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**RESPECTING EUROPEAN STANDARDS  
CONCERNING HUMAN RIGHTS OF LGBT PEOPLE  
IN POLAND AND IN THE RUSSIAN FEDERATION.  
A COMPARATIVE ANALYSIS**

**Keywords:** Poland, the Russian Federation, human rights, LGBT

**Abstract:** The LGBT rights are one of the most crucial aspects of a social and political discourse in Poland and in the Russian Federation. Although in both countries there is a different system of power, and, what follows, human rights and their realization are perceived in a different way, in these two states the right of LGBT people become an instrument of politics. In the following article the authors present a comparative analysis of the way in which the rights of LGBT people are perceived in Poland and in the Russian Federation. They will depict the similarities and differences between these two countries which result from historical conditions, and will provide an analysis of the current perception of non-heterosexual people in Poland and in Russia.

The issue of the rights of LGBT people is the subject of a social and political discourse both in Poland and in the Russian Federation. Of course, these two countries have diverse histories, legal organization and forms of government. From 2004 Poland is a member of the European Union, so as a state member it is obliged to respect the rules of democracy and the European human rights. On the other hand, Russia is a country which preserved the appearances of a democratic state by the existence of

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a formal tripartite system and cyclical elections, but in reality the political power is administered in an authoritarian way. Therefore, in both countries there is a different perception of human rights and a different attitude to minorities, including non-heterosexual ones. Although both countries are so dissimilar in this respect, some parallels may be observed, especially when it comes to the social attitude to LGBT people and their acceptance in the public space. What cannot be forgotten is the fact that, with all the differences existing today between Poland and Russia, in not-so-distant history Russia was a part of the Soviet Union (USSR), and at the same time the Polish People's Republic (PRL) was politically and economically dependent on the USSR. Both of those states were inspired by the same ideology, which did not accept any exceptions from its ideal of a human being, in social life as well as in the public sphere.

In the following article, on the basis of secondary sources and case studies, the authors present the social situation of LGBT people in Poland and in Russia, and at the same time, they analyze the perception of European standards of human rights in the discussed aspect in the aforementioned countries. A historical method is also used to depict the development of LGBT movement and the legal status of non-heterosexual people in the discussed countries. Certainly, Poland and Russia are not among the countries where all demands of the LGBT movement in legal and social terms were realized. In both countries displays of discrimination and intolerance of LGBT people are still present to various extents. Therefore, may one expect the non-heterosexuality to be legally sanctioned in Poland and in Russia? What has the development of LGBT movement looked like in Poland and in Russia? Do LGBT activists take part in political life in both countries? And finally, how did Poland's membership in the European Union influence the protection and realization of the LGBT rights in this country? These research questions have to be answered in order to provide a comparative analysis of the rights of non-heterosexual people in Poland and in the Russian Federation.

While analysing the situation of LGBT people in Poland and in Russia, it is important to commence with historical aspects which generally have influenced the way the rights of non-heterosexual people are perceived in the societies of both countries, and have impacted the legal status of

homosexuality and bisexuality. The tradition of liberty is much longer in Poland than in Russia. As early as in the era of the I Rzeczpospolita [Republic] a system of so-called Nobles' Democracy was introduced, according to which, after the Jagiellonian Zygmunt August's childless death, during the first Free Elections in April and May 1573 Henryk Walezy became the king (Grzybowski, 1980). His homosexuality was not a taboo topic for the people in his company. After the Partitioning period of 1795–1918, when Poland gained its independence, the government of the reborn Polish state established a new, uniform penal code, which in 1932 abolished the law which had criminalized homosexual relationships in Poland (Jartyś, 2015). Penalization for homosexuality was not introduced in the so-called People's Poland in the years 1944–1989 (Leszczyński, 2016). On the other hand, in Russia one cannot find any aspects of Nobles' Democracy. First elections to State Duma took place in 1906, and the previous authority of the tsars was almost absolute. Tsars owned land, and nobility was practically dependent on their will. For the most of the twentieth century Russia was a part of the Soviet Union (USSR), whose law provided for five years' imprisonment for homosexual acts, and in the latter period of the Soviet Union's existence it included enforced medical treatment of homosexuality as it was perceived to be an illness (Polska–Ukraina. Strategie, dobre praktyki doświadczenia na polu aktywizmu LGBT). Penalizing homosexuality was abandoned in the Russian Federation in 1993 in all the republics that were part of the federation except in Chechnya, and in 1997 a unification of the age of consent was introduced, which is sixteen. In the Russian Federation gays are not conscripted to obligatory military service due to their sexual orientation. However, abandoning criminal responsibility for homosexual acts did not significantly change the attitude of the society to homosexuality. The Russians are currently held as an example of one of the most homophobic societies in Europe, and this is the consequence of the attitude to homosexuality in the times of the Soviet Union. Homosexuality is not accepted by the majority of society, as it stands in opposition to the socially constructed stereotype of a strong man who does not show his weakness and plays a role of a head of the family. This long-lasting perspective on masculinity in Russian society is definitely influenced by the position of the army in

social consciousness, and its myth is very significant in Russia irrespective of the political reality; what is more, the army is an influential political power. Incidentally, in the military power of the Russian Federation there is no place for an image of masculinity that would undermine the stereotype of a heterosexual man.

