



THE RIGHTS OF LBTQI WOMEN IN HUNGARY

A joint submission by the Hungarian LGBT Alliance, Háttér Society, Transvanilla Transgender Association, and Labrisz Lesbian Association

Hungary, CEDAW 9th periodic report, January 2023

This parallel report is aimed at assisting the Committee on the Elimination of Discrimination against Women by providing information about the state of the **rights of lesbian, bisexual, transgender, queer and intersex women** in Hungary.

Submitting organizations: **Háttér Society**, founded in 1995, is the oldest and largest LGBTQI organization, providing key services such as legal aid and psycho-social counseling. The **Hungarian LGBT Alliance**, founded in 2009, is an umbrella organization bringing together LGBTQI organizations in Hungary. **Labrisz Lesbian Association**, founded in 1999, works to draw public attention to the discrimination against sexual minority women, and eliminate prejudice and stereotypes against them. **Transvanilla Transgender Association**, the only registered trans rights organization in Hungary, has been representing the rights of trans people since 2011.

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Executive summary

1. The situation concerning the rights of lesbian, bisexual, transgender, queer and intersex (LBTQI) women has not featured prominently in previous reviews of the implementation of the Convention on the Elimination of All Forms of Discrimination against Women in Hungary. This subgroup of women is not mentioned at all in the periodic report submitted by Hungary, and only appears in passing in the replies to the list of issues and questions (Para. 14 and 15). The **human rights situation of LGBTQI people has significantly deteriorated** in recent years in Hungary, which requires a more thorough analysis of this specific subgroup of women, in line with the consistent practice of the Committee that devotes heightened attention to the situation of disadvantaged groups of women.
2. The regression of LGBTQI rights **takes various forms** including: (1) adopting restrictive legislation [on legal gender recognition (see Para. 8), on adoption (see Para. 41), on freedom of expression (see Para. 13)]; (2) dismantling public institutions protecting the rights of LGBTQI people and/or putting persons inactive or even hostile to LGBTQI rights in leading positions (see Paras. 6-7); (3) interpreting existing legislation in a discriminatory manner (see Para. 14 and 37); (4) increasingly widespread hate speech against LGBTQI people and smear campaigns against human rights defenders, civil society organizations and “gender ideology” from public officials, government politicians and pro-government media (see Para. 17 and 21); (5) disruption of public events of civil society organizations by extremist groups facilitated by police inactivity (Para. 20).
3. The information provided in this report responds to several **topics and questions raised in the list of issues** (LOI), namely: a lack of effective protection against multiple/intersectional discrimination (LOI Para. 3 – see Para. 5); discrimination on grounds of family status and the deficient recognition of families outside of marriage (LOI Para. 3-4 and 23 – see Para. 39-43); the legal definition of the concepts of gender and sex and its detrimental impact on trans and intersex persons (LOI Para. 3 – see Para. 8); the negative impact of the abolishment of the Equal Treatment Authority (LOI Para. 5 – see Para. 6); the lack of systematic and meaningful consultation and cooperation with civil society organizations (LOI Para. 8 – see Para. 18); newly introduced, openly discriminatory restrictions on the right to freedom of expression (LOI Para. 9 – See Para. 13); the lack of legal protection against gender-based hate speech and the active promotion of stereotypes of (LBTQI) women (LOI Para. 11 – see Para. 16-17); the lack of concerns for gender equality in educational policies, the national core curriculum, and related documents (LOI Para. 11 – see Para. 26); the discriminatory reasons used to reject the ratification of the Istanbul Convention (LOI Para. 14 – see Para. 12); the legislative restriction of effective remedy against harassment in educational settings (LOI Para. 19 – see Para. 25); stigma and discrimination against women living with HIV (LOI Para. 20 – see Para. 35); the legislative restriction of age-appropriate sexual and reproductive health and rights education in schools (LOI Para. 20 – see Para. 22); the lack of application of early retirement rules to trans women (LOI Para. 21 – see Para. 38).

Discrimination (Article 1)

4. The Constitution (Fundamental Law) in force since April 2011 does not **explicitly include sexual orientation and gender identity** in the list of protected characteristics in the prohibition of discrimination.¹ The government argues that ‘other status’ already covers these grounds. The Equal

¹ Fundamental Law of Hungary, Art. XV:2.

Treatment Act (ETA) does explicitly ban discrimination based on sexual orientation and gender identity,² but the Act cannot be invoked when the discrimination is prescribed by statutory law.³

