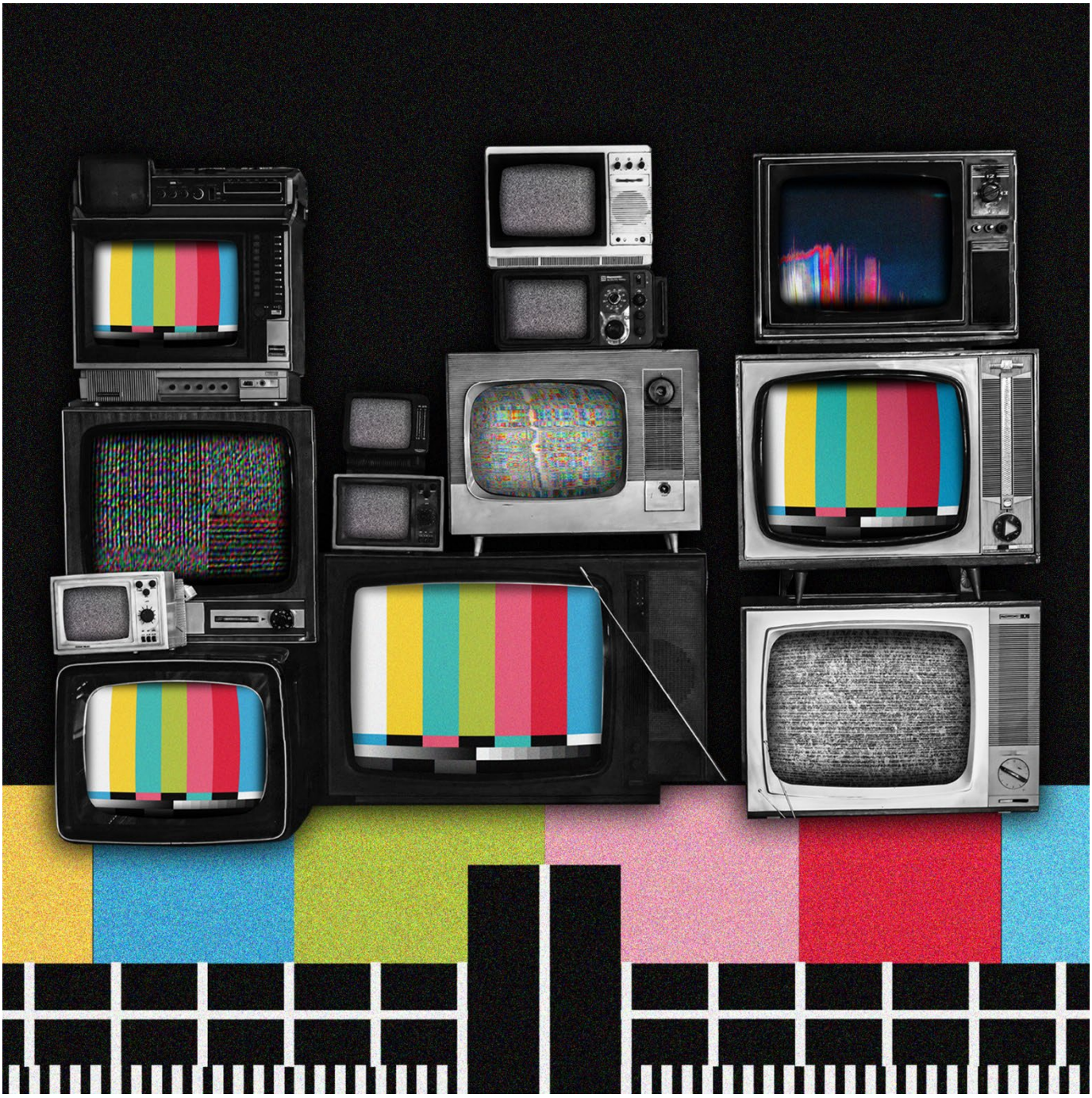

FROM FREEDOM TO CENSORSHIP

THE CONSEQUENCES OF THE HUNGARIAN PROPAGANDA LAW

AMNESTY INTERNATIONAL

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CONTENTS

CONTENTS 3

GLOSSARY 5

1. EXECUTIVE SUMMARY 7

2.METHODOLOGY 11

3. A DECADE OF REGRESSION 13

3.1 INCREASING PRESSURE ON THOSE CAMPAIGNING FOR LGBTI RIGHTS AND THEIR ALLIES 15

3.2 PUBLIC SUPPORT FOR LGBTI RIGHTS 17

4.THE PROPAGANDA LAW 18

4.1 THE LEGISLATIVE PROCESS AND PROTESTS 18

4.2 CONTENT OF THE PROPAGANDA LAW 19

4.3 SANCTIONS 20

4.4 POST FACTO REFERENDUM 20

5. INTERNATIONAL HUMAN RIGHTS LAW AND STANDARDS 23

5.1 THE RIGHT TO FREEDOM OF EXPRESSION 23

5.2 OPINION OF THE VENICE COMMISSION 25

6. THE (UN)LAWFULNESS OF THE RESTRICTIONS 26

6.1 RESTRICTIONS ON THE RIGHT TO SEEK AND RECEIVE INFORMATION 26

6.1.1 ACCESS TO BOOKS 27
6.1.2 CLASSIFICATION AND BROADCASTING OF LINEAR MEDIA PROGRAMMES 29
6.1.3 FROZEN ADVERTISING 33
6.2 VAGUE, AND OVER-BROAD PROVISIONS 34
6.3 NO LEGITIMATE AIM 37
6.4 NEITHER NECESSARY NOR PROPORTIONAL 40
6.5 REINFORCING STIGMA & DISCRIMINATION 41
6.6 EFFECTS ON NGOS AND HUMAN RIGHTS DEFENDERS 43

7. LEGAL ACTION AGAINST THE PROPAGANDA LAW 45

7.1 INFRINGEMENT PROCEDURE 46
7.2 ARTICLE 7 & THE RULE OF LAW CONDITIONALITY MECHANISM 46

8. CONCLUSIONS AND RECOMMENDATIONS 48
RECOMMENDATIONS 49

ANNEX 1 51

GLOSSARY

WORD	DESCRIPTION
PROPAGANDA LAW	Act LXXIX of 2021 on stricter action against paedophile offenders and amending certain laws for the protection of children; Government Decree 473/2021 (VIII.6.) amending Government Decree No 210/2009 (IX.29.) on the conditions for carrying out commercial activities
ECHR	European Convention on Human Rights
ECTHR	European Court of Human Rights
FUNDAMENTAL LAW	The constitution of Hungary, adopted by the Hungarian Parliament on 25 April 2011, and came into force on 1 January 2012.
UN	United Nations
ICCPR	International Covenant on Civil and Political Rights adopted by the General Assembly of the United Nations on 16 December 1966
HRC	The United Nations Human Rights Council
OHCHR	The Office of the United Nations High Commissioner for Human Rights
CHILD PROTECTION ACT	Act XXXI of 1997 on the Protection of Children and Guardianship Administration. The government and pro-government media also refer to Act LXXIX of 2021 as the "Child Protection Act 2021", which is also known as the Propaganda Law (see above)
ADVERTISEMENT ACT	Act XLVIII of 2008 on the Basic Conditions and Certain Restrictions of Commercial Advertising Activities
MEDIA ACT	Act CLXXXV of 2010 on Media Services and Mass Media
FAMILY PROTECTION ACT	Act CCXI of 2011 on the Protection of Families
ACT ON PUBLIC EDUCATION	Act CXC of 2011 on National Public Education
MISDEMEANOUR ACT	Act II of 2012 on Misdemeanours, Misdemeanour Procedure and the Misdemeanour Registration System

WORD	DESCRIPTION
CONSUMER PROTECTION ACT	Act CLV of 1997 on Consumer Protection
NEC	National Election Commission
VENICE COMMISSION	European Commission for Democracy through Law, an advisory body of independent constitutional lawyers to the Council of Europe
CJEU	Court of Justice of the European Union
UNCRC	United Nations Convention on the Rights of the Child, adopted in New York on 20 November 1989
CHARTER	Charter of Fundamental Rights of the European Union
NMHH	National Media and Infocommunications Authority
ETA	Equal Treatment Authority

1. EXECUTIVE SUMMARY

> **"It would be possible to write a warning on all children's books that it is for the parents, and everything will remain the same. But these books should also be wrapped in foil and could not be sold near schools at all. As a result, even law-abiding dealers and publishers are left in limbo, and penalties are imminent."**
>
> Krisztián Nyáry author and Creative Director of Líra Ltd.[1]

This report explores the effects of Act LXXIX of 2021 and Government Decree 473/2021 (VIII.6.), commonly known as the Propaganda Law. This law prohibits the "depiction and promotion" of "diverse gender identities and sexual orientations" in some forms of public communications, including in public education, media, advertisements and some commercial activities.

The Propaganda Law aims to limit access to content that depicts or discusses issues concerning gender identity and sexual orientation. This includes any content that "propagates or portrays divergence from self-identity corresponding to sex at birth, sex change or homosexuality" to individuals under 18 years of age. In addition, regulations under the Propaganda Law instructs retailers to only sell children's products featuring LGBTI themes and characters in "sealed packaging" and prohibits the sale of these, and any product that has content that "propagates or portrays divergence from self-identity corresponding to sex at birth, sex change or homosexuality" within 200 meters of any school or church.

This report focuses on the impacts of the restrictions on people's right to access information and on the rights to equality and non-discrimination, including the wide restrictions on media, advertising, and book industries. The Propaganda Law also contains amendments in the Child Protection Act, the Family Protection Act and in the Public Education Act, that prohibits the distribution of the abovementioned content. Moreover, a new sanction has been introduced relating to the amendments in the Public Education Act. Section 248 (3) d) of Act II of 2012 states that it is a punishable misdemeanour to violate legal provisions on holding classes or sessions in institutions of public education, the most severe penalty for such violations is 60 days' deprivation of liberty. Less severe sanctions can be a fine of maximum of HUF 150,000 (390 EUR) or community service.

This report is based on a legal analysis of the provisions of the Propaganda Law – to assess the extent to which they are compliant with Hungary's international and regional human rights obligations - and 15 semi-

[1] Interview with Krisztián Nyáry, creative director at Líra Ltd., 12 June 2023.

structured interviews with individuals whose professional activities were directly impacted by the law in the fields of publishing and advertising.

Representatives of the Ministry of Justice, the Ministry of Culture and Innovation, the Media Council and the Consumer Protection Authority were provided with an opportunity to respond to the report's main findings prior to publication, but Amnesty International did not receive comments or observations from these institutions.

> **"(…) there is no evidence that expressions of sexual orientation or gender identity would adversely affect minors, whose interest is to receive relevant, appropriate and objective information about sexuality, including sexual orientations and gender identities."**
>
> The Venice Commission's Opinion No.1059 / 2021.[2]

The right to freedom of expression, including the right to seek, receive, and impart information and ideas of all kinds through any media of people's choice, is enshrined in various international and regional human rights instruments to which Hungary is a party, including the International Covenant on Civil and Political Rights and the European Convention on Human Rights. This right guarantees the ability of every individual to express their ideas and opinions freely and without fear of reprisals.

Limitations on this right must be provided by law and be necessary and proportionate to a legitimate aim. These restrictions must also comply with other human rights, such as the right to equality and non-discrimination. The state holds the responsibility of demonstrating the necessity and proportionality of any restrictions. Furthermore, international law recognizes states obligations to protect individuals from discrimination, including on the basis of sexual orientation, gender identity, and sex characteristics. Besides the prohibition of discrimination in Hungary's domestic law, various international instruments provide protection against discrimination based on these grounds.

People who spoke with Amnesty International explained how the Propaganda Law limited the availability and dissemination of LGBTI related content, both due to fear of reprisals and severe legal and financial consequences. Authors, like Dóra Papp, have had to reclassify their works from youth literature to the category of adults only in order to comply with the law – amending it from material suitable for children to material meant for adults only - while facing threats and harassment on social media. Representatives from media outlets, such as the TV network RTL, said they had adapted their programming and streaming content to avoid potential penalties. The Propaganda Law has also resulted in procedures and actions against some content providers who are seen as non-compliant. For instance, one bookstore chain faced fines for carrying books featuring same-sex couples and another bookstore for a book portraying a transgender character. This has restricted people's right to access information, especially information that portrays the diversity of LGBTI people's lives, which is guaranteed under the right to freedom of expression.

In order to meet the principle of legality, restrictions need to be prescribed by a law that is sufficiently clear and widely available so that individuals can regulate their conduct accordingly and to limit government discretion. The Propaganda Law prohibits content that "promotes or portrays divergence from self-identity corresponding to sex at birth, sex change, or homosexuality". However, the government has failed to explain what is understood by the terms "to propagate" and "to portray". These phrases have not been defined by legislation, nor have they been interpreted by any court at the time of writing the report. As a result, people have not been able to ascertain if these concepts are to be understood restrictively and what these phrases mean in the context of their activities. This came up repeatedly in Amnesty International's interviews.

The Propaganda law cannot be justified by the need to protect children or public morals. Observations by the UN Human Rights Committee are clear that the protection of public morals can never justify discrimination, including on the basis of sexual orientation and gender identity. The Committee on the Rights of the Child has pointed out that an adult's judgment of a child's best interests cannot override the obligation to respect all the child's rights under the Convention, which includes the right to seek and access information.

[2] Venice Commission, Opinion No.1059 / 2021, 13 December 2021, para. 93.

Further, the restrictions in the Propaganda Law are neither necessary nor proportionate. The Propaganda Law introduces intrusive mechanisms of censorship and cannot be considered as the least restrictive means to achieve a legitimate aim. Hungary's Media Act already contained a whole chapter on the "Protection of children and minors", which restricted access to programmes that could seriously impair the physical, mental or moral development of children. In this sense, Hungary already had laws in place that sought to protect children from harmful content. Moreover, the Propaganda Law works as a form of censorship as it outlaws the mere depiction of LGBTI persons and issues, which is disproportionate to the aim pursued. The severity of the sanctions permitted under the law, which range from high fines to the suspension of certain commercial activities or even closure of shops, creates an environment prone to self-censorship.

REINFORCING STIGMA AND DISCRIMINATION

The Propaganda Law contributes to negative stereotypes and discriminatory practices against LGBTI individuals. Stigma against LGBTI people has been long present in Hungary while government officials have made discriminatory remarks, further entrenching hostility and stigma against LGBTI people and have not faced any accountability for this. Amnesty International has also documented the hostility of certain sectors of the population against LGBTI people, including the instances in which people defaced a rainbow bench erected to symbolize inclusivity.

Similarly, this is exemplified by a case involving Labrisz Lesbian Association and their publication of 'A Fairytale for Everyone' in 2020. The Government aligned media stigmatized this book and the association by labelling them as a "paedophile organisation", despite Labrisz Lesbian Association having taken unsuccessful legal actions against these claims.

The Propaganda Law aims to further entrench these attitudes and has already impacted the ability of civil society organizations and human rights defenders to defend and support LGBTI rights. Two representatives from NGOs working for LGBTI rights told Amnesty International that they have adjusted their strategies and content due to the restrictive regulations of the Propaganda Law. For example, the Foundation for Rainbow Families limited their public service announcements to avoid incurring in penalties under the law, significantly impeding their work in promoting adoption rights for LGBTI individuals.

CONCLUSIONS AND SUMMARY OF THE RECOMMENDATIONS

International and regional bodies, including the European Commission, have expressed concerns about the Propaganda Law's implications for human rights, particularly for the rights to freedom of expression, equality, non-discrimination, and education. The Commission has initiated an infringement procedure against Hungary. In addition, the issue of the Propaganda Law has been taken up by the already ongoing Article 7 procedure and in the rule of law conditionality mechanism that is being utilized to protect the EU budget and ensure compliance with EU values.

Amnesty International's legal analysis of the Propaganda Law and a qualitative assessment of its impact clearly indicates that the law unduly restricts people's right to access information in a manner that is inconsistent with international human rights law and standards. Many provisions of the law are vague, they do not serve any legitimate aim, and the government has failed to demonstrate how these restrictions are necessary or proportionate. Furthermore, the Propaganda Law contributes to the stigmatization and negative stereotypes around LGBTI people in Hungary, potentially entrenching discrimination. For these reasons, the law is in violation of Hungary's human rights obligations and must be urgently repealed.

RECOMMENDATIONS

Amnesty International makes the following key recommendations (a full list is available at the end of the report)

1. The Parliament of Hungary should repeal amendments introduced by the Propaganda Law through Act LXXIX of 2021 and the Government should repeal the Government Decree 473/2021 (VIII.6.) concerning the promotion and presentation of "divergence from self-identity corresponding to sex at birth, sex change or homosexuality".
2. The Parliament of Hungary should ensure that all regulations to be enacted in the future will not undermine the right to freedom of expression and take all appropriate measures to ensure they are in accordance with international human rights laws and standards.
3. The President of Hungary should publicly condemn the use of stigmatizing and exclusionary statements and remarks towards LGBTI people and emphasize that the rights of LGBTI persons should be respected, protected and fulfilled, including their right to equality and non-discrimination.
4. Hungarian authorities should guarantee in law and practice the right to freedom of expression of children and young people and ensure they have the means to obtain information from the Internet, radio, television, newspapers, books and other sources.

2.METHODOLOGY

This report is part of Amnesty International's ongoing monitoring of the human rights situation of LGBTI people in Hungary.[3] Since 2021, the organization has expressed concern[4] over the the reforms made to the Media Act and Advertising Act introduced by Act LXXIX of 2021[5] and the Government Decree 473/2021 (VIII. 6.)[6], commonly referred to jointly as the Propaganda Law, which violates several human rights including freedom of expression.[7] This report is part of this body of work.

The purpose of this report is to illustrate how the Propaganda Law adversely impacts the right to freedom of expression and the right to equality and non-discrimination in Hungary. It outlaws the depiction and discussion of diverse gender identities and sexual orientations in the public sphere, including in schools and the media, by prohibiting or limiting access to content that "propagates or portrays divergence from self-identity corresponding to sex at birth, sex change or homosexuality" for children under 18 years of age.

The enforcement of the Propaganda Law though government authorities was not widespread in the areas covered by this report in 2021 and 2022. However, there has been a noticeable and concerning shift in early 2023. Since then, Hungarian authorities have started to apply restrictions on content providers using provisions of the law. This report describes how these restrictions have a chilling effect that unduly restricts the right to freedom of expression – with a focus on the work of linear media services, book publishers, dealers, writers, and advertisers - and how this in turn impacts people's human rights, particularly the right to access information and the rights of LGBTI people.

Therefore, besides NGOs working to protect LGBTI rights, Amnesty International researchers talked to a range of businesses to understand if the Law is creating barriers to the sharing of information and if there is particular content related to sexual orientation and gender identity that they are not sharing through various forms of media, advertisements, or books. The report seeks to show how the Propaganda Law's harmful impact is ultimately on individuals, as well as society as a whole, who are impeded from seeking, receiving and imparting information and ideas of all kinds.

The interviews for this report were conducted between May and July 2023.

As a part of the research, Amnesty International reviewed relevant laws, policies, and practices related to the implementation of the Propaganda Law. The organization also reviewed relevant international and regional human rights standards, including reports, analyses, and recommendations of international, regional and national mechanisms, as well as reports and publications of non-governmental organisations. In addition, the research is based on public documents providing relevant background information.

