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Poland: Protect the LGBT community's right of peaceful assembly

Amnesty International is concerned about a climate of discrimination and intimidation in Poland against lesbian, gay, bisexual and transgender (LGBT) people, characterized by the banning of some public events organized by the LGBT community, openly homophobic language used by some highly placed politicians, and statements amounting to incitement to discrimination and hostility or violence against LGBT people by some far-right groups.

Amnesty International raises these concerns in the context of the decision made on 1 June 2006 by the City Council of Warsaw to authorize the Equality March on 10 June 2006, but Amnesty International is concerned about the possible attacks on this march by far-right groups.

The Prime Minister has been reported as saying in October 2005 that homosexuality was "unnatural" and if a person "tries to infect others with their homosexuality, then the state must intervene in this violation of freedom" and more recently, that he "did not want homosexuals to teach in public schools" and that he "would not want a gay cabinet member in your government". During the presidential campaign, one of the then candidates, Lech Kaczynski, who later became President of the Republic of Poland, said that he would continue to ban LGBT demonstrations, as "public promotion of homosexuality will not be allowed."

More recently, Wojciech Wierzejski, a national parliamentarian of the League of Polish Families (Liga Polskich Rodzin) encouraged the use of force should LGBT activists organize their annual Equality March in Warsaw. "If "deviants" begin to demonstrate, they should be hit with batons", he said at that time. He commented on the possible attendance of politicians from western Europe at the march by saying "they are not serious politicians, but just gays and a couple of baton strikes will deter them from coming again. Gays are cowards by definition."

On 12 May 2006, Wojciech Wierzejski also said, in a letter addressed to various government authorities, that the law enforcement authorities should check what he called "legal and illegal sources of financing" of organizations of LGBT activists and demanded the State Prosecutor's intervention. The letter also accused LGBT organizations of being involved with paedophiles and illegal drug trade. Amnesty International rejects the prejudiced conflation of child sexual abuse with homosexuality as a failure of the state to protect adequately children from violence and demonstrates the homophobia in the legal system. Following his demand, the State Prosecutor ordered, in a letter issued on 30 May 2006, that all prosecutors check very carefully the ways of financing all LGBT organisations in the country, their alleged connections to criminal movements and their presence in schools.

On 19 May 2006, Miroslaw Orzechowski, Deputy Minister of Education and also belonging to the League of Polish Families, stated that an international project "Do we need gender?" that was organized by the Campaign Against Homophobia (Kampania Przeciw Homofobii, KPH), co-organized by BGO Gemini (Bulgaria), Diversity (Estonia), Bost Axola (Spain), and financially supported by the European Commission Youth Programme, would lead to the "depravity of young people". The State's legal

obligation to act “in the best interests of the child” needs to include respecting the child’s right to be free from discrimination, including that based on sexual orientation or gender identity.

Amnesty International is concerned that the climate of discrimination and intimidation has been partly perpetuated by such homophobic statements, and that it has resulted in a series of incidents in which events organized by the LGBT community have been attacked.

A recent example of such an attack took place on 28 April 2006, when LGBT activists were attacked during a peaceful demonstration (called Equality March) by members of a far-right group known as All Polish Youth (Młodzież Wszechpolska) on a counter-demonstration. Despite the presence of the police, counter-demonstrators reportedly harassed and intimidated participants of the Equality March. Police officers present reportedly failed to prevent them from doing so.

Amnesty International is concerned about the failure of the state to have provided effective protection to people exercising their rights to freedom of expression and assembly. The state has an obligation to exercise due diligence in protecting them against abuses by non-state actors, that is, private individuals or groups.

Amnesty International has called in a letter to the Prime Minister of Poland, Kazimierz Marcinkiewicz, and on the Polish authorities, to take the necessary measures to fulfil their obligations under international human rights law, including:

Ensuring that all individuals within their jurisdiction are able to effectively exercise their right to freedom of peaceful assembly without discrimination;

Ensuring that they do not make any public statement or order which could reasonably be interpreted as a licence to discriminate against or otherwise target any individual because of their sexual orientation or gender identity. Those who make such statements should be held accountable for instigating, inciting or abetting human rights abuses;

Publicly condemning attacks, threats of attacks and other harassment of LGBT people, making clear that such violence is a criminal offence and will not be tolerated;

Ensuring that thorough and impartial investigations are carried out into such attacks and threats and that anyone reasonably suspected of a crime in this regard be prosecuted in line with international human rights standards;

Acting with due diligence to provide effective protection to LGBT people who face threats to their lives and safety. Such measures should include, where necessary, special measures of protection.

In the longer term, Amnesty International urges the Polish authorities to ensure that all anti-discrimination legislation explicitly includes all forms of discrimination on the grounds of sexual orientation or gender identity.