

# 2022 Rule of Law Report - targeted stakeholder consultation

Fields marked with \* are mandatory.

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## Introduction

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The annual Rule of Law Report is at the core of the European rule of law mechanism, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues. The first Rule of Law Report was published on 30 September 2020, and the second on 20 July 2021.

In the preparation of the first two editions of the Rule of Law Report, the Commission has relied on a diversity of relevant sources, including from Member States, country visits, and stakeholders' contributions collected through the targeted stakeholder consultation [1]. The information provided has informed the Commission's country-specific assessments in preparing the Report. Building on the positive experience from the first two editions of the Rule of Law Report, the Commission is now inviting stakeholders to provide written contributions for the preparation of the 2022 Rule of Law Report through this targeted consultation.

The contributions should cover in particular (1) feedback and developments with regard to the points raised in the country chapters of the 2021 Rule of Law Report and (2) any other significant developments since January 2021 [2] falling under the 'type of information' outlined in the next section. This should, where relevant, also continue to include significant rule of law developments in relation to the COVID-19 pandemic falling under the scope of the four pillars covered by the report.

The input should be short and concise, if possible in English, and summarise information related to one or more of the areas referred to in the template. You are invited to focus on the areas that relate to the scope of work and expertise of your organisation. Existing reports, statements, legislation or other documents may be referenced with a link (no need to provide the full text). Stakeholders are encouraged to make references to any contributions already provided in a different context or to Reports and documents already published. Contributions should focus on significant developments both as regards the legal framework and its implementation in practice.

**If you wish to submit information concerning several Member States, you will have to fill-in the questionnaire separately for each Member States (due to the size of the questionnaire). There is no limit to the number of contributions submitted by a single participant. In such cases, you are not required to repeat the information in the section "about you" that is non-mandatory nor the information on horizontal developments.**

Please provide your contribution by **24 January 2022**. Should you have any requests for clarifications or encounter difficulties in filling in the questionnaire, you can contact the Commission at the following email address: [rule-of-law-network@ec.europa.eu](mailto:rule-of-law-network@ec.europa.eu).

[1] [https://ec.europa.eu/info/publications/2020-rule-law-report-targeted-stakeholder-consultation\\_en](https://ec.europa.eu/info/publications/2020-rule-law-report-targeted-stakeholder-consultation_en) and [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2021-rule-law-report-targeted-stakeholder-consultation\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2021-rule-law-report-targeted-stakeholder-consultation_en)

[2] Unless the information was already submitted in the consultation for the 2020 or the 2021 Rule of Law Reports.

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## Type of information

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The topics are structured according to four pillars: I. Justice system; II. Anti-corruption framework; III. Media pluralism; and IV. Other institutional issues related to checks and balances. The replies could include aspects set out below under each pillar. This can include challenges, current work streams, positive developments and best practices:

### **Legislative developments**

- Newly adopted legislation
- Legislative drafts currently discussed in Parliament
- Legislative plans envisaged by the Government

### **Policy developments**

- Implementation of legislation
- Evaluations, impact assessment, surveys
- White papers/strategies/actions plans/consultation processes
- Follow-up to reports/recommendations of Council of Europe bodies or other international organisations
- Important administrative measures
- Generalised practices

### **Developments related to the judiciary / independent authorities**

- Important case law by national courts
- Important decision/opinions from independent bodies/authorities
- State of play on terms, nominations and expired mandates for high-level positions (e.g. Supreme Court, Constitutional Court, Council for the Judiciary, heads of independent authorities included in the scope of the request for input[1])

### **Any other relevant developments**

- National authorities are free to add any further information, which they deem relevant; however, this should be short and to the point.

Please include, where relevant, information related to measures taken in the context of the COVID-19 pandemic under the relevant topics.

If there are no changes, it is sufficient to indicate this and the information covered in the inputs for the 2020 and 2021 Rule of Law Reports should not be repeated.

[1] Such as: media regulatory authorities and bodies, national human rights institutions, equality bodies, ombudsman institutions, supreme audit institutions and, where they exist, transparency authorities.

