SITUATION OF LGBTI PERSONS IN HUNGARY

Brief Assessment of the Implementation of the Cycle 2 of the UPR: Hungary received 6 recommendations specifically addressing sexual orientation or gender identity, and 29 general recommendations relevant for LGBTQI persons as well. . Of the recommendations specifically addressing sexual orientation or gender identity, none has been implemented even partially. Of the 35 recommendations, 4 have been partially implemented, 31 have not been implemented. 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), no such document has been adopted. Hungary supported the recommendation to provide adequate resources and functional independence to the Equal Treatment Authority (128.32), but the ETA was abolished in November 2020. 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).

National framework: While the national report claims that the Constitution (Fundamental Law) "explicitly forbids/prohibits discrimination based on sexual orientation", this is not true, it only prohibits it through the category of "other status." The Constitution contains several discriminatory provisions on LGBTQI people such as that "Hungary shall protect the institution of marriage as the union of one man and one woman established by voluntary decision, and the family as the basis of the survival of the nation. Family ties shall be based on marriage or the relationship between parents and children. The mother shall be a woman, the father shall be a man." and "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." There is a comprehensive equal treatment legislation banning discrimination based on sexual orientation and gender identity in most areas of life, but the Equal Treatment Authority established in 2005 to enforce it was abolished in 2020, and its tasks were taken over by a new Commissioner for Fundamental Rights appointed in 2019, who is completely inactive with regards to LGBTQI people. There is no comprehensive strategy or action plan to tackle discrimination based on sexual orientation and gender identity. The human rights situation of LGBTQI people has quickly deteriorated in recent years, and especially in the past few months after the submission of our shadow report. Leading government officials and pro-government media now regularly make hostile, prejudiced statements against these groups. The Parliament and the Government adopted a series of legislations introducing discriminatory restrictions on the rights of LGBTQI people (ban on legal gender recognition, restriction of adoption, anti-LGBTQI provisions in the anti-pedophilia law), authorities started to enforce existing laws in a discriminatory manner, and an anti-LGBTQI referendum has been initiated by the government.

Challenges	**Cases, facts, comments, impact**
Governmental hate campaign targeting LGBTQI people and restrictive legislation recently approved	In May 2019 the Hungarian government launched a coordinated attack on LGBTQI rights in Hungary claiming that any mention of LGBTQI issues (which they call 'LGBTQ propaganda', 'LGBTQ craze', or 'gender ideology') is harmful to children. They adopted a series of laws including amendments to the Constitution (Fundamental Law) [9th Amendment to the Fundamental Law], ban of legal gender recognition, restricting access of minors to LGBTQI content and restricting adoption [see later for references]. In July 2021 an anti-LGBTQI referendum was initiated by the Government, part of the Government's strategy for reelection in April 2022.
Lack of enforcement of non-discrimination provisions	On 1 December 2020, the Parliament adopted legislation to abolish the Equal Treatment Authority (ETA), Hungary's most important equality body set up in 2005 [Act no. CXXVII of 2020]. 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 the ETA were taken over by the Commissioner for Fundamental Rights (CFR). Since he assumed office in September 2019, the new Commissioner has failed to protect the rights of LGBTQI people. GANHRI's Sub-Committee on Accreditation recommends that the CFR be downgraded to B status, as the CFR "has not spoken out in a manner that promotes protection of all human rights."
Censoring LGBTQI content	On June 15, 2021 the Parliament adopted legislation to ban access of minors to any content with "portrayal and the promotion of gender identity different from sex at birth, the change of sex and homosexuality" broadly in the Family Protection Act, the Child Protection Act and specifically in the Act on Business Advertising Activity, the Media Act and the Public Education Act [Act no. LXXIX of 2021]. An implementing legislation [Government Decree

