducing sexual and anti-discrimination education carries the risk of interference from the school commissioner or extreme right-wing organisations⁶³. Sex education is called 'sexualisation of children' by officials...

'Sexualisation of children'

Unfortunately, young people also have no luck with the Children's Ombudsman, who is appointed by the Parliament. This position is currently held by ultra-conservative Mikołaj Pawlak, who does not

60 Dajemy Dzieciom Siłę (2021). Jesteś osobą LGBT+? Masz w nas sojuszników! Retrieved from <https://fdcs.pl/o-fundacji/co-nowego-w-fundacji/jestes-osoba-lgbt-masz-w-nas-sojusznikow.html>

61 Ranking Szkół LGBTQ. Retrieved from <https://maparownosci.pl>

62 Kopec, J. (July 22, 2019). Marsze Równości. Przeszło ich już w Polsce ponad 100, w tym roku padnie rekord. *Gazeta Wyborcza*. Retrieved from <https://wyborcza.pl/7,75398,25017737,marsze-rownosci-przeszlo-ich-juz-w-polsce-ponad-100-w-tym.html>

63 For example, in 2018, 'Tęczowy Piątek' was cancelled in Tarnowskie Góry due to threats and hate. Osadnik, P. (October 26, 2018). Tęczowy Piątek w Tarnowskich Górach odwołany. Licealiści pod ostrzałem hejtu i gróźb w internecie. *Dziennik Zachodni*. Retrieved from <https://dziennikzachodni.pl/teczowy-piatek-w-tarnowskich-gorach-odwolany-licealisci-pod-ostrzalem-hejtu-i-grozob-w-internecie/ar/13616286>

seem to notice the problems of the LGBTIQ+ community, does not stand up for them or take them into account⁶⁴. Instead, he actively supports the ban on abortion in Poland.

The situation of transgender students is particularly difficult. Before reaching the age of majority, they cannot initiate medical and legal gender recognition proceedings. They are, therefore, forced to function daily in their assigned gender, without the possibility of living with their gender identity. It has a negative impact on their academic progress and personal development. At school, there are problems with names, clothes, P.E. lessons, toilets... If parents are not supportive, the child will not manage to enforce anything at school on their own. There are also cases where the school is supportive, and the teachers want to help, but their hands are tied because the parent says, I do not agree.

Transgender
students

According to the Commissioner of the Human Rights, in such a situation, the school's role should be to provide a safe and non-discriminatory space for the student, including respect for their request to be addressed by their chosen name and the use of the preferred masculine or feminine grammatical forms, irrespective of their assigned gender. Due to the legal gap in anti-discrimination protection in education, as well as the aforementioned lack of jurisprudence in such cases, the behaviour of schools towards transgender students remains only under the general supervision of school commissioners and the Minister of National Education⁶⁵. Unfortunately, instead of creating a friendly school environment for trans students, they openly insult, discriminate and oppose anti-discrimination education. The actions of Krystyna Pawłowicz (former MP, now judge of the Constitutional Tribunal) illustrate the approach of leading politicians to trans students. On her Twitter account, she attacked the headmistress of a school in Podkowa Leśna for her support and respect for a transgender student⁶⁶. Judge Pawłowicz was openly supported by the school commissioner from Małopolska, Barbara Nowak. Minister

64 E.g. "Children's ombudsman says LGBT activism is unpatriotic" (September 1, 2020). *TVN24.pl*. Retrieved from <https://tvn24.pl/tvn24-news-in-english/polands-childrens-rights-ombudsman-calls-lgbt-activism-unpatriotic-4680623>

65 *Sytuacja prawna osób nieheteroseksualnych i transpłciowych w Polsce*

66 After the information about the school and the headmaster's details were disclosed, the situation was considered and the entry removed - the damage, however, was done.

of National Education Czarnek argued that as long as there is no official 'sex change', 'Krzysztof Kowalski is Krzysztof Kowalski' and the school has to 'obey the law. The fact that someone wants to be called Agnieszka today and Krzysztof tomorrow is not a question of gender change, it is not a question of the educational process, it is a question of a certain cultural and sexual revolution that we see on Polish streets⁶⁷.'

LGBT-free zones

Hate Atlas

In February 2019, the President of Warsaw Rafał Trzaskowski signed a declaration supporting the rights of LGBTIQ+ people and announced clear measures to help the community, including the provision of reliable sex education in schools. The declaration met with an immediate reaction from PiS politicians and media. There was talk of depravity and sexualisation of children. In a way, *Samorządowa Karta Praw Rodzin (Local Government Charter on the Rights of Families)*, prepared by the Ordo Iuris Institute for Legal Culture, which openly discriminates against the LGBT+ community, became a response to the Equality Charter. The document has become a model local government resolution, which can be adopted at municipal, county and voivodeship levels⁶⁸.

Encouraged by Church hierarchs, PiS politicians and right-wing organisations, local authorities adopted their versions of charters. In response, a grassroots initiative has been born to collect information about homophobic resolutions and similar lobbying activities of the right wing. That is how *Atlas Nienawiści (Hate Atlas)* was created. The creators of the *Atlas* are activists Jakub Gawron, Paulina Pająk, Paweł Preneta and Kamil Maczuga, who have been sued by some local authorities for violating personal rights⁶⁹.

67 Mazurek, R. (April 13, 2021). Przemysław Czarnek: Zakładamy, że już od 19 kwietnia będzie możliwy powrót do przedszkoli [Interview with Czarnek, P.]. *RMF FM*. Retrieved from https://www.rmf24.pl/tylko-w-rmf24/poranna-rozmowa/news-przemyslaw-czarnek-zakladamy-ze-juz-od-19-kwietnia-będzie-mo,nld,5165103#crp_state=1

68 <https://www.kartarodzin.pl>

69 Read more Luke, H. (September 30, 2020). Atlas of Hate: Activists nominated for award for tracking 'LGBT-free zones' in Poland. *Euronews.com*. Retrieved from <https://www.euronews.com/2020/09/29/atlas-of-hate-activists-nominated-for-award-for-tracking-lgbt-free-zones-in-poland>

The introduction of ‘LGBT-free zones’ compelled foreign municipalities and towns to sever partnership relations with Polish local authorities. The municipality of Saint-Jean-de-Braye (France) ended its partnership with the municipality of Tuchów, the municipality of Nogent-sur-Oise (France) has suspended its partnership with Kraśnik, Douai (France) has decided to suspend its cooperation with Puławy, the municipality of Fermoy (Ireland) has announced the end of its cooperation with Nowa Dęba, and the German municipality of Schwerte has suspended its cooperation with Nowy Sącz. Similar steps were taken by other local authorities, including Weimar (Germany) in the case of partnership with Zamość and Nieuwegein (the Netherlands) with Puławy. Breaking off partnership relations is not all, as homophobic resolutions and declarations have also led to the loss of funds from the European Union and Norwegian Funds. In July 2020, EU Commissioner for Equality Helena Dalli announced that six applications for grants under the City Partnerships programme from the European Commission had been rejected due to discrimination against LGBT+ people⁷⁰. Already in September 2020, Norway’s Minister of Foreign Affairs Ine Eriksen Soreide stated that entities that have passed resolutions on ‘LGBT-free zones’ would not receive project support from Norwegian funds while the harmful declaration is in force⁷¹. In February 2021, Szlak Karpacki (Carpathian Trail) project from the Podkarpackie voivodeship lost funding from that budget. In Wilamowice municipality, a decision was made to suspend funding for the Wilamowska Culture Museum. Five provinces in Poland faced the prospect of losing tens of millions of euros from the EU due to the resolutions. The European Commission expected these resolutions to be repealed – some voivodeships (September 2021) repealed or amended them under the pressure of budget take-offs⁷².

70 Wanat, Z. (August 3, 2020). Polish towns pay a steep price for anti-LGBTQ views. *Politico*. Retrieved from <https://www.politico.eu/article/poland-lgbtq-steep-price/>

71 Krzysztozek, A. (September 21, 2020). No Norwegian funds for municipalities with ‘LGBT-free-zones’. *Euractiv*. Retrieved from <https://www.euractiv.com/section/all/>

[short_news/warsaw-no-norwegian-funds-for-municipalities-with-lgbt-free-zones/](https://www.euractiv.com/section/all/short_news/warsaw-no-norwegian-funds-for-municipalities-with-lgbt-free-zones/)

72 „More Polish regions revoke anti-LGBT declarations over EU funds withdrawal” (September 27, 2021). *Euractiv*. Retrieved from <https://www.euronews.com/2021/09/27/more-polish-regions-revoke-anti-lgbt-declarations-over-eu-funds-withdrawal>

Rainbow night and persecution

On 7 August 2020, the most brutal confrontation between the police and the LGBTIQ+ community took place on the streets of Warsaw. During a protest in defence of Stop Bzdurom activist Małgorzata Szutowicz (Margot), officers staged an aggressive roundup and detained a total of 48 people. Among them were participants of the demonstration, as well as random passers-by⁷³.

Unjustified and prolonged detention

Margot was detained by the police because of a court decision to impose a remand in custody on suspicion of damaging a van propagating homophobic slogans and attacking its driver. On 7 August, a protest against the court decision began in front of the Campaign Against Homophobia headquarters in Warsaw and moved to Krakowskie Przedmieście. In the vast majority (80%), the courts found the arrests to be irregular. According to the judgements, the police detention was unjustified and prolonged. The courts also confirmed many circumstances revealed in the report of the National Torture Prevention Mechanism (*Krajowy Mechanizm Prewencji Tortur, KMPT*)⁷⁴ prepared by the staff of the Ombudsman Office based on interviews with 33 of 48 detainees.

According to the observations of the KMPT, among the detained were people who did not actively participate in the protest but only watched the incident. Some of these people had rainbow emblems (bags, badges, flags). However, among the detainees were also random people who, for example, went shopping and were returning home. Several interviewees drew attention to police brutality at the time of detention. Some spoke of being beaten in police cars. Others had visible injuries on their bodies, which were documented by KMPT representatives. Detainees pointed to the excessive use of direct coercive measures, e.g. handcuffing their hands behind their backs during transport, being thrown to the ground.

73 Ambroziak, A. (August 7, 2021). Rok po Tęczowej Nocy. Sądy potwierdzają: zatrzymania były brutalne i bezasadne. *OKO.press*. Retrieved from <https://oko.press/rok-po-teczowej-nocy-sady-potwierdzaja-zatrzymania-byly-brutalne-i-bezasadne/>

74 Biuro RPO (August 8, 2020). KMPT wizytuje policyjne miejsca detencji po nocnych zatrzymaniach w Warszawie. Retrieved from <https://www.rpo.gov.pl/pl/content/kmpt-wizytuje-policyjne-miejsca-detencji-po-nocnych-zatrzymaniach-w-warszawie>

Everyone who spoke to representatives of the KMPT drew attention to the chaos among police officers. At the time of the apprehension, they did not know the reasons for their detention. After some time, the reasons for the detention were indicated, for instance, a violation of the so-called Covid Act. In the end, most of the detainees were charged with an act under Article 254 of the Criminal Code, i.e. participation in a gathering with the knowledge that its participants are committing a violent attack on a person or property. The detainees had no information as to where they would be transported⁷⁵.

When courts decided on the legitimacy of the detentions, they mainly focused on two aspects – purposefulness and proportionality. The majority of the decisions (86%) confirmed that the use of such drastic measures was unnecessary, as the persons had been identified, and there was no fear of escape or covering traces. According to one of the rulings, ‘Documenting the identification with an appropriate note could have ended the case and, depending on the assessment of the evidence gathered, could have resulted in a summons being issued as a suspect or defendant.’ In another, the court stated that since the police knew the address and identity of the detainee, the transport and detention at the police station for 20 hours was entirely unjustified.

Rainbow night was a hard clash between the LGBTIQ+ community and civil attitudes with the brute force of the police and state institutions. It exposed prejudice. Rainbow night remains in the memory of activists and mobilises them to act. Police brutality also triggered human solidarity, for instance, support from pro bono lawyers (such as the Szpila Collective) and pickets in support of detainees.

The state’s response to the activists’ actions is constant dragging through the courts, accusations, trials, police harassment and the use of media propaganda against them. The activists who distributed stickers with the image of the Virgin Mary in a rainbow halo were charged by the prosecution with insulting religious feelings. In 2019, one of them, Elżbieta Podleśna, was detained by the police, her flat was searched, and her laptop was confiscated. In March 2021, the activists were acquitted of offending religious feelings by a court in Płock. The court found that they did not want to offend anyone, only draw attention to the problem of discrimination against LGBT+

Police brutality and
human solidarity

75 *Ibid*

people⁷⁶. Bart Staszewski, who is the creator of a visual project informing about LGBT-free zones (in connection with local government resolutions), is regularly sued for violation of personal rights by some local governments⁷⁷. The creators of *Atlas Nienawiści* are being sued.

Less colorful V4

Compared to the region, Poland looks bad. Although none of the Visegrad Group countries is known as a particularly good place to live for LGBTIQ+ people, the situation in Slovakia and the Czech Republic is better⁷⁸. It is true that in Slovakia, it is not possible to formalise same-sex relationships, but the Czechs have long had the right to enter into civil partnerships, and the citizens are open to marriage equality (work is ongoing in the Parliament).

On paper, Hungary - the leader of the Rainbow Europe ranking among the V4 members - also looks good compared to Poland, but the reality is less colourful and more brown and grey.

Fidesz
and Jobbik

In December 2007, Hungary passed a law on same-sex and opposite-sex partnerships. Couples who enter into a union will have almost all the rights of married couples (no possibility of adopting children or taking the partner's surname). Just like in Poland, LGBTIQ+ rights have become a tool of political struggle and propaganda. As a result, in 2021, a law criminalising the existence of LGBT people in public space was introduced. The Hungarian Parliament, with the votes of the ruling Fidesz party and the far-right Jobbik party, passed a law (modelled on the Russian one) prohibiting the provision of any content about the LGBTIQ+ community to minors.

I fear that across the region, populists of all sorts will exploit fear and resentment towards LGBT+ people for their short-sighted ends. LGBTIQ+ rights cannot be taken for granted anywhere. Czechs,

76 „Polish court acquits LGBT activists in rainbow Virgin Mary case” (March 2, 2021). *DW.com*. Retrieved from <https://www.dw.com/en/polish-court-acquits-lgbt-activists-in-rainbow-virgin-mary-case/a-56749372>

77 Kołodziejak, A. (April 22, 2021). Bart Staszewski, Polish Activist Behind the

Campaign Challenging ‘LGBT-Free Zones’, Acquitted by a Local Court. *Wyborcza.pl*. Retrieved from <https://wyborcza.pl/7,173236,27008488,bart-staszewski-polish-activist-behind-the-campaign-challenging.html>

78 According to the Rainbow Europe ranking.

Slovaks, Hungarians and Poles must be ready to defend them against the Kaczyńskis, Orbáns and their ilk.

Conclusion

More than 30 years after the beginning of Poland's democratic transformation, the legal situation of the LGBTIQ+ community has changed very little. Several important organisations working for equality have been established (KPH, which celebrates its 20th anniversary, Miłość Nie Wyklucza, Tolerado, Lambda Warszawa, My, Rodzice, Trans-fuzja, Wiara i Tęcza and many others operating throughout Poland). The Pride Parade in Warsaw used to be heavily protested. Today 50.000 people proudly and peacefully march through the capital. Pride parades take place in towns and cities. On the one hand, we are witnessing increasing openness and activism of communities and allies (including public coming-outs), on the other hand, a rising wave of aggression from politicians and right-wing media. Years of PiS rule have deeply divided society, and the state media are spewing hatred and propaganda. The role of the new, hopefully, a democratic and civil majority will be to carry out substantive legislative work for equality (legalisation of unions, marriages, gender recognition procedure, etc.) and educational work (in schools, universities and throughout society).

Two million Polish women and men

Special emphasis will have to be placed on anti-discrimination education and legislative changes regarding the rights of transgender people. Fortunately, the topic of trans people's problems has come out of the shadows – in books, media publications and reportages⁷⁹; NGOs are active, adult transgender people and parents of transgender children talk about their experiences.

We, politicians, legislators, teachers, judges, the whole society, have a lot of work to do. Necessary work – because it saves the happiness, health, and lives of two million Polish women and men, people from the LGBTIQ+ community.

79 For example, an episode of Czarno na Białym programme – *Wolę mieć żywego syna niż martwą córkę (I would rather have a son*

than a dead daughter) <https://tvn24.pl/go/programy,7/czarno-na-bialym-odcinki,11367/odcinek-986,500E986,48534>

quote

I fear that across the region, populists of all sorts will exploit fear and resentment towards LGBTIQ+ people for their short-sighted ends. LGBTIQ+ rights cannot be taken for granted anywhere. Czechs, Slovaks, Hungarians and Poles must be ready to defend them against the Kaczyńskis, Orbáns and their ilk.

interview

I chose my own life

written by

Joanna Łopat

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Emilia ⁽³³⁾ / Warsaw

Do you remember the moment when you felt that you were born in the wrong body?

This question concentrates on the body and the physical, while there's more to being transgender than the body. In my case, I started wondering about myself when I changed my surroundings. To be exact, when I moved to Warsaw to study.

Could you describe this time of change - of your surroundings and yourself?

To answer this question, I have to describe the local and social context. I come from a village on the border between two voivodeships - Mazowsze and Lublin. It's a very conservative region. I went to school in a small town, and I was a good student, and won science olympiads. And because of that, I was respected by teachers, but not so by my peers. And I was also a child who had their future quite precisely designed for them. 'He'll go study this and that and then become the president,' I was often told. Even if I had some ideas for the future, they weren't exactly mine.

Warsaw turned out to be a place where I could think about myself without feeling judged by others. There were 'others', but they were 'new others'. Real strangers. I was completely anonymous. It was partly alienating but partly pleasant. And in those circumstances, I started to think about who I was.

Additionally, I started living in a dormitory, which is a gender-divided world, and each floor is gender-designated. It was there that I very clearly noticed that the world is divided in half. It started to be a source of questions and various thoughts I didn't have before. For example, I really wanted to paint my nails.

So it was an ongoing process?

Yes. I have been discovering the truth about myself gradually. Thanks to that, I think, it was easier to accept. Perhaps my brain used such a clever trick so that I wouldn't be frightened by it all. It wasn't until my second year of university that I found myself in the LGBT+ community and began to reflect on my identity and orientation. At first,

I couldn't admit to myself that there could be more to it. I remember somebody asking me by what name they should call me and which pronouns to use. I was evasive and said that it wasn't what they thought. That it was more of a cultural thing than a psychological one. And in hindsight, I see what a strange distinction it was.

What was more cultural than psychological?

My appearance. Because then it all was getting serious. I allowed myself more and more. I had more freedom with make-up, self-expression and felt better with myself thanks to that. Finally, I went to a support group meeting and there I knew what was happening, and I was learning who I was.

How much time passed between arriving in Warsaw and the moment 'you knew who you were'?

A year and a half.

I guess that the LGBT community gave you the space for unrestrained discovery. What about the dormitory? I can see in my mind that building, divided into male and female floors and you inside. How did you fare in those worlds?

I have developed various ways of functioning. Most importantly, I outed myself to chosen people. I compromised. Many people thought that my appearance was an expression of a subculture, not my identity.

Did you succeed?

Yes and no. I had a roommate who was a hardcore Legia [football club] fan. He went to [far-right] Independence Marches and ultras zones, but we got on well together. I had to keep to male pronouns with him, though. That's how I protected myself.

I also had a sexist and homophobic roommate. His disdainful comments were ultimately the reason I moved to another room.

Did you come back home?

I did. I came back to this seemingly perfect world. And one time - just before starting hormonal therapy - I outed myself to my mother. It ended badly, with an exorcist. I couldn't deal with it. I backed out, and we put the 'don't ask, don't tell' rule between us. In the end, this destroyed my relationship with my mother. Now she's trying to do something resembling acceptance, but I've learnt to live without it. Finally, I became an authentic human, and I live a real life, but she's not a part of it. Years later, I found that this lost time was impossible to make up.

You didn't make her wish for you come true. These clashes between expectation and reality are always painful.

Before I left my village, I had this idea that I was entitled to something from life, and I would just get it. In reality, it didn't come to pass.

Instead, I chose myself. And when it was happening, the world started to shut the door in my face.

Which doors have closed? To what?

To certain career opportunities. But I was also shutting myself away. Because this world drowning in transphobia was stirring up all sorts of fears and anxieties in me, and I didn't always want to confront it. That's why I spent a lot of time in catering. Then in a copy place. And then I finally got my first serious job, where I believed in myself. It was in an intervention hostel. There I saw that what I wanted to do made sense. I finished a good university course, became an activist, got into social engagement, created a network of important friendships.

You raised an important issue - the presence of transgender people on the job market. What does it look like?

The general picture is bad. When you look closer, it's still bad. Because even in workplaces declaring that they're trans-friendly, the atmosphere tends to be heavy. And sometimes it's tough at the beginning but it ends quite well. I'll give you an example.

After the intervention hostel closed, I found myself in a crisis. I was looking for work, and it turned out that they were looking for an assistant bartender in a popular bar associated with being LGBT-friendly. I applied and decided not to out myself at the very beginning. For the interview with the bar's owner, I went without make-up and I used male pronouns. Once I had demonstrated skills important in that workplace, I ended by telling her that I am a transgender person and go by the name Emilia. I got an answer that it was not a problem.

A few hours later, I got a message that she thought it through and that position was not suitable for a girl. I've learnt my lesson through life and could see that it was rubbish. I called and said that I wasn't afraid of physical work, we had already established that during our meeting. And at one point, she admitted that 'she doesn't want to take me on because she is worried about how others will react to me, and she doesn't want unrest in the team.'

I cried for a bit and started to write a post on Facebook. Within an hour of its publication, all hell broke loose. There were hundreds of comments. And the same evening, the bar's manager called with an invitation to a meeting. In the meantime, I was contacted by the media. The bar fell silent. They didn't publish any posts to try and whitewash the situation - only a perfunctory comment that they were in talks with me.

As a result of those talks - a few of them - I got the job. And the bar ran an anti-discriminatory training for the team. So this story has a happy end. I only wanted to get that job, and it turned out to be activism. It gave me a sense of victory. Not only a private one.

Because this story shows other transgender people that they have a chance. Though, I was in a privileged situation - I had access to social networks, lived in Warsaw, and the story was about a place with an established LGBT-friendly reputation. Other people in a similar situation but different circumstances do not always have such possibilities.

I guess it was also a place where you could feel safe and not expect a discriminatory blow. But there are places where danger is more obvious. Do you feel in danger in everyday situations?

I haven't experienced a really dangerous situation in my life. But it's because of my skill of calculating potential threats. When I walk

down the street, I judge from a 10-meter distance who can turn out to be dangerous. Ten meters is enough for me to work out a possible escape route. And according to my rough calculation, 80% of people I meet I consider a potential threat. It's the bitter secret behind my success. And the success is that I've never been in a situation that could end badly for me. But this just goes to show that I live in fear.

Is it that bad?

There are many places where I feel safe and comfortable. But I need to prepare myself mentally each time I go out.

Do you come back to your village?

I'm at this moment in my life where I'm self-aware and try to be uncompromising. I don't want to let anyone who doesn't accept that I chose myself into my life. I don't want to come back to that world as not myself, but there's still fear in me - what will happen if I put myself to people who were important to me in that world before I moved to Warsaw. My mother was always worried about one thing, 'as long as nobody in the village finds out'. She always said, 'when you come here, dress normal'. And to show how this mechanism of shame works in small communities, I will tell you about one of my conversations with my mother. I asked her, 'If neighbours had a child like me, would you talk about it? Would you gossip with others?' And she gave me an answer which stunned me. She said, 'Of course!'

So she was honest.

Yes. But this shows the reality. The reality in which you need to hide yourself, but information about others is gathered eagerly and meticulously. Because if neighbours find out something about you, it's important to have some story to counter them. I can't live with such a feeling of shame, and my mother's shame hurts me.

Did you finally go to the village as yourself?

I sometimes visited my secondary school in make-up and with my nails painted, but I never outed myself. And years later, I feel a sense of loss. Because, for example, I would like to out myself to my secondary school form tutor. I would like to do this to symbolically reclaim those secondary school years. Because later my life has become sharply divided. That world is completely separated from my life in Warsaw. I lived as an alleged boy then. So I don't know what people who were alright towards me then would turn out to be. And I don't particularly want to find out. I don't really want to face this truth.

quote

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II Bulgaria & Romania

LGBTI+ Families: Legal situation and acceptance

written by

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Introduction

This article aims to present the attitudes of Bulgarian society towards LGBTI people and in particular towards LGBTI families, to make a comparison with LGBTI families' legal situation and acceptance in Romania, to give an insight into the current legislation in relation to the lives and rights of LGBTI families, as well as to summarise the consequences of the current discriminatory status quo regarding same-sex families.

Public opinion

Bulgarian's perception of and attitude towards the rights of LGBTI families should be examined in comparison to the acceptance of LGBTI people in general. Research in this area is lacking and the little data we have does not provide reasons for optimism.

Eurobarometer's data from 2015 shows that only 51% of respondents believe that LGB people should have the same rights as heterosexuals, with this percentage dropping to 39%¹ in the 2019 survey. The data regarding the acceptance of LGBTI people in their own families is also negative. According to Eurobarometer's data, only 13-14% of respondents would accept it and feel comfortable if their child was in a same-sex relationship.

