



REPORT OF HÁTTÉR SOCIETY ON THREATS TO DEMOCRATIC VALUES

*Prepared for the European Union Agency for Fundamental Rights (FRA)
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1. Threats to democratic values - Protecting civic space, strengthening meaningful participation and the rights to freedom of association, peaceful assembly and expression

1.1. Major threats to democracy as reflected in national legal and political developments and the discourse at national level.

Table 1 – Challenges

Based on a scan of legislative and policy and other developments and the public discourse please identify three major challenges to democracy emerged in the course of 2023.

Challenges Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.

1.1.1. Attacks and threats to the safety of civil society organisations, human rights defenders and journalists

General political context: The Hungarian Government had been advocating for a conservative and restrictive notion of families for over a decade, however, in 2020 their anti-LGBTQI agenda changed gear and rapidly started to repeal rights and benefits that had been available for decades. The legal rampage began with banning legal gender recognition in May 2020¹ and continued in the Fall of 2020 with the LGBTQI-exclusionary reform of the adoption process: adoption by married couples is now the general norm, from which only a minister – not a childcare professional – can grant exemption.² The Ninth Amendment to the Fundamental Law passed in November 2020 contained two provisions that had particular relevance for the LGBTQI community. First, a new sentence was added to Article L declaring that “(t)he mother is a woman, the father is a man”. Second, Article XVI (1) was complemented with the following provision: “Hungary protects children’s right to their identity in line with their birth sex, and their right to education according to our country’s constitutional identity and system of values based on Christian culture”.³ These amendments paved the way for a neatly tailored large-scale attack on sexual and gender minorities: they led to the

¹ For an overview of the cases on Section 33 see: <https://en.hatter.hu/what-we-do/legal-aid/significant-cases/article-33>.

² For an assessment of the recent changes in the adoption process see: <https://hatter.hu/kiadvanyaink/orokbefogadas-jelentes-2022>.

³ For a detailed analysis of the Ninth Amendment’s – that time potential – impact on sexual and gender minorities see Polgári, Eszter; Dombos, Tamás: *A New Chapter in the Hungarian Government’s Crusade Against LGBTQI People*, *VerfBlog*, 2020/11/18, <https://verfassungsblog.de/a-new-chapter-in-the-hungarian-governments-crusade-against-lgbtqi-people/>, DOI: [10.17176/20201118-190446-0](https://doi.org/10.17176/20201118-190446-0).

adoption of the so-called 'child protection' law (Act no. LXXIX of 2021 amending a number of sectoral laws) in June 2021, which continues to give basis for fear-mongering against the LGBTQI community, and justifies the suppression of speech on and display of non-mainstream sexual orientations and gender identities (for the impact of the law on freedom of expression and media see: 1.1.2).

In response to the wide criticism, in particular from the European Commission that announced launching an infringement procedure against Hungary,⁴ the government on July 21, 2021 announced that it would hold a 'child protection' referendum to confirm the so-called 'child protection' law. The referendum took place on April 3, 2022 together with the parliamentary elections. Háttér Society and Amnesty International Hungary along with 12 NGOs organized a nation-wide campaign to invalidate the discriminatory and exclusionist referendum, whose biased and manipulative questions enticed fear and hatred towards LGBTQI people. On April 8, 2022 the National Election Commission (NEC) delivered a series of decisions declaring the campaign calling for invalid votes on the referendum ballots illegal and imposing fines on 16 CSOs.⁵ The decisions argued that while voters do have the option to consciously cast an invalid vote, campaigning for such an invalid vote is an abuse of rights. On April 13, 2022 the Curia rejected to review the appeal brought by Háttér Society and Amnesty International Hungary, based on a legal technicality,⁶ and on April 15, 2022 the Curia ruled the other fines unlawful. Háttér Society and Amnesty International Hungary submitted a constitutional complaint to the Constitutional Court, which on April 19, 2022 declared the complaints inadmissible.⁷ The case is currently pending before the European Court of Human Rights (case no. 43901/22).

