

# LGBTQI RIGHTS IN HUNGARY

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

Hungary, UPR 3rd cycle, March 2021

This parallel report is aimed at assisting the Human Rights Council with Hungary's third UPR by providing information about the state of **LGBTQI rights** in the country since Hungary's last review in 2016.

**Submitting organizations:** The **Hungarian LGBT Alliance**, founded in 2009 is an umbrella organization bringing together LGBTQI organizations in Hungary. **Háttér Society**, founded in 1995, is the oldest and largest LGBTQI organization, providing key services such as legal aid and psycho-social counselling. **Transvanilla Transgender Association**, founded in 2011, is the only registered trans rights organization 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.

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## Implementation of recommendations

1. In the previous UPR cycle, Hungary received 6 recommendations specifically addressing sexual orientation or gender identity, and 29 general recommendations relevant for LGBTQI persons as well. Of these, Hungary supported 19, supported as already being implemented 15, and noted 1 recommendation. Of the 35 recommendations, **4 have been partially implemented, 31 have not been implemented**. Of the recommendations specifically addressing sexual orientation or gender identity, none has been implemented even partially. A table showing all 37 recommendations, their implementation status and an index on which part of the current report contains relevant information on the specific recommendation is attached.
2. As in case of the 1st UPR cycle, the Hungarian LGBT Alliance prepared a **document<sup>1</sup> identifying concrete measures to be taken** to implement the UPR recommendations. The written feedback of the relevant public bodies was discussed in the relevant working groups of the **Human Rights Roundtable** set up by the government in 2012. Of the 44 concrete measures suggested by the Alliance, 13 were supported, 3 were partially supported, and 27 were rejected. Of the 44 measures suggested, **only 2 have been fully and 5 partially implemented to date**.
3. While Hungary supported the recommendations to adopt a **comprehensive strategy and action plan** to combat discrimination based on sexual orientation and gender identity (128.118, 128.119, 128.120, 128.122), in the *Views on conclusions and/or recommendations* it was noted that “a new independent strategy is not envisaged”. Hungary supported the recommendation to provide adequate resources and functional independence to the Equal Treatment Authority (128.32), but the **Equal Treatment Authority was abolished** in November 2020 (see Para. 8). Hungary supported the development and implementation of a National Action Plan on Human Rights (128.23) and the development of human rights indicators (128.30), but no progress has been made in this field. The only major positive development was the **adoption of a police and prosecution protocol on responding to hate crimes** (128.107, see Para. 12).
4. The **human rights situation of LGBTQI people has significantly deteriorated** in recent years in Hungary with an increasingly hostile political and media climate (see Para. 6, 24), the adoption of laws restricting the rights of trans people (see Para. 10) and rainbow families (see Para. 36), the discriminatory implementation of existing laws (see Para. 20-22.), and the dismantling of institutions protecting the rights of LGBTQI people (see para 8).

## Right to equality and non-discrimination [Art. 2. UDHR, Art. 26 ICCPR, Art. 14. ECHR, Art.1 of the Protocol no.12, CEDAW/C/GC/28, Yogyakarta Principles, 2]

5. 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.<sup>2</sup> The government argues that ‘other status’ already covers these grounds. Further hierarchy between minority groups exists in the **Fundamental Law<sup>3</sup> and Civil Code<sup>4</sup> provisions on hate speech**, only national, ethnic, racial or religious groups are included in the closed list, **leaving LGBTQI people without any effective tools** against homophobic and transphobic hate speech.
6. Incitement to hatred against sexual and gender minorities is on the rise: in recent years not only extreme right wing politicians, but also **leading government officials made prejudiced statements** against these groups. House Speaker László Kövér likened homosexual couples raising children to pedophiles,<sup>5</sup> Prime Minister Viktor Orbán said homosexuals should “leave our children alone”,<sup>6</sup> the deputy leader of the Fidesz political group in Parliament called for banning the Pride march,<sup>7</sup> deputy Prime Minister Zsolt Semjén called for banning “gender propaganda” in the Fundamental Law.<sup>8</sup> No government officials distanced themselves from these statements.