A different picture of public attitudes is provided by the data released in November 2019 by the market research agency Noema in cooperation with the three organisations working to protect the rights of LGBTI people in Bulgaria - Glas Foundation, Bilitis Foundation and LGBTI Deystvie; they conduct a nationally competitive survey *Attitudes towards LGBTI people in Bulgaria*².

The survey provides an opportunity to look at more optimistic data, while at the same time, it should be noted that the wording of

Attitudes towards
LGBTI people
in Bulgaria

1 According to the 2015 Eurobarometer Special Surveys on Discrimination in the EU (Special Survey 437, full report in English available at <https://europa.eu/eurobarometer/surveys/detail/2077>) and 2019 (Special Survey 493, full report in English,

<https://europa.eu/eurobarometer/surveys/detail/2251>).

2 Report published on the website of Bilitis Resource Center Foundation, <https://bilitis.org/resursi/>

the questions themselves probably influences this. For example, according to the Noema survey, acceptance of the belief that 'human rights should be guaranteed to everyone, regardless of whether they are attracted to their own or the opposite sex and what gender they identify with' was 79% (of whom 53% strongly agreed with this statement and 26% generally agreed).

On the question relating to the legal regulation of same-sex partnerships, formulated in terms of whether 'the property and non-property relations of same-sex couples living in de facto cohabitation should be regulated by law in the same way as those of heterosexual couples living in de facto cohabitation', 44% of responses answered in the affirmative (far exceeding the 14% acceptance of the 2019 Eurobarometer's data).

Although somewhat more optimistic than the Eurobarometer's data, Noema's data on the attitudes towards the acceptance of homosexual and/or bisexual children by their parents is more conservative and pessimistic, with the overall proportion of non-accepting parents exceeding 60%.

LGBTI organisations contributing to the research on Bulgarian LGBTI families

Despite many openly LGBTI families that already live in Bulgaria (some of which have children), there is still a lack of detailed data that would summarise the experiences of LGBTI families from their point of view - in terms of their acceptance in society, their treatment by the law, their ability to participate in the redistribution of public goods. One of the few exceptions is the study published in 2017 by the Bilitis Resource Center Foundation, dedicated entirely to LGBTI families in Bulgaria, mostly living in big cities.³

The study, which is based on 26 semi-structured interviews with representatives of LGBTI families in Bulgaria, provides a broad insight into the so-called 'legally and institutionally entrenched discrimination', expressed in the lack and/or restriction and hindrance in the

3 Bilitis Resource Center Foundation (2017). *Semeystvata na dagata v Bulgariya*. Retrieved from <https://bilitis.org/wp-content/uploads/2021/08/RainbowFamilies.pdf>

use of publicly accessible health and social services, the daily difficulties faced by families, as well as possible ways to deal with them. The study illustrates the problems associated with receiving health care, such as being denied access to information about a partner's health status, being denied hospital visits and being unable to make life-saving decisions. Furthermore, the study shows how the inability to establish a legal relationship for both parents of children in same-sex families impedes the exercise of parental rights, as well as the recognition of kinship between children in the same family (in the cases where they have different parents listed on the birth certificate but are being raised by the same pair of parents).

In 2019, Youth LGBT Organisation Deystvie, in cooperation with the Center for the Study of Democracy, conducted a study on the legal possibility for Bulgarian same-sex families to exercise their right to freedom of movement in the EU, while also conducting interviews with same-sex families and tracking their experiences in this regard. In addition to including an extensive analysis of the Bulgarian legal framework (or rather the lack of it) regarding marriage/registered partnership/cohabitation in the case of LGBTI families, the study also provides an opportunity to analyse this framework through the experiences of same-sex couples living both in Bulgaria and abroad.

For example, most couples say that the legal implications of getting married and cohabiting are the main reason why most of them decide to marry their same-sex partner abroad. In doing so, the couples resolve issues related to obtaining the status of a family member of their partner, the possibility of legal recognition of shared parental rights, access to health services.

The issue of the 'family member' status of a Bulgarian citizen has been particularly relevant during the Covid-19 pandemic. According to the Legal Program of Youth LGBT Organisation Deystvie, in the context of the pandemic, it has become extremely important for LGBTI Bulgarian families living abroad to have a marriage or other form of legal recognition of the relationship, especially for countries that fall outside the European Union and within the so-called 'red zone' - in such cases, only Bulgarians and their family members are allowed to enter Bulgaria. By being unable to show official documents for their partnership/family status they risk not being allowed to enter the country, thus hindering the life of the family/partners as a

Covid-19
pandemic

whole, their relationship with relatives on the territory of Bulgaria, the related property and/or property rights of the family/partners.

In Romania

A recent survey of Romanian society's attitudes towards LGBTI rights shows increased support, with 43% saying they support legal recognition of same-sex couples through registered partnership or marriage⁴.

In the same survey conducted by Accept Association, a non-governmental organisation working to protect the rights of LGBTI people in Romania, notes that there are many regional differences when it comes to the acceptance of same-sex partnerships⁵. For example, eastern and southern Romania are mostly conservative and tend to reject LGBTI families, compared to the population in western parts of Romania, which is more accepting. The same can be said about the population under 35, who are more likely to support the need for regulation of same-sex families.

Compared to Bulgaria, where, to date, political leaders have not taken any action to regulate same-sex partnerships and/or marriages, in neighbouring Romania, several attempts have been made in this regard in the last 13 years. Since 2008, 8 bills have been proposed for discussion in the Romanian Parliament, although none of them has garnered the required number of votes nor been supported by the ruling coalition and the government. On the contrary, the government usually refers to the argument that such a law is unnecessary because there is no social and societal need for it. In some cases, the authorities have even publicly stated that same-sex domestic partnerships are against public order and morality.

Notwithstanding this fundamental difference – the possibility of a formal debate and vote on a draft law to regulate same-sex families – the legal situation in Bulgaria and Romania is quite similar, as there is no legal recognition of the partnerships, the children who are raised by them and the rights associated with them.

Attempts to regulate same-sex partnership in Romania

4 Study commissioned by ACCEPT Romania, available here: <http://www.acceptromania.ro/wp-content/uploads/2021/04/>

CultMR_ACCEPT_Cercetare-familie-si-casatorie-1.pdf

5 *Ibid*

Bulgaria lagging behind

Bulgaria is far behind the rest of Europe when it comes to the recognition of same-sex unions and does not provide any form of legal protection to LGBTI families. The 1991 Constitution of the Republic of Bulgaria defines marriage as a voluntary union between a man and a woman⁶.

Constitutional definition of marriage

The Constitutional Court (CC) finds that the understanding of marriage as a union between a man and a woman is deeply rooted in Bulgarian legal consciousness and tradition and is, therefore, the basis of the constitutional framework.⁷ According to the CC, the Constitution elevates the different biological sex into an imperative for those entering into marriage. The same understanding is shared by the Supreme Administrative Court, according to which the same sex of persons is an obstacle to marriage under Bulgarian law⁸. It should be noted, however, that in the previous Bulgarian constitutions - the 1879 Constitution of Tarnovo, the 1947 Constitution of the Republic of Bulgaria and the 1971 Constitution of the Republic of Bulgaria - marriage was not defined as a union between a man and a woman⁹. This calls into question the conclusion of the CC stating that the understanding of marriage as a union between a man and a woman is deeply rooted in the Bulgarian legal tradition. In fact, this definition of marriage is quite new to our constitutional framework and was first found in the 1991 Constitution of the Republic of Bulgaria.

Marriage creates a series of rights and obligations, which are regulated in dozens of normative and sub-normative acts of the Republic of Bulgaria. For example, married partners can use the benefits provided for young families in the *Personal Income Tax Act*, according to which young families can benefit from tax relief by deducting from their annual tax bases the mortgage interest payments made

6 Article 46 of the Constitution of the Republic of Bulgaria, 1991

7 Decision No. 13 of 27.07.2018 of the Constitutional Court of the Republic of Bulgaria in case No. 3/2018 (on the incompatibility of the Council of Europe Convention on preventing and combating violence against

women and domestic violence with the Constitution of the Republic of Bulgaria)

8 Decision No. 6269 of 18.05.2017 in administrative case No. 6474/2016 of the Supreme Administrative Court

9 Article 38 of the 1971 Constitution of Republic of Bulgaria

during the year¹⁰. Married spouses are not taxed on property acquired through a donation between direct relatives and between spouses¹¹. Spouses may enjoy the right to temporary incapacity benefit due to a general illness – for care or accompaniment during an examination, tests or treatment of a sick spouse¹²; they may decide on surgeries and medical procedures for their partner; they may visit their partner in a hospital. In case of a need for transplantation of tissues, organs or cells, spouses in a legally concluded civil marriage may donate such to each other¹³. In the event of the spouse’s death, the surviving spouse may benefit from the right to a survivor’s pension if they meet the conditions for it¹⁴, is entitled to a lump sum in the event of the death of a spouse¹⁵, is entitled to an inheritance¹⁶, and in case of a will, the surviving spouse is entitled to a reserved part of the inheritance¹⁷. The surviving spouse is also entitled to a leave of absence¹⁸. Upon the birth of a child, spouses are recognised as parents of the child by virtue of the Family Code of the Republic of Bulgaria, without having to prove parentage¹⁹. Upon birth, the husband of the woman giving birth is entitled to paid parental leave for a period of 15 days after the child is discharged from hospital²⁰. With the mother’s consent, after the child reaches the age of 6 months, the father may use the leave in her stead for the remainder of up to 410 days²¹. Spouses may adopt a child together²². Spouses in a legally concluded marriage have the right to refuse to testify against their spouse/partner²³. They are not criminally liable for covering up a crime committed by their partner²⁴.

10 Articles 17 and 22a of the Personal Income Tax Act

11 Article 44 of the Local Taxes and Fees Act

12 Article 13 of the Social Security Code

13 Article 26 of the Transplantation of Organs, Tissues and Cells Act

14 Articles 11–13 of the Social Security Code

15 Article 11, para. 2, Article 12, para. 2 and Article 13, para. 2 of the Social Security Code

16 According to Article 9 of the Inheritance Act, a ‘spouse’ is always an heir, but the same is not true for a partner to whom the deceased is not married

17 Article 14 in conjunction with Article 29 of the Inheritance Act

18 Article 157 of the Labour Code

19 Articles 60 and 61 of the Family Code of the Republic of Bulgaria

20 Article 163, para. 8 of the Labour Code

21 Article 163, para. 10 of the Labour Code

22 By argument to the contrary, Articles 79–82 of the Family Code

23 Article 119 of the Criminal Code of the Republic of Bulgaria, Article 48 of the Administrative Procedure Code of the Republic of Bulgaria, Article 166 of the Code of Civil Procedure, Article 58 of the Tax and Social Insurance Procedure Code

24 Article 294 of the Criminal Code of the Republic of Bulgaria

Marriage
as a human right

Discrimination
against own citizens

These rights acquired by a spouse after marriage, such as the right to allowance, the rights regarding a family home, the settlement of property relations between spouses in case of divorce are only a small part of all rights arising from normative and sub-normative acts currently in effect in the Republic of Bulgaria. If we consider marriage as a human right, then the definition from the Constitution and the perception of the Constitutional Court of what marriage is and who can marry severely limit the human rights of homosexual people in Bulgaria. In particular, with the adopted definition of marriage, the Constitution creates a precondition for legally established discrimination against homosexual people. As long as they do not have access to marriage, they will not be able to enjoy the rights described above²⁵.

Homosexual partners in Bulgaria not only do not have access to marriage but also to another legal institution to regulate their relationships. Bulgaria refuses to recognise the legal consequences of same-sex marriages concluded abroad²⁶, except in cases where the right to free movement of EU citizens and their family members is guaranteed²⁷. Thus, Bulgaria creates conditions for discrimination against its own citizens who choose to live and work in another EU Member State and blocks the way for their return. This creates conditions for violations of legal security and freedom of movement in the European Union. Due to the lack of legislation here and the lack of legal recognition of a civil marriage concluded abroad, a legal relationship exists in one Member State and is completely non-existent in another Member State, disproportionately affecting the interests

25 For the discriminatory treatment of homosexual partners in Bulgarian legislation, see: *Study of Bulgarian legislation currently in force at regulation level with regard to the rights granted to married couples and different-sex couples living in de facto cohabitation compared to the rights of same-sex couples*, published by LGBTI Organisation Deystvie, available here: https://9a3ab710-e9a6-4ad4-89bc-9c1491237b13.filesusr.com/ugd/84be43_9f659966cd554ee597d3c32efffe6d46.pdf

For the discriminatory treatment of homosexual partners in the criminal law of the

Republic of Bulgaria, see: *Bulgarian criminal law and the LGB people. Analysis of the existing framework and strategy for change*, published by LGBTI Organisation Deystvie, available here: <https://www.deystvie.org/post/analysis-and-recommendations-for-amending-the-criminal-legislation-in-bulgaria>

26 Judgment No. 6269 of 18.05.2017 on adm. case No. 6474/2016 of the Supreme Administrative Court

27 Judgment No. 11351 of 24.07.2019 on adm. case No. 11558/2016 of the Supreme Administrative Court

of homosexual people in a relationship or marriage. Therefore, it can be concluded that the lack of a legal framework and legal protection of family relations of same-sex persons in Bulgaria threatens the legal security and principles of the Union, and thus the fundamental principles on which the Union is built, namely democracy.

The lack of regulation of LGBTI people's family relations in the Republic of Bulgaria, as well as the disregard for the legal consequences of the family relations between them abroad, creates a legal vacuum in which Bulgarian LGBTI people are forced to exist. The lack of recognition of the legal consequences of these relationships undermines human dignity, individual freedom and equality before the law. It amounts to institutionalised discrimination, which often leads to legal paradoxes and violations of Bulgaria's obligations to the European Union and the European Court of Human Rights.

What does the case law dictate?

In recent years, the case law concerning family law issues of LGBTI people has been developing. Unequal treatment of same-sex families before the law is increasingly becoming a reason for referral to domestic and international courts. For example, the Supreme Administrative Court of the Republic of Bulgaria found that the refusal of the Migration Directorate with the Ministry of the Interior to grant the right of residence to the wife of an EU citizen only on the grounds that their marriage was homosexual was contrary to substantive law and the act of the Migration Directorate was subject to cancellation, and the competent authority was obliged to issue a new administrative act granting the right of residence²⁸. The court reasoned its judgment with Judgment of June 5, 2018 on Case C-673/16 CJEU and held that in cases where an EU citizen had used their freedom of movement by going to a Member State other than that of which they are a citizen, have actually been residing there in accordance with Article 7(1) of Directive 2004/38/EC, and during that time they had created and

²⁸ Judgment No. 11351 of 24.07.2019 on adm. case No. 11558/2018 of the Supreme Administrative Court

strengthened a family life with a third-country national of the same sex with whom they are bonded by a marriage legally entered into in the host Member State. Article 21(1) of the Treaty on the Functioning of the European Union (TFEU) should be interpreted so as not to allow for competent authorities of the Member State to refuse to grant the third-country national a right of residence in the territory of that Member State on the grounds that the law of that third country does not provide for same-sex marriage. In addition, Administrative Court Sofia-City added that the refusal of the Migration Directorate to recognise a marriage between EU citizens of the same sex was a violation of Article 21(1) TFEU and accordingly restricted C.'s right to move and reside freely on the territory of the EU. For the first time, a Bulgarian court handed down a judgment recognising the legal consequences of a marriage between persons of the same sex concluded abroad.

At the same time, the same Supreme Administrative Court ruled against the recognition of the legal consequences of a marriage concluded abroad between persons of the same sex²⁹. The reasons for the refusal of the Supreme Administrative Court are the existing restrictions in the Constitution of the Republic of Bulgaria and the Family Code, which both define marriage as a union between a man and a woman³⁰. In addition, Bulgarian authorities share the understanding that recognising the legal consequences of same-sex marriage would be contrary to Bulgarian public policy³¹. At the same time, the Bulgarian state has not created a legal framework to regulate the institution of a registered partnership or another form of recognition of the relationship of persons of the same sex.

The recognition of the right to family life in the present case of D.K. and L.B. and the protection of that right guaranteed by the state through law is crucial to the existence and well-being of the two applicants separately and as a family. Through the registration of their marriage, D.K. and L.B. seek to gain publicity of their marital status in relation to public authorities and society as a whole, namely that

²⁹ Judgment No. 17003 of 12.12.2019 on adm. case No. 4245/2018 of the Supreme Administrative Court

³⁰ Judgment No. 17003 of 12.12.2019 on adm. case No. 4245/2018 of the Supreme Administrative Court

³¹ *Ibid*

they have common life plans, consider themselves a family and take on responsibilities together. The refusal of authorities to recognise their marriage is a gross interference with their right to family life and endangers their marital relationship. The applicants are open about their relationship and their marriage to their families, at work, in society and among their friends. They have never hidden their relationship and their only desire is to deepen it. In the light of the Bulgarian authorities' refusal to register the marriage of two Bulgarian women concluded abroad, it can be summarised that the Republic of Bulgaria violates the rights of LGBTI people with a lasting relationship, as guaranteed by the European Convention on Human Rights (ECHR), and it should define marriage as a gender-neutral union.

Another interesting case in the development of the LGBTI families' rights in Bulgaria is the case of the so-called 'Baby Sara', who was born in 2019 in Spain in the family of V.M.A. - a citizen of the Republic of Bulgaria, and her partner, who is a citizen of the United Kingdom. In the child's birth certificate, both women are registered as parents of the child. The child cannot acquire Spanish citizenship, as neither parent is a Spanish citizen. The child cannot acquire British citizenship either, because the child is a second-generation born outside the United Kingdom and therefore is not entitled to British citizenship³². After receiving a refusal from the United Kingdom, the other mother of the child, namely the Bulgarian V.M.A., who is registered in the Spanish birth certificate as a legal parent, submitted an application to Sofia Municipality to draw up a Bulgarian birth certificate for the child S.J.K.A. As can be seen from the legalised translation provided, V.M.A. and C.J.K. have been entered as the parents of the child S.J.K.A. Apparently, both persons are female. By a letter to V.M.A., she was given a 7-day period to provide evidence containing information about the child's parentage in relation to her biological mother. With a filed application, the applicant has stated that she could not and was not obliged to prove such information under any law and by-law in force in the Republic of Bulgaria. As a result, Sofia Municipality, Pancharevo District issued a letter constituting a refusal to issue a Bulgarian birth certificate reflecting the birth of S.J.K.A. and including both her parents - V.M.A. and C.J.K.

'Baby Sara'
case

Refusal to issue a Bulgarian birth certificate

³² British Nationality Act 1981.

Discrimination
against the child
on the basis of her
parents' sexual
orientation

It is important to note that an obligation to provide such information is not present in any normative or sub-normative act of the Republic of Bulgaria. Moreover, a requirement to provide information concerning the child's biological parent, which in essence constitutes 'personal data' within the meaning of Art. 8 CFREU, should be collected and processed for specific purposes in accordance with the legitimate grounds provided by law. No legal basis was given to the applicant V.A. On the contrary, after she refused to provide this personal information, Sofia Municipality has not provided the legitimate purpose and legal grounds for requesting this information. The only objective that the Bulgarian administrative authorities pursue with the requirement of information concerning the child's biological parentage is to discriminate against the two women on the basis of their sexual orientation and to discriminate against the child on the basis of her parents' sexual orientation, civil status and nationality. The status of a parent recognised by one Member State in that Member State must have legal effects in another Member State without the imposition of an additional obstacle, such as proof of biological parentage in this case.

No right to
exercise European
citizenship

As a result of the competent Bulgarian authorities' refusal to issue a Bulgarian birth certificate based on the Spanish birth certificate, which includes two persons of the same sex, the child S. – a European citizen, remains without the right to exercise her European citizenship. At present, the child S.J.K.A. has no personal documents and cannot leave her country of birth (Spain) to visit her relatives in Bulgaria and the United Kingdom. The case is currently pending before the Court of Justice of the European Union, and its judgment will be decisive for what constitutes a family within the meaning of EU law and the obligations of Member States to recognise the legal consequences of family law relationships established in another Member State³³.

Conclusions

The lack of legal regulation of same-sex couples' family relations, as well as legal regulation for recognising the legal consequences of

33 CJEU, *Stolichna obshtina, rayon 'Pancharevo'*.
Case C-490/20

Failure
to regulate

same-sex marriage concluded abroad, constitute legally established discrimination and affect disproportionately the rights and freedoms of LGBTI people in Bulgaria. All EU and third-country nationals who come/want to reside in Bulgaria are also affected. These legislative shortcomings put LGBTI people and their families at risk and undermine their human dignity. Access to marriage should be seen as a fundamental principle of democracy because marriage regulates multiple issues. The lack of such regulations for homosexual persons affects them disproportionately. Failure to regulate the rights of same-sex families leads to huge financial losses or unrealised benefits for LGBTI people, with research showing that these amount to about half a million BGN for the average Bulgarian³⁴. Scientific research shows that the financial, psychological and physical well-being of LGBTI people is improved by marriage³⁵. Sociological research shows that the exclusion of homosexual people from the circle of persons for whom marriage is available promotes homophobia in society³⁶. Recognition of the LGBTI families and their right to marry is a sign of democracy and rule of law in a country, and as such legal form of recognition of same-sex families should be adopted.

34 Study of the current Bulgarian legislation at the level of statutory instruments regarding the rights granted to married couples and to different-sex couples living in de facto cohabitation in comparison with the rights of same-sex couples, Autor: Youth LGBTI

organization Deystvie, available here: <https://www.deystvie.org/reports>

35 Inter-American Human Rights Court backs same-sex marriage. (2018, January 10). *BBC News*

36 *Ibid*

interview

Who is the mum in your relationship?

written by **Joanna Łopat**

Miro ⁽³⁷⁾ & **Ivan** ⁽³¹⁾ / Sofia

When I was preparing for our conversation, I found a report by ILGA-Europe about the situation of LGBTIQ+ people in Europe. It was published before the European Parliament elections. According to the report, there are significant differences between the eastern and western parts of the EU. In the eastern countries, the situation is very difficult. It's the worst in Lithuania and Poland. Just before them is Bulgaria, where I come from. I would like to ask you, does this ranking represent the reality you live in? What is your experience of hardships and discrimination because of your sexual orientation?

Miro: We live in Sofia, among people without prejudices. But I realise that there is a lot of hatred in society. Homosexuals are still treated like paedophiles. People don't see the difference. It's influenced by political narration. The right-wing politicians are scaring people, saying that homosexuals will 'steal your child', 'steal and who knows what they're going to do with it!'

Living in such an atmosphere is hard. It's hard to repeat over and over, 'I'm gay and a good person. It's not mutually exclusive.' In such a situation, the need to 'hide' is natural. That's why I sometimes also have trouble openly saying that the friend I live with is actually my husband.

Ivan: But we have never been discriminated against in public. We've never been beaten. However, we are discriminated against by law. We are a married couple, but this means nothing here, in Bulgaria. We've bought a flat, a car. But on paper, we are still two strangers.

Do you describe yourselves as a married couple in everyday life?

Miro: Our friends know, of course. But I'm at a point in my life where I don't want to share information about myself with people I don't know.

Ivan: For me, it's natural. I came out when I was seventeen. So for me, it's obvious that most people know. Although at work, until recently, I did not speak openly about myself.

Why?

Ivan: Because I'm a teacher. So if, in general opinion, a gay is a paedophile, then gay working with children means problems.

But you finally did it.

Ivan: Yes, but only in the situation when everybody knows what kind of person and teacher I am, what I stand for. Only then I could be open and honest with them.

I started by publicly supporting the Pride Parade on Facebook. That's how the parents of my students found out. Then I told my students personally.

How did they react?

Ivan: They often asked me about my wife because I wear a wedding ring and it seemed obvious to them that I had a wife. And that day I explained why I avoided answering that question. I explained that a wife is actually a husband. That's it. They shrugged and said 'ok'. They didn't ask any more questions. For them, it's not surprising. This new generation is different. But it's not the same with adults.

In Bulgaria, we are forced to 'come out' all the time. In the UK, I just speak about my husband and nobody's surprised. Here, we get a strong reaction every time.

For example?

Miro: Jokes and questions like who is the woman and who's the man in this relationship?

Or situations like this: We have very nice neighbours. They're both educated, have kids. We've never hidden from them that we are a couple but also never officially told them about it either. And once during a conversation, I mentioned that we want to adopt. And she replied, 'I'm sorry for asking. I'm really an open-minded person, I swear, but I'm wondering who'll be the mum.'

What did you say?

Miro: That I can take on that role. Ivan is more of a rationalist, so he's more suited to be a father.

Ivan: When you have two mums, nobody asks, 'who's the dad?'

Miro: Or who's the mum?

I think that people just need clear boundaries and structures. About that - we've reached the topic of children, but we missed another important topic in our conversation - your marriage. How long have you been together? When did you get married?

Miro: We've been together for four years and ten months. And in January we'll be celebrating our third anniversary.

Ivan: I started talking about marriage. About a child, actually. It was in that order. And while we were talking about a child, we realised that we would need to formalise our relationship.

I understand that you got married abroad?

Ivan: Yes. It was the easiest in Denmark. You just had to apply online. And be there a day before the wedding. The ceremony itself was very short. We wanted it to be a simple wedding with the people closest to us.

Could you describe your wedding day? You mentioned that it was supposed to be a ceremony with the closest family and friends. Were your parents among them?

Ivan: When I told my parents that I was getting married, my father declared, 'I definitely won't be there'. And mum said that she was coming with us. And when he found out about it, he decided that if she was going to be there, he had to be there too.