Attacks against civil society: The stigmatization and scapegoating of civil society organizations have been present in the public discourse since the Government's attack against the Civil Fund of the EEA/Norway Grants in 2014, which gained new impetus with the launch of the Stop Soros campaign back in 2017. Civil society actors, such as Háttér Society, defending human rights and hitting a critical tone towards the Government are regularly called 'Soros-organizations' (and the variations of the name) in the right-wing media and also by right-wing politicians and political actors. The smear campaign has some recurring topics: first, it is partly centered on these NGOs' funding: funding from the European Union is often conflated or even equated with support granted by organizations – e.g. the Open Society Foundations – affiliated with George Soros and his family, insinuating that the latter have influence (even decisive one) on who receives support from the European Commission.⁸

Second, civil society organizations and actors whose work includes reporting on the situation of human rights in Hungary, or litigation before regional or international human rights bodies are frequently called out for their work implying that they serve (an undefined and vaguely

⁴ The European Commission submitted its petition to the Court of Justice of the European Union in the case on December 19, 2023, and its summary was published on February 13, 2023. Fifteen EU Member States and the European Parliament expressed their intent to intervene in the case on behalf of the European Commission. Case C-769/22, Commission v. Hungary is currently pending before the CJEU.

⁵ The NEC decisions are the following: Decisions no 324/2022., no. 325/2022., no. 327/2022., and no. 328/2022.

⁶ See judgments no. Kvk.IV.39.420/2022/4. and Kvk.IV.39.419/2022/4.

⁷ Constitutional Court Order no. 3216/2022. (V. 11.) and Constitutional Court Order no. 3217/2022. (V. 11.).

⁸ See for instance:

<https://magyarnemzet.hu/belfold/2023/09/magyarorszagnak-nem-ad-penzet-brusszel-de-a-soros-szervezeteknek-jut-boven-2>, or <https://magyarnemzet.hu/belfold/2023/08/egymillio-dollar-a-prostitualtak-es-az-lmbtg-kozosseg-jogvedoinek>

referenced) external, non-Hungarian interest.⁹ The extreme right Sixty-Four Counties Youth Movement (SFCYM, *Hatvannégy Vármegye Ifjúsági Mozgalom*) on a press conference held on the occasion of the Budapest Pride March stated: “organizations such as Háttér Society – which is funded by hundreds of millions of dollars in foreign donations – are laying down the foundations of the deep state”.¹⁰

In 2023 Háttér Society – along with other non-governmental organizations – has been extensively subject to hatred and biased speech alleging that it is condoning pedophilia and other unlawful activities, e.g. the violation of the provisions of the so-called ‘child protection’ law. Labeling LGBTQI rights organizations as LGBTQP – P standing for pedophilia – is widespread in the extreme right-wing media: on July 25, 2023 SFCYM published a document titled ‘Proposals to curb the harmful activities of foreign-funded LGBTQP lobbying organisations’.¹¹ SFCYM not only declared that LGBTQI organizations – Háttér Society being the oldest and biggest among these – constitute “national security threats”, manifested in their submission of shadow reports to UN treaty bodies and their efforts devoted to international advocacy. SFCYM explicitly calls for establishing a “special monitoring body” to scrutinize LGBTQI civil society actors’ work, funding, network and their attempts to influence, assumably, state actors. The proposal maps instances of collaboration and cooperation between LGBTQI NGOs and public bodies, e.g. the police, the prosecution service or the Ministry of Justice, and suggests that these NGOs have already infiltrated state organs. Háttér Society learned from an article published in July, 2023 that the 2021 petition to dissolve the organization addressed to the prosecution service by SFCYM and other extreme-right actors had been rejected by the Chief Prosecution service, however, no further information was provided; Háttér had not been notified either of the petition, or the rejection. No public official or public body condemned these attacks.

‘P’ is not only added to the abbreviation used to describe civil society organizations working for the rights of sexual and gender minorities when attacks are brought against them, individuals were also accused of defending pedophiles: the investigation started following the report to the police by a human rights defender working for the Hungarian Helsinki Committee (HHC) is still pending. In February 2023, a government-leaning online media portal provided its own interpretation – lacking any factual basis – why someone who had been publicly, yet not officially, accused of pedophilia could claim that his defense is covered by HHC: it referred to the fact that the person employed by HHC and the one attacked in the right-wing press had known each other for a long period of time – while in fact that had not been the case.¹² Most recently, Budapest Pride organizers were harassed and insulted by SFCYM members in July 2023: the two women were resting on the same beach that attendees of SFCYM’s children camp visited.¹³ A video taken of the argument between SFCYM and the Pride organizers was released on a Youtube channel affiliated with SFCYM,

⁹ See for instance: <https://magyarnemzet.hu/velemeny/2023/05/teriteken-a-tasz-alszakertelme>, or <https://magyarnemzet.hu/belfold/2023/07/fellep-az-lmbtg-mozgalom-ellen-a-hatvannegy-varmegye-mozgalom-budapest-pride-konyi-kiss-botond-barcsa-turner-gabor-erzekenyites-gyermekevedelem>.