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[3] Amnesty International, "Human Rights Violations in Hungary Discredit Presidency of the Council of Europa Committee of Ministers – Letter" 17 June 2021, https://www.amnesty.eu/news/humanrights-violations-in-hungary-discredit-presidency-of-the-council-of-europe-committee-of-ministers

[4] Amnesty International, "The Russian-style Propaganda Law violates human rights and threatens LGBTI people in Hungary", 22 July 2021, https://www.amnesty.hu/the-russian-style-propaganda-law-violates-human-rights-and-threatens-lgbti-people-in-hungary

[5] 2021. évi LXXIX. törvény a pedofil bűnelkövetőkkel szembeni szigorúbb fellépésről, valamint a gyermekek védelme érdekében egyes törvények módosításáról, [Act LXXIX of 2021 on tougher action against paedophile offenders and amending certain laws to protect children.] (Propaganda Law), 23 June 2021, (in Hungarian) https://mkogy.jogtar.hu/jogszabaly?docid=A2100079.TV

[6] 473/2021. (VIII. 6.) Korm. rendelet a kereskedelmi tevékenységek végzésének feltételeiről szóló 210/2009. (IX. 29.) Korm. rendelet módosításáról, [Government Decree 473/2021 (VIII.6.) amending Government Decree No 210/2009 (IX.29.) on the conditions for carrying out commercial activities] (Propaganda Law/ Government Decree) (in Hungarian) https://jogkodex.hu/jsz/2021_473_korm_rendelet_2127193

[7] Amnesty International, "Hungary: Dark day for LGBTI rights as homophobic and transphobic law adopted", 15 June 2021, https://www.amnesty.org/en/latest/news/2021/06/hungary-dark-day-for-lgbti-rights-as-homophobic-and-transphobic-law-adopted (accessed on 21 November 2023)

Amnesty International conducted interviews with individuals affected by the Propaganda Law in relation to their profession. Amnesty International's researchers conducted semi-structured interviews with 15 people whose work was affected by the implementation of the Propaganda Law, including two individuals who work as academics; three book publishers who also operate bookshops nationwide; one author; two representatives of the largest independent linear media provider in the country; one creative director in an advertising agency; four representatives of LGBTI NGOs; the Director General of the National Media and Infocommunications Authority (NMHH) and the communication coordinator of IKEA. All persons interviewed gave informed consent for the information they shared to be a part of this report. Some interviewees featured in this report are referred to by their full names and some anonymously, in accordance with their wishes. Most of the interviews were conducted in person in Budapest except four, which were conducted remotely (online). Dóra Papp writer and Tibor Ács Director of Procurement and Logistics at Libri-Bookline Ltd. answered our questions in writing.

It is important to acknowledge that stigma and fear, as well as deep social polarization, is prevalent in Hungarian society, which was a challenge for this research in accessing people willing to speak freely about the way in which the Propaganda Law has impacted their lives. This is exacerbated in the current political context, where NGOs face smear campaigns and other forms of harassment from the Hungarian authorities and operate in a risky environment. Amnesty International used existing contacts, publicly available information and the snowball method to approach people to interview and gather evidence for this report. Several media providers did not respond to our requests for interviews, including ATV, HírTV, TV2, DunaTV, and MTV.

Results from the interviews should not be interpreted as the opinion of the whole of Hungarian society. The interviewee's responses were qualitative and may not reflect the views of all professionals in their respective fields.

The NMHH provided Amnesty International with statistics on notifications the NMHH received regarding media content that was claimed to be in violation of the Propaganda Law, and Amnesty International conducted an interview with the authority's Director General.

Amnesty International sent letters containing the findings and recommendations of this report to the Ministry of Justice, the Ministry of Culture and Innovation, the Media Council and the Consumer Protection Authority (Government Office of the Capital City of Budapest) in accordance with the Right of Reply Procedure on 27 November 2023. Only the Ministry of Culture and Innovation replied on the 6th of December 2023, stating that they do not wish to comment on the report. None of the other institutions responded by January 29th, 2024.

ACKNOWLEDGEMENTS

Amnesty International would like to thank everyone who agreed to be interviewed for this report, especially those directly affected who generously shared their experiences, insights and expertise. We are also grateful to the academics and representatives of NGOs who generously shared their insights and expertise, as well as the Director General of the NMHH who shared her time and knowledge.

3. A DECADE OF REGRESSION

> **"I am alarmed by the apparent escalation of the stigmatization of LGBTI people and the manipulation of their dignity and rights for political gain [in Hungary]."**
>
> Dunja Mijatović, Council of Europe Commissioner for Human Rights[8]

Since 2010, discrimination against LGBTI people has appeared with increasing emphasis in the narratives and legislations pushed through parliament by the ruling parties in Hungary, seemingly culminating in the Propaganda Law in 2021. Meanwhile according to an Ipsos survey, the percentage of people in Hungary who support legalizing same-sex marriage has increased by more than 15 points. In 2013, only 30% of Hungarians thought that same-sex marriage was acceptable, but today that number has risen to 47%.[9] It is obvious that while LGBTI people appear to be more accepted among Hungarian society, legislative developments have not followed the same trend.

When the Fidesz-KDNP party coalition came to power in 2010 with a two-third majority, the preparation and adoption of a new constitution were put on the agenda. The Fundamental Law,[10] which functions as the country's new constitution, was adopted on 18 April 2011 and came into force on 1 January 2012.

The development of Article L of the Fundamental Law is illustrative of legal provisions in Hungary that perpetuate discrimination based on sexual orientation and gender identity in the country. Article L of the Fundamental Law contains a guarantee for the protection of the institution of marriage, which is defined as "the union of a man and a woman established by a voluntary decision" and claims the protection of the family "as the basis of the nation's survival". Critics of this definition of marriage have pointed out the exclusion of same-sex couples, who are practically left outside the protection of the law.[11] At the same time, the Family Protection Act was introduced, entering into force on 1 January 2012, using a restrictive family definition: "The family is a system of relationships creating an emotional and economic community of people, based on the marriage of a man and a woman, or direct kinship or adoptive guardianship."[12] In June 2011, the Venice Commission concluded that, in the absence of established European standards at that time, the Hungarian state and its legislative body had the authority to define marriage, because the way in which

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[8] Council of Europe, Commissioner for Human Rights, "Commissioner urges Hungary's Parliament to postpone the vote on draft bills, that, if adopted, will have far-reaching adverse effects on human rights in the country" 20 November 2020, https://www.coe.int/en/web/commissioner/-/commissioner-urges-hungary-s-parliament-to-postpone-the-vote-on-draft-bills-that-if-adopted-will-have-far-reaching-adverse-effects-on-human-rights-in-

[9] Telex, "The number of Hungarians in favor of gay marriage has increased one and a half times in ten years" 3 July 2023, https://telex.hu/english/2023/07/03/the-number-of-hungarians-in-favour-of-gay-marriage-has-increased-one-and-a-half-times-in-ten-years

[10] Magyarország Alaptörvénye, [Fundamental Law of Hungary], 2011 (in Hungarian) https://www.parlament.hu/irom39/02627/02627.pdf

[11] Venice Commission, Opinion no. 621 / 2011, 20 June 2011, https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2011)016-e

[12] Hungary, Act CCXI. of 2011 on the Protection of Families (Family Protection Act) Section 7(1), 2011 (in Hungarian) https://net.jogtar.hu/jogszabaly?docid=a1100211.tv

Article L was drafted did not seem to prohibit other forms of same-sex unions.[13] After the adoption of the Fundamental Law, same-sex civil partnerships continued to have legal protection in Hungary that were first implemented in 2009, although there are certain limitations to this protection.[14] However, on 11 March 2013, the Parliament adopted the Fourth Amendment to the Fundamental Law,[15] replacing paragraph 1 of Article L to restrict the concept of the family. The explanatory memorandum of the amendment states that the legislator intended to affirm marriage and parent-child relations as the foundation of family relationships and to enhance the protection of the family as a fundamental social institution in line with "historical traditions."[16]

The new provision established that: "Hungary shall protect the institution of marriage as the union of a man and a woman established by voluntary decision, and the family as the basis of the nation's survival. Family ties shall be based on marriage or the relationship between parents and children." This amendment further limited the constitutional concept of family to heterosexual married couples with or without children, or unmarried couples with children.

Over the years, Hungarian authorities have continued to entrench in law and practice discrimination based on sexual orientation and gender identity. On 29 May 2020, the Hungarian Parliament amended the Registry Procedure Act,[17] which made legal gender recognition impossible for transgender and intersex persons. According to the law, birth certificates can no longer contain the category 'nem' - which in Hungarian can mean sex and gender as well. The law now mandates the authorities to refer to 'sex at birth', which is defined as "the biological sex based on primary sex characteristics and chromosomes."[18] The law also prohibits to amend the 'sex at birth' recorded initially in the registry. The legislation was adopted in a rush without public consultation during the first wave of the Covid-19 pandemic. Despite wide condemnation by several medical and human rights bodies, the authorities have not amended this discriminatory law.[19]

On 10 November 2020, the Minister of Justice submitted a whole package of legislative reforms, including the Ninth Amendment to the Fundamental Law, which detrimentally affected the rights of LGBTI people, adding a new sentence to Article L establishing that "The mother is a woman, the father is a man."

With the Ninth Amendment, Article XVI paragraph (1) of the Fundamental Law has been amended as follows: "Hungary shall protect the right of children to a self-identity corresponding to their sex at birth (…)" and according to the explanatory memorandum, "sex at birth is a given or a factor that cannot be changed: it is a biological principle. Human dignity thus includes the right of every child to self-identity according to their sex at birth, part of which is to be protected against mental or biological interference affecting their physical and mental integrity". The Venice Commission condemned these constitutional amendments and stated that they are not compatible with international human rights law and standards.[20] As it has been ruled in numerous occasions by the European Court of Human Rights (ECtHR), gender identity is recognised as a key component of personal identity that is protected by the right to respect for private life under the European Convention on Human Rights (ECHR) and other international treaties.[21]

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[13] Venice Commission, Opinion no. 621 / 2011. (previously cited)

[14] Based on Section 3 of Act XXIX of 2009 on Registered partnerships, the rules of joint adoption cannot be applied, registered partners are only allowed to adopt individually, and only the adopting partner will be the legal parent of the child. Registered partners are not allowed to participate in assisted reproduction. registered partners cannot take each other's name; there is no registered partnership name analogous to a married name. The legislation does not allow for a child to have two legal parents of the same sex. See in more detail: Háttér Society, Registered Partnership - Guide for gay and lesbian couples, July 2011, https://hatter.hu/sites/default/files/dokumentum/kiadvany/guide-regpartnership-2011jul.pdf

[15] Hungary, Fourth amendment to the Fundamental Law of Hungary, Article 1, 8 February 2013, https://www.parlament.hu/irom39/09929/09929.pdf, Article 1.

[16] Explanatory memorandum to the Fourth Amendment to the Fundamental Law of Hungary, 2013, https://www.parlament.hu/irom39/09929/09929.pdf p. 17.

[17] Hungary, Act no. XXX. of 2020 on the amendment of specific administrative laws and free donations of property, 2020, https://net.jogtar.hu/jogszabaly?docid=a1000001.tv Section 33.

[18] Hungary, Act I of 2010 on Civil Registry Procedure, 2010 (in Hungarian) https://net.jogtar.hu/jogszabaly?docid=a1000001.tv Paragraph x of Section 3.

[19] Hungarian Psychological Association, LGBTI Section, Resolution of the Hungarian Psychological Association regarding the amendment of Act I of 2010 on Civil Registry Procedure, 21 April 2020, (in Hungarian) https://www.facebook.com/230520050844602/photos/a.444597792770159/659477584615511; Council of Europe, Commissioner for Human Rights, Statement, 2 April 2020, https://www.facebook.com/CommissionerHR/posts/1512688642240374; European Parliament, Resolution of 17 April 2020 on EU coordinated action to combat the COVID-19 pandemic and its consequences (2020/2616(RSP), 17 April 2020, https://www.europarl.europa.eu/doceo/document/TA-9-2020-0054_EN.html; European Parliament, Resolution of 11 March 2021 on the declaration of the EU as an LGBTIQ Freedom Zone, 11 March 2021, https://www.europarl.europa.eu/doceo/document/TA-9-2021-0089_EN.html; UN Independent Expert on Protection against Violence and Discrimination based on sexual orientation and gender identity, "Hungary: New law proposal endangers rights of the trans and gender diverse persons, warns UN expert" Press Release, 29 April 2020, https://www.ohchr.org/en/press-releases/2020/04/hungary-lgbt-new-law-proposal-endangers-rights-trans-and-gender-diverse?LangID=E&NewsID=25844

[20] Venice Commission, Opinion 1035 / 2021, 17 June 2021, https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)029-e

[21] ECtHR, *A.P., Garçon and Nicot v. France* ,Application 79885/12, 52471/13 and 52596/13, Judgment, 6 April 2017, https://hudoc.echr.coe.int/fre?i=002-11618 paras. 95-96.

A month later, the Parliament adopted an Omnibus Act stipulating that only married couples could be allowed to adopt children and only by way of exception, single persons can adopt with special permission of the Minister for Family Affairs.[22]

On 1 December 2020, the Parliament adopted new legislation to abolish the Equal Treatment Authority which had a broad mandate to investigate cases of discrimination, among others, on grounds of sexual orientation and gender identity.[23] The tasks of the Authority were taken over by the Commissioner for Fundamental Rights, who has not done enough to protect the rights of LGBTI people.[24] On July 2, 2020, Amnesty International, along with Háttér Society, presented a petition with over 100,000 signatures to the Commissioner for Fundamental Rights, requesting that the amendment, which prohibits legal gender recognition, be sent to the Constitutional Court. Despite the petition being filed more than three and a half years ago, the Commissioner has not taken any action or response regarding this issue.[25] Additionally, inquiries related to the adoption rights of LGBTI people have also been left unresolved for over three years now.[26]

3.1 INCREASING PRESSURE ON THOSE CAMPAIGNING FOR LGBTI RIGHTS AND THEIR ALLIES

In the context of these legislative amendments, NGOs and others defending equality and LGBTI rights have come under attack.[27] More recently, state officials and public bodies have also intimidated and harassed civil society organizations and human rights defenders working to uphold LGBTI rights. For example, government and pro-government media launched a smear campaign against human rights organisations in 2020 targeting organisations working on the rights of LGBTI people in particular. Pro-government news portals such as Origo claimed that LGBTI organisations work to "recruit children to become LGBTI."[28] LGBTI organisations are often called "LMBTP"[29] – the "P" standing for paedophilia – conflating lawful decisions around sexual orientation and gender identity with sex crimes against children.[30]

In September 2020, Labrisz Lesbian Association,[31] published a children's book titled 'A Fairytale for Everyone' (Meseország mindenkié), with tales starring diverse - including LGBTI - characters. On 24 September 2020, MP Dóra Dúró from the Mi Hazánk (Our Homeland) political party shredded the book

[22] Section 4:121 of Act V of 2013 on the Civil Code (Ptk.) states that only (married) spouses can adopt children. Exceptionally, in cases defined by law, deserving special appreciation, and following a procedure specified in a government decree, the suitability for adopting a person intending to adopt alone may also be established. See also: Hungary Today, "New Law Proposal to Make Adoption for Those Not Married Almost Impossible" 12 November 2020, https://hungarytoday.hu/hungary-law-proposal-adoption-not-married-couples-singles/

[23] Hungary, Act no. CXXVII of 2020 on amending laws to strengthen the enforcement of the principle of equal treatment, 2020, (in Hungarian) https://njt.hu/jogszabaly/2020-127-00-00.0#CI

[24] The Sub-committee on Accreditation of the Global Alliance of National Human Rights Institutions, in view of the fact that the Office of the Hungarian Commissioner for Fundamental Rights did not adequately address the human rights violations before it and did not even speak out about violations affecting vulnerable ethnic minorities, LGBTI people, refugees, as well as problems related to media pluralism, the position of NGOs and the independence of the judiciary, based on the Paris Principles classified the Commissioner for Fundamental Rights as a 'B status' institution in 2021. See: Accreditation status as of 27 April 2022 https://ganhri.org/wp-content/uploads/2022/04/StatusAccreditationChartNHRIs_27April2022.pdf; HVG, "Leminősítenék az alapvető jogok magyar biztosát" [Hungarian Commissioner for Fundamental Rights has been downgraded], 4 August 2021, (in Hungarian) https://hvg.hu/itthon/20210804_alapveto_jogok_biztosa_ombudsman_kozma_akos_leminosites

[25] Amnesty International "Már több mint 100 ezren kérik Kozma Ákost, hogy végezze a munkáját." [More than 100,000 people asking Ákos Kozma to do his job], 2 July 2020. (in Hungarian) https://www.amnesty.hu/mar-tobb-mint-100-ezren-kerik-kozma-akost-hogy-vegezze-a-munkajat/

[26] Amnesty International, "Válaszolt-e Kozma Ákos" [Did Ákos Kozma answer?] (in Hungarian) https://www.valaszoltekozmaakos.hu/ugyek/2020-ev-vegi-homofob-es-transzfob-jogalkotas

[27] For example, anti-rights groups such as the Magyarok Nyilai Nemzeti Felszabadító Hadsereg (Hungarian Arrows National Liberation Army) have in the past carried out molotov-cocktail attacks on an LGBTI night club. See in detail Dorottya Rédai's interview (executive director of the lesbian organization Labrisz, one of the most well-known faces of the Hungarian LGBTI movement) in which she described how they were intimidated by far-right groups. Telex, "Néha a visszájára sül el az anti-LMBT+ politika" [Sometimes anti-LGBT+ policies backfire] 27 December 2022, (in Hungarian) https://telex.hu/belfold/2022/12/27/radai-dorottya-interju-labrisz-meseorszag-mindenkie

[28] Origo, "A szülők tudta nélkül tartott LMBTQ-propagandát egy transzvesztita magyar általános iskolásoknak"

[A transvestite gave LGBTQ propaganda to Hungarian primary school students without their parent's knowledge] 14 January 2022, (in Hungarian) https://www.origo.hu/itthon/20220113-lmbtq-lobbi-erzekenyites.html

[29] LGBT in Hungarian

[30] Kurucinfo,"Egy tönkretett élet: kilencéves fiút erőszakolt egy LMBTP-"ember", majd azzal fenyegette, hogy megeteti a kutyájával", [A ruined life: a nine-year-old boy was raped by an LGBTP "man" and then threatened to be fed to his dog] 25 May 2022, (in Hungarian) https://kuruc.info/r/2/244022/

[31] Founded in 1999, Labrisz Lesbian Association is Hungary's first lesbian organisation to work towards a society where women have the opportunity to choose their partner and their way of life freely and to live and assume their identity without fear in all areas of their lives. https://www.labrisz.hu/

publicly,[32] and her political party organised a demonstration in front of the office of Labrisz.[33] Later on, a conservative online platform called for a boycott against bookshops where the book was sold. Posters and stickers were placed by activists of Mi Hazánk party on bookshops selling the book saying: "Homosexual propaganda literature harming children is sold here".[34] The Minister who leads the Prime Minister's Office threatened professionals using the book in educational settings with criminal charges and told the media that "In kindergartens where the book A Fairytale for Everyone is introduced; it must be examined whether the crime of endangering a minor arises. If so, proceedings must be initiated".[35] In January 2021, the Consumer Protection Authority ordered Labrisz to change the cover of the book to clearly state that it includes "patterns of behaviour deviating from traditional gender roles."[36] Several local governments, including Mezőkövesd,[37] Budapest XXI, Csepel,[38] Diósd,[39] and Veszprém[40] explicitly banned the use of the storybook in their educational institutions, and the local government of Nagykáta went as far as to ban "LGBTI-propaganda" in all of its institutions.[41] The ban introduced in Mezőkövesd was later found to be unlawful by the Government County Office, arguing that the local government had no legal power to issue such a ban.[42]

In March 2021, the Media Council launched an investigation against RTL, the largest commercial channel, for airing a video about 'rainbow families' as a public service advertisement before 9 pm. The video was part of a nationwide campaign, "A család az család" (Family is family, #familyisfamily),[43] against the legislation that limits adoption to married heterosexual couples. The Media Council argued that the video featuring same-sex families and experts was harmful to children under the age of 16.[44] In a similar vein, Coca-Cola was fined 1.400 EUR by the Consumer Protection Authority in October 2019 for featuring a gay and a lesbian couple in their billboard campaign called #loveislove.[45] The Consumer Protection Authority argued that the portrayal of same-sex couples in advertisement damages the physical, mental, emotional, or moral development of children and adolescents.[46] Háttér Society - the largest and oldest LGBTI organization in Hungary - launched a complaint before the Equal Treatment Authority since, according to them, the penalty on Coca-Cola constituted discrimination. However, the Equal Treatment Authority claimed lack of jurisdiction to hear this case.[47]