7. These statements are particularly harmful as 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. In 2018 53% of Hungarians would not welcome a 'homosexual' person as their neighbor, an increase from 46% in 2011.<sup>9</sup> Less than half (48%) agree that lesbian, gay and bisexual people should have the same rights as heterosexuals, and only 16% agree that transgender persons should be able to change their documents to match their gender identity.<sup>10</sup> A 2019 poll by the European Union Agency for Fundamental Rights (FRA)<sup>11</sup> found that 49% of Hungarian LGBTI respondents, and 64% of trans respondents have felt discriminated against due to being LGBTI in the 12 months preceding the research, a sharp increase for trans people since 2012 (46%).<sup>12</sup>
8. On 1 December 2020, the Parliament adopted legislation to **abolish the Equal Treatment Authority (ETA)**,<sup>13</sup> Hungary's most important equality body set up in 2005. The ETA had a broad mandate to investigate cases of discrimination, among others, on grounds of sexual orientation and gender identity. In recent years the ETA was one of the last public bodies standing up for the rights of LGBTQI people in Hungary. No public consultation preceded the adoption of the law. From 1 January 2020, the tasks of ETA were taken over by the Commissioner for Fundamental Rights. Since he assumed office in September 2019, the **new Commissioner has failed to protect the rights of LGBTQI people**: he has not commemorated the International Day Against Homophobia and Transphobia in May 2020, and has not responded to official petitions submitted by LGBTQI organizations.<sup>14</sup> The Global Alliance of National Human Rights Institutions deferred the consideration of the Commissioner's accreditation due to significant concerns about the selection of the new Commissioner and his inactivity in relation to sensitive issues.<sup>15</sup>
9. There are **no government sponsored campaigns or concentrated efforts** to tackle discrimination. Unlike most other minority groups (Roma, gender, disability, youth), there is no strategy or action plan on LGBTQI equality. Besides the recommendation received as part of UPR (128.118, 128.119, 128.120, 128.122), the European Commission against Racism and Intolerance (ECRI) have also called for the **adoption of an action plan** to promote tolerance towards LGBTQI persons.<sup>16</sup>

**Recommendation 1:** Adopt a comprehensive strategy and action plan covering all spheres of life to tackle discrimination based on sexual orientation and gender identity.

**Recommendation 2:** Strengthen efforts to fighting 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.

**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.

**Right to privacy [Art. 8. ECHR, Art. 16. ICCPR, Art. 1, 2, 3, 15. CEDAW, Yogyakarta Principles, 3, 6]**

10. The Hungarian Parliament **banned legal gender recognition** on 19 May 2020.<sup>17</sup> 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 has to 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 condemned by the Hungarian Psychological Association,<sup>18</sup> the Equal Treatment Authority, the Council of Europe's Commissioner for Human Rights,<sup>19</sup> the European Parliament,<sup>20</sup> the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity,<sup>21</sup> the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the right to privacy, the Special Rapporteur on violence against women, its causes and consequences,<sup>22</sup> the Conference of INGOs of the Council of Europe,<sup>23</sup> UNAIDS,<sup>24</sup> and the UN High Commissioner for Human Rights.<sup>25</sup>

**Recommendation 4:** Abolish the ban on legal gender recognition, and develop a quick, transparent and accessible procedure based on self-determination for legal gender recognition.

**Right to life, liberty and security of the person [Art 3. UDHR, Article 6, 9 ICCPR, Art. 1-4, 6, General Recommendation #19 CEDAW, Yogyakarta Principles, 4, 5]**

11. **Homophobic and transphobic hate crimes are widespread** in Hungary: the 2019 EU FRA survey<sup>26</sup> found that 15% of Hungarian LGBTQI respondents had been physically or sexually attacked and 53% had been harassed in person due to being LGBTI in the 5 years preceding the research. A survey by Háttér<sup>27</sup> among LGBT people in 2016 found that 46% have witnessed or experienced in person or online hate speech or hate crime, but **only 10% of them reported** them to the authorities. 60% said making such a report was too complicated: there were too many steps involved, they had to tell their story multiple times and the officials were not prepared to deal with LGBT victims.
12. Since 2013 the **Criminal Code explicitly includes sexual orientation and gender identity in its hate speech and hate crimes provisions**.<sup>28</sup> In 2019 both the police<sup>29</sup> and the prosecution<sup>30</sup> service **adopted protocols** on responding to hate crimes with a list of bias indicators. The protocol expanded the **network of hate crime investigators** and besides the national and county level coordinators, there should also be a local hate crime mentor in each police precinct. The local mentors, however, were appointed in a haphazard way, many of them **did not receive proper training**, they have to carry out this task on top of their regular work, and there are still many precincts / counties without an appointed official. There is no similar network at the prosecution service. **Data collection on crimes has been improved**: since July 1, 2019 it is possible to mark any crime as a hate crime,<sup>31</sup> and record if it was based on sexual orientation or gender identity. While there is a public interface to access crime statistics,<sup>32</sup> hate crime specific fields are not available in the public interface. As opposed to the adequate legislative framework, law enforcement agencies often continue to **disregard the hate motivation** treating hate crimes as regular crimes, resulting in less efficient investigation and lower sanctions.<sup>33</sup>
13. There are **no publicly funded victim support services** tailored to the needs of hate crime victims.<sup>34</sup> 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 Háttér, the relevant authorities first agreed, and then declined participation.<sup>35</sup> Access to free legal aid is limited due to bureaucratic requirements and shortage of lawyers and NGOs contracted to provide such service. Research among healthcare providers<sup>36</sup> found that they are not prepared to offer proper care for victims of hate crimes, especially regarding the mental health impacts of such crimes. 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.<sup>37</sup> As part of the review of the 2nd cycle UPR recommendations in 2018, the Ministry of Interior supported

recommendations made by the Hungarian LGBT Alliance to set up a national coordination mechanism and to adopt a hate crime strategy and action plan, but no progress has been made.