¹⁰ See: <https://24.hu/belfold/2023/07/15/hvim-mentalis-betegseggel-kuzdo-emberek-vonulgatnak/>.

¹¹ Available at: https://0289f0e8-4df3-4e1f-81a5-3a5a691b1fd3.usfiles.com/uqd/0289f0_46a4359dcb53464db5073991a7b28584.pdf.

¹² See the original article here: <https://www.origo.hu/itthon/20230219-ezert-mondhatta-a-fiatal-fiukat-kedvelo-tanar-hogy-ingyen-kepviseli-ot-a-helsinki-bizottsag.html>, and the response to it here: https://www.facebook.com/leederer.andris/posts/10160742634011385?ref=embed_post.

¹³ The incident was reported to the police as a hate crime (violence against a member of a community) and the investigation is ongoing.

which constitutes the violation of the GDPR, in particular the use and publication of their personal data.¹⁴ Both the criminal procedure for the harassment and insult, and the data protection case are pending. In 2023 there have been further smearing of human rights defenders – some explicitly in relation to their work on LGBTQI rights; in some of these cases the criminal investigation was launched and it is currently pending,¹⁵ while in other cases, no remedy was sought.¹⁶

In 2023 Háttér Society was heavily criticized for its advocacy work at the European level, especially in relation to the infringement procedure brought by the EC against the so-called ‘child protection’ law. Háttér with its Brussels-based partners – RECLAIM, Forbidden Colours, and ILGA-Europe – worked to raise awareness on the case and convince EU Member States to intervene before the Court of Justice of the European Union on behalf of the EC.¹⁷ As a result of the dialogue and cooperation between civil society actors and the Member States, 16 of them and the European Parliament decided to take a firm stance against the so-called ‘child protection’ law, and signal its willingness to intervene in the case before the CJEU. The unprecedented support prompted the use of the same communication panels by Government officials that are all known too well from before: it shows lack of respect for Hungary, and it is a coordinated effort by George Soros whose interest those opposing the anti-LGBTQI law serve.¹⁸

Right-wing media’s condemnation is triggered by any event – be that a Hungarian Bar Association-accredited training for attorneys, a rainbow colored bench in an opposition district in Budapest, or an event focusing on LGBTQI rights. Some of these attacks remained at the level of a accusatory article published providing the detailed profile of the trainers,¹⁹ while other reactions necessitated reporting to the police, as a result of which criminal investigations were started.²⁰

1.1.2. Lack of media freedom a/o media pluralism; disinformation (incl. online)

1.1.2.1. Implementation of the so-called child protection law

The enforcement of the so-called child protection law has intensified since the beginning of 2023. Anti-LGBTQI provisions contained in Sections 1, 3, 9, 10, 11 of Act LXXIX of 2021 on

¹⁴ The video is available here: <https://www.youtube.com/watch?v=if73KZ2IAew&t=1029s>.

¹⁵ See for instance the blackmailing of the director of Amnesty International Hungary: <https://varosikurir.hu/amnesty-nem-engedunk-a-zsarolasnak/>.

¹⁶ E.g. in the case where a lesbian activist and colleague of Labrisz Lesbian [Association](#) was mocked on the youtube channel, We ourselves (*Mi magunk*) tied to SFCYM.

¹⁷ See for instance: <https://magyarnemzet.hu/belfold/2023/06/lobbi-es-aknamunka-a-szinfalak-mogott-a-gyermekvedelmi-torveny-ellen>.