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[32] HIRADO.HU, "Dúró Dóra nyilvánosan ledarált egy melegpropagandának ítélt mesekönyvet" [Dóra Dúró publicly minced a storybook deemed gay propaganda], 30. September 2020, (in Hungarian) https://hirado.hu/belfold/cikk/2020/09/30/duro-dora-nyilvanosan-ledaralta-az-lmbtq-mesekonyvet

[33] Mandiner,"Demonstrációt tartott a Labrisz Leszbikus Egyesület székháza előtt a Mi Hazánk" [Our Homeland held a demonstration in front of the headquarters of the Labrisz Lesbian Association], 4 October 2020. (in Hungarian) https://mandiner.hu/cikk/20201004_demonstraciot_tartott_a_labrisz_leszbikus_egyesulet_szekhaza_elott_a_mi_hazank_mozgalom

[34] Mi Hazánk, "Mi Hazánk sets an example for the Labrisz Lesbian Association" [Our Homeland sets an example for the Labrisz Lesbian Association], 2 February 2021, (in Hungarian) https://mihazank.hu/a-mi-hazank-peldat-mutat-a-labrisz-leszbikus-egyesuletnek/

[35] Telex, "Gulyás: Felmerülhet kiskorú veszélyeztetése az óvodákban, ahol bevezetik a Meseország mindenkié című könyvet" [Gulyás: The endangerment of minors may arise in kindergartens, where the book A Fairytale for Everyone is introduced], 8 October 2020 (in Hungarian) https://telex.hu/belfold/2020/10/08/meseorszag-mindenkie-ovoda-gulyas-gergely-kiskoruak-veszelyeztetese

[36] Háttér Society, "Hungarian Consumer Protection Authority slams book with LGBTQI characters", 19 January 2021,https://en.hatter.hu/news/hungarian-consumer-protection-authority-slams-book-with-lgbtqi-characters

[37] Mezőkövesd Képekben, Facebook post: 13/2020. (X.08.) Polgármesteri utasítás, [13/2020. (X.08.) Mayor's Order] 12 October 2020, (in Hungarian) https://www.facebook.com/mezokovesdkepekben/photos/a.548748668621371/1711427619020131/

[38] 444, "Csepelen az összes óvodában betiltották a Meseország mindenkié könyvet" [In Csepel the book A Fairytale Country for Everyone was banned in all kindergartens], 8 October 2020, (in Hungarian) https://444.hu/2020/10/08/csepelen-az-osszes-ovodaban-betiltottak-a-meseorszag-mindenkie-konyvet

[39] KDNP, "A KDNP kérésére Diósdon nem lesz Meseország Mindenké!" [At the request of the KDNP, Diósd will not be a fairytale land for everyone!], 16 October 2020, (in Hungarian) https://kdnp.hu/hirek/kdnp-keresere-diosdon-nem-lesz-meseorszag-mindenke

[40] Magyar Nemzet, "Veszprém sem kér a mesekönyvbe bújtatott LMBTQ-propagandából" [Veszprém doesn't want LGBTI propaganda hidden in a storybook either], 12 November 2020, (in Hungarian) https://magyarnemzet.hu/belfold/veszprem-sem-ker-a-mesekonyvbe-bujtatott-lmbtq-propagandabol-8944853/

[41] Index, "Kisgazdapárti képviselő javaslatára betiltották az "LMBTQ-propagandát" Nagykátán" [At the suggestion of a FKGP MEP, "LGBTI propaganda" was banned in Nagykáta], 6 November 2020, (in Hungarian) https://index.hu/belfold/2020/11/06/nagykata_szabo_akos_lmbtq/

[42] Telex, "A kormányhivatal szerint jogsértő a Meseország mindenkié című könyv betiltása Mezőkövesden" [According to the government office, the ban on the book A Fairytale for Everyone in Mezőkövesd is illegal], 18 December 2020, (in Hungarian) https://telex.hu/belfold/2020/12/18/a-kormanyhivatal-szerint-jogserto-a-meseorszag-mindenkie-cimu-konyv-betiltasa-mezokovesden

[43] Háttér Society, "Family is family - parents and experts answer faceless questions", 17 November 2020, https://youtu.be/wXLuhRgihog

44 Media Council, Decision No. 104/2022. (II. 1.), 1 February 2022, (in Hungarian) https://hatter.hu/sites/default/files/dokumentum/konyvlap/rtlcsalad-mediatanacs-hatarozat.pdf

[45] ILGA Europe, "2022 Rule of Law Report - targeted stakeholder consultation", 2022, https://www.ilga-europe.org/files/uploads/2022/06/ILGA-Europe-submission-2022-EC-Rule-Law-Report.pdf p. 17.

[46] ILGA Europe, "2022 Rule of Law Report - targeted stakeholder consultation" (previously cited).

[47] Magyar Nemzet, "Hiába hisztizett az LMBTQ civil szervezet a Coca-Cola-ügyben" [LGBTI NGO tantrums in vain over Coca-Cola case], 19 May 2020, (in Hungarian) https://magyarnemzet.hu/belfold/2020/05/hiaba-hisztizett-az-lmbtq-civil-szervezet-a-coca-cola-ugyben

3.2 PUBLIC SUPPORT FOR LGBTI RIGHTS

These legal developments have had a significant impact on the rights of LGBTI people in Hungary as they have created a hostile environment that reinforces stigma and discrimination that leads to increased marginalisation and exclusion. While public support is relevant, it does not determine the human rights of LGBTI individuals. The government always has an obligation to ensure LGBTI people's rights to equality and non-discrimination.

A 2019 poll by the European Union Agency for Fundamental Rights (FRA) in Hungary found that 49% of LGB respondents, and 64% of transgender respondents, have felt discriminated against due to their sexual orientation or gender identity in the 12 months preceding the research, a sharp increase for transgender people since 2012 (46%).[48] The same survey found that 15% of Hungarian LGBTI respondents had been physically or sexually attacked, and 53% had been harassed in person because of their sexual orientation or gender identity in the five years preceding the research.[49]

In December 2022, a poll commissioned by Háttér Society and conducted by the agency Medián showed that the number of people who reported knowing LGBTI people slightly increased over the past year.[50] This may lead to the conclusion that more people became open about their sexual orientation or gender identity, probably not only because they felt safe, but also as a form of protesting the harmful legislative changes. Despite the government's crackdown on LGBTI rights, support among the wider population for legal and policy measures protecting the rights of LGBTI people (same-sex marriage, parenting, legal gender recognition, school education of sexual minorities, LGBTI visibility in the media) had not significantly changed in comparison with the previous year.[51] 51% of all respondents agreed that young people between 14-18 years old should learn about same-gender attraction in schools, and 60% opposed banning the portrayal of LGBTI people in daytime media.

According to a survey conducted by Ipsos between February and March 2023, 47% of the Hungarian society believes that same-sex couples should be able to marry, meaning that the number of supporters of marriage equality has increased by 1% since the Propaganda Law came into force.[52] The right of same-sex couples to adopt children is supported by a significantly higher percentage (56%), although this number was also higher back in 2021 when 59% of Hungarians agreed that same-sex couples should have the same rights to adopt children as heterosexual couples.

[48] European Union Agency for Fundamental Rights (FRA), LGBTI Survey Data Explorer, (accessed on 22 November 2023) https://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-fundamental-rights-lesbian-gay-bisexual-and

[49] FRA, LGBTI Survey Data Explorer (previously cited)

[50] Háttér Society, Report on Act LXXIX of 2021 amending certain acts for the protection of children and its implementation, January 2023, https://en.hatter.hu/publications/report-on-act-LXXIX-of-2021-and-its-implementation

[51] Luca Dudits, Executive Director of the Háttér Society, "Milliókat költött a kormány a propagandára, a többség mégis védené az LMBTQI embereket a diszkriminációtól" [The government has spent millions on propaganda, yet the majority would protect LGBTQI people from discrimination] 1 February 2023, (in Hungarian) https://hatter.hu/hirek/milliokat-koltott-a-kormany-a-propagandara-a-tobbseg-megis-vedene-az-lmbtqi-embereket-a

[52] Ipsos, "Pride month 2023: 9% of adults identify as LGBT+" 1 June 2023, https://www.ipsos.com/en/pride-month-2023-9-of-adults-identify-as-lgbt

4.THE PROPAGANDA LAW

> **"Hateful discourse against LGBTI persons frequently depicts them as sick, deviant, prone to crime, immoral, socially unstable, and a threat for children. They increase prejudice and intolerance and lead to discrimination and violence."**
>
> Statement by human rights experts on the International Day against Homophobia, Transphobia and Biphobia [53]

4.1 THE LEGISLATIVE PROCESS AND PROTESTS

On 25 May 2021, MPs belonging to the main governing party Fidesz, Máté Kocsis and Gabriella Selmeczi, submitted a bill to the Parliament "on harsher sentencing for paedophile criminal offences and a criminal registry for perpetrators of such offences."[54] On 10 June, the Parliament's Legislative Committee submitted a series of proposed amendments to the bill, which were condemned by civil society organizations for being discriminatory and stigmatising towards LGBTI people. The proposal put for a final vote before Parliament was significantly different from the original proposal purportedly aimed at combating paedophilia.[55] The new proposal stated that the purpose of the amendments was to "outlaw any depiction or discussion of diverse gender identities and sexual orientations in the public sphere", so that "children cannot encounter it on different platforms,"[56] including in schools and the media, by prohibiting or limiting access to content that "propagates or portrays divergence from self-identity corresponding to sex at birth, sex change or homosexuality" for children under 18 years of age.[57]

On 14 June, a day before the Parliamentary vote, more than 10,000 people protested the proposal in front of the Hungarian Parliament in Budapest.[58] The protest was organised by Amnesty International jointly with local LGBTI organisations and other stakeholders. Despite widespread domestic and international criticism

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[53] Inter-American Commission on Human Rights and two United Nations human rights experts Victor Madrigal-Borloz, David Kaye, "Promote tolerance and diversity, speak out against hate and bigotry." Statement, 17 May 2019, https://www.oas.org/en/iachr/media_center/preleases/2019/119.asp

[54] T/16365 sz. törvényjavaslat, "A pedofil bűnelkövetőkkel szembeni szigorúbb fellépésről, valamint a gyermekek védelme érdekében egyes törvények módosításáról" [Bill T/16365 "On tougher action against paedophile offenders and amending certain laws to protect children"] 25 May 2021, (in Hungarian) https://www.parlament.hu/irom41/16365/16365.pdf

[55] Miklós Lévay, *A "pedofiltörvény" megalkotásáról*, [On the creation of the 'paedophile law'] In JOGTÖRTÉNETI PARERGA III, Borsos-Szabó Ágnes, Bérci Ildikó (editors) Budapest, 2023, pp. 241-253.

[56] Explanatory Memorandum (previously cited) https://www.parlament.hu/documents/129291/40734520/T16365_1.pdf p. 10.

[57] Several provisions of Act LXXIX prohibit or limit access to content that propagates or portrays the so-called "divergence from self-identity corresponding to sex at birth, sex change or homosexuality" for individuals under 18 and for public service advertisement even without any age limit (Section 32 (4a) of the Media Act). New Section 6/A of the Child Protection Act and new Section 8(1a) of the Advertisement Act forbid "making accessible to persons who have not attained the age of eighteen years content that (…) propagates or portrays divergence from self-identity corresponding to sex at birth, sex change or homosexuality." (Section I (2) and Section 3 of Act LXXIX of 2021) New Section 9(6), in combination with Section 9(1) of the Media Act, imposes the obligation on media services to classify programmes under category V (not appropriate for audiences under the age of eighteen) if they are capable of exerting a negative influence on the physical, mental or moral development of minors, in particular as a result of having as their central element violence, propagation or portrayal of divergence from self-identity corresponding to sex at birth, sex change or homosexuality); (Section 9 (2) of Act LXXIX of 2021)

[58] Amnesty International, "Hungary - Dark day for LGBTI rights as homophobic and transphobic law adopted", 15 June 2021, https://www.amnesty.org/en/latest/news/2021/06/hungary-dark-day-for-lgbti-rights-as-homophobic-and-transphobic-law-adopted/

and outrage,[59] the governing majority in Parliament adopted the law on 15 June. After the vote, another peaceful demonstration was held in front of the office of the President of Hungary by people who opposed the reforms and urged him not to sign the law.[60] More than 100,000 people signed a petition opposing the legislation.[61] Nevertheless, the President signed and promulgated the law on 23 June, and it entered into force on 8 July.

Act LXXIX of 2021consists of 11 amendments to different Acts. As detailed in the explanatory memorandum, it serves Hungary's constitutional obligation to "protect the children's physical, mental and moral development" and their "unalterable self-image that originates from their birth".[62] The amendments that are of particular interest to this report are the amendments to the Advertisement Act and the Media Act, however, amendments with similar content that outlaw any depiction or discussion of diverse gender identities and sexual orientations were added to the Child Protection Act, the Family Protection Act and the National Public Education Act as well.

On 6 August 2021, the government published further regulation for the implementation of the Propaganda Law in the Official Gazette. According to Article 20/A of Government Decree 210/2009. (IX. 29.) on commercial activities as amended by Government Decree 473/2021. (VIII. 6.) "Products targeting children depicting or propagating divergence from self-identity corresponding to sex at birth, sex change, and homosexuality" cannot be displayed (placed in shopping windows) and can only be sold in special packaging separate from other products. Products depicting or promoting "divergence from self-identity corresponding to sex at birth, sex change and homosexuality" - not limited to those targeting children- cannot be sold within 200 meters of schools, children or youth institutions, and churches. Act LXXIX of 2021 and the Government Decree 473/2021. (VIII. 6.) are together commonly referred as the Propaganda Law.

4.2 CONTENT OF THE PROPAGANDA LAW

The amendments to the Advertisement Act and the Media Act only apply to businesses and media service providers. However, the Propaganda Law results in significant restrictions to people's right to access information, which is a key part of the right to freedom of expression. The law limits what information is conveyed to people and available to them through various media, restricting their ability to seek and receive information and ideas of all kinds. The legislation carries a symbolic significance as well as its mere existence reinforces the stigma and discrimination against LGBTI people. Legislating the paedophile registry and limitations on content portraying sexual and gender minorities conveys the message that these issues are interrelated.

New Section 8 (1a) of the Advertisement Act forbids making accessible to people under the age of 18 content that "propagates or portrays divergence from self-identity corresponding to sex at birth, sex change or homosexuality" (Section I (2) and Section 3 of Act LXXIX of 2021). New Section 9 (6) of the Media Act, in combination with Section 9 (1), imposes an obligation on media services to classify programmes under category V (not appropriate for audiences under the age of 18) if "they are capable of exerting a negative influence on the physical, mental or moral development of minors, in particular as a result of having as their central element violence, propagation or portrayal of divergence from self-identity corresponding to sex at birth, sex change or homosexuality" (Section 9 (2) of Act LXXIX of 2021).

Section 32 (4a) of the Media Act also excludes advertisements from qualifying as public service announcements and community facilities where the advertisement "is capable of exerting a negative influence on the appropriate physical, mental, or moral development of minors, in particular as a result of having as their central element "pornography, propagation or portrayal of divergence from self-identity corresponding to sex at birth, sex change or homosexuality" (Section 9 (3) of Act LXXIX of 2021).

Section 179 (2) of the Media Act imposes an obligation to the Media Council to send requests to media regulators in foreign countries to take action against service providers registered elsewhere in the EU if a

[59] The Guardian, "Hungary passes law banning LGBT content in schools or kids' TV" 15 June 2021, https://www.theguardian.com/world/2021/jun/15/hungary-passes-law-banning-lbgt-content-in-schools; Reuters, "Hungary's anti-LGBTQ law breaches international rights standards - European rights body" 14 December 2021, https://www.reuters.com/world/europe/hungarys-anti-LGBTI-law-breaches-international-rights-standards-european-rights-2021-12-14/

[60] Amnesty International, Twitter post: "Another demo, this time at the office of the President of #Hungary. It is high time for János Áder to do his job for once and protect the people he serves. The #propagandalaw must go!" 16 June 2021, https://twitter.com/AmnestyHungary/status/1405226576875339777

[61] Szabad a Hang, "Nem akarunk orosz mintájú homofób törvényeket!" [We do not want Russian-style homophobic laws!] 2021, (in Hungarian) https://szabad.ahang.hu/petitions/nem-akarunk-orosz-mintaju-homofob-torvenyeket

[62] Explanatory Memorandum (previously cited) p.10.

media service provider fail to implement measures to adequately classify content that “propagates or portrays divergence from self-identity corresponding to sex at birth, sex change or homosexuality" (Section 9 (5) of Act LXXIX of 2021).

The Propaganda Law does not clarify how the "propagation" or "portrayal" of homosexuality or gender reassignment is to be interpreted, leaving the interpretation and implementation solely to executive authorities, including the Media Council of the NMHH that only consist of members appointed by the governing party.[63]

4.3 SANCTIONS

The Propaganda Law in connection to areas of media, advertising and commercial activities left existing sanctions in sectoral laws untouched. According to Section 24-26 of the Advertisement Act, advertisements that violates the law can be sanctioned in accordance with the Consumer Protection Act that include immediate removal of online content, confiscation of goods, closure of shops/establishments of service and a fine.[64] The fine is determined by the annual net revenue of the company (service provider) and may be up to 5,253,000 EUR in case of companies with a net revenue above 263,000 EUR and up to 12,500 EUR in case of companies with a net revenue below 263,000 EUR.[65]

Under Section 26 (1) of Government Decree 210/2009. (IX. 29.) on commercial activities, service providers that violate provisions relating to the sale of goods can also be sanctioned in accordance with the Consumer Protection Act. Furthermore, according to Section 27 (1), the chief clerk (jegyző) of the local government can suspend certain commercial activities or close the shop for a maximum of 90 days if such rules are violated. In case the owner does not comply with the requirements imposed by the chief clerk, the shop can be permanently closed under Section 27 (2).

The Media Council is the authority with power to apply sanctions in case of violations of the Media Act. According to Section 187, the Media Council can suspend the right to provide media services for a period ranging from 15 minutes to seven days; it may terminate the service contract with the service provider or order that the service provider be deleted from the media registry (as a result of which its media services will not be available for the public). A fine between 7,500 EUR and 500,000 EUR, depending on the type of media service provider, may also be imposed. The Media Council may also impose a fine (up to 5,000 EUR) on individuals fulfilling a management role at the service provider.

4.4 POST FACTO REFERENDUM

In response to national protests and international outrage sparked by the adoption of the Propaganda Law,[66] including the EU Commission’s intention to fight the Propaganda Law,[67] the Hungarian government announced on 21 July 2021,[68] that they will conduct a national referendum regarding children’s access to information concerning issues of sexual orientation and gender identity on the same day as the parliamentary elections of 2022, even if the Propaganda Law had already been enacted.[69]

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[63] Subject to a two-thirds majority vote of MPs present, the Council’s President and its four Members are elected by the Hungarian Parliament for a term of nine years and as the main governing party, Fidesz has the two-thirds majority in the Parliament, their candidates were elected on 10 December 2019.

[64] Hungary, Act CLV of 1997 on Consumer Protection, 1997, (in Hungarian) https://net.jogtar.hu/jogszabaly?docid=99700155.tv Section 47.

