



The Diversity Workshop, An LGBTQ organisation
(abbreviation: SPR)
ul. Mohna 50h/8
87-100 Torun, Poland

October 30th, 2009

Mr Donald Tusk
The Prime Minister Of The Republic of Poland
Al. Ujazdowskie
00-000 Warsaw, Poland

Dear Sir,

The „Diversity Workshop”, an association working for lesbian, gay, bisexual, trans and queer persons is hereby calling you to remove Mrs **Elzbieta Radziszewska** from the office of Government Plenipotentiary for Equal Status. In the opinion of our association, for the below mentioned reasons, Mrs Radziszewska cannot hold this position any longer.

In our judgement Mrs Radziszewska has shown her incompetence, lack of preparedness nor will to take on the issues of LGBTQ persons, and especially the issues of their equal treatment. To support this opinion we present evidence collected and organised as follows.

I. General attitude towards LGBTQ issues

1. Execution of duties arising from the ordinance establishing the office of the Plenipotentiary for Equal Status.

- 1.1. In accordance with the ordinance (rozporządzenie) of the Council of Ministers from April 22nd, 2008 establishing Government Plenipotentiary for Equal Status (published in the Journal of Laws Dz. U. from 2008, no. 75 pos. 450 - referred from now on as „the ordinance”) the scope of duties set for the office is broad. Analysing these duties and comparing with their execution we receive a picture as follows.
 - 1.1.1. In accordance with § 2 par. 1 point 3) of the ordinance, the duties of Mrs Radziszewska include **conducting analysis and reviews of new laws** on how they respect the principle of equal status. It also includes **initiative of addressing other organs with motions on creation or change of laws** with regard to the scope of her office. It should be noted, that apparently according to Mrs Radziszewska, **there are no laws in Poland that need to be corrected** to respect the principle of equal



status of LGBTQ persons, as for the 1.5 year in office **she did not present any initiative for legal changes**. It seems incredible when the number of changes that have been made and are being made for the equal treatment of LGBTQ persons in Western Europe is taken into account.

- 1.1.2. In accordance with § 2 par. 1 point 4) of the ordinance, the duties of Mrs Radziszewska include **implementing actions aiming at elimination of results of unequal treatment**. It should be noted that these obligations are limited to responding to signals reaching the Plenipotentiary for Equal Status office. The office is not obliged to seek such signals itself. It should not be a surprise therefore that the **number of cases in which the office intervened is very low** and reached (according to the data revealed by Mrs Radziszewska herself in a response to an enquiry from the Campaign Against Homophobia) „around 17”. In comparison with activities undertaken in Western Europe such activity of a government anti-discrimination body may only be called microscopic.
- 1.1.3. In accordance with § 2 par 1 point 5) of the ordinance, the duties of Mrs Radziszewska include **conducting analysis and reviewing the legal and social situation** in the scope of her office, and also **initiating and co-ordinating actions aiming to secure equal treatment and prevent discrimination** on the grounds of gender, race, ethnic origin, nationality, religion or belief, political views, age, sexual orientation, relationship or family status, in all areas of life. And in accordance with § 2 par 1 point 6) of the ordinance the duties of Mrs Radziszewska include **monitoring of the situation** with regard to equal status. Meanwhile it is not possible to demand correct judgements or opinions from the Plenipotentiary office, since Mrs Radziszewska **does not gather any data regarding the scope of her duties**. The office of the plenipotentiary does not gather any statistics regarding the discrimination of LGBTQ persons. Nor does it conduct any research programmes, studies, or opinion polls. The results of available opinion polls (by OBOP or CBOS) she completely disregards. Mrs Radziszewska did not use the opportunity to break the current attitude of the civil service and public administration to the problem of LGBTQ discrimination. The attitude visible for instance, in the practice of the police, the justice system and other bodies, of not gathering or reporting information on homophobic, biphobic or transphobic incidents. Public services and organs are not conducting any efforts to gather information about the real situation. Even the crimes, of which LGBTQ persons are victims (especially threat, assault, battery, extortion), crimes motivated by hate, based on real or perceived sexual orientation or gender identity - are not recorded as such nor counted. In statistics, these seem like „ordinary” crimes. Therefore any monitoring of these or any „lighter” forms of discrimination is a dead letter (that never lived).
- 1.1.4. In accordance with § 2 par. 1 point 7) of the ordinance, the duties of Mrs Radziszewska include **promoting, popularising, and propagating the issues of equal treatment**. The number of cases reaching the plenipotentiary office itself („around 17”) is symptomatic when considering how Mrs Radziszewska conducts this