	473/2021. (VIII. 6.)] contains that products with such content can only be sold in special packaging separate from other products and cannot be sold within 200m of schools, children or youth institutions and churches. Even prior to the entry into force of the law public authorities started to interpret existing child protection provisions in various laws to censor content featuring LGBTQI topics: in October 2019 Coca Cola was fined for featuring same-sex couples in a billboard campaign [PE-06/01/01076-10/2019]; in March 2021 an investigation was launched against RTL Klub for airing an information video about rainbow families [163/2020. (III. 2.)]; in January 2021 the consumer protection authority ordered Labrisz Lesbian Association to change the cover of their children's book 'Fairyland is for Everyone' to clearly state that it includes "patterns of behaviour deviating from traditional gender roles" [BP/2200/00868-2/2021]; bookshop Líra was fined for selling the book 'What a family!' featuring rainbow families among other children's books [PE/002/01974-8/2021]. Several local governments (Mezőkövesd, Budapest XXI. Csepel, Diósd, Veszprém) banned the use of 'Fairyland is for Everyone' in their educational institutions, and one local government (Nagykáta) adopted a resolution to ban "LGBTQ-propaganda" in all of its institutions.
Lack of legal gender recognition for trans people	Transgender people could legally change their name and gender marker in Hungary since the early 2000s with medical diagnoses, but without the need to undergo any medical interventions. The earlier uncodified practice was suspended in May 2018 and when the courts ordered authorities to resume handling the requests for legal gender recognition, the Parliament banned legal gender recognition (LGR) in May 2020 [Act no. XXX of 2020, Art. 33.]. 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 documents. The new legislation also applies to requests that had been submitted prior to the entry into force of the law that have not yet been decided (122 cases). The Constitutional Court found that applying the new provisions retroactively to pending procedures is unconstitutional [CC Decision 11/2021. (IV. 7.)]. There are several cases pending at the Constitutional Court regarding the constitutionality of Article 33 broadly. The lack of LGR also restricts access to gender confirmation treatments (GCTs), and several healthcare providers became much more reluctant to offer GCTs arguing that their legal status is unclear.
Restricting parenting by same-sex couples	Hungarian law does not allow for a child to have two persons of the same sex to be legally recognized as parents of a child, the cohabiting or registered partner of the child's parent is recognized as de facto or step parent with limited rights. Women in same-sex partnerships cannot participate in assisted reproduction [Act no. CLIV of 1997], same-sex couples cannot adopt jointly or adopt each other's child [Act no. XXIX of 2009]. In December 2020 the Parliament adopted amendments to the Civil Code and the Child Protection Act that restrict adoption by a non-married persons (including same-sex couples) [], so from March 2021 adoption by such a person is only possible with a special permission by the Minister of Family Affairs, who made it clear in a public interview that the aim of the amendment was to make sure that same-sex couples cannot adopt. While same-sex partners are entitled to

	most benefits related to childcare, they often have to litigate in order to access such benefits as public authorities do not recognize registered partners on equal grounds to spouses.

RECOMMENDATIONS

Recommendation 1: Duly investigate and condemn hate speech and attacks on the LGBTQI persons, especially when perpetrators are political leaders and other influential figures and ensure accountability for these acts.

Recommendation 2: Reestablish the Equal Treatment Authority, and adopt a comprehensive strategy and action plan to tackle discrimination based on sexual orientation and gender identity covering all spheres of life.

Recommendation 3: Revoke the anti-LGBTQI provisions of the anti-pedophilia law, and refrain from interpreting other child protection provisions in an arbitrary and discriminatory manner.

Recommendation 4: Ensure that textbooks and other educational materials used in public education cover sexual orientation and gender identity in an objective manner, and promote tolerance and respect for LGBTQI person

Recommendation 5: Revert the current ban on legal gender recognition introduced by Act no. XXX of 2020, Art. 33, and develop a quick, transparent and accessible procedure for legal gender recognition based on personal autonomy and self-identification.

Recommendation 6: Ensure equal treatment to same-sex relations by removing discriminatory differences between registered partnership and marriage, and provide legal recognition to same-sex parenting.

Recommendation 7: Take concrete measures to prevent and prohibit discrimination against LGBTQI people, and specifically same-sex couples and their children in the fields of employment, education, healthcare and access to social benefits.

ADVANCED QUESTIONS

1. Could Hungary elaborate on the provisions in place which explicitly prohibit discrimination based on sexual orientation mentioned in the National Report (paragraph 104) and on what measures has the government taken to implement these provisions?

2. What public consultation or impact assessment studies preceded the abolishment of the Equal Treatment Authority and how Hungary plans to ensure independent investigation on issues related to equality after the closing of the Authority?

3. Based on what scientific studies does Hungary think that accessing content portraying LGBTQI issues is harmful to children?

4. How will Hungary ensure that there is no discrimination on ground of sexual orientation when assessing the suitability of adoptive parents who are not married?

CONTACT INFORMATION

Hungary: Hungarian LGBT Alliance, info@lmbtszovetseg.hu

Shadow report: https://en.lmbtszovetseg.hu/upr2021