

To: Nicolas Schmit, EU Commissioner for Jobs and Social Rights
Cc: Helena Dalli, EU Commissioner for Equality
Elisa Ferreira, EU Commissioner for Cohesion and Reforms

7 February 2023

Dear Commissioner Schmit,

We, the undersigned organisations working on achieving equality for LGBTI people in Europe and Poland, are writing to you today to enquire as to the status of the European Commission's infringement procedure launched against Poland in July 2021. The procedure in question was initiated for Poland's non-cooperation in clarifying its possible violation of EU law regarding non-discrimination on the grounds of sexual orientation as a result of the proliferation in the country of many local authorities' adoption of resolutions declaring themselves to be free from so-called "LGBT ideology" and discriminatory Family Rights Charters.

As we understand, since the letter of formal notice sent to Poland by the Commission in July 2021, due to the Polish authorities' failure to comply with the principle of sincere cooperation under Article 4(3) TEU by not answering to the Commissions' call for information in February 2021, there has been no further movement on this infringement procedure. This is despite the Commission having referred Hungary to the CJEU in July 2022, following a letter of formal notice sent in July 2021 at the same time as the letter of formal notice to Poland, for Hungary's breach of various EU laws in relation to its anti-LGBT legislation in the Child Protection Law.

Since both processes were launched at the same time - yet despite seeing transparent progress on the Hungarian case we have no news of what the Commission is doing with the Polish case - we would be grateful for further information on this matter.

As set out in the joint complaint submitted by ILGA-Europe, KPH and Równość.org.pl Foundation on 14 September 2020, these resolutions and Charters can enable discrimination against public sector present and future employees on the basis of their actual or perceived sexual orientation (and/or gender identity), breaching Articles 2(1), 2(2) and 2(3) of the Employment Directive 2000/78, Articles 15 and 21 of the European Charter of Fundamental Rights and 2 and 4(3) of the Treaty of the EU.

We have very much welcomed the efforts of the Commission regarding the management of EU funds in line with the Common Provisions Regulation undertaken until now, and the result of those efforts on the gradual repealing of the discriminatory resolutions. While we of course welcome the fact that five regions have withdrawn the anti-LGBT resolutions they had adopted, in order to receive EU funding, this is not sufficient. Many counties and municipalities still have anti-LGBT resolutions or Family Rights Charters in place, many of which are located within these five regions. Out of the initial 96 there are still 76 discriminatory resolutions in place in Poland.¹ So while resolutions were withdrawn on a regional level to showcase the willingness of the authorities to abide by European Commission pressure for the respect of fundamental rights, the discriminatory resolutions and Charters are still in place on the lower administrative level, with less visibility but having a direct impact on local and country-level, not only on management and funding decisions, but most importantly on the everyday lives of LGBTI people.

Given the still very high number of resolutions, the real discrimination faced by LGBTI people in Poland, and the endorsement of such discrimination in these locations, it is essential that the European Commission continues

¹ You can see the details of which counties and municipalities still have anti-LGBT declarations or Family Rights Charters in place by browsing the [Atlas of Hate](#), which maps all the declarations adopted, rejected or repealed at all levels of local governance (regional, county, municipal).

to hold Poland accountable for its potential breaches of EU law in this regard: on the one hand to ensure that EU funds are not distributed or used in a discriminatory way; on the other, to implement a *dual approach* in practice and foster pro-equality activities, especially in the aforementioned municipalities.

We are sure that the situation still requires further actions and a continuous strong stance in support of fundamental rights and non-discrimination until the last resolution is withdrawn, to truly make the EU an *LGBT-freedom zone*.

We are grateful for any information you can provide us on the status of the infringement procedure.

Yours sincerely,

ILGA-Europe - European region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association

KPH - Kampania Przeciw Homofobii (Campaign Against Homophobia)

Równość.org.pl Foundation

Organisations working in regions which still have local level anti-LGBT resolutions or Family Rights Charters:

Atlas Nienawiści (Atlas of Hate)

Marsz Równości w Rzeszowie (Equality March in Rzeszów)

Federacja Znaki Równości (Federation Signs of Equality)

Tęczowy Tarnów (Rainbow Tarnów)

Prowincja Równości (Equality Province)

Fabryka Równości (The Equality Factory)

Stowarzyszenie Tęczówka (Tęczówka Association)

Tęczowy Białystok (Rainbow Białystok)

Stowarzyszenie My, Rodzice (Us, Parents Association)

Marsz Równości w Lublinie (Lublin Equality March)