Moreover, in Russia after 1991 civil society in a full meaning of the term did not develop properly. Unlike in Poland, no thriving national organizations for the LGBT rights were established in Russia. What is more, Russia did not aspire to become a member of the European Union as Poland did, and therefore did not have to fulfil the requirements of anti-discrimination directives that result from the European standards of human rights. Due to these factors Russian authorities gave their society *carte blanche* when it comes to the treatment of non-heterosexual people. Certainly, the ubiquitous lack of tolerance towards LGBT people in Russian society takes verbal and physical forms. Although Russian authorities deny it, in 2009 lack of respect for the right of non-heterosexual people caused concern of the United Nations. The Human Rights Committee of the UN advised Russia to protect LGBT people from violence and hate crime caused by prejudice against sexual orientation and gender identity. In November 2012 the Committee Against Torture in the UN expressed their concern with discrimination and violence against LGBT people in Russia. It urged Russia to combat sexual orientation and gender identity hate crime. The concern is legitimate, as society's bias against sexual minorities is deeply motivated by politics. Russia is presented as a country of "pure values" and an opposition of the corrupted West, which respects the LGBT rights, therefore often Russian homophobes mockingly call Europe "Gayrope" [Gejropa] (Prus, 2016). This opposition of European values represented by the countries of the European Union is aiming to reinforce the idea of Russian imperialism in Russian mentality, expressed also in national symbolism. The double-headed eagle – which is the heraldic badge of Russia – faces both the West and the East (Конституция Российской Федерации).

The social bias in Russia against LGBT people is reflected in the actions of authorities and in social opinion polls. In 2013 the State

Duma voted in favour of a bill which banned “gay propaganda”, as it is expressed informally; it is a bill which prohibits “spreading information which aims at forming a non-traditional sexual orientation among the youth or convincing them about social equality of non-traditional relationships.” As a result, these legal regulations work against LGBT people in the public sphere and sanction homophobic attitudes in society (Путин подписал закон о “нежелательных в России” НПО). For example, after this law was accepted, a famous Russian sportswoman Yelena Isinbayeva, said that in her country there were never such problems: “boys go out with girls and girls go out with boys.” What is more, these laws significantly restrict the possibility to formulate postulates of LGBT communities in a public sphere. This anti-LGBT law provides for sanctions such as a fine for a Russian citizen and deportation for a foreigner. What has to be also stressed is the fact that this law is rather freely interpreted and applied, which in practice means that any expression of sympathies or defence of LGBT rights might be perceived as legal offence.

According to the data included in the report of Human Rights Watch (HRW) based on several dozens of detailed reports from LGBT representatives in 16 cities of Russia, after the introduction of the aforementioned law in Russia LGBT people were beaten, kidnapped, humiliated and verbally abused. Some of these incidents were actions organized by anti-gay activists, other – a spontaneous behaviour of strangers in the streets or customers of night clubs. The authors of this report point out that such attacks on people of non-traditional sexual orientation in Russia are becoming more and more common, and the police and courts often do not react to abuse and attacks on gays, because such behaviour is in agreement with opinions of most Russians (Prus, 2016).

Social opinion polls concerning LGBT community in Russia are somewhat manipulated. Questions concerning this community are posed in a negative way. For instance, public opinion centre WCIOM regularly organizes an opinion poll on social attitudes to gays, locating them in one group together with e.g. the poor, the HIV-infected, religious sect members and... murderers. In the light of such polls, the

social attitude of Russians towards homosexuals is horrendous. In November 2014 28% respondents were of an opinion that homosexuals should be “eliminated”; a slightly milder option – isolation of homosexuals from the rest of the society – was chosen by 37% of respondents. According to Jurij Lewada Centre, in their poll conducted in 2013, at a time when State Duma deliberated on the law against homosexual propaganda, 35% of Russians claimed that this sexual orientation is a result of illness or a psychological trauma, while 23% of Russians believed it was a result of bad upbringing and licentiousness, and an addiction. 29% said that they would be more vigilant if gays or lesbians moved in to their neighbourhood, and 37% claimed that in such a situation they would react “very negatively.” What is more, 61% of surveyed Russians admitted to fear for their children or grandchildren because of “homosexual propaganda.” These results are not surprising considering the fact that the introduction of the anti-LGBT law in 2013 was supported by 88% of Russians (Положение лесбиянок, геев, бисексуалов, трансгендеров в Российской Федерации. Последняя четверть 2011 — первая половина 2012).

