



HAL
open science

Implementing a "non-discrimination" policy in a country "without foreigners": the case of Poland

Ewa Bogalska-Martin

► To cite this version:

Ewa Bogalska-Martin. Implementing a "non-discrimination" policy in a country "without foreigners": the case of Poland. Management & Gouvernance: Entreprises. Territoires. Sociétés, 2019. hal-02057535

HAL Id: hal-02057535

<https://hal.science/hal-02057535>

Submitted on 5 Mar 2019

HAL is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

Implementing a “non-discrimination” policy in a country “without foreigners” (The case of Poland)

Ewa Bogalska-Martin¹

Abstract

Accounting for just 2.5%, Poland has one of the lowest proportions of ethnic and national minorities and foreigners in the European Union. There are fewer than 300, 000 foreigners living there, and the current government has refused to host refugees from countries at war. However, Poland, a country where there have never been religious wars, is often perceived as one of the European countries most affected by anti-semitism in its past. Xenophobia and the rejection of foreigners are today commonplace. Although Poland, like all EU Member States, is under obligation to implement policies to fight discrimination, there have been difficulties in terms of implementation. This article analyses the historical and political contexts around the adoption of a non-discriminating society in Poland and the reasons for its failure.

Key words: non-discrimination policy, racial discrimination, foreigners, xenophobia, homophobia.

Introduction

Non-discrimination policies are often thought of as a set of actions that cut across all policy mechanisms and are aimed, in particular, at populations identified as targets of discrimination. Drawing on studies on ‘policies against discrimination’, we will analyse non-discrimination as a political project whose more or less voluntary implementation is reflected in the development of prevention and monitoring actions to ensure that both political and legal constitutional principles of equal treatment are followed by deeds. Our reflection is in line with the findings established during the Durban Conference in 2001 and since developed by several policy players and by national and international associations. The final declaration adopted at Durban states that, “*Despite efforts undertaken by the international community, Governments and local authorities, the scourge of racism, racial discrimination, xenophobia and related intolerance persists.*” Indeed, beyond the proliferation of legal measures prohibiting discrimination and declarations of intention, the implementation of the policy project for a non-discriminating society has come up against structural obstacles, including in the countries attached to the ideals of tolerance and equal treatment.

¹Sociologist, Professor, Université Grenoble-Alpes France, researcher at CNRS Pacte laboratory.
Address: Ewa Bogalska-Martin: UMR Pacte-IEPG BP48, 38040 GRENOBLE CEDEX France, MAIL :
ewa.martin@iepg.fr

To speed up the practical application of these ideals across Europe, the EU has taken up the issue. European directives, respectively, 2000/43, appertaining to equality without distinction as to race or ethnic origin, 2000/78, appertaining to equality of treatment in employment and work and 2002/73, appertaining to equality between men and women, state that Governments of EU countries should provide national institutions to fight against discrimination (where it exists, or whenever it becomes necessary to set these institutions up), with at least the following competences: independent assistance to victims of discrimination, independent studies, independent reports and recommendations on issues related to discrimination. European policy recommendations suggest that specialised national institutions should be entrusted with the following functions: educate the public and public training institutions on discrimination issues; monitor the content and impact of existing and envisaged laws and national policies in the light of relevant international standards; advise all public authorities on discrimination; receive complaints concerning alleged cases of discrimination and address them either through peaceful settlement or legally binding decisions.

All these recommendations seek to encourage the implementation of policies that can ensure an ideal and civil non-discriminating society. From the early 2000s, all EU countries committed to this area, but each one drew on its own references and its own traditions, meaning that the countries did not advance at the same rhythm. Drawing on the practices and issues encountered in a new Member State of the EU, i.e., Poland, this article will analyse what lies at the core of policies against racial discrimination.

Analysing racial discrimination in Poland requires one to consider the historical, sociological and political contexts of the country. Indeed, this is necessary to highlight the difficulties, advances and stalemates encountered in the creation of non-discrimination policies driven by associations and public stakeholders in this country. In view of the post-1989 social and political changes in Poland, we will analyse the change in the scope of action and the social climate. Moreover, we will examine the greater responsibility of all those involved in a country that has been an EU member since 2004.

