

Dear Eleni Maravelia, Joseph Peregine and Carol Shepherd,

I would like to thank you for your letter of 2 August 2019 following the attacks on the equality march in Białystok and the distribution of “LGBTI-free zone” stickers in Poland.

I wish to underline that the European Commission strongly condemns any form of discrimination, intolerance or violence based on sexual orientation, gender identity or sex characteristics, which goes against the fundamental values of the EU. Article 2 of the Treaty on European Union (TEU) provides that the Union is founded on the values of, among others, respect for human dignity, equality and respect for human rights, including the rights of persons belonging to minorities. Recently, the new President-elect of the European Commission, Ursula von der Leyen, stressed in her political guidelines that it is our joint commitment to live “in a society where you can be who you are, live where you like, love who you want and aim as high as you want”.¹

Article 21 of the Charter of the Fundamental Rights of the European Union prohibits any discrimination on the grounds of sexual orientation. The Charter applies to national authorities when they are implementing EU law, for example when EU countries adopt or apply a national law implementing an EU directive or when their authorities apply an EU regulation directly.

In the area of employment, the EU Council Directive 2000/78/EC prohibits discrimination on the grounds of sexual orientation². In 2008 the Commission proposed the Equal Treatment Directive that aims to broaden the scope of protection, covering among other grounds discrimination based on sexual orientation, to education, social security, social protection and access to and supply of goods and services. Negotiations about this proposal have been going on for a long time in the Council but, so far, it did not receive the required unanimity.

The Commission is strongly committed to combat discrimination of LGBTI people within the powers conferred to it by the Treaties, while fully respecting the competences of the Member States. The 2015 “List of Actions to Advance LGBTI Equality” concretises this commitment. A third report on its implementation was published on 20 March 2019.³

In this context, the Commission in cooperation with the Finnish Presidency of the EU organised on 23 September 2019 a high-level conference on “Advancing LGBTI Equality in the EU: from 2020 and beyond”. The conference offered the possibility to stakeholders to provide input on how the European Union should continue its LGBTI equality policies.

Furthermore, the Commission supports actions in the Member States and LGBTI civil society organisations to improve the social acceptance of LGBTI people through the Rights, Equality and Citizenship programme.⁴ In addition, the Commission equips the

¹ https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission_en.pdf.

² See Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, *OJ L 303, 2.12.2000, p. 16–22*.

³ https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/lesbian-gay-bi-trans-and-intersex-equality/list-actions-advance-lgbti-equality_en.

⁴ https://ec.europa.eu/justice/grants1/programmes-2014-2020/rec/index_en.htm.

EU Representations in the Member States with awareness raising and information materials to support LGBTI equality. It also actively disseminates video testimonies about the challenges LGBTI people face in the Member States. One of the videos actually features a lesbian couple from Poland.⁵

While the relevant EU legislation⁶ does not specifically mention homophobic and transphobic hate speech and crime, a vast majority of Member States [21] already have in place criminal law legislation covering homophobic and/or transphobic crime or speech.

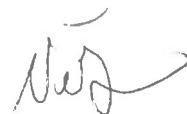
All activities of the Commission to assist Member States with the implementation of their criminal law legislation on hate crime and hate speech are also relevant for combating homophobic and transphobic speech and crime, also where this is not specifically covered by national legislation. These include the implementation of the Victims' Rights Directive, which provides for better identification and better protection of victims of all crimes, including victims of bias motivated crime, such as homophobic and transphobic crime, and contributing to increasing victims' trust in national authorities.

In addition, the EU High level group on racism, xenophobia and other forms of intolerance⁷, which gathers national authorities, civil society, the Fundamental Rights Agency and international organisations, deals with specific forms of intolerance, and with combating homophobic and transphobic hate speech and crime.

At EU level, in 2016 the Commission agreed on a Code of Conduct on countering illegal hate speech online, with Facebook, Twitter, YouTube and Microsoft – in order to counteract the on line prevalence of intolerance and prejudice, also towards LGBTI people, and to prevent further spreading of hatred on the internet.

The Commission remains vigilant to ensure that LGBTI persons and their families enjoy their rights without discrimination in the EU. It will follow closely all developments in Poland and will not hesitate to take action within the limits conferred to it by the Treaties.

Yours sincerely,



Věra JOUROVÁ

⁵ https://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=605456.

⁶ Council Framework Decision 2008/913/JHA, of 28 November, on combating certain forms and expressions of racism and xenophobia by means of criminal law.

⁷ More information available at: https://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=51025