I even wanted my grandma to come, but my father was afraid that she'd have a heart attack if she saw it. The wedding was full of emotions. I don't even know how to describe it. I was crying the whole time.

Miro: It was probably the happiest day in my entire life. It's a very emotional moment when people are bound like this. I was also crying all the time.

But, to be honest, my happiness was not complete. Because my parents did not attend. I asked my mum about it, and later my father. And he was the problem.

He called and told me terrible things. He said that to him I was abnormal. It was a difficult moment. And it cast a shadow over the

emotions of ‘that’ day. Because it hurts to know that your parents don’t accept what you’re doing and don’t understand that it’s your choice.

But in the end, this wedding helped them understand that the feelings I have for Ivan are real. And about a year later, my father started to talk to me. Now, we spend time together. This summer, our parents met for the first time. We’re finally functioning like a real family, and I can say that we’re happy. Finally, I speak openly and without shame that I’m in a relationship with a man.

What changed in the relationship with your dad that the situation turned around?

Miro: I think it’s a matter of time. That it’s like that with men. They need to go through it and they avoid talking. But at the end of the day, mums do all the work. They do their magic behind our backs. In this case, the question ‘who is the mum in your relationship?’ takes on a new meaning and becomes quite important. What if our kid is gay, Ivan? Then we’ll have to talk.

In the text that will appear in the book next to our conversation, the experts refer to sociological research which proves that excluding homosexual people from the group of people who have the right to marry increases homophobia in society. Do you think that the fact that you are married protects you somehow? Changes your social situation?

Miro: Heterosexual people see us through the category of sexual relations. And if our marriage was recognised, then maybe they would see something more besides sex. Maybe, they would see that men can be more than just sexual partners. A wedding gives the idea that a couple is real. That it functions like any other.

And those pairs have children. After the wedding, it’s a natural next step, also for you, correct?

Ivan: Yes.

Miro: We’ll see. It seems increasingly unlikely.

Ivan: I've got to interrupt here. In our family, I'm the optimist and Miro is the pessimist. It's been a year and a half since we submitted the documents. We still have a chance.

What does it look like? The procedure.

Ivan: The time period for processing an application is two years. If you get a negative answer after that time, then you can start applying again. And Miro is applying for adoption as a single father.

You can do that?

Miro: Yes. It turned out that you can. We met a man who adopted and thanks to him we believe that it's possible. It was a very exciting moment. Because, obviously, we knew about lesbian couples who adopted, but for a man... it seemed impossible.

Miro, only you are applying? Ivan isn't?

Ivan: Miro is applying as a single father, but social workers know about me. They were in our flat and met me.

How did they react to the fact that you are a couple?

Miro: They knew before. I told them after 15 minutes of our first conversation. They stopped it. They said they had to consult with their supervisor and the conversation would not be continued for the time being. I saw that they got quite scared. They didn't know how they should react and what they should do. After three days, they called and said that we could continue.

Psychologists from an NGO cooperating with social workers were very supportive. They told us that Ivan could take part in the entire process. They invited him to the pre-adoption sessions. They were also surprised that the social workers didn't mention Ivan in any of the documents. I don't know if this is good or bad. The psychologists felt that they also had to hide the truth about us, and it's not right. For us, it's a very uncomfortable situation. You feel that you're already out of the closet, and somebody tells you to go back there. You have to lie,

play their game. But I understand it. These documents will later go to other officials around the country, and they will know about me only as much as they read in these documents, so maybe it's better that they don't know the truth. Perhaps those we came into contact with felt that by hiding the truth, they would give us a chance for adoption. Maybe they're protecting us. I feel that they like us.

Why Miro, and not you, Ivan?

Ivan: According to the documents, I'm more educated and I work with children, but also all the loans are in my name. So it was a financial decision. We had to find a balance between education and money. And we bet on money.

I wonder, is your reality typical for Bulgaria or is it an exception?

Ivan: It depends. But I would say that we're an exception. I think that many people are in more difficult situations than we are.

Do you have similar couples among your friends - married and with an adopted child?

Ivan: We only have lesbian families among our friends. It's hard to find a gay couple with a child. Even if it happens, it's not in Bulgaria.

If you manage to adopt, do you want to stay in Bulgaria or not?

Ivan: I want to move.

Miro: We should stay. At least two years. This is the procedure. For two years we'll be monitored by social workers, after that it'll depend on our child's needs. If they won't be safe, then we'll leave for sure.

quote

And if our marriage was recognised, then maybe they would see something more besides sex. Maybe, they would see that men can be more than just sexual partners.

III Western Balkans

text title

Regional Valedictorian. At least on paper

written by

Damira Kalač

Journalist, blogger, civic activist and a computer science specialist. She is an author with a passion for telling stories about social justice, human rights and environmental issues.

The first same-sex union in Montenegro was registered ten days after the Law on Life Partnership of Same-Sex Persons came into force¹.

Two women who are originally from the Balkans but live and work abroad, submitted a request to the Secretariat for local authorities in Budva municipality on July 15 [2021], when the law partially equating same-sex marriage with heterosexual marriage came into force. Their marriage was registered ten days later, on July 25.

About ten days later, on August 4, same-sex marriage was registered in Podgorica. In the capital of Montenegro, a partnership has been registered between women who are citizens of Montenegro and Bosnia and Herzegovina. Only a day earlier, homophobic messages appeared near the center of Podgorica, they were hanging from tree trunks. One of them suggested through a photograph that LGBT people cause the downfall of society². Those images, years of waiting for the right to register their partnership, as well as homophobic messages, perhaps describe best the position of LGBTIQ people in Montenegrin society.

The research conducted by the Centre for Civic Education (CGO)³ also showed that the attitude of the public regarding respect for LGBT people in Montenegro is divided. The research was conducted in 2016 and 2019, on a sample of 1.000 and 1.013 respondents, respectively.

According to the results, 42% of the survey participants believe that the rights of LGBT people are respected, and slightly more – 47% of the respondents, are of the opposite opinion – that the rights of LGBT people are not respected.

The research also showed that in the three years between the two polls, there has been an increase in the percentage of those who believe that “the story of LGBT people is exaggerated because everywhere in the civilized world it has already been accepted as a normal phenomenon that has existed since time immemorial.” In 2019,

1 Vlada Crne Gore (July 2, 2020). Usvojen Zakon o životnom partnerstvu lica istog pola. Retrieved from <https://www.gov.me/clanak/227949--usvojen-zakon-o-zivotnom-partnerstvu-lica-istog-pola>

2 „Homofobne poruke u Podgorici: I „Vijesti” na meti” (August 3, 2021). *Vijesti*. Retrieved from <https://www.vijesti.me/vijesti/>

[drustvo/560924/homofobne-poruke-u-podgorici-i-vijesti-na-meti](https://www.vijesti.me/vijesti/drustvo/560924/homofobne-poruke-u-podgorici-i-vijesti-na-meti)

3 Center for Civic Education (2019). NE diskriminaciji-DA različitostima. Retrieved from <http://media.cgo-cce.org/2019/02/cgo-istrazivanje-stavova-javnog-mnjenja-olgbt-osobama.pdf>

60% of respondents had such an attitude, and in 2016 - 39% of respondents.

At the same time, over three years, there has been a decrease in the number of those who believe that "LGBT people are so harmful and dangerous that it is worth making an effort and fighting as hard as possible against such a phenomenon." In 2016, 49% of respondents had such an opinion, while in 2019, 30% of participants in the CGO's survey had such an attitude towards the LGBT population.

The research showed that the same period saw an increase in positive attitudes towards the public scientific discourse on topics and problems related to LGBT people. "Some people think that many problems related to LGBT people arise due to misunderstanding of this phenomenon and that it would help all of us, regardless of opposing viewpoints, if experts explained this phenomenon from the scientific point of view, through public forums and TV shows", CGO said.

According to the World Bank report⁴, the LGBT Perception of Acceptance Index in Montenegro is "very low" (1,69). The index is based on three measures - tolerance, visibility, and positive steps toward inclusion. The index shows that the situation is best in Slovenia - 1,94, and worst in Kosovo, where the LGBT Perception of Acceptance Index is 1,43.

In the international Rainbow Europe Map report, which ranks countries on their LGBTI equality laws and policies, as of 2018, Montenegro had a score of 36%, and a year later, that score rose to 62%, on a par with the Netherlands, or one per cent behind Sweden, while many developed countries such as Germany (51%) and France (56%) are far behind Montenegro.

According to the report for 2021, Montenegro improved the result by one per cent (63%) and it still stands side by side with countries such as Finland, Sweden, Spain, Denmark, the United Kingdom and Norway. According to the Rainbow Europe Map 2021, Montenegro scored better than France, Iceland, Ireland, Germany and Austria, whose results range from 50 to 57%⁵.

Perception
of Acceptance
Index

Rainbow Europe
Map report and
its methodology

4 World Bank Group (September 2018). Life on the Margins: Survey Results of the Experiences of LGBTI People in Southeastern Europe. Retrieved from <https://bit.ly/2VIUEzZ>

5 ILGA Europe (2021). Rainbow Map. Retrieved from <https://ilga-europe.org/sites/default/files/Attachments/Rainbow%20Europe%20Map%202021.png>

The non-governmental organization LGBT Forum Progress commented that it is the result of the way the Rainbow Europe Map is created, that is the index of LGBTI equality laws and policies.⁶ The legislative framework in Montenegro, they added, is aligned with almost all international standards in the field of human rights of LGBTI people, but “the reality and everyday life of LGBTI people in Montenegro is much different from what is on paper.” The NGO said that “violence, discrimination, inadequate legal protection, invisibility within the system, legal inequality and rejection by society are just some of the things” that LGBT people experience in daily life.

“The legislative framework related to LGBTI issues in Montenegro is very well aligned with the relevant standards at the EU level, but its implementation is much worse, which causes several problems that LGBTI people face almost every day. Montenegro placed 11th on the Europe Rainbow Map this year, far ahead of all countries in the region, which could be recognized as remarkable progress in the process of social acceptance and equality of LGBTI people. But the mapping methodology reveals that only the parameters related to the current legislative framework are considered, without taking into account the rate of homo/bi/transphobia, the number of cases of violence, social distance...”, said John Barac, CEO of Forum Progress⁷.

He also explained that during the accelerated attempts to meet some of the requirements of the negotiated chapters (EU accession negotiations), especially Chapter 23, Montenegro has harmonised some laws, such as the Law on Prohibition of Discrimination, Criminal Code, Law on Compulsory Health Insurance and the like, so they almost entirely met current international standards.

“However, in this process of fulfilling the accession obligations, a key step has been skipped – the successful implementation of the legislative framework. Simply put, the system did not allow LGBTI persons to enjoy the rights and protection guaranteed to them. Thus, we have a situation where attacks on LGBTI people are not treated as

6 “Jokić: Crna Gora-zemlja u raskoraku” (May 14, 2020). CDM. Retrieved from <https://www.cdm.me/drustvo/jokic-crna-gora-zemlja-u-raskoraku/>

7 *Ibid*

acts of hatred, that hate speech on the Internet is considered a disturbance of public order, that the LGBTI community depends on NGOs for social support services (shelter, psychosocial support, mediation, etc.), that the level of distrust towards institutions is still noticeably high and many other problems continue unabated”, Barac added.

Exactly this accelerated process, i.e. the practice of changing laws without any essential work on educating and informing the public and LGBTI people, has caused the situation in which Montenegro can boast of having excellent legislation, but their practices are worse than in some other countries in the region.

The LGBTI community recognises the report of the European Commission as the key international annual report for Montenegro. It monitors the progress of Montenegro’s accession to the European Union. According to this report, the increasing number of hate crimes and hate speech cases against LGBTI people on the one hand, and their inadequate treatment by the relevant authorities and within the existing legislation, on the other hand, is clearly and unambiguously pointed out year after year.

“It also clearly emphasizes the need for full and effective implementation of existing legislation and policies, points out the problem of inadequate social protection of LGBTI people, as well as the need for better access to health care services for the LGBTI population. The overall tone of the EC report for Montenegro, in the field of human rights of LGBTI people, has an equally negative implication every year and calls for concrete actions and changes”, the LGBT Forum Progress said⁸.

Calls for concrete actions and changes

Legal framework

Both human and LGBTI rights organizations say that in Montenegro, the legal framework concerning the rights of LGBTI people has significantly improved in the last ten years. Association Spectra said that progress is reflected in “a significant reduction of the level of discrimination and violence against LGBTI persons, as well as a significantly higher level of acceptance of LGBTI persons in the society

8 Jokić: Crna Gora-zemlja u raskoraku

of Montenegro.”⁹ However, they added that the rights of transgender, intersex and gender-variant persons are still incomplete, that sterilization is obligatory for legal recognition of gender, and “gender normalising” surgeries are still performed on intersex babies.

- The Constitution of Montenegro prohibits provoking or inciting hatred, as well as direct and indirect discrimination on any grounds. The Constitution also guarantees that temporary restrictions on human rights and freedoms may in no case be exercised based on gender, nationality, race, religion, language, ethnic or social origin, political or other belief, property status, or any other personal feature. It also guarantees the right to private and family life, as well as the protection of human dignity and security, and of physical and mental integrity.
- The Law on Prohibition of Discrimination was adopted in 2010 and has been amended several times. It strictly prohibits discrimination based on sexual orientation, gender identity, and intersex characteristics, with a clear explanation of these terms. The same law defines hate speech as a specific form of discrimination on the aforementioned grounds.
- The Criminal Code defines sexual orientation and gender identity as aggravating circumstances in the case of hate crimes, as well as hate speech.
- The Law on Gender Equality guarantees protection based on gender identity. According to this regulation, protection is not only guaranteed to men and women, but also to “persons of different gender identities”. The same law prohibits discrimination against a person based on “gender change”.
- The Law on Life Partnership of Same-Sex Persons was adopted in the summer of 2020, and it came into force on July 15, 2021. This law regulates same-sex unions. The adoption of this law is accompanied

⁹ Asocijacija Spektra. Zakonski okvir. Retrieved from <https://asocijaciaspektra.org/zakonski-okvir/>

by amendments to other regulations, including the Law on Social and Child Protection.

“The Ministry of Finance has changed or made proposals for changes and amendments to the relevant laws. These are laws concerning the tax liabilities of partners from same-sex unions, laws concerning social and child protection so that life partners can absolutely exercise the rights they are entitled to by law”, the State Secretary in the Ministry of Finance and Social Welfare Janko Odović said recently.¹⁰

- The Law on Social and Child Protection, regarding the rights of LGBTIQ persons, specifies that social and child protection aims to improve the quality of life and ensure empowerment for an independent and productive life of the individual and family, and in achieving social and child protection goals it guarantees special protection for a child, a young person and then for an adult and elderly person who is a victim of abuse, neglect, domestic violence, and exploitation or who is in danger of becoming a victim; who, due to special circumstances and social risk, needs an appropriate form of social protection.

The principles of social protection are based on: respect for the integrity and dignity of social protection beneficiaries, prohibition of discrimination, informing the beneficiary, individual approach, active participation of beneficiaries in the creating, choosing, and exercising social and child protection rights, respect for the best interests of beneficiaries, prevention of institutionalisation and availability of services in the least restrictive environment, pluralism of services and service providers, partnerships and associations of different operators and programs, especially at the local level, transparency.

- Same-sex couples, however, are still not allowed to adopt children. The Ministry of Finance and Social Welfare said that it would be possible “when a part of the society matures”¹¹.

¹⁰ „Državni sekretar MIF: Zakonski izjednačiti LGBTIQ osobe sa ostalim građanima” (July 1, 2021). *Mediji.me*. Retrieved from <https://www.mediji.me/mediaandminorities-single/28>

¹¹ Kalač, D. (June 24, 2021). Primjena zakona o istopolnim parovima brzo, usvajanje djece kad sazri dio društva. *Vijesti*. Retrieved from <https://www.vijesti.me/vijesti/drustvo/550819/primjena-zakona-o-istopolnim-parovima-brzo-uvajanje-djece-kad-sazri-dio-drustva>

- The Health Care Law also guarantees the right to health care “following the best possible health standards and achievements of modern medical theory and practice”, prohibiting discrimination based on sexual orientation and gender identity.
- The Law on Patient Rights safeguards the right to human dignity, physical and mental integrity, and respect for human rights.
- The Law on Health Insurance grants transgender persons the right to health care regarding the gender-affirming process, which is covered by compulsory health insurance in the amount of 80% of the total cost. The Rulebook on determining medical reasons for gender reassignment, adopted by the Ministry of Health, defines the criteria for gaining the right to have the costs of gender adjustment covered by compulsory health insurance.

The Rulebook specifies that medical reasons for changing the sex of the insured person are determined by: medical examination at the level of primary health care, medical examination and diagnosis by internal medicine specialist (general internal medicine, endocrinology), by surgeons (general surgery, plastic and reconstructive surgery, urology and gynaecology), by other specialists or subspecialists as required, a psychiatrist and psychologist report, and the social history from the social worker. The opinion on the existence of medical reasons for changing the sex of the insured person is provided by a Concilium of medical specialists of the Clinical Center of Montenegro. The Rulebook provides the possibility of accessing the gender adjustment process for transgender persons aged 16 and older.

- Legal recognition of gender in Montenegro is enacted through the implementation of the Law on National Registers, which allows trans people to change their gender. However, the law does not contain clear guidelines on the procedure itself, and non-governmental organizations indicate that, in practice, this prevents transgender people from changing their gender designation without prior sterilization.

“Such a practice is completely contrary to international law and the rulings of the European Court of Human Rights, which in 2017 ruled that sterilization and all interventions that may lead to sterilization, including hormone therapy, as a precondition for legal

recognition of gender, clearly violate human rights”, Association Spectra said.¹²

- In 2013, the Government of Montenegro adopted for the first time the Strategy for Improving Quality of Life of LGBT Population for the 2013–2018 period. The Strategy for Improving Quality of Life of LGBTI Population was adopted in 2019 for the 2019–2023 period.
- The new Strategy was adopted in response to the “perceived challenge regarding the social acceptance of LGBTI people, i.e. the still striking social perception burdened with stereotypes and prejudices towards this social group, which sees the existence of LGBTI people as a violation of morals and values about desirable lifestyles.”
- Besides, “[t]he strategy is based on reports and recommendations of numerous international bodies, which suggested improvements in the policy of protection of LGBTI people, especially in terms of law enforcement to protect their rights and freedoms, as well as in terms of their better inclusion in various spheres of society.” One of the reasons for drafting the new Strategy is that some of the measures envisaged in the previous one were not implemented within the old strategic document, so they were included in the new one¹³.
- The strategy defines activities such as social acceptance of LGBTI people, security and protection of human rights of LGBTI persons, employment and job access, health care, social protection, and LGBTI tourism.
- The same document defines creating the Law on Gender Identity. The bill was drafted by the LGBTIQ Association Queer Montenegro, the NGO Juventas, and the Institute for Legal Studies, in consultation with the Association Spectra. The text of the proposal envisages a

¹² Zakonski okvir

¹³ Vlada Crne Gore (2019). Strategija za unapređenje kvaliteta života LGBTI osoba u Crnoj Gori 2019–2023. Retrieved from <https://www.zsdzcg.me/images/>

dokumenta/opsta%20odokumenta/Strategija%20za%20unapre%C4%91enje%20kvaliteta%20%C5%BEivota%20LGBTI%20osoba%20u%20Crnoj%20Gori%202019-2023.pdf

model of legal recognition of gender without medical interventions as a precondition, and explicitly prohibits performing gender reassignment surgeries (which are not medically indicated) on intersex children and adults without their consent.

Where institutions also discriminate

Throughout 2020, only one non-governmental organization dealing with the protection of human and LGBTI rights, LGBT Forum Progress, filed over 250 complaints about hate speech and insults directed at the LGBT population on social networks.

“Complaints are usually submitted after certain social topics related to the LGBTIQ community published in the media provoke public reactions in comments on social networks. Our team for monitoring hate speech on the Internet, which was established in 2012, analyses these comments and reports those containing elements of hate speech, threats, incitement to violence, etc. to the Police Directorate, which further acts in each case¹⁴.”

People who are entrusted with protecting human rights are sometimes among those reported to the Police. At the end of July 2020, a complaint was filed against a lawyer from Podgorica, over threats made in social media during the discussion on LGBTIQ rights. In a Facebook discussion on the Law on Life Partnership of Persons of the Same-Sex (before its adoption), the lawyer wrote: “And since this is becoming repetitive, you just keep shagging as you please, no one can forbid you doing that within your four walls, but if I see you snogging or doing that in front of my children, thus performing violence against them, I will wring your neck¹⁵.”

The Protector of Human Rights and Freedoms of Montenegro (Ombudsman) also spoke about this case. The Institution of Ombudsman found that the lawyer used hate speech against members of the LGBTIQ population and those supporting their rights.

Monitoring
hate speech on
the Internet

14 Jokić, B. (November 8, 2020). Zbog govora mržnje na društvenim mrežama 250 prijava. CDM. Retrieved from <https://www.cdm.me/drustvo/zbog-govora-mrznje-na-drustvenim-mrezama-250-prijava/>

15 Velibor Marković (July 26, 2020). Advokat Marković bi zavrtao šiju LGBT osobama. *Vijesti*. Retrieved from <https://www.vijesti.me/vijesti/drustvo/454449/advokat-markovic-bi-zavrtao-siju-lgbt-osobama>

The lawyer was advised to issue a public apology to the members of the LGBTIQ population and proponents of their rights and to refrain from hate speech against LGBTIQ persons or those supporting their rights¹⁶. The lawyer refused to act on the advice and even publicly announced that he refused to do so. The same lawyer was mentioned as a candidate for the presidency of the Bar Association of Montenegro, and the Bar Association did not comment on the specific case.

The analysis “The Acceptance of LGBT People in Montenegro – Obstacles, Challenges and Experience”¹⁷ conducted in 2016 by a group of authors, described several cases of violence, discrimination, and hate speech, including burning LGBTI flags, throwing quicklime on LGBTI people, as well as cases in which police officers were threat actors. In one of them, a policeman was impudent towards the staff of the LGBTIQ social centre. It also described an incident with police officers engaged in security work for the Ministry of Human and Minority Rights. The same analysis cites demands by an LGBTI rights activist, who says that “many segments of the government’s LGBT policy do not work in practice” and who, among other things, demands “to finally put the LGBT community and Police Trust Team into operation”¹⁸.

Police
Trust Team

The Trust Team of the LGBT community and the Police Directorate was formed in February 2016¹⁹, and the first meeting was held a month later²⁰. Its task is to establish and maintain timely, efficient and constructive communication between the Police Administration and the LGBT community; constant and focused dialogue that contributes to building trust and improving the transparency and accessibility of the Police Directorate; continual monitoring of the safety of LGBT people in Montenegro; to create and improve measures advancing the

16 Rudović, M. (November 26, 2020). Ombudsman donio mišljenje: Marković da se izvini, koristio govor mržnje. *Vijesti*. Retrieved from <https://www.vijesti.me/vijesti/drustvo/489775/ombudsman-donio-misljenje-markovic-da-se-izvini-koristio-govor-mrznje>

17 Rakočević, K. (2016). *Prihvatanje LGBT osoba u Crnoj Gori*. Podgorica: Hiperion <https://lgbt-progres.me/wp-content/uploads/2016/08/prihvatanje-lgbt-osoba-u-crnoj-gori-web1.pdf>

18 *Ibid*

19 Savjeta za građansku kontrolu rada policije. Konstituisan Tim povjerenja LGBT zajednice i Uprave policije. Retrieved from <http://www.kontrolapolicije.me/node/567>

20 Apart from the officers of the Police Directorate and representatives of the Ministry of the Interior, the Trust Team includes representatives of non-governmental organisations dealing with the protection of LGBTI people.

protection of LGBT people in Montenegro; ensure sustained dialogue on specific cases and the exercise of related police powers; discuss, propose, plan and support activities that contribute to an increase in the capacity to work with the LGBT community and access to LGBT people; monitor the work and development of the existing LGBT contact network in the Police Directorate and support its activities; cooperate with international partners observing the process of LGBT inclusion and police capacity development in this regard; cooperate with state bodies and provide appropriate information, provide suggestions and comments for better results in the process of social acceptance of LGBT people in regard to security; contribute to strengthening the criminal law protection of LGBT persons in the domain of the Police Directorate's jurisdiction.

Violating rights
through inaction

According to the statement from the first meeting of the new Team in July 2019, it is necessary to “continue to carry out activities to sensitise police officers, especially those whose job involves coming into contact with vulnerable groups, including LGBTI people²¹.”

The Protector of Human Rights and Freedoms determined that in 2020, the Ministry of Health violated through inaction the rights of transgender people to respect for their private life, guaranteed by the Constitution of Montenegro and the European Convention for the Protection of Human Rights and Freedoms. The opinion followed a complaint that trans women were not provided with a continuous supply of hormone therapy²².

In 2019, the Ombudsman found the behaviour of two medical workers towards a transgender person undesirable and discriminatory. The medics wondered and laughed at the transgender person who came to receive hormone therapy for gender reassignment at the health centre in Podgorica²³.

21 Konstituisan Tim povjerenja LGBT zajednice i Uprave policije

22 Rudović, M. (November 8, 2020). Hrapović krši prava trans osoba. *Vijesti*. Retrieved from <https://www.vijesti.me/vijesti/drustvo/484385/hrapovic-krsi-prava-trans-osoba>

23 “Medicinari ismijavali transrodnu osobu” (March 12, 2019). *Portal Analitika*. Retrieved from <https://www.portalanalitika.me/clanak/328434--medicinari-ismijavali-transrodnu-osobu>

Montenegro Pride

The first Pride Parade in Montenegro was held on July 24, 2013, in Budva. The event, organized by the LGBT Forum Progress, was secured by 400 police officers, and it was marred by strong outrage from some onlookers, who threw stones, bottles, and other objects at the participants of the Parade.

