

**OPINION OF THE HUNGARIAN LGBT ALLIANCE ON
THE DRAFT OF THE HUMAN RESOURCES
DEVELOPMENT OPERATIONAL PROGRAMME
(2014-2020) TO BE SUBMITTED FOR FORMAL
CONSULTATION TO THE EUROPEAN COMMISSION**

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Basic documents of the European Union consider the struggle against discrimination based on sexual orientation among the key goals of the European Union. According to Article 10 of the Treaty on the Functioning of the European Union: “In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.” Based on Article 19 the EU may take appropriate action to combat discrimination based on – among other grounds – sexual orientation. Article 21 of the Charter of Fundamental Rights specifically forbids discrimination based on sexual orientation.

The principle of non-discrimination also appears in the detailed rules of the regulation providing the funding for the Operational Programme (1303/2013/EU): Article 7 requires taking appropriate steps to prevent any discrimination, and Article 96(7) b) requires that Member States pay due attention to the needs of discriminated groups – among them groups discriminated because of their sexual orientation – during the preparation, design and implementation of the operational programme.

Despite these obligations, the needs of sexual and gender minorities (lesbian, gay, bisexual and transgender (LGBT) people) have not been addressed during the consultations on the draft of the Operational Programme, in setting investment priorities, or proposing specific measures, not even in measures proposed to address equal opportunities as a horizontal principle.

RESEARCH DATA

According to research data, LGBT people are currently one of the most rejected social groups in Hungary, their rejection is even higher than that of Roma people.¹ According to the 2012 research of the European Union Agency of Fundamental Rights (FRA)² 45% of LGBT respondents have experienced discrimination or harassment based on their sexual orientation or gender identity in the past 12 months; within the past five years 28% of them have been subjected to violence or serious threats.

As a result of the hostile social environment, mental health problems are particularly prevalent among them: a 2010 research by the Institute of Sociology of the Hungarian Academy of Sciences (MTA) and Háttér Society³ found that 42% of LGBT respondents had seriously considered suicide, and every seventh respondent had already attempted it. Tobacco, alcohol and drug use is significantly higher among them. In the past five years the number of newly screened HIV infections has doubled;⁴ according to experts a radical increase in the number of new HIV infections is expected in the coming years.

¹ ELTE Faculty of Social Science: *Kiktől félünk, kiket utasítunk el, kiket diszkriminálunk Magyarországon 2011-ben? [Who are we afraid of, whom do we reject, whom do we discriminate in Hungary in 2011?]* Available at: http://tatk.elte.hu/component/docman/doc_download/2012-eltetatkutatasijelentes

² Európai Unió Alapjogi Ügynöksége (FRA): *European Union lesbian, gay, bisexual and transgender survey 2012*. Detailed data available at: <http://fra.europa.eu/DVS/DVT/lgbt.php>. Subsequently referred to as: FRA 2012

³ Institute of Sociology of the Hungarian Academy of Sciences – Háttér Society: *A leszbikus, meleg, biszexuális és transznemű emberek társadalmi kirekesztettsége Magyarországon 2010 [The social exclusion of lesbian, gay, bisexual and transgender people in Hungary 2010]*. Detailed data available at: <http://www.hatter.hu/programjaink/kutatasok/lmbt-kutatas-2010>. Subsequently referred to as: MTA-Háttér 2010

⁴ National Centre for Epidemiology: *Epinfo*, 2014 Issue No. 39. Available at: <http://www.oek.hu/oekfile.pl?fid=5778>

The FRA research quoted above⁵ found that a high number of Hungarian LGBT youth is subjected to discrimination in schools (24%), among the highest rate in the surveyed European Union countries; 60% of them had experienced negative comments about sexual orientation or gender identity in the school environment. The MTA-Háttér research quoted above⁶ found that 39% of those subjected to school discrimination and bullying had reported skipping school to temporarily avoid bullying and/or the homophobic/transphobic school environment, which – as many international research have found⁷ – often leads to early school dropout.

According to the FRA research quoted above⁸ 16% of LGBT respondents experienced discrimination when applying for a job, this figure is significantly higher (31%) for transgender persons. This is also reflected in unemployment rates: according to the MTA-Háttér research⁹ 62% of transgender respondents reported having been unemployed for longer than three months during their lifetime.

The same research¹⁰ found that leaving the countryside to settle in the capital is significantly more common than in the overall population, 77% of respondents reported that it mattered to them how open they can be about their sexual orientation or gender identity when choosing a place to live.

Research conducted among public officials, law enforcement, educational and health care personnel¹¹ found that questions concerning LGBT people do not receive proper attention in the basic training of these professionals, and there is a scarcity of available further training on such issues.

LACK OF CONSULTATION

LGBT civil society organizations have not been included in any targeted form in the development of the Operational Programme: they have not been invited to the strategic planning meetings, to expert workshops, nor to the partnership consultation during the summer of 2013, or the expert forums organized in fall 2013. The Operational Programme has not been put on the agenda of the consultation mechanisms working with the participation of LGBT civil society organizations (PROGRESS National Anti-Discrimination Working Group, Human Rights Roundtable). The only opportunity to comment on the Operational Programme was the internet forum open to anyone to submit their opinion. This consultation method, however, cannot replace the targeted inclusion of an often discriminated social group in such an important consultation process.

