

Thesis title

LGBTI Community as a New Minority

Abstract

The thesis focuses on the legal status of LGBTI people, specifically in regards to the possibility of labelling the LGBTI community as a minority in the sense of minority law, which is traditionally associated with national, linguistic, and religious minorities. The work aims to evaluate the potential of the LGBTI community to fulfil the defining characteristics of a minority and subsequently analyses minority rights with regard to the possibility of granting them to LGBTI people. Further, the thesis focuses on the position of the LGBTI minority in EU law.

The thesis is divided into three main parts. The first part introduces the terms that are built upon in the following chapters. The second part of the thesis is dedicated to the analysis of the features of the minority definition, i.e. the objective and subjective criterion, aiming to determine the possible fulfilment of each individual minority characteristics by the LGBTI community. Problematic aspects arising in connection with the specific structure of the LGBTI community, especially its internal diversity and the difficult verification of the differentiating characteristics of individual members, are emphasised. Following the analysis of the minority status of the LGBTI community, the thesis focuses on individual minority rights and their relevance for LGBTI people. The conclusion of the second part is dedicated to the relationship between prohibition of discrimination and the concept of positive rights, including the tension that arises between the two pillars of minority protection. The third part of the thesis aims to anchor the LGBTI minority protection in the EU legal framework, providing an overview of legal instruments and their analysis. The rulings of the Court of Justice are of particular interest. Followingly, the thesis offers an evaluation of the EU legislation and considerations *de lege ferenda*.

The author concludes, that provided its specific characteristics are duly taken into account, the LGBTI community can be considered a minority since it in principle meets both the objective and the subjective criterion of the minority definition. Regarding the minority rights, the author concludes that although all minority rights are to be considered, the prohibition of discrimination is essential. In the final part of the thesis, the author identifies the peculiarities

of LGBTI protection at the EU level, and the potential of EU law to influence the position of the LGBTI community on an international scale. Following *de lege ferenda* considerations reflect the importance of the adoption of the 2008 Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation.

Key words

LGBTI

Definition of minority

Minority rights