**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.

### **Right to employment [Art 6. ICESCR, Art. 11, 13, 16 [1], [h] CEDAW, Yogyakarta Principles, 12]**

14. According to the 2019 FRA LGBT survey, **14% of Hungarian LGBTI respondents faced discrimination when looking for work**, and 17% at the workplace in the 12 months preceding the research. These numbers are particularly high taking into consideration that **45% of respondents are not out to any colleague at work**, and only 12% are out to all. A study by Háttér in 2016<sup>38</sup> found that 54% maintained at work that they had different-sex partners for fear of being discriminated, and 44% of respondents felt lonely at work because of being LGBTQI.
15. According to the 2019 FRA survey **trans people** are nearly twice as likely to report discrimination in the field of employment: 22% experienced such behavior when looking for work, and 42% while already at work. According to the 2016 study by Háttér,<sup>39</sup> trans people were much more likely to be unemployed at the time of the survey (12% v. 5%); 62% of trans respondents have experienced **long-term unemployment** throughout their life.
16. The Equal Treatment Act<sup>40</sup> and the Labor Code<sup>41</sup> 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 2016 study by Háttér<sup>42</sup> found that while 87% of HR professionals surveyed knew that Hungarian legislation prohibits discrimination based on sexual orientation and gender identity in the field of employment, only **29% knew the employer has to intervene in case of homophobic and transphobic harassment** among colleagues, and only 18% provide the same benefits for same-sex partners as they do for different-sex spouses.
17. Although employers can introduce so-called **equal opportunity plans**, only the public sector is obliged to do so. The 2016 Háttér survey<sup>43</sup> found that only 18% of LGBTQI respondents reported that their employer had equal opportunities plans or non-discrimination policies.

**Recommendation 7:** 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 8:** Develop programs improving the employability of trans persons to prevent long-term unemployment including trainings and financial incentives to employ them.

**Recommendation 9:** Introduce financial incentives for employers to provide diversity trainings for their employees specifically including LGBTQI issues.

**Right to freedom of expression, association and peaceful assembly [Art. 20. UDHR, Art. 21. ICCPR, Art. 10 and 11. ECHR, Yogyakarta Principles, 20]**

18. Pride Marches have **not been banned since 2012**. The police offer adequate protection for the march itself, but attacks against participants coming to or leaving the Pride March still occur. Between 2014 and 2018, the organizers criticized the police for over-securitizing the march; in 2019 the court agreed with the organizers, and ordered the police not to use excessive security measures.<sup>44</sup> Politicians of the extreme right-wing Mi Hazánk,<sup>45</sup> as well as deputy leader of the Fidesz parliamentary group István Boldog<sup>46</sup> called for banning the pride march. The government has not condemned any of these statements.
19. Due to the security measures at the march, extreme right-wing groups changed their tactics in 2019: they no longer attack the march itself, but **disrupt smaller community events** of the Budapest Pride Cultural Festival such as panel discussions, movie screenings or workshops, especially events linked to the 'Getting to Know LGBT People' school program run by Labrisz Lesbian Association and Szimpozium Association. Extremists associated with the Hatvannégy Vármegye Ifjúsági Mozgalom and Mi Hazánk enter the premises of the events without permission (in some cases by using violence against the organizers who try to keep them outside), harass and threaten the participants, damage the premises, and disrupt the events by shouting or banging on the door. 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 November 2020 the Budapest Regional Court found that such inactivity on behalf of the police was unlawful.<sup>47</sup> In some cases the police started criminal investigations against those disrupting the events, but years after the incidents, no charges have been made against the perpetrators yet.
20. **Freedom of expression** by LGBTQI NGOs and companies supporting their equality have also been under attack by extremist groups, and most recently by public bodies as well. In October 2019, **Coca Cola was imposed a fine of 500.000 HUF** (1.400 EUR) for featuring a gay and a lesbian couple in their billboard campaign #loveislove.<sup>48</sup> The consumer protection authority argued that the portrayal of same-sex couples in advertisements damages the physical, mental, emotional, or moral development of children and adolescents. Háttér launched cases at the Equal Treatment Authority, the Commissioner for Fundamental Rights and the prosecution service, but no public bodies were willing to challenge the decision of the consumer protection authority.
21. In September 2020, Labrisz published a fairy tale collection called **Fairyland is for Everyone** (*Meseország mindenkié*) with diverse (including LGBT+) characters. Mi Hazánk MP Dóra Dúró shredded the book publicly,<sup>49</sup> the party organized a demonstration in front of the office of Labrisz,<sup>50</sup> a conservative online platform called for a boycott against bookshops where the book was sold.<sup>51</sup> Posters and stickers were placed on bookshops saying "homosexual propaganda literature harming children is sold here".<sup>52</sup> Prime Minister Viktor Orbán said homosexuals should "leave our children alone".<sup>53</sup> Minister Gergely Gulyás threatened professionals using the book in educational settings with criminal charges.<sup>54</sup> In January 2021, the consumer protection authority **ordered that Labrisz change the cover of the book** to clearly state that it includes "patterns of behavior deviating from traditional gender roles".<sup>55</sup> Several local governments (Mezőkövesd,<sup>56</sup> Budapest XXI. Csepel,<sup>57</sup> Diósd,<sup>58</sup> Veszprém<sup>59</sup>) **banned the use of the storybook** in their educational institutions, and one local government (Nagykátán) adopted a ban on "LGBTQ-propaganda" in all of its institutions.<sup>60</sup> The Government County Office found the ban of Mezőkövesd unlawful, arguing that the local government had no legal power to issue such a ban.<sup>61</sup>