The historical framework of the reflection on “foreigners” in Poland

Poland, a country where religious wars have never occurred, is often thought of as one of the European countries most affected by anti-Semitism, which marked the social relationships between multi-ethnic groups in the Polish community in the 19th and 20th century. Historically, the relationship to national, ethnic or religious minorities have always been and are still – perhaps even more so – at the heart of all questions revolving around social cohesion and national identity. They are at the centre of the debate on the context of “otherness” perceived in Poland as an existential problem of a historical nature, no doubt accentuated by the process of European integration and by all the facts relating to the consequences of “globalisation”.

Since the beginning of the 19th century, when successive generations of Poles fought against Russian or Prussian oppression and for political independence, the relationship to the “other”, identified as “foreign” to the national cause, was always central in the debate on national duties, sacrifices made, and the sharing of a common destiny. Since then, the “other” (Jewish, communist, collaborator²) has often been the object of a far from glorious political policy (Potel, Danzon, 2007). It is worth mentioning, however, that an attachment to democratic values and the rejection, notably of anti-Semitism, has always been defended as a symbol of Poland’s tolerance by a some part of the political elite (K. Zaluski 1971; A. Michnik 1985), bringing together modern and progressive Polish society. The attitude to minorities (particularly Jewish) was considered as necessary to affirm the spirit of tolerance and show the political maturity of the Polish society after the re-creation of the independent Polish state in 1918 as well as after the change of regime in 1989. It must be borne in mind that anti-Semitism, in both its “traditional” form of the rejection of strangers and in the changes it has undergone, provided the negative or positive reference to reflect on racial discrimination and, beyond that, on all forms of discrimination in Poland.

According to the 2010 Demographic Yearbook, only 1,133 people who declared themselves “Jewish” lived in Poland in 2002, the year the last census was conducted. In

²Recently, it involved a process that sought to identify then dismiss genuine or alleged collaborators of the Communist regime, a process initiated by the adoption of the “lustracja” law on 18th October 2006. Following a decision of the constitutional court, which judged it “unconstitutional”, this law was resinded in April 2007.

addition, approximately 3,000 people of Israeli citizenship officially lived in Poland. At the same time, Jewish restaurants have met with great success in all major cities and many tourists have shown an interest in visiting Jewish districts (particularly the Kazimierz district in Kraków). What remains of Polish anti-Semitism? Is it, as we argue, a container without content?

Studies conducted after 1990 by the Public Opinion Research Center (CBOS) confirmed that a latent anti-semitism still persisted. In 1993, 50% of respondents were openly hostile to “Jews” (only 15% expressed sympathy). In 2002 the same studies highlighted that 46% of respondents remained hostile, and only 23% expressed sympathy for Jews. A 2013 CBOS survey showed that 63% of respondents believed in a “Jewish conspiracy”. The hostility of close to 50% of Polish people against Jews is consistent with the findings of another study conducted in 2017 (Bulska, Winiewski, 2017). Other studies suggest that the stereotype of “Jews” has always been associated with the negative figure of “those who govern Poland”³. This stereotype has been somewhat supported by the process of the “ethnicising” of social relationships introduced notably by European standards which call for the recognition of ethnic and national minorities, as we mentioned earlier.

As Jacek Kubiak stated in the “Polityka”⁴ newspaper of February 2008, *“Polish anti-Semitism is expressed in the graffiti on the walls, in the negative connotation in everyday language given to the word “Jew”, in the publications of Leszek Bubel, in the xenophobic and anti-Semitic programmes of Maryja Radio or even in the fascistic Nasz Dziennik daily newspaper. It is a toothless anti-Semitism, whose image is as violent as it is obsolete. But it is anti-Semitism lying in wait, able to rise from its ashes. At the same time, the attitudes of Polish people with regard to Israel are generally friendly. Without knowing it, communists have played a vital role in shaping this outcome. The attitude of the communist authorities of the socialist Poland seeking to create hostility towards the imperialism of the Jewish State has aroused radically contrary attitudes among the Polish people. The Poland of today is on a path that will finally allow it to erase the ghosts of the past. Everything will depend not on the generation that remembers the*

³ A. Kublik, *Zydzi? Wiadomo! (Jews? Everyone knows!)* In “Gazeta Wyborcza, 25/07/2002.

⁴“Polityka” is a weekly newspaper whose political line is comparable to the French “Nouvel observateur”. Between 1970 and 1980, its journalists actively supported the process of political transformation and in 1988 its editor, Mieczyslaw Rakowski, became the Prime Minister after the organisation of the Round Table which led to the change of political regime.

