

European court rules teacher's dismissal over gay blog violated free speech

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The European Court of Human Rights rendered a judgement in a case where the Polish authorities fired a school teacher for writing on a blog for adult gay men featuring some sexually explicit content.

In February, in the case of [P. v. Poland](#), the European Court of Human Rights (ECtHR) ruled that Poland violated Article 10 of the European Convention on Human Rights (freedom of expression). The case involved a secondary school teacher who was dismissed for writing an illustrated diary under a pseudonym on a public blog intended for adult gay men, which included some sexually explicit content.

The authorities considered that the applicant's blog was an affront to the domestic social mores prevailing in Poland because it talked in explicit terms about sexuality. The applicant argued that the authorities had wrongly perceived his blogging activity as attesting to his lack of morals and posing a threat to the ethical education of his students, and that the sanction imposed on him was disproportionate in the circumstances of the case.

ILGA-Europe, together with KPH (Campaign Against Homophobia) and PSAL (the Polish Society of Anti-Discrimination Law) filed a third-party intervention in the case. The intervention informed the European Court about the situation of LGBTI people in Poland and highlighted the States' obligations under international law and the European Convention on Human Rights (ECHR) framework. It emphasised the States' obligation to provide effective measures to protect LGBTI persons' rights to private life and freedom of expression, and to unmask possible discriminatory motives in case of interference with these rights.

While the European Court considered that there was no proof that the applicant's sexual orientation had been the real reason for his dismissal, it still took into account the fact that the blog depicted same-sex relations when ruling on the breach of his freedom of expression. The Court relied on our intervention, which reminded that the Council of Europe's Commissioner for Human Rights and the EU Fundamental Rights Agency reported that the prevailing social attitude towards LGBTI persons in Poland was negative. Owing to this, the Court considered important to refer to its previous ruling in the [Macat? v Lithuania](#) case, which found a violation of Article 10 as a result of restrictions on the distribution of a book that depicted a same-sex marriage.

The Court considered that the applicant's dismissal was disproportionate, especially as he did not have any previous record of disciplinary sanctions. It concluded that the Polish authorities did not provide relevant and sufficient reasons for dismissing the applicant from his position as his blogging activity did not threaten the protection of morals of minors in a manner justifying the sanction imposed on him.

According to Annamaria Linczowska, Advocacy and Litigation Officer at Campaign Against Homophobia: "The case itself was a vivid example of discrimination against LGBT+ persons in Poland that time. Using a very serious mechanism – the teacher's dismissal – the school and later, the commissions, interfered with the teachers' freedom of speech, his right to be vocal in public about same-sex relationships. The case illustrates the obstacles and discrimination LGBT+ people face in the workplace and in education in Poland. Even though we share the ECtHR's view regarding the country's positive obligation to introduce legal tools to ensure respect of private life

and freedom of expression, KPH believes that in this case it should have considered also the violation of articles 8 and 14 of the Convention by asserting the fact that applicant's sexual orientation was a real reason for his dismissal".

See KPH's full statement [here](#).

According to Marie-Hélène Ludwig, Senior Strategic Litigation Officer at ILGA-Europe: "We are glad that the Court took into account our joint third-party intervention describing the negative social attitude towards LGBTI persons prevailing in Poland to rule that the domestic authorities breached the applicant's freedom of expression by dismissing him from his position."