5. Contrary to the information provided in the periodic report submitted by Hungary, the Equal Treatment Authority (ETAAuth, currently: Equal Treatment Directorate of the Office of the Commissioner for Fundamental Rights) is not explicitly required to inspect whether the protected characteristics in a case are related to each other and whether it is a case of **intersectional discrimination**. This is supported by the fact that of the 978 cases published in the public case law database of the ETAAuth⁴ covering the period 2005-2020 not a single case was marked as multiple discrimination, although such an option was available in the system. In 2018 ETAAuth did publish a report about multiple discrimination,⁵ but most of the cases cited as multiple discrimination concern grounds that are closely related (such as sex and gender identity; sex and motherhood; ethnicity and skin color) or concern the intersection of a classic ground of discrimination (sex, age, ethnicity, sexual orientation) with a non-classic ground (such as political opinion or other status).
6. On 1 December 2020, the Parliament adopted legislation to **abolish the Equal Treatment Authority** (ETAAuth),⁶ Hungary's most important equality body established in 2005. In recent years the ETAAuth was one of the last public bodies standing up for the rights of LGBTQI people in Hungary. From 1 January 2021, the tasks of ETAAuth were taken over by the Commissioner for Fundamental Rights (CFR). While the law requires that the equal opportunity related tasks of CFR are carried out by a separate directorate (Equal Treatment Directorate, ETD) within the Office of the CFR, no director has been appointed for over 24 months now. A study by Háttér Society found that ETD is severely understaffed; stricter procedures under ETA and 'softer' procedures under the Act on the Commissioner for Fundamental Rights are not clearly separated; the number of cases reported has significantly decreased; and so has the transparency of decisions delivered.⁷ Analysis of LGBTQI-related cases since the abolishment of ETAAuth shows increasing reluctance to protect LGBTQI people from discrimination.⁸ The Venice Commission strongly criticized the institutional change.⁹ Hungary received two recommendations as part of UPR to re-establish the ETAAuth;¹⁰ the Hungarian government did not accept them.
7. Problems with the enforcement of ETA cannot be separated from broader problems with the current Commissioner for Fundamental Rights. Since he assumed office in September 2019, the **new Commissioner has failed to protect the rights of LGBTQI people**.¹¹ The Global Alliance of National Human Rights Institutions downgraded the CFR to B status with reference – among others – to a lack of effective enforcement of the rights of vulnerable groups, particularly mentioning LGBTQI people.¹²

² Act no. CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities (ETA).

³ ETA, Art. 14(3).

⁴ The searchable database is no longer available since the abolishment of ETAAuth, the website of ETD only contains a selection of previously published cases and not in a searchable format, see Para. 7 on lack of transparency.

⁵ EBH (2018) *A többszörös diszkrimináció megjelenése az Egyenlő Bánásmód Hatóság joggyakorlatában*. EBH füzetek 5. The publication is no longer available on the internet since the abolishment of ETAAuth as ETAAuth publications were not uploaded to the website of ETD.

⁶ Act no. CXXVII of 2020 on amending laws to strengthen the enforcement of the principle of equal treatment.

⁷ <https://en.hatter.hu/publications/information-on-the-abolishment-of-the-equal-treatment-authority-in-hungary>.

⁸ <https://en.hatter.hu/publications/equal-treatment-authority-abolishment-report-2023>.

⁹ CDL-AD(2021)034.

¹⁰ A/HRC/49/8, Recommendations 128.54, 128.95.

¹¹ <https://helsinki.hu/en/assessment-of-the-activities-and-independence-of-hungarys-ombudsperson/>.

¹² https://www.ohchr.org/sites/default/files/2022-04/SCA-Report-March-2022_E.pdf.

8. The Hungarian Parliament **banned legal gender recognition** on 19 May 2020.¹³ The new legislation sets out that 'sex' on birth certificates is replaced by the term 'birth sex' which is defined with reference to primary sex characteristics and chromosomes. The law also states that the birth sex can under no circumstances be changed in the birth registry, and subsequently in any official document. Transgender and intersex persons are not able to obtain identification documents reflecting their gender. Since legislation requires that first names are chosen from a closed list of male and female names, and that the name must be in line with the birth sex of the person, the changing of first names to one associated with the other sex is also forbidden. The ban was widely condemned by the ETAuth, the National Authority for Data Protection and Freedom of Information, domestic professional associations, and also internationally by EU, UN and Council of Europe bodies.¹⁴ Following the decisions of the Constitutional Court in 2021 **finding retroactive application of the law to procedures that had been started before the entry into force of the ban unconstitutional**,¹⁵ the Budapest Government County Office (BGCO) resumed the processing of cases that have been challenged in court, but insisted on the involvement of medical forensic experts that had not been required before. Even though the Constitutional Court decision applies to all cases started before the entry into force of the ban, the BGCO and its supervisory body, the Prime Minister's Office declines to reopen cases where no judicial review had been launched, despite the CFR¹⁶ called the relevant authorities to do so. There are currently 5 cases pending at the Constitutional Court on the overall constitutionality of the ban on legal gender recognition.¹⁷
9. LGBTQI people are one of the **most discriminated social groups** in Hungary, and both public attitudes and experiences of discrimination have worsened over the past years.¹⁸ A 2019 poll by the European Union Agency for Fundamental Rights (FRA)¹⁹ found that 46% of Hungarian lesbian and bisexual women respondents and 64% of trans respondents felt discriminated against due to being LGBTI in the 12 months preceding the research, a sharp increase for trans people since 2012 (46%).²⁰
10. There are **no government sponsored campaigns or concentrated efforts** to tackle discrimination against LGBTQI persons. There is no general human rights strategy or action plan. Unlike in the case of most other minority groups (Roma, gender, disability, youth), there is no strategy or action plan on LGBTQI equality. None of the strategies focusing on other equality grounds contain references to LGBTQI women as an intersecting, multiply disadvantaged group. Hungary has received several recommendations in both the 2nd²¹ and 3rd²² UPR cycle to **adopt a comprehensive strategy and action plan** to tackle discrimination and violence based on sexual orientation and gender identity. The Hungarian government noted these recommendations, but no progress has been made.

¹³ Act no. XXX of 2020, Art. 33. Amended provisions: Act no. I of 2010 on the registry procedure, Arts. 3:x, 44:3, 69/B:1:be, 69/B:3.

¹⁴ <https://en.lmbtszovetseg.hu/upr2021>.

¹⁵ Decision nos. 11/2021. (IV. 7.) and 3386/2021. (X. 1.).

¹⁶ AJB-1846/2021.

¹⁷ CC cases no. IV/00948/2020, IV/01154/2020, IV/01155/2020, IV/02001/2020, III/02644/2022, CC case no. III/02647/2021, reassigned as case no. III/02644/2022.