22. 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 advertisement before 9pm.<sup>62</sup> The Council argues the video featuring same-sex families and experts was harmful for children under age 16. 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. E.g. the Media Council found no violation when a TV program described same-sex sexual attraction as sickness, deviance and distortion of personality;<sup>63</sup> when a TV program likened same-sex families to dog poo;<sup>64</sup> when a guest on a TV program expressed his support for illegally removing the “faggot flag” from public buildings, which is a symbol for “sick and deranged life form.”<sup>65</sup> The Media Council, however, did impose a 100.000 HUF fine when a left-wing mayor criticized the hate-speech of the governing parties, which he described as a “fearful bunch of white, Christian, heterosexual men”.<sup>66</sup>
23. Not only companies and organizations, but also individuals are put under immense pressure to keep silent about LGBTQI issues. If someone speaks up against growing political hostility they **risk losing their jobs or livelihood**. For example, in March 2021 two sport reporters were fired from a pro-government commercial TV channel after they expressed their support for a soccer player who joined the #familyisfamily campaign calling for the social acceptance of same-sex families and criticizing recent amendments to adoption legislation (see Para. 36).<sup>67</sup>
24. 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 portals such as Pesti Srácok, Origo, 888.hu, Vasárnap.hu 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”.<sup>68</sup>
25. LGBTQI organizations find it extremely **difficult to receive public funding**. Legislation stigmatizing foreign funded organizations<sup>69</sup> is still in force, even though it has been found to violate EU law.<sup>70</sup> 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. in case of Tempus Foundation regarding a proposal by Háttér Society.<sup>71</sup>

**Recommendation 10:** Abolish local ordinances restricting freedom of expression of LGBTQI people and NGOs, and refrain from the discriminative application of existing laws to limit the portrayal of LGBTQI people.

**Recommendation 11:** Ensure appropriate protection by the police for LGBTQI community events.

**Recommendation 12:** Ensure an enabling environment for LGBTQI NGOs by avoiding stigmatizing statements and providing appropriate funding for their work.

### **Right to education [Art. 26 UDHR, Art. 13 ICESCR, Art. 10 CEDAW, Yogyakarta Principles, 16]**

26. **School bullying** against LGBTQI youth is very widespread in Hungary. A survey by Háttér among LGBTQI youth aged 13-21<sup>72</sup> have found that 63% of them have been subjected to verbal harassment, 22% to physical harassment and 13% to physical assault during the school year

2016-2017. Two thirds (66%) of LGBTQI students did not report such incidents, the majority of those who did report experienced **inactivity from the school staff**. A 2020 survey among teachers<sup>73</sup> found that only 13% of them thought their school was fully prepared to prevent and respond to bullying. Only 31% responded that their school had teachers trained to handle bullying, 26% that they had a protocol to follow in case of bullying, 20% that they recorded bullying incidents. This is largely explained by the fact that there is currently **no obligation for educational institutions to implement policies against bullying**.

27. The latest **National Core Curriculum**, introduced in 2020,<sup>74</sup> **lacks LGBTQI topics** that could contribute to fostering an inclusive school environment and boosting the self-esteem of LGBTQI students. Instead, it keeps LGBTQI people completely invisible and works to indoctrinate children and young people with Christian nationalist, traditionalist, heteronormative views in which gender equality and gender and sexual diversity are not considered to be values. By propagating a narrow, exclusive heteronormative nuclear family model with traditional gender roles and labor division as the ideal, a great number of families are excluded from this normative framework. Since textbook publishing was monopolized by the state in 2013, all textbooks follow closely the ideology of the National Core Curriculum.
28. NGOs Labrisz and Szimpozion operate a **school education program** entitled 'Getting to Know LGBT People',<sup>75</sup> but they find it **increasingly difficult to access schools**. In 2019, Mi Hazánk MP Dóra Dúró proposed a parliamentary resolution to ban such programs from schools.<sup>76</sup> While the proposal was voted down, a new provision was added to the National Public Education Act according to which the headmaster of a school 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.<sup>77</sup> Even though the provision looks neutral, the circumstances of its adoption (in direct response to the proposal by Mi Hazánk) and the emerging interpretation of public bodies that any portrayal of LGBTQI people is detrimental to children (see Para. 20-22), the provision is likely to **discourage headmasters from allowing such programs in schools**. In December 2020, an **amendment to the Fundamental Law** was adopted adding a new provision stating that "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".<sup>78</sup> This will have a chilling effect and further deter schools from discussing LGBTQI issues in a neutral or positive light, and force parents and educational institutions to educate children in line with the government's understanding of sex and gender.

**Recommendation 13:** Amend the law on the National Core Curriculum and the Framework Curricula to include information on sexual orientation/gender identity.

**Recommendation 14:** Ensure that all textbooks and other educational materials authorized for use in public education cover sexual orientation and gender identity in an objective manner, and promote tolerance and respect for LGBTQI persons.

