

SUBMISSION BY HÁTTÉR SOCIETY FOR THE OSCE ODIHR ANNUAL REPORT ON HATE CRIMES 2014

April 21, 2015

The impact of the amendment of the Criminal Code to specifically include sexual orientation and gender identity that entered into force in 2013 is clearly traceable in the growing number of LGBTQI-phobic hate crimes cases that reach the courts in Hungary. On the other hand, cases where non-governmental organizations are not involved from the beginning still tend to be mishandled by the police. Defensive communication by the police concerning criticism of their work severely undermines the trust of LGBTQI people in the criminal justice system.

Cases reported:

Below is a list of selected cases reported to our organization.

Case 1

Date, time and location of the incident: February 20, 2014, Kecskemét

Source of information: interview with the victim

Victim(s) involved: 47 year old gay man

Type of the crime(s): threats, physical abuse

Bias motivation: LGBT

Perpetrator(s): middle aged man

Brief description of incident with bias indicators: A gay man was considering launching a legal case against his employer together with his same-sex partner concerning harassment and discrimination based on sexual orientation at his workplace. On February 10, 2014 he met on the street the partner of one of his colleagues involved in the harassment. The man started to make humiliating comments on the victim's sexual orientation ("You are nothing but a cocksucking pansy faggot."), drove the bicycle into the victim on purpose, and threatened him that unless he gives up on the legal case, he will suffer "serious consequences". From the circumstances of the case it is clear that the motivation for the attack was mixed, including a bias component as well.

Status of the case: investigation started then case dropped by victim

Response of local authorities: The victim reported the incident to the police. An investigation



Háttér Society, founded in 1995, is the largest LGBT NGO in Hungary. It operates an information and counseling hotline, a legal aid service, an HIV/AIDS prevention program and an archive documenting the history of the LGBT movement in Hungary. Besides its core activities Háttér regularly participates in research and training projects and is actively involved in lobbying for advancing the rights of LGBT people through legal change. Háttér is a founding member of the Hungarian LGBT Alliance, and an active member of ILGA-Europe and Transgender Europe.

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was started, but according to the victim, the police officer was hostile to him and said that nothing can be proved. The police officer tried to organize a confrontation between the victim and the alleged perpetrator, but only suggested morning hours when the victim was not available. The victim ended up revoking the report, as he was afraid that he would suffer disadvantages as a result of the procedure. The fact that the police did not continue the investigation *ex officio* indicates that they did not treat it as violence against a member of a community.

Impact on the Victim(s) and the Community: The victim lost his trust in the criminal justice system, and decided to revoke the report.

Case 2

Date, time and location of the incident: April 21, 2014 at 2am, Budapest, Oktogon

Source of information: interview with the victims, police files

Victim(s) involved: three young gay Brazilian students

Type of the crime(s): physical abuse

Bias motivation: LGBT

Perpetrator(s): two men in their twenties

Brief description of incident with bias indicators: Three young gay Brazilians studying in Budapest was heading home from their friends home on April 21, 2014 at 2am. On the corner of Aradi street and Teréz boulevard two men stopped them. When the two men found out that they did not speak Hungarian, one of them asked them in bad English whether they were gay, and continued asking obtrusive questions concerning the victims' sexual orientation ("Why are you gay?", "Have you fucked a woman?"), and stood in the way of the victims. When the victims tried to pass them, one of the attackers kicked one of the victims's leg to trip him. To counteract the attack the victim slapped his attacker in the face. Making use of the temporary confusion of the attackers, the victims rushed to the tram stop, but their attackers pursued them closely and provoked them saying "What's up? What's up?" When one of the victims asked them to stop, he was spat in the face. To escape from further attack the victims jumped on the tram.

Status of the case: investigation closed (Article 216¹), awaiting prosecution

Response of local authorities: The victims reported the incident in writing, and the police started an investigation on account of violence against a member of a community. The police identified two perpetrators, but stopped the investigation against one of them (the one who did not kick) claiming he committed no crime. The victims complained against the police decision arguing that the second perpetrator also committed violence against a member of a community via threatening behavior, and that he was also psychological accomplice to the assault by the other perpetrator. The prosecution service agreed with the victims and ordered the police to continue investigation against both perpetrators.

Impact on the Victim(s) and the Community: One of the victims expressed his disappointment in the country: he never had a homophobic incident before and was surprised to be victimized in this way. He was contemplating leaving the country before completing his scholarship.