¹⁸ <https://europa.eu/eurobarometer/api/deliverable/download/file?deliverableId=70583>.

¹⁹ <https://fra.europa.eu/en/data-and-maps/2020/lgbt-survey-data-explorer>.

²⁰ <https://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-fundamental-rights-lesbian-gay-bisexual-and>.

²¹ A/HRC/33/9, Recommendations 128.118, 128.119, 128.120, 128.122.

²² A/HRC/49/8, Recommendations 128.58, 128.90, 128.179.

Recommendation 1: Revert the current ban on legal gender recognition, and develop a quick, transparent, and accessible procedure for legal gender recognition based on personal autonomy and self-identification.

Recommendation 2: Adopt a comprehensive strategy and action plan covering all spheres of life to tackle discrimination based on sexual orientation and gender identity.

Recommendation 3: Reestablish the Equal Treatment Authority and include civil society organizations in the selection of the president of the Authority and the Commissioner for Fundamental Rights.

Violence (Article 1, General Recommendation #35)

11. **Homophobic and transphobic hate crimes are widespread** in Hungary: the 2019 EU FRA survey²³ found that 11% of Hungarian LGBTQI respondents had been physically or sexually attacked in the five years, and 35% had been harassed in the 12 months preceding the research due to being LGBTI, but **only 13% reported** the last incident to the authorities. There are **no publicly funded victim support services** tailored to the needs of hate crime victims.²⁴ There is no training on hate crimes for the staff of public victim support services, and when such training was offered free of charge by Hättér, the relevant authorities first agreed, and then declined participation.²⁵ Access to free legal aid is limited due to bureaucratic requirements and shortage of lawyers and NGOs contracted to provide such service. There are **no measures to encourage reporting** or prevention. ECRI recommended that the National Crime Prevention Strategy be revised to better combat bias-motivated crime.²⁶
12. The Hungarian Parliament adopted a political declaration **rejecting the ratification of the Istanbul Convention**²⁷ arguing – among others – that the convention is based on the notion of gender that runs counter to the constitutional protection of marriage as a union between a woman and a man and of families based on marriage and parent-child relationship.

Recommendation 4: Ratify the Istanbul Convention.

Recommendation 5: Improve quality and access to victim support and legal aid services for victims of hate crimes by training professionals, decreasing bureaucratic barriers, and providing public funding to civil society organizations offering support services tailored to the needs of hate crime victims.

Recommendation 6: Take comprehensive measures to prevent hate crimes and encourage victims to report the incidents.

²³ <https://fra.europa.eu/en/data-and-maps/2020/lgbti-survey-data-explorer>.

²⁴ <https://en.hatter.hu/publications/running-through-hurdles-obstacles-in-the-access-to-justice-for-victims-of-anti-lgbti>.

²⁵ Letter from the Head of the Legal Assistance Department of the Ministry of Justice to Hättér Society dated 26 July 2018.

²⁶ <https://rm.coe.int/fifth-report-on-hungary/16808b57e8>.

²⁷ Parliamentary political declaration no. 2/2020. (V. 5.).

Guarantee of Basic Human Rights and Fundamental Freedoms (Article 3)

13. On 15 June 2021 the Parliament adopted legislation that **bans access of minors to any content with “portrayal and the promotion of gender identity different from sex at birth, the change of sex and homosexuality”** broadly in the Family Protection Act, the Child Protection Act and specifically in the Act on Business Advertising Activity, the Media Act and the Public Education Act.²⁸ An implementing legislation contains that products with such content can only be sold in special packaging separate from other products, cannot be put on display, and cannot be sold within 200m of schools, children or youth institutions and churches.²⁹ The Venice Commission harshly condemned the law as being incompatible with the ECHR and international human rights standards.³⁰ (For education-related criticism of the law see Para. 23.) After a failed dialogue with the Hungarian Government,³¹ the European Commission brought Hungary to the European Court of Justice (case pending) for violating several provisions of EU law and the EU Charter of Fundamental Rights.³² Hungary received several UPR recommendations to revoke the law,³³ but the Hungarian government did not accept these.³⁴
14. Even prior to the entry into force of the law public authorities started to interpret existing child protection provisions in various laws to **censor content featuring LGBTQI topics.**³⁵ Several local governments banned the use of the *A Fairytale for Everyone* storybook (see Para. 21) in their educational institutions, and one local government (Nagykátá) adopted a ban on “LGBTQ-propaganda” in all of its institutions.³⁶ The Government County Office found a ban unlawful, arguing that the local government had no legal power to issue such a ban.³⁷ The CFR rejected to review the propaganda ban in Nagykátá.³⁸
15. Since the entry into force of the law, libraries and bookshops have removed books with LGBTQI content from open shelves, the Media Council launched investigations against several media service providers for airing content with LGBTQI characters, and a media service provider refused to air the promotion of the Budapest Pride Festival as public service advertisements (even though similar promotional videos were aired by the same company in previous years).³⁹

Recommendation 7: Revoke the anti-LGBTQI provisions of the “child protection law” and local ordinances restricting freedom of expression of LGBTQI people and NGOs, and refrain from interpreting other child protection provisions in an arbitrary and discriminatory manner.

²⁸ Act no. LXXIX of 2021 on taking more severe action against pedophile offenders and amending certain acts for the protection of children (hereinafter: “child protection law”).

²⁹ Govt. Decree no. 473/2021. (VIII. 6.) amending Govt. Decree no. 210/2009. (IX. 29.) on the conditions governing commercial activities.

³⁰ CDL-AD(2021)050.

³¹ https://ec.europa.eu/commission/presscorner/detail/en/IP_22_2689.

³² Commission v Hungary (C-769/22).