Queer
Montenegro

Queer Montenegro organised the second Pride Parade the same year, on October 20. It was held in a peaceful atmosphere, but outside the protected zone, secured by strong police and special forces, several incidents occurred.

Although each subsequent Pride passed without similar incidents, the Pride Parade is organized every year with strong security measures. The Pride in 2018 received support from the then director of the Police Administration, Veselin Veljović²⁴. It was an exception in terms of support from the leaders of Montenegrin institutions. The President or Prime Minister of Montenegro have not attended the Pride so far.

Due to the Covid-19 pandemic, the eighth Pride in October 2020 was transformed into a car parade in Podgorica. Danijel Kalezić, a member of the Organising Committee of Montenegro Pride, said that the reactions of the citizens were especially positive: "People greeted us with smiles, filmed us on the phones. That's great. It seems that when the epidemic passes, we will be able to walk freely, without much police protection, together with everyone else²⁵."

The year of Covid-19

The year of the coronavirus epidemic has complicated the situation of LGBTI persons in some countries. According to ILGA-Europe and ERA 2020 report²⁶, the LGBTI community has been heavily affected by the Covid-19 pandemic and state support services have

24 www.youtube.com/watch?v=Oj1Zrs_qspg

25 "Osmim Montenegro Prajdom digli glas protiv svega negativnog što se u društvu dešav" (December 20, 2020). *PRCentar.me*. Retrieved from [http://www.prcentar.me/clanak/osmim-montenegro-prajdom-digli-](http://www.prcentar.me/clanak/osmim-montenegro-prajdom-digli-glas-protiv-svega-negativnog-to-se-u-drustvu-dešav)

[glas-protiv-svega-negativnog-to-se-u-drustvu-dešav/1470](http://www.prcentar.me/clanak/osmim-montenegro-prajdom-digli-glas-protiv-svega-negativnog-to-se-u-drustvu-dešav/1470)

26 ILGA Europe (2020). LGBTI Enlargement Review 2020. Retrieved from <https://ilga-europe.org/sites/default/files/LGBTI%20Enlargement%20Review%202020.pdf>

failed to reach the most vulnerable in LGBTI communities. LGBTI NGOs thus have had to adjust their previous plans and budgets to cover humanitarian aid gaps within the state response to the crisis, providing food, hygiene items and shelter to LGBTI people who have lost their jobs or have been left homeless. The report adds that some funding earmarked for Covid-19 response could not be used to provide services and support²⁷.

Western Balkans

In its 2020 report, ILGA Europe says that in most of the EU candidate countries, the legal frameworks and existing policies for the promotion and protection of LGBTI human rights are solid. But, as they emphasise, these frameworks have largely stagnated for years, with little progress visible, especially regarding implementation.

“In particular, provision of legal gender recognition procedures and legislation, and recognition of same-sex partnerships need to be addressed. There is currently a real opportunity to create momentum to achieve both changes, and the EU’s voice of encouragement could be crucial in achieving this”, ILGA Europe 2020 report says.

A lesbian
Prime Minister

Its authors remind that Montenegro has become the first accession country to adopt a law on life partnership of same-sex persons and that it could be an incentive for other countries, such as Serbia. It was expected that such a law in Serbia could be adopted by the spring of 2021, but that did not happen.

President of Serbia, Aleksandar Vučić announced in April that he would not support the law. “The Constitution refers to the Family Law, which defines marriage as a legally regulated union of a man and a woman. Therefore, I would not be able to sign the law on same-sex unions and I would return it to the National Assembly”, Vučić said. He added that he has shown his attitude towards the topic by electing Ana Brnabić as Prime Minister²⁸, at the same time not being an

27 LGBTI Enlargement Review 2020

28 Obradović, V. (May 4, 2021). Vučić protiv Zakona o istopolnim zajednicama. *Osservatorio Balcani Caucaso Transeuropa*. Retrieved from

<https://www.balcanicaucaso.org/bhs/zone/Srbija/Vucic-protiv-Zakona-o-istopolnim-zajednicama-210407>

“ardent supporter” of same-sex communities. Ana Brnabić is a declared member of the LGBT population and has a child with her partner.

The fact that a declared lesbian is at the head of the government is not helpful to the LGBTI community in Serbia, activists claim. At the time when her partner gave birth, the Center for the Promotion of LGBT Rights Gejten said that “it is important to congratulate the Prime Minister on the birth of a child”, but also that it is “unfortunately, just another example which demonstrates that parenting is a right that not everyone has²⁹.”

Ana Brnabić, however, believes that she has done enough for the LGBTI community: “I am not a gay prime minister, but the prime minister of Serbia. I hear criticism. I think I have done a lot – the very act of ‘coming out’ when you are in such a high position as the position of a minister, without hiding what you are or who you are. I think it meant a lot to our society. It also, I believe, helped someone else in a small community in the countryside feel OK with themselves. It can be more important than having a law without anyone ‘coming out’ and everyone still thinking that being gay is something abnormal. Everyone has their way, this is mine. I know what I did, how much and how hard everything was for me and my family³⁰.”

Concerning the laws of Serbia, the Prime Minister and her partner do not have any rights as parents even though they have a child...

Croatia scores 17% worse than Montenegro on the Rainbow Europe Map³¹, but its Administrative and Constitutional Courts ruled in favour of a same-sex couple and allowed gay men to foster two children after a three-year legal battle³². The next step in achieving equality would be the right to adopt children.

In North Macedonia, the adoption of amendments to the Law on Civil Registry in terms of gender recognition was announced for

Administrative
and Constitutional
Courts in favour of
a same-sex couple

Croatia's Ad-
ministrative and
Constitutional
Courts in favour of
a same-sex couple

29 “Kako kao LGBT osoba dobiti dete u Srbiji, ako niste Ana Brnabić” (February 12, 2019). *Danas*. Retrieved from <https://www.danas.rs/bbc-news-serbian/kako-kao-lgbt-osoba-dobiti-dete-u-srbiji-ako-niste-ana-brnabic/>

30 Bunić, O. (February 14, 2021). Premijerka Ana Brnabić za Noizz: Mislim da sam dosta učinila za LGBT zajednicu u Srbiji. *Noizz.rs*. Retrieved from <https://noizz.rs/big-stories/>

ana-brnabic-mislim-da-sam-dosta-ucinila-za-lgbt-zajednicu-u-srbiji/8pf6deq

31 Rainbow Map 2021

32 Zebić, E. (September 8, 2021). Nakon trogodišnje bitke – gay par u Hrvatskoj udomio dvoje djece. *Slobodna Evropa*. Retrieved from <https://www.slobodnaevropa.org/a/hrvatska-gay-par-udomio-dijete/30827407.html>

spring. At the proposal of the Ministry of Justice of North Macedonia, during the April session, an amendment to the Law on Civil Registry was drafted. It recognises, in accordance with international legislation and human rights, the right to gender identity for transgender people³³.

“It is important to emphasise that Parliaments and Governments need to establish clear and comprehensive agendas for such achievements and that once such laws are passed they should be implemented thoroughly and without unnecessary delay”, the ILGA report highlights.

It also found that access to healthcare for trans people remains an issue, both for trans-specific healthcare as well as for non-discriminatory access to general health care. The epidemic has worsened the position of trans people in this regard as well since access to hormones and life-saving surgery was interrupted in all accession countries. ILGA Europe notes that HIV medication was not available either.

As for intersex people, according to the report, they are largely invisible across the region. “(...) [W]ith only Albania, Montenegro and Bosnia and Herzegovina having added sex characteristics as a protected ground against discrimination. Turkey does not have non-discrimination provisions on grounds of sexual orientation and gender identity, hate speech laws do not name grounds of sexual orientation and gender identity in North Macedonia, Turkey or Serbia (only sexual orientation). None of the EU accession countries has policies designed to tackle hate speech in place, yet hate speech is a prevalent issue in all of them”, the ILGA Europe 2020 report further states.

The report also points out that identifying the hate element in bias-motivated crimes against LGBTI people remains problematic. ILGA Europe found hate speech in the media and on social media, stressing that it often comes from political actors. “Public attitudes, while improving in some countries, continue to be predominantly negative. Concrete recommendations from the EU to tackle these issues and promote thorough implementation can serve as a driving force for sustainable change to the realities of LGBTI people in the region”, ILGA Europe concludes.

Availability of
HIV medication

Bias-motivated
crimes against
LGBTI people

33 “Владата предложи закон со кој трансродовите лица ќе можат да го променат полот во лична карта”. *Sloboden Pecat*. Retrieved from (<https://www.slobodenpecat.mk/vladata-predlozhi-zakon-so-koj-transrodovite-licza-ke-mozhat-da-gopromenat-polot-vo-lichna-karta/>)

[slobodenpecat.mk/vladata-predlozhi-zakon-so-koj-transrodovite-licza-ke-mozhat-da-gopromenat-polot-vo-lichna-karta/](https://www.slobodenpecat.mk/vladata-predlozhi-zakon-so-koj-transrodovite-licza-ke-mozhat-da-gopromenat-polot-vo-lichna-karta/)

Conclusions

When in 2019, the deputies in the Parliament of Montenegro for the first time voted for the Law on Life Partnership of Same-Sex Persons, which, unlike other regulations, most directly speaks about the rights of LGBTI people, several organizations pointed out that the then bill did not pass due to “particular interests” of politicians and political parties.³⁴

“Particular interests” of politicians and political parties

The Queer Montenegro organisation said at the time that such a relationship “exposed how unimportant the human rights of the most vulnerable social group were to the MPs who did not support it or avoided voting³⁵.” And the fact that in the first version of the current regulation, same-sex couples are not allowed to adopt children and that for something like that, as the Government says, one should wait for a “part of society to mature”, emphasises how this issue is calculated concerning the will of a part of the electorate.

The rights of LGBTI people, not only in Montenegro but also in the region, are reduced to political games, “where countries, depending on where each of them is in the process of joining the EU and NATO, show more or less progress³⁶.”

In a situation when a country like Montenegro has reached an “advanced” level, but still faces almost the same problems in practice as ten years ago, a few steps back should be taken to see what has been left out, so that employees in public administration, social work centres, local police stations, courts and prosecutor’s offices could adequately recognise what the modern legislative framework envisages, where the system needs to be improved, what has proven to be good in practice. Representatives of the civil sector must, of course, take an active part in this process.

34 Centar za građansko obrazovanje (August 1, 2019). Partikularni interesi iznad ljudskih prava. Retrieved from <http://cgo-cce.org/2019/08/01/partikularni-interesi-iznad-ljudskih-prava/#.YSObGbAzaig>

35 Kalač, D. (August 2, 2019). Ljudska prava na čekanju do oktobra. Retrieved from <https://www.vijesti.me/vijesti/drustvo/395767/ljudska-prava-na-cekaju-do-oktobra>

36 <https://www.slobodnaevropa.org/a/intervju-daniel-martinovic-usvojitelj-udomitelj-istospolne-zajednice/31241432.htm>

interview

Invisible People

written by **Joanna Łopat**

Kristian ⁽⁴⁸⁾ / Belgrade

I have found a lot of information about you on the Internet. There's even a page about you on Wikipedia! And you are a film and psycho-drama trainer. What does that mean?

It was my field of study. But since I work as a counselor, I don't do that anymore. I concentrate on family therapy.

But above all, you are an LGBTIQ+ rights activist. And I wanted to ask about your beginnings. Specifically about your appearance in a TV show in the 1990s.

It was the first programme in the history of Serbian television that talked about trans issues. I took part in it and became the first person to officially speak about it. It was a long, long time ago.

Could you tell me more about this experience? I'm asking because it was not an obvious topic for television in the 1990s. Where did this media interest in the topic of trans- and intersex people come from?

I don't think it was a response to real interest. It was considered a kind of exotic topic. But the excuse to invite me for that interview was the fact that official research into sexuality had started, and my doctor wanted me to talk about myself.

How did you feel about that? I gather that appearing on TV in the 1990s was an important event.

At that time, I felt extremely lonely. I thought I was the only person who was dealing with the issue of sex reassignment surgery. I thought it was important to share information about people who might feel what I did. I didn't consider the consequences of that decision. I don't think the doctors thought about it either. For them, it was important to 'show' a person like me - able to talk about the subject in an accessible way.

You said that you didn't consider the consequences of that public appearance, but as I understand it, there were consequences?

Yes. I received threats. Over the phone, of course, as we are talking about times without the Internet. My friends and flatmates were not threatened, but they were verbally provoked. Thankfully, nobody was hurt, and in retrospect, I can remember more oppressive situations from primary school - from the years when my identity was falsely defined. The fact that I was officially a girl, but looked and behaved like a boy, caused extreme emotions. The situations from those times made me stronger. I was prepared for blows.

Have your parents been there for you and supported you in this transition process?

No. They have never been involved in my life. They've never told anyone about my intersex variations.

It was about ten years between your coming out on TV and the moment when you started working for LGBTIQ+ rights. In 2006 you joined the Center for LGBT Human Rights. Could you tell me about the beginnings of your work?

We have to remember that we are talking about the reality of post-war divisions in the Balkans, and I had a vision of reunification. I hoped that people who had the same problem would be able to act together. So I started my cooperation with LGB people in Croatia. Then I got in contact with Bosnia. There was no formal structure. I just wanted people to talk about trans persons. I wanted them to be noticed. I organised lectures, debates, I tried to create an environment in which we could talk and show that the idea of 'trans' encompasses many topics on identity. But I was quite alone in this. It was a time when people did not come out easily. I didn't actually know how many people like me there were.

It turned out that there are more people like you, that you can work together and your work has meaning. I feel it has more and more meaning. According to many reports I've seen, LGBTIQ+ communities in

Serbia are vulnerable to homophobic attacks. What does it mean for you - privately, but also as a public person?

That's true, people can find my photos and information about me on the Internet. But this only means that I'm a public person in a way. I am recognisable, but only in some circles. This has its pros and cons. Though from my experience, I know that people I meet usually don't know my story. Especially if that person doesn't come from the LGBT+ community. And then I wonder how they would react if they knew the truth about me.

You said you 'wonder'. This means there is some fear of discrimination. Do you experience it?

No. I don't feel discriminated against. Definitely not because I am an intersex person. I experience discrimination but as a man.

How so?

My wife is not Serbian, and our marriage is not recognised in Serbia. At least not now. But as a married couple, we wanted to adopt. We went through many examinations, tests. We went to a special school for future parents. And then, we got the information that we'll not be approved for adoption for one reason - because we are an international couple. For the Serbian authorities, my wife is a foreigner, and this disqualifies her as a potential mother. But officially, we are still on the waiting list. Just at the very end. So this is not about the trans and intersex variations but about our cross-border marriage.

'I want to break the silence, stigma and shame which exists in Serbian society, where intersex people are invisible.' These are your words. I found them on the Internet. I wanted to ask you about this 'visibility' Transgender people I know usually struggle to be 'invisible'. To blend in.

That's correct. Transgender people, as you say, want to complete their transition or therapy and then just be a part of society. Intersex people are in a different situation. They just want to be recognised. They remain invisible on many different levels. It's a complex issue.

What about shame and stigma? Has anything changed in Serbian society?

No. Unfortunately, no. But I think that we need more time. Serbs are not ready to recognise intersex people as a group. Because Serbian society is still ashamed of people with various disabilities. Serbs pretend they don't exist. It is hard to grant them the right to live on an equal footing with others and to understand that a disability doesn't have to be a disadvantage. This takes time.

quote

*The fact that I was
officially a girl, but looked
and behaved like a boy,
caused extreme emotions.
The situations from those
times made me stronger.
I was prepared for blows.*

IV Baltic States

text title

Bumpy Road Towards Equality

written by

Kristiāns Vasiļevskis

Member of the board of a youth organization of the Latvian liberal political party Latvijas attīstībai. Student of International Relations and Diplomacy in Riga's Stradiņš University.

The year is 1991, and Latvia is regaining its independence from the Soviet Union. Latvia inherited some of the byproducts of the Soviet law system, including Criminal Law. Under the Criminal Law of both the Latvian Soviet Socialist Republic and Criminal Law of the Soviet Union – gay sexual relations were illegal and punishable by jail. They were decriminalised in 1992, while lesbian sexual relations, technically, have never been illegal.

Although decriminalisation of same-sex sexual relations was positive in the sense that homosexual people were not threatened by jail, it still did not mean complete legal protection and societal acceptance of the same-sex relationship phenomenon.

The road to inclusivity and equality is often long and demanding. When it comes to full legal recognition, representation, and protection, the LGBTQ community in Latvia finds itself in a rather peculiar position. While same-sex relationships are not forbidden, many technical restrictions are still in place because same-sex relationships are not legally equal to opposite-sex relationships. For example, in the Rainbow Europe index, ranking (on a 0 – 100% scale) 49 European countries on their respective legal and policy practices regarding LGBTQ rights, Latvia placed 41st, collecting a mere 17%¹.

Despite that, it is safe to say that during its 30 years of independence, Latvia has come a long way in terms of granting rights to LGBTQ people and gaining societal approval for them. The situation surrounding LGBTQ rights has been continuously improving since Latvia joined the European Union in 2004. In many areas, however, significant policy improvements are needed to ensure the LGBTQ community has the same civil and political rights and protections as non-LGBTQ people. This point is illustrated by the fact that Latvia is one of six EU Member States that do not legally recognise same-sex partnerships and, thus, marriage equality is still out of reach. The road has become easier over time, but the Latvian LGBTQ community still needs to wait before they are able to legalise their relationships.

1 ILGA Europe (2021). *Rainbow Europe 2021*. Retrieved from <https://www.ilga-europe.org/rainboweurope/2021>

Baltic perspective

The civil partnership legislation in two other Baltic states – Estonia and Lithuania provides context for further examination of the Latvian situation. On a regional scale, Estonia has taken more steps towards creating an inclusive society, including their civil partnership law that came into force in 2016. The first talks about such legislation in Estonia began in 2009, and in 2014 the proceedings ended with a final vote on the bill. Civil partnerships proved to be divisive even for the liberal Reform Party of Estonia – nineteen MPs voted in favour, six voted against, and four abstained. Only the Social Democratic party was almost entirely committed to it – fifteen MPs voted in favour, and three abstained during the vote. The law was passed with a small margin of 40 in favour and 38 against².

Cohabitation law
without imple-
menting acts

Unfortunately for Estonians, their Cohabitation law is far from ideal. Because of political compromises, it has never begun to work to its fullest potential. Estonia has never passed the required supplementary legislation allowing same-sex couples to use their rights in practice. Currently, there are plans to revisit the law to pass the needed amendments and broaden the current legislation. These plans are the answer to a petition with 35.805 signatures submitted to Riigikogu (the Parliament) in May 2021³.

Official Estonian statistics say that from 2016 to 2019, only 108 couples registered civil partnerships, which is minuscule in comparison to ca. 19.000 heterosexual marriages registered in the same period. Perhaps the greatest problem is the fact that no notary is obliged to register civil partnership agreements. According to the Latvian public broadcaster LTV, which surveyed five notary offices in Tallinn, only one had notaries that were registering civil partnerships – others felt there were moral obstacles to do so or were critical of the unfinished stage of the law and thus did not want to work with it⁴.

- 2 “Parliament Passes Cohabitation Act; President Proclaims It” (October 9, 2014). *ERR.ee*. Retrieved from <https://news.err.ee/113867/parliament-passes-cohabitation-act-president-proclaims-it>
- 3 “Greens hand over petition to get cohabitation act moving” (May 15, 2021). *ERR.ee*. Retrieved from <https://news.err.ee/1608214042/>

- greens-hand-over-petition-to-get-cohabitation-act-moving
- 4 “Igaunijā Kopdzīves likums jau četrus gadus. Kā tas darbojas. un kas mainījies?” (March 21, 2020). *LSM.LV*. Retrieved from <https://www.lsm.lv/raksts/zinas/arzemes/igaunija-kopdzives-likums-jau-cetrus-gadus-ka-tas-darbojas-un-kas-mainijies.a352370/>

The situation regarding civil partnerships in Lithuania is somewhat reminiscent of Latvia. The Lithuanian Seimas (Parliament) has been working on this idea for many years but never managed to pass any laws. First talks about civil partnerships began in 2011, once Lithuania's Constitutional Court ruled out that the Constitution guarantees protection to same-sex couples as well⁵. The first attempt of the Parliament to legislate on the matter was made in 2015 when MPs from the Liberal Movement and the Social Democratic Party submitted a civil partnership bill, which unfortunately was scrapped because the Parliament did not manage to consider it on time. The bill was reintroduced in 2017 by MPs from the Liberal Movement. However, the Parliament did not pass this bill - 29 votes were in favour, 50 against, and 20 abstained⁶.

In 2017 the then ruling Lithuanian Farmers and Greens Union (LFGU) tried to introduce a 'Cohabitation bill', which on the first vote was approved by the Parliament for further reading. As the parliamentary leader of LFGU stipulated, the 'cohabitation law' would allow individuals living together to address property rights but would not broaden the 'definition of family'. The bill was criticised by the NGO Association Lithuanian Gay League and the Liberal Union party because it would not allow same-sex couples to register their relationships⁷. However, the bill has never seen further development.

In May 2021, MPs from liberal Laisvės partija (Freedom Party) attempted to introduce a gender-neutral civil partnership law. It was rejected by the MPs with 63 votes in favour, 58 against, and seven abstaining. Even though civil partnership law was one of the priorities of the ruling centre-right coalition, thirteen MPs from the conservative Homeland Union and two MPs from Liberal Movement voted against the bill. Later, however, the Parliament voted to send the bill back to its authors for additional improvements (75 votes in favour

5 "Lithuanian presidential candidates on legalising civil partnership" (April 23, 2019). *LRT.lt*. Retrieved from <https://www.lrt.lt/naujienos/news-in-english/19/999760/lithuanian-presidential-candidates-on-legalising-civil-partnership>

6 LGL. Association Lithuanian Gay League. (May 31, 2017). *Seimas Approves the*

Proposal on 'Cohabitation Agreements' as Alternative to Partnership Law. Retrieved from <https://www.lgl.lt/en/?p=17403>

7 LGL. Association Lithuanian Gay League. (June 15, 2017). *29 Lithuanian MPs Vote in Favor of Same-Sex Partnership as the Proposal Gets Rejected*. Retrieved from <https://www.lgl.lt/en/?p=17529>

and 52 against), essentially implying that more compromises should be made to have complete support for the bill⁸.

Lithuanian Parliament's next attempt at introducing civil partnerships is expected in the autumn of 2021. The centre-right government of Ingrida Šimonytė has promised to address the issue of same-sex unions and find a solution. However, the first publicly available draft of the bill seems to be full of political compromises as it does not call the couples 'families' and does not introduce any changes regarding adoption and childcare. Despite political compromises, the draft has angered many politicians and the public⁹. On 15 May 2021, around 10.000 people gathered in Vilnius for a protest called 'March in defence of our families' to show they are against the civil partnership law¹⁰.

'March in defence
of our families'

Local authorities vs Pride-goers

After the Soviet Union had collapsed, Latvia took a course towards building a more open state. It paved the way for the LGBTQ community to assemble, and in the early 1990s, several LGBTQ rights organisations were founded. Those organisations, albeit small, started a social movement that promoted decriminalisation of male homosexuality, introduction of workplace protection, prohibition of discrimination based on sexual orientation, and introduction of a legal mechanism to register and legally recognise same-sex relationships. In 1992, gay sexual relations were legalised, while lesbian sexual relations were technically never illegal. Unfortunately, unfavourable policy developments followed – in 1993, Civil Law was recodified to define marriage as a union between a male and a female, effectively introducing a ban

Unfortunate
recodification
of Civil Law

- 8 "Lithuanian parliament votes down gender-neutral partnership" (May 25, 2021). *LRT.lt*. Retrieved from <https://www.lrt.lt/en/news-in-english/19/1417239/lithuanian-parliament-votes-down-gender-neutral-partnership>
- 9 "Lithuania's Law on Civil Partnerships Could Be Ready for Significant Change" (May 21, 2021). *Libertas*. Retrieved from <https://www.liberties.eu/en/stories/>

- lithuania-drafting-law-on-civil-partnerships/43533
- 10 "Марш в защиту семей' прошел спокойно, но полиция оценил действия организаторов" (May 16, 2021). *Delfi.lt*. Retrieved from <https://www.delfi.lt/ru/news/live/marsh-v-zaschitu-semej-proshel-spokojno-no-policiya-ocenit-dejstviya-organizatorov.d?id=87204599>

on same-sex marriage¹¹. It meant that gay relationships were decriminalised, but there was no legal way to recognise them.

First public manifestation of LGBT community

The gathering of the LGBT community near the Saeima building on 5 December 1999 could be considered its first public manifestation. However, it should be noted that it was small in scale¹². What was the goal of the LGBTQ rights activists then? The same year, Saeima's Human Rights and Public Affairs Commission drafted legislation introducing civil partnership and allowing same-sex couples to register their relationships. The community gathered near Saeima to show their support for this draft legislation. In the end, MPs did not endorse it¹³, and it would take 15 years for the next proposal of the same regulation to reach Saeima (and even then, it would be rejected).