duty. We observe **lack of most basic and elementary promotional or informational activities** on the work of the plenipotentiary aimed at specific groups facing discrimination, including LGBTQ persons. About the simple fact of the existence of the Plenipotentiary we can learn not from her efforts or actions, but from her media appearances. These appearances may be judged only as **discouraging** from reporting cases of discrimination of LGBTQ persons to the plenipotentiary. It is a consequence of Mrs Radziszewska stating in advance where discrimination may occur, and where it most certainly may not occur. One has to acknowledge that the concept of equal treatment is being used by Mrs Radziszewska as an empty slogan. Connected to everything regarding discrimination and nothing in particular. Mrs Radziszewska insists that any and every her any single activity targets „*all forms of discrimination, including discrimination based on sexual orientation*”. Mrs Radziszewska repeats this empty slogan very often, while there are no actions aiming the LGBTQ community being undertaken, that would take into account the specific nature of the discrimination this group encounters.

- 1.2. In conclusion: Mrs Radziszewska **is not fulfilling the aforementioned duties** with regard to LGBTQ persons, nor with regard to those discriminated because of their actual or perceived sexual orientation or gender identity. This fact alone, should cause her departure from her current position.

2. Attitude towards the problem of homophobia

In the light of the above mentioned duties of the Government Plenipotentiary for Equal Status, Mrs Radziszewska's attitude towards the problem of discrimination of LGBTQ people is striking. In short - according to Mrs Radziszewska - this problem may only occur in employment and nowhere beyond it (as in Mrs Radziszewska radio interview in „*Kontrwywiad RMF*” from March 26th 2008).

A confirmation of these words may be seen at the plenipotentiary website, where examples of discrimination on the ground of sexual orientation are presented - and all of them concentrate on employment and labour:

- employment depending on sexual orientation
- demanding medical certificates from a job candidate, stating that they are not infected with HIV/AIDS (with exception of specified positions)
- employee bullying because of their sexual orientation
- a decline to employ a person for a specific position because of their sexual orientation
- discontinuation of employment under a false pretext after employee has come out as being gay

Separate attention needs to be given to how the issue of HIV/AIDS and sexual orientation are being put together. The context in which this has happened, on the plenipotentiary website, implies that connecting HIV/AIDS with non-heterosexual people is sensible. No other group, mentioned on the plenipotentiary website, has been linked to HIV/AIDS. Meanwhile - to demand a medical certificate stating a person is free of HIV/AIDS from anyone (with the exception of specific positions) is illegal, and has no connection to sex, age, sexual orientation or other circumstances of a person.



It should be noted that Mrs Radziszewska's attitude towards the problem of discrimination of LGBTQ persons (or: discrimination based on sexual orientation and gender identity) is not that she declines to act on it, rather that she insists there is no such problem. It surprises alone when one thinks that all opinion polls on the subject after 1989 show univocally and openly unwilling attitude of the majority of Polish population towards homosexual persons (the category of LGBTQ persons is does not occur in these studies). This negative attitude does not apply only to the proposals of the LGBTQ community regarding equal rights, but the sole fact of their existence as human beings, and their participation in the community life with the same level of openness as heterosexual persons.

The above is documented *inter alia* in an opinion poll no. BS/127/2005 entitled „*Acceptance of the rights of gays and lesbians and society's distance towards them*” conducted by CBOS in July 1-4, 2005 on a representative sample of 1021 Polish residents. Selected results:

- 78% of respondents were against the right of homosexual couples to show their lifestyle publicly (with only 16% holding opposite opinion),
- 74% of respondents were against the organisations of gays and lesbians having right to demonstrate publicly (with only 20% holding opposite opinion)
- 42% of respondents were against the right of gays and lesbians to conduct sexual intercourse in their relationships (with 40% holding opposite opinion and 18% indicating „hard to say” opinion).
It is worth to add that an identical result was reached in 2001, while in 2003 36% were against, 38% were for and 26% said it was „hard to say”. Which indicates that the attitude of the society remains generally unchanged.
- respondents were against:
 - working with a gay person (50%)
 - working with a lesbian person (53%)
 - having a gay or lesbian person as a boss (53%)
 - having a gay person as a member of parliament from their constituency (57%)
 - having a lesbian person a member of parliament form their constituency (56%)
 - having a lesbian person as their child's teacher (75%)
 - having a gay person person as their child's teacher (77%)
 - having a gay person as a nanny (86%)
 - having a lesbian person as a nanny (83%)
 - having a gay person as a priest in their parish (82%)
- around 40% do not tolerate homosexual persons in any social role. As it was concluded in the opinion poll „*Often the ill-disposition and fear caused by the disapproved sexual orientation cause that gay and lesbian people are rejected in any role, which means that for a significant majority contacts with gay or lesbian people are unacceptable even in situations not demanding any special closeness*”.

What is more, recent Eurobarometer studies show that Polish society is not only openly admitting to its homophobia, but is also fully aware that the discrimination based on sexual orientation is wide spread in Poland (half of respondents said that it was „widely wide spread”).



The attitude of Mrs Radziszewska is well pictured by her decline to the idea of creating an advisory working group dealing with LGBTQ discrimination within her office. According to Mrs. Radziszewska such body is not needed, or more specifically, she does not need it to fulfil her duties, because *„there is a team at the Ombudsman office”* and she takes part in its *„proceedings”*. Therefore the rare and occasional meetings with some of the organisations involved with the issues of LGBTQ persons The Ombudsman holds, Mrs Radziszewska calls a fully fledged official body. And therefore she rejects professional advice on the issues of LGBTQ persons. It is worth to note that in the same time Mrs Radziszewska has created seven advisory working groups. Dealing with various matters - from broad (*Working Group for Monitoring of the National Programme of Prevention of Racial Discrimination, Xenophobia and Related Intolerance, Working Group for the Prevention of Mobbing, Working Group for the Prevention of Discrimination of Women*) to rather narrow and detailed (*Working Group for the Prevention of the Discrimination of the Underage in the Means of Electronic Communication, Working Group for the Prevention of the Discrimination of Fathers, Working Group for the Prevention of Discrimination of Children Due to Parent’s Relocation and Subsequent Lack of Custodian, Working Group for the Prevention of Discrimination of Children with Serious Illnesses*). Lack of a working group dealing with the discrimination based on sexual orientation and gender identity may be only seen as an unwillingness to deal with this issue by Mrs Radziszewska and a symptom of underestimating of this kind of discrimination.

3. Language

A person tackling, in the name of the Government of the Republic of Poland, the matters of equal treatment needs to have the ability to communicate - both to the general public and to specific groups that are target of discrimination. Communicate what are this person’s duties and what are the actions they undertake. The language they use is of key importance. It has to be precise, understandable, and may not lead to divisions or exclusions. Which are the opposite of what such a person should be doing.

However analysing the statements of Mrs Elzbieta Radziszewska we conclude, that precise and understandable are only her objections toward dealing with the issues of the discrimination of LGBTQ persons, and her objections to the proposals issued in the interest of LGBTQ persons, a especially in the scope of their equal treatment.

The phrases used by Mrs Radziszewska to indicate who she is talking about are on their own stigmatising, excluding, groundlessly narrowing and imprecise. Here are some examples:

1. From the interview *„I’m getting it left, right and centre”* for TVP INFO (June, 2nd 2009)
 - 1.1. *„gay groups”* (in Polish referring only to gay men) - instead of *„LGBTQ persons”* or *„non-heterosexual people”*. The context left no doubt that Mrs Radziszewska meant more than gay men, however she did not mention lesbians nor bisexual people nor any other group of non-heteronormative persons (for instance: transgender people).
 - 1.2. *„homosexuals”* - as above
2. In her comment to a recently published children’s book *„And Tango Makes Three”* (which is a story about two male penguins raising a little penguin together) Mrs Radziszewska said *„And if a mantis consumes her partner after a sexual intercourse, is that a biological norm? I’m not going into discussions like that”*.