³³ A/HRC/49/8, Recommendations 128.44, 128.45, 128.50, 128.51, 128.54, 128.56, 128.84, 128.87, 128.226.

³⁴ For further condemnation see: <https://www.coe.int/en/web/commissioner/-/pride-vs-indignity-political-manipulation-of-homophobia-and-transphobia-in-europe>; P9_TA(2021)0362; and A/HRC/50/29/Add.1, Para 65.

³⁵ <https://en.hatter.hu/publications/report-on-act-LXXIX-of-2021-and-its-implementation>.

³⁶ https://index.hu/belfold/2020/11/06/nagykata_szabo_akos_lmbtg/.

³⁷ <https://telex.hu/belfold/2020/12/18/a-kormanyhivatal-szerint-jogserto-a-meseorszag-mindenkie-cimu-konyv-betiltasa-mezokovesden>.

³⁸ EBF-AJBH-127-1/2022, upheld by Budapest Regional Court judgment 103.K.701.373/2022/11.

³⁹ For a full list of these incidents see: <https://en.hatter.hu/publications/report-on-act-LXXIX-of-2021-and-its-implementation>.

Sex Role Stereotyping and Prejudice (Article 5)

16. The **Fundamental Law**⁴⁰ and **Civil Code**⁴¹ provisions on hate speech only cover national, ethnic, racial, or religious groups, **leaving women and LGBTQI people without any effective tools** against sexist, homophobic and transphobic speech. Even though the Media Constitution prohibits media content that incites hatred, violence and discrimination against any minority or majority,⁴² the **Media Council applies clear double standards** regarding LGBTQI issues. It allows for hate speech against LGBTQI people but penalizes anti-majoritarian speech and restricts the portrayal of LGBTQI people.⁴³
17. The government does not take any active measures to counter stereotyping and prejudiced views concerning LGBTQI persons. School curricula (see Para. 26) and **leading government officials are the primary sources of prejudiced statements** against these groups.⁴⁴

Recommendation 8: Strengthen efforts to fight sexist, homophobic and transphobic hate speech by amending relevant provisions of the Fundamental Law and the Civil Code, and by condemning such statements, especially if made by public officials.

Political and Public Life (Article 7)

18. Although non-governmental organizations and associations working on the rights of LGBTQI women are free to register and operate in Hungary, their efficient participation in public life is severely hindered. In 2012 the **Human Rights Roundtable** aimed at fostering dialogue with civil society was set up with thematic working groups on both women's and LGBT persons' human rights. However, there has been no call for civil society organizations to join the Roundtable since 2012, and the request of Transvanilla Transgender Association to join was rejected. There have been no meetings of the LGBT Working Group since April 2021, although member organizations have requested meetings several times. **The duty to allow time for public consultation** in the legislative procedure is often circumvented,⁴⁵ and the **working groups were not consulted** either in the past years on any restrictive legislative development (see Para. 8, 13, 41).⁴⁶
19. On 3 April 2022 a national referendum initiated by the government was held on four questions concerning the rights of LGBTQI persons.⁴⁷ **Associations that called for voting invalid in the referendum were fined**,⁴⁸ and even though some of the decisions were later overturned by the courts, two such decisions were upheld by both the Curia and the Constitutional Court.⁴⁹ The case

⁴⁰ Fundamental Law of Hungary, Art. IX:5.

⁴¹ Act no. V of 2013 on the Civil Code, Section 2:54(5).

⁴² Act CIV of 2010 on the freedom of the press and the fundamental rules of media content, Section 17:1-2.

⁴³ <https://hatter.hu/genha-report>.

⁴⁴ See https://index.hu/belfold/2019/05/15/kover_laszlo_forum_normalis_homoszexualisok_pedofilia, <https://www.euronews.com/2020/10/05/leave-our-children-alone-hungarian-pm-tells-publisher-of-lgbt-book>.

⁴⁵ Act no. CXXXI of 2010 on social participation in the preparation of legal regulations, Section 5.

⁴⁶ On the emblematic example of the "child protection law" see: <https://en.hatter.hu/publications/information-on-act-lxxix-of-2021-amending-certain-acts-for-the-protection-of-children>.

⁴⁷ <https://verfassungsblog.de/from-shrinking-to-closing-civil-society-space-in-hungary/>.

⁴⁸ National Election Commission decisions no. 324/2022, 325/2022, 327//2022, 328/2022.

⁴⁹ Curia decisions no. Kvk.IV.39.419/2022/4. and Kvk.IV.39.420/2022/4. and Constitutional Court Decisions no. 3216/2022. (V. 11.) and 3217/2022. (V. 11.).

is pending at the European Court of Human Rights.⁵⁰ The OSCE ODIHR Election Observation Mission found that the “referendum legal framework is largely inadequate and does not provide for a level playing field for referendum campaigns.”⁵¹