**Recommendation 15:** Issue a model policy of non-discrimination and anti-bullying for educational institutions with reference to sexual orientation/gender identity and expression.

**Recommendation 16:** Integrate issues of homophobic and transphobic bullying into anti-violence and safe school programs.



**Right to health [Art. 25. UDHR, Art. 12(1) ICESCR, CESCR's General Comment #14, 20, Art. 12, 11[f] General Rec. #19, #24 CEDAW, Yogyakarta Principles, 17, 18]**

29. 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**. 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 taking into consideration 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 2019<sup>79</sup> confirmed the same: 94% of respondents had heard stereotypes and prejudiced views about LGBTI people during their work or studies. 52% witnessed humiliation and intimidation, and 23% rejection of service based on sexual orientation, gender identity or sex characteristics.
30. The ban of legal gender recognition (see Para. 10) 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, and prior to the ban on legal gender recognition it was also a prerequisite for changing one's name and official documents, despite a supportive statement of mental depathologization made by the Health Professional Colleges, Psychiatric and Psychotherapeutic Sections (*Egészségügyi Szakmai Kollégium Pszichiátriai és pszichoterápiás Tagozat*).<sup>80</sup> 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.<sup>81</sup>
31. It is legally required to certify and register births in 30 days as either male or female. Research by Háltér<sup>82</sup> 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. 10) 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.
32. The EMIS 2017 study<sup>83</sup> found that 20% of Hungarian men who have sex with men suffered from **moderate or severe levels of depression**, and **24% had suicidal ideation** in the 2 weeks preceding the research. The official medical protocol on suicide prevention<sup>84</sup> mentions homosexual, bisexual and transsexual people as vulnerable groups at tertiary risk of suicide, but contains no specific measures on how to deal with the suicidality of LGBTQI people.
33. The International Federation for Therapeutic and Counselling 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**.<sup>85</sup> The programs claimed that same-sex attraction is a sickness, a distortion of personality, and that voluntary therapies turning gays into heterosexual are legitimate and successful. The Hungarian Psychological Association condemned these ‘therapies’ as unscientific and harmful.<sup>86</sup>

**Recommendation 17:** Introduce sensitizing training for doctors and other medical staff on the specific health needs of LGBTQI persons 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 LGBTQI persons, and LGBTQI youth in particular, as a specific target group in suicide prevention programs.

### **Right to family [Art. 17. ICCPR, Yogyakarta Principles, 24]**

34. Cohabitation among same-sex couples has been recognized since 1996<sup>87</sup> and since 2009 same-sex couples can enter into **registered partnership**<sup>88</sup> granting them most rights and duties that come with marriage. Notable exceptions include the right to take the partner's name, access to assisted reproduction technologies, 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**.
35. Since 2012, the Fundamental Law contains a heterosexual definition of marriage,<sup>89</sup> and since 2013 the Fundamental Law defines "family" solely with reference to marriage and parent-child relationships.<sup>90</sup> In December 2020, a **new provision was added to the Fundamental Law** stating that "The mother is female, the father is male."<sup>91</sup> The legislative purpose of this amendment is unknown, but it has already been referred to when restricting adoption by non-married couples (see Para. 36).
36. In December 2020 the Parliament adopted amendments to the Civil Code and the Child Protection Act that **restrict adoption by non-married couples**.<sup>92</sup> 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 does not completely outlaw adoption by a non-married person, but it is only possible with a special permission by the Minister of Family Affairs; the decision on who is a suitable parent will not be made by professionals but by a politician. The current minister made it clear in a public interview<sup>93</sup> that the aim of the amendment was to make sure that persons living in same-sex partnership cannot adopt. No public consultation preceded the adoption of the law. Adoption specialists and child rights advocates including UNICEF Hungary criticized the move, arguing that it would result in longer adoption procedures, and by decreasing the number of adoptive parents it would force more children to live out of families or be adopted abroad.<sup>94</sup>
37. 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.<sup>95</sup>
38. The lack of recognition for same-sex parents creates **legal and practical problems** for the growing number of children living with same-sex parents: they cannot inherit from their non-biological parent without a will, and if there is a will their inheritance tax is significantly higher; in case the parents' relationship deteriorates 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<sup>96</sup> found that the large majority of rainbow families are not out to doctors, kindergartens, schools, workplaces or child protection authorities. They have most likely been discriminated against or have received prejudiced comments at child protection services, workplaces and maternity wards. The legal aid service of Háltér dealt with cases where a child was not admitted to a school because he was raised by two women, where childcare allowance

(GYED) or family allowance (*családi pótlék*) were denied from same-sex parents, and where people living in same-sex partnership were discriminated during the (individual) adoption procedure.

**Recommendation 22:** Remove discriminatory differences between registered partnership and marriage, and provide legal recognition to same-sex parenting.

**Recommendation 23:** Take measures to prevent discrimination against same-sex couples and their children in the fields of education, healthcare and access to social benefits.

**Recommendation 24:** Remove discriminatory legislative restrictions for lesbian couples in accessing assisted reproduction technologies.