German occupation, the pogrom at Kielce⁵, or the year 1968, but on the younger generation who, in most cases, have never met Polish Jews (Kubiak, 2008).

Since the beginning of the political changes in 1989, this issue has been a recurring subject. Today, both the historians working on the plunder of Jewish property at the Institute of National Remembrance and a few politicians argue that there is a need to call into question the relationship that the Polish society has had and continues to have with the “emblematic figure of the Jew”. We believe that this figure can be defined as *one that threatens the established order, perceived as both inferior and superior to the Polish people* (Bogalska-Martin, 2005, p.41).

Poland’s anti-semitic past recently caught up with it following revelations made by Jan Tomasz Gross, a Polish-born professor of history at Princeton University. Gross argued that Poland is fundamentally and structurally anti-semitic, including within state institutions. The first of his books, published in 2000 in Polish, then in English under the title *Neighbors: The Destruction of the Jewish Community in Jedwabne, Poland*, (Princeton University Press 2001), described a massacre in Jedwabne, in the North of Warsaw, in 1941. His second book, published in English in 2006 and two years later in Polish as *Strach antysemityzm w Polsce po Auschwitz* (“Fear: Anti-Semitism in Poland after Auschwitz”), describes the collective act of the murder of Jews committed in 1946 in the regions of Kielce, Cracow and Rzeszow.

These books, notably the former, opened up a “Pandora's box” and held up a mirror into which the Polish people did not want to look. It was at the centre of the debate throughout the 2000s. The debate continued later with the publication of Gross’s third book, which was somewhat more terrifying than the previous two. Its title *Złote zniwa* (“Harvest of gold”), published in March 2011, brought to light the excavations carried out in the former concentration and extermination camps by surrounding populations in their quest for gold and other precious objects. As he had done in his previous books, Gross suggested that this was a real industry, a source of enrichment and, above all, the expression of a structural and deep anti-semitism.

The revelations made in Gross’s first book concerning the massacre at Jedwabne in 1941 led the President of the Republic, Aleksander Kwasniewski, to convey the regrets of the Polish people to the Jewish people on 10th July 2001 in the presence of the

⁵This refers to a pogrom (massacre) of the Jewish population instigated by the local police and people from the Kielce neighbourhood located in the centre of Poland. It took place in 1945.

Ambassador of Israel. This act, however, did not put an end to the debate. One might even say that a few progressive Poles consider that the debate is yet to begin.

“A Silent consensus” around the introduction of European standards in the fight against discrimination

After the fall of the socialist regime in 1989, surrounded by an aura of the liberator of the people, strengthened by its “Solidarnosc” movement – the greatest expression of “civil society” – Poland aspired to regain its place in Europe. For the Polish people, the EU was and continued to be the bearer of a long dreamed about ideal: peace, democracy and especially prosperity, which was quickly assimilated to the logic of consumption. Soon after began legislative work to introduce a multi-party system, civil liberties, democracy, and the rule of law and a market economy in Poland, anticipated because it promised genuine westernisation. Gradually, absorbed by the will to catch up on the “civilisation” delay, the Poles went to work to earn money, and thus, social issues slowly disappeared from their view. The impact of the disappearance of the critical and active civil society behind the Solidarnosc movement was especially felt with regard to the fight for human rights and for the equality of treatment. This absence was observed by many Polish analysts (Kalukin, 2003).

In 1989, the split, expressed by T. Mazowiecki as a “big hyphen” which was to separate a Poland reborn from its ashes from the socialist regime without giving way to reprisals and vengeance, showed Poland that there was a pressing need for a new model of governance. In the vacuum left by the totalitarian state (both repressive and protective) and the dismantling of its institutions that began in 1989, the Polish people began to seek references for the organisation of political life and the governance of the third Republic. These stemmed from two sources: from the 20-year period of independence (second Republic) between the two wars and/or the political organisation model of democratic societies promoted by the European Union. However, these two models differ largely; they were and still have conflicting values and standards.

Reference to the second Republic (1919-1939) activated, among other things, nationalist and fascist thoughts where strong xenophobia and anti-semitism were conceptualised as an expression of Polish national interest by the political party known

as Endecja, whose leader was R. Dmowski⁶. The conservative and nationalist parties founded in the context of the integration of Poland into the EU in the 2000s (such as the League of Polish Families and the Self-Defence of the Republic of Poland party, and the formation of the Right and Justice - PiS in 2001) gradually seized and modified this model.