[65] Hungary, Act CLV of 1997 on Consumer Protection, Section 47/C. (previously cited)

[66] In response to adopting the law, a group of EU countries condemned Hungary’s legislation as "a flagrant form of discrimination". Belgium, Denmark, Estonia, Finland, France, Germany, Ireland, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Spain, and Sweden signed the statement. Politico, "It’s Hungary vs. Everyone after attacks on LGBTQ+ rights" 23 June 2021, https://www.politico.eu/article/its-hungary-vs-everyone-after-attacks-on-lgbtq-rights-euro-2020-viktor-orban/

[67] Politico, "‘A shame’: Von der Leyen vows EU will fight Hungary’s anti-LGBTQ+ law" 23 June 2021, https://www.politico.eu/article/european-commission-legal-steps-hungarys-anti-lgbtq-law

[68] Népszava, "Orbán Viktor: Gyermekvédelmi népszavazást kezdeményez a kormány (videó)" [Viktor Orbán: Government initiates child protection referendum (video)] 21 July 2021 (in Hungarian) https://nepszava.hu/3126909_orban-viktor-gyermekvedelmi-nepszavazast-kezdemenyez-a-kormany-video

[69] National Election Office, National referendum 3 April 2022 - Overall results, 2 May 2022, (in Hungarian) https://vtr.valasztas.hu/nepszavazas2022

When announcing the referendum, the Prime Minister stated that Hungary has been targeted by "Brussels" (the commonly used synonym of the EU by the Hungarian government).[70] He explained that he believes that LGBTI activists attending kindergartens and schools to provide sex education, something that according to him was already common in Western Europe, is what Brussels wanted for Hungary. The Prime Minister asserted that this was a threat to Hungary and that therefore the government decided to call for a referendum on five issues related to "child protection".

The questions posed in the referendum raised significant concerns among numerous human rights organisations, including Amnesty International, because they reinforced harmful stereotypes against LGBTI people.[71] Therefore, a nationwide campaign led by Amnesty International, and Háttér Society was launched to encourage voters to cast invalid votes, thus increasing the chances of rendering the referendum invalid.[72] The referendum was declared invalid by the National Election Office because not enough valid votes were cast.[73] For a referendum to be valid, 50% of those eligible to vote must cast a valid vote. In the referendum 3,5 million valid votes were cast along with 1,6 million invalid votes, for the referendum to be legally valid, 4,1 million valid votes would have been necessary.[74]

Following the referendum, several NGOs, including Háttér Society and Amnesty International were fined by the National Election Committee (NEC) for their involvement in encouraging invalid voting during the Hungarian government's anti-LGBTI referendum.[75] Háttér Society and Amnesty International were ordered to pay a fine of 3 million forints (the highest possible fine, approximately 8,000 EUR) each, as they were the main organisers of the campaign. The Kúria (Supreme Court) has ruled on five cases involving NGOs. In three of these cases, the court found that the NGOs had not violated any laws and that their campaign was legitimate and constitutional. However, in the remaining two cases, the Kúria rejected Háttér Society's application without examining the merits of the case, upholding the NVB's HUF 3 million fine and in another where no fine was imposed, rejected the submissions from Amnesty International Hungary and Háttér Society without any substantive examination.[76] In these two remaining cases the Constitutional Court rejected the constitutional complaints as well.[77] The two NGOs jointly filed an application before the ECtHR, where a ruling is currently pending.[78] Amnesty International argued that the campaign leading up to the referendum falls within the scope of public debate and is thus one of the most protected aspects of the right to freedom of expression under Article 10 of the ECHR, including encouraging people to cast an invalid vote. Moreover, Amnesty has argued that under Hungarian law, casting an invalid vote is not illegal and therefore voters have a right to express their opinion of this matter by deciding to cast an invalid vote in the referendum. Therefore, according to the organizations, imposing sanctions based on the NGOs' expressed opinions during the referendum campaign would be an undue restriction of Article 10 of the ECHR.

Despite the result of the referendum as invalid, the Prime Minister did not hesitate to claim a victory. For its part, István Hollik, Fidesz's communications director, announced that the governing parties "will look at valid votes of those who were willing to express their opinion on the protection of our children, and we will consider it our constitutional obligation, and we will act according to the result of the referendum."[79] In addition, independent journalists reported that the government and several media outlets close to it simply

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[70] Government, "Gyermekvédelmi népszavazást kezdeményez a kormány" [Government initiates referendum on child protection on five issues], Press Realese, 21 July 2021, (in Hungarian) https://kormany.hu/hirek/gyermekvedelmi-nepszavazast-kezdemenyez-a-kormany

[71] The questions of the referendum were the following: Do you support the teaching of sexual orientations to minors in public education institutions without the consent of their parents? Do you support the promotion of gender reassignment treatments for underage children? Do you support unrestricted sexual media content that affects the development of underage children? Do you support showing underage children media depicting gender reassignment?

[72] Amnesty International, "Szavazzunk érvénytelenül a kormány kiközösítő népszavazásán!" [Vote invalidly in the government's ostracism referendum!] 11 January 2022, (in Hungarian) https://www.amnesty.hu/szavazzunk-ervenytelenul-a-kormany-kikozosito-nepszavazasan/

[73] HVG, "Érvénytelen lett a népszavazás" [The referendum is invalid] 4 April 2022, (in Hungarian) https://hvg.hu/itthon/20220404_Ervenytelen_lett_a_nepszavazas

[74] Telex, "NGOs to be fined for encouraging invalid votes at the Hungarian government's child protection referendum" 11 April 2022, https://telex.hu/english/2022/04/11/ngos-to-be-fined-for-encouraging-invalid-votes-at-the-hungarian-governments-child-protection-referendum

[75] Amnesty International, "Megijedt a kormány: bírsággal hallgattatnák el a propaganda-népszavazás megbuktatóit" [The government is scared: fines would silence the overthrowers of the propaganda referendum] - Press Release, 9 April 2022, (in Hungarian) https://www.amnesty.hu/megijedt-a-kormany-birsaggal-hallgattatnak-el-a-propaganda-nepszavazas-megbuktatoit/

[76] Budapest Times, "Kúria scraps election committee decision to fine NGOs for negative referendum campaign", 16 April 2022, https://www.budapesttimes.hu/hungary/kuria-scraps-election-committee-decision-to-fine-ngos-for-negative-referendum-campaign

[77] Constitutional Court of Hungary, Decision no. 3216/2022 (V. 11), 22 April 2022, (in Hungarian) https://alkotmanybirosag.hu/ugyadatlap/?id=D2169A2043DA000AC1258829005B9186; Constitutional Court of Hungary, Decision no. 3217/2022. (V. 11.), 22 April 2022, (in Hunarian) https://alkotmanybirosag.hu/ugyadatlap/?id=D169AC2A934887D3C1258829005B9136

[78] ECtHR, Application no.43901/22.

[79] HVG, "A közmédia továbbra is egyszerűen elhallgatja, hogy megbukott a népszavazás." [The public media continues to conceal the failure of the referendum simply], 7 April 2022, (in Hungarian) https://hvg.hu/itthon/20220407_ervenytelen_gyermekvedelmi_nepszavazas_orban_viktor_brusszel

did not inform people about the invalidity of the referendum.[80] The Prime Minister was also asked about the invalid referendum at an international press conference, where he said that "the result does not only represent a political mandate, but a political obligation that the government must implement."[81] Such statements from high-level authorities disregarded the referendum results, and wrongly assumed the referendum as valid.

[80] HVG, "Nem tudja meg, hogy érvénytelen a népszavazás, aki a kormánymédiából tájékozódik" [You would not know that the referendum is invalid if you get information from the government media] 4. April 2022. https://hvg.hu/itthon/20220404_Nem_tudja_meg_hogy_ervenytelen_a_nepszvazas_aki_a_kormanymediabol_tajekozodik?s=hk

[81] HVG, "Magyarország nem enged Brüsszel nyomásának, május végére állhat össze az új kormány - Orbán a sajtó elé állt a választási győzelem után" [Hungary he does not give in to pressure from Brussels, the new government could be formed by the end of May - Orban went to the press after the election victory], 6 April 2022 (in Hungarian) https://hvg.hu/itthon/20220406_Orban_Viktor_sajtotajekoztato

5. INTERNATIONAL HUMAN RIGHTS LAW AND STANDARDS

> **"It can be challenging for someone who is not familiar with the situation to understand why this law is problematic. They may ask for data or evidence of lawsuits, but the issue runs deeper than what can be quantified in numbers or legal cases. There aren't any lawsuits due to people being overly cautious about matters related to sexual orientation and gender identity."**
> Eszter Polgári, Háttér Society[82]

5.1 THE RIGHT TO FREEDOM OF EXPRESSION

The right to freedom of expression is enshrined in Article 19 of the ICCPR and Article 10 of the ECHR, both ratified by Hungary, and protects the right of every individual to express their ideas and opinions freely and to seek, receive and impart information of all kinds through any media of their choice. The right to freedom of expression is a fundamental pillar of society, essential for the development of every individual and a necessary condition for the realization of human rights. The right to freedom of expression is also a collective right that endows social groups with the ability to seek and receive different types of information from a variety of sources and to voice their collective views.

While the right to freedom of expression is not absolute, restrictions may only be justified when provided by law, and are necessary and proportionate to a legitimate and specific pressing need, which is in turn limited to the respect of the rights of others or for the protection of national security, public safety, public order or of public health or morals. Restrictions must be consistent with all other human rights recognized in international law, including the right to equality and non-discrimination, and may not impair the essence of the right affected or be applied in a discriminatory or arbitrary manner.[83]

[82] Interview with Eszter Polgári, director of the legal programme of Háttér Society, 15 June 2023.

[83] UN Human Rights Committee (HRC), General Comment 34: Article 19: Freedoms of opinion and expression, 12 September 2011, UN Doc. CCPR/C/GC/34, para. 21-22.

The UN Human Rights Committee (HRC), a body of independent experts tasked with monitoring state compliance with the ICCPR, has further clarified that for restrictions to meet the legality test, they must be accessible to the public and be formulated with sufficient precision to enable an individual to regulate their conduct.[84]

Restrictions must also adhere to the strict test of necessity and proportionality, which means that measures must be both necessary to achieve the specific legitimate aim and also proportionate. The HRC has underlined that any restrictions, whether set out in law or applied by administrative or judicial authorities, must be the least intrusive means possible and must be proportionate to the interest to be protected and must not be overbroad.[85] The burden is on the state to demonstrate the necessity and proportionality of the restriction.

States also have an obligation to protect people from discrimination, including on the basis of their sexual orientation, gender identity or expression, or sex characteristics. The principle of non-discrimination is a universal and unwavering obligation of all States. Every individual must be treated fairly and equally, irrespective of their sexual orientation, gender identity, or sex characteristics. Discrimination based on any of these factors is intolerable and must not obstruct the exercise of human rights.

On a domestic level, Article IX. in the Fundamental Law constitutes that "Everyone has the right to freedom of expression". The Fundamental Law states that Hungary recognises and protects the freedom and pluralism of the press and ensures the conditions for free information necessary for the formation of democratic public opinion. Article XV. of the Fundamental Law guarantees all person's equal treatment before the law and states that special measures should be taken to promote the effective implementation of this principle. Moreover, according to Article XV. (2), "Hungary shall ensure fundamental rights to every person without any discrimination on the grounds of race, colour, sex, disability, language, religion, political or other views, national or social origin, financial, birth or other circumstances whatsoever." Even if Article XV lacks an explicit prohibition of discrimination on the grounds of sexual orientation or gender identity, Hungary has to provide protection against discrimination based on various international instruments as well, including the ICCPR (Articles 2 and 26), the TFEU (Article 19), and Directive 2000/78/EC (the so-called "Employment Equality Directive"), as well as the EU Charter of Fundamental Rights. The Charter provides protection from discrimination on grounds of both sexual orientation and gender identity, which follows from Articles 20 (equality before the law) and 21 (non-discrimination, inter alia, on grounds of sex and sexual orientation) of the Charter. In the field of application of EU law, no difference of treatment on grounds of sexual orientation or gender identity can be allowed, and this prohibition of discrimination is imposed in the case law of the European Court of Justice. Moreover, the Hungarian Act CXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities forbids discrimination based on factors that include sexual orientation and sexual identity in the fields of employment, education, housing, health and access to goods and services.

The UN High Commissioner for Human Rights has in particular pointed out that laws have been enacted or proposed in several States that seek to prohibit or restrict public discussion of sexual orientation and gender identity, the work of human rights defenders and civil society organisations working on the human rights of LGBTI people and events related to these issues, often under the guise of "protecting minors."[86] The UN High Commissioner found that such laws are frequently vaguely worded and arbitrarily restrict the right to freedom of expression and the right to information. Similarly, the UN Special Rapporteur on the Right to Freedom of Expression has condemned "homosexual propaganda" laws, like the one in Hungary, as they are a form of censorship of legitimate speech about and by LGBTI and gender nonconforming people. The Special Rapporteur noted in particular evidence showing that such laws foster intolerance, stigmatization and violence, and deprive people of access to accurate information.[87]

The HRC has also found that a conviction for so-called "propaganda of homosexuality among minors" amounted to a violation of the right to freedom of expression and equal protection of the law.[88] The Committee on the Rights of the Child has similarly pointed out that laws supposedly created to safeguard minors actually have the opposite effect. These laws promote prejudice and bias against LGBTI individuals,

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[84] UN HRC, General Comment 34, (previously cited) para. 25.

[85] UN HRC, General Comment 34, (previously cited) para. 34.

[86] UN High Commissioner for Human Right, Report: *Discrimination and violence against individuals based on their sexual orientation and gender identity*, 4 May 2015, UN Doc. A/HRC/29/23, para. 48.

[87] UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Report: *Gender equality and freedom of expression,* 30 July 2021, UN Doc. A/76/258, para. 28.

[88] UN Human Rights Committee (HRC), Communication No. 1932/2010, 30 November 2012, UN Doc. CCPR/C/106/D/1932/2010, para. 10.8.

including children and those from LGBTI families. They also result in the mistreatment, violence and continued harassment of LGBTI people at large.[89]

The UN Special Rapporteur on the situation of human rights defenders has expressed concern over the risks and challenges faced by LGBTI rights defenders who have been posited by religious leaders, politicians and members of conservative groups as intending to destabilize the political and social order simply for their work in combatting discrimination against LGBTI people and towards gender equality.[90]

5.2 OPINION OF THE VENICE COMMISSION

On 24 September 2021, the Venice Commission was asked by the Committee on Equality and Non-Discrimination of the Council of Europe to assess the compatibility of the Hungarian Propaganda Law with international human rights standards. The opinion of the Venice Commission restated its position from previous opinions analysing similar laws that such legislation only reinforces prejudice and homophobia, which are incompatible with human rights.[91] In its opinion published in 2013 on existing or proposed laws banning "propaganda of homosexuality" in Russia, Ukraine and Moldova, the Venice Commission found that such laws should be repealed as "statutory provisions prohibiting 'propaganda of homosexuality' are incompatible with the ECHR and international human rights standards."[92] The Venice Commission argued that "homosexuality, as a variation of sexual orientation, is protected under the ECHR and as such, cannot be deemed contrary to morals by public authorities."[93] It added that prohibiting "propaganda of homosexuality" without any reasonable or objective criteria amounted to discrimination based on sexual orientation.[94]

The Commission noted that the Propaganda Law in Hungary seems to serve as an implementation of the constitutional changes regarding issues of marriage and family, including questions of gender identity and the upbringing of children. The Venice Commission assessed the constitutional amendments in its opinion and warned against the danger that the constitutional amendments "will further strengthen an attitude according to which non-heterosexual lifestyles are seen as inferior and fuel a hostile and stigmatising atmosphere against LGBTI people."[95]

The Venice Commission pointed out "that even though there is no hard law confirming that there is a right of children to receive information on subjects dealing with sexual orientation and gender identity, the Convention on the Rights of the Child requires states to ensure children's "access to information and materials from a diversity of national and international sources."[96] In the Venice Commission's opinion, the provisions in question are not formulated with sufficient precision to satisfy the requirement "prescribed by law" contained in paragraphs 2 of Article 10 ECHR and paragraph 3 of Article 19 ICCPR. Moreover, the Venice Commission stated that the prohibition of "propagation and portrayal of divergence from self-identity corresponding to sex at birth, sex change or homosexuality" among children amounts to discrimination since the authors of the provisions under consideration have not put forward any reasonable and objective justification of the differential treatment.[97] As such, the Propaganda Law was found to be incompatible with the underlying values of the ECHR, in addition to its failure to meet the requirements for restrictions prescribed by Articles 10 and 14 of the ECHR.

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[89] UN Committee on the Rights of the Child, Concluding Observations: Russian Federation, 25 February 2014, UN Doc. CRC/C/RUS/CO/4-5, paras. 24-25.

[90] UN Special Rapporteur on the situation of human rights defenders, Report: Situation of women human rights defenders, 10 January 2019, UN Doc. A/HRC/40/60 para. 31.

[91] Venice Commission, Opinion 707 / 2012, 18 June 2013, https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2013)022-e

[92] Venice Commission, Opinion 707 / 2012, 18 June 2013, (previously cited) para. 83.

[93] Venice Commission, Opinion 707 / 2012, 18 June 2013, (previously cited) para. 80.

[94] ECtHR, Bayev and Others v. Russia, Applications nos. 67667/09, 44092/12 and 56717/12, Judgement, 20 June 2017, https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-174422%22]}

[95] Venice Commission, Opinion 1035 / 2021, 2 July 2021 https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)029-e para. 30.

[96] UN Committee on the Rights of the Child, General Comment 4: Adolescent health and development in the context of the Convention on the Rights of the Child, 1 July 2003, UN. Doc. CRC/GC/2003/4, para.10.

[97] Venice Commission Opinion No.1059 / 2021, 13 December 2021, https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)050-e para. 70.

6. THE (UN)LAWFULNESS OF THE RESTRICTIONS

> **"It's humiliating to have to think about what is in each of our books."**
>
> Editor-in-chief of a Hungarian publishing house[98]

This chapter illustrates how the Propaganda Law violates Hungary's human rights obligations as it fails to meet the threshold for limiting the ability of individuals to seek and receive information. It outlines how the provisions of the law result in restrictions on people's right to access information; their failure to meet the three-part test under international human rights law that therefore makes the restrictions unlawful; and how these provisions additionally entrench existing stigma, discrimination, and negative stereotypes about LGBTI people in Hungary.

6.1 RESTRICTIONS ON THE RIGHT TO SEEK AND RECEIVE INFORMATION

The right to freedom of expression includes the right to seek and receive information and ideas of all kinds and includes the "receipt of communications of every form of idea and opinion capable of transmission to others."[99] According to the Special Rapporteur on the Promotion and Protection of the right to Freedom of Opinion and Expression, children also have the right to receive information and ideas of all kinds since "seeking and accessing information is essential for the child's development and represents an essential precondition for participating in social life."[100] Yet, the enforcement of the Propaganda Law has meant that certain types of content are now less available in Hungary, particularly to children and young people, which restricts their right to seek and receive information.

Amnesty International's interviews with a range of content providers gave illustrations of how they were limiting the availability and dissemination of content which contained portrayals of LGBTI people due to restrictions set out in the Propaganda Law. In some cases, the providers themselves made the content unavailable to children and young people out of fear of reprisals. In other instances, public authorities intervened to ensure that children do not have access to such content. The result in both instances led to

[98] Interview with Editor-in-chief of a Hungarian publishing house 7 June 2023.

[99] UN HRC, General Comment 34, (previously cited) para. 11.

[100] UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Report: Promotion and protection of the right to freedom of opinion and expression, 21 August 2014, UN Doc. A/69/335, para 18.

restricted access and censorship of specific material to children and young people of content that contains or portrays diverse characters and stories, particularly around LGBTI issues.

6.1.1 ACCESS TO BOOKS

Amnesty International interviewed representatives from three bookstores and two authors to understand how the Propaganda Law impacted their decision to disseminate content and, in some cases, what impact this had on them personally.