### **Right to asylum [Art. 1, 3, 1951 Geneva Convention, UNHCR Guidelines no. 9 (2012), Yogyakarta Principles, 23]**

39. While sexual orientation is specifically mentioned in the Asylum Act as a ground for international protection, **gender identity is not**.<sup>97</sup> In 2014 the Government circulated a draft for public consultation that would have specifically included gender identity as well, but the draft was never submitted to Parliament. Lower level legislation requires that in case an applicant's gender identity differs from their gender recorded in their documents, the former should be taken into consideration for placement and choosing the gender of case workers and translators.<sup>98</sup> The **information materials and the website** of the National Directorate-General for Aliens Policing (OIF) fail to mention sexual orientation, gender identity and expression as recognized grounds of persecution.
40. Hungary used to require scientifically unfounded **projective psychological** tests to assess the sexual orientation of asylum seekers. This practice was declared by the ECJ to violate the human rights of asylum seekers and has since been discontinued.<sup>99</sup>
41. Even before the ban on legal gender recognition (see Para. 10), residents without Hungarian citizenship including recognized refugees **could not change their name and gender marker on official documents**. The Constitutional Court found this to violate the fundamental rights of trans people,<sup>100</sup> but the legislator has not adopted legislation by the deadline set by the Court (December 31, 2018). Later the ECtHR also found that the lack of such procedure violates the right to respect for private life under Article 8 of the European Convention on Human Rights.<sup>101</sup> The just satisfaction was paid to the applicant, but he still has to live with papers not in line with his gender identity.
42. For several years, asylum seekers were kept in temporary accommodations next to the border ('transit zones') until their application was assessed. In response to a judgment delivered by the CJEU criticizing the Hungarian asylum procedure,<sup>102</sup> the transit zones were closed down. New legislation has been adopted that requires applicants to submit a letter of intent at a few designated embassies outside of Hungary before they can legally apply for asylum within Hungary.<sup>103</sup> This makes the **Hungarian asylum system practically inaccessible** to anyone.

**Recommendation 25:** Amend the Asylum Law to specifically include gender identity and expression as grounds of persecution.

**Recommendation 26:** Provide information, safe housing and appropriate medical and social services for LGBTQI asylum seekers.