The second reference corresponds to all the gains made in terms of tolerance and equality of treatment. We refer to these norms which today appear in the Charter of the Rights of European Citizens and are driven by EU directives as *norms of non-discrimination*. These values have been upheld by part of the Polish political elite as well as by a section of Polish society which aspires to “genuine European democracy” and supports the project of European integration.

From the beginning of the transition, political life in Poland was marked by continuous tension between these two references. Paradoxically, while the political parties associated with the Solidarnosc movement progressively began to refer to the Endecja model, especially after J. Olszewski's⁷ coup, left-wing parties (which had resulted from the mutation of the Communist Party) to which the president Aleksander Kwasniewski (1995-2005) belonged, adopted a distinctly pro-European orientation. This tension reached its peak during the Government led by J. Kaczynski between 2006 and 2007 and became the breaking point between two Polish political parties (pro-European and nationalist) after the accession to power of his PiS party in 2006 and 2015. The fight against discrimination was at the heart of this tension, not as a subject that divided but rather as an absent and hidden subject. For very different reasons, both right-wing and left-wing governments were unfavourable to the adoption of the framework law prohibiting discrimination in Poland as required by European directives.

⁶This refers to the powerful National Democracy party (Endecja) founded in the early 20th century and led by Roman Dmowski. The author of the book “The Jewish Question” published in 1930⁷ asserted at the time that the presence of the Jewish community in Poland posed a real danger to the integrity and sovereignty of the nation State.

⁷This lawyer, defender of political opponents in the 1980s (A. Michnik, J. Kuron, among others), and who became Prime Minister in December 1991, shared the “true - false list of collaborators of the Communist police” with Polish MPs in April 1992. Among the people named on this list was L. Walesa. This initiative was interpreted as a “coup attempt from within” and precipitated the fall of his government in June 1992. Political parties created by Jan Olszewski in the aftermath of these events (Movement for the Republic - 1992, Movement for the Reconstruction of Poland - 1995) were associated with nationalist parties such as the League of Polish Families, which participated in the Government of Jaroslaw Kaczynski, 2006 - 2007.

In 2004, citing the need to control public finances, the Government of Leszek Miller (left-wing) refused to create a post of Commissioner responsible for the fight against discrimination. In 2005, the Polish parliament (mostly right-wing) rejected the bill on gender equality and on the prohibition of all forms of discrimination (gender, religion, origin, age, sexual orientation), and thus failed to guarantee their implementation as required by EU directives. The project envisioned the creation of an office responsible for gender equality and for the fight against discrimination; its director was to be appointed by the Prime Minister. Engaged in negotiations with the EU in relation to directive 2002/73, which postulates that active efforts should be made towards gender equality, Poland fell increasingly behind in this area, as in other areas relating to the respect of equality of treatment. Since then, the situation has worsened in many respects (right to legal abortion, protection in the event of rape, assistance to female victims of domestic violence, and so on).

Indeed, between 2005 and 2008, no Commissioner was responsible for equality. Although the institution had been created in 2001, it was done away with in 2005 and replaced by the Office for the Protection of the Family, whose reference was the traditional family ideology. This political decision was taken by men belonging to conservative and xenophobic political parties who had been members of two governments, i.e., K. Marcinkiewicz's and Jaroslaw Kaczynski's governments of 2005-2007 (some of the members of the latter government were from radical right-wing parties). Moreover, the scope of this position (the actions it could take were very limited) was often challenged by conservative feminist organisations: the Forum of Polish Women and the League of Polish Families. In April 2008, the Prime Minister Donald Tusk finally re-established the function of Commissioner responsible for equality of treatment. For the social actors who had been active against discrimination, this was seen as a mere "formal gesture". Indeed, deemed inadequate and lacking specific targets, the actions of the Minister were strongly opposed by Polish associations fighting discrimination against women and homosexuals. Upon returning to power in 2015, PiS reversed this decision not only by doing away with this function but also by

leading a real policy of repression against feminist associations⁸ and the Centre for Monitoring Racist and Xenophobic Behaviour.