Use of the term „*biological norm*” with an explicit reference to non-heterosexual people in this context was insulting and demeaning. One could risk a conclusion, that the Plenipotentiary is not aware that bisexuality and homosexuality are sexual orientations equal in every way with heterosexuality. Her ignorance on this matter, or her attempts to invalidate the findings of science are disqualifying for a person, for whom it is an official duty to prevent discrimination based on sexual orientation.

3. In her statement within the article „*Prime minister! Partner is important*” published by „Gazeta Wyborcza” daily (July 16th 2009):
 - 3.1. „*homosexual relationships*” - instead of „*relationships of persons of the same sex*”. Sexual orientation is a quality of a human being, not of a relationship. A relationship may be long-lasting, unsuccessful, complaisant, but cannot be left-handed, red haired, green-eyed or heterosexual. The phrase „*homosexual relationship*” also implies that only homosexual people might aspire to form such relationships, which is not true - as omitted are for instance bisexual people.
 - 3.2. term „*homosexual persons*” used when talking, as apparent from context, about people in relationships with persons of the same sex, therefore not only gay or lesbian people, but also bisexual people, omitted in the statement.
 - 3.3. terms „*a homosexual*”, „*homosexuals*” - used when talking, apparent from context, about not just homosexual men, but about non-heterosexual people in general, with an omission of lesbian and bisexual people
 - 3.4. „*homosexual marriage*” and „*homosexual partnership relationships*” - as above regarding „*homosexual relationships*”
4. In a radio talk show „*Interview*” on RMF FM (October 21st 2009):
 - 4.1. „*marriages relating to homosexual persons*” - as above remarks regarding „*homosexual relationships*”
 - 4.2. „*environment of homosexual people*” - as above remarks regarding „*gay groups*”

In conclusion it has to be noted that - in the statements of Mrs Radziszewska - bisexual, transgender and other non-heteronormative people do not exist. Lesbians occur occasionally (when Mrs Radziszewska talks generally about „*homosexual people*”) and aren't explicitly named. The accusation that keeps occurring towards the media - that in the LGBTQ movement they only see gay men - may as well be given to Mrs Radziszewska. It has to be underlined, that the word „*gay*” (referring to gay men in Polish only) or „*homosexual*” is not a homonym nor a synonym to the phrase „*LGBTQ person*”. The richness of diversity and the numbers of this social group, and the complex issues of discrimination that apply to them (different symptoms and different causes, and also different ways of fighting discrimination), needs public authorities and administration to see and underline them. If the Government Plenipotentiary is not aware of this, it means that she lacks basic qualifications needed in her office.

II. Attitude towards the changes to the penal code

For the purpose of this letter we have separated - as a matter needing extra attention - the issue of fighting the so called hate crimes and the Government Plenipotentiary for Equal Status's attitude towards the prepared motion to change the statute of June 6th 1997 – The Penal Code.



Non-governmental organisations operating in Poland and dealing with the issues of LGBTQ persons have, two years ago begun, their co-operation on the draft motion to change the penal code. It is to tackle articles 119 § 1, 256 and 257, which at present penalise hate crimes based on nationality, ethnicity, race and on belief or lack thereof (article 119 § 1 also on the basis of political identification). Crimes, that are aimed at the whole group, or a specific person being part of one of these groups. Current legislation includes the following hate crimes like:

- violence (art. 119 § 1),
- illegal threats (art. 119 § 1),
- encouraging hatred (art. 256),
- offending publicly (art. 257),
- infringement of personal inviolability (art. 257).

The drafted changes are to broaden the current legislation and make it more precise (inter alia due to calls to detail the term „encouraging hatred”).

It should be noted that the proposed change widens the legal protection not only for LGBTQ persons. Apart from banning hate crimes based on sexual orientation and gender identity, it would also ban hate crimes based on sex, age, and disability.