Riga Pride, Baltic Pride, EuroPride

The first pride parade in Latvia took place in 2005, then it was repeated in 2007 and 2008. Subsequently, Latvian LGBTQ rights activists teamed up with their counterparts from Estonia and Lithuania to create an initiative called 'Baltic Pride'¹⁴. The main idea behind this initiative was to divide the right to hold pride parades between the capitals of the Baltic States. Each year it would be a different capital - Riga, Vilnius or Tallinn. The aim was to attract more people than it would be possible if pride parades were hosted in each capital every year. In 2015, Riga secured a chance to host EuroPride, thus leaving 'Baltic Pride' for one year. Further Baltic Pride events in Riga took place in 2018 and 2021 (the recent one was a hybrid event due to Covid-19 restrictions).

2005 Riga Pride could be considered one of the most fundamental events in the LGBTQ history of Latvia. Initially, it was almost cancelled because of the opposition from the Riga city council. However, it took place after a court decision upheld that there was no reason to ban it. Only about 70 people marched in this historical event. On the other side, 3,000 protesters gathered to show their disapproval of LGBTQ rights. Back then, police forces were neither equipped

11 Ruduša, R. (2018). *LGBTI People in Latvia: A History of the Past 100 Years*. Association of LGBT and their friends. Riga: *Mozaika*

12 Lipša, I. (2017). *LGBTI vēsture Latvijā: Pēdējās 100 gados*. Riga: *Mozaika*

13 Vērduņš, K., Ozoliņš, J. (2015, August 13). *Pārmaiņas notiek. Satori*

14 See more <https://www.facebook.com/BalticPride>

nor trained well enough to shield Pride participants from potential attacks, also brutal ones. Violent mobs were throwing rocks and rotten eggs, while the police used tear gas to calm them down¹⁵. All in all, the event had ‘kick-started’ the LGBTQ rights discourse on the mainstream political scene.

2007 Riga Pride was organised by the main local LGBTQ rights organisation – *Mozaika*. The mayor of Riga at that time – Jānis Birks (from the national conservative For Fatherland and Freedom [LNNK] party, which is now called National Alliance), attempted to stop the event again. However, Pride organisers succeeded at challenging the Riga city council in the city court. What is interesting, two local LGBTQ rights organisations were on opposite sides regarding this event. As already mentioned, the event was organised by *Mozaika*, but ILGA-Latvija, was against it. The latter accused the organisers of being more interested in self-promotion than in minority rights and educating society¹⁶.

In 2009, Riga Pride was a part of the ‘Baltic Pride’ initiative. Riga city council, this time under mayor Nils Ušakovs (Social Democratic Party ‘Harmony’), tried to stop it one more time¹⁷. It could be explained by the fact that the SDP ‘Harmony’ voter base mainly consists of socially conservative Russian speakers. Pride was officially outlawed. However, thanks to the city court, this move became again unsuccessful, and Pride 2009 took place¹⁸. Nils Ušakovs, now a Member of the European Parliament from the S&D party, proves how attitudes towards LGBTQ people can evolve. Currently, he is one of two Latvian members, alongside Ivars Ijabs (Latvijas Attistībai, Renew Europe), of the LGBTI Intergroup of the European Parliament¹⁹.

The 2012 Riga Pride was the first that faced no resistance from the municipal authorities. After the previous unsuccessful bans of Pride

Mayors of Riga
against the Pride

15 “Rīgas Praids 2005” (July 23, 2015). *TimeNote*. Retrieved from <https://timenote.info/lv/events/Rigas-Praids-2005>

16 “‘ILGA Latvija’ norobežojas no ‘Mozaikas’ rīkotajām ‘Draudzības dienām’” (May 30, 2007). *TVNET*. Retrieved from <https://www.tvnet.lv/4966798/ilga-latvija-norobe-zojas-no-mozaikas-rikotajam-draudzibas-dienam>

17 GaysWithoutBorders (October 1, 2020). *Baltic Pride Saved After Court Lifts Council Ban*. Retrieved from <https://gayswithoutborders.wordpress.com/2009/05/16/baltic-pride-saved-after-court-lifts-council-ban/>

18 *Ibid*

19 LGBTI Intergroup (2021). MEPs who joined the LGBTI Intergroup in 2019-2024. Retrieved from <https://lgbti-ep.eu/who-we-are/members/>

parades, the ruling coalition under SDP ‘Harmony’ in Riga city council decided not to create any obstacles²⁰. Nevertheless, *Mozaika* did not rest and planned for the next Riga Pride to have more participants than ever. However, creating a large-scale event in Riga was challenging, as it is a relatively small city (ca. 1 million citizens). Eventually, the idea became a reality when Riga won a bid to host EuroPride 2015. At that point, EuroPride Riga in 2015 was the largest Pride Parade held in the Baltic states.

Business support

In 2018, Riga Pride Parade was peaceful and gathered the highest number of participants – 8.000 people. There was an insignificant number of protesters, ranging a few dozens. Moreover, this pride parade was a milestone in the entire process of accepting the LGBTQ community into society. Many local and international businesses joined the Parade and participated in teams. What is more, for the first time, three political parties and one youth party openly joined the parade. There were delegations from liberal Latvijas attīstībai (For Latvia’s Development) and Kustība Par! (Movement For!) under the banner of their alliance Attīstībai/Par! (Development/For!). Additionally, there was a delegation from social-democratic Progresīvie (Progressives)²¹, and less publicly, the youth wing of liberal-conservative Vienotība (Unity).

In 2021, after holding a hybrid Pride Parade under the ‘Baltic Pride’, *Mozaika* decided to restore the annual Riga Prides. It does not mean that the ‘Baltic Pride’ initiative is gone. Riga Pride will take place every year, but every third will be organised under the ‘Baltic Pride’ brand. The same situation would apply to Tallinn and Vilnius²².

20 Amnesty International UK (June 3, 2012). *Latvia: Successful Riga Pride parade despite heavy protests*. Retrieved from <https://www.amnesty.org.uk/press-releases/latvia-successful-riga-pride-parade-despite-heavy-protests>

21 “Foto: Vērmanes dārzā noslēdzies Baltijas praida gājiens; policija aizturējusi vienu personu” (June 9, 2018). *Delfi*. Retrieved from

<https://www.delfi.lv/news/national/politics/foto-vermanes-darza-nosledzies-baltijas-praida-gajiens-policija-aizturejusi-vienu-personu.d?id=50106095>

22 “Turpmāk katru gadu visās Baltijas valstīs norisināsies vietējie praidi” (August 8, 2021). *Jauns.lv*. Retrieved from <https://jauns.lv/raksts/zinas/456232-turpmak-katru-gadu-visas-baltijas-valstis-norisināsies-vietējie-praidi>

Life partners

Latvian law currently does not provide much legal recognition and protection for the LGBTQ people. On the one hand, there is a ban on discrimination in the workplace²³ and partial recognition of trans rights that allow legal change of gender in documents, albeit with certain limitations²⁴. On the other hand, Latvian law does not protect from other types of discrimination, hate crimes against LGBTQ people are not well defined, and there is no civil partnership law (or anything similar). Family laws do not allow same-sex couples to adopt, though single-parent adoption is allowed in Latvia.

Until the end of 2005, the Satversme (Latvia's Constitution) pronounced in its article 110 that the 'state supports and protects marriages, family, parents' and children's rights.' In essence, this definition did not mention gender in the case of marriage. However, in 2005 Saeima decided to redefine Article 110 to 'state protects and supports marriage - a union between a woman and a man, family, parents' and children's rights.' The introduction of this amendment has been an effective constitutional ban on same-sex marriage²⁵. Now, to legalise same-sex marriages, two-thirds of the Saeima would need to vote in favour. It was a serious setback compared to the previous legal situation based on the Civil Law, as it could have been changed with a simple majority in Parliament.

In contrast to that, in 2006, Saeima introduced and voted on beneficial legislation for the LGBTQ community. These were changes to the Labour Law, which prohibited workplace discrimination based on sexual orientation²⁶. However, they were introduced under pressure from State President Vaira Vīķe-Freiberga, who initially refused to sign the amendments until the notion of 'sexual orientation' was introduced. Moreover, the reason for the initial presidential veto was

What
the Latvian
state actu-
ally support?

23 Saeima (2006, September 21). Grozījumi Darba likumā. Retrieved from <https://likumi.lv/ta/id/145408-grozijumi-darba-likuma>

24 Saeima (2012/2021). Civilstāvokļa aktu reģistrācijas likums, 37. pants. Retrieved from <https://likumi.lv/ta/id/253442#p37>

25 "Laulību drīkst reģistrēt tikai vīrietis un sievietē, nosaka Satversme" (December 15, 2005). *Apollo*. Retrieved from <https://www.apollo.lv/4781336/laulibu-drikst-registret-tikai-virietis-un-sieviete-nosaka-satversme>

26 Saeima (2006, September 21). Grozījumi Darba likumā. Retrieved from <https://likumi.lv/ta/id/145408-grozijumi-darba-likuma>

not as much care for LGBTQ people but a stipulation under the EU law that forced the Member States to forbid workplace discrimination based on sexual orientation²⁷.

In 2015, MP Veiko Spolitis from the liberal-conservative party Unity submitted a proposal to the Parliament's Legal Commission, which introduced civil partnership under the Civil Law's Family Rights section. The main argument of this MP was as follows – because civil partnership is a separate institution from marriage, it would not interfere with Article 110 of the Constitution. Still, it would introduce protection for all couples, including same-sex couples, as the legislation was intended to be gender-neutral. Nevertheless, this proposal was rejected by the MPs²⁸.

Signatures for civil
partnership laws

The same year, on an e-democracy platform *Manabalss.lv*, Juris Pūce (For Latvia's Development) started to collect signatures under the initiative to introduce a separate civil partnership law. In many ways, this bill was heavily inspired by the Estonian civil partnership from 2016. In 2018, he had the required ten thousand signatures, and Saeima had to consider this matter. Unfortunately, once again, the majority of MPs rejected this initiative²⁹.

The next attempt to introduce civil partnership legislation took place in 2019. The bill was introduced by MPs from liberal Attīstībai/Par! (Development/For!) and liberal-conservative Jaunā Vienotība (New Unity). It was also rejected – 23 MPs voted in favour of submitting the draft legislation to the commission, and 60 voted against this move. This attempt differed from the previous ones because it was not 'copied' from abroad but drafted by a team of lawyers from the Dzīvesbiedri movement³⁰. It is also where the name for this draft law comes from – Dzīvesbiedru likums (Life Partners law).

27 "Prezidente neizsludina grozījumus Darba likumā" (June 21, 2006). *Apollo*. Retrieved from <https://www.apollo.lv/4926704/prezidente-neizsludina-grozijumus-darba-likuma>

28 "Noraida Spoliša rosinājumu ieviest dzimumneitrālu partnerattiecību institūtu" (February 24, 2015). *LSM*. Retrieved from <https://www.lsm.lv/raksts/zinas/latvija/noraida-spolisa-rosinajumu-ievies-dzimum-neitralu-partnerattiecibu-institutu.a119078/>

29 "Saeimas vairākums noraida Kopdzīves likuma iniciatīvu" (March 15, 2018). *Satori*. Retrieved from <https://satori.lv/article/saeimas-vairakums-noraida-kopdzives-likuma-iniciativu>

30 "Saeimas deputāti noraida Dzīvesbiedru likumprojektu" (June 20, 2019). *LSM.LV*. Retrieved from <https://www.lsm.lv/raksts/zinas/latvija/saeimas-deputati-noraida-dzivesbiedru-likumprojektu.a323079/>

At the beginning of 2020, an activist decided to try again and start collecting signatures in favour of legalising same-sex relationships. Many Latvians felt disappointed with the Saeima for rejecting civil partnership legislation again and again, and so in just a few weeks, he collected the required 10.000 signatures. But one more time, Saeima decided to ignore the petitioners' will and did not even send the bill to the commission hearings. This time there were 30 votes in favour of the proposal, 55 against, and one abstention³¹. There is only one positive - this time seven more MPs supported the LGBTQ community.

Subsequently, the movement Dzīvesbiedri didn't give up and began collecting signatures on the *Manabalss.lv* platform for their drafted civil partnership law. This time they had the ambition to collect 20.000 signatures. This goal has already been surpassed, and currently, there are 23.000 signatures. It is expected that once their drafted civil partnership law returns to the Parliament, the movement will submit signatures to provide greater legitimacy for their initiative. It is hard to predict how the Saeima will vote on this attempt, but there is hope that this time, the MPs might be forced to vote in favour of establishing civil partnerships for same-sex couples...

This hope comes from two recent judgments of the Satversme Court (Constitutional Court of Latvia). In November 2020, the first Satversme Court judgment addressed the issue concerning the Labour Law, in which one of the parental leaves was only available to a father. A mother went to court to challenge this situation after her female partner was deprived of the right to go on parental leave. Current legislation provides for maternity leave and paternity leave, and paternity leave is intended only for the child's (biological) father. The Satversme Court upheld that family is not only based on marriage, and as the state is obligated to protect all families according to the Latvian Constitution, then families of same-sex couples should be able to receive this protection as well. The Saeima was given time until the summer of 2022 to prepare a mechanism addressing this situation³².

Two judgments
of the Satver-
sme Court

31 "Saeima noraida vienu partnerattiecību iniciatīvu; tiek vākti paraksti nākamajai" (October 29, 2020). *Satori*

32 "Satversmes tiesa atzīst viendzimuma pāra tiesības uz bērna dzimšanas atvaļinājumu"

(November 12, 2020). *LSM.LV*. Retrieved from <https://www.lsm.lv/raksts/zinas/latvija/satversmes-tiesaatzist-viendzimuma-para-tiesibas-uz-berna-dzimsanas-atvalinajumu.a381484/>

In practice, this means that the Parliament will have to prepare a legal mechanism legally recognising same-sex relationships.

In the second judgment from April 2021, the Court upheld that the current system where same-sex couples are forced to pay a higher tax for real estate inheritance than heterosexual couples is unconstitutional. Under the current law, same-sex couples are forced to pay 60 times higher inheritance tax than married heterosexual couples. The Satversme Court ruled that this is unconstitutional because Article 110 of the constitution obliges the state 'to protect families', not specifying whether these families are opposite-sex or same-sex. This difference in the inheritance tax results from the fact that opposite-sex couples have a right to register their relationship – to marry and receive a lower fee. Same-sex couples do not have any way of registering their relationship, which means that they are barred have to pay the inheritance tax in full. The Satversme Court upheld that the Saeima must address this discriminatory and unconstitutional issue and provide equal opportunities for different types of families³³. In case of this judgment, the Parliament will also have to establish a mechanism that would allow same-sex couples to legalise their relationships.

60 times higher inheritance for same-sex couples

It should be noted that not all political parties were happy about those two decisions of the Satversme Court. Some conservative politicians were calling for a reorganisation of the Satversme Court or its complete abolishment. Others were discussing whether it is permissible to ignore the decisions of a constitutional court³⁴. The idea of abolishing a constitutional court might sound absurd in a modern democracy, but it provides an insight into the outrage that some right-wing politicians in Latvia feel towards the LGBTQ community.

In January 2021, an MP from national conservative Nacionālā apvienība (National alliance) tried to invalidate the judgments of the Satversme Court. He submitted amendments to the Constitution that would redefine Article 110 to state that not only marriage is a 'union

33 "Sociāla nauda dēļ izdarītus noziegumus plāno vērtēt bargāk" (June 9, 2021). *LSM.LV*. Retrieved from <https://www.lsm.lv/raksts/zinas/latvija/sociala-naida-del-izdaritus-noziegumus-plano-vertet-bargak.a406456/>

34 Lasmanis, J. (April 12, 2021). Satversmes tiesa atkal sarūgtina konservatīvos. *NRA.LV*. Retrieved from <https://neatkariga.nra.lv/politika/344363-satversmes-tiesa-atkal-sarugcina-konservativos>

between a male and a female', but also family is a 'union between a male and a female'³⁵. Even though these changes were accepted by the Legal Commission, it is believed that they will not gather the required two-thirds of votes in the final reading to amend Article 110 of the Constitution.

In July 2021, a conservative NGO – Male association prepared their submission to the Central Election Commission. They wanted to collect signatures for a referendum to redefine family as a 'union between a male and a female'. The Central Election Commission registered this initiative. To accomplish their goal and call a public vote, the organisers must collect around 140.000 signatures³⁶. As of the end of September 2021, there are a little bit more than 14.600 signatures³⁷, and it is safe to assume that with such momentum they will not succeed³⁸.

If the initiatives to rewrite Article 110 fail during the spring and summer of 2022, the Latvian Parliament will have to legislate on the two Satversme Court judgments, effectively introducing a mechanism for same-sex couples to legalise their relationships.

There is an apparent demand for the introduction of civil partnerships in Latvia. It is visible beyond the political sphere. A few months ago, quite a controversial story appeared in the media – about an artist and media personality Kaspars Blūms-Blūmanis (Kašers) and his partner, who decided to marry in Denmark. They made the decision because their family had been facing legal challenges in Latvia for many years. And under Danish law, two foreign nationals can marry³⁹.

Celebrities and politicians for civil partnerships

35 "Nacionālā apvienība piedāvā Satversmē noteikt ģimenes jēdzienu" (January 7, 2021). *LSM.LV*. Retrieved from <https://www.lsm.lv/raksts/zinas/latvija/nacionala-apvieniba-piedava-satversme-noteikt-gimenes-jedzienu.a388007/>

36 "CVK reģistrē parakstu vākšanai grozījumus Satversmē ģimenes definīcijas mainīšanai" (July 29, 2021). *LSM.LV*. Retrieved from <https://www.lsm.lv/raksts/zinas/latvija/cvk-registre-parakstu-vaksanai-grozijumus-satversme-gimenes-definicijas-mainisanai.a414810/>

37 "Parakstu vākšanas" (2021). *Latvija.tv*. Retrieved from <https://latvija.lv/pv>

38 It is difficult to collect signatures from the required 10% of the voters, as people generally ignore these signature collections organised by the Central Election Commission. Since the current system of signature collection for the referendum initiation was introduced, none of the signature collections were successful.

39 "Uzņēmējs Kašers ar mīļoto vīrieti Jāni precēsies Dānijā" (March 25, 2021). *Delfi*. Retrieved from <https://www.delfi.lv/izklaide/dzivesstils/stils/uznemejs-kasers-ar-miloto-virieti-jani-preciesies-danija.d?id=53051835>

There are more recent examples – one of the most influential stylists in Latvia, Pērs Bogomazovs with his partner Andrejs decided to solve legal challenges they face as a gay couple through a series of procurement contracts. At the same time, they showed how much easier it would be to register a civil partnership and that many problems cannot be solved under current legislation, e.g. the issue of parenthood⁴⁰.

Even the Latvian political elite has its story of a same-sex couple unable to register their relationships in Latvia. The current Minister of Interior in Krišjānis Kariņš government, Marija Golubeva (Attīstībai/Par!), who was a member of the Saeima Presidium, has been in a relationship with Diāna Ieleja for more than 30 years. In 2013, the couple married in Belgium. In Latvia, unfortunately, their marriage is not recognised. Nevertheless, Marija Golubeva is known for her political fight to raise the acceptance of LGBTQ people in Latvia⁴¹.

Minister of Interior and her wife

Aggravating circumstances

Another topic currently discussed in the Saeima are changes to Criminal Law that would make a hate-motivated crime an aggravating circumstance. The liberal Attīstībai/Par! (Development/For!) and liberal-conservative Jaunā Vienotība (New Unity) are also trying to add the notion of ‘sexual orientation’. However, the first attempt was unsuccessful, and the majority of the MPs voted against this amendment. MPs used various arguments to justify why homophobic hate crime should not be considered an aggravating circumstance⁴². It is difficult to tell if the issue of not including ‘sexual orientation’ in the

40 “Attiecības likuma normu mudzēkli. Trīs viendzimuma pāru stāsti” (March 21, 2021). *LSM.LV*. Retrieved from <https://www.lsm.lv/raksts/zinas/zinu-analize/attiecibas-likuma-normu-mudzekli-tris-viendzimuma-paru-stasti.a352389/>

41 “Marija Golubeva un Diāna Ieleja – viņas ir kopā 30 gadus un noslēgušas laulību Briselē” (June 3, 2021). *SANTA*. Retrieved from <https://www.santa.lv/raksts/privatadzive/>

[marija-golubeva-un-diana-ieleja--vinas-ir-kopa-30-gadus-un-noslegusas-laulibu-brisele-40322/](https://www.lsm.lv/raksts/zinas/marija-golubeva-un-diana-ieleja--vinas-ir-kopa-30-gadus-un-noslegusas-laulibu-brisele-40322/)

42 “ST atceļ vēl vienu viendzimuma ģimenes diskriminējošo normu – par mantojuma nodevu” (April 19, 2021). *LSM.LV*. Retrieved from <https://www.lsm.lv/raksts/zinas/latvija/st-atcel-vel-vienu-viendzimuma-gimenes-diskriminejoso-normu--par-mantojuma-nodevu.a399912/>

definition of hate crime will be resolved in this term of Saeima. Most likely, though, further amendments of this sort will not be passed, and the issue will be considered further after elections. Defining hate crime based on hatred towards 'sexual orientation' would not directly prevent potential crimes from happening, but it would send a signal to both the LGBTQ community and opposition that violence against LGBTQ people based on their sexuality or gender is not an option, and will be punished accordingly.

Definition of hate speech

Other topics that should be addressed urgently by the Latvian Parliament are hate speech and hate crime. Currently, the definition of hate speech in Criminal Law is based on social factors, and it does not include 'sexual orientation' per se. Instead, it includes 'sex, age, disability or any other characteristics if significant harm was done'⁴³. In this case, it would be beneficial to avoid the vagueness of the definition and redefine Article 150 of the Criminal Law to include 'sexual orientation' in it.

Civil Status Act Registration Law

Moreover, Latvia's current gender recognition procedure discriminates against trans people. It is regulated by the Civil Status Act Registration Law (*Civilstāvokļa aktu reģistrācijas likums*). Article 37 states, "The birth certificate shall be supplemented on the basis of a court judgment, administrative act, medical certificate or another document that certifies a change of sex, or a personal application." In practice, this means that for a person to legally recognise their gender in documents, they should provide proof of gender reassignment - in essence, only persons that went through transition therapy or/and surgery can legally change their documents. Considering that for many trans people it is not just a matter of acceptance, but often psychological pressure, and acknowledging that objective justification of such limitations of personal freedom is insufficient, the Parliament should liberalise gender recognition⁴⁴.

43 Saeima (1999/2000). *Krimināllikums*, 150. pants. Retrieved from <https://likumi.lv/ta/id/88966#p150>

44 In Latvia, the problem of gender recognition has been known for many years. In 2009, there was even an attempt to discuss this issue, and a draft of liberalising law was submitted to the Saeima. Unfortunately,

it was rejected by the MPs - 38 voted in favour, 30 voted against, and 14 abstained. "Saeima noraida grozījumus dzimuma maiņas reģistrēšanai" (December 4, 2009). *LVportals*. Retrieved from <https://lvportals.lv/skaidrojumi/201514-saeima-noraida-grozijumus-dzimuma-mainas-registresanai-2009>

As this subchapter stated, Latvia currently struggles with a range of issues regarding LGBTQ rights, but the absence of civil partnership law has gained the most exposure.

Conclusions

Because there are more MPs with a liberal view of social and cultural issues in the Saeima, hopes for positive changes for the LGBTQ community are increasing. As the Satversme Court has recently proved, it also follows liberal interpretations of social issues, including the rights of the LGBTQ community. These developments give hope that in the following years, legislation in Latvia will become more inclusive, even if the ‘road is bumpy’ and legal resistance of socially conservative public and activists is persistent.

Negative societal perception

Another difficult issue remains - the societal acceptance of LGBTQ people. Even though every year, tolerance and acceptance of LGBTQ people in Latvian society is growing, the overall perception of them remains rather negative. For example, the 2019 Eurobarometer survey of societal attitudes towards LGBTQ people shows that only 49% of the surveyed Latvians believe that LGB people deserve the same rights as heterosexual people, whilst 43% do not, the rest is unsure. Only 25% of respondents think there is nothing wrong with sexual relationships between two same-sex people, 68% think differently. And only 24% of Latvians surveyed believed in marriage equality throughout Europe⁴⁵.

Marriage equality throughout Europe

On the other hand, a survey by the SKDS polling agency shows that 69% of Latvians support the civil partnership law drafted by the Dzīvesbiedri movement. The result might be explained by the fact that 52,5% of the respondents said that they have acquaintances who live in unregistered cohabitation⁴⁶. If one is to believe these results, it would suggest that establishing civil partnership law might be one

45 Eurobarometer (2019). *Eurobarometer on Discrimination 2019: The social acceptance of LGBTI people in the EU*. Retrieved from https://ec.europa.eu/info/sites/default/files/ebs_493_data_fact_lgbti_eu_en-1.pdf

46 “Aptauja: 63% Latvijas iedzīvotāju atbalsta Dzīvesbiedru likuma pieņemšanu” (October 7, 2020). *TVNET*. Retrieved from <https://www.tvnet.lv/7079647/aptauja-63-latvijas-iedzivotaju-atbalsta-dzivesbiedru-likuma-pienemšanu>

of the most important steps towards changing society's attitude towards LGBTQ people.