Tibor Ács, Director of Procurement and Logistics at Libri-Bookline Ltd. (hereinafter Libri), Hungary's largest bookdealer, shared with Amnesty International that when the Government Decree came into force, Libri had to consider what changes should be made to contracts, product communication and placement: "Of course, the lawyer of the Libri Group has been monitoring developments related to the legislation since the amendment came into force, and discussions are ongoing on what practices to follow in connection with the placement of children's books, what to consult with publishers, what changes should be made to contracts, communication of products and their placement" he said.[101]

Tibor Ács indicated that books affected by the legislation are still available at Libri, however they are categorized differently.[102] For example, Libri had to recategorize three books by novelist Dóra Papp, which were originally marketed as youth literature.[103] The books were then transferred to the category of entertainment literature for adults.[141] The decision on how books are to be classified is made collaboratively between the booksellers and publishers.

Independent news site Telex.hu reported on 20 July 2023 that Libri was conducting an evaluation of their bookstores to comply with the Government Decree, where it could no longer sell specific publications that may be restricted by the Propaganda Law.[104] According to the evaluation reported by Telex, nearly half of all Libri stores could be affected due to their proximity to a religious or educational institution. Libri did not confirm Telex's report or the existence of such evaluation as of writing this report.

THE TOLL ON AUTHORS

Dóra Papp is a contemporary Hungarian writer and patron of the popularization of reading.

Dóra Papp told Amnesty International, that she already felt concerned when the Propaganda Law was passed: "When the amendment was passed, I was uncertain as it was not clear whether the law could cover my previously published novels. Not to mention whether it will apply to my future novels."[105]

Her publisher, Ciceró Book Studio Ltd, decided in consultation with lawyers to suggest categorising Papp's books in the entertainment literature category instead of marketing her books to young people.

Dóra Papp emphasised that interpreting the law is almost unlimited in terms of possibilities: "The meaning of "depict" and "promote" is subject to interpretation. In my case, it (the Propaganda Law) was applicable – this is only my hunch – because my three books in question (Mirror Souls 1, Mirror Souls 2, Interference) feature gay, bisexual, and pansexual supporting characters. In my book Mirror Souls 1, I featured only one gay supporting character, the heterosexual protagonist's best friend. There aren't any major events in the book that happens between gays — not a date, not a kiss."[106]

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[101] Written testimony of Tibor Ács, Director of Procurement and Logistics at Libri-Bookline Ltd, 29 June 2023.

[102] Written testimony of Tibor Ács, Director of Procurement and Logistics at Libri-Bookline Ltd, 29 June 2023.

[103] "Most of my novels are written for people over 14, i.e. youth. I love writing about Hungarian reality for young people. I have received feedback from several literature teachers that they deal with several of my books as recommended compulsory reading in their classes." Written testimony of Dóra Papp, author 6 July 2023.

[104] Telex, "Az összes LMBTQ-könyv eltávolítását mérlegeli boltjainak tucatjaiból a Libri a melegellenes törvény miatt" [Libri is considering removing all LGBTI books from dozens of its stores over anti-gay law], 20 July 2023, (in Hungarian) https://telex.hu/belfold/2023/07/20/konyv-libri-melegellenes-torveny-bolt-kinalat-eltavolit

[105] Dóra Papp in written testimony answering Amnesty International's questions, 5 July 2023.

[106] Dóra Papp in written testimony answering Amnesty International's questions, 5 July 2023.

Dóra Papp also said that she was threatened on social media and that people told her that she would be spat on at her next signing. "This did not happen, but in any case, security people took care of me at the signing. It took a toll on me that after so many years of signing when it was a pleasure to meet readers, fear was planted in me, because I didn't know how seriously to take the threat."[107]

Regarding the effects of the law, she also told Amnesty International: "Some of my readers are beginner writers who have already indicated to me their fear that they do not dare to finish the book they are working on and will not dare to publish their writings by a Hungarian publisher."[108]

PROCEDURES AGAINST BOOKDEALERS

Even before the Propaganda Law was adopted, Líra Retail Ltd. (hereinafter Líra) was fined to the sum of 650 EUR by the Consumer Protection Authority for a children book published by the Foundation for Rainbow Families titled 'What a Family' featuring same-sex couples. According to the Pest County Government Office, it should have been indicated that the publication presents "abnormal" families.[109]

Regarding the decision of the Consumer Protection Authority imposing a fine on Líra, Krisztián Nyáry author and Creative Director of Líra told Amnesty International: "The description states that the customer went in and did not know what he was buying. By the way, the book is not about same-sex love, but it reveals that in one fairy-tale, a child has two daddies, and another child has two moms, and the most intimate thing they do together is brush their teeth."[110] On 25 November 2021, the Budapest District Court ruled that the imposition of the fine was unlawful and annulled the decision. Although the Government Office filed a request for review, this was rejected by the Kúria in February 2022 and thus the decision became final.[111]

Procedures against book sellers under the Propaganda Law began at the beginning of May 2023. Líra, a prominent book distribution and bookstore network in Hungary, had an audit where the Consumer Protection Authority raised objections to the distribution of a comic book in which two boys are in love with each other: "Heartstopper" by Alice Oseman. Líra placed the book at the youth books section at their stores.[112] Shortly after the audit at the bookshop, Bence Rétvári, a state secretary of the Ministry of Interior, posted a message on his Facebook page that read: "This is the ideology of 'gender', it is the main tenet of gender or LGBT. According to them, sexuality is not a given but is socially selectable and changeable. Their real intention is to relativise and weaken the family. The aggressive expansion of gender has already reached all ages of children's and youth literature."[113]

In July 2023 following the state secretary's Facebook post Líra was fined 32,000 EUR for selling the book Heartstopper, which "portrays homosexuality", for categorising it as a youth book without properly wrapping it.[114] In addition, the Government Office also ordered the company to ensure the comic book's "legal distribution" in terms of the sealed packaging when intended for children and the location of the stores where it could be purchased, as these products cannot be marketed within 200 meters of any entrance to an educational or religious institution.

The Consumer Protection Authority also initiated a procedure against Libri concerning the placement of children's books. When Amnesty International asked Libri which book is affected by the consumer protection procedure Libri considered it "a trade secret" and added that the publisher's consent was required for the title to be discussed.

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[107] Dóra Papp in written testimony answering Amnesty International's questions, 5 July 2023.

[108] Dóra Papp in written testimony answering Amnesty International's questions, 5 July 2023.

[109] 444, "Jogi válaszlépésre készül a Líra Csoport, miután a kormányhivatal 250 ezerre büntette a Micsoda Család! mesekönyv forgalmazóját" [The Lira Group is preparing a legal response after the government agency fined 250,000 for the What a Family! storybook distributor] 7 July 2021, (in Hungarian) https://444.hu/2021/07/07/jogi-valaszlepesre-keszul-a-lira-csoport-miutan-a-kormanyhivatal-250-ezerre-buntette-a-micsoda-csalad-mesekonyv-forgalmazojat

[110] Interview with Krisztián Nyáry, creative director at Líra Book Ltd., 12 June 2023.

[111] Media1, "A bíróság szerint jogtalanul kapott bírságot a Micsoda család! című mesekönyv forgalmazója" [According to the court, the What a Family was unlawfully fined!], 17 March 2022, (in Hungarian) https://media1.hu/2022/03/17/a-birosag-szerint-jogtalanul-kapott-birsagot-a-micsoda-csalad-cimu-mesekonyv-forgalmazoja/

[112] Interview with Krisztián Nyáry, creative director at Líra Book Ltd., 12 June 2023.

[113] Bence Rétvári, Facebook post: "Az LMBT mesekönyv után itt az LMBT tini képregény" [After the LGBT storybook, here it is the LGBT teen comic] 16 May 2023, (in Hungarian) https://www.facebook.com/RetvariBence/posts/800451651443934

[114] 444, "12 millió forintos bírságot kapott a Líra, mert nem csomagolta be homoszexualitást megjelenítő könyvet" [Lira was fined HUF 12 million for failing to package a book depicting homosexuality], 13 July 2023, (in Hungarian) https://444.hu/2023/07/13/12-millio-forintos-birsagot-kapott-a-lira-mert-nem-csomagolta-be-homoszexualitast-megjelenito-konyvet?fbclid=IwAR3sRXu7p8GsUMfymcqj6aHY_JPB3V-ZwHF5EASvONqL6KIE2Rqkr8IryXw

Lakmusz,[115] a news portal that is part of the European Digital Media Observatory, obtained through a freedom of information request to the Consumer Protection Authority the two decisions imposing fines to the Libri and Líra bookstores for improper sale of LGBTI-related books.[116] The decisions were also made available on Lakmusz's website on 17 August 2023.[117] The fine against Libri for 1 million forints is based on the book "Good Night Stories for Rebel Girls" by Francesca Cavallo and Elena Favilli. According to the facts established by the authority, page 42 of the storybook contains the story of Coy, a young transgender girl which depicted "deviation from sex at birth and sex change, thus seriously violating the legal requirement to protect the physical and mental integrity of children and adolescents".[118] The authority argued that to determine the amount of the fine they took into account the nature, gravity, extent, and duration of the infringement. Additionally, they considered the number of consumers affected by the infringement and the "harm to their interests". For its part, Líra was fined with HUF 12 million due to the fact that all five Heartstopper books were available for children in the store over a year.

By July 2023, Libri was selling books covered with foil-coated paper.[119] A month later, a prominent chain of bookstores made a significant decision not to allow children to look through books that are not in the youth section. The decision was made in order to comply with legal regulations under the Propaganda Law and to ensure that people wishing to purchase books that contain topics regulated by the Propaganda Law were of legal age.[120] The bookstore's representatives clarified that their staff had acted in a "polite and professional manner" to comply with the law and that they simply prevented access to publications containing prohibited content by offering guidance and advice to customers.[121]

6.1.2 CLASSIFICATION AND BROADCASTING OF LINEAR MEDIA PROGRAMMES

> **"This law is unacceptable, discriminatory and, not only that, but I also think that it actually introduced censorship, a new kind of censorship in the media and, as such, is unacceptable to me."**
>
> Péter Kolosi, RTL[122]

For years, the Hungarian government has faced severe criticism, both domestically and internationally, for its actions that undermine media freedom.[123] The government has introduced laws that limit media pluralism and undermine editorial independence.[124] Hungary's public broadcaster regulator, the National Media and Infocommunications Authority (NMHH), has also been weakened and its independence has been

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[115] Lakmusz was established as a result of a European Union tender in January 2022 as part of the first phase of the Hungarian Digital Media Observatory (HDMO) project. Within the framework of the project, Lakmusz journalists are working with five other autonomous organizations against the spread of false and misleading information in Hungary. https://www.lakmusz.hu/hdmo-projekt/

[116] Lakmusz, "Az Eszti mesék ázadó lányoknak című könyv miatt kapta a Libri a "fóliázós" bírságot" [It was because of the book Good Night Stories for Rebel Girls that Libri received the "foiling" fine]. 17 August 2023, (in Hungarian) https://www.lakmusz.hu/az-esti-mesek-lazado-lanyoknak-cimu-konyv-miatt-kapta-a-libri-a-foliazos-birsagot/

[117] Government Office of Budapest, Consumer Protection Department, Case no. BP/2200/02500-5/2023, 2023 (in Hungarian) https://drive.google.com/file/d/1agS6Ek4OdJS_3a0X1G25sY9SjW0zp0BE/view

[118] Government Office of Budapest, Consumer Protection Department, Case no. BP/2200/02500-5/2023 (previously cited) p. 6.

[119] Daily News Hungary, "Anti-gay law: Books are wrapped in transparent foil in Hungary", 7 July 2023. https://dailynewshungary.com/anti-gay-law-books-are-wrapped-in-transparent-foil-in-hungary

[120] 444, "Az Alexandra kiadó szerint nem szoktak kiküldeni gyerekeket a könyvesboltból, ha a "felnőtteknek szóló" résznél ácsorognak" [According to publisher Alexandra, children are not usually sent out of the bookstore if they are standing at the "adult" section] 12 September 2023, (in Hungarian) https://444.hu/2023/09/12/az-alexandra-kiado-szerint-nem-szoktak-kikuldeni-gyerekeket-a-konyvesboltbol-ha-a-felnotteknek-szolo-resznel-acsorognak

[121] 444, "Az Alexandra kiadó szerint nem szoktak kiküldeni gyerekeket a könyvesboltból, ha a "felnőtteknek szóló" résznél ácsorognak" (previously cited)

[122] Interview by video call with Péter Kolosi, Content Director of RTL, 26 June 2023.

[123] European Federation of Journalists (EFJ),"New report: Hungary dismantles media freedom and pluralism", 3 December 2019, https://europeanjournalists.org/blog/2019/12/03/new-report-hungary-dismantles-media-freedom-and-pluralism/

[124] Centre for Media Pluralism and Media Freedom, Media Pluralism in the Digital Era, 2023, https://cadmus.eui.eu/bitstream/handle/1814/75753/MPM2023_General_report.pdf

compromised since the authority's President is selected by the Prime Minister and appointed by the President of Hungary for nine years.[125]

Various Media Council's decisions have contributed to restrictions on media freedom and pluralism. For example, in 2019 it agreed to the merger of 476 media companies into a conglomerate called The Central European Press and Media Foundation (Közép-Európai Sajtó és Média Alapítvány—KESMA), a move which facilitated an unprecedented pro-government media concentration.[126] In 2015, the Venice Commission recommended the government to introduce legal safeguards to ensure a more pluralistic composition of the Media Council,[127] but the government has failed to implement any changes. In 2022, the Council of Europe Commissioner for Human Rights found that the members of the Media Council are not independent and deplored that judicial review of their decisions is limited.[128] According to the Commissioner, this situation contravenes the Council of Europe's standards on media freedom.[129]

Additional standards relevant to members of the European Union require States to achieve the protection of minors from risks posed by information and communication technologies.[130] The Media Act incorporated the Audiovisual Media Services Directive,[131] which governs EU-wide coordination of national legislation on all audiovisual media, traditional TV broadcasts and on-demand services and contains provisions on the protection of children who access television. The Act creates six content categories and age groups for the purpose of classifying content. Under the Media Act, media service providers must categorise all programs for publication except for news, political information, sports, previews, political and public service announcements, and public interest announcements. In Hungary, there are currently ten commercial providers and six public service providers for linear media services.[132]

When the Propaganda Law was passed, the Media Council of the NMHH updated its Recommendation on the age rating of television and radio content to ensure that its guidance was compliant with the new provisions.[133]

Janka Aranyosné Börcs, who has been the Director General of the NMHH since 2010, told Amnesty International that the NMHH was not involved in the legislative process, that legislators did not seek their professional opinion, and that they were only confronted with the legislation when it was adopted.

"Since we are not legislators but enforcers, this is usually the case." - she explained.[134]

Janka Aranyosné Börcs explained to Amnesty International that the NMHH consulted media service providers and in-house experts with qualifications in sociology to amend their Recommendation, but no external experts such as child psychologists were contacted.[135] During the interview, Janka Aranyosné Börcs mentioned that she believed there was a willingness to reach a consensus during the process of updating the Recommendation and that the stakeholders were pleased with the result.

The criteria established in the updated Recommendation by the NMHH governing the rating of media content notes that content providers must always act in a restrictive manner in their rating. The recommendation clarifies that if a single element or scene of the published work contains a higher

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[125] Central European University (CEU), Center for Media and Communication Studies (CMCS), Report chapter "Independence" 2010, http://medialaws.ceu.hu/media_authority_independence_more.html

[126] CEU, "Report: Establishment of KESMA Exacerbates the Overall Risk to Media Pluralism in Hungary" 8 August 2019, https://cmds.ceu.edu/article/2019-08-08/report-establishment-kesma-exacerbates-overall-risk-media-pluralism-hungary

[127] Venice Commission, Opinion no. 798 / 2015, 22 June 2015, https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2015)015-e para. 73.

[128] Council of Europe Commissioner for Human Rights, Memorandum on freedom of expression and media freedom in Hungary, 30 March 2021, https://rm.coe.int/memorandum-on-freedom-of-expression-and-media-freedom-in-hungary/1680a1e67e para. 10.

[129] Council of Europe, Committee of Ministers, Recommendation CM/Rec(2000)23: The independence and functions of regulatory authorities for the broadcasting sector, 20 December 2000, https://rm.coe.int/16804e0322

[130] Council of the European Union, Recommendation 98/560/EC: The development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity, 24 September 1998, http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31998H0560:EN:NOT

[131] European Parliament and the Council, Directive 2010/13/EU: The coordination of certain provisions laid down by law, regulation or administrative action in the Member States concerning the provision of audiovisual media services, 10 March 2010, https://eurlex.europa.eu/legaltartalom/EN/ALL/?uri=celex%3A32010L0013

[132] National linear audiovisual media services operating on a notified basis, (in Hungarian) https://nmhh.hu/cikk/185060/Bejelentes_alapjan_mukodo_orszagos_linearis_audiovizualis_mediaszolgaltatasok (last updated 10 August 2023)

[133] NMHH Media Council, A médiatartalmak korhatár-besorolásánál irányadó szempontokra, az egyes műsorszámok közzététele előtt és közben alkalmazható jelzésekre, illetve a minősítés közlésének módjára vonatkozó jogalkalmazási gyakorlat elvi szempontjai, [Principles of judicial practice concerning the criteria governing the age rating of media content, the indications that may be used before and during the publication of certain programmes and the manner in which ratings are communicated] - Recommendation, 15 September 2021, (in Hungarian) https://nmhh.hu/dokumentum/214969/klasszifikacios_ajanlas.pdf

[134] Interview with Janka Aranyosné Börcs Director General of the NMHH, 13 July 2023.

[135] Interview with Janka Aranyosné Börcs Director General of the NMHH, 13 July 2023.

classification criterion, a higher category shall be applied.[136] Therefore, if even a few minutes of a program has content considered not suitable for children, then the entire program would be given a rating for an older audience.

According to the Recommendation, children "often become more susceptible to patterns that deviate from traditional social norms, which may result in deviations from customary social and sexual values being perceived as attractive lifestyles."[137] According to the Media Council, children are not able to interpret programmes that "propagate or portray divergence from self-identity corresponding to sex at birth, sex change or homosexuality" due to their age "so their access to such content may be liable to adversely affect their perception of themselves or the world."[138]

In the Recommendation, the Media Council also expressly states that content about "deviation from one's sex at birth and homosexuality" is not generally prohibited.[139] It is not the mentioning of these topics or their direct or indirect identification within the given programme that requires consideration from the point of view of the classification, but whether the depiction or representation of direct contact between persons of the same sex appearing in the given programme is "the decisive, essential element of the programme, the message of the programme (this is what the content is about), or if the programme depicts or promotes these elements or homosexuality as behaviour to be followed."[140]

The Media Council considers on the portrayal of gender reassignment or same-gender attraction an essential part of the content when it is a central part of the message and values and benefits connected to it are highlighted. Promotion includes "presenting homosexuality and gender change as social norms, as a way of life that is more attractive than the traditional heterosexual lifestyle and to be followed, as well as propaganda activities related to these topics appearing in media content, aimed at spreading these ideologies and views, influencing minors emotionally and persuading them by means of communication."[141]

The Recommendation also notes that "general gestures expressing tenderness, such as kissing, hugging, holding hands, should not be considered problematic, provided that their presentation is not an end in itself, is not a central defining element of the content, does not constitute the main theme of the programme in question, does not appear prominently, but is clearly aimed at demonstrating tenderness, love, togetherness or, where appropriate, compassion."[142] Where programmes contain depictions of gender reassignment same-sex relations or its promotion, the media service provider should consider whether such representation justifies the classification of the programme in a higher category on the grounds that it is capable of adversely affecting the physical, mental, or moral development of children. Examples of this content provided by the Recommendation include the film *Call Me by Your Name* or series like *It's a Sin* or *The L Word*. [143]

Péter Kolosi, who has been responsible for the commercial TV channel RTL's content since 2001, described the adoption of the Propaganda Law as a "new kind of censorship."[144] After the Propaganda Law took effect, RTL shifted certain programmes to a later time slot to avoid risking any penalties. In the case of upcoming programmes, Péter Kolosi told Amnesty International that writers or programme-makers might make changes to their work to ensure that their work complies with the law and avoids any unintentional violations.[145] He added that they sometimes not even consider certain types of content to be broadcast in Hungary due to the challenges they would face under the Propaganda Law.