From the very beginning of the transition and the negotiations with the EU, the relationship with ethnic minorities was a central aspect on which European authorities expected Polish authorities to take action (notably with regard to the treatment of the Roma population). However, the political climate in Poland did not view this as a central issue. Studies on the attitudes of politicians in Poland after 1994 show that these politicians attached little importance to this subject and did not consider that democratic maturity depended on the regulation of the issue of national and ethnic minorities (Wesolowski, 2001). Besides, the debates in Parliament on the introduction of special guarantees allowing minority identities to express themselves in the public space revealed neither disagreements nor conflicts. The recordings of discussions we were able to listen to showed that much of the debate was focused on the use of minority languages in the administration of the State and on the specific provisions regarding the parliamentary inclusion of minorities. At the same time, the Defender of Civil Rights (whose function was created in 1988) received very few complaints from members of national or ethnic minorities concerning the breaching of their rights (33 in 2002, including 8 from individuals)⁹. It is thus likely that this particular problem reflected a mismatch between EU policy objectives and Polish reality, with the latter on a wholly different level.

Throughout the period of transition, the majority of Polish people did not understand why discrimination was a major problem. The dominant view was that the denial of rights simply boiled down to the oppression of political opponents. Inherited from the past, the interpretation of the concept of human rights remained rather essentialist (political rights), and even today many Poles believe that they are neither discriminating nor discriminated against. Polish sociologists (Mikulska, 2008) speak of a lack of awareness of the problem, notably when it comes to racial discrimination, even though studies have shown that feelings of hostility towards the few foreigners that are visible -

⁸On October 3, 2016, as part of the unparalleled toughening of laws against abortion even in the cases of the rape of underage girls, these organisations led the so-called “protest” march in Warsaw.

⁹ *Krajobraz dyskryminacji I*. Report of the Research Institute of Social Policy, 2003, Warszawa, p.52.

such as Vietnamese or Arabs - are on the increase, especially since 2015 following the official positions taken by J.Kaczynski, leader of the PiS, who referred to immigrants as “*carriers of infectious diseases.*”

While constitutional and legal guarantees are now in place, their mobilisation remains highly dependent on the sensitivity of judges, which explains why the struggle for an independent judiciary is important. Indeed, since the law of July 12, 2017, the Minister of Justice, who names all court presidents and dismisses those who are not loyal to the ruling party, controls this judiciary.

However, at the start of negotiations with the EU in 1994, Poland formally adopted all the minimum standards set to affirm its membership to the European space. The legal framework exists, i.e., it is stated in the texts, but it not respected by public authorities, notably the Ministry of Interior, which has remained very “tolerant” or even “blind” to increasing racist and xenophobic acts in Poland.

In the Polish Constitution adopted on 2nd April 1997, article 32 rules on all forms of discrimination, but there are many other items that redefine and mention discrimination, such as articles 30, 31, 35, among others. Ever since its adoption in 1974, the Labour Code has undergone numerous modifications in an attempt to take into account the new social and economic context; the last modification was carried out on 18th January 2009.

The Polish Penal Code, adopted in 1998 in articles 119, 256, and 257, rules on the prosecution of xenophobic and racist acts, even in speech.

The 1996, 1999 and 2004 reports of the European Commission against Racism and Intolerance note that Poland has achieved “great progress” in the fight against the phenomena of racial discrimination and intolerance. The authors of the reports point out that some recommendations of previous reports have been implemented. The two elements of Polish policy which have been positively assessed are:

- The adoption in 2003 of the Programme for the Integration of the Roma Community in Poland
- the creation of the National Programme Against Racial Discrimination, Xenophobia and Related Intolerance – 2004-2009.

Nevertheless, the European reports underscore that much still remains to be done in terms of the consequences of racism and racial discrimination. The reports paid special attention to the issue of spoken acts (written and oral) loaded with xenophobic and racial expressions. These reports drew widespread criticism in Poland, where the commission's work was considered "unfair" to the country.

Other legal texts contain provisions on the protection of vulnerable populations and guarantees of equality of treatment to fight against discrimination. These include: the law of 13th June 2003 granting protection to foreigners within the territory of the Republic of Poland, the employment law of 20th April 2004, and the previously mentioned law of 6th January 2005 on the rights of minorities.