The influence of these legal records is reflected not only in the attitudes of the Russian society, but also in the practical results of this law in the Russian Federation. One of the most prominent examples of “fighting homosexual propaganda” is a court case against Madonna after her concert in St Petersburg, during which she made a short remark on defending people of non-traditional sexual orientation. After an international scandal caused by Tim Cook, Apple’s CEO, when he admitted to be gay, the Russians hastened to disassemble the Iphone statue on one of St Petersburg’s streets. Dimitr Kisielov, one of the most active propagandists, claimed in a TV programme that homosexuals should be banned from donating blood, and their hearts should be “burned or buried in the ground.” (Najtwardzy propagandysta Kremla zmienił zdanie w sprawie gejów). Another such example is when Ivan Ochlobistin, an actor with strongly Orthodox outlook, admitted in an emotional interview that he would “put them [gays] all together in a crematorium” as he fears his children might become exposed to “gay propaganda” (Lasecki, 2013).

In the light of the above examples showing the social attitudes in Russia, no legal queer parade or equality march organized by LGBT com-

munity is allowed to take place, and LGBT movement itself is dispersed and does not constitute a significant group of political interest. Unlike in Poland, Russian gays have problems on the job market, as they are not protected by the existing anti-discrimination laws. As a result, a great majority hides their sexual orientation. According to an opinion poll conducted in 2011, in the period of time between January and October 2011 32% of LGBT citizens in Russia had problems at work caused by their sexual orientation, 5% were dismissed or forced to resign due to their sexual orientation, and in next year these numbers increased: almost 40% of respondents admitted to having problems at work due to their sexual orientation, while further 5% were dismissed or forced to resign due to discrimination (Положение лесбиянок, геев, бисексуалов, трансгендеров в Российской Федерации. Последняя четверть 2011 — первая половина 2012). An example of a famous person who lost his job due to his sexual orientation is a journalist, writer and critic Anton Krasovsky (Geje na Sybir).

When it comes to Poland, after it gained full independence in 1989, a process of widely understood political, economic and social changes began. Social transformation after the collapse of the Soviet Union happened much faster in Poland than in Russia, as both countries had different starting points. Before 1989 Poland was politically and economically dependent on the Soviet Union, but it constituted a separate state, which also had its own traditions of state government. Russia, on the other hand, faced the task of rebuilding its own sovereignty after years of being the most crucial element of the Soviet Union. For this reason, building a civil society in Russia was much more problematic than in Poland, and moral issues became secondary. In building its new identity, Russia was inspired by both its own as much as Soviet history. What is also significant is the post-Soviet social heritage. Of course, such mentality has existed also in Poland, but the change of social mentality happened much quicker in Poland than in Russia, as in 1989 Polish foreign politics became definitely pro-European and much more open (Friszke, 2004). Since spring 1991, the countries in the Schengen zone abandoned the visa requirement for Polish citizens, who not only brought products from the Western Europe, but also their cultural models. As a result, after 1989 the local branches of

“Lambda” Association were established, and in 2001 they were joined by “Campaign Against Homophobia” [Kampania Przeciw Homofobii (KPH)], which is a national public benefit organization with education and health policies (Bulsa, Jartyś, 2015a). It regularly monitors the social situation of LGBT people in Poland, issuing cyclical reports since 2002 concerning signs of discrimination against non-heterosexual people in social and political space in Poland (Bulsa, Jartyś, 2015a). Thanks to the mass media and online action run by KPH, the demands of the LGBT movement became known in the wider circles of Polish society. The bookshops started to sell publications on homophobia, and a change of the image of non-heterosexual people was to be introduced by street billboards in a social issue ads “I’m a lesbian, I’m gay, let them see us” (Bulsa, Jartyś, 2015a). Moreover, since 1990s the postulates of the Polish LGBT movement have been introduced in the political programmes of left-wing parties, such as Democratic Left Alliance [Sojusz Lewicy Demokratycznej (SLD)]. In their winning parliamentary campaign in 2001 the party declared to pass a bill on civil partnerships, a promise which gained them the support of LGBT communities (Jartyś, 2015a). What should be stressed is that the leading representatives of the non-heterosexual communities were active in the party structures of SLD, among them Robert Biedroń. Biedroń, as well as Krystian Legierski, made a public coming-out and has not been hiding his sexual orientation during his political career (Jartyś, 2007). What is more, the main driving force behind the development of Polish LGBT movement were the European aspirations of governments which have gained power in Polish parliament since 1989; they achieved their goal when Poland gained accession to EU in 2004 (Jartyś, 2007). The European Union is a political, economic and social community where the issues concerning non-heterosexual people were discussed as early as in 1984. Ten years later the Fundamental Rights Commission and the Internal Affairs Commission of the European Parliament accepted a report on the equality of gays and lesbians in the European Union, where the examples of discrimination of LGBT people were pointed out (Jartyś, 2015b). For the European Union – created on the basis of the Treaty of Maastricht – the issue of respecting the European standards concerning the human rights, including lack of any discrimination of the citizens of European