In addition, RTL has been more restrained when rating programmes available on their streaming platform.[146] For example, Gáspár Gonda the lawyer of RTL mentioned that the film 'Jenny's Wedding' (2015) is now can only be broadcasted in the evening hours with the sign that it is not recommended for people under the age of 18. "This comedy has a global rating of twelve years of age, but due to its portrayal of a homosexual couple, we requested a preliminary classification from NMHH. As expected, NMHH rated the film for viewers

[136] NMHH Media Council, Recommendation (previously cited) p.2.

[137] NMHH Media Council, Recommendation (previously cited) p. 17.

[138] NMHH Media Council, Recommendation (previously cited) p. 17.

[139] NMHH Media Council, Recommendation (previously cited) p. 17.

[140] NMHH Media Council, Recommendation (previously cited) p. 17.

[141] NMHH Media Council, Recommendation (previously cited) p. 17.

[142] NMHH Media Council, Recommendation (previously cited) p. 17.

[143] NMHH Media Council, Recommendation (previously cited) p. 18.

[144] Interview by video call with Péter Kolosi, Content Director of RTL, 26 June 2023.

[145] Interview by video call with Péter Kolosi, Content Director of RTL, 26 June 2023.

[146] Interview by video call with Péter Kolosi, Content Director of RTL, 26 June 2023.

aged 18 and above. Therefore, it is not suitable for broadcasting on a Saturday afternoon as a family comedy, even though that this is the common practice worldwide."[147]

RTL has been thus far able to avoid any proceedings against them initiated under the Propaganda Law. However, according to Péter Kolosi, the NMHH has received multiple complaints stating that a kiss between two women in the Hungarian series "Barátok Közt" [Among Friends], which was taped before the enactment of the Propaganda Law but aired during prime time after it came into effect.[148] However, the Media Council did not take any action against RTL because they believed the scene was within the permissible framework based on their interpretation.

According to data provided by NMHH as of 13 July 2023, the authority received a total of 22 reports from media consumers referring to Section 9 (6) of the amended Media Act, but in none of those cases were deemed by the NMHH to require proceedings to be initiated.[149] In response to Amnesty International, Aranyosné Börcs said that immediately after the Propaganda Law entered into force, the authority received many complaints from numerous individuals, mostly regarding the same programme, but since then the number of complaints has been negligible.[150]

In various instances, the Media Council requested foreign media authorities to take action against service providers who are registered in different countries of the European Union.[128] The NMHH told Amnesty International that they received 58 complaints concerning media content published in media services under foreign jurisdiction. Some of them concerned the same programme, so the results of official inspections were sent to foreign partner authorities for a total of 17 programmes. However, only two programmes examined were classified by the Media Council as not appropriate for audiences under the age of 18.[151]

Janka Aranyosné Börcs also told Amnesty International that "There was no infringement at all, and what we send to authorities in foreign jurisdictions were two programmes that fall into this category. The foreign partner authority did not share the opinion of the Media Council, so according to them it was not illegal under their law."[152]

RTL representatives also explained to Amnesty International that sanctions provided by the Propaganda Law are not only a deterrent because of the level of the potential fine, but the company would also risk its reputation if it did not follow the regulations.[153]

> **"There are a lot of questions coming in as to what can be broadcasted. (...) I frequently encounter foreign lawyers who specialise in media and communication. When they approach me to ask about certain regulations, they often have a hard time comprehending the concept. It's understandable because these regulations may be unfamiliar to them. I try my best to explain it to them, but it is awkward and shameful."**
>
> Gáspár Gonda, lawyer of RTL [154]

[147] Interview by videocall with Péter Kolosi, deputy CEO and Gáspár Gonda, lawyer of RTL, 26 June 2023.

[148] Interview by videocall with Péter Kolosi, deputy CEO and Gáspár Gonda, lawyer of RTL, 26 June 2023.

[149] Data collected by the NMHH and provided to Amnesty International see Annex 1

[150] Interview with Janka Aranyosné Börcs Director General of the NMHH, 13 July 2023.

[151] Data collected by the NMHH and provided to Amnesty International see Annex 1

[152] Interview with Janka Aranyosné Börcs Director General of the NMHH, 13 July 2023.

[153] Interview by videocall with Péter Kolosi, deputy CEO and Gáspár Gonda, lawyer of RTL, 26 June 2023.

[154] Interview by videocall with Gáspár Gonda, lawyer of RTL, 26 June 2023.

6.1.3 FROZEN ADVERTISING

Some companies that use pro-LGBTI messaging in their advertising or represent LGBTI persons in their public communications have also had to change their strategy in response to the law.

In October 2019, Coca-Cola was fined 1,400 EUR for featuring a gay and a lesbian couple in a billboard campaign called #loveislove.[155] The intense media coverage had a significant impact on the advertising industry, causing severe chilling effects that led to less visibility of LGBTI people in advertisements. According to one creative director of an advertising agency who has worked in the industry for 12 years interviewed by Amnesty International, this sent a strong negative signal out to many in the advertising sector.[156] They told Amnesty International that even before the Propaganda Law there had been a sense of self-censorship because companies were afraid of political consequences. "Whether they pull out the match, that the propaganda media will tear them apart, and then the trolls will come, something politically retaliatory... well, what happened to Coca-Cola, that is what they feared."[157]

Amnesty International's interview with representatives of IKEA further illustrates how the already hostile environment was escalated by the Propaganda Law. According to Enikő Bakos-Kiss, the communication coordinator of IKEA Hungary, they no longer use certain elements in their external communication that were previously common and are still being used by IKEA in other countries. They also find it more difficult to express support for the rights of LGBTI people. For example, on the International Day Against Homophobia, Biphobia and Transphobia marked on 17 May, a rainbow flag was hoisted in front of all three IKEA stores in Hungary. But even this simple sign of support was described as stressful by Enikő Bakos-Kiss.[158] "When we recently hoisted the rainbow flag, we made sure to do it in a way that would not cause harm to our staff. We need to consider the possibility of the store being closed as it is uncertain what may happen. This is important to remember, especially since we have two thousand employees."[159]

In May 2021, IKEA showed their support for Háttér Society on the International Day Against Homophobia, Biphobia and Transphobia. Ikea announced on Facebook, that with the proceeds from the sale of rainbow-coloured bags, they support the Háttér Society.[160] IKEA currently does not have any similar content in their company news. The rainbow bags are still available in their range, and no consumer protection proceedings have been initiated against them as of writing this report.[161]Enikő Bakos-Kiss explained to Amnesty International that "It's not necessarily an issue to have a rainbow bag or other rainbow items available for purchase. However, if you are promoting the purchase of this bag in connection to the support of the LGBT+ community, it could be a risky move."[162]

Enikő Bakos-Kiss also expressed that the current circumstances surrounding possibilities and limitations are unclear, which is posing a significant challenge for the legal team in providing accurate guidance.[163] Amnesty International was told that caution is necessary to prevent sanctions from the government. For example, staff at IKEA responsible of designing a room for a fictitious person to showcase in-store, need to be more careful. On one occasion, after a customer complaint, IKEA decided to remove a framed photo of a drag queen in a room that was designed for a fictional drag queen.[164] It is unclear if this complaint was ever reported to the Consumer Protection Authority, but it nevertheless had an impact on the company and their ability to show support for LGBTI people. These examples are indicative of how the enforcement of the Propaganda law risks limiting and potentially distorting the public portrayal of LGBTI people in Hungary, which can increase the stigma and negative stereotypes around them.

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[155] Hungary Tuday, "Coca-cola Fines for ads with same-sex couples 'Undermining adolescents' moral development" 15 October 2019, https://hungarytoday.hu/coca-cola-fined-for-ads-with-same-sex-couples-undermining-adolescents-moral-development/

[156] Interview with the creative director of an advertising agency 5 June 2023.

[157] Interview with the creative director of an advertising agency 5 June 2023.

[158] Interview with Enikő Bakos-Kiss, the communication coordinator of IKEA, 15 June 2023.

[159] Interview with Enikő Bakos-Kiss, the communication coordinator of IKEA, 15 June 2023.

[160] IKEA, Facebook post: "A homofóbia, a transzfóbia és a bifóbia elleni nemzetközi napon (IDAHOT), ahogy minden más napon is, teremtsünk olyan világot, amelyben mindenki otthon érezheti magát!" [On the International Day Against Homophobia, Transphobia and Biphobia (IDAHOT), as on every other day, let us create a world where everyone feels at home!] 13 May 2021, (in Hungarian) https://www.facebook.com/IKEAHU/photos/a.556686311023634/6182596881765854/?type=3

[161] Interview with Enikő Bakos-Kiss, the communication coordinator of IKEA, 15 June 2023.

[162] Interview with Enikő Bakos-Kiss, the communication coordinator of IKEA, 15 June 2023.

[163] Interview with Enikő Bakos-Kiss, the communication coordinator of IKEA, 15 June 2023.

[164] Interview with Enikő Bakos-Kiss, the communication coordinator of IKEA, 15 June 2023.

2023 SZIGET FESTIVAL CAMPAIGN VIDEO

The "Nemzeti Jogvédő Szolgálat" (National Legal Defence Service; NJSZ), a foundation providing legal aid and representation for anti-rights activists that have campaigned against the rights of LGBTI people, filed a complaint against YouTube's service provider, Google Ireland.[165] The complaint was based on a same-sex kiss featured in the campaign video for the 2023 Sziget Festival, which is one of Europe's largest music and cultural festival held every year in August in Budapest.

The complaint argued that the video promoting Sziget Festival is paid advertising that does not adhere to the requirements of the Propaganda Law because of the portrayal of a kiss between two people of the same sex, and the video could easily reach individuals below the age of 18.

As a result, NJSZ has called upon the Consumer Protection Authority to take action against what they deem an illegal practice by YouTube and Sziget Festival, urging the initiation of legal proceedings. The Consumer Protection Authority has responded that they have started an investigation on their own initiative, and they will proceed once sufficient evidence has been collected.[166] At the time of writing, no decision has been communicated by the Consumer Protection Authority.

6.2 VAGUE, AND OVER-BROAD PROVISIONS

Restrictions on the right to freedom of expression that are too broad or vague create a "chilling effect" that discourages individuals from exercising their rights based on the fear that government authorities may penalise a broad swath of speech-related activities. Such wide government discretion makes the consequences of engaging in free expression unforeseeable, and as such, individuals may be deterred from exercising such rights in the first place. Thus, in order to meet the principle of legality, restrictions need to be prescribed by a law that is sufficiently clear and widely available so that individuals can regulate their conduct accordingly and to limit government discretion.[167]

The Propaganda Law prohibits content that "promotes or portrays divergence from self-identity corresponding to sex at birth, sex change, or homosexuality". However, the government has failed to explain what is understood by the terms "to propagate" and "to portray". These phrases have not been defined by legislation, nor have they been interpreted by any court at the time of writing the report. As a result, people have not been able to ascertain if these concepts are to be understood restrictively or whether these phrases encompass any information or viewpoint on various sexual orientations or gender identities. Other phrases contained in the law also lack the specificity essential for any regulation limiting the right to freedom of expression. For example, it is unclear what the term "capable of exerting a negative influence on the physical, mental, or moral development of minors" implies. The definition of "homosexuality" in the law is also uncertain as it is not clear if it refers to one's sexual identity, sexual activity, or both.

Gábor Polyák,[168] a lawyer and communication specialist, explained to Amnesty International that legislation with uncertain content has a greater chilling effect.[169] In the particular case of the Propaganda Law, Gábor Polyák considered that inaccuracy could have been a legislative goal. He mentioned that it also has to be considered that when a legislation is created to solve a non-existent problem, it is not possible to formulate it precisely.[170] The vague wording of the provisions leads to a high degree of caution and self-censorship, not only by those covered by the ban.

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[165] Nemzeti Jogvédő Szolgálat (NJSZ), "Gaudi-Nagy Tamás: Érvényt kell szerezni a gyermekvédelmi törvénynek a mindennapi életben" [Tamás Gaudi-Nagy: The child protection law must be enforced in everyday life] 15 August 2023, (in Hungarian) https://njsz.hu/gaudi-nagy-tamas-a-hir-tv-ben-a-sziget-lmbtq-s-reklamjarol-es-az-njsz-emiatti-bejelenteserol-ervenyt-kell-szerezni-a-gyermekvedelmi-torvenynek-a-mindennapi-eletben

[166] HVG, "Hatósági eljárás indulhat a Sziget reklám videója ellen, mert azonos nemű fiatalok csókolóznak benne" [A procedure may be initiated against the video of the Sziget advertisement because young people of the same sex kiss in it.] 14 August 2023, (in Hungarian) https://hvg.hu/elet/20230814_Hatosagi_eljaras_indulhat_a_Sziget_reklamvideoja_ellen_mert_azonos_nemu_fiatalok_csokoloznak_benne

[167] UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Intervention in the ECtHR, Atilla Taş and Others v. Turkey Application, 72/17, 20 October 2017, https://www.ohchr.org/sites/default/files/Documents/Issues/Expression/AmicusFiling-ECHR-Turkey-UNSR.pdf

[168] Gábor Polyák is a professor at the Eötvös Loránd University and the head of the Department of Media and Communication of the Faculty of Humanities. Further, he is also a senior researcher at the Institute of Law of the Social Sciences Research Centre, the head of the Mérték Media Monitor, and a board member at Amnesty International Hungary.

[169] Interview by videocall with Gábor Polyák lawyer and communication specialist, 19 June 2023.

[170] Interview by videocall with Gábor Polyák lawyer and communication specialist, 19 June 2023.

The updated recommendation of the Media Council on age-appropriate classification has also not provided any clarification or certainty about regulations contained in the Propaganda Law. As the Media Council has made clear, the recommendation should not be strictly or rigidly interpreted for each classification.[171] Moreover, the list of considerations it recommends taking into account is not at all comprehensive or final, as the Media Council has suggested it requires continuous review and amendment.[172]

Gáspár Gonda, the lawyer of RTL, highlighted to Amnesty International that interpreting the legislation's text was extremely challenging. According to him, this was a significant undertaking for his colleagues at both RTL and the Association of Hungarian Electronic Broadcasters.[173] In an effort to better understand the provisions of the law, they specifically asked the NMHH to promptly release the updated version of its Recommendation to include additional information related to the Propaganda Law. In the absence of such guidance, they decided that any television content portraying any form of affection by people of the same sex in any form should not be broadcast during the daytime.[174]

Gáspár Gonda suggested that the Authority has turned an apparent absolute prohibition in the law into a matter of interpretation within certain frameworks. "I think that from this point of view, it was definitely a step forward that we received some kind of guidance from the NMHH, and not the strictest guideline, namely that nothing containing homosexual content can be broadcast."[175] However, RTL's lawyer did not find it reassuring that the Media Council seems to be more lenient as the text of the law allows for a much stricter interpretation: "The Media Authority has the ability to become more proactive at any given moment."[176]

During interviews conducted by Amnesty International, professionals expressed their concern about the interpretation of the law and uncertainty regarding how to modify their operations to avoid fines and other penalties. The interviewees reported seeking help from lawyers, professional advocacy organisations, and legal aid NGOs but have not been able to receive reassuring guidance.

"Of course, we consulted with our external legal advisors about what can and cannot be done. But let's face it, it's not entirely clear what you can and can't do right now. Therefore, unfortunately, the legal team also found it a bit difficult to advise us. (…) we have also contacted Háttér Society. Since we have a long relationship going back years, their legal advisor also helped us to shape our communication in a way that can correspond to the current regulations, or at least to the interpretation of the regulation." - said Enikő Bakos-Kiss, representing IKEA.[177]

Eszter Polgári, head of the legal program of Háttér Society, found that the law is self-executing and practically everyone abides by it, regardless of whether it would otherwise directly apply to them.[178] "People comply with it in case of a worst-case scenario, which means that they do not say or do things that would otherwise not fall under the scope of the law according to any interpretation. A broad and overly cautious interpretation has surfaced, which can be detrimental as it stifles many conversations that fall outside of legal boundaries."[179]

All three bookdealer company representatives interviewed for this research confirmed that their primary goal is to comply with the law, but they simply don't know what the Propaganda Law consists of. Krisztián Nyáry, creative director of the publishing house, Líra Book Ltd., said that the wording of the Propaganda Law deliberately leaves otherwise law-abiding traders and publishers in a state of uncertainty.[180] Another editor-in-chief of a publishing house, who wanted to remain anonymous in fear of being targeted by the authorities, told Amnesty International that "at times, it is better to avoid voicing opinions that may attract attention and cause unnecessary commotion. It is wiser to remain anonymous when answering certain questions to prevent the possibility of being banned as a publisher."[181]

Nyáry further told Amnesty International that "after the first consumer protection fine, we put out a sign at each of our stores that we also sell non-traditional books in this store – whatever that means. Because we

[171] NMHH Media Council, Recommendation (previously cited) p. 2.

[172] NMHH Media Council, Recommendation (previously cited) p. 2.

[173] Interview by videocall with Gáspár Gonda, lawyer of RTL, 26 June 2023.

[174] Interview by videocall with Gáspár Gonda, lawyer of RTL, 26 June 2023.

[175] Interview by videocall with Gáspár Gonda, lawyer of RTL, 26 June 2023.

[176] Interview by videocall with Gáspár Gonda, lawyer of RTL, 26 June 2023.

[177] Interview with Enikő Bakos-Kiss, the communication coordinator of IKEA, 15 June 2023.

[178] Interview with Eszter Polgári, head of the legal program of Háttér Society, 15 June 2023.

[179] Interview with Eszter Polgári, head of the legal program of Háttér Society 15 June 2023.

[180] Interview with Krisztián Nyáry, creative director at Líra BookLtd., 12 June 2023.

[181] Interview with Editor-in-chief of a Hungarian publishing house, 7 June 2023.

were fined on this basis, whether it counts in such a procedure or not, we do not know."[182] He added that they do not want to deliberately break the law, but until "there is such a law that cannot be interpreted, and the state does not provide any support in this, we will do everything just like before the law."[183]

Tibor Ács, Director of Procurement and Logistics at Libri-Bookline Ltd., Hungary's largest bookdealer, also told Amnesty International that the Government Decree implementing the Propaganda Law is open to several interpretations, making the application difficult for those professionals who want to be compliant.[184]

"The Association of Hungarian Book Publishers and Book Distributors has requested clarification from the legislator. The advocacy organisation, which the Libri Group is a member, is still awaiting a response."[185]

Opinions on how many books may be affected by the restrictive legislation are divided, which is due to the difficulty of interpreting the text of the law. Libri bookstores offer more than 80,000 titles on sale, but Tibor Ács assessed that only a few children's books are currently affected by the regulation, and there are only a few titles on offer that have to be sold under different sales conditions.[186] However, an editor-in-chief of a Hungarian publishing house, who requested anonymity, said they were unsure if they could say which of their books were affected. "We certainly can't say how many children's books this affects. Nobody knows and thank God we're not at the point where a ministerial commissioner has been appointed to read Hungarian children's literature."[187]

Libri developed a special procedure between booksellers and publishers concerning the placement of books to avoid any potential breaches of the law. Tibor Ács told Amnesty International that "As part of this process, a publisher may report a title that violates the law, or a procurement agent may inquire about a specific title. If you need to change the book category, it is best to follow the publisher's suggestion."[188] According to him, this process has become necessary because the expectations and requirements of the law are not clear.