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## About you

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\*I am giving my contribution as

Civil society organisation/NGO

\*Organisation name

250 character(s) maximum

Háttér Society

Main Areas of Work

- Justice System
- Anti-corruption
- Media Pluralism
- Other

If "Other", please specify

human rights of LGBTQI people

Please insert an URL towards your organisation's main online presence or describe your organisation briefly:

500 character(s) maximum

www.hatter.hu/

Founded in 1995, Háttér is the oldest and largest LGBTQI organization in Hungary. Its aims are calling attention to the problems faced by LGBTQI people; providing support services; exploring the situation and needs of LGBTQI people; mainstreaming these concerns in laws and public services; protecting the human rights of LGBTQI people and tackling discrimination against them; and promoting their health and well-being.

Transparency register number

Check if your organisation is in the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making

826153742169

\*Country of origin

Please add the country of origin of your organisation

Hungary

First name

Tamás

Surname

Dombos

Email Address of the organisation (this information will not be published)

hatter@hatter.hu

**\*Publication of your contribution and privacy settings**

You can choose whether you wish for your contribution to be published and whether you wish your details to be made public or to remain anonymous.

- Anonymous - Only your type of respondent, country of origin and contribution will be published. Organisation name, URL, transparency register number, first name and surname given above will not be published. **To maintain anonymity, please refrain from mentioning the name of your organisation and any details from which your organisation can be identified in the rest of your contribution.**
- Public - Your personal details (name, organisation name, transparency register number, country of origin) will be published with your contribution.
- No publication - Your contribution will not be published. Elements of your contribution may be referred to anonymously in documents produced by the Commission based on this consultation.

I agree with the personal data protection provisions.

[Specific\\_privacy\\_statement\\_targeted\\_stakeholder\\_consultation\\_2022\\_rule\\_of\\_law\\_report.pdf \(/eusurvey/files/864aa2b6-d166-47e3-a9fd-6f550c46e02b\)](#)

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## Questions on horizontal developments

In this section, you are invited to provide information on general horizontal developments or trends, both positive and negative, covering all or several Member States. In particular, you could mention issues that are common to several Member States, as well as best practices identified in one Member State that could be replicated. Moreover, you could refer to your activities in the area of the four pillars and sub-topics (an overview of all sub-topics can be found below), and, if you represent a Network of national organisations, to the support you might have provided to one of your national members.

Overview topics for contribution

[Overview\\_topics\\_for\\_contributions\\_2022.pdf](#)

Please provide any relevant information on horizontal developments here

*5,000 character(s) maximum*

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## Questions for contribution

The following four pillars (I-IV.) are sub-divided into topics (A., B., etc.) and sub-topics (1., 2., 3., etc.). For each of the topics and sub-topics, you are invited to provide (1) feedback and progress made and developments with regard to the points raised in the respective country chapter of the 2021 Rule of Law

Report and (2) any other significant developments since January 2021[1]. This would also include significant rule of law developments in relation to the COVID-19 pandemic falling under the scope of the four pillars covered by the report. Please always include a link to and reference relevant legislation/documents (in the national language and/or where available, in English). Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices.

If there are developments you consider relevant under each of the four pillars that are not mentioned in the sub-topics, please add them under the section "other - please specify". Only significant developments should be covered.

[1] Unless already covered in the input for the 2020 or the 2021 Rule of Law Reports.

Member State covered in contribution [only one choice possible]

**If you wish to submit information concerning several Member States, please fill in the questionnaire.**

**There is no limit to the number of contributions submitted by a single participant.**

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czechia
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden

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## I. Justice System

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## A. Independence

Appointment and selection of judges, prosecutors and court presidents (incl. judicial review)

*(The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts)*

*3,000 character(s) maximum*

Irremovability of judges, including transfers, (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)

*3,000 character(s) maximum*

Promotion of judges and prosecutors (incl. judicial review)

*3,000 character(s) maximum*

Allocation of cases in courts

*3,000 character(s) maximum*

Independence (including composition and nomination and dismissal of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

*3,000 character(s) maximum*

Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)

*3,000 character(s) maximum*

Remuneration/bonuses/rewards for judges and prosecutors, including changes (significant increase or decrease over the past year), transparency on the system and access to the information

*3,000 character(s) maximum*

Independence/autonomy of the prosecution service

*3,000 character(s) maximum*

The prosecution service often fails to carry out its duty to initiate public interest procedures. In particular, the prosecution service has the power to call on public bodies to revoke illegal administrative decisions and initiate court proceedings if the public bodies decline to do so (Ütv. 29. § (2), 26. § (4)). In 2020 the Budapest Government County Office transferred dozens of cases of transgender persons requesting legal gender recognition to local registrars. These cases had been submitted before May 2020 when legal gender recognition was banned. This move the courts found illegal in dozens of cases. Two applicants who did not take their cases to court then requested the prosecution service to call on the registrars to revoke their decisions that they issued without a legal mandate. In one case, the prosecution service called on the local registrar to revoke their decision, but did not followup the case with court proceedings after the request was declined (SZOMBATHELYI JÁRÁSI ÜGYÉSZSÉG, T.K.1214/2021/5. szám). In another (B.VI-VII.3317/2021/2) case the procecusion service has not made a decision even after six months.