As noted in the report of the European Commission against Racism and Intolerance released in March 2009, Poland was slow to adopt all the European directives (2000/43, 2000/78, 113/2004). In particular, the country failed to create an independent institution to study and fight against discrimination, despite the December 21st 2007 deadline. The EU thus lodged a complaint against Poland with the European Court on 14th May 2009 for failure to apply European law in this area. On January 1st 2011, Poland finally adopted the framework law, passed by the Polish government on December 3rd 2010, on the application of certain European directives on the equality of treatment.

Today, Poland is at the heart of the debate in the European Parliament around the disrespect of "European values" and the Commission is expected to initiate the procedure provided for in article 7 of the treaty, which could deprive the country of some of its rights within the EU.

The undermining of non-discrimination

All legal mechanisms mentioned earlier and which were expected to lead to the construction of a social space without discrimination were adopted in Poland but they did not spark major public or parliamentary debate. Yet Poland had taken seven years to adopt the framework law on equality of treatment, and there was no real pressure to speed up the debate (except for a few feminist associations and associations engaged in the defence of the rights of homosexual people). An analysis of the reports of the

discussions that took place during the parliamentary committees reveals a semantic and political vacuum; in other words, the discussions lacked a specific objective. The parliamentarians present had in mind the requirements of the EU and nothing else. These meetings seemed to revolve around an implicit idea: *Poland must adopt the framework law to satisfy the requirements of the EU but it must be careful to avoid opening the debate on the situation in Poland.* The framework law adopted the principle of “the adjustment of the burden of proof” laid down in EU guidelines, but its application stopped where the private sphere began - a space for the expression of individual freedom. However, in 2007, the interpretation of the notion of “private sphere” led the Polish Supreme Court to decide that the “private sphere” can be applied to a private company. The court thus judged that complaints of discrimination related to wage differences between Polish and German employees (the latter were better paid than the former who had been laid off) did not fall within the scope of the law on non-discrimination.

Adopting the framework law in December 2010, Polish society once again skirted around the subject. The actual problem of the equality of treatment in Poland calls for the questioning of the attitudes related to homosexuals and the treatment they receive in both the public and social sphere and in the media. Let us focus on this fact.

Beyond the political rupture after 1989, it is clear that the implementation of a proactive public policy to combat discrimination has today gotten lost in the intricacies of Polish political life, and the sources of this discrimination are rather deeply rooted. This issue cuts across – without reaching equilibrium – the foundations of the catholic tradition and the moral standards promoted by the very powerful and highly politicised Polish church, which has adopted an increasingly hostile attitude to all forms of ‘foreignness’, and by the democratic standards driven by a section of Polish society and its elites, standards promoted by EU directives. Although Polish legislation today contains all the guarantees of equality of treatment, the attitudes of a large proportion of the society and even some of its elites, notably those belonging to the radical right, have remained at odds with the standards and the values underlying the principles of a non-discriminating society (Smolar, 2006). In 1995, during the discussions on the text of the new constitution (adopted in 1997), pressure from the church meant that discrimination for

reasons of sexual orientation was not prohibited in the text. No Polish court interpreted the failure to comply with the principle of equal treatment by evoking the notion of sexual orientation. It may be argued that today, in the absence of foreigners, the frame of reference for xenophobia is homosexual people. They have now become “the new Polish foreigners”. Analysing the situation in France, Eric Fassin evoked the *superposition of sexual and racial registers* (Fassin D, Fassin E., 2006, p.) (249); the same can be said about Poland. The rhetoric used to politicise homosexuality today is the same that was used against semitism in the past.

It is clear that the legacy of the Endecja party is yet to “pass into the past”. During the 2005 election campaign, and in 2015, one of the proposals of the conservative right programme was to fight against “the violent homosexual propaganda” (this expression was borrowed from movements fighting for the rights of homosexual people). After coming into power in 2006 and 2015, the programme of the government of Jaroslaw Kaczynski drew on the ideology of Endecja. Some political parties which had participated in the government of Kaczynski between 2006 and 2007, such as the League of Polish Families (founded in 2001 and led by R. Giertych), lay claim to this legacy and gave it a new and almost more radical content. Under the inspiration of R. Giertych, then Minister of Education in the government of J. Kaczynski 2006-2007, the “historic anti-Semitism” transformed into homophobia, and the hunt for Jews was replaced by the hunt for homosexuals. Homophobic arguments today mobilise the same symbolic and political registers as those used by Endecja in the 1930s around the “Jewish threat”. As a member of the far-right/right government coalition, Giertych’s intention was to exclude persons suspected of homosexuality from the exercise of certain professions, notably teaching. He withdrew from circulation all textbooks in which the word “homosexuality” was used. More recently, other male and female politicians have continued to assert that *it is obvious and natural that there is no place for homosexuals in education*.