Tibor Ács also mentioned that they regularly consult with publishers regarding books that may be "problematic". "The bookdealer does not make an independent decision, this is due to the fact that it is primarily the responsibility of publishers to classify books, as they are familiar with their content, and Libri always asks the publisher for guidance on such matters."[189] He also indicated that the books affected by the legislation are still available at Libri.[190]

Krisztián Nyáry, agreed and added that "It is unreasonable to expect a bookseller to be familiar with the contents of every book that is sold in their store, considering the vast number of titles available."[191]

Krisztián Nyáry has been affected by the Propaganda law not only as the creative director of Líra Book Ltd. but also, as an author, and as a board member of the Association of Hungarian Book Publishers and Book Distributors (MKKE). His experience has made him believe that "there are two fundamental content restrictions outlined in the law. The first pertains to the depiction of homosexuality, while the second pertains to the depiction of self-serving sexuality. These are broad concepts, and the law does not provide clear guidelines on how to avoid violating them. However, if we try to interpret what "sexuality for its own sake" means, it seems that about half to two-thirds of world's literature could be classified under this category."[192]

The Propaganda Law as shown through the experiences of the interviewed professionals lacks the specificity essential for any regulation limiting the right to freedom of expression. Professionals working in the book industry had very different opinions about which books could fall under the restrictions, and unsure of the policies that are needed to safeguard lawful commerce practices. The restrictions are too broad and vague and have already created a "chilling effect" that discourages individuals from exercising their rights to express themselves freely and to seek, receive and impart information of all kinds. In this sense, the

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[182] Interview with Krisztián Nyáry, creative director at Líra Book Ltd., 12 June 2023.

[183] Interview with Krisztián Nyáry, creative director at Líra Book Ltd., 12 June 2023.

[184] Written testimony of Tibor Ács, Director of Procurement and Logistics at Libri-Bookline Ltd., 29 June 2023.

[185] Written testimony of Tibor Ács, Director of Procurement and Logistics at Libri-Bookline Ltd., 29 June 2023.

[186] "Despite rumours, only a few children's books are currently affected by the regulation and compared to the total supply of children's and youth literature, there are only a few titles on offer that have to be sold under different sales conditions. In my view, no significant increase in this regard is expected in the future." Written testimony of Tibor Ács, Director of Procurement and Logistics at Libri-Bookline Ltd., 29 June 2023

[187] Interview with the Editor-in-chief of a Hungarian publishing house, 7 June 2023.

[188] Written testimony of Tibor Ács, Director of Procurement and Logistics at Libri-Bookline Ltd., 29 June 2023.

[189] Written testimony of Tibor Ács, Director of Procurement and Logistics at Libri-Bookline Ltd, 29 June 2023.

[190] Written testimony of Tibor Ács, Director of Procurement and Logistics at Libri-Bookline Ltd, 29 June 2023.

[191] Interview with Krisztián Nyáry, creative director at Líra Book Ltd., 12 June 2023.

[192] Interview with Krisztián Nyáry, creative director at Líra Book Ltd., 12 June 2023.

Propaganda Law cannot be considered "provided by law" and it therefore fails the test of legality required by any restriction limiting the right to freedom of expression.

6.3 NO LEGITIMATE AIM

Under international human rights law, the aims that can be considered as legitimate to restrict the right to freedom of expression are exhaustively set out in Article 10 of the ECHR and Article 19 of the ICCPR. One permissible ground for restriction is for the protection of the rights and reputation of others. As noted by the UN HRC, the term "rights" includes human rights as recognised in the ICCPR and, more generally, in international human rights law.[193] The term "others" relates to other persons individually or as members of a community, and for example groups defined by their religious faith or ethnicity. The other legitimate grounds permitted to restrict the right to freedom of expression are the protection of national security, public order, public health or morals. In order to meet the principle of legitimacy, restrictions can only be implemented for the purposes for which they were intended and must establish a direct immediate connection between the expression and the alleged threat to such legitimate aim.[194]

When discussing the Propaganda Law in Parliament, legislators argued it was necessary to protect public morals and the rights of others, especially children. According to the explanatory memorandum of the legislation, "certain content should be introduced to children at an age-appropriate time for their healthy mental and intellectual development. There are contents that children under a certain age may misunderstand, or that may adversely affect their development at that age, or the child simply does not know what to do with them, therefore confusing the moral value system or even their image of themselves and the world. Based on this, in the spirit of the Fundamental Law and in order to protect the healthy physical and mental development of children, the amendment defines the range of content in connection with which it must be ensured that children do not encounter them on various platforms."[195]

The Venice Commission has pointed out that measures which seek to remove from the public domain the promotion of sexual identities affect the principles of pluralism, tolerance and broadmindedness, as well as the fair and proper treatment of minorities. Thus, such measures must be justified by compelling reasons.[196]

PROTECTION OF PUBLIC MORALS

The Siracusa Principles, a guidance that lays out the extent to which states can limit or derogate from specific human rights, state that invoking morality alone can never be a sufficient justification for the restriction of human rights.[197] Since public morals vary over time and from one culture to another, a state which invokes public morality as a ground for restricting human rights must demonstrate that the limitation in question is essential to the maintenance of respect for fundamental values of the community. The HRC has further explained that States' discretion in restricting human rights on the grounds of public morals does not apply to the right to non-discrimination.[198] The ECtHR, for its part, has noted that it is not possible to find in the domestic law of the various parties to the ECHR a unique conception of morals. Nonetheless, the ECtHR has specified that State's discretion in the field of the protection of morals is not unfettered and unreviewable.[199]

Expression of an individual's sexual orientation or gender identity is further protected under the right to privacy and private life, enshrined in Article 8 of the ECHR and Article 17 of the ICCPR. As noted by the Venice Commission, public authorities cannot deem gender reassignment and homosexuality to be contrary to "morals" given that these characteristics are protected under international human rights, including under the right to privacy.[200]

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[193] UN HRC General Comment 34 (previously cited), para. 28.

[194] UN HRC General Comment 34 (previously cited), para. 28.

[195] Explanatory Memorandum, 2021 (previously cited) pp. 15-16.

[196] Venice Commission, Opinion 707 / 2012, 18 June 2013, para. 48.

[197] American Association for the International Commission of Jurists, Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, (Siracusa Principles), April 1985, paras. 27-28.

[198] UN Human Rights Committee, Toonen v. Australia, Case 488/1992, Decision on merits, UN Doc. CCPR/C/50/D/488/1992, 31 March 1994, para. 8.6

[199] ECtHR, Open Door and Dublin Well Woman v. Ireland, Applications 14235/88 and 14234/88, Judgment 29 October 1992, https://hudoc.echr.coe.int/fre?i=002-9896 para. 68

[200] Venice Commission, Opinion No.1059 / 2021, 13 December 2021, para. 54

According to the Propaganda Law, same-gender attraction and diverse gender identity are things that "corrupt" youth and undermine society and should thus be opposed and prohibited. The amendments to the Media Act, introduced by the Propaganda Law, clearly state that a program depicting "homosexuality" may negatively impact minors' physical, mental, or moral development.

The Propaganda Law also can be understood to be part of strengthening "traditional Christian values". Viktor Orbán has repeatedly stated his belief in the traditional, Christian family model as a solution for demographic issues.[201] During a speech in the Parliament on behalf of the proponents of the Propaganda Law, Mónika Dunai mentioned Hungary's Ninth Amendment to its Fundamental Law, which upholds the right of children to self-identify according to their sex at birth, and that it also mandates that education should be based on Hungary's constitutional identity and Christian culture's value system.[202]

As underlined by the HRC, the concept of morals derives from many social, philosophical and religious traditions. Consequently, the Committee has concluded that limitations for the purpose of protecting public morals must be based on principles not deriving exclusively from a single tradition.[203] The Committee of Ministers of the Council of Europe has similarly determined that neither cultural, traditional, nor religious values nor the rules of a "dominant culture" can be invoked to justify advocacy of hatred or any other form of discrimination.[204] The ECtHR has also found that it would be incompatible with the underlying values of the ECHR if the exercise of human rights by a minority group were made conditional on its being accepted by the majority.[205]

The ECtHR held further in a case specifically concerning a law prohibiting the promotion of homosexuality among children that the legislation in question, which exacerbated stigma and prejudice and encouraged homophobia, could not be justified under any ground permitted by the ECHR.[206]

It is therefore clear that arguments used by the Hungarian authorities to advance and enforce the Propaganda Law in pursuance of the protection of public morals cannot be considered a legitimate aim for a broad limitation of content about LGBTI persons. The protection of public morals can never justify discrimination, including on the basis of sexual orientation and gender identity.

PROTECTION OF THE RIGHTS OF OTHERS

Article 17 of the Convention on the Rights of the Child (CRC) recognises the vital function performed by the mass media in ensuring children can access information and material from a diversity of national and international sources, especially those aimed at the promotion of the child's social, spiritual and moral well-being and physical and mental health.[207] Article 3 also requires that States keep the best interests of the child as a primary consideration in all actions concerning children and Article 5 further recognizes that the protection of children must be done in accordance with their evolving capacities.

The concept of the best interests of the child is aimed at ensuring both the full and effective enjoyment of all their human rights.[208] In this sense, the monitoring body of the CRC, the Committee on the Rights of Children has pointed out that an adult's judgment of a child's best interests cannot override the obligation to respect all the child's rights under the CRC.[209] In this sense, States cannot take any action to compromise any right protected by the CRC by a negative interpretation of the child's best interests.[210] While Article 17 of the CRC is particularly focused on the role of the mass media in relation to children's rights, it also includes a general obligation to ensure that the child has access to information and material from diverse sources and closely linked to the child's rights to freedom of expression and to maximum development.

The Hungarian authorities have claimed that limitations on the right to freedom of expression are justified for the protection of children, particularly given their lack of maturity. However, there is an absolute lack of

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[201] About Hungary, "PM Orbán: Only traditional Christian family policy can help us out of the demographic crisis", 21 September 2021, https://abouthungary.hu/blog/pm-orban-only-traditional-christian-family-policy-can-help-us-out-of-the-demographic-crisis

[202] Hungarian Parliament, Parliamentary Diary, Issue 209/1, 14 June 2021, https://www.parlament.hu/documents/10181/1569934/ny210614-ossze.pdf/8878db42-d7ef-9ec4-b930-9f841cc47c63?t=1623985080587 p. 30822.

[203] UN HCR, General Comment 34, (previously cited) para.32.

[204] Council of Europe, Committee of Ministers, Recommendation CM/Rec(2010)5: On measures to combat discrimination on grounds of sexual orientation or gender identity, 31 March 2010, https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cf40a

[205] ECtHR, *Alekseyev v. Russian Federation*, Application 31782/15, Judgment, 21 October 2010, https://hudoc.echr.coe.int/eng?i=001-204592 para. 81.

[206] ECtHR, Bayev and Others v. Russia, Application 67667/09, 20 June 2017, https://hudoc.echr.coe.int/fre?i=001-174422 para. 83.

[207] UN Convention on the Rights of the Child (CRC), 20 November 1989, Article 17.

[208] UN Committee on the Rights of the Children, General Comment 14: The right of the child to have his or her best interests taken as a primary consideration, 29 May 2013, UN Doc. CRC/C/GC/14.

[209] UN Committee on the Rights of the Child, General Comment 13: The right to protection from all forms of violence, 18 April 2011, UN Doc. CRC/C/GC/13, para. 61.

[210] UNCRC, General Comment 14 (previously cited), para. 4.

scientific explanation describing for which reasons the exposure of children to information on gender and sexual diversity is detrimental to their well-being and not in line with the best interests of children. In fact, medical associations with deep expertise in the matter, including the Hungarian Psychiatric Association and Hungarian Psychological Association, have noted that limiting access to information can actually increase the likelihood of anxiety disorders, self-harm, substance abuse, depression, and suicidal behaviour among children and young people.[211]

Eurochild expressed deep concern about the adoption of the Propaganda Law, as it contravenes the rights of the child and stigmatises LGBTQI+ persons: "If this law is implemented, children would not have access to information on sexual and reproductive health, which plays a key role in preventing and raising awareness on sexual abuse."[212] The Civil Coalition for the Rights of the Child's Violence Working Group[213] also summarised its experience on the impact of government communication and Propaganda Law on LGBTQI people and sex education,[214] noting that teachers in schools and kindergartens felt increasingly alone and became more cautious not only about sexuality, but also about children's rights and violence prevention programs, and tension and discrimination between children increased, it created enormous obstacles to effective child protection and made it very difficult for children to dare to ask for help.

The ECtHR has also affirmed that children do not need to be protected from mere exposure to diversity.[215] The ECtHR has found that measures taken to restrict the availability of a book for children that depicted a marriage between persons of the same sex were aimed at restricting children's access to information and were therefore incompatible with the right to freedom of expression as they did not pursue a legitimate aim.[216]

The Committee on the Rights of the Child has further elaborated on the information needs of young children. The Committee has in fact encouraged publishers and media producers to disseminate material that is appropriate to the capacities and interests of young children, as these can be socially and educationally beneficial to their well-being. The Committee has also called on States to pay particular attention to the need of minority groups for access to media that promote their recognition and social inclusion.[217]

Months before the enactment of the Propaganda Law, the Budapest Regional Court concluded that a short film which discussed homosexuality in relation to raising children and families was not harmful to children, instead it provides accurate information to young people. The Media Council had determined that RTL, the media provider, breached child protection regulations because they aired the short film 11 times between 21 and 31 December 2020, before the Propaganda Law, which had the potential to negatively impact children under the age of 16 by causing confusion, tension, and uncertainty.[218] RTL and Háttér Society, the NGO that sponsored the content, initiated judicial review against the decision. The Court referred to the case law of the ECtHR and pointed out that "there is no scientific evidence or sociological data to suggest that the mention of homosexuality or open public debate on the social status of sexual minorities adversely affects children or vulnerable adults."[219] The Budapest Court of Appeal upheld the ruling.[220]

Despite previous rulings like the abovementioned establishing that discussing or portraying homosexuality cannot be deemed harmful to children, the authorities continued with the approval of the Propaganda Law.

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[211] Hungarian Psychological Association, Professional Statement, 21 January 2022, https://mpt.hu/a-tarsasagrol/allasfoglalasok/

[212] Eurochild, „New Hungarian legislation not only fails to protect children, it puts them at greater risk of harm" 25 June 2021, https://www.eurochild.org/news/new-hungarian-legislation-not-only-fails-to-protect-children-it-puts-them-at-greater-risk-of-harm/

[213] Participating organizations: Hintalovon Children's Rights Foundation, Blue Line Child Crisis Foundation, Hungarian LGBT Association, Háttér Society, HCLU, Andrea Toma expert.

[214] Hintalovon Children's Rights Foundation, „Kirekesztés, megbélyegzés, félelem és bizonytalanság: ez maradt a kormányzati LMBTQI-ellenes kampány nyomában" [Exclusion, stigma, fear and insecurity: this is what remained in the wake of the government's anti-LGBTQI campaign] 29 March 2022, (in Hungarian) https://hintalovon.hu/2022/03/29/kirekesztes-megbelyegzes-felelem-es-bizonytalansag-ez-maradt-a-kormanyzati-lmbtqi-ellenes-kampany-nyomaban/

[215] ECtHR, Alekseyev v. Russian Federation, Judgment (previously cited)

[216] ECtHR, Macatė v. Lithuania Application 61435/19, Grand Chamber judgment, 23 January 2023, https://hudoc.echr.coe.int/fre?i=002-13955

[217] UN Committee on the Rights of the Child, General Comment 7: Implementing child rights in early childhood, 20 September 2006, UN Doc. CRC/C/GC/7/Rev.1, para. 35.

[218] HVG, "Másodfokon is megnyerte A család az család kampány miatt indított pert az RTL a Médiatanács ellen" [RTL wins the lawsuit against the Media Council over the Family is Family campaign in the second instance] 30 July 2022, (in Hungarian) https://hvg.hu/itthon/20220630_csalad_az_csalad_kampany_rlt_mediatanacs

[219] Fővárosi Törvényszék, Hungarian RTL Television Ltd. v. NMHH Media Council, Case 109.K.701.081/2022/14, Judgement, 19 April 2022, https://hatter.hu/sites/default/files/dokumentum/konyvlap/rtlcsalad-ftorv-itelet.pdf para. 15.

[220] Fővárosi Ítélőtábla, Hungarian RTL Television Ltd. v. NMHH Media Council, Case 1.Kf.700.069/2022/7, Judgement, 30 June 2022, https://hatter.hu/sites/default/files/dokumentum/konyvlap/rtlcsalad-fitelo-masodfok.pdf

BUDAPEST PRIDE

Based on their interpretation of the Propaganda Law, RTL decided not to broadcast Budapest Pride's promotional short film,[221] as a public service advertisement in 2022.[222] In 2023, RTL decided to try an alternative solution and approached the NMHH for a preliminary opinion regarding the possibility of showing Budapest Pride's animated film as a public service advertisement.

Amnesty International has seen the Media Council's decision stating that the campaign film of the Budapest Pride Community Festival did not constitute a public service announcement and that the age category corresponding to the content of the programme belongs to category V, therefore it may only be published between 10 p.m. and 5 a.m. with appropriate markings.[223]

The Director General of the NMHH told Amnesty International that one of the main criteria in making such decision was that the short film would promote the Pride Festival.[224] When asked about the meaning of the term "promotion", she considered that the interpretation of this term has become quite well-established.[225]

"I think that since it was a propaganda film, it would have been difficult for them to present it in a way that was not category V. But that's my opinion. Isn't it propaganda? Meaning to propagate this event. I think that if you promote this topic, it is a category V under the current rules." Finally, she noted that the word "propaganda" has a negative connotation, so it was unfortunate to use it.[226]

Ágnes Urbán, chair of the Infocommunications Department at the Corvinus University of Budapest and founder and researcher of Mérték Media Monitoring, told Amnesty International that she does not consider Budapest's Pride communication as "propaganda". In her opinion, conflating propaganda with simple popularisation means relativising actual propaganda activity. "It is a commonly used tactic. The government claims that everyone engages in propaganda to some extent in order to minimize the impact of their own propagandistic actions."[227]

6.4 NEITHER NECESSARY NOR PROPORTIONAL

The HRC has further noted that restrictions to the right to freedom of expression must be necessary and proportionate, which means that they must be appropriate to achieve their protective function, be the least intrusive instrument amongst those which might achieve their protective function and must be proportionate to the interest to be protected. The HRC has also clarified that the principle of proportionality has to be respected not only in the law that frames the restrictions but also by the administrative and judicial authorities in applying the law.[228] The principle of proportionality must also take into account the form of expression at issue as well as the means of its dissemination.[229]

In order to meet the principles of necessity and proportionality, States need to demonstrate in a specific and individualised fashion the precise nature of the threat posed by the specific expression and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat.[230] Similarly, the ECtHR has assessed the necessity of a given interference with the right to freedom of expression in light of the existence of a pressing social need, and the assessment of the nature and severity of the restrictions. The ECtHR has considered that in order for

[221] Szivárvány Misszió Alapítvány [Raibow Mission Foundation], Take back your future! - The 27th Budapest Pride Festival campaign film, 25 June 2022, https://www.youtube.com/watch?v=ViCKXly6Z6g

[222] Interview by videocall with Péter Kolosi, deputy CEO and Gáspár Gonda, lawyer of RTL, 26 June 2023.

[223] Interview with Dr Janka Aranyosné Börcs Director General of the NMHH, 13 July 2023.

[224] Interview with Dr Janka Aranyosné Börcs Director General of the NMHH, 13 July 2023.

[225] Interview with Dr Janka Aranyosné Börcs Director General of the NMHH, 13 July 2023.

[226] Interview with Dr Janka Aranyosné Börcs Director General of the NMHH, 13 July 2023.

[227] Interview with Ágnes Urbán Chair of the Infocommunications Department at the Corvinus University of Budapest, 13 July 2023.

[228] UN Human Rights Committee, General Comment 27: Freedom of movement (Article 12), 1 November 1999, UN Doc. CCPR/C/21/Rev.1/Add.9, para. 14.

[229] UN HRC, General Comment 27 (previously cited), para. 34.