Case 3

Date, time and location of the incident: April 27, 2014 8-9pm, Budapest, Király str.

Source of information: interview with the victim, letter by police

Victim(s) involved: gay man in his early twenties

Type of the crime(s): threats, physical abuse

Bias motivation: LGBT

Perpetrator(s): two men

Brief description of incident with bias indicators: A gay man in his early twenties was to have dinner on April 27, 2014 between 8 and 9 at a downtown Turkish buffet. Two of the guests started to make humiliating comments on his sexual orientation, which they knew about as the victim had come out on television. When he told the harassers to stop, or otherwise he would call the police and started to pull out his phone, one of the harassers slapped him in the face. The victim tried to rush out of the restaurant, but he was slapped by the same person once again.

Status of the case: reported, no investigation

Response of local authorities: The victim called the police from in front of the restaurant, who arrived to the scene and took his report. Later, the police called him on the phone and told him they would not initiate a criminal procedure as the incident cannot be proved. The victim did not receive the decision in writing. Later the legal representative of the victim inquired about the case and the police responded in writing that no investigation was launched as the incident could only be considered slander (*rágalmazás*) for which a private motion would have been needed.

Case 4

Date, time and location of the incident: July 5, 2014, 3-4pm, Budapest, Vadász str.

Source of information: interview with the victims, written report by witness, police files

Victim(s) involved: larger group of persons going to the March, among them two gay men

Type of the crime(s): physical abuse

Bias motivation: LGBT

Perpetrator(s): group of appr. 15 extreme right wing protesters, one tall man in particular

Brief description of incident with bias indicators: At the 2014 Budapest Pride those wishing to participate in the March and those demonstrating against it were mixed at the gates of the March, and the protesters were involved in several incidents against the participants. The protesters were shouting slogans like "Dirty faggots, you have no place here!", "Heterophobes!", "Get out of the country!", "You have no place here!". In one case two men arriving to the March together were assaulted: one of them felt a person touching his shoulder and when he turned back, his attacker punched him in the face. Meanwhile, his friend was kicked in the back by another protester. A witness reported that she saw a tall man attack a

person going to the March, and then later the same tall man went at a larger group of participants mercilessly punching and kicking whomever he could reach. The witness heard a group of appr. 15 protesters being instructed by a woman in her fifties saying: "The aim is to cut them off from the entry points."

Status of the case: investigation suspended (Article 216), perpetrators cannot be identified

Response of local authorities: The two men and the witness reported the case in writing. They were interviewed by the police, but the investigation was suspended after a few months as the police were not able to find the perpetrators. The organizers of the Budapest Pride issued a press release claiming that there were serious problems with the police protection of the March. The police issued a press release claiming that "it is a fact, common knowledge that none of the participants of the March were injured. The police guaranteed the security of the participants before, during and after the March. (...) The police hereby closes the debate induced by laics concerning the police protection of the March."

Case 5

Date, time and location of the incident: July 7-8, 2014, Budapest

Source of information: interview with the victim

Victim(s) involved: gay man of Italian origin in his thirties

Type of the crime(s): death threats

Bias motivation: LGBT

Perpetrator(s): extreme right wing activists

Brief description of incident with bias indicators: The victim participated at the Budapest Pride with a sign and a dress parodizing the homophobia of the Church and of extreme right wing groups. His image appeared in many media reports and on the internet as well. Two days after the March, his photo and link to his Facebook profile was published on an extreme right wing news portal. The portal called him "an aberrated faggot", and wrote that "unlike Roma criminals the HVIM [extreme right wing political movement] has not offered blood-money for him, but we are happy to receive any information on him". A few hours later, his workplace and home address was published on the website. For the coming days, the victim received several threats, including death threats via Facebook, extreme right wing activists appeared at his workplace and his apartment making threatening gestures.

Status of the case: investigation ongoing, not under Article 216

Response of local authorities: He reported the case to the police, who promised an investigation. A day later, he took further evidence of threats to the police, but the police officer present was dismissive claiming he is not in charge of the investigation. For six months he was not interviewed by the police. The police suspended the investigation several times, claiming that none of the perpetrators could be identified, even though several of them sent messages from their personal Facebook account, and some of the extreme right wing activists appearing at his workplace and home are well-known in the media.

Case 6

Date, time and location of the incident: August 30, 2014, 5pm, Budapest, District 4, Csokonai str.