### Independence of the Bar (chamber/association of lawyers) and of lawyers

*3,000 character(s) maximum*

### Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

*3,000 character(s) maximum*

## B. Quality of justice

*(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section 2)*

### Accessibility of courts (e.g. court/legal fees, legal aid, language)

*3,000 character(s) maximum*

### Resources of the judiciary (human/financial/material)

*(Material resources refer e.g. to court buildings and other facilities)*

*3,000 character(s) maximum*

### Training of justice professionals (including judges, prosecutors, lawyers, court staff)

*3,000 character(s) maximum*

Human rights organizations offering training to judges, including Háttér Society providing training on respectful and sensitive treatment of LGBTQI persons in the courtroom, have been attacked in pro-government media for "brainwashing judges" and "pushing the agenda of George Soros". Since then, these organizations find it very difficult to organize any training for the judiciary. (<https://tuzfalcsoport.blogstar.hu/2017/05/04/hogyan-szovi-be-soros-haloja-a-magyar-igazsagszolgaltatast-2-resz-/37866/>)

Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)

*3,000 character(s) maximum*

Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)

*3,000 character(s) maximum*

The statistical system of the courts is focusing largely on procedural indicators and is not detailed enough to generate data on human rights-relevant court cases, such as the overall number of hate crime cases or the overall number of discrimination cases, let alone disaggregation by protected characteristics.

Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialization, in particular specific courts or chambers within courts to deal with fraud and corruption cases

*3,000 character(s) maximum*

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## C. Efficiency of the justice system

*(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section 2)*

Length of proceedings

*3,000 character(s) maximum*



The Constitutional Court has no deadline for adjudicating constitutional complaints or petitions by the Commissioner for Fundamental Rights, and the procedures take unreasonably long. Even where there is a deadline (constitutional reviews initiated by lower level courts), the deadlines are not kept. For example, according to Article 24(2b) of the Fundamental Law, the Court should decide on the constitutionality of a legislative provision within 90 days if the review is initiated by a judge in the regular court system. In the case III/02647/2021 concerning the ban of legal gender recognition for trans and intersex people the deadline for the Court's decision was 23-09-2021, but no decision has been issued, the case has not even been put on the agenda of the court.

Other cases on legal gender recognition based on constitutional complaint (IV/00948/2020, IV/01154/2020, IV/01155/2020, IV/02001/2020, all on legal gender recognition) where there is no deadline required by law, have been pending at the Court for over 18 months. In comparison, in cases where the interest of the government is prompt decision, the Court decides in a very speedy way, such as in case of the constitutional complaint submitted by the government against the decision of the Curia not allowing one of the government anti-LGBTQI referendum questions to make the ballot (IV/03991/2021), in which case the Court decided in a month time - delivering a decision favoring the government's position.

Procedures also take inexplicably long in regular court cases of political sensitivity. For example, in January 2021 the consumer protection authority ordered Labrisz Lesbian Association to change the cover of their children's book 'Fairylend is for Everyone' to clearly state that it includes "patterns of behaviour deviating from traditional gender roles" [BP/2200/00868-2/2021]. The decision was appealed in court. On 21 June 2021, the court set the date for the first hearing date for 2 February 2022, even though such hearings in administrative cases are usually scheduled within a few weeks, or a few months. This is the same case in which the EC started an infringement procedure against Hungary (INFR(2021)2119).

Other - please specify

*3,000 character(s) maximum*

## II. Anti-Corruption Framework

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Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points you wish to bring to the Commission's attention in these documents, indicating any relevant updates, changes or measures introduced that have occurred since these documents were published.

### A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable).

*3,000 character(s) maximum*

Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption.

*3,000 character(s) maximum*

Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators.

*3,000 character(s) maximum*

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## B. Prevention

Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training). Please provide figures on their application.