Homophobic politicians

Unfortunately, some homophobic politicians are encouraging negative attitudes towards LGBTQ people to gain electoral support, for example, politicians from Nacionālā apvienība that are known for their staunch opposition to minority rights and from a recently established Likums un Kārtība party. In April 2021, the head of Likums un Kārtība, MP Aldis Gobzems, published a message across his social media platforms. He wrote that recently, two gay guys wrote him to declare their support for his cause. The MP thanked his supporters but added, 'I'm not against gays. But I'm for children and strong Latvia. To achieve this – gays also must be self-critical. Should read history a bit. Only traditional countries become strong. Non-traditional slowly become weak'⁴⁷. In 2020, when Aldis Gobzems was discussing civil partnerships from the podium in the Saeima, he stated: 'You support bisexual relationships. What is bisexuality? Bisexuality is polygamy. So come here, to the podium, and say that you want to legalise polygamy in Latvia'⁴⁸.

Four attempts at establishing civil partnerships in six years

Four attempts at establishing civil partnerships in six years show the willingness to challenge the status quo and make positive, liberating changes. Most likely, with LGBTQ-friendly legislation, societal attitudes will eventually become more positive. Latvia has still a lot to do to provide LGBTQ people with the same rights that cisgender heterosexual people enjoy. Thankfully, recent political developments prove that Latvia is capable of positive change. The most important for liberally-minded politicians is not to lose traction and courage to stand up for the LGBTQ community.

47 Gobzems, A. (April 7, 2021). Man šodien atrakstija divi geji. *Twitter*. Retrieved from <https://twitter.com/aldisgobzems/status/1379851268936585225>

48 Saeima (October 29, 2020). Latvijas Republikas 13. Saeimas rudens sesijas četrpadsmitās (attālinātās ārkārtas) sēdes turpinājums 2020. gada 29. oktobrī. Retrieved from <https://saeima.lv/lv/transcripts/view/2131>

interview

We have to be ready for anything

written by **Joanna Łopat**

Eeva⁽³⁶⁾ & Annely⁽⁴⁵⁾ / Tallinn

On 1 January 2016, a law regulating the legal status of same-sex couples came into force in Estonia. The fight for this law was long, and it was finally passed in October 2014 I guess it was a very important time for you. How do you remember it? Did you feel that a time of change was coming?

Annely: When the bill was voted, I was a volunteer in an Estonian LGBT association. I remember that some people went to the parliament building. It was a day full of emotions. A time of happiness. The media showed the faces of people crying.

Eeva: People were sending flowers to the parliament. Bouquets were lying around the building from those who just wanted to say 'thank you'. My flowers were also there. For me, it was also an emotional day, although I was not a part of the LGBT community at the time. I even think I was in a relationship with a man. But I, undoubtedly, felt that something important was happening. That Estonia was moving in the right direction, towards being more open and equal. That I want to live here. Before, I had doubts. I even thought of going abroad. But on that day, I felt proud. I knew it was a huge step forward.

Annely, did you feel that this legal change would have a real impact on your private life?

Annely: No. I wasn't in a relationship I wanted to formalise then. But many of my friends were. And at that time I was going to weddings. I was happy for them. It was important for me and, especially for them - to be able to marry and celebrate this fact with their loved ones.

It's been more than five years since then. What is the reality of LGBTIQ+ people now?

Annely: The reality is that there's still no implementing acts. So, in truth, our relationship isn't entirely recognised.

Eeva: Laws have two parts - the law itself and then the bill on how to implement the law. How it is connected to other laws and how it changes the whole system. We are still missing the implementing acts, so we

don't have clear rules in many instances on how the law should be interpreted. So now, when people are in a situation where the rules are unclear, they have to go to court, and the court decides how the law should be implemented case by case. Things like residence permits for spouses from abroad, health insurance for the spouse, etc. Courts have to decide if the rules for married couples also apply for cohabiting couples.

This is happening because we're still a controversial topic for politicians.

According to the statistics I saw, every year, Estonians are increasingly more tolerant towards LGBTIQ+ people and support civil partnerships and even same-sex marriage.

Eeva: There are various reactions, but people are definitely more open to lesbian couples. Much less to gay couples. Especially when we're talking about adoption. We know a lot of families where two lesbians have children and only one gay couple with a child. And they didn't have the possibility of adopting. They are a foster family.

And what did your path look like?

Eeva: Not long ago, I was in heterosexual relationships and I was looking for the right person to start a family. But something was always wrong. Perhaps because I hadn't met the right woman. So I decided to have a child by myself. I went to the doctor, took the necessary tests and was on the path to becoming a single mom. And that's when I met Annely. When we met everything happened very, very fast. We were at the same point in our lives. We both wanted to have a family, children. We were ready for this. Right now, we have two kids. And we've been in an official relationship for three years.

From your description, it seems that you made the decision about formalising your relationship quite quickly. How did your families react?

Eeva: Fortunately, members of my family accepted my choice, even though it was a new situation for them.

Annely: Our families were not surprised by our decision and the wedding. That's because we were already raising an 8-month child. For them, it was natural. Besides, I could only adopt in such a formalised relationship. I needed that paper.

**So for the other partner to adopt, the relationship must be formalised?
Is that the condition?**

Annely: Yes. And formally, I'm the father. Really. In the documents, I appear as the father. There's no other option. There's no parent no. 1 and no. 2, but father and mother. So that's why officially Eeva is the mother and I'm the father.

Eeva: I know, it sounds weird. But it is what it is. Generally, many things are unusual in our relationship. Even the beginning was unusual. Because basically, on our first date, I said to Annely, 'you need to know that I am planning to have a baby in the near future and the decision has already been made. So you have to think about whether you want to be a part of that plan or not.'

Annely: At the time, I was looking for a partner with whom I could create a family. But it wasn't working out. I had decided to adopt. I had already applied and was waiting for the training you have to go through before adoption.

Eeva: We met, and everything clicked. We had the same values, the same future plans, the same likes and dislikes. It just worked.

Starting a relationship with a pregnancy and a baby is not an easy thing to do. Was it hard for you?

Eeva: Well... it was a crazy decision, I admit. Because in less than two years I entered a stable relationship with a woman, had my first child, got married and moved twice. It's been really hard. And even though those are happy decisions, the emotional impact was so great that I ended up depressed.

What do you mean?

Eeva: That was the time when nationalists came into power in our country¹. And the rise in popularity of extremely right-wing parties in Estonia and around the world was generally disturbing to me. Their success makes you scared, not only for your own life but also the future of children – their approach to human rights or climate change is simply dangerous.

I understand. For years, and at the exact moment you describe, I worked in a TV news station and I was covering all the events that you've mentioned. But since I became a mother, I've learned to put a filter on reality and separate it a bit from my private life.

Eeva: I tried to do it, but I felt I could not. I felt that I had to stay sharp. I need to know what's going on. Because I need to be prepared for everything. If something happens and puts my family in danger, I must have a plan. I must know where we're going to move. I must be prepared to make quick decisions.

Do you have such a plan?

Eeva: Not yet.

But do you not feel threatened on a daily basis? As I understand, you are accepted and don't experience homophobia?

Eeva: Reality mostly depends on the people around us. If you were born into an open family, it can be good. We can only talk about our situation. And ours is good. We feel accepted.

Annelly: We haven't lost friends or anyone in the family.

1 In April 2019, the Centre Party became the ruling party in Estonia together with the conservative, Christian Democratic party Fatherland and the Conservative People's Party, which is perceived as ultra-nationalist and populist.

Your family grew, actually. How old are your children?

Annely: One year and three years.

How do you remember the moment that your first child was born?

Annely: That day was full of emotions. We had a wonderful midwife who accepted me immediately. She spoke to me more than to Eeva, who was in labour.

And the amazing thing is, I was actually the first person our daughter saw. It was our moment.

Eeva: Later, they put her on my belly. For medical reasons in such a position that I could not see her face. I was too tired to feel bad about it. I was holding her and felt that holding her was enough for me. We have our whole life to look at each other. So they had the first minutes all to themselves.

And it wasn't long before you decided to have another child?

Annely: Yes. From the start, we talked about having a big family. I told Eeva that I wanted five. Eeva said that she'd agree to three.

So when is the third coming? Any plans? There will be a third?

Eeva: Maybe. It depends on the day [laughs]. Sometimes, when I'm tired, I say, 'no more kids'. And then I look at these *sweeties* and sigh, how about ten?

V Russia, Ukraine, Belarus, Moldova

text title

State-Sponsored Homophobia

written by

Hanna Hrytsenko

Independent researcher of far-right movements, based in Kyiv. She is a co-author in the project Reporting Radicalism in Ukraine, focusing on mapping far-right groups and individuals and providing the overview of their activity to those interested in the issue.

Brief years of freedom

After the dissolution of the Soviet Union, Russia was left with a legal heritage that criminalised male homosexual activity between consenting adults. In the general opinion, homosexuality was mostly associated with prison practices of establishing hierarchies among inmates¹. After the dissolution of the Gulag in the mid-1950s, where millions of criminal and political inmates were kept together and released together as well, prisoner subculture largely influenced common life. Later, the general pro-natalist policy, either supporting or forcing birth to compensate for significant Soviet casualties in World War II, left little space for understanding relationships which did not lead to birth. 'Homosexualism' was regarded officially as a medical perversion, and consensual male homosexual behaviour led to up to five years of imprisonment.

'Homosexualism' -
a medical
perversion

However, in 1993 male homosexual behaviour was decriminalised, and the overall climate of increasing freedom, openness, and last but not least, chaos, led to a brief period of increase in gay and lesbian visibility, sometimes even in mainstream media and art. In the 1990s, a singer and dancer Boris Moiseev made a solo performing career based on strong gay allusions, with stage programs *In Memoriam Freddie Mercury*, *Child of Sin*, *Fallen Angel* and especially *Blue Moon* with Nikolai Trubach (in the early post-Soviet times 'blue' used to be the most common euphemism for a gay man). By 1999, LGBTQ issues appeared so promising commercially that a pop duo t.A.T.u pretended to be a pair of lesbians on stage and in their lyrics ('I went crazy, I need her'). This duo and a less mainstream one - Night Snipers, portrayed feelings and situations that lots of post-Soviet homo- and bisexual young girls could relate to.

Success
of t.A.T.u

In the academic and activist community, some changes took place as well. In 1991, first festivals, NGOs, and issue-based magazines were founded. Igor Kon, the founder of Soviet sexology, in the 1990s openly included homosexuality and male studies in his research interests². Moscow-based researcher Elena Gusiatsinskaya established

1 Healey, D. (2018). *Russian Homophobia from Stalin to Sochi*. London: Bloomsbury, p. 27

2 His first book to introduce LGBTQ matters is Kon, I. (1997). *Klubnichka na berezke: seksualnaya kultura v Rossii*. Moscow: OGI.

a private lesbian and gay archive in her apartment, which still serves as a community centre³. Since 1997, transgender people could correct their legal gender after corresponding medical procedures, and in 1999, with the adoption of the 10th revision of the *International Statistical Classification of Diseases*, Russia officially declassified homosexuality as a mental illness, which also allowed homosexual people to join military service.

However, all this was not enough to build acceptance and equality. LGBTQ rights and freedoms were not established strongly and were not grounded in changes in the popular perception of this issue. The influence of the first generation of activists on legal changes was rather limited, and they originated to a large extent from liberal politicians, who were adjusting Russian legislation to international standards⁴, for instance, in order to join the Council of Europe. Decriminalisation of homosexual activity in practice meant amnesty for the convicted, but nothing was done about legal rehabilitation or recognising their suffering; and while archive court materials about such cases are not available publicly, professional historians have limited access to the data. Then, after a brief increase in freedom for the community in the 1990s and even the early 2000s, Russia's conservative turn became more and more apparent – for different reasons.

Slow conservative turn

Vladimir Putin, a former KGB agent, never admired the human rights agenda, but his second and, especially, third term were marked by a strong increase in actions crystallising right-wing values as an official ideology. After the peaceful revolutions in Georgia and Ukraine (in 2003 and 2004 respectively), which marked liberal and democratic stances of the participants and suggested a more pro-European turn of these countries, Russian internal politics started to rely on far-right movements as a means of preventing democratic changes of power inside the country⁵. The following several years marked a

3 <https://lgbtru.com/tag/elena-gusyatinskaya/>
4 *Russian Homophobia from Stalin to Sochi*,
p. 106

5 Horvath, R. (2014). Russkii Obraz and the politics of 'managed nationalism'. *Nationalities Papers: The Journal of Nationalism and Ethnicity* 42(3), 469–488

Far right street
violence

dramatic increase in far-right street violence, with some groups like BORN curated by the presidential administration. The legal wing of BORN, *Russkii Obraz*, explicitly denied political rights for women and promoted ‘traditional values’ as a basis for family and general education (lowering the status of Darwin theory’s to ‘a version’). While these groups targeted mostly non-Slavic people, the general climate of intolerance, blended with homophobic public opinion as a part of Soviet legacy, was intensifying.

Putin’s
public image

Besides this, Putin’s public image began to be presented in a way that it could put deliberate emphasis on his normative masculinity. Sociologist Elena Gapova compares this image to those of James Bond – “a spy”, Judo black belt, a superman with steel nerves and muscles [...] In the images that spread across the media, Putin appears in a cockpit, in a snowmobile, at a gym, in a helicopter, driving an SUV, skiing⁶. In 2012, Putin even flew on a motorised hang glider, leading a group of young cranes to their migration place. A physically strong man was blended here with a ‘strong leader’. This focus on masculinity and leadership epitomised the trend to build a centralised, authoritarian power. Focusing his efforts on an anti-oligarchic campaign in order to concentrate power in his own hands, Putin presented himself as a leader. Focusing his political program on ‘winning’ of the Second Chechen War and combating real and staged Islamic terrorism with brutal methods, Putin addressed typical masculine men (together with their girlfriends and parents) to put value in militarism, brutality, and so on. The popular culture of those days relied on strong masculinity as well, presenting it, for instance, in images of effective criminals (*Brigada* TV series, 2002). Arguably the most popular movie of post-Soviet Russia, *Brother 2* (2000) is a crime drama fully based on patriarchal masculine self-assertion, xenophobia, anti-Americanism, and other negative values. This version of masculinity was asserted as hegemonic, leaving little space for feminism, varieties of LGBTQ expression, as well as any non-aggressive masculinity.

Aggressive
masculinity

First steps towards the conservative turn were made already during these days. In 2002, Member of the State Duma (parliament) Gennady Raikov proposed a draft bill to restore Stalin’s penalisation

6 Gapova, E. (2011). Polnyi Fuko: Telo kak pole vlasti. *Neprikosnovennyi Zapas*, 76

of male homosexuality dating back to 1934. His follow-up proposals suggested even further steps: to penalise consensual lesbian relations and to make masturbation an administrative offence⁷. His initiatives were ridiculed across the entire political spectrum; however, another draft bill *On the defence of morality* was proposed and voted on the same year⁸. While most provisions of it were not inappropriate as such (harsher penalties for sex with underage persons), it employed the rhetoric of morality, preparing the basis for alleged protection of children from everything ‘immoral’, which played its role later. With expressions like ‘responsibility for the education of minors’, the route to denying the very existence of child sexuality was chosen and taken, instead of recognising and approaching it in an age-appropriate way, which could include sexual education in schools.

‘Propaganda’ of
‘bisexualism’ and
‘transsexualism’

Then, between 2006 and 2013, a number of federal subjects enacted various regional laws which banned ‘propaganda of homosexuality’ among minors, and some of them prohibited ‘propaganda’ of ‘bisexualism’ and ‘transsexualism’ as well⁹. In 2008, an official Day of Family, Love, and Fidelity was established based on an Orthodox Petr and Fevronia day (attempting to provide an alternative for ‘extrinsic’ St. Valentine’s day).

Law on
‘foreign agents’

In 2012, a restrictive law on ‘foreign agents’ was adopted. It provided an additional tool for suppressing activist initiatives that engage in international cooperation and receive foreign grants. The necessity to register as a ‘foreign agent’ had legal consequences for them, expanding the number of official reasons to inspect or even prohibit an organisation. This targets LGBTQ organisations as well, for instance, *Bok O Bok (Side By Side)* cinema festival¹⁰.

Official conservative turn

By Putin’s third term, conservatism became a brand for Russia’s international self-assertion. Russia currently attempts to present itself

7 *Russian Homophobia from Stalin to Sochi*, p. 136

8 *Ibid*, p. 132

9 *Zaklyuchenie o posledstviyah prinjatija zakonodatel’stva o zaprete ‘propagandy*

gomoseksualizma sredi nesovershennoletnih’ v Rossijskoj Federacii i ee regionah (2014). Vykhod

10 <https://www.fontanka.ru/2013/06/06/198/>

as a leader for the illiberal part of the world, towards which those dissatisfied with liberal values, allegedly silently suffering under the rule of elites (more liberal than they are) can lean¹¹. This created a win-win situation for both Russia and the Western far-right: they could mutually confirm each other's political and moral legitimacy. While mainstream Russian politicians started seeking their first contacts with the Western far-right back in the 1990s, by the mid-2010s Russian authorities successfully relied on them both for domestic and international justification of its actions – they effectively spread Russian narratives in Western media and provided international political support to be presented for the domestic audience. Western criticism of various Russian internal decisions (such as the murder of an imprisoned opposition lawyer Sergei Magnitsky) served as an additional factor in establishing an alliance with the Eurosceptic far-right¹².

Since June 2013, state-sponsored homophobia as a part of this conservative turn became explicit and official. The Russian federal law 'for the Purpose of Protecting Children from Information Advocating for a Denial of Traditional Family Values' criminalised the distribution of materials on LGBTQ issues among minors. Ukrainian writer and academic Anton Shekhovtsov believes this was done to splinter the opposition on a divisive issue¹³. Canadian and English historian Dan Healey suggests that the campaign was aimed to shift public anger away from the economic crisis and declining living standards¹⁴. Whatever it was actually planned for, this step marked an official turn to state-sponsored homophobia and permission for homophobes to act however they want. Patriarch Cyrill publicly stated that gay marriages bring about the Apocalypse¹⁵. The law was condemned by various foreign institutions and in 2017 was ruled discriminatory by the European Court of Human Rights, but this has not led to its amendment or repeal.

11 Laruelle, M. (2013). Conservatism as the Kremlin's New Toolkit: An Ideology at the Lowest Cost. *Russian Analytical Digest* 138, 3-4

12 Shekhovtsov, A. (2018). *Russia and the Western Far-Right: Tango Noir*. London Routledge, p. 223

13 *Ibid*, p.81

14 *Russian Homophobia from Stalin to Sochi*, p. 6

15 "Патриарх Кирилл заявил, что признание гей-браков приближает конец света" (July 22, 2013). *BBC News*. Retrieved from https://www.bbc.com/ukrainian/rolling_news_russian/2013/07/130722_ru_n_kirill_gay_marriges

The new legislation launched a dramatic increase in violation of the LGBTQ community's human rights¹⁶, making it virtually impossible to hold public events aimed at protecting LGBTQ rights and leaving LGBTQ adolescents without any possibility to seek help and advice. A number of activists were fined just for single-person street rallies. Numerous and often successful attempts to disrupt the actions of LGBTQ people by homophobic activists (some have become infamous) followed. In a year a homophobic provocateur Timur Bulatov, bragging of committing a number of various crimes, started regularly appearing on federal channels¹⁷.

Polls indicated a dramatic decrease in already low indicators of an equal attitude towards gays and lesbians: from 13% (July 2012) to 7% (April 2013)¹⁸. Journalist Masha Gessen commented: 'I had to leave Russia in 2013. Everyone knew everything about me. Nobody thought about it - neither my neighbours, nor my employers, nor the child protection authorities, nobody thought about it until the Kremlin said: "Attack!"'¹⁹ Only in 2019, when the effectiveness of the campaign was exhausted, and due to activists' struggle even under harsh conditions, the numbers returned to those from the mid-2000s. The general worldwide increase in LGBTQ visibility, including an increase in the amount of such content in English on social networks, also works against the state-sponsored campaign.

After the legislative amendments were adopted, the number of hate crimes against LGBTQ increased dramatically as well²⁰. The infamous leader of Russian neo-Nazis Maxim Martsinkevich developed his (invented beforehand) project of mass hate crimes, targeted particularly towards gays - *Occupy Pedophilia*. On lots of videos that easily went viral, Martsinkevich and his disciples lured gay men to 'dates' and afterwards labelled them as 'paedophiles', tortured and humiliated them. Martsinkevich encouraged franchising his ideas,

Mass hate crimes,
targeted to-
wards gays

16 Kondakov, A. (2017). *Prestupleniya na pochve nenavisti protiv LGBT v Rossii*. St. Petersburg: CISR, p. 65

17 Setdikova, D. (October 6, 2015). Извращение. Петербургский провокатор. *Radio Svoboda*. Retrieved from <https://www.svoboda.org/a/27290686.html>

18 <https://www.levada.ru/2019/05/23/otnoshenie-k-lgbt-lyudyam/>

19 Kataeva, M., Boldyrev, O. (July 24, 2020). "Я их прощаю. Я свободный человек". Как живут геи из Чечни, открывшие свои лица. *BBC News*. Retrieved from <https://www.bbc.com/russian/features-53512419>

20 *Prestupleniya na pochve nenavisti protiv LGBT v Rossii*, p. 65

which is why this movement became popular in other regions, and a number of similar projects under different names appeared independently but found his approval, in Russia and in other countries²¹.

In Chechnya, secret abductions and murders of gays reportedly took place in recent years²². This became possible because of a special regime established in the region. After years of suppressing insurrection for political independence, Ramzan Kadyrov, a leader of the pro-Moscow militia, was granted a ruling position in the region, trading peace and almost unlimited possibilities to control the region for personal loyalty. While homophobia itself was not new to the region, this appointment led to the establishment of authoritarian Islamism, which strongly promotes patriarchal values and tribalism (in a small land of slightly more than 1 million people, where everybody knows everybody), which completely excluded human rights in general and the rights of LGBTQ people in particular, making the latter victims of so-called 'honour killings'. After an attempt of Moscow-based LGBTQ activists to hold rallies in Northern Caucasus, and after a detainment of a gay drug user with lots of personal contacts in his phone (both events took place at the beginning of 2017²³), mass detaining initiated personally by Chechnya parliament speaker Magomed 'Lord' Daudov started, and an extremely strong wave of purges unfolded. Kadyrov personally encourages extrajudicial killings: 'If there were such people in Chechnya, law-enforcement agencies wouldn't need to have anything to do with them because their relatives would send them somewhere from which there is no return²⁴'. Reportedly, secret concentration camps for gays were created in the town of Argun and

Murders in
Chechnya

21 Serhachkova, E. (May 26, 2017). Калька с «русского мира»: откуда в Украине выросли движения по борьбе с педофилами. *Hromadske*. Retrieved from <https://hromadske.ua/ru/posts/kalka-s-russkoho-myra-otkuda-v-ukrayne-vyrosly-dvyzheniya-po-borbe-s-pedofylamy>

22 Osborne, S. (April 6, 2017). Gay men being tortured and murdered in Chechen prisons, claim detainees. *Independent*. Retrieved from <https://www.independent.co.uk/news/world/europe/gay-men-chechnya-prisons-detain-torture-murdered-killed-detain-russia-region-a7669911.html>

23 Milashina, E. (April 1, 2017). Как амбиции известного ЛГБТ-активиста разбудили в Чечне страшный древний обычай. *Novaya Gazeta*. Retrieved from <https://novayagazeta.ru/articles/2017/04/01/71983-ubiystvo-chesti>

24 Smith, L. (April 15, 2017). Chechnya detains 100 gay men in first concentration camps since the Holocaust. *International Business Times*. Retrieved from <https://www.ibtimes.co.uk/chechnya-detains-100-gay-men-first-concentration-camps-since-holocaust-1616363>

in the village of Tsotsi-Yurt²⁵. Lesbians are beaten with sticks and subjected to exorcising jinns out of them²⁶. More than 100 people were forced to leave Russia because of these purges.

Censorship

Popular culture could not feature LGBTQ issues anymore, as it did in the 1990s. In 2019, gay sex scenes in the movie *Rocketman* were cut out in distribution; in 2020, the same type of censorship was applied to *Supernova* (both movies were rated 18+ and therefore were legal even uncensored). *Call Me by Your Name* was exhibited only once at a special screening. Organisers of a film festival that showed a Russian indie LGBTQ-drama *Outlaw*, even though it managed to receive a screening license from the Ministry of Culture, were put under police pressure²⁷. A politician Vitalii Milonov, at first a local St. Petersburg legislative assembly member, and then a member of the State Duma, gained notoriety for a number of ridiculous initiatives such as attempts to hold Rammstein and Madonna accountable for 'propaganda' when they gave concerts in Russia²⁸.

In March 2020, among other amendments to the Constitution suggested by the President, a provision about family as a union of a man and a woman was announced and followed by a homophobic video clip by the Federal News Agency. The clip suggested voting for amendments; otherwise, queer couples would be able to adopt children. It ended with a question: 'Will you choose *this* Russia?'²⁹

25 Gordienko, I., Milashina, E. (April 27, 2017). Расправы над чеченскими геями (18+). *Novaya Gazeta*. Retrieved from <https://novayagazeta.ru/articles/2017/04/04/72027-raspravyy-nad-chechenskimi-geyami-publikuem-svidetelstva>.