20. Besides the restrictions on public discussions on LGBTQI issues (see Para. 13), and lack of public funding, the participation of LBTQI women’s associations in public life is further hindered by **disruption of community events** organized by such groups as part of Budapest Pride Cultural Festival or as standalone events. Over a dozen panel discussions, movie screenings or workshops have been disrupted in recent years, especially events linked to the ‘Getting to Know LGBT People’ school program run by Labrisz Lesbian Association and Szimpozion Association and to Labrisz’s book *A Fairytale for Everyone*. The **police fail to provide proper protection for these events**: they either do not show up at the events at all, show up late, or only observe the events, but do not intervene even if unlawful acts are committed. In two cases concerning events organized by Labrisz the Budapest Regional Court found that such inactivity on behalf of the police was unlawful.⁵² In some cases the police started criminal investigations against those disrupting the events, but no perpetrators have been brought to justice.
21. The participation of LBTQI women’s associations in public life is further impeded by **smear campaigns** against them. Pro-government news portals talk about LGBTQI issues as a form of ideology, and claim that LGBTQI organizations work to recruit children to become LGBTQI. LGBTQI organizations are often referred to as “LGBTQP” – the “P” standing for pedophilia – conflating lawful sexual orientation and gender identity with unlawful paraphilias. In March 2020 Prime Minister Viktor Orbán called for getting rid of “LGBTQ-madness”.⁵³ In September 2020, Labrisz Lesbian Association published a fairytale collection entitled *A Fairytale for Everyone* with diverse (including LGBT+) characters. An extreme-right MP shredded the book publicly,⁵⁴ the party organized a demonstration in front of the office of Labrisz,⁵⁵ a conservative online platform called for a boycott against bookshops where the book was sold.⁵⁶ Posters and stickers were placed on bookshops saying “homosexual propaganda literature harming children is sold here”.⁵⁷ The daily newspaper *Magyar Nemzet* published an opinion piece calling for “evaluating the book and the activities of Labrisz similarly to pedophilia”. On appeal the decision ruling in favor of Labrisz⁵⁸ was overturned arguing that the strong opinion on the activities of Labrisz is within the limits of speech protected by freedom of expression.⁵⁹

Recommendation 9: Ensure appropriate protection by the police for LBTQI community events.

Recommendation 10: Ensure an enabling environment for LBTQI NGOs by avoiding stigmatizing statements and providing appropriate funding for their work.

⁵⁰ App. no. 43901/22.

⁵¹ <https://www.osce.org/files/f/documents/2/6/523568.pdf>.

⁵² Budapest Regional Court 11.K.704.923/2020/15., 22.K.706.480/2021/7.

⁵³ <http://www.miniszterelnok.hu/szamizdat-6/>.

⁵⁴ <https://hirado.hu/belfold/cikk/2020/09/30/duro-dora-nyilvanosan-ledaralta-az-lmbtg-mesekonyvet>.

⁵⁵ https://mandiner.hu/cikk/20201004_demonstraciot_tartott_a_labrisz_leszbikus_egyesulet_szekhaza_elott_a_mi_hazank_mozgalom.

⁵⁶ <https://citizengo.org/hu/fm/182339-vegye-le-kinalatabol-az-lmbtg-mesekonyvet-pagony-gyerekkonyvesbolt-tobbi-arusitohely>.

⁵⁷ <https://mihazank.hu/a-mi-hazank-peldat-mutat-a-labrisz-leszbikus-egyesuletnek/>.

⁵⁸ Budapest Regional Court judgment no. 35.P.23.664/2020/16.

⁵⁹ Budapest Regional Court of Appeal judgment no. 2.Pf.20.897/2021/5/II. and Curia judgment no. Pfv.IV.20.448/2022/16.

Education (Article 10)

22. In December 2020, a **new provision was added to the Fundamental Law** stating that “Hungary shall protect the right of children to a self-identity corresponding to their sex at birth, and shall ensure an upbringing for them that is in accordance with the values based on the constitutional identity and Christian culture of our country.”⁶⁰ These amendments provided the constitutional basis for the adoption of the “**child protection law**” that – among others – significantly restricts sexuality education in schools (for non-education-related provisions of the law, see Para. 13). Amendments to the National Public Education Act (NPEA) prescribe that school activities concerning sexual culture, sex, sexual orientation and sexual development “cannot be aimed at the propagation of divergence from self-identity corresponding to sex at birth, sex change or homosexuality.”⁶¹ Furthermore, the law also prescribes that such school activities cannot be conducted by external experts or organizations, unless they are registered with a state organ designated by law.⁶² Such a state organ, however, has not been designated for 18 months now, thus **no external expert or organization can hold any sexuality education activity in schools**. Teachers and headmasters inviting unregistered programs face misdemeanor charges,⁶³ and headmasters can be suspended if they allow educational or informational activities in the school which violate the rights of the children as declared in the Fundamental Law.⁶⁴
23. The government argues that these provisions serve the purpose of protecting the parents’ rights to choose education for their children, but the law in fact restricts such choice, as **parents are not allowed to provide consent** for their children to participate in such school activities. The Venice Commission also found that the law violates international human rights standards, it creates a threatening environment for LGBTQI children and allows stigmatization and discrimination.⁶⁵
24. Since teachers are oftentimes not prepared to conduct these activities, the law resulted in the **disappearance of sexuality education** from most Hungarian schools. NGOs Labrisz and Szimpozion used to operate a school education program entitled ‘Getting to Know LGBT People’,⁶⁶ which can no longer access schools because of the law. The ban is interpreted by schools very broadly, organizations offering **human rights education** have also been banned from schools unless they promise that they will not mention LGBTQI issues, even if brought up by students themselves. Teachers and school psychologists have been threatened by dismissal unless they promise to avoid LGBTQI topics with students or on their social media.⁶⁷
25. Following an amendment to relevant legislation in July 2020 victims of discrimination and harassment in educational settings **can no longer claim financial compensation**, only compensation in kind (education or training service).⁶⁸ This amendment was introduced with an eye to Roma school segregation cases, disregarding that such services are not an effective remedy for

⁶⁰ 9th Amendment to the Fundamental Law, amending Art. XVI:1.

⁶¹ Act CXC of 2011 on national public education (NPEA), Art. 9:12.

⁶² NPEA, Art. 9/A.

⁶³ Act II of 2012 on misdemeanors, Art. 248:3d).

⁶⁴ NPEA, Art. 3:9a.