*3,000 character(s) maximum*

General transparency of public decision-making (e.g. public access to information, including possible obstacles related to the classification of information, transparency authorities where they exist, and framework rules on lobbying including the transparency of lobbying, asset disclosure rules, gifts and transparency of political party financing)

*3,000 character(s) maximum*

Rules and measures to prevent conflict of interests in the public sector. Please specify the scope of their application (e.g. categories of officials concerned)

*3,000 character(s) maximum*

Measures in place to ensure whistleblower protection and encourage reporting of corruption.

*3,000 character(s) maximum*

List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for monitoring and preventing corruption and conflict of interest in these sectors. (e.g. public procurement, healthcare, citizen investor schemes, risk or cases of corruption linked to the disbursement of EU funds, other).

*3,000 character(s) maximum*

Measures taken to assess and address corruption risks in the context of the COVID-19 pandemic.

*3,000 character(s) maximum*

Any other relevant measures to prevent corruption in public and private sector

*3,000 character(s) maximum*

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## C. Repressive measures

Criminalisation, including the level of sanctions available by law, of corruption and related offences including foreign bribery

*3,000 character(s) maximum*

Data on investigation and application of sanctions for corruption offences, including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds.

*3,000 character(s) maximum*

Potential obstacles to investigation and prosecution as well as to the effectiveness of sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, pardoning)

*3,000 character(s) maximum*

Information on effectiveness of administrative measures and sanctions, in particular recovery measures and administrative sanctions on both public and private offenders.

*3,000 character(s) maximum*

Other - please specify

*3,000 character(s) maximum*

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## III. Media Freedom and Pluralism

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### A. Media authorities and bodies

*(Cf. Article 30 of Directive 2018/1808)*

Measures taken to ensure the independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies

*3,000 character(s) maximum*

Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies

*3,000 character(s) maximum*

The Media Council of the National Media and Infocommunications Authority consists only of members nominated by the governing parties. In 2019 an ad hoc parliamentary committee was set up to select new members, but the committee voted down all candidates nominated by opposition parties. The Media Council applies clear double standards regarding LGBTQI issues: it allows for hate speech against LGBTQI people, while restricts the positive portrayal of LGBTQI people (see details under other).

In October 2021, the president of the National Media and Infocommunications Authority resigned a few months before her mandate was over. This allowed the current parliamentary majority to elect a new president for nine years in December 2021. Without the resignation, it would have been the new parliament elected in April 2022 who elects the new president. The resignation thus allowed the current government to secure its control over the media even if they lose the election in April 2022.

Existence and functions of media councils or other self-regulatory bodies

*3,000 character(s) maximum*

## B. Transparency of media ownership and safeguards against government or political interference

Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)

*3,000 character(s) maximum*

Safeguards against state / political interference, in particular:

- safeguards to ensure editorial independence of media (private and public)
- specific safeguards for the independence of governing bodies of public service media governance (e.g. related to appointment, dismissal) and safeguards for their operational independence (e.g. related to reporting obligations),
- procedures for the concession/renewal/termination of operating licenses
- information on specific legal provisions for companies in the media sector (other than licensing), including as regards company operation, capital entry requirements and corporate governance

*3,000 character(s) maximum*

Transparency of media ownership and public availability of media ownership information, including on media concentration (including any rules regulating the matter)

## C. Framework for journalists' protection

Rules and practices guaranteeing journalist's independence and safety

*3,000 character(s) maximum*

Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists

*3,000 character(s) maximum*

Access to information and public documents (incl. procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities)

*3,000 character(s) maximum*

Even though legislation requires that public bodies respond to freedom of information requests concerning data of public interest within 15 days (Act no. CXII. of 2011), public bodies often reject the completion of such requests. In July 2020 the Ministry of Human Capacities refused access to national health programs adopted by the government in 2018 arguing that they served the purpose of later decision-making, even though the programs had been finalized in 2018. The judicial review of the case is pending.

In October 2021, the Prime Minister's Office refused access to results of a survey among local governments on adoption of local measures banning "LGBTQ-propaganda". The judicial review of the case is pending.

In September-October 2021, the Ministry of Human Capacities and the National Child Protection Service refused access to a guideline issued to local child protection services on how to assess suitability of non-married person for adoption. The review of the case by the National Authority for Data Protection and Freedom of Information is pending.