26 „Я их прощаю. Я свободный человек“. Information uncovered about a second prison for homosexuals in the Russian republic of Chechnya (April 9, 2017). *UAWIRE*. Retrieved from <https://uawire.org/news/homosexual-men-from-Chechnya-confirm-existence-of-special-prisons-in-the-republic>

26 Kataeva, M., Boldyrev, O (July 24, 2020). „Я их прощаю. Я свободный человек“. Как живут геи из Чечни, открывшие свои лица . *BBC News*. Retrieved from <https://www.bbc.com/russian/features-53512419>

27 Nelepo, B. (October 23, 2020). Цензура в российском кино – Что случилось с «Аутло»? *Seance.ru*. Retrieved from <https://seance.ru/articles/outlaw-censored/>

28 Kislov, A. (August 1, 2019). Милонов потребовал запретить Rammstein въезд в РФ после поцелуя на сцене. *URA.ru*. Retrieved from <https://ura.news/news/1052393606>. Mavliev, A. (July 2, 2012). Милонов запретил Мадонне снимать с себя рейтузы. *Komosomolskaya Pravda*. Retrieved from <https://www.spb.kp.ru/online/news/1188261/>

29 The original video has been blocked for violating YouTube rules, but the fragment in question can be found in <https://www.youtube.com/watch?v=hBRJyHiNvSc> from 0:16.

Homophobic soft power

Russian state-sponsored homophobia does not impact Russian LGBTQ citizens only, it also influences its neighbouring countries in various ways. While Western far-right are not necessarily homophobic, the ones from the post-Soviet neighbourhood, sharing the same legacy, often are. As a former centre of the Soviet empire, with much money spent and a widely-known language, Moscow has the means to support its political and cultural influence.

The World Congress of Families (WCF), a worldwide network of anti-LGBT and anti-abortion organisations founded in Russia in 1997 by activists from American Christian Right and Russian intellectuals concerned with demographic decline, is allegedly funded by conservative Russian oligarchs Konstantin Malofeev and Vladimir Yakunin³⁰. The WCF works as a soft power tool for Russia, not only promoting conservative views on family, gender and sex but also spreading international political messages in favour of Russia. Dozens of politicians from across Europe have participated in WCF events over the years. In total, more than 700 people from more than 50 countries around the world have been connected to this network in the last 15 years³¹.

Former French WCF representative, Fabrice Sorlin, explicitly supported Russian expansionism on the basis of conservative values: ‘This Europe of the people and of nations would substitute technocratic Europe with a more traditional European civilisation; it would promote Christianity within Europe, which has until now been dominated by the LGBT lobby. It must ally with Vladimir Putin’s Russia in order to create a version of Europe that stretches from the Atlantic to the Pacific³².’ This sponsored expansionism to the benefit of the

World Congress
of Families

30 Necsutu, M. (January 23, 2018). Moldova to Host Global Christian Right-Wing Congress. *Balkan Insight*. Retrieved from <https://balkaninsight.com/2018/01/23/moldova-to-host-world-congress-of-families-before-elections-01-23-2018/>

31 Archer, N., Provost, C. (March 27, 2019). Revealed: dozens of European politicians linked to US ‘incubator for extremism’. *Open Democracy*. Retrieved from <https://www.opendemocracy.net/en/5050/revealed-dozens-of-european-politicians-linked-to-us-incubator-for-extremism/>

32 Barthélemy, H. (May 16, 2018). How the World Congress of Families serves Russian Orthodox political interests. *SPLC*. Retrieved from <https://www.splcenter.org/hate-watch/2018/05/16/how-world-congress-families-serves-russian-orthodox-political-interests>

state works differently in each European country but destabilises the entire region either deliberately or by indirect influence.

In Hungary, the ruling party Fidesz proposed legislation which is actually very similar to the Russian one – on the prohibition of exposing minors to any LGBTQ+ content³³. Also, sex education in schools will be taught only by a limited number of government-approved educators. In the summer of 2021, UEFA drew criticism from LGBTQ groups for declining a request to illuminate the stadium in Munich during the Germany v. Hungary match, a suggestion by Munich mayor Dieter Rieter made in response to this legislation. It should be noted that in this case, the championship was officially sponsored by Gazprom, a Russian majority state-owned company.

In Georgia, a big real estate investor Levan Vasadze, known for his nativist, explicitly anti-liberal, and ultra-religious views, has strong business and political ties with Russia. A former board member of a number of large businesses in Russia, he also founded Georgia's Demographic Revival Foundation, a part of the WCF. In May 2021, Vasadze announced his official entry into politics as a founder of the public movement *Unity, Essence, Hope*. Recently, he urged³⁴ the government to cancel Tbilisi Pride events, which then were violently disrupted by right-wing radicals.

Moldova is said to be one of the most homophobic countries in Europe³⁵. The 2018 WCF congress in Chisinau was organised under the auspices of Moldova's president Igor Dodon³⁶. He was quoted telling journalists: 'I have never promised to be the president of the gays, they should have elected their own president³⁷.' The 'propaganda'

33 "Hungary's Fidesz Seeks Ban With Echoes Of Russia's 'Gay Propaganda' Law" (June 11, 2021). *Radio Free Europe*. Retrieved from <https://www.rferl.org/a/hungary-ban-gay-propaganda/31302483.html>

34 "Right-wing politician, businessman Vasadze urges gov't to cancel Tbilisi pride events" (June 15, 2021). *Agenda.ge*. Retrieved from <https://agenda.ge/en/news/2021/1617>

35 Shupac, M. (May 26, 2017). LGBT lives in Moldova. *Open Democracy*. Retrieved from <https://www.opendemocracy.net/en/odr/lgbt-lives-in-moldova/>

36 Necutu, M. (September 14, 2017). Moldova Hosts the World Congress of Families. *Balkan Insight*. Retrieved from <https://balkaninsight.com/2018/09/14/moldova-to-host-the-world-congress-of-families-09-13-2018/>

37 Cherubini, E. (May 24, 2017). Moldova LGBT march halted as President says: 'I am not president of the gays'. *Pink News*. Retrieved from <https://www.pinknews.co.uk/2017/05/24/moldova-lgbt-march-halted-as-president-says-i-am-not-president-of-the-gays/>

laws, similar to Russian, were implemented in 2013 but soon repealed as they were threatening the possibility of joining the EU³⁸. While current president Maia Sandu is openly pro-European, she only generally expressed her respect towards minority rights, and the fake narrative of expected legalisation of same-sex unions was used in the electoral campaign against her by her opponents, thus relying on general societal homophobia³⁹.

No data on the possible Russian influence on Belarus is available and further research is suggested. However, the general situation is in no way different from that in other countries of the region. The legislation on protecting children from harmful information does not specify homosexuality as something harmful, however, prohibits it 'discrediting the institution of family and marriage and family relationships'⁴⁰. In February 2016, a member of the Minsk department of homophobic *Occupy Pedophilia* group Artiom Shlahtiuk was found guilty of delinquency and robbery aggravated by homophobia⁴¹. The space for civil initiatives and freedom of speech is extremely restricted under authoritarian Lukashenko rule, who in 2012 stated that 'it is better to be a dictator than gay'⁴². Opposition activists (namely Pavel Severinets from Belarus Christian Democrats) are sometimes explicitly homophobic as well⁴³.

In Ukraine, Maxim Martynkevich toured in 2013 to promote his *Occupy Pedophilia* project, which resulted in more hate crimes and creation of similar projects, which lasted approximately till 2014–2015.

Relying on
general societal
homophobia

38 McCormick, J. (October 14, 2013). Moldova overturns anti-gay 'propaganda' law with hopes of joining EU. *Pink News*. Retrieved from <https://www.pinknews.co.uk/2013/10/14/moldova-overturns-anti-gay-propaganda-law-with-hopes-of-joining-eu/>

39 <https://stopfals.md/ru/article/buklet-prodvigaemy-igorem-dodonom-i-psrms-10-lozhnymi-utverzhdeniyami-o-maie-sandu-180447>

40 https://kodeksy-by.com/zakon_rb_o_pravah_rebenka/37-1.htm

41 "В Беларуси впервые вынесли приговор за преступление на почве гомофобии

"(February 13, 2016). *RFI*. Retrieved from <https://www.rfi.fr/ru/evropa/20160213-v-belarusi-vpervye-vynesli-prigovor-za-prestuplenie-na-pochve-gomofobii>

42 "А.Лукашенко: Лучше быть диктатором, чем голубым (May 6, 2012). *RBC*. Retrieved from <https://www.rbc.ru/politics/06/03/2012/5703f4579a7947ac81a65928>

43 "В Беларуси судят Павла Северинца. Рассказываем о нем, его взглядах и взаимоотношениях с другими политическими активистами" (May 12, 2021). *CurrentTime.TV*. Retrieved from <https://www.currenttime.tv/a/sevetinets/31250177.html>

However, in early 2017 the number of hate crimes against the LGBTQ community rose again, now in attempts to disrupt their public and closed events. While this can be explained by an increase in the number of events in itself, and by poor and ineffective work of the local police, the researchers of the Ukrainian Women's Fund spotted an anti-gender information campaign that had been prepared since 2014 and unfolded fully in 2017. The campaign was based on manipulating the concept of 'family values', suggesting it relates only to Christian heterosexual families with children. The messages fully copied words of the aforementioned Vitalii Milonov and Vladimir Putin (only replacing Russia with Ukraine)⁴⁴. In the parts of Ukraine illegally annexed by Russia or captured by Russian-backed separatists in 2014 (Malofeev reportedly was tied to these actions⁴⁵), Russian legislation or similar local legislations apply. Besides this, sometimes small but unpleasant incidents based on lack of differentiation between Russia and Ukraine take place: for instance, a video game *Tell Me Why* was not available both in Russia because of legal restrictions for LGBTQ content and in Ukraine where no such restrictions exist⁴⁶.

All facts stated above allow us to interpret Russian homophobic influence as large and threatening to human rights in the entire region.

Possible counteracts

Need for effective sanctions

First of all, larger studies of the Russian impact on the region can be suggested, and they would involve experts from each country engaged in local fieldwork. Then, the foreign community should introduce effective sanctions against individuals and entities undermining or threatening human rights and freedoms of the LGBTQ community,

44 Ukrainian Women's Fund (2020). *Gender chy antygender: Khto atakuye demokratsiyu v Ukraini*, p. 77, 87

45 US Department of Treasury (December 19, 2014). Treasury Targets Additional Ukrainian Separatists and Russian Individuals and Entities. Retrieved from <https://www.treasury.gov/press-center/press-releases/Pages/j19729.aspx>

46 Adams, R.N. (September 10, 2020). Tell Me Why is Not Available for Purchase in 13 Countries. *TechRaptor*. Retrieved from <https://techraptor.net/gaming/news/tell-me-why-is-not-available-for-purchase-in-13-countries>

Diplomatic
measures and
support for NGOs

including freedom of expression and peaceful assembly. Diplomatic measures to influence the situation would also be useful. Russian LGBTQ organisations which are currently listed as foreign agents should receive support from their partners in a well-judged manner that does not make their situation even worse. Economic cooperation with the Russian regime, including the development of Nord Stream 2, which allegedly allows further military development of Russian troops in Ukraine and capturing more territories, should be frozen as soon as possible. Speaking about refugees, especially from the Chechnya region, special attention should be paid to the measures that help them leave Russia and find refuge.

Since Russia proved itself to exercise a strong influence on regional matters, supporting illiberal political forces in surrounding countries and beyond, as well as serving as an example for them, it is critically important for the local LGBTQ communities to be aware of this influence, to recognise it and to resist it. It is equally important for the Russian LGBTQ community to resist state and societal pressure and to progress further in the necessary development.

quote

Russian state-sponsored homophobia does not impact Russian LGBTQ citizens only, it also influences its neighbouring countries in various ways. (...) As a former centre of the Soviet empire, with much money spent and a widely-known language, Moscow has the means to support its political and cultural influence.

interview

We-Russians and they-from the West

written by **Joanna Łopat**

Dilya ⁽²⁵⁾ / St. Petersburg

Seven years in jail for homosexual acts - this provision had been in force in the USSR since the 1960s. It was only repealed in 1993. What did the 1990s and Russian reality look like for LGBTIQ+ people after the democratic changes?

The 1990s in Russia were a time of change. People had great hopes. They were eager for pictures and information from the Western world, from Europe. At that time, same-sex marriages started to be legalised. And we began to feel that those changes will come here too. It seemed that everything was on the right track. We had pride parades. We spoke about equality. We thought that Russia would be a democratic country, in which human rights would be a sure thing. A new generation grew up during this time - for them, sexuality and orientation were not a reason for punishment.

In hindsight, the 1990s seem extraordinary. I've asked about this decade because in one of the interviews for this book, a boy from a small Georgian village has mentioned the music group t.A.T.u. He told me that the moment when he saw two girls kissing was a breakthrough in his life. Thanks to them, he found out that this kind of love exists. Today it's unbelievable. How was it then? How is it possible that two lesbians became famous in Russia and then on the international scene?

The world of music and music industry are governed by specific rules, and t.A.T.u. was a kind of social experiment. And it was successful. There were a few reasons for their success - the songs were catchy, it was difficult to be indifferent towards them, and most importantly - the world fell in love with them. And we - regardless of what those girls represented - we were proud of them.

Years later, their status has changed. Right now, one of the singers openly says that she's against LGBTQ+ people, especially gay people. Her statements are homophobic, and when asked about her group, she vehemently denies that there was anything between her and the second vocalist. She repeats that they were young and didn't understand what they were taking part in. It's very sad.

And it shows the change perfectly. Do you think that it happened when Putin came into power? That it was a turning point (another after 1991)?

Putin's coming to power was not a turning point. Because at that time, we saw him more as a leader who would guide us towards progressive ideas, and thanks to him, we would be closer to the Western world. For us, he was a liberal politician. We have gradually found out that he isn't. It didn't happen overnight.

But if I were to name the turning point, it would be 2011. The government was in a deep crisis then. Elections to the State Duma took place. People knew that the results were falsified and started protesting on the streets.

The manifestations from that time were the largest since the collapse of the USSR. The authorities were frightened of protesters at that time. So, to appease the public, a new ideology was needed, something to reunite Russians and turn their attention away from real problems. Then, they started to talk about the value of family. And family in the traditional sense meant exclusion of LGBTQ+ people, of course. The consequence of pro-family policy was a limitation of women's rights in general - through changes in the right to abortion and act on domestic violence. The values of the Western world were ceaselessly criticised, and everything from the West was wrong. The narration was built on a division: We-Russians and they-from the West. In this order, there was no place for LGBTQ+ people who were directly associated with Western values, as if our sexuality or gender identity could be suddenly flown in from abroad. Then the changes began. A process that finally led to absurd situations; for example, using the rainbow symbol became borderline illegal. Even rainbow-colored ice cream sparked controversy¹.

1 A former deputy and president of the Women's Union has accused a popular ice cream brand of 'promoting homosexual behaviour among minors'. The former deputy explained to the media that she

'doesn't like the rainbow, just as she doesn't like the swastika' and that the coloured ice cream is a kind of sneaky indoctrination and a way to familiarise children with LGBT symbols.

In 2013, the Russian Duma voted in favour of a state-wide act banning so-called propaganda of homosexuality among minors. What does it mean in practice?

I think that people who created this law don't actually understand or were not willing to provide the meaning of propaganda. There is no definition of 'propaganda' in the body of the law itself. But in my opinion, this law is used as a tool of repression, especially against LGBTQ+ activists. It's an instrument of censorship and control. Under this law, any kind of interpersonal relationships that differ from male-female are seen as abnormal. And they definitely should not be shown to children.

In reality, any kind of activism - whether the audience includes children or not - can be considered propaganda. That's why pride parades might be seen as propaganda, and rainbow-colored ice cream might be seen as propaganda.

Practically, this act is threatening towards LGBTQ+ people - both adults and minors. It poses a threat to anybody who feels that their sexual orientation is seen as wrong by the conservative society. As a result, those who need support cannot count on it. They can't speak about their feelings openly - neither with a therapist nor with a teacher.

I sometimes feel that despite our best efforts, like launching a state-wide campaign against this law, nothing can be done about it at the moment.

How do you feel about it? What impact does this law have on your life - privately and as a person representing LGBTIQ+ issues?

I think that since this act came into force, every LGBT person can feel like a 'living propaganda'. The very fact that I'm alive and I have feelings goes against the law and regulations in force.

It's as if I were in a box. And I was being constantly watched. All the time, a target for authorities. But not only for them. What do the regulations mean without people? For many people, this law is an instrument of oppression and a kind of permission for homophobic behaviour.

Because, if an LGBTQ+ person is attacked, they feel as if nothing can be done about it. As, theoretically, others might believe they would go unpunished for acts of physical or verbal aggression because

there is this law. LGBTQ+ people don't feel protected and don't feel they can trust the police or courts. And thus are a very easy target.

The laws that apply in Russia make talking about basic human rights a vicious circle, a trap. Because if you want to change anything, you have to start with educating society. And in this situation, you can't educate anyone because of the law.

As an activist who, according to this act, 'promotes LGBT', do you feel threatened?

I am an easy prey for attacks, especially when it comes to the Internet space, because I am a public person, I comment on various events and act as a face of a human rights organization. And although under this law I can be accused of 'promoting non-traditional relations', I actually fight for respecting human rights. I equally fight for women's rights and against the law that decriminalizes domestic violence.

And I can't let myself be paralyzed by fear. You have to understand that if you decide to be an activist, sooner or later, the authorities will take an interest in you. And if it's not the authorities, then it would be representatives of the far-right or conservative groups. In both cases, it's not only I who's in danger, but also my family and friends. Those are the consequences. If you aren't ready for them, you shouldn't take up activism. Not in Russia.

What made you decide to take the risk and tackle LGBTIQ+ rights?

My story is not common. Partly because I didn't live in Russia for a while. And so for a long time, I didn't feel the danger connected with the consequences of my actions. Although I dealt with human rights, I had very comfortable work conditions. I was a researcher, so I gathered data and analyzed it to, ultimately, describe how hard were the lives of people far away from the place I was in at the time. I was living in Geneva.

So, it was a kind of activism from my desk. And although what I was doing was important, I felt that it wasn't enough. My whole life, I dreamt of fighting for human rights. And that kind of desk job wasn't for me. I didn't want to continue doing it, even though I knew that my work was prestigious and definitely had its impact. Additionally, I had this feeling that a person meant nothing on their own, real changes

cannot be achieved while you do activism by yourself. Therefore I needed a group of people who think like me and want change.

What did your return to Russia look like? Did you have any idea what you were going to do?

I came back without any specific plan. I just came back. My parents were furious. They asked, 'What was this education for? Why waste so many years, when in the end, you say that it's not something you want to do? We were so proud of you, and now... what are you going to do?'

What did you start doing?

I got a proposition for work at Charitable Foundation Sphere which is famous for carrying out the programs of Russian LGBT Network. I was asked to represent LGBTQ+ people's issues as a communications specialist. I immediately agreed. And although at first, I had doubts, now I know it was the best decision in my life. I have never felt more fulfilled. Even though I have to think all the time about my safety and the safety of the place I work in (we never know if and when they'll close us), I'm happy. I know I'm in the right place and what I do is important. I represent the rights of people who have no rights in Russia.

Does it include you? What I mean - you are a lesbian, and by fighting for LGBTIQ+ rights, do you fight for your own as well?

I'm bisexual. In my life, I had wonderful boyfriends and wonderful girlfriends. But the gender of the person I love doesn't mean much to me.

It may not matter to you, but I'm guessing that to others (outside the LGBTIQ+ community), it does.

I have never hidden who I am. But, undoubtedly, there were situations when informing about my sexuality could have its consequences. That's why during my studies, I would never out myself. I was in a fairly prestigious department dominated by traditional-minded men. My parents ignore, pretend not to notice some important facts about me. They never ask about my work because they dislike what

I do. I often tell them, 'I'm bisexual. Do you know what it means? Or should I explain it to you again?' And they always answer, 'We don't understand. You went out with boys. What happened?'

But the concept of sexual identity is sometimes difficult to understand even in the LGBTQ+ community. Bisexuals are discriminated against there. On a date, if I told a lesbian that I'm 'bi', I could probably scare her if she was prejudiced toward non-monosexual people. Because there is limited trust towards bisexuals. They're treated as if they haven't decided who they are yet, as if they are in the closet and looking for an easy way. A life in between. It's difficult to understand people who live in between.

Even in a country where not so long ago two girls sang about how much they loved one another... And on that note, my final question, were you a fan of t.A.T.u?

Actually, I still am a fan of this group.

I was a little girl when I first heard them. And at the time, I did not think of them in any particular way. I didn't entirely understand what those girls screamed to each other. And yet they shouted that they loved and wanted each other very much.

I only understood the real message when I grew up, when I was a teenager. At the time, the group didn't exist anymore. But I listened to their songs and understood that many of their songs express what I feel. It was an interesting experience because, after all, I grew up in a country where only conservative standards are promoted. And every year, it gets worse in this respect.

Charitable Foundation Sphere's recent research on the situation of LGBTQ+ teens in the school environment shows that Russia is one of the countries where teachers themselves take part in bullying, and over half of LGBTQ+ school students experience harassment. And this law about LGBTQ+ propaganda took away the possibility of looking for help for LGBTQ+ teens. They have nobody and nowhere to talk about their experiences.

This shows how much is lacking and how much needs to be changed. And that means that I always have a lot of work to do. I would really want to see the effect of that work, but I'm sometimes afraid that's not going to happen.

quote

As a result, those who need support cannot count on it. They can't speak about their feelings openly – neither with a therapist nor with a teacher.

VI South Caucasus

text title

The Last Country in Europe

written by

Lili Nazarov

LGBTQI+ and woman rights activist,
working with Azerbaijani queer commu-
nity on issues related to human rights.
As a nomad activist making murals on
topic of anti-discrimination and same
sex marriages in every country that they
have been

Azerbaijani society has long put up with insufficient protection of human rights. A large number of minority and political groups have been left to experience government-sponsored repression and social rejection. Such undesirable experiences have also had an impact on the LGBTQI+ community of Azerbaijan. Currently, the country is deemed one of the worst places for LGBTQI+ individuals to reside in due to a vast amount of social and governmental discrimination. As a matter of fact, Azerbaijan is ranked the least suitable country in Europe for LGBTQI+ out of 49 countries¹. Lack of societal acceptance and state-sponsored, unofficial anti-LGBTQI+ policies are the two interrelated, major obstacles fueling homophobia and transphobia in society.

The current legal situation in the country does not deem same-sex sexual activity as an offence. In fact, same-sex sexual activity was decriminalised as well as legalised in 2000. Moreover, according to Article 25 in the Constitution of the Republic of Azerbaijan, the state guarantees equality of rights and freedoms to every Azerbaijani citizen regardless of their race, ethnicity, sex, religious and political affiliation, etc. However, recognition of equality mostly remains nominal, as many social groups, including the LGBTQI+, experience unequal treatment by the government.

Although same-sex sexual activity is legal, it is frowned upon and unaccepted by society, and the government is less than helpful in challenging homophobic bias. Furthermore, the legalisation of same-sex sexual activity is the sole pro-LGBTQI+ move the state has made so far. Most of the other rights of LGBTQI+ individuals lack recognition. Same-sex marriage and civil unions are shunned, same-sex couples are ineligible to adopt children. What's more, transgender individuals possess no right to legally change their gender, although they can change their name to match their gender identity². In addition to the absence of fundamental rights, Azerbaijan has no legislation that prevents the discrimination of LGBTQI+ individuals in any sphere of

1 Rainbow Europe (December 2020). *Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, and Intersex People in Azerbaijan*. Retrieved from <https://rainbow-europe.org/#8622/o/o>

2 COWI. The Danish Institute for Human Rights. (2018). *Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity*

life.³ All in all, LGBTQI+ people in Azerbaijan are highly disadvantaged by the denial of fundamental rights and the absence of legal protection.

Inflexible concepts
of gender and
gender equality

Lack of social acceptance and tolerance is another problem stopping LGBTQI+ persons from living an authentic life and pushing many of them to the margins of society. In Azerbaijani society, the concepts of gender and gender equality are quite inflexible, and the majority of Azerbaijanis have an intransigent understanding of what it means to be a man or a woman.⁴ This fact leaves little space for acceptance of transgender identities and gender non-conformity in general. As a result, deviation from traditional gender norms is treated negatively, and transgender people, as well as individuals with gender non-conforming expressions, face various types of social rejection, such as discrimination, ostracism, harassment, violence, and even murder. Moreover, LGB people also go through such experiences once they openly express their sexual orientation.

Religion and
tradition

At the societal level, the lack of acceptance of non-heterosexual orientation seems to be rooted in tradition and social norms. Although the Azerbaijani population mostly identifies themselves as Muslim, it is believed that homophobia stems from the mentality, customs and tradition, rather than religion.⁵ On a more pessimistic note, at the government level, no policies exist to prevent anti-LGBTQI+ attitudes motivated by social norms or to educate the public. There appears to be an interrelation between society and state on this issue; the institutions do not seek to challenge and alter current homophobic and transphobic social norms to maintain the status quo, and society does not desire acceptance or tolerance of LGBTQI+ individuals as no incentive is provided either by the government or powerful institutions. As a result, anti-LGBTQI+ biases prevail in society at the expense of LGBTQI+ people.