⁶⁵ CDL-AD(2021)050.

⁶⁶ <http://melegsegesmegismeres.hu/>.

⁶⁷ <https://en.hatter.hu/publications/report-on-act-LXXIX-of-2021-and-its-implementation>.

⁶⁸ NPEA, Art. 59:4.

discrimination and harassment based on sex, sexual orientation, and gender identity either. The European Commission launched an infringement procedure against Hungary.⁶⁹

26. The latest **National Core Curriculum (NCC)**, introduced in 2020,⁷⁰ lacks LGBTQI topics that could contribute to fostering an inclusive school environment and boosting the self-esteem of LGBTQI students. The 2013 framework curriculum for the subject 'Family Life Education' is also silent on same-sex relationships, instead it devotes significant attention to strengthening the identity in line with the birth sex, the heteronormative nuclear family model, and traditional gender roles.⁷¹ Since textbook publishing was monopolized by the state in 2013, all textbooks follow closely NCC's ideology.
27. **School bullying** against LGBTQI youth is very widespread in Hungary. A 2022 survey by Háttér among LGBTQI youth aged 13-21⁷² found that 54% of respondents have been subjected to verbal harassment, 16% to physical harassment and 8% to physical assault during the school year 2021-2022. More than half (55%) of LGBTQI students **never reported such incidents to school staff**. A 2022 survey among teachers⁷³ found that only 12% of them thought their school was fully prepared to prevent and respond to bullying; only 16% record bullying incidents. This is largely explained by the fact that there is currently **no obligation for educational institutions to implement policies against bullying**.

Recommendation 11: Amend the law on the National Core Curriculum and the Framework Curricula to include information on sexual orientation, gender identity and the diversity of family forms.

Recommendation 12: Ensure that all textbooks and other educational materials authorized for use in public education cover sexual orientation and gender identity in an objective manner, promote tolerance and respect for LGBTQI persons, and do not create a hierarchy among diverse family forms.

Recommendation 13: Issue a model policy of non-discrimination and anti-bullying for educational institutions with reference to sex, sexual orientation, and gender identity.

Employment (Article 11)

28. According to the 2019 FRA LGBTI survey, **21% of Hungarian lesbian and bisexual women respondents experienced discrimination at the workplace** in the 12 months preceding the research. This number is particularly high considering that **only 12% of them are out to all colleagues**, while 59% are selectively out to a few colleagues. **Trans people** are nearly twice as likely to report discrimination in the field of employment: 42% experienced discrimination at work, and 22% when looking for work. According to a 2021 survey by Háttér among trans, intersex and non-binary persons⁷⁴ 46% of respondents have been unemployed and seeking a job for more than 3 months, 9% were currently unemployed, nearly **three times as high as the unemployment rate** for the general population. 56% experienced psychological harassment, 46% verbal harassment,

⁶⁹ https://ec.europa.eu/commission/presscorner/detail/EN/INF_21_2743.

⁷⁰ Govt. Decree no 110/2012. (VI. 4.) on publishing, introducing and implementing the National Core Curriculum, as amended by Govt. Decree 5/2020. (I. 31.).

⁷¹ Decree of the Ministry for Human Resources no. 23/2013. (III. 29.), Annex 7.10.

⁷² <https://hatter.hu/tevekenysegunk/kutatasok/befogado-terek-emberi-jogi-es-alternativ-oktatas/befogado-terek-lmbtqi>.

⁷³ <https://hatter.hu/tevekenysegunk/kutatasok/befogado-terek-emberi-jogi-es-alternativ-oktatas/befogado-terek-lmbtqi>.

⁷⁴ <https://en.hatter.hu/publications/inclusion4all-national-report>.

17% physical harassment, and 7% physical assault at work. 60% experienced discrimination during recruitment.

29. The ETA and the Labor Code⁷⁵ sanction discrimination in employment. However, **reporting discrimination remains alarmingly low**, according to the 2019 FRA survey, only 5% of those experiencing discrimination in any field of life reported it. A 2021 study among HR professionals⁷⁶ found **awareness of the legislation is very low**: only 23% of respondents knew that Hungarian legislation explicitly prohibits discrimination based on sexual orientation in employment and only 17% for gender identity. Only 25% of respondents knew that Hungarian legislation requires the employer to act against the harassment of trans, intersex or non-binary employees by their colleagues.
30. Although employers can introduce **equal opportunity plans**, only the public sector is obliged to do so. A 2021 Háttér survey⁷⁷ found that only 21% of trans, intersex and nonbinary respondents reported that their employer had equal opportunities plans or non-discrimination policies.

Recommendation 14: Extend the requirement to adopt equal opportunity plans to all public and private employers and issue guidelines on their content with specific reference to the needs of LGBTQI employees.

Recommendation 15: Develop programs improving the employability of trans persons to prevent long-term unemployment including trainings and financial incentives to employ them.

Recommendation 16: Introduce financial incentives for employers to provide diversity trainings for their employees specifically including LGBTQI issues.

Health (Article 12)

31. Discrimination based on sexual orientation and gender identity in the field of healthcare has **significantly increased** in recent years in Hungary. While in the 2012 FRA survey only 10% of Hungarian LGBT respondents reported discrimination by healthcare personnel, in 2019 this increased to 22%, the **highest proportion in the European Union**. Lesbian and bisexual women are slightly less (16%), while trans and intersex people are significantly more vulnerable: 38% of trans and 72% of intersex respondents reported discrimination in the field of health. These numbers are particularly high considering that **69% of respondents are not out to any medical staff/health care provider**, and only 4% are out to all. A survey among healthcare professionals in 2019⁷⁸ confirmed the same: 94% of respondents had heard stereotypes and prejudiced views about LGBTI people during their work or studies.
32. There are **no national strategies, action plans or health programs** that aim to improve the health of LGBTQI people or make health services more inclusive for LGBTQI persons.⁷⁹ There is no publicly funded research into the health needs of LGBTQI people. Many **medical protocols and guidelines** are outdated, and most of them remain silent on LGBTQI issues. The protocol on suicide prevention⁸⁰

⁷⁵ Act I. of 2012 on the Labor Code, Art. 12.