The position of the “stranger within”, as defined by Simmel, formerly occupied by Jews in the Polish imaginary, has been replaced by homosexuals, who fall outside the norm of “sexually correct”. The moral standards of homosexuality have been imposed by catholic morality hammered in by Polish priests during Sunday mass and by the conservative Torun-based “Maryja” radio station. This station is strictly followed by

the members of the ultra-catholic and nationalist youth movement “*Młodzież Wszechpolska*” (Ultra Polish youth)¹⁰ and the members of all the political parties that make up the National Radical Movement (ONR) which paraded during the national day of independence on 11/11/2017 and on 2018 brandishing slogans of “a white Europe”, swastikas and incitement to the massacre of Muslims. This suggests the existence of a mechanism that unceasingly produces the excluded and one to which Geneviève Fraisse has described as “the friends of our friends”. Broadly speaking, in every era, “those close to us” become the object of discrimination. They are always the same, non-conformists excluded from the dominant symbolic order (Fraisse, 2010, p. 41.). In a country without foreigners and where many people are devout catholics, a country with a long-standing symbolic register for the identification of foreigners, xenophobic thought can easily find its object: homosexual, Arab, or assimilated to one of the other.

It seems clear that to arrive at a non-discriminating Polish society, significant progress must be made in the fight against homophobia and white and catholic nationalism. However, the conditions to accomplish this progress are yet to be met. While there has been a certain revival of the Polish public opinion and awareness of the problem, it is worth noting, as Monika Baer (Baer, 2010, p. 247) has done, the political and social invisibility of the problem posed by the relationship to others in Polish society, as it was with regard to Jews in the past. Today, the most active associations engaged in the fight against discrimination (permitted since 2001) are confronted with an attitude of incomprehension or even hostility to their cause on a daily basis, even among the core institutions of the Polish State¹¹.

Conclusion

Although absent from collective thought, the fight against discrimination was introduced as one of the essential aspects of the adoption of the “acquis

¹⁰This refers to the nationalist catholic youth organisation, whose founder and Chairman was also R. Giertych. During clashes that often took place on the streets of Polish cities during demonstrations for equality and tolerance around the defence of the rights and freedoms of homosexual people (particularly in 2004 in Krakow and Poznan), this organisation adopted very violent provocation methods.

¹¹During a discussion on Polish television on September 24th 2010, Ms. E. Radziszewska (Commissioner responsible for equality in Tusk) government used openly homophobic language in the presence of a member of an association for the defence of homosexual people. Despite pressure from progressive groups, left-wing parties, and the progressive feminist movement, she was not dismissed by Prime Minister D. Tusk.

communautaire” during negotiations for the integration of Poland into the EU. It is during the period that began in 1994, under the watchful eye of EU institutions (Council of Europe, the European Commission, etc.), that Polish authorities were compelled to adopt legislation and mechanisms to ensure the respect of European standards in the field of the prevention of and the fight against discrimination. Throughout this period, the public attention accorded to what was viewed as discrimination in Poland was closely linked to the intervention of European authorities and the obligations introduced by these authorities.

After the burst of civic and citizen actions at the beginning of the transition period, Polish society today appears to be hardly mobilised around the issues of civil rights and the fight against discrimination. Once again, the fight is political and would require the ousting of PiS from power to establish the rule of law and respect for democratic principles. The market economy, with its spirit of competitiveness and personal enrichment, has weakened social mobilisation and the vigilance necessary to prevent the activation of xenophobic backgrounds in Poland by providing new content despite the absence of foreigners. Given the existing tension between the need for freedom and the aspiration to equality – underscored by Tocqueville as a major challenge democratic societies must address – Polish society, which emerged from 50 years of totalitarianism, still views freedom as being of primary importance. The lack of reflection on the concept of equality and on the social and political conditions necessary to implement it today affect the fate of the non-discriminating society in Poland. Polish society now seems to be suffering from a sense of anomie, preventing it from actively combating the return of past ghosts in a new form.

Bibliographie

Baer Monika 2010. “L’invisible visible. Genre, sexualité et société civile.” *Ethnologie française*, 2010/2 (vol.40).

