

# POLAND

## ASYLUM

Civil society organised support for people fleeing Ukraine, including those who are LGBT+ (see here, here, here, and here), with Lambda Warsaw becoming - over time - the main organisation offering direct aid for LGBT+ refugees in Poland.

## BIAS-MOTIVATED SPEECH

On 30 June, the European Commission finished months-long negotiations with the government and amended its Partnership Agreement with Poland to ensure that municipalities that have anti-LGBT resolutions in place do not receive financial support. In 2021, the European Commission (EC) launched an infringement procedure against Poland and suspended EU funding talks with several Polish regions, including five 'LGBT-free zones'.

As a result of local and international pressure, local municipalities continued to withdraw anti-LGBT resolutions or Family Rights Charters this year. On 28 June, the Supreme Administrative Court reaffirmed in the case of four anti-LGBT resolutions that they must be withdrawn.

Local courts also challenged some of the resolutions this year (see here and here), the last two of the nine cases that the Human Rights Commissioner, Adam Bodnar had previously challenged. In July civil society met with the Ombudsman to discuss the next steps to ensure that all anti-LGBT resolutions and charters are promptly withdrawn across the country and that municipalities actually abide by the principle of non-discrimination. On 1 December, the new Human Rights Commissioner, Marcin Wiącek, issued letters to the remaining local municipalities with anti-LGBT resolutions demanding their repeal.

After three years of legal battle, the Warsaw District Court ordered the Polish National Television to pay a fine and issue an apology for slandering the LGBT community in a prime time reporting in 2019. The Court affirmed that anti-LGBT content is incompatible with media ethics and reminded of the media's role to build social awareness.

Hate speech by the central government remained a serious issue. Chairman of PiS, Jarosław Kaczyński

continued making anti-LGBT statements this year, including transphobic remarks and calling trans people "abnormal". This coincided with a petition by the fundamentalist association Ordo Iuris, protesting the alleged suffering of underage trans people from the use of puberty blockers. Trans people and organisations fear that they will be the next target of political hate speech, particularly in the lead-up to the 2023 parliamentary elections. On 12 November Kaczyński described LGBT teenagers declaring their identities as "madness". The Minister of Education, Przemysław Czarnek, also continued his hate campaign against "rainbow youth", comparing them to "normal youth" at a protest.

## EDUCATION

In March, the Court of Appeal in Warsaw dismissed the claim of the Association of Large Families of Warsaw and Mazovia that anti-discrimination education in schools would change children's sexual orientation. The ruling affirmed that anti-discrimination education in schools is beneficial for children and condemned hate campaigns against civil society running these programs. The ruling marks the end of a six-year legal battle.

In March, President Duda vetoed the controversial 'Lex Czarnek', which would have taken discretionary power away from schools and meant dismissal or even criminal sanctions for teachers or school management who openly support LGBT+ students or discuss LGBT issues in school. Civil society warned in 2021, when the law was first tabled, that it would practically ban sex education and launched the campaign #WolnaSzkoła [Eng: Free School], providing information on the proposed limitations and uniting those against the law. In October, the lower parliament chamber (Sejm) adopted 'Lex Czarnek 2.0' (tabled as an MP motion this time) with the higher chamber (Senat) rejecting it. On 2 December, the Sejm rejected the Senate's veto and adopted the bill. Civil society called on President Duda to veto the second version of the law, which he did on 15 December, thanks to the pressure from civil society and the educational sector.

This year's Rainbow Friday, held on 28 October in support of LGBT+ students and youth, featured a standalone website, billboards, posters, and videos

with the slogans “You’re okay” and “It’s gonna be fine!”. The campaign video on social media reached 657,250 people in 24 hours and the hashtag #TęczowyPiątek was among the ten most popular hashtags in Poland. Almost 3,000 posts discussed the event on TV, radio, online news platforms, and social media, with over 17 million hits.

On 29 October, Minister of Education Czarnek called principals allowing Rainbow Friday to take place “irresponsible”. The Ombudsman for Children, Mikołaj Pawlak, called for penalties against LGBTI+ and women’s rights organisations that did not register on the Sex Offender Register, suggesting that they can be paedophiles.

This year’s LGBTQ+ school ranking identified the most inclusive and accepting schools in Poznań, Warsaw, Lublin, Gdańsk, Olsztyn, and Toruń. The schools all received Equality Diplomas.

## EMPLOYMENT

In September, the Advocate General of the European Court of Justice (ECJ) issued an opinion finding that the ban on discrimination on the grounds of sexual orientation applies to self-employed persons too. The case concerned the Polish National Television’s refusal to extend a contract due to the person’s sexual orientation.

On December 9, the Supreme Court dismissed the extraordinary appeal brought by Attorney General Zbigniew Ziobro, ending the legal case of transgender woman Joanna Żelek who sued her employer for discrimination. After Żelek won the case in lower courts, Ziobro brought the appeal in July 2021. The dismissal makes the ruling final, assuring legal protection for transgender people from discrimination in employment.