All LGBTQ organisations operating in Poland take part in working under this motion:

- *Anka Zet Studio* Foundation,
- *Autonomia* Foundation,
- *Culture for Tolerance* Foundation,
- *Equality* Foundation,
- *Trans-fuzja* Foundation,
- *Campaign Against Homophobia* Association,
- *Lambda Warsaw* Association,
- *Lambda Kraków* Association,
- *Otwarte Forum* Association,
- *Pozytywni w Tęczy* Association,
- *The Diversity Workshop* Association

Gradually non-governmental organisations fighting discriminations based on sex, age and disability, and human rights organisations, are joining the works on the drafted proposal. The Ombudsman has expressed his preliminary support for the motion.

Referring to this proposed statute, Mrs Radziszewska said:

„I have doubts as to this statute. Jail for words is not the solution. People need to be educated. And to say it, half seriously half joking, if such statute was accepted, many homosexuals would need to go behind bars. (...) Homosexual men use the words they fight, towards one another. (...) Let's remember that hate speech applies to all speech, not just public. We need to be fighting it, of course, but not necessarily by aggravating the penalties.”



The above statement exposes the scale of Mrs Radziszewska's misunderstanding of the problems of the discrimination of LGBTQ persons and the scope of her ignorance regarding the drafted penal code change (the core of the draft has not changed for the last two years) – Although her words seem to imply that this drafted statute is known to her. Discrediting the draft penal code change by reducing it to „jail for words” with a complete omission of the crimes mentioned in articles 119 § 1, 256, and 257 of the penal code, is a proof that Mrs Radziszewska does not realise what are the most drastic symptoms of the discrimination of LGBTQ persons in Poland. These absolutely justify reaching for *ultima ratio* in the form of penalisation. The fragment of Mrs Radziszewska's statement where she speaks „half seriously half joking” is below all criticisms. These words aren't even a symptom of underestimating of the problem, or proving that there is no such problem - these words are insulting for LGBTQ people. And especially insulting for gay men. These words are a symptom of Mrs Radziszewska's homophobia. Which totally disqualifies her as Plenipotentiary for Equal Status. And is, on its own, enough to depart her from this office.

III. Attitude towards the introduction of legalised partnerships

Similarly as with the case of the drafted changes to the penal code, for the purpose of this letter we have separated - as a matter needing extra attention - the postulate of introduction into the Polish legal system the institutionalised partnerships - and the attitude of Mrs Radziszewska towards it. It should be also noted that, different than in the case of the changes in penal code, institutionalised partnerships are at present only a general political and social idea. No works are being carried on drafting appropriate statute. There is however an internal debate on the scope of rights that would be guaranteed by such institutionalised partnership and its availability for persons of opposite sex. At the current stage commenting on the idea of introduction of institutionalised partnerships may not therefore refer to any concrete draft, but rather to the general idea of institutional partnerships itself. The fact whether persons of the same sex should have the right to for relationships supported by law, whether they deserve such recognition and protection. The recognition itself, disregarding the scope of rights it would bring, would have been a tremendous step forward. As to what is today, when couples of people of the same sex are denied tiny bits of that, what is available to couples of people of opposite sex without any limits.

Taking the above into account it has to be admitted that Mrs. Radziszewska consequently opposes to the idea of introduction of institutionalised partnerships as such. In a number of her media statements between March 2008, she did not for a moment let the possibility of introduction of any form of institutionalised partnerships. Selected statements:

- „*There is no social not political concord to a creation of such a statute, that would refer to hetero and homosexual relationships. There are also no financial possibilities.*” (Gazeta Wyborcza daily, July 16th 2009)
- „*But this [institutionalised partnerships] has nothing to do with discrimination, and nothing to do with the right to equality*” (Kontrwywiad RMF radio show, March 28th 2008)
- „*Personally I am against, because today there is no social concord on this matter. This is an ideological matter, moral, ethical, and that's why it needs social concord, needs seeking a compromise. Today there is just no social concord on homosexual marriages or relationships*” (Kontrwywiad RMF radio show, March 28th 2008)



- „But I am telling you, that this law can be introduced, if its bringing socially accepted values. It can't be that we talk about tolerance towards extreme intolerance, but also that we talk about tolerance towards socially unacceptable things” (Przesłuchanie radio show at RMF FM, October 21st 2009)
- „Today in Poland there is no social, nor political space for passing a law on marriages of homosexual persons” after presenter's that the question was about institutionalised partnerships, Mrs Radziszewska added: „The environment of homosexual people uses these terms interchangeably” (Przesłuchanie radio show at RMF FM, October 21st 2009)