¹⁸ See for instance: <https://magyarnemzet.hu/belfold/2023/04/eredmenyesnek-bizonyult-a-brusszeli-hadjarat-tizenot-oroszag-foglalt-allast-hazankkal-szemben>. The same narrative appears in <https://tuzfalcsoport.blogstar.hu/2023/06/19/soros-all-szinte-az-osszes-lmbtg-szervezet-mogott/123226/>.

¹⁹ See the reaction to Háttér Society’s training offered on LGBTQI rights to attorneys: <https://pestisracok.hu/ingyenes-kepzeseken-erzekenyiti-az-ugyvedeket-a-hatter-tarsasag-a-trening-elvegeseert-kreditpont-is-ja-l/>

²⁰ See the story of the rainbow-colored bench in District IX of Budapest: <https://index.hu/belfold/2023/07/09/ferencvaros-szivarvanyszin-pad-atfestes-amnesty-international-baranyi-krisztina/>, or <https://magyarnemzet.hu/belfold/2023/07/visszafestette-szivarvanjosra-az-amnesty-a-ferencvarosi-padot-es-feljentest-tett>.

stricter actions against pedophile offenders, and the amendment of certain laws for the protection of children (the so-called ‘child protection’ law) were introduced in Parliament by pro-government members of the Legislative Committee. The amendments were tabled in the last stage of the parliamentary debate, only five days before the final vote of the law, after the bill had been debated in depth by the Justice Committee, the Social Welfare Committee and the plenary session. This short time frame did not allow for any meaningful discussion of the bill by parliamentarians or proper input by civil society or professional organizations.²¹

The so-called ‘child protection’ law amended a number of sectoral laws,²² including Act CLXXXV of 2010 on media services and mass communication (Media Act), and it restricts access of minors to

content that is pornographic or that depicts sexuality as having a purpose in itself or that depicts or propagates divergence from self-identity corresponding to sex at birth, sex change or homosexuality.

The Media Council of the National Media and infocommunication Authority (NMIA, *Nemzeti Média és Hírközlési Hatóság*) updated its “*recommendation on classification (ratings)*” on September 15, 2021,²³ in line with new provisions of the Media Act [Section 9 (6) as amended by the so-called ‘child protection’ law]. This document describes the classification of media content as not recommended for viewers under 18 if its “*defining element*” is the propagation or depiction of deviation from the self-identity in line with the birth sex, sex change or homosexuality.

Since July, 2021, the Media Council has not initiated proceedings against a media service provider registered in Hungary and thus within its jurisdiction.²⁴ In two cases a service provider registered in Hungary (RTL Klub) requested *a priori* classification of a content (*i.e.* setting the rating prior to airing it): in case of the film titled “[Jenny’s wedding](#)” the Media Council found that it belongs to class V (not recommended to viewers under the age of 18). The other case related to the promotional video for the 2023 Pride Community Festival, discussed in detail below.

Until mid-June the Hungarian media authority received **136** reports alleging non-compliance with Section 9 (6) of the Media Act outlawing content depicting or promoting homosexuality, divergence from the sex at birth or gender reassignment for minors.²⁵

- **22 reports** concerned content aired by a service provider registered in Hungary (thus within the jurisdiction of the Media Council): **no procedure was initiated** against such service providers, and hence no sanction was imposed.

²¹ The failure to provide space and opportunity for civil society actors and other relevant stakeholders to give input on a proposed legislative amendment as the one in question unequivocally runs counter to the *Rule of Law Check List* of the Venice Commission [CDL-AD(2016)007, point 5.]

²² *i.e.* Act XXXI of 1997 on the protection of children and guardianship administration, Act CCXI of 2011 on the protection of families, Act XLVIII of 2008 on the basic conditions of and certain restrictions on economic advertising activities, and Act CXC of 2011 on national public education.

²³ The document is available at: https://nmhh.hu/dokumentum/214969/klasszifikacios_ajanlas.pdf.

²⁴ Representative of the Media Council confirmed this in an interview given to the researcher of Amnesty International Hungary in June 2023.

²⁵ Information retrieved from an interview carried out by Amnesty International Hungary with colleagues of the NMIA. On file with Amnesty International Hungary. The exact time period covered by the data is not clear.

- **58 reports** were submitted against foreign service providers: **36** related to content aired in linear media services, while **22** targeted streaming services registered outside Hungary.

The Media Council reached out to its foreign counterparts with requests to proceed against service providers registered in another EU member state in **24** instances.