## EQUALITY AND NON-DISCRIMINATION

Civil society launched videos on the occasion of Trans Day of Visibility in March again this year.

On 24 May, Poland adopted its new National Action Plan for Equal Treatment (2022-2030) - six years after the previous Action Plan had expired in 2016. Civil society called the new Action Plan “a sad joke” and

warned that this development is a mere response to the European Commission’s infringement procedure and the threat of losing EU funds.

Poland signed on to the European Commission’s Guidelines for Strategies and Action Plans to Enhance LGBTIQ Equality. Civil society called for tangible changes and the speedy implementation of the guidelines and addressed public letters to the President, the Council of Ministers, the government Plenipotentiary for Equal Treatment, and 16 Ministries, identifying priority areas. These are anti-LGBT zones, the backlash against LGBT+ activists, the lack of LGBT+ equality, and suicide among LGBT+ teenagers. The letters set out tangible actions that Poland should take in these areas.

KPH gave out its fourth annual Equality Crowns awards to several LGBT+ people and allies, including politicians, journalists, and organisations.

## FAMILY

In February, the Supreme Administration Court recognised the child of a gay couple, who was born out of surrogacy in Canada. One of the fathers is a Polish citizen, and the child also received citizenship.

In June, the CJEU ruled that Poland has the obligation to legally recognise both parents in a same-gender couple in travel documents, to ensure the family’s freedom of movement. The government proposed to issue a special certificate for same-gender parents, which would have outed rainbow families and their children, but at least would have facilitated their travel or movement. In November, during the amendment process of the Family Code, the government withdrew the proposal, leaving rainbow families without legal recognition and papers that would ensure their freedom of movement.

The Supreme Administrative Court dismissed the appeal of a Polish-Portuguese married gay couple who had been fighting for legal recognition for over five years. The Court affirmed in its ruling however that same-sex marriages conducted abroad and involving a Polish citizen are not forbidden under the Constitution.

## FREEDOM OF ASSEMBLY

Civil society space continued to be increasingly repressed.

In March, the District Attorney's Office dropped investigations against 41 of 48 people who were arrested on Rainbow Night in 2020. The courts found the detentions to be illegal, unjustified or irregular. One case is pending, and six people will face trial for "taking part in a riot"

Warsaw Pride took place in June without incidents and brought together thousands again this year. The event was co-organised by Kyiv Pride and joined by Warsaw Mayor, Rafał Trzaskowski and EU Equality Commissioner, Helena Dalli. Pride marches were held in about 30 other towns, including Katowice and Lublin. Katowice Pride was held together with the city of Odessa. A religious march was organised in parallel, which the city's mayor tried to ban, but no incidents were recorded. On 25 June, civil society also held 'Impossible Parades', i.e. Pride marches in 32 towns where anti-LGBT resolutions are still in place.

## FREEDOM OF EXPRESSION

In April, a draft amendment to the Penal Code was tabled in parliament that would introduce criminal sanctions for 'malicious interference' with the Church. A few weeks prior, the Court of Appeal in Płock affirmed the 2021 acquittal of Joanna Gzyra-Iskandar, Anna Prus, and Elżbieta Podleśna who created stickers of the Virgin Mary with a rainbow halo. In 2021, Prosecutor Ziobro appealed the ruling. Civil society warned that the draft amendment was a clear attack on LGBT+ people's freedom of expression.

The trials against the creators of Atlas of Hate continued this year. The group, which developed an online map tracking anti-LGBT resolutions, was sued by several local municipalities for defamation. In 2022, some municipalities withdrew their lawsuits (Gromadka), and some were dismissed by courts (Opoczynski, Tarnów). Other cases are ongoing (Przysucha, Tatra, Łowicki) and up to three appeals are expected in 2023 (Przasnysz and possibly others).

## INSTITUTIONAL SUPPORT

The newly chosen Human Rights Commissioner,

Marcin Wiącek, showed his support for the LGBT community on several occasions, for instance by advocating for smoother legal gender recognition procedures and anti-LGBT hate crimes to be prosecuted ex officio.

## LEGAL GENDER RECOGNITION

In September, Prosecutor General and Minister of Justice Zbigniew Ziobro requested the Supreme Court to consider that in addition to their parents, trans people should also sue their children and spouse when they want to access LGR. Civil society considers this as yet another attack on trans rights.

## PARTICIPATION IN PUBLIC, CULTURAL AND POLITICAL LIFE

'7 - My Sierpnia' [Eng: '7 - My August'], a film documenting the police crackdown on a 2020 demonstration in support of LGBTI activist Margot, was released online and in the cinema in August.

Warsaw is set to open Poland's first Queer Museum in 2023.

## PUBLIC OPINION

Ipsos polls showed, firstly, that two-thirds of the population support marriage equality or civil partnership and secondly that 60% believe Poland should abolish so-called 'LGBT-free zones' in order to meet EU requirements to receive funding.

## SEXUAL AND REPRODUCTIVE RIGHTS

The 'Stop Abortion' bill, which would have equated abortion with murder, was rejected by parliament in June.

## POLAND WEB PAGE

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