



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR EMPLOYMENT, SOCIAL AFFAIRS AND INCLUSION
DIRECTORATE- GENERAL FOR REGIONAL AND URBAN POLICY

The Directors-General

Brussels
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Mr Jarosław Stawiarski
Marshal of the Lubelskie
Voivodeship

Mr Grzegorz Schreiber
Marshal of the Łódzkie
Voivodeship

Mr Witold Kozłowski
Marshal of the Małopolskie
Voivodeship

Mr Władysław Ortyl
Marshal of the Podkarpackie
Voivodeship

Mr Andrzej Bętkowski
Marshal of the Świętokrzyskie
Voivodeship

Subject: Responsibility of the Managing Authorities and beneficiaries of EU cohesion policy funds to comply with the principle of non-discrimination based on sexual orientation and gender identity

Dear Marshals,

We hope this letter find you in good health. For several days now, the European Commission, the regional Managing Authorities and the Ministry of Funds and Regional Policy, we have been jointly working on simplifications and possible shifts of allocations in order to use the available EU Funds to counter fight the coronavirus impact in Poland. We would like to thank you for this good cooperation and underline our commitment to make the use of the EU funds as much flexible as possible in this respect, within our legal basis.

While being aware that nowadays responding to the COVID-19 threat in Europe is our biggest priority, we also need to make sure that other important matters are not neglected. In this context, we would like to inform you that in the recent months the Commission received several complaints regarding the increasing anti-LGBT community rhetoric in Poland. The latest citizen complain refers directly to the fact that several local and regional authorities voted discriminatory declarations, statements or resolutions against LGBT persons, while at the same time they are using EU funds and that these actions result in the citizen's fear of being discriminated by these authorities, being beaten by other citizens or losing job.

As the above mentioned declarations had been adopted in your regions, the Commission would like to draw your attention to the provisions of Article 6 of the Regulation (EU) No 1303/2013¹, which requires operations supported by European Structural and Investment Funds (ESIF) to comply with applicable Union law and the national law relating to its application. This includes respect for Article 2 of the Treaty on EU on fundamental values on which the European Union is founded, as well as provisions of the Charter of Fundamental Rights of the European Union, when the Charter applies.

Furthermore, in line with the Article 7 of the Regulation (EU) No 1303/2013, Member States and the Commission shall take appropriate steps to prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the preparation and implementation of ESIF programmes. This also includes communication activities. We would also like to recall that the Partnership Agreement addresses this issue as well, namely in section 1.5.2.

Consequently, the Commission would like to underline your responsibility as managing authorities of EU funds to ensure compliance with applicable law, in particular with the principle of non-discrimination. The recent adoption by the regional and local authorities, of declarations, statements or resolutions branding LGBTI community postulates as “an ideology” and declaring their territories LGBT-unwelcome, put into question the capacity of these regional managing authorities to ensure compliance with the horizontal principle of non-discrimination in the implementation of ESIF programmes.

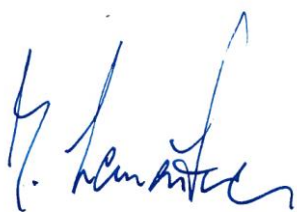
Moreover, there is a risk that the beneficiaries of EU cohesion policy funds, which adopted above-mentioned positions, would discriminate against persons from the LGBTI community in their actions. The Commission would like to stress that declaring LGBT-free/unwelcome territories, workplace or services constitutes an action that is against the values set out in Article 2 of the Treaty on European Union. As regards workplaces, such

¹ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17.12.2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, OJ L 347, 20.12.2013.

declarations by (potential) employers are also likely to violate the prohibition of discrimination and harassment on the ground of sexual orientation in employment enshrined in Council Directive 2000/78/EC^{2,3}.

Concluding, we underline that managing authorities must ensure discrimination-free access to EU cohesion policy funded activities and projects. The Commission would like to receive your clarification and assessment of the risk of discrimination on the ground of sexual orientation or gender identity in the access to the projects co-financed from EU cohesion policy funds in your region. At the same time, the Commission expects that in response to this letter measures promoting equality and non-discrimination based on sexual orientation in EU funded projects will be strengthened by your services, and we would be grateful for your confirmation of the actions taken.

Yours sincerely



Marc Lemaître



Joost KORTE

c.c.:

Ms Małgorzata Jarosińska-Jedynak, Minister of Funds and Regional Policy,

Mr Cezary Przybylski, Marshal of the Dolnośląskie Voivodeship - Managing Authority of the Regional Operational Programme of the Dolnośląskie Voivodeship 2014-2020

Mr Piotr Całbecki, Marshal of the Kujawsko-Pomorskie Voivodeship - Managing Authority of the Regional Operational Programme of the Kujawsko-Pomorskie Voivodeship 2014-2020

² Council Directive 2000/78/EC of 27.11.2000 establishing a general framework for equal treatment in employment and occupation, OJ L 303/16 of 2.12.2000.

³ See, in this sense, judgments of the Court of Justice of the European Union in Case C-81/12, *Accept*, and Case C-54/07, *Feryn*.

Ms Elżbieta Polak, Marshal of the Lubuskie Voivodeship - Managing Authority of the Regional Operational Programme of the Lubuskie Voivodeship 2014-2020

Mr Adam Struzik, Marshal of the Mazowieckie Voivodeship - Managing Authority of the Regional Operational Programme of the Mazowieckie Voivodeship 2014-2020

Mr Andrzej Buła, Marshal of the Opolskie Voivodeship - Managing Authority of the Regional Operational Programme of the Opolskie Voivodeship 2014-2020

Mr Artur Kosicki, Marshal of the Podlaskie Voivodeship - Managing Authority of the Regional Operational Programme of the Podlaskie Voivodeship 2014-2020

Mr Mieczysław Struk, Marshal of the Pomorskie Voivodeship - Managing Authority of the Regional Operational Programme of the Pomorskie Voivodeship 2014-2020

Mr Jakub Chelstowski, Marshal of the Śląskie Voivodeship - Managing Authority of the Regional Operational Programme of the Śląskie Voivodeship 2014-2020

Mr Gustaw Marek Brzezina, Marshal of the Warmińsko-Mazurskie Voivodeship - Managing Authority of the Regional Operational Programme of the Warmińsko-Mazurskie Voivodeship 2014-2020

Mr Marek Woźniak, Marshal of the Wielkopolskie Voivodeship - Managing Authority of the Regional Operational Programme of the Wielkopolskie Voivodeship 2014-2020

Mr Olgierd Geblewicz, Marshal of the Zachodniopomorskie Voivodeship - Managing Authority of the Regional Operational Programme of the Zachodniopomorskie Voivodeship 2014-2020

Mr Piotr Krasuski, Director of the European Social Fund Department, Ministry of Funds and Regional Policy - Managing Authority of the OP Knowledge Education Development 2014-2020

Mr. Jarosław Orlński, Director of the Department of Infrastructure Programmes, Ministry of Funds and Regional Policy - Managing Authority of the OP Infrastructure and Environment 2014-2020

Mr Rafał Sukiennik, Director of the Department of Digital Development, Ministry of Funds and Regional Policy - Managing Authority of the OP Digital Poland 2014-2020

Ms Małgorzata Szczepańska, Director of the Department of Innovation and Development Support Programmes, Ministry of Funds and Regional Policy - Managing Authority of the OP Smart Growth 2014-2020

Ms Małgorzata Wierzbicka, Director of the Department of Supra-regional Programmes, Ministry of Funds and Regional Policy - Managing Authority of the OP Eastern Poland 2014-2020

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