Union, has become a supreme value. According to the idea of European unity with respect to diversity, a number of anti-discriminatory directives concerning human rights were introduced, which was openly expressed in clause 13 of the Treaty of Amsterdam: “Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation” (Matuszewski, Molisiak, Pruss, 2003).

In a comparison of the realisation of European standards of human rights in Poland and in Russia, one cannot omit the issue of the presence of openly non-heterosexual people in political life. In this respect, the difference between both countries is evident. In Poland publicly outed LGBT people were often elected to serve social functions. In 2010 Krystian Legierski won a position of a city council member in Warsaw as a representative of the Green Party (Jartyś, 2016). In parliamentary elections in 2011 Robert Biedroń and Anna Grodzka have become Members of Parliament as representatives of what was then the Palikot Movement Party [Ruch Palikota] (Jartyś, 2015a). Anna Grodzka has thus become the first transgender Member of Parliament in Europe. In the local elections in 2014 a record number (when it comes to Polish elections) of openly outed non-heterosexual people ran for the positions of city council members and city presidents. The total number of those candidates was 25. In these elections Robert Biedroń was chosen for the position of the City President of Słupsk, as he defeated Zbigniew Kowiński from then ruling party the Civic Platform [Platforma Obywatelska (PO)] in the second round of the elections (Jartyś, 2016). The contribution of the LGBT movement in various political elections led to a change in the attitudes of politicians from other parties towards non-heterosexual people. The best example is Ewa Kopacz from the Civic Platform, who in 2015 sought support from Robert Biedroń, although thirteen years earlier she publicly stated that he should not run in any elections nor take any public positions (Jartyś, 2007). Homosexuality is slowly becoming a natural thing among the Polish political elite. In September 2016 a public coming-out was made by a

Member of Parliament Paweł Rabiej from the party The Innovative [Nowoczesna]. On the other hand, in the history of Russia no politician has made a coming out concerning their sexual orientation, and therefore no non-heterosexual person has ever run for any public office. According to the presented analysis of the social attitude of the Russian society and elites towards LGBT people it is unlikely that such a possibility would arise in the foreseeable future. In the Russian political and social reality, it is impossible that a publicly declared LGBT person runs for a position of a representative in the State Duma and wins (Кочетков, Кириченко, 2009). It is also doubtful if such a candidate would gain access to mass media, which is imperative in a political campaign. It has to be stressed that the so-called free media in the Russian Federation are a small portion of the media market and are generally limited in their range to great metropolises such as Moscow or St Petersburg. The remaining media are governed by the homophobic power linked to the Kremlin.

Poland, which is a member state of the European Union, is much better at respecting the rights of LGBT people, fighting homophobia legally. In 2009 Ryszard Giersz from Western Pomerania sued his neighbour Anna Sz. She had publicly shouted obscenities at him, calling him “a fag” and mocking his non-heterosexual orientation. The Courts of both Instances ruled that Anna Sz. must pay Robert Giersz compensation for this deed (Bulsa, Jartyś, 2015a). This situation illustrates the social changes in Poland in the last twenty-five years, which Russia shall perhaps achieve much later in the future. A similar sentence has never been given in a Russian court, and LGBT rights evoke much stronger emotions there than in Poland. Of course, both countries are far from ideal in realization of the European standards of human rights concerning LGBT people. There is a lot to be achieved by the Polish society and authorities. Due to the limited range of this article the author analysed only several aspects out of many concerning this issue. Political elites and society of Russia do not feel the need to follow Western Europe, which respects human rights, including the rights of non-heterosexual people. This, however, does not change the fact that neither the Russian society nor its political elites are going to escape the surrounding world. As in the case of Poland, one day the attitude of Russian society will change, especially because the Russians of homo-

sexual and bisexual orientation go abroad, live in Western Europe and have friends there whom they contact on social media such as Facebook or Planetromeo. This will give rise to the first step on a long road to change in social mentality in their country, which perhaps will take place together with the evolution of the existing political system.

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