Lawsuits (incl. SLAPPs - strategic litigation against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against abusive lawsuits

*3,000 character(s) maximum*

Other - please specify

*3,000 character(s) maximum*

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. In March 2021, the Media Council launched an investigation against RTL Klub, the largest commercial channel for airing a video about rainbow families as public service advertisements. The Council argued that the video featuring same-sex families and experts was harmful to children under the age of 16, and thus should not have been aired before 9pm. The Council did not allow the producer of the video (Háttér Society) to be party to the investigation arguing that Háttér has no legal interest in the outcome of the investigation, even though the decision would greatly impact when the video can be aired. The Curia decided in favor of Háttér's standing, the investigation is ongoing, no decision has been issued yet (MN/31406-9/2020.).

## IV. Other institutional issues related to checks and balances

### A. The process for preparing and enacting laws

Framework, policy and use of impact assessments, stakeholders'/public consultations (particularly consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process

*3,000 character(s) maximum*

While there is legislation that requires public consultation on all bills drafted by ministries and all government and ministerial decrees (Act no. CXXXI of 2010), these requirements are routinely disregarded. After the law banning legal gender recognition of trans people (Act no. XXX of 2020), adding transphobic provisions to the Fundamental Law (9th Amendment of the Fundamental Law), restricting adoption by non-married persons (Act no. CLXV of 2020), and on amendments to government and ministerial decrees on detailed rules of the adoption procedure (EMMI decree no. 35/2020. (X. 5.); Govt. Decree no. 94/2021. (II. 27.)) were adopted without any consultation, the same happened with regards to the Act no. LXXIX of 2021 banning 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". Similarly, its implementing legislation [Government Decree 473/2021. (VIII. 6.)] which contains that products with such content can only be sold in special packaging separate from other products and cannot be sold within 200m of schools, children or youth institutions and churches, was also adopted without any public consultation. The Venice Commission criticized the adoption of the law not only on substantive aspects, but also for the hasty adoption of such seriously restrictive provisions (1059/2021).

Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)

*3,000 character(s) maximum*

## Regime for constitutional review of laws

3,000 character(s) maximum

COVID-19: provide update on significant developments with regard to emergency regimes in the context of the COVID-19 pandemic

- judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic
- oversight (incl. ex-post reporting/investigation) by Parliament of emergency regimes and measures in the context of COVID-19 pandemic

3,000 character(s) maximum

## B. Independent authorities

Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions

(Cf. the website of the European Court of Auditors: <https://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx#>)

3,000 character(s) maximum

On 1 December 2020, the Parliament adopted legislation to abolish the Equal Treatment Authority (ETA), Hungary's most important equality body set up in 2005. A report by Háttér Society on the first 9 months of the new system shows that the move had devastating impact on the enforcement of equal treatment law in Hungary: <https://en.hatter.hu/publications/information-on-the-abolishment-of-the-equal-treatment-authority-in-hungary>

Since September 2019, the Commissioner for Fundamental Rights has been Ákos Kozma, former professor of Pázmány Catholic University, a loyal supporter of the government. As opposed to his predecessor, the new Commissioner has not commemorated the International Day Against Homophobia and Transphobia in May 2020, and has not responded to official petitions submitted by LGBTQI organizations concerning (1) the ban of legal gender recognition, (2) growing homophobic hate speech by government officials, and restricting LGBTQI freedom of expression, (3) on the law on measures against paedophilia, (4) on discriminative forms in citizenship procedures, (5) on discriminative forms in immigration procedures. GANHRI's Sub-Committee on Accreditation recommends that the CFR be downgraded to B status, as the CFR "has not spoken out in a manner that promotes protection of all human rights."

Statistics/reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years.

3,000 character(s) maximum

## C. Accessibility and judicial review of administrative decisions

Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)

*3,000 character(s) maximum*

Judicial review of administrative decisions:

- short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review).

*3,000 character(s) maximum*

Follow-up by the public administration and State institutions to final (national/supranational) court decisions, as well as available remedies in case of non-implementation

*3,000 character(s) maximum*

In June 2018, in a case launched by a transgender refugee from Iran, the Constitutional Court found that there was a constitutional omission because Hungary has no procedure for legal gender recognition for transgender people who are not Hungarian citizens, but lawfully reside in the country permanently. The Court gave a deadline of 31 December 2018 for the government to adopt new legislation (6/2018. (VI. 27.) CC decision). No such legislation has been adopted to date, and in May 2020, the Parliament adopted legislation that banned legal gender recognition for Hungarian citizens as well. The same person also turned to the ECtHR, which also sided with the applicant arguing that the lack of such procedure infringes on the right to respect for private life (Art. 8) of the applicant (Rana v. Hungary, no. 40888/17). The just satisfaction was paid to the applicant, but he still has to live with official documents that are not in line with his gender identity.