⁷⁶ <https://en.hatter.hu/publications/inclusion4all-national-report>.

⁷⁷ <https://en.hatter.hu/publications/inclusion4all-national-report>.

⁷⁸ <https://en.hatter.hu/publications/open-doors-report>.

⁷⁹ <https://en.hatter.hu/publications/open-doors-report>.

⁸⁰ https://www.hbcs.hu/uploads/jogszabaly/2582/fajlok/EMMI_szakmai_iranyelve_felnottkori.pdf.

mentions homosexual, bisexual and transsexual people as vulnerable groups at tertiary risk of suicide but contains no specific measures on how to deal with their suicidality.

33. The ban of legal gender recognition (see Para. 8) has made access to **trans-specific health care** (gender affirmation surgeries and hormone therapy) significantly more difficult: some healthcare providers have stopped providing such treatments altogether or suggest patients to wait. **Diagnosis of transsexualism is mandatory** for accessing trans-specific health care. There are **no national clinical guidelines for trans-specific health care**, which results in lack of proper care and lack of experts. Public health insurance covers only 10% of the costs of gender affirmative surgeries.⁸¹
34. It is legally required to certify and register births in 30 days as either male or female. Research by Háttér⁸² found that so-called “normalizing” **surgeries performed on intersex children are still common**. There is **no medical protocol** regarding the treatment of intersex children. The ban on legal gender recognition (see Para. 8) applies also for intersex persons, and experts fear that this will push more parents and professionals to force a binary gender identity on intersex children and operate children without their consent early on.
35. Hungary has not adopted an **HIV/AIDS strategy** since 2010;⁸³ The last official treatment protocol for HIV/AIDS expired in 2013. No women’s or LGBTQI civil society organizations are members of the National HIV/AIDS Working Group, the request of the Hungarian LGBT Alliance to join was approved by the members but was rejected by the ministry responsible for health in 2015.⁸⁴ The working group has had no meeting since 2015. People living with HIV often face social stigma and rejection in the healthcare system.⁸⁵
36. The International Federation for Therapeutic and Counseling Choice, an organization promoting sexual orientation change efforts held its annual conference in Hungary in 2018 and 2019. The public media aired programs several times that **promoted sexual orientation change efforts**.⁸⁶ The Hungarian Psychological Association condemned these ‘therapies’ as unscientific and harmful.⁸⁷

Recommendation 17: Introduce sensitizing training for doctors and other medical staff on the specific health needs of LBTQI women as part of basic and in-service training.

Recommendation 18: Create clinical guidelines on treatment for trans persons and ensure that costs of gender affirmation procedures are reimbursed by public health insurance.

Recommendation 19: Ban medically unnecessary surgeries on intersex minors.

Recommendation 20: Ban sexual orientation and gender identity change efforts on minors.

Recommendation 21: Include LBTQI women, and LBTQI girls in particular, as a specific target group in suicide prevention programs.

⁸¹ Act no. LXXXIII of 1997 on mandatory health insurance, Art. 23 k); Government Decree no. 284/1997. (XII. 23.), Appendix I, par. 6.

⁸² <https://en.hatter.hu/publications/bringin-report>.

⁸³ <https://en.hatter.hu/publications/open-doors-report>.

⁸⁴ Letter of the Chief Medical Officer of the State no. OTF-550-2/2015.

⁸⁵ <https://hatter.hu/kiadvanyaink/pozitiv-szemmel-a-hiv-vel-elok-helyzete-magyarorszagon>.

⁸⁶ Duna TV 21 January 2018; M5 16 January 2019; M5 11 September 2019.

⁸⁷ <https://www.facebook.com/230520050844602/posts/387422465154359/>.

Economic and Social Benefits (Article 13)

37. While same-sex couples are recognized as cohabiting or registered partners, and people living in same-sex relationships are not excluded by law from becoming parents (see Para. 39 and 41), some **parenting related benefits are not available for same-sex parents**. In particular, the same-sex partner of a mother is not entitled to the 10 days of additional holiday afforded to fathers after a child is born,⁸⁸ same-sex parents are not entitled to new baby loans (*babaváró hitel*)⁸⁹ and to advanced housing subsidies (*megelőlegezett családi otthonteremtési kedvezmény*).⁹⁰ In the latter two cases exclusion arises from the narrow interpretation of certain provisions as requiring a “common child”.⁹¹ The legal aid service of Háttér dealt with cases where childcare allowance (*GYED*) or family allowance (*családi pótlék*) were denied from same-sex parents in spite of clear legislation granting those rights to registered partners.
38. Trans women who obtained legal gender recognition before the ban in May 2020 (see Para. 8) are still treated as men for purposes of retirement, and **cannot make use of the early retirement option** (after 40 years of employment).⁹² The government county office argued that the option is afforded only to women whose sex at birth was female (even though the legislation makes no reference to sex at birth) because “motherhood and family role is linked to biological and physical characteristics”.⁹³ The judicial review of the decision is pending.

Recommendation 22: Remove discriminatory legislative provisions restricting access of same-sex parents to certain parenting related benefits and ensure that all parenting related benefits are afforded without discrimination based on the gender of the parents.