⁵ FRA 2012

⁶ MTA-Háttér 2010

⁷ UNESCO: *Education Sector Responses to Homophobic Bullying*, p20. Available at: <http://unesdoc.unesco.org/images/0021/002164/216493e.pdf>

⁸ FRA 2012

⁹ MTA-Háttér 2010

¹⁰ FRA 2012

¹¹ European Union Agency for Fundamental Rights (FRA): *Social fieldwork research: Surveying LGBT people and authorities: qualitative component of public authorities' research*. Publication pending.

GENERAL EVALUATION OF THE PROGRAMME

In general it can be noted that the priorities of the Programme are in line with the general aims of the Programme to develop human capital and improve the social environment, however, the following two general objectives might contradict the aim of promoting equal opportunities.

Increasing the role of churches. Recognizing the valuable contribution of churches in the field of social, educational and health care provision, it is important to note that the majority of churches in Hungary are hostile towards the social inclusion of LGBT people; they play an active role in hindering the legal equality of same-sex couples and their families. It is particularly church-run schools and religious education classes organized by churches in public schools that promote prejudices towards LGBT people. Freedom of religion and consciousness cannot serve as a justification for inciting hatred towards minorities. To counter these tendencies a special attention should be paid to avoid discrimination based on sexual orientation and gender identity. The recent Hungarian practice of restricting access to certain forms of EU funding to church-run institutions or to give preference to such institutions when evaluating proposals is unacceptable.

Strengthening the social role of families. Not questioning the importance of family as a social institution, the recent phenomenon of using the “protection of families” as a pretext for giving preference to a certain forms of family (tradition family based on marriage between a woman and a man), and devaluing and discriminating against all other forms of family (most notably families of same-sex couples and their children) cannot be left unnoticed. This is clear from the adoption of an exclusionary notion of family in the Family Protection Act adopted at the end of 2012, which was later found unconstitutional by the Constitutional Court. In recent years various representatives of the Hungarian government made diverging statements on whether Hungarian law treats registered same-sex partners or cohabiting or registered same-sex partners raising children as family. There has been a case in recent years where a project proposal for a call to promote family values and raising children was turned down by arguing that the proposal to promote having children among same-sex couples “is hardly in line” with the aims of the call. It has to be explicitly noted already in the Operational Programme that calls for projects to promote founding a family and to offer support services to families shall respect the diversity of family forms and be available to all couples and families including same-sex couples and their families.

CONCRETE SUGGESTIONS

Employability of transgender persons. Transgender people should be included besides Roma and less able persons among those at risk of being permanently excluded from the labour market (p40, 45) as they are also at high risk of long-term unemployment.

Support for local LGBT communities. The availability of local LGBT community infrastructure (social events, support services) is crucial to prevent the migration of LGBT youth from the countryside to Budapest or abroad. Funding for local youth communities (p47) should give preference to programmes that aim to include LGBT youth and promote their civil activism.

LGBT programming in the media. Similarly to supporting the media presence of national minorities, Roma people and people with disabilities (p50), support for media programmes targeting and/or portraying LGBT people should also be supported, including the employment of media personalities open about their sexual orientation and/ or gender identity.

Strengthening LGBT identity. Besides supporting cultural initiatives to strengthen the identity of Roma people, other national minorities and migrants (p50), funding should be provided to

initiatives that deal with the history and culture of LGBT people, and to programmes that aim at providing a space for dialogue between the LGBT community and the majority society.

Victims of hate crimes. In line with the new victims' rights directive (2012/29/EU) and the conclusion of the Council meeting on 6 December 2013, the measure "Preventing victimization and becoming a perpetrator" (p51) should include among the specifically targeted forms of crimes hate crimes including homophobic and transphobic hate crimes besides those already mentioned (partnership violence, child abuse, human trafficking).

Improving the mental health of LGBT people. Programmes that aim at developing and restoring mental health (p75) should treat LGBT people, especially LGBT youth as a specific target group. Specific attention should be given to the needs of LGBT people when setting up and training the staff of the newly established Mental Health Centres.

Substance abuse of LGBT people. Awareness raising programmes aiming at preventing and reducing substance abuse (p76) should treat LGBT people as a specific target group.

HIV-testing. "Targeted testing of the population" (p77) should be extended to testing for HIV; men who have sex with men (MSM) should be treated as a specific target group, and LGBT civil society organizations should be involved in the implementation of such programmes.

Early school dropout of LGBT youth. Problem mapping about early school dropout (p16) should include school discrimination and bullying as a major factor contributing to early dropout, which affects LGBT youth in particular. LGBT youth should appear among the vulnerable groups in education (p128); inclusive educational methods and equal opportunity action plans (p129) should specifically include support for LGBT youth.

Promoting acceptance of LGBT persons. Topics for methodological and content development (p136) should include developing new educational methods and content to promote the social acceptance of minority groups, including LGBT people, besides the issue of environmental education (climate change, conservation and selective waste collection) already included in the Programme.

LGBT people as a disadvantaged group. Based on the research quoted above it is beyond doubt that LGBT people form a disadvantaged social group in Hungary. Thus the group should be included in the list of disadvantaged groups (p302) in the chapter on equal opportunities. It follows from this that national LGBT civil society organisations and/or their umbrella organization should be offered membership in the Horizontal Monitoring Committee.