In March 2021, the Constitutional Court found that applying the ban on legal gender recognition retroactively to pending procedures is unconstitutional [CC Decision 11/2021. (IV. 7.)]. Nevertheless, the Budapest Government County Office still fails to implement the decision, dozens of trans and intersex people have been litigating such cases, but the Office comes up with newer and newer objections whenever the courts make a binding decision in line with the Constitutional Court decision. For the overview of these procedures see: <https://hatter.hu/tevekenysegunk/jogsegelyszolgalat/jelentosebb-ugyeink/33-paragrafus>

## D. The enabling framework for civil society

Measures regarding the framework for civil society organisations (e.g. access to funding, legal framework incl. registration rules, measures related to dialogue between authorities and civil society, participation of civil society in policy development, measures capable of affecting the public perception of civil society organisations, etc.)

*3,000 character(s) maximum*



The government and pro-government media conduct a smear campaign against human rights organizations, targeting specifically organizations working on the rights of LGBTQI people. Pro-government news portal such as Pesti Srácok, Origo, 888.hu, Vasárnap talk about LGBTQI issues as a form of ideology, and claim that LGBTQI organization work to recruit more 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. Leading government officials also talk about the need to stop LGBTQ propoaganda (see more under Other).

LGBTQI organizations find it extremely difficult to receive public funding. Calls for proposals prioritize issues that make successful application of LGBTQI organizations nearly impossible. In case LGBTQI organizations do apply with strong proposals, their proposals are evaluated unfavorably or unlawful measures are applied to exclude them from funding. E.g. Tempus Foundation distributing Erasmus+ funds in Hungary disqualified the proposal of Háttér Society on grounds of conflict of interest with an evaluator, even though there was no such conflict of interest, and even if there was, it was the evaluator, not the applicant that should have been disqualified (since the list of evaluators is not public applicants are in no position to prevent such conflict of interest). When the proposal was resubmitted, Tempus rejected the proposal arguing that there was not enough funding, even though the money earmarked for that category of proposals was not spent. The European Commission has found the exclcsion to be unlawful as called on Tempus to revoke it, but Tempus does not comply with the request of the Commission, and instead started a smear campaign against Háttér in the media: <https://www.origo.hu/nagyvilag/20211228-brusszel-szerint-hianyospalyazattal-is-nyernie-kellene-az-lmbtq-szervezetknek.html>

## Rules and practices guaranteeing the effective operation of civil society organisations and rights defenders

*3,000 character(s) maximum*

## E. Initiatives to foster a rule of law culture

Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, etc.)

*3,000 character(s) maximum*

Other - please specify

*3,000 character(s) maximum*

For the past two years, the Hungarian government has been conducting a hate campaign against LGBTQI people, targeting in particular transgender people and same-sex couples raising children. An anti-LGBTQ referendum has been initiated by the government to be held on the same day as the national election in April 2022.

On June 15, 2021 the Parliament adopted legislation to ban 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 [Act no. LXXIX of 2021]. An implementing legislation [Government Decree 473/2021. (VIII. 6.)] contains that products with such content can only be sold in special packaging separate from other products and cannot be sold within 200m of schools, children or youth institutions and churches. The European Commission has launched an infringement procedure and issued a reasoned opinion regarding the law.

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: in October 2019 Coca Cola was fined for featuring same-sex couples in a billboard campaign [PE-06/01/01076-10/2019]; in March 2021 an investigation was launched against RTL Klub for airing an information video about rainbow families [163/2020. (III. 2.)]; in January 2021 the consumer protection authority ordered Labrisz Lesbian Association to change the cover of their children's book 'Fairylan d is for Everyone' to clearly state that it includes "patterns of behaviour deviating from traditional gender roles" [BP/2200/00868-2/2021]; bookshop Lira was fined for selling the book 'What a family!' featuring rainbow families among other children's books [PE/002/01974-8/2021]. This latter decision has been later declared illegal by the court.

Several local governments (Mezőkövesd, Budapest XXI. Csepel, Diósd, Veszprém) banned the use of 'Fairylan d is for Everyone' in their educational institutions, and one local government (Nagykáta) adopted a resolution to ban "LGBTQ-propaganda" in all of its institutions.

## Contact

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