Recommendation 23: Treat trans women who had their gender legally recognized as women for purposes of economic and social benefits including access to early retirement options.

Marriage and Family Life (Article 16)

39. Cohabitation among same-sex couples has been recognized since 1996⁹⁴ and since 2009 same-sex couples can enter into **registered partnership**⁹⁵ granting them most rights and duties that come with marriage. Notable exceptions include t access to assisted reproduction technologies, and joint and second parent adoption. Differences between marriage and registered partnership are **solely based on the gender of partners**, have no reasonable justification, and thus amount to **discrimination based on sexual orientation**.

⁸⁸ Act I. of 2012 on the Labor Code, Article 118 (4).

⁸⁹ Max. 10 million HUF interest-free loans if one child is born, no payback requirement if three children are born. Govt. Decree no. 44/2019. (III. 12.) on new baby loan.

⁹⁰ 600 thousand - 10 million HUF non-repayable support and further 10-15 million HUF loan with fixed, reduced interest rate. Govt. Decree no. 16/2016. (II. 10.) on housing subsidies to build or buy new apartments; Govt. Decree no. 17/2016. (II. 10.) on housing subsidies to buy or renovate used apartments.

⁹¹ See Commission for Fundamental Rights case no. EBF-AJBH-186-9/2022 (judicial review pending).

⁹² Act LXXXI of 1997 on social insurance pensions, Section 18:2a.

⁹³ Fejér County Government Office decision no. FE/L100/1338-22/2021.

⁹⁴ Currently: Act V of 2013 on the Civil Code, Section 6:514(1).

⁹⁵ Act XXIX of 2009 on registered partnership and related legislation and on the amendment of other statutes to facilitate the proof of cohabitation.

40. Since 2012, the Fundamental Law contains a heterosexual definition of marriage,⁹⁶ and since 2013 the Fundamental Law defines “family” solely with reference to marriage and parent-child relationships.⁹⁷ In December 2020, **new provisions were added to the Fundamental Law** stating that “The mother is female, the father is male.”⁹⁸ and stating children’s right to a Christian education (see Para. 22). These new provisions have been cited by authorities to declare persons living in same-sex relationships unsuitable to adopt.⁹⁹
41. In December 2020 the Parliament adopted amendments that **restrict adoption by non-married persons**.¹⁰⁰ Joint adoption has always been limited to (different-sex) spouses, but those living with their same-sex partners were allowed to adopt individually. The new provision makes individual adoption possible only with a special permission by the Minister of Culture and Innovation; the decision on who is a suitable parent is thus not made by professionals but by a politician. No public consultation preceded the adoption of the law. A report by Háttér Society confirmed that the number of adoptions has decreased, and persons living in same-sex relationships do not even reach the minister, as local child protection services discourage potential applicants from submitting a request.¹⁰¹ The UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity¹⁰² and the Venice Commission also condemned the new provisions.¹⁰³
42. Legislation on **assisted reproduction technologies is openly discriminatory**: while it is possible for married couples, different-sex cohabiting couples and single women to access such services, lesbian couples (whether in registered partnership or cohabiting) are excluded.¹⁰⁴
43. The lack of recognition for same-sex parents creates **legal and practical problems** for the growing number of children living with same-sex parents, which affects lesbian and bisexual women disproportionately since they are more than twice as likely to be parents than gay and bisexual men (15% vs. 7%).¹⁰⁵ Such children cannot benefit from intestate inheritance from their non-biological parent, and if there is a will their inheritance tax is significantly higher; in case the parents’ relationship terminates they are not entitled to receive child maintenance from their non-biological parents; and the non-biological parent cannot make even urgent medical decisions on their behalf. *De jure* discrimination against same-sex parents also **makes discriminatory behavior socially acceptable**. A survey among same-sex couples raising children in 2017 confirmed the difficulties and discrimination rainbow families experience.¹⁰⁶ There are certain parenting related benefits that are not available to same-sex couples, or which are granted by law but are difficult to access in practice (see Para. 37).

⁹⁶ Fundamental Law of Hungary, Art. L).

⁹⁷ 4th Amendment to the Fundamental Law, amending Art. L).

⁹⁸ 9th Amendment to the Fundamental Law, amending Art. L).

⁹⁹ Regional Court of Budapest judgment no. 22.K.706.809/2021 declared the decision of Budapest County Government Office finding the applicant unsuitable to adopt unlawful, repeat procedure pending; Budapest County Government Office decision BP-11/104/1199-5/2021, no judicial review launched.

¹⁰⁰ Act CLXV of 2020 on amending justice-related laws, amending Act V of 2013 on the Civil Code, Section 4:121.

¹⁰¹ <https://en.hatter.hu/publications/adoption-report-2023>.

¹⁰² https://twitter.com/victor_madrigal/status/1341071393463488512.

¹⁰³ CDL-AD(2021)029.

¹⁰⁴ Act CLIV of 1997 on health care, Section 167:1.

¹⁰⁵ <https://hatter.hu/kiadvanyaink/szivarvanycsaladok-2017> (gender disaggregation of data carried out for the current report).

¹⁰⁶ <https://hatter.hu/kiadvanyaink/szivarvanycsaladok-2017>.

Recommendation 24: Remove discriminatory differences between registered partnership and marriage and provide legal recognition to same-sex parenting.

Recommendation 25: Remove discriminatory legislative restrictions and administrative barriers concerning adoption by non-married persons.

Recommendation 26: Remove discriminatory legislative restrictions for lesbian couples in accessing assisted reproduction technologies.

Recommendation 27: Take measures to prevent discrimination against same-sex couples and their children in the fields of education, healthcare, and access to social benefits.