2 cases concerned rating based on the so-called ‘child protection’ law, *i.e.* 18+ with specific reference to Section 9(6) of the Media Act.

As explained in Háltér’s previous [report](#), the Media Council’s practice is unpredictable in implementing the so-called ‘child protection’: in several cases the Media Council found that there was a portrayal of homosexuality or transgender identity, and based on this prescribed a higher category for the content than used by the media service provider, but did not prescribe the highest category (18+) that would have been required by the provision introduced by the so called ‘child protection’ law.

Even if the number of cases where the so-called ‘child protection’ law has been directly referred to by the Media Council remains relatively low, the new legislation had a clear impact: between June 8, 2021 and December 31, 2022, the Hungarian media authority received **169** reports altogether alleging the violation of Section 9 of the Media Act (not only Section 9 (6) outlawing LGBTQI content) – this marks a significant increase compared to the period of January 1, 2018 - June 7, 2021 where **198** reports were submitted.²⁶

The case files Háltér has access to indicate that the media authority selectively refers explicitly to the so-called ‘child protection’ law, but it follows the spirit of the law and seeks to sanction LGBTQI content not rated – in its view – adequately.²⁷ While the foreign media authorities have so far refrained from imposing sanctions upon the request of the Media Council, these proceedings contribute to the chilling effect of the law. The Media Council’s reasoning in these cases is inconsistent: at times they take action against content touching upon sexual orientation and gender identity, yet they do not refer to the specific provisions introduced by the so-called ‘child-protection’ law. It is, thus, unforeseeable what content will trigger the application of the law and will result in an 18+ rating.

In June, 2023 RTL Klub requested the *a priori* classification of “The official campaign film of the 28th Pride Festival” from the Media Council. Prior to the adoption of the so-called ‘child protection’ law, the promotional video of the yearly Pride festival was aired as a social service advertisement by the service provider. In 2022, they refrained from it, however, no Media Council assessment was requested.

In Decision No 496/2023 (VII. 4.) the Media Council found that the impugned content is not in line with the requirements set for social service advertisement, and it may be aired only between 10 p.m. and 5 a.m.²⁸ After establishing the Pride Festival “that is known to be one of the major events and celebration of people with orientations other than heterosexual”, the

²⁶ Response of the NMA to Háltér Society’s freedom of information request on February 8, 2023. The FoI request was only partially complied with, Háltér is currently litigating for full compliance.

²⁷ The detailed overview of the cases is available at: https://en.hatter.hu/publications/report-on-act-LXXIX-of-2021-and-its-implementation?_gl=1*1bjbk5u*_ga*NzEzNTkyMjMyLjE2NiAyMjlyMTE*_ga_GZEK8GB25Y*MTY5NTAxMDAyMC4yNC4xLjE2OTUwMTAyNDYuMC4wLjA.

²⁸ The translation of the decision is available at: https://docs.google.com/document/d/1wBcnGSbcqaRY4r8DpytFL_PGdILofq2JsHz_DazGdAw/edit?usp=sharing.

Media Council immediately invoked the provision inserted by the so-called ‘child protection’ act in the Media Law (the ban on content depicting and promoting homosexuality and gender diversity) and concluded that it belongs into class V (not recommended below the age of 18). After recalling the above-mentioned Guidelines, it concluded: “the Programme is capable of adversely influencing the appropriate physical, mental and moral development of children, and therefore may not be published by the Media Service Provider as social service advertisement pursuant to Section 32 (4a) of the Media Act.” A judicial review against the decision is currently pending.

1.1.2.2. Media representation of LGBTQI topics and civil society actors

The so-called ‘child protection’ law has greatly impacted the representation of LGBTQI topics and the number of opportunities granted to LGBTQI organizations, experts, human rights defenders to appear in the media. The National Media and Infocommunications Authority in its Social Diversity report until 2019 mapped the representation of sexual and gender minorities: the report covering 2018 January-June was the last report where LGBTQI representation was included. It found that the public media had not provided an opportunity to LGBTQI people to express their opinion on any of the examined topics (e.g. the operation of the Government, domestic politics, foreign affairs, civil society, etc.), only the assessment of commercial media yielded measurable results.²⁹ Since 2019 no such report contained any overview – as a matter of fact, contained no mention – of LGBTQI representation in the media: the Media Council either ceased collecting these important data, or decided not to publish the data collected.³⁰