Source of information: interview with the victims, police files

Victim(s) involved: two gay men in their twenties (couple) dressed colorfully

Type of the crime(s): physical abuse

Bias motivation: LGBT

Perpetrator(s): two men

Brief description of incident with bias indicators: A gay couple in their twenties was heading home on August 30, 2014 at 5pm in downtown Újpest in Csokonai street. In front of the local grocery shop there was a group of people chatting. When the couple was approaching two people left the larger group, went up to the victims and asked if they were “faggots”. The victims tried to deny it, but the two men started punching them and later also kicking them. One of the victims tried to ask for help from the larger group, but they rejected him saying “leave us alone”. Meanwhile the two men kept assaulting his boyfriend. Finally, someone from the group said “Stop it already!”, and the perpetrators let them leave.

Status of the case: investigation suspended (Article 216), perpetrators cannot be identified

Response of local authorities: The victims went to the hospital and requested a medical examination, and after that went to the police to make a report. The victims had the impression that the police did not take the incident seriously, and the police talked about the offence being defamation (*becsületsértés*), not violence against a member of a community. When the legal representative of the victims called the police, the investigating officer was surprised to hear that sexual orientation is included in the legislation in the provision on violence against a member of a community. A month later the case was requalified as violence against a member of a community and transferred to the unit investigating hate crimes, but a month later the police suspended the investigation as the perpetrators could not be identified.

Update on cases reported earlier:

Case 2 of 2010

Three and a half years after the prosecution service decided not to press charges against the perpetrators in a case concerning the assault of a gay man by two teenage boys, in January 2015 the prosecution service informed the victim that the charges have been pressed against one of them for disorderly conduct (*garázdaság*) and not violence against a member of a community. The court case is pending.

Case 1 of 2013

After a year of disregarding all requests of the victim to treat the case as a hate crime, the police officially recognized that there is evidence to suggest bias motivation in this case concerning the severe assault of a middle aged gay man by security guards of a shopping mall. The change in the police’s assessment followed the transfer of the investigation from the local police to the Budapest police after an expert opinion found that the victim’s injuries have

endangered his life. After receiving the case, the new investigator recognized at once the bias motivation in the case. The investigation is still pending.

Case 3 of 2013

In July 2014 the police closed the investigation concerning the assault of the three gay men (two of them Roma) after the Pride March in July 2013, and suggested to the prosecution service to charge six persons with violence against a member of a community. The prosecution service agreed with the police and pressed charges, the court case is pending.

Case 3 of 2013

In March 2014 the police closed the investigation concerning the assault of a gay man after the Pride March in July 2013, and suggested to the prosecution service to charge the perpetrator with violence against a member of a community. The prosecution service agreed with the police and pressed charges in April 2014. The court case is pending.

Case 6 of 2013

In June 2014 the Independent Police Complaint Board issued its opinion on the police conduct in the case concerning threats with a baseball bat against a gay couple kissing in front of a shop in August 2013. The Board found that the police acted in a discriminative manner when they took the side of the perpetrators and implied that the same-sex couple committed a crime when they started kissing on the street, and the right of the victim to fair process and information was also violated. The Chief of Police agreed with the Board's decision concerning the right to information, but rejected the claim of acting in a discriminative manner.

Practical initiatives:

In February 2014 the hate crime coordinator at the National Police Headquarter initiated a regular meeting between the police and civil society organizations. The aim of the meetings is to discuss hate crime cases in which the police conduct was questionable. Two meetings were held in 2014, the first one focused on a march by the extreme right wing party Jobbik on a street with Roma inhabitants in Devecser, the second meeting focused on the handling of the Budapest Pride marches by the police.

In September 2014 the Working Group against Hate Crimes published a report² describing 24 hate crime cases in Hungary in the period 2009-2013 where the conduct of law enforcement agencies was problematic. The report was widely quoted in the media, and was discussed at the February 2015 meeting the Human Rights Roundtable, a Government initiated consultation mechanism for human rights NGOs.

¹ Criminal Code, Article 216: Violence against a member of a community.

² *Jogalkalmazási problémák a gyűlölet-bűncselekményekkel kapcsolatos eljárásokban. A Gyűlölet-bűncselekmények Elleni Munkacsoport (GYEM) tapasztalatai.* <http://gyuloletellen.hu/aktualitasok/jogalkalmazasi-problemak-gyulolet-buncselekmenyekkel-kapcsolatos-eljarasokban>