As apparent from the above review, Mrs Radziszewska:

- 1) does not perceive the institutionalised partnership in categories of unequal treatment of relationships of same-sex couples and opposite-sex couples, thus same sex-couple do not deserve to be recognised by the state
- 2) mixes and joins together the notions of institutionalised partnership (with an undefined catalogue of rights) and marriage (with a strictly defined catalogue of rights), and she – wrongly – attributes the same to organisations working for LGBTQ people;
- 3) mixes and joins together her own personal convictions with the convictions of the Polish society – it is worth to note that the idea of institutionalised partnerships is not being absolutely rejected by the Polish society. As in the above cited opinion poll BS/127/2005 showing 53% respondents agree to same sex couples having the right to community property, and 46% of respondents agree for institutionalised partnerships that wouldn't be the same as marriage, in which partners would have the same tax and inheritance rights – 44% opposed this idea). Nor is this idea rejected by people if the world of politics (for instance the statement from June 15th, 2009 of Mr Jerzy Buzek in *Kropka nad i*, in which he said he supported regulations in the matter of inheritance and „formal matters”);
- 4) from the perceived lack of the social acceptance for institutionalised partnerships today, Mrs Radziszewska draws the lack of acceptance for institutionalised partnerships in the future (which is especially apparent in her last media appearance, when she smoothly goes from „socially accepted values” to „socially unacceptable things”).

Mrs Radziszewska's attitude towards the idea of introduction of institutionalised same sex partnerships consists a clear contradiction to the principle of equal treatment. And above all it relays on her personal ill-dispositions and convictions, justified by the reputed social attitude to the matter at hand. Mrs Radziszewska omits here the results of opinion polls, which do not indicate a firm opposition towards institutionalised same sex partnerships. However she intentionally mixes this matter with marriages of same-sex couples, against which the opposition is indeed firm. Mrs Radziszewska also fails to notice that it is her role to change the social attitude and to progress the equal treatment of specific social groups. Instead, with all her attitude she preserves the present situation, and works towards creating a legal handicap for the couples of same sex persons.

IV. Attitude towards non-governmental organisations working for LGBTQ people

The final part of this analysis, as least important, is the matter of mutual relations of the Government Plenipotentiary for Equal Status and non-governmental organisations working for the LGBTQ people. According do the data at hand, Mrs Radziszewska has only once indicated an organisation like this by



name. It was in the context of her denial to create an advisory working group for LGBTQ discrimination. And the organisation indicated was *Campaign Against Homophobia*.

Within the same statement Mrs Radziszewska also said that only this association has reservations to her work. „It is worth to say here that other gay environments, not connected to Campaign Against Homophobia, are satisfied with the co-operation with me”; (TVP INFO, June 2nd, 2009). Mrs Radziszewska’s lack of precision in communication has been discussed above, however it is worth to point out that the phrase „other gay environments”, that Mrs Radziszewska opposes to Campaign Against Homophobia, is not a set or organisation, but one group of editors of an internet portal dedicated to LGBTQ people (www.gaylife.pl) - and nothing more.

It needs to be stressed that among the non-governmental organisations working for LGBTQ people in Poland there is a universal concord in the judgement that Mrs Radziszewska has no will, nor basic competence to tackle the issues of the discrimination of LGBTQ people, and that her appointment to this office has turned out to be a mistake.

We conclude that Mrs Radziszewska is not fulfilling her legal duties, she is not interested co-operation with non-governmental organisations fighting the discrimination of LGBTQ persons, she is not qualified to deal with these issues, and not interested in acquiring competence. She is opposing legal changes aiming to protect LGBTQ persons or their equal treatment. She affirms the current state and is homophobic herself. If it is true that her position is a political office, and is an extension of government policy towards discrimination (as in Mrs Radziszewska’s television statement in TVP INFO in June 2nd, 2009), we call to remove Mrs **Elzbieta Radziszewska** from her position

Yours sincerely,

for The Diversity Workshop
Przemysław Szczepłocki
and Aleksandra Skonieczka

Carbon copy:

-the media

-whom it may concern