## Endnotes

- <sup>1</sup> [http://lmbtszovetseg.hu/sites/default/files/mezo/file/lmbtszov\\_uprlepese\\_k\\_2017jun.pdf](http://lmbtszovetseg.hu/sites/default/files/mezo/file/lmbtszov_uprlepese_k_2017jun.pdf)
- <sup>2</sup> Fundamental Law of Hungary, Art. XV:2
- <sup>3</sup> Fundamental Law of Hungary, Art. IX:5
- <sup>4</sup> Act no. V. of 2013 on the Civil Code, Art. 2:54(5)
- <sup>5</sup> [https://index.hu/belfold/2019/05/15/kover\\_laszlo\\_forum\\_normalis\\_homoszexualisok\\_pedofilia](https://index.hu/belfold/2019/05/15/kover_laszlo_forum_normalis_homoszexualisok_pedofilia)
- <sup>6</sup> <https://telex.hu/belfold/2020/10/04/orban-viktor-kossuth-radio-interju-koronavirus-jarvany-meseorszag-mesekonvy>
- <sup>7</sup> <https://444.hu/2019/06/14/a-pride-betiltasat-kovetelte-a-fidesz-kepviseloje-a-parlamentben>
- <sup>8</sup> [https://index.hu/belfold/2020/11/04/semjen\\_zsolt\\_genderpropaganda\\_kdnp/](https://index.hu/belfold/2020/11/04/semjen_zsolt_genderpropaganda_kdnp/)
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- <sup>10</sup> <https://ec.europa.eu/comfrontoffice/publicopinion/index.cfm/survey/getsurveydetail/instruments/special/surveyky/2251>
- <sup>11</sup> <https://fra.europa.eu/en/data-and-maps/2020/lgbti-survey-data-explorer>
- <sup>12</sup> <https://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-fundamental-rights-lesbian-gay-bisexual-and>
- <sup>13</sup> Act no. CXXVII of 2020 on amending laws to strengthen the enforcement of the principle of equal treatment
- <sup>14</sup> <https://helsinki.hu/en/assessment-of-the-activities-and-independence-of-hungarys-ombudsperson/>
- <sup>15</sup> <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Report%20October%202019%20English.pdf>
- <sup>16</sup> <https://rm.coe.int/fifth-report-on-hungary/16808b57e8>
- <sup>17</sup> 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
- <sup>18</sup> <https://www.facebook.com/230520050844602/photos/a.444597792770159/659477584615511/>
- <sup>19</sup> <https://www.facebook.com/CommissionerHR/posts/1512688642240374>
- <sup>20</sup> [https://www.europarl.europa.eu/doceo/document/TA-9-2020-0054\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2020-0054_EN.html); [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0089\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0089_EN.html)
- <sup>21</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25844>
- <sup>22</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25172>
- <sup>23</sup> [https://www.coe.int/en/web/ingo/newsroom/-/asset\\_publisher/BR9aikJBXnwX/content/call-to-hungary-to-align-legal-gender-recognition-with-internationally-recognized-human-rights-standards](https://www.coe.int/en/web/ingo/newsroom/-/asset_publisher/BR9aikJBXnwX/content/call-to-hungary-to-align-legal-gender-recognition-with-internationally-recognized-human-rights-standards)
- <sup>24</sup> [https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2020/may/20200508\\_hungary](https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2020/may/20200508_hungary)
- <sup>25</sup> <https://www.ohchr.org/Documents/Issues/LGBT/LGBTpeople.pdf>
- <sup>26</sup> <https://fra.europa.eu/en/data-and-maps/2020/lgbti-survey-data-explorer>
- <sup>27</sup> <https://hatter.hu/kiadvanyaink/uniform>
- <sup>28</sup> Act no. C of 2012 on the Criminal Code, Arts. 332 and 216
- <sup>29</sup> Order no. 30/2019. (VII. 18.) of the National Chief of Police on the implementation of police tasks related to the handling of hate crimes
- <sup>30</sup> Circular no. NF 1621/2015/3. of the Office of the Prosecutor General
- <sup>31</sup> [https://bsr.bm.hu/document/open?url=https://bsr-sp.bm.hu%2fBSRVIR%2fENyUBS18+Kitoltesi+Szabalyzat+2019.12.01\\_ver20191125125646.pdf&id=64](https://bsr.bm.hu/document/open?url=https://bsr-sp.bm.hu%2fBSRVIR%2fENyUBS18+Kitoltesi+Szabalyzat+2019.12.01_ver20191125125646.pdf&id=64)
- <sup>32</sup> <https://bsr.bm.hu/>
- <sup>33</sup> [https://gyuloletellen.hu/sites/default/files/wqahc\\_rule9\\_submission\\_cm\\_191024.pdf](https://gyuloletellen.hu/sites/default/files/wqahc_rule9_submission_cm_191024.pdf)
- <sup>34</sup> <https://hatter.hu/kiadvanyaink/running-through-hurdles-obstacles-in-the-access-to-justice-for-victims-of-anti-lgbti>
- <sup>35</sup> Letter from the Head of the Legal Assistance Department of the Ministry of Justice to Háttér Society dated 26 July 2018
- <sup>36</sup> [https://gyuloletellen.hu/sites/default/files/shelter\\_national\\_report\\_hungary\\_en.pdf](https://gyuloletellen.hu/sites/default/files/shelter_national_report_hungary_en.pdf)
- <sup>37</sup> <https://rm.coe.int/fifth-report-on-hungary/16808b57e8>
- <sup>38</sup> <https://hatter.hu/kiadvanyaink/they-can-be-anything-employment-and-workplace-discrimination-against-lgbtqi-people-in>
- <sup>39</sup> <https://hatter.hu/kiadvanyaink/kirekesztesarcai>
- <sup>40</sup> Act no. CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities
- <sup>41</sup> Act no. I. of 2012 on the Labor Code
- <sup>42</sup> <https://en.hatter.hu/publications/they-can-be-anything-employment-and-workplace-discrimination-against-lgbtqi-people-in>
- <sup>43</sup> <https://en.hatter.hu/publications/they-can-be-anything-employment-and-workplace-discrimination-against-lgbtqi-people-in>