3 ILGA World. (December 2020). *State-Sponsored Homophobia 2020: Global Legislation Overview Update*. Retrieved from <https://ilga.org/state-sponsored-homophobia-report-2020-global-legislation-overview>

4 UNFPA/SCFWCA (2018). *Gender Equality and Gender Relations in Azerbaijan: Current Trends and Opportunities. Findings from the Men and Gender Equality Survey*. Retrieved

from <https://promundoglobal.org/resources/gender-equality-and-gender-relations-in-azerbaijan-images/>

5 Jordan, S. (April 14, 2006). Hear Me Out: Gays in Azerbaijan struggle with tradition, not religion. *ILGA Europe*. Retrieved from https://web.archive.org/web/20121102091531/http://ilga-europe.org/home/guide/country_by_country/azerbaijan/gay_and_lesbians_in_azerbaijan

Beginnings

Understanding the anti-LGBTQI+ status quo requires examination of historical events that have influenced the lives of LGBTQI+ people since the time Azerbaijan became a sovereign political entity. Upon the establishment of the Azerbaijan Democratic Republic (ADR) in 1918, the sodomy laws of the Tsarist legal system were repealed, thus rendering homosexuality legal. Moreover, in the text of the Declaration of Independence of the ADR, the equality of political and civil rights for citizens regardless of their social status was openly stated.⁶ However, it is unknown how exactly the non-criminalisation of homosexuality and the Declaration of Independence affected the LGBTQI+ individuals at the time. Given the worldwide situation regarding the LGBTQI+ topics, the absence of notions giving a clear understanding of the concepts of sexual orientation and gender identity, it may be presumed that the LGBTQI+ persons of the time were socially and politically invisible and uninfluential in the ADR. After the collapse of the ADR and incorporation into the USSR in 1920, Azerbaijan conformed to the Soviet policies regarding sexual activity between men. Those policies oscillated between relative tolerance and open state animosity against LGBTQ+ individuals. Later in 1923, sex between men was declared a criminal offence in the Azerbaijan SSR⁷, and it remained as such throughout its existence.

In 1991, Azerbaijan redeclared independence; nevertheless, the Soviet anti-sodomy law on sexual activity between men was not repealed. Due to a significant shortage of written sources, the life activity and conditions of LGBTQI+ individuals during 1991-2000 are not clearly known. However, considering the sustained criminalisation of homosexual activities between men, it could be speculated with confidence that the acceptance of LGBTQI+ people was far less likely than it is today. In 2000, Azerbaijan revoked the Soviet anti-sodomy law, under the presidency of Haidar Aliyev, the 3rd president of the Republic of Azerbaijan and father of the current president

Anti-sodomy
law on sexual
activity
between men

6 Swietochowski, T. (1985). *Russian Azerbaijan, 1905-1920: The Shaping of a National Identity in a Muslim Community*. Cambridge: Cambridge University Press

7 Healey, D. (2001). Masculine Purity and “Gentlemen’s Mischief”: Sexual Exchange and Prostitution between Russian Men, 1861-1941. *Slavic Review* 60, 233-265

Ilham Aliyev.⁸ Decriminalisation was a necessity to join the Council of Europe, which occurred in 2001.⁹

Fieldwork

Gender and
Development

In 2007, a non-governmental organisation by the name ‘Gender and Development’ headed by Kamran Rzayev was established. It became the first LGBTQI+ organisation to represent and aid the community. By their own account, ‘Gender and Development’ strives to protect the rights and integration of LGBTQI+ individuals to Azerbaijani society.¹⁰ Moreover, ‘Gender and Development’ self-reportedly focuses on topics such as men who have sex with men, spreading awareness about sexually transmitted diseases, as well as provisioning psychological and medical support. The organisation also conducts research on LGBTQI+-related subjects. ‘Gender and Development’ started working with the World Health Organization (WHO) who encouraged them to cooperate with the Ministry of Health of Azerbaijan to gain attention from local authorities. ‘Gender and Development’ has stated that they receive financial and supervisory assistance from the Global Fund to fight AIDS and other contagious diseases¹¹. Despite the organisation’s constructive work for the LGBTQI+ community, they came under criticism for their media coverage. Azerbaijani LGBTQI+ activists Ali Malikov, Turana Nuri and Vahid Aliyev alleged that Kamran Rzayev, the head of ‘Gender and Development’, had in an

8 Eurasian Coalition on Male Health (2019). *Legislative Analysis Related to LGBT Rights and HIV in Azerbaijan*. Retrieved from https://afew.org/wp-content/uploads/2020/01/ECOM_Legal-Environment-Assessment-2019_Azerbaijan_ENG.pdf

9 Jackson, S. (2017). Azerbaijan LGBTI Resources. *Refugee Legal Aid Information*. Retrieved from <https://www.refugeelegalaid-information.org/azerbaijan-lgbti-resources>

10 Gender and Development Social Union. *Discrimination And Violence Against Lesbians, Bisexual Women And Transgender People In Azerbaijan Republic*. Retrieved from <https://>

www2.ohchr.org/english/bodies/cedaw/docs/ngos/Gender_Development_Social_Union_azerbaijan_cedaw44.pdf

11 World Health Organization Regional Office for Europe. *Kamran Rzayev, Head of “Gender and Development”, an NGO working with men who have sex with men in Baku*. Retrieved from euro.who.int: <https://www.euro.who.int/fr/health-topics/communicable-diseases/hiv/aids/news/news/2011/11/reaching-those-most-at-risk-tackling-hiv-in-azerbaijan/kamran,-head-of-gender-and-development-an-ngo-for-men-who-have-sex-with-men,-baku>

interview aired in February 2021 used language with an implicit anti-LGBTQI+ bias, labelling cisgender heterosexual individuals ‘natural’ and using alienating phrases, such as ‘these’ and ‘these people’ as a substitute for the term ‘LGBTQI+’¹². This shows that ‘Gender and Development’ stands out among other LGBTQ+ organisations for being oblivious to the impact of language use on the stigmatisation of LGBTQ+ individuals and chiefly pursuing medical concerns rather than focusing on societal acceptance.

Another non-governmental organisation to promote minority rights is ‘Nafas’ LGBT Azerbaijan Alliance, established in 2012 by LGBTQ activist Javid Nabiyeu. ‘Nafas’ LGBT works on projects raising awareness about the challenges the LGBTQI+ community in Azerbaijan faces. ‘Nafas’ LGBT states that their primary mission is fighting the government’s lack of interest in protecting LGBTQI+ people and promoting legislative measures to adopt anti-discrimination laws.¹³ In 2013, ‘Nafas’ LGBT held a meeting with the Political Advisor of EU’s Baku Mission, Alexandra Krasteva and Councilor’s Advisor, Ovidiu-Viorel Naftanaila, to discuss the LGBTQ situation in Azerbaijan. The topics of the meeting were state-level homophobia, absence of legal protection, police brutality, hate crimes, and the suicide rate among LGBTQI+ individuals¹⁴. In 2015, ‘Nafas’ LGBT announced that they were no longer able to work in Azerbaijan and terminated their activity in the country. The organisation explained that the termination was due to a growing number of arrests targeting the members of human rights organisations and a lack of personal safety. Moreover, the unwillingness of the government to cooperate with the organisation was another reason. According to ‘Nafas’ LGBT, the Ministry of Legislation left the organisation’s requests for registration unanswered twice, and therefore the organisation could not continue their activity within the borders of the country¹⁵. Today, the organisation carries on with their work from abroad.

Absence of legal protection and police brutality

12 “The interview of the LGBTI+ activist faced backlash” (February 24, 2021). *Minority Azerbaijan*

13 Nəfəs LGBT Azərbaycan. *Nəfəs LGBT Azərbaycan Aliyansı*. Retrieved from nefeslgbt.org

14 “Nafas” LGBT (November 13, 2013). NƏFƏS LGBT Azerbaijan Alliance and European Union meet. *Outright International*. Retrieved

from: <https://outrightinternational.org/content/n%C9%99f%C9%99sbreath-lgbt-azerbaijan-alliance-and-european-union-meet>

15 ““Nəfəs” LGBT Azerbaijan Alliance officially terminates work in Azerbaijan” (February 11, 2015). *LGL* Retrieved from <https://www.lgl.lt/en/?p=8409>

Suicide

Minority
Azerbaijan

Together with ‘Nafas’ LGBT, another non-governmental organisation, ‘AZAD’ LGBT was founded by an openly gay activist Isa Shahmarli in 2012. The chief focus of ‘AZAD’ LGBT is to provide accurate and positive media coverage and education on LGBTQI+ subjects. Today, ‘AZAD’ LGBT symbolises the legacy of the organisation’s founder Isa Shahmarli who committed suicide on January 22, 2014. Shahmarli hung himself¹⁶ in his apartment in Baku¹⁷. According to the reports, Shahmarli’s suicide was motivated by his problems with his family and homophobia¹⁸. By Shahmarli’s account, his homosexuality was seen as ‘an illness’ by his family. Shahmarli’s grave was covered with a rainbow flag by his friends, and it was later vandalised – the actions were presumably homophobically motivated¹⁹. Isa Shahmarli became a symbol of LGBTQI+ movements among the community. His death is commemorated by the community every year, and the date January 22 is marked as the ‘day to fight homophobic hate’²⁰.

In December 2015, Azerbaijani’s first online LGBTQI+ magazine *Minority Azerbaijan* was created. Since then, *Minority Azerbaijan* has been publishing materials analysing LGBTQI+-related subjects from scientific, cultural, psychological, and creative points of view. The platform also offers psychological and legal assistance to LGBTQI+ individuals. *Minority Azerbaijan* has announced that their primary objective is to dismantle anti-LGBTQI+ bias among the public through education and strive for queer acceptance. The organisation identifies with the values of diversity, equality, and security²¹. Today *Minority Azerbaijan* continues to make publications on the topics such as local and global LGBTQI+, art, history and science.

16 He had posted a note on his Facebook account in which it was stated that he ‘blamed everyone’ for his death and ‘this world was not strong enough to stand his colours’. See RFE/RL’s Azerbaijani Service (January 23, 2014). Gay Rights Defender Found Dead In Baku. *Radio Liberty*. Retrieved from <https://www.rferl.org/a/azerbaijan-gay-rights-defender-dead/25238726.html>

17 Lomsadze, G. (January 23, 2014). Azerbaijan: Prominent Gay Rights Activist Commits Suicide. *Eurasianet*. Retrieved from <https://eurasianet.org/azerbaijan-prominent-gay-rights-activist-commits-suicide>

18 *Ibid*

19 Giyasbayli, H. (January 22, 2021). Seven years after the suicide of Isa Shakhmarli – little change for queer Azerbaijanis. *OC Media* Retrieved from <https://oc-media.org/features/seven-years-after-the-suicide-of-isa-shakhmarli-little-change-for-queer-azerbaijanis/>

20 *Ibid*

21 “About Us” (2021). *Minority Azerbaijan*. Retrieved from <https://minorityaze.org/about-us>

Moreover, *Minority Azerbaijan* conducts street interviews and surveys to accumulate and review public opinion about LGBTQI+-related matters²².

Crackdown

Murder of
transgender
woman

In 2017, horrific events known as ‘the anti-gay crackdown’ targeting gay and bisexual men and transgender women took place in Baku. On October 3, Human Rights Watch (HRW) reported that Azerbaijani police were lawlessly detaining and torturing transgender women and men suspected to be gay or bisexual. The detainees were made to pay bribes, tortured by beatings and electric shocks, and forced to disclose the identities of their gay, bisexual, and transgender acquaintances. According to the testimony of one of the victims, the 2017 anti-gay crackdown was the largest and most systematic set of raids against the LGBTQI+ community in Azerbaijan. At least 60 LGBT persons were sentenced or coerced to pay fines. They faced charges of resisting police, which has been a popular way of conducting arbitrary arrests in Azerbaijan. The raids were dismissed by the Azerbaijani authorities as necessary measures taken against those who disrupted the public with their behaviour. However, what behaviours exactly disrupted the public was left unclarified²³.

Years after the raids, the situation did not get any better for the LGBTQI+ people of Azerbaijan. In 2020, the community was shaken by the horrifying murder of transgender woman Aysu Mammadli. According to OC Media²⁴, Mammadli was a sex worker who was repeatedly stabbed with a knife and choked by a so-called client. Mammadli’s flatmate and friends who called the emergency services upon

22 *Ibid*

23 Walker, S. (September 28, 2017). Outcry as Azerbaijan police launch crackdown on LGBT community. *The Guardian*. Retrieved from https://www.theguardian.com/world/2017/sep/28/azerbaijan-police-crackdown-lgbt-community?CMP=Share_iOSApp_Other

24 “One dead and another injured in attacks on transgender women in Baku” (June 24,

2020). *OC Media*. Retrieved from <https://oc-media.org/one-dead-and-another-injured-in-attacks-on-transgender-women-in-baku/>. “Transgender woman turned away from hospital after being stabbed in Baku” (July 31, 2020). *OC Media*. Retrieved from <https://oc-media.org/transgender-woman-turned-away-from-hospital-after-being-stabbed-in-baku/>

'You should have all died'

coming across the murder scene reported that they were mocked by the police and exposed to abusive comments from the doctors, such as 'you deserve worse' and 'you should have all died'. Moreover, it was revealed that Ata Abdullayev, a pro-government vlogger notorious for his anti-LGBTQI+ views, had posted a video featuring Mammadli, which was later watched by her uncle. The uncle was threatening Mammadli before her death but was not made part of the investigation²⁵.

Lockdowns and human rights

Additionally, the Covid-19 pandemic has had an impact on the LGBTQI+ people of Azerbaijan. The *Minority Azerbaijan* online magazine reported that homosexual individuals had to go through challenges that were not experienced by heterosexual individuals²⁶. Due to the shutdown of workplaces during the lockdown, many queer people had to move back in with their families. They felt uncomfortable because their families did not accept them. Furthermore, the escalation of war between Azerbaijan and Armenia in 2020 was followed by the country-scale restriction of access to the Internet. Transgender individuals arguably suffered the most from the lockdown compared to the rest of the community. A feminist and queer rights activist Gulnara Mehdiyeva said she was personally approached by four trans women for help. Transgender women who engaged in sex work, she added, could not work because of the quarantine restrictions and were therefore unable to pay rent, as well as for utilities, food, and hormone therapy necessary for their transition²⁷.

A year after the horrendous murder of Aysu Mammadli, the community was shocked by another trans person's death. On August 25, *Minority Azerbaijan* published information about the homicide of a transgender woman named Nuray²⁸. On August 18, the autopsy report revealed that Nuray was stabbed to death and had her hands tied. On the evening of August 24, the local trans community assembled in front

25 *Ibid*

26 "How pandemic affected LGBTI+s in Azerbaijan" (2021, March 31). *Minority Azerbaijan*. Retrieved from <https://minorityaze.org/en/551-how-pandemic-affected-lgbti-s-in-azerbaijan>

27 Kazimova, G. (July 7, 2020). Azerbaijan: Trans People Hit Hard by Lockdown. Covid-19 crisis puts further pressure on community

already facing deep-rooted prejudice. *Institute for War & Peace Reporting*. Retrieved from <https://iwpr.net/global-voices/azerbaijan-trans-people-hit-hard-lockdown>

28 "Trans woman was murdered in Baku" (August 25, 2021). *Minority Azerbaijan*. Retrieved from <https://minorityaze.org/693-bakida-trans-qadin-qetle-yetirilib>

of the Ombudsman's office to protest and express their concerns regarding Nuray's murder. Moreover, they also found Sevinj Huseynova, a journalist who posts transphobic and homophobic content on social media, guilty of Nuray's death. As a response, Huseynova sought to threaten transgender people saying, 'if a trans woman is killed, it means you have disturbed society' and 'be mindful and try to live silently from now on or else many more trans people will be killed'. Consequently, transgender people are highly concerned as they think Huseynova's statements contribute to hate crimes against the trans community²⁹.

The Caucasus

Georgia and
Armenia

The anti-LGBTQI+ sentiment is not a phenomenon specific to Azerbaijani society - it is widespread in the Caucasus. Azerbaijan shares borders with the two other Transcaucasian countries, Armenia and Georgia, which are primarily anti-LGBTQI+ but differ slightly in regards to living conditions. In the Rainbow Europe ranking, Armenia is 47th, out of 49 European countries, only two places above Azerbaijan³⁰. Moreover, similarly to Azerbaijan, Armenia has adopted no legislation protecting LGBTQI+ rights since the decriminalisation of same-sex sexual activity in 2003. On the other hand, in Georgia, the situation is a bit more optimistic. Georgia placed 32nd in the ILGA ranking³¹. Furthermore, Georgia practices laws that ban discrimination and hate crimes against LGBTQ individuals and allow legal change of gender. However, LGBTQ people in Georgia cannot yet enjoy marriage equality, adoption, and similar rights³².

29 "Blogger Sevinj Huseynova threatened trans folks with death" (August 26, 2021). *Minority Azerbaijan*. Retrieved from <https://minorityaze.org/696-blogger-sevinc-huseynova-translari-olumle-hedeleyib>

30 Rainbow Europe (2020)

31 Rainbow Europe (2020)

32 *State-Sponsored Homophobia 202*

Summary

Discrimination of
other minorities

All in all, throughout the history of Azerbaijan, a community of LGBTQI+ individuals and a number of organisations have emerged. Despite this, homophobia and transphobia remain pervasive, and the social acceptance rate is insignificant. While analysing the prevalence of homophobia and transphobia in Azerbaijani society, it is important to utilise an intersectional approach. Besides LGBTQI+, many other minorities based on ethnicity, class, religion, and gender (being a woman) suffer from social inequality and discrimination. Human rights in Azerbaijan are continuously violated. Thus, it can be speculated that Azerbaijan is currently governed by a conservative force that seeks to maintain the status quo and disregards the interests of minorities. The force in question seems to be the underlying reason why the acceleration of LGBTQI+ acceptance is considerably slow.

Authoritarian re-
gime, corruption,
and absence of
a proper free elec-
toral system

All social institutions in Azerbaijan are oblivious to the existence of minorities. For example, LGBTQI+ topics are not covered in schools, the religious system of the population is inherently homophobic, LGBTQI+ people are either invisible or stigmatised in media, and no government institution endorses the rights of the community. In Azerbaijan, institutionalised homophobia and transphobia are at their peak, leaving the LGBTQI+ community with no power, thus inhibiting their acceptance. Also, it is apparent that the present authoritarian regime, corruption, and absence of a proper free electoral system help institutions retain their power and position against minorities. Therefore, in order to accelerate acceptance in society, a democratic ground must be established, so LGBTQI+ individuals and allies can be elected and represented in politics. This way, they may become powerful enough to promote social change.

Nevertheless, there are also other ways to make the situation better for LGBTQI+ people in the process of striving for democracy. First of all, further research into the lives of LGBTQI+ people should be conducted to understand and describe their problems clearly. Secondly, it is important to ensure the community's psychological and physical well-being. The non-governmental organisations currently working to offer LGBTQI+ people health assistance are 'Gender and Development', Y-Peer Azerbaijan, and Gender Resource Centre. Increasing

the influence and number of such services would maximise the well-being of the community. Finally, education of the community about LGBTQI+ topics, sexuality and identities is crucial. The ignorance about LGBTQI+-related subjects within the community fuels internalised homophobia, transphobia and anti-LGBTQI+ bias, which are harmful to the formation of the community.

In conclusion, since 1991, when Azerbaijan gained independence, there has not been much progress regarding LGBTQI+ rights at the state level. Nevertheless, several non-governmental organisations have been established, and an LGBTQI+ community has been formed. The rate at which LGBTQI+ individuals are being accepted by society is considerably slow. In a more democratic political reality, the representation and acceptance of LGBTQI+ individuals would be more likely. However, till a democratic framework emerges in the country, the LGBTQI+ community is better off working to maintain its integrity and well-being to remain influential.

quote

Although the Azerbaijani population mostly identifies themselves as Muslim, it is believed that homophobia stems from the mentality, customs and tradition, rather than religion.

interview

They pretend not to see me

written by **Joanna Lopat**

Giorgi ⁽²⁸⁾ / Kvemo Kartli

We met when you were growing up. You were still a boy, not a man yet. You took part in our workshops with other kids from your village. I immediately noticed that you're different. I called you the 'colourful bird from Georgia'. And I've wondered how you were functioning in this small, grey village. In this place, where sometimes there's no electricity or water. The roads are full of holes and the walls are scorched by the sun. It was quite a depressing picture.

Life in my village was very limiting. Limiting because there was nobody I could trust there. And this is not just about my sexuality but many other things. People around me had no idea what was happening outside their village, and they didn't want to know. They didn't realise that life can be full of colour. And that there are many things more interesting than gossiping. And that they can do more. I always wanted more. That was the problem.

Does this mean that you haven't told anyone what you were going through?

I didn't tell anyone in my village.

What's it like to live with such a secret?

Obviously, it was very hard. Especially, when I was a kid. I had no friends because I was different. That's why I put up the walls around me. On the outside, it seemed as if I was self-centred. But in fact, it was just a means of surviving and trying to protect myself from others. A mask. I just knew what those people were feeling in my company.

What would you call it? What they felt, in your opinion?

They felt lost. They didn't know what to feel, so they made fun of me. Both children and adults. For example, the headmaster in the school that I went to, called me Conchita Wurst in public.

I remember one situation when you were quite arrogant towards people from one of the villages. At first, I was angry. Then I thought that it was your anger about the village mentality.

I never wanted to be impolite towards other people, but I probably was, sometimes. The situation you're speaking about happened two years ago. I felt at my limit then, so tired of those people and living among them. I resented the fact that they didn't understand so many things. Now I know why they are like this, why they don't understand and don't want to.

Why?

There's a bit of a Russian mentality in Georgia and Georgians. Being a part of the LGBT community is as bad as being a criminal.

Apart from the Russian influence, what else is responsible for such hostile views towards LGBTIQ+?

It's a generational issue. Parents teach children that homosexuality is wrong.

Your parents think so too?

Yes.

I understand that they don't know?

They don't, and I cannot imagine a situation in which I tell them the truth. It would be much harder than I can imagine.

When did you first know that you are gay?

I've been asked that many times but I don't have an exact answer. It could have been in secondary school. I saw two girls kissing on TV. They were singers from the then-popular, Russian band t.A.T.u. I thought: 'So these things happen.' I understood that love is for everyone and there's nothing wrong with it. It had an impact because

up till then - and I'm talking about the times before the Internet - my parents were the only example I had.

What kind of example were they?

When she was getting married, my mom was 19 and didn't know my dad. It was an arranged marriage. And I know I'm not a fruit of true love.

Tell me about the moment when you've decided to move to the city.

I was eighteen when I moved out. I left to study in Tbilisi. But it wasn't a time of my independence. Mostly, because my dad paid for my studies. And at the time I felt lost, lonely, and heartbroken for the very first time. I've experienced something that I've only read about or saw in films before. I wasn't ready for it. I didn't expect that something like this could happen in real life. And it took me a long time to understand what was happening to me.

What did the clash of the two worlds look like? Or maybe there's only one world but with different decorations?

Tbilisi is not really a big city, many people living there came from villages just like mine. Young people do what they've learned at home and aren't strong enough to push those limits. Many gays and lesbians hide their orientation. They marry, raise children, but that's not really them. They think they're normal, but in reality, they are unhappy.

Is it because this patriarchal model of the family is still so strong in Georgia?

Yes. Families have a lot of influence. I'm still influenced by my parents and I make a lot of decisions dependent on them. There are things I'm afraid to talk about and things that I won't ever do while they live. Because I know they won't change. I once blamed them for the way they are. Now I just accept it.

It sounds as if living your own life is something of a heroic feat.

It is a bit like that. It's hard.

What scares you?

I'm scared that my parents will find out.

Do you think they can guess?

I don't think so. People can see that I'm different, but they don't quite connect this with the fact that I am or could be gay.

How do people in your village react to you now?

They pretend not to see me. But I also try to remain unnoticed. I don't want them to realise that it's me.

And in Tbilisi?

I sometimes feel bad, feel that I'm in danger. An earring in your ear can be a reason for an attack. Even in public.

And after what happened in July?¹

That situation changed a lot. People found out about our existence, they started noticing us and hating us even more. That's why after July I'm even more scared. Before, I sometimes painted my nails and nobody really noticed that. Right now, I wouldn't feel safe. Surely there would be someone who would want to hit me for that.

¹ In July 2021, LGBT activists in Georgia cancelled the Pride parade after their office had been attacked by far-right protesters. In Tbilisi, fierce protests against Tbilisi Parade broke out. They attacked journalists. One died as a result of his injuries.

The Tbilisi Pride Group, organiser of the Pride Parade, reported that Pride's opponents were supported by the government and the Georgian Orthodox Church.

colophon

Free Voices
LGBT+ Rights in Eastern Europe

edited by Miłosz Hodun
interviews by Joanna Łopat

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In 1989 Eastern Europe exploded. Democratisation was no longer a dream – it became a reality. Also LGBTIQ+ people began to mark their existence. The fall of the Iron Curtain brought awareness, visibility and rejection of the status quo. The early 1990s became the beginning of a new era. Twenty years after Stonewall, Eastern Europe joined the global movement fighting for equal rights. Nobody had any illusions that this would be an easy road.

This publication is an attempt to describe the situation of LGBTIQ+ people in Eastern Europe, thirty years after the process of transformation began in the region. For a better understanding of the political and social differences in this part of the world, the publication has been divided into six chapters presenting six various subregions: Visegrad Group, Baltic states, Bulgaria and Romania, West Balkans, South Caucasus, and Russia, Ukraine, Belarus and Moldova.

In the publication each subregion is represented by an analysis coming from one of the countries that belong to this subregion. Apart from the analyses, each chapter includes an interview. Journalist and reporter Joanna Łopat interviewed eight people from the region: gays, lesbians, bisexual, intersex and non-binary persons. The chapters are preceded by three introductory texts written by liberal politicians from across Europe, currently working on behalf of LGBTIQ+ people at various levels of government.

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