Bogalska-Martin Ewa, Dautre Elisabeth, Prévert Aline, 2012. *Comprendre les discriminations. Paradoxes et ambiguïtés de l’action publique dans les expériences de citoyens européens*, Editions Universitaires Européennes, Saarsbrücken, 171 p.

Bogalska-Martin Ewa, Doutré Elisabeth, Prévert Aline and al. 2006 "Paradoxes des actions non-discriminantes engagées par les entreprises et les collectivités territoriales." « Vie sociale », N° 4/2006

Bogalska-Martin Ewa. 2005. "Les Polonais. Construction d'une identité collective." Pp. 23-50 in : *Pologne 1989-2004. La longue marche. D'un système centralisé à l'intégration dans l'UE*. Ed. Harmattan.

Bulska Dominika, Winiewski, Mikołaj. 2017. *Powrot zabobonu : Antysemityzm w polsce na podstawie Polskiego Sondazu Uprzedzen 3*, Centrum Badan nad Uprzedzeniami ; Warszawa 2017.

Fassin Eric. 2006. "Questions sexuelles, questions raciales. Parallèles, tensions et articulations". Pp. 238-256 in Fassin Didier, Fassin Eric, *De la question sociale à la question raciale ?* Ed. de la Découverte.

Fraisse Geneviève. 2010, "De l'exclusion à la discrimination. Une généalogie historique, philosophique et politique". *Revue de l'OFCE*, n°114/2010

Frelak Justyna, Klaus Witold, Wisniewski Jakub (eds.). 2007. *Przystanek Polska. Analiza progów integracji dla uchodźców*. Warszawa.

Golinowska Stanisława (ed.). 2004), *Popyt na prace cudzoziemców. Polska i sąsiedzi*. IPiSS, Warszawa.

Gross Jan Tomasz. 2001. *Neighbors : The Destruction of the Jewish Community in Jedwabne, Poland*. Princeton University Press.

Gross Jan Tomasz. 2006. *Fear : Anti-Semitism in Poland After Auschwitz*. Random House.

Gross Jan Tomasz. 2011. *Złote zniwa*. Znak, Warszawa.

Iglicka Krystyna (ed.). 2003. *Integracja czy dyskryminacja? Polskie wyzwania i dylematy u progu wielokulturowości*. Warszawa.

KalukiN Rafał. 2003. "Ankieta. Czego brakuje w polskiej sferze". *Krytyka Polityczna*, 2003/3.

Klaus Witold. (ed.). 2007. *Migranci na polskim rynku pracy*. Warszawa.

Lipowska-Teutsch Anna, Rylko Ewa; (eds.) 2007. *Przemoc motywowana uprzedzeniami. Przestępstwa z nienawiści*. Ed. TIK, Kraków.

Michnik Adam. 1985., *Z dziejów honoru w Polsce*. Warszawa, éd. Nowa.

Institut d'études politiques

BP 48

38040 Grenoble cedex 9 – France

Mikulska Agnieszka. 2008. *Ksenofobia i dyskryminacja na tle etnicznym w Polsce – zarys sytuacji*. Helsinska Fundacja Praw Czlowieka, Warszawa.

Nowicka Ewa, Lozinski Slawomir (eds.). 2006. *Kulturowe wymiary migracji do Polski*. Warszawa.

Potel Jean-Yves, Danzon Antoine. 2007. "Pologne 2006-2007. Des blocages de tous orders", *Le courrier des pays de l'Est*, n°1062, juillet-août 2007.

Roux Guillaume. 2008. "Hénophobie, « cultures politiques » et théories de la mence". *Revue française de sciences politiques*, 2008/1 (vol. 58).

Smolar Alexander. 2006. "Les radicaux au pouvoir et la transformation en Pologne", *Pouvoirs*, n°118/2006.

Szul-Szywala Anna. 2007 *Przestępstwa z nienawisci w polskim prawie..* Krakow.

Szymanczak Jolanta. 2011. "Spolecznosc Romow w Polsce." *Analizy Biura Analiz Sejmowych*, 1/45/2011.

Weslowski Wladyslaw. 2001. *Obciazeni polityka. Poslowie i partie*. Ed. OFiS PAN, Warszawa.

Zaluski Zygmunt. 1973. *Sied polskich grzechow glownych*. Ed. Iskra, Warszawa.