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- <sup>44</sup> Budapest Regional Court 103.K.700.197/2019/6.
- <sup>45</sup> <https://mihazank.hu/toroczka-a-devianciat-nem-unnepelni-hanem-kezeltetni-kell/>
- <sup>46</sup> <https://24.hu/kozelet/2019/06/14/pride-betiltas-fidesz/>
- <sup>47</sup> Budapest Regional Court 11.K.704.923/2020/15.
- <sup>48</sup> Pest County Government Office PE-06/01/01076-10/2019
- <sup>49</sup> <https://hirado.hu/belfold/cikk/2020/09/30/duro-dora-nyilvanosan-ledaralta-az-lmbtg-mesekonyvet>
- <sup>50</sup> [https://mandiner.hu/cikk/20201004\\_demonstraciott\\_tartott\\_a\\_labrisz\\_leszbikus\\_egyesulet\\_szekhaza\\_elott\\_a\\_mi\\_hazank\\_mozgalom](https://mandiner.hu/cikk/20201004_demonstraciott_tartott_a_labrisz_leszbikus_egyesulet_szekhaza_elott_a_mi_hazank_mozgalom)
- <sup>51</sup> <https://citizengo.org/hu/fm/182339-vegye-le-kinalatabol-az-lmbtg-mesekonyvet-pagony-gyerekkonyvesbolt-tobbi-arusitohely>
- <sup>52</sup> <https://mihazank.hu/a-mi-hazank-peldat-mutat-a-labrisz-leszbikus-egyesuletnek/>
- <sup>53</sup> <https://telex.hu/belfold/2020/10/04/orban-viktor-kossuth-radio-interju-koronavirus-jarvany-meseország-mesekonyv>
- <sup>54</sup> <https://telex.hu/belfold/2020/10/08/meseország-mindenkie-ovoda-gulyas-gergely-kiskorua-veszelyeztetese>
- <sup>55</sup> Budapest Government Office BP/2200/00868-2/2021
- <sup>56</sup> <https://www.facebook.com/mezokovesdkepekben/photos/a.548748668621371/1711427619020131/>
- <sup>57</sup> <https://444.hu/2020/10/08/csepelen-az-osszes-ovodaban-betiltottak-a-meseország-mindenkie-konyvet>
- <sup>58</sup> <https://kdn.hu/hirek/kdn-keresere-diosdon-nem-lesz-meseország-mindenkie>
- <sup>59</sup> <https://magyarnemzet.hu/belfold/veszprem-sem-ker-a-mesekonyvbe-bujtatott-lmbtg-propagandabol-8944853/>
- <sup>60</sup> [https://index.hu/belfold/2020/11/06/nagykata\\_szabo\\_akos\\_lmbtg/](https://index.hu/belfold/2020/11/06/nagykata_szabo_akos_lmbtg/)
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- <sup>62</sup> Media Council MN/31406-9/2020
- <sup>63</sup> Media Council 221/2019. (II. 19.)
- <sup>64</sup> Media Council 568/2019. (V. 14.)
- <sup>65</sup> Media Council MN/23195-6/2019
- <sup>66</sup> Media Council 405/2020. (IV.28.)
- <sup>67</sup> <https://index.hu/sport/2021/03/22/nem-hrutka-az-egyetlen-akit-elkoszontek-a-sportmediaban/>
- <sup>68</sup> <http://www.miniszterelnok.hu/szamizdat-6/>
- <sup>69</sup> Act no. LXXVI of 2017 on the transparency of foreign funded organizations
- <sup>70</sup> European Court of Justice C-78/18
- <sup>71</sup> Applications no. 2020-2-HU01-KA205-079070 and 2020-3-HU01-KA205-093799
- <sup>72</sup> <https://en.hatter.hu/publications/supportive-friends-unprepared-institutions>
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- <sup>74</sup> 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.)
- <sup>75</sup> <http://melegsegmegismeres.hu/>
- <sup>76</sup> Motion for a parliamentary resolution H/12067
- <sup>77</sup> Act no. CXC of 2011 on the national public education, Art. 3:9a
- <sup>78</sup> Fundamental Law of Hungary, Art. XVI
- <sup>79</sup> <https://hatter.hu/kiadvanyaink/open-doors-report>
- <sup>80</sup> Letter no. 22951-1/2013/EGP of the Ministry of Human Capacities to Transvanilla Transgender Association
- <sup>81</sup> Act no. LXXXIII of 1997 on mandatory health insurance, Art. 23 k); Government Decree no. 284/1997. (XII. 23.), Appendix I, par. 6.
- <sup>82</sup> <https://hatter.hu/kiadvanyaink/bringin-jelentes>
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- <sup>84</sup> [https://www.hbcs.hu/uploads/jogszabaly/2582/fajlok/EMMI\\_szakmai\\_iranyelve\\_felnottkori.pdf](https://www.hbcs.hu/uploads/jogszabaly/2582/fajlok/EMMI_szakmai_iranyelve_felnottkori.pdf)
- <sup>85</sup> Duna TV 21 January 2018; M5 16 January 2019; M5 11 September 2019
- <sup>86</sup> <https://www.facebook.com/230520050844602/posts/387422465154359/>
- <sup>87</sup> Currently: Act no. V of 2013 on the Civil Code, Art. 6:514(1)
- <sup>88</sup> Act no. XXIX of 2009 on registered partnership and related legislation and on the amendment of other statutes to facilitate the proof of cohabitation
- <sup>89</sup> Fundamental Law of Hungary, Art. L)
- <sup>90</sup> 4th Amendment to the Fundamental Law, amending Art. L)

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<sup>91</sup> 9th Amendment to the Fundamental Law, amending Art. L)

<sup>92</sup> Act no. CLXV of 2020 on amending justice-related laws, amending Act no. V of 2013 on the Civil Code, Art. 4:121

<sup>93</sup> <https://index.hu/gazdasag/2021/02/19/novak-katalin-miniszter-csalad-index/>

<sup>94</sup> <https://unicef.hu/ezt-tesszuk-itthon/gyermejjogi-koalicio/a-gyermejjogi-civil-koalicio-allasfoglalasa-az-orokbefogadas-uj-szabalyairol>

<sup>95</sup> Act no. CLIV of 1997 on health care, Art. 167:1

<sup>96</sup> <https://hatter.hu/kiadvanyaink/szivarvanycsaladok-2017>

<sup>97</sup> Act no. LXXX of 2007 on asylum, Art. 60

<sup>98</sup> Government Decree 301/2007. (XI. 9.) on implementing Act no. LXXX of 2007 on asylum, Arts. 22, 33(4), 42

<sup>99</sup> European Court of Justice C-473/16

<sup>100</sup> Constitutional Court 6/2018. (VI. 27.)

<sup>101</sup> European Court of Human Rights Rana v. Hungary (40888/17)

<sup>102</sup> Court of Justice of the European Union C 924/19 PPU, C 925/19 PPU

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