In 2023 representatives of LGBTQI organizations, including Háttér Society, were not invited to any program aired by the public media covering the rights of sexual and gender minorities, even when those opposing them could present their position.³¹

1.1.3. Threats to (the independence of) the fundamental rights institutional landscape (NHRIs, equality bodies, data protection authorities and similar bodies), incl. closure of fundamental rights bodies, legal changes, budget cuts and harassment

On December 1, 2020 the Equal Treatment Authority (ETA) was abolished and its tasks are now handled by the Office of the Commissioner for Fundamental Rights (OCFR), it operates as the Equal Treatment Directorate (ETD) within OCFR. A report by Háttér Society³² found that the fears of civil society that the merger would result in decreasing the level of protection from discrimination have been proved to be well-founded. Even though legislation requires that the ETD be headed by a director, no such person has been appointed for 31 months. The unit is headed by a lower level official. After the merger, the number of equal treatment cases decreased drastically (2020: 994, 2021: 351, 2022: 355). Case summaries formerly published on the ETA website for the period 2005-2011 as well as guidance issued by ETA

²⁹ The 2018 Social diversity report of the NMIA is available here: https://nmhh.hu/dokumentum/198894/tarsadalmi_sokszinuseg_hirmusorok_2018_1.pdf.

³⁰ The latest Social diversity report is available at: https://nmhh.hu/cikk/236654/Tarsadalmi_sokszinuseg_a_hirmusorokban_2022_januar_1_december_31.

³¹ For instance: <https://hirado.hu/kulfold/cikk/2023/04/22/emberkiserletnek-szomit-a-nematalakito-mutet-ellenpelda-lehet-a-magyar-gyermekvedelmi-torveny> or <https://hirado.hu/kulfold/cikk/2023/09/08/milliardos-osszegetet-szant-genderporpagandara-brusszel-unios-es-soros-penzbol>.

³² Available at: <https://en.hatter.hu/publications/equal-treatment-authority-abolishment-report-2023>

on the implementation of the legislation have not been transferred to the website of OCFR. For the period 2012-2020 the OFCR claims that all case summaries were transferred, but that is not the case, of the 27 sexual orientation / gender identity cases only 11 were transferred, 16 were not, the criteria used to decide which cases to republish and which ones not, are not known. Furthermore, as opposed to the earlier ETA case database, the OCFR website does not allow to filter cases by protected characteristic / type of discrimination / area of discrimination, making it difficult – if not impossible – the monitoring of the operation and case-law of ETD. Háttér Society's report found that the quality of the decisions regarding sexual orientation and gender identity significantly deteriorated after the merger: only selective protected grounds are considered, sexual orientation and gender identity are not among them. Similarly, investigations are only rarely initiated *ex officio* and if so, they fail to address structural problems that greatly impact the lives of those belonging to sexual and gender minorities.

1.2. Legislative and policy measures having an impact on the freedom of assembly/association/expression of civil society actors.

Act no. CXC of 2011 on national public education – as amended by the so-called 'child protection' law – authorizes the minister responsible for education³³ to issue a decree which designates the state organ maintaining the registry of experts and civil society organizations that may hold sex education classes in institutions of public education.³⁴ Further, it authorizes the minister to regulate in a decree the exact conditions of registration. However, no such decree has been issued as of September 18, 2023. Schools interpret the requirement broadly and apply it not only for sex education classes, but any classes that potentially touch open the issues of sexuality, such as human rights and anti-bullying classes. As a result, currently no civil society organization or external expert may hold such classes in institutions of public education – this constitutes a serious impairment of the right to freedom of expression of such experts, and the right of minors to receive objective, scientifically-sound and unbiased information on sexuality.³⁵

³³ Currently, the Minister for Interior.

³⁴ For a detailed assessment of the law and the sanctions introduced – among others in education – see Háttér Society's report, available at: <https://hatter.hu/kiadvanyaink/Report-on-Act-LXXIX-of-2021-and-its-implementation>.

³⁵ Informally, there is information on the existence of a 'white list' of organizations that have access to schools, but the content of the list is not known to Háttér Society.