[230] UN HRC, *Shin v. Republic of Korea*, Communication 926/2000, 19 March 2004, UN Doc. CCPR/C/80/D/926/2000, para. 7.3.

a measure to be necessary and proportionate, there must be no other means of achieving the same end that would interfere less seriously with the right concerned.[231]

The ECtHR has also paid particular attention to the censorship that could be created by the imposition of certain restrictions on the right to freedom of expression, meaning that any given penalty cannot amount to a form of censorship.[232]

The Propaganda Law imposes intrusive mechanisms of censorship and cannot be considered as the least restrictive means to achieve a legitimate aim. In fact, the Media Act already contained a whole chapter on "Protection of children and minors", which classified programmes that could seriously impair the physical, mental or moral development of minors, in particular by containing pornography or extreme or gratuitous violence, as category VI.[233] In this sense, Hungary already had in place laws that served the protection of children which an adequate mechanism to achieve such aims regarding protection from potentially injurious material – including violence and pornography in the Media Act.[234]

Moreover, the Propaganda Law clearly works as a form of censorship as it outlaws the mere depiction of LGBTI persons and issues, which is disproportionate to the aim pursued and effectively impairs the essence of the right to freedom of expression. The severity of the sanctions permitted under the law, which range from high fines to the suspension of certain commercial activities or even closure of shops creates an environment prone to censorship.

This is particularly concerning given the Propaganda Law's ambiguous language has led to the prohibition of the representation or conversation about different gender identities and sexual orientations in public areas, such as schools and media outlets. This could exclude LGBTI persons from taking part in public discussions about LGTBI issues and from fighting against harmful stereotypes present in society. The blanket nature of the prohibitions of "propaganda and portrayal of divergence from self-identity corresponding to sex at birth, sex change or homosexuality" cannot be deemed to be justified as necessary or proportionate.

6.5 REINFORCING STIGMA & DISCRIMINATION

The Propaganda Law serves to strengthen negative attitudes, stereotypes and discriminatory practices against LGBTI people, creating a harmful cycle of bias and prejudice that hinders efforts to promote inclusivity and equality. This unfortunate trend is often fuelled by long-standing stereotypes, a lack of understanding, and systemic inequalities that manifest in a variety of ways. Not only do such laws contribute to the marginalization and disenfranchisement of LGBTI people, but harmful media depictions and statements by government officials perpetuate this damaging narrative.

Discriminatory and stigmatising comments by other Hungarian officials against LGBTI people have become prevalent in the public discourse in recent years. In 2019, the Speaker of the House, László Kövér, equated same-gender couples seeking to adopt children to "paedophiles" and stated that "a normal homosexual knows what the order of the world is, that he was born this way, that he became like this. He tries to adapt to this world without necessarily considering himself equal."[235] The same year, in a debate in Parliament, István Boldog, the then deputy leader of Fidesz's parliamentary group, talked about his ideas on how to protect "our children from sexual and other aberrations" and asked MPs to "do everything possible to prevent the upcoming Pride March from being held."[236]

In 2020, Prime Minister Viktor Orbán said at a radio show: "Hungary is a tolerant, patient country when it comes to homosexuality. But there is a red line that cannot be crossed, and I summarise my opinion on this: leave our children alone."[237] In July 2023, the Prime Minister launched a new campaign targeting the

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[231] ECtHR, *Glor v. Switzerland*, Application 13444/04, Judgment 30 April 2009, https://hudoc.echr.coe.int/fre?i=002-1569 para. 94.

[232] ECtHR, *Bédat v. Switzerland*, Application 56925/08, Grand Chamber judgment, 29 March 2016, https://hudoc.echr.coe.int/eng?i=001-161898 para. 79.

[233] Hungary, 2010. évi CLXXXV. törvény a médiaszolgáltatásokról és a tömegkommunikációról [Media Act] paragraph (7) of Article 9.

[234] Hungary, 2010. évi CLXXXV. törvény a médiaszolgáltatásokról és a tömegkommunikációról [Media Act] paragraph (7) of Article 9.

[235] Magyar Narancs, "Kövér László elmondta, szerinte milyen "a normális homoszexuális" [László Kövér explained what he thinks a "normal homosexual" is like], 16 May 2019. (in Hungarian) https://magyarnarancs.hu/feketelyuk/kover-laszlo-elmondta-szerinte-milyen-a-normalis-homoszexualis-119769

[236] 444, "A Pride betiltását követelte a Fidesz képviselője a parlamentben" [Fidesz MP demands ban on Pride in parliament], 14 June 2019 , (in Hungarian) https://444.hu/2019/06/14/a-pride-betiltasat-kovetelte-a-fidesz-kepviseloje-a-parlamentben

[237] Telex, "Orbán: Toleránsak vagyunk a homoszexuálisokkal, csak hagyják békén a gyerekeinket"
[Orbán: We are tolerant of homosexuals, just leave our children alone], 4 October 2020, (in Hungarian) https://telex.hu/belfold/2020/10/04/orban-viktor-kossuth-radio-interju-koronavirus-jarvany-meseorszag-mesekonyv

European Union, accusing it of conducting an "LGBTI offensive" and promising to defend the country's Christian heritage.[238]

Deputy Prime Minister Zsolt Semjén called for banning “gender propaganda” in the Fundamental Law and added in an interview that "The child should be immediately taken away from a mother who allows surgery and hormone manipulation."[239]

Provisions of the Propaganda Law may entrench negative attitudes and stereotypes against LGBTI people in two ways. First, they limit what types of material content providers can publish about LGBTI persons. This makes it impossible to accurately portray the lives, struggles, and stories of LGBTI persons in public spaces, which risks entrenching harmful stereotypes about them and makes it harder for people to access accurate information to dispel misinformation and myths. Secondly, sanctions or threats of sanctions against people and organizations publishing content in support of the rights of LGBTI people, make it harder for people to disseminate their views and ideas and create an atmosphere of hesitation and fear when it comes to expressing such support. This risks further entrenches hostility and stigma against LGBTI people.

In fact, deliberately conflating same-gender attraction with paedophilia has been a central element of the Propaganda Law, which the government has used to negatively influence public opinion about LGBTI people. As noted by a group of UN human rights experts, hateful discourse against LGBTI persons that depicts them as sick, deviant, prone to crime, immoral, socially unstable, or a threat for children increase prejudice and intolerance and lead to discrimination and violence.[240]

THE RAINBOW BENCH

On 6 July 2023, with the permission of the Budapest 9th District Municipality, Amnesty International painted a bench in rainbow colours to celebrate Pride Month and to symbolise inclusivity of and support for the LGBTI people in Hungary.

Within two days, the bench was repainted in the green and white colours of the local football team and signed by a group known as the "Aryan Greens," associated with far-right groups that have advocated against the rights of LGBTI people. For example, in 2020 the Aryan Greens posted pictures on Facebook about taking down, trampling and setting fire to a rainbow-colored flag.[241] The bench was repainted multiple times, alternating between rainbow colours and the green and white colours of Ferencváros. On one occasion, the phrase "STOP LMBTQ"[242] was spray-painted on the ground in front of the bench. The bench was later removed by the municipality due to its deteriorating condition from the repeated change in colours.[243]

Mayor Krisztina Baranyi publicly said that while differing opinions are a part of expression, she encouraged dissent to be expressed in lawful ways rather than defacing public benches.[244] The mayor also announced that the municipality is seeking applications from NGOs and foundations to repaint the bench while maintaining a commitment to messages that promote tolerance and avoid incitement of violence or hatred.

Amnesty International initiated criminal proceedings against the unknown offenders who defaced the bench. Amnesty International argues that the painting ‘STOP LMBTQ’ was a hate crime violating Art 216 (1) of the Criminal Code. The procedure is still pending.[245]

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[238] Reuters, "Hungary's Orban condemns EU federalism, LGBTQ 'offensive'", 22 July 2023, https://www.reuters.com/world/europe/hungarys-orban-condemns-eu-federalism-lgbtq-offensive-2023-07-22

[239] Index, "Semjén: el kell venni a gyereket az anyától, ha megváltoztatja a gyereke nemét" [Semjén: the child must be taken away from the mother if she changes the gender of the child], 4 November 2020 https://index.hu/belfold/2020/11/04/semjen_zsolt_genderpropaganda_kdnp/

[240] Inter-American Commission on Human Rights and two United Nations human rights experts Victor Madrigal-Borloz, David Kaye, "Promote tolerance and diversity, speak out against hate and bigotry. Statement by human rights experts on the International Day against Homophobia, Transphobia and Biphobia", 17 May 2019, https://www.oas.org/en/iachr/media_center/preleases/2019/119.asp

[241] 444, "A rendőrség elfogta az Aryan Greens nevű csoporthoz tartozó férfit, aki felgyújthatta a ferencvárosi önkormányzat épületéről leszedett szivárványszínű zászlót" [Police arrested a man belonging to a group called Aryan Greens, who may have set fire to the rainbow-colored flag taken from the Ferencváros municipal building], 15 August 2020, (in Hungarian) https://444.hu/2020/08/15/a-rendorseg-elfogta-az-aryan-greens-nevu-csoporthoz-tartozo-ferfit-aki-felgyujthtta-a-ferencvarosi-onkormanyzat-epuleterol-leszedett-szivarvanyszinu-zaszlot

[242] LMBTQ is the equivalent of LGBTQ in Hungarian.

[243] Telex, "The eventful week of a multi-coloured bench" 14 July 2023, https://telex.hu/english/2023/07/14/the-eventful-week-of-a-multi-coloured-bench

[244] Telex, "A héten éjszaka is őriztetni fogják a szivárványszínű ferencvárosi padot" [The rainbow-coloured bench in Ferencváros will also be guarded at night this week] 13 July 2023, (in Hungarian) https://telex.hu/belfold/2023/07/13/baranyi-krisztina-ferencvaros-polgarmester-amnesty-international-magyarorszag-sajtotajekoztato-tompa-utcai-pad

[245] Amnesty International, Facebook post: "FONTOS: A bűncselekmény péntek éjszaka 11-11.30 között történt a Tompa utca 17. (Tompa utca-Liliom utca sarok) szám előtt, szemtanúk jelentkezését várjuk!" [IMPORTANT: The crime occurred on Friday night between 11 am and 11.30 am at 17 Tompa Street. (corner of Tompa Street-Liliom Street), eyewitnesses are welcome.] 8 July 2023. (in Hungarian) https://www.facebook.com/amnestymagyarorszag/posts/641450084685524/

6.6 EFFECTS ON NGOS AND HUMAN RIGHTS DEFENDERS

The stigma and stereotypes promoted by the government in various statements and through the adoption of the Propaganda Law has further undermined the ability of human rights defenders and civil society organizations to work in a safe and enabling environment. In particular, the Propaganda Law has increased the risks and challenges faced by those defending the rights of LGBTI people which have been faced threats not only from the authorities but also from anti-rights groups that seek to suppress the expression of certain identities that do not conform to prevailing norms.

For example, following the 2020 publication of the children's book "Meseország Mindenkié" [A Fairytale for Everyone] by Labrisz Lesbian Association, the Magyar Nemzet newspaper published an article on 12 October 2020 claiming: "We have to judge the Meseország Mindenkié book as paedophilia, and Labrisz Lesbian Association as a paedophile organisation."[246] While Labrisz and the Hungarian Helsinki Committee sued Mediaworks for defamation,[247] the Kúria (Hungary's Supreme Court) found that the article does not violate Labrisz Lesbian Association's right to a good reputation.[248] On the 26th of September 2023 the Constitutional Court found the Kúria's decision constitutional.[249]

LGBTI human rights defenders and civil society organizations have had to adapt how they function in the aftermath of the Propaganda Law. Györgyi Kövesi, Labrisz Lesbian Association's program coordinator, told Amnesty International: "The fact is that we expected this… or at least it wasn't unexpected. Mr Orbán said that Hungarian people are not discriminatory, but we should know how to behave... He also said, "Leave our children alone." These are very relevant, important sentences. They reinforce an attitude, and then it is possible to behave in a homophobic way. We, of course, cried and collapsed when we read the published text, which was completely incomprehensible. Displaying homosexuality in school, what does that even mean?"[250]

Labrisz launched their book series in 2000, in which five volumes have been published so far, most recently the "A Fairytale for Everyone". Györgyi Kövesi said that they have no plans for any new book because the association was overwhelmed by many challenges posed since the enactment of the Propaganda Law, which affected its ability to function properly as they have even faced numerous lawsuits related to their work.[251]

Civil society organizations working to promote and defend the rights of LGBTI people had to significantly adjust their strategies and ways of working due to the regulations of the Propaganda Law. The representative of the Foundation for Rainbow Families told Amnesty International they are currently focused on internal matters, including working on helping diverse families and creating a community among them.[252] RTL news recently covered their program and their public service announcement asking people to donate 1% of their personal income tax to them. However, they said they tried to make sure that it did not contain any content that would violate the Propaganda Law.[253] The Foundation for Rainbow Families before the Propaganda Law was able to promote the right to adopt of LGBTI people through public service announcements on television, in which parents, educators and experts have debunked the most common misconceptions about rainbow families. Since the Propaganda Law their public service announcement asking people to donate 1% of their personal income tax to them, was only able to show a hand with a logo drawn on it without explicitly mentioning the foundation's activities or goals.[254]

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[246] Magyar Nemzet, "Nem nyugszik a Labrisz egyesület" [Labrisz Association does not rest], 3 December 2022, (in Hungarian) https://magyarnemzet.hu/velemeny/2022/12/nem-nyugszik-a-labrisz-egyesulet

[247] Hungarian Helsinki Committee, "A new low in hate speech against LGBTI people in Hungary", 28 November 2022, https://helsinki.hu/en/curia-verdict-against-labrisz-lesbian-association-hungary/

[248] Pink News, "Top Hungarian court rules it's fine to compare homosexuality with paedophilia", 3 February 2022. https://www.thepinknews.com/2022/02/03/hungary-court-budapest-anti-lgbt-viktor-orban-referendum/

[249] Constitutional Court of Hungary, Judgement 3408/2023. (X. 11.), 26 September 2023, https://alkotmanybirosag.hu/ugyadatlap/?id=F7C71D784C990C2EC1258955006060F5

[250] Interview with Györgyi Kövesi Labrisz Lesbian Association's program coordinator, 8 June 2023.

[251] Interview with Györgyi Kövesi Labrisz Lesbian Association's program coordinator, 8 June 2023.

[252] Interview with the representative of the Szivárványcsaládokért Foundation, 20 June 2023.

[253] Interview with the representative of the Szivárványcsaládokért Foundation, 20 June 2023.

[254] Szivárványcsaládokért Foundation, "Támogasd a Szivárványcsaládokért Alapítványt adód 1%-ával" [Support the Foundation for Rainbow Families with 1% of your tax!] 5 April 2023, https://www.youtube.com/watch?v=gE3UiBVCp4s

RAINBOW DAY IN PÉCS

Amnesty International scheduled for 19 August 2023 a public program called Rainbow Day in Pécs, one of Hungary's largest cities. The program was intended to provide workshops for youth regarding LGBTI rights and to promote understanding, acceptance, and dialogue around LGBTI topics.

The municipality originally provided the venue for this event at the Civil Közösségek Háza [House of Civil Communities]. Days before the event, The Mi Hazánk [Our Homeland] party and János Kővári, a municipal representative of the Alliance for Pécs (ÖPE) and former Fidesz MP, expressed concerns that the event could involve children and interfere with other family-oriented activities. Moreover, János Kővári protested against the event in Pécs in an open letter, claiming that it violates the Propaganda Law.[255] In the letter, urged the mayor of Pécs, Attila Péterffy's intervention to enforce the law.[256]

The municipality informed Amnesty International that the event would not be allowed to be held in their venue.[257] The House of Civil Communities told Amnesty International that they cancelled the event due to "buzz" in the media and as a consequence of "extremely vast, hostile comments, statements."[258] The buzz the House of Civil Communities referred to claimed that the event was unlawful under the Propaganda Law.[259]

Amnesty International and 12 local NGOs and individuals issued an open letter addressing Mayor Attila Péterffy and Executive President of the House of Civil Communities Csilla Anna Vincze to condemn their decision.[260] The letter demanded assurances that the Municipality or its affiliated institutions will not pressure event organisers to cancel or relocate their events due to discriminatory reasons in the future. Amnesty International has not received a response to the open letter.

Cancelling the Rainbow Day event raised serious concerns about the rights to freedom of expression and peaceful assembly, the rights of marginalized groups, and the ability of civil society organisations to operate without interference. The incident reflected broader challenges faced by organisations advocating for LGBTI rights in Hungary, who are often left without resources or public support to conduct their work.

[255] Magyar Nemzet, "LMBTQ-kiállítás és drag queen: gyermekeket is várnak a pécsi szivárványos napra" [LGBTQ exhibition and drag queen: children are also welcome for the rainbow day in Pécs] 6 August 2023 (in Hungarian) https://magyarnemzet.hu/belfold/2023/08/lmbtq-kiallitas-es-drag-queen-gyermekeket-is-varnak-a-pecsi-szivarvanyos-napra

[256] Pécs Aktuál, "Gyerekeket is várnak a pécsi LMBTQ-eseményre, ettől teljesen kiakadt az Összefogás Pécsért vezetője" [Children are also expected to attend the LGBTQ event in Pécs, which completely freaked out the leader of the Alliance for Pécs] 2 August 2023 (in Hungarian) https://pecsaktual.hu/balhe/gyerekeket-is-varnak-a-pecsi-lmbtq-esemenyre-ettol-teljesen-kiakadt-az-osszefogas-pecsert-vezetoje/

[257] Szabad Európa, "A helyszínt biztosító egyesület visszamondta az Amnesty LMBTQ-rendezvényét Pécsett" [The association providing the venue cancelled Amnesty's LGBTI event in Pécs.] 8. August 2023, (in Hungarian) https://www.szabadeuropa.hu/a/a-helyszint-biztosito-egyesulet-visszamondta-az-amnesty-az-lmbtq-rendezvenyet-pecsen/32538850.html

[258] In the email about cancellation sent to Amnesty International on 4 August 2023, file with Amnesty International.

[259] Pécs Aktuál, "Feljelentik a pécsi Szivárványos Nap szervezőit!" [The organisers of the Pécs Rainbow Day are denounced!] 6. August 2023. (in Hungarian) https://pecsaktual.hu/balhe/feljelentik-a-pecsi-szivarvanyos-nap-szervezoit/

[260] Amnesty International, "Nyílt levél egy szabad, nyitott és támogató Pécsért" [Open letter for a free, open and supportive Pécs] 11 August 2023, (in Hungarian) https://www.amnesty.hu/nyilt-level-egy-szabad-nyitott-es-tamogato-pecsert/

7. LEGAL ACTION AGAINST THE PROPAGANDA LAW

While the European Parliament's 2021 resolution declared the EU an LGBTIQ+ freedom zone,[261] and Recommendation CM/rec (2010)5 within the Council of Europe system required its Member States to strive for the full acceptance of LGBTI people, legal developments in Hungary have seriously hindered and continue to hamper the full enjoyment of LGBTI people's rights.[262] The Propaganda Law was adopted only a few weeks after Hungary took the important role of President of the Committee of Ministers of the Council of Europe, which comes with significant responsibilities to lead the organisation's work for the defence and promotion of human rights across the region.[263]

Before the Propaganda Law was adopted, the Council of Europe's Commissioner for Human Rights, Dunja Mijatovic, urged Members of the Hungarian Parliament to reject the proposed bill, claiming that "This is not only an affront against the rights and identities of LGBTI persons but also curtails the freedom of expression and education of all Hungarians."[264]

Amnesty International also raised serious concerns regarding the Propaganda Law and its wide implications for the enjoyment of human rights, including the rights to freedom of expression, equality and non-discrimination, and to education.[265] In August 2021, Amnesty International, together with nine other NGOs, asked the Hungarian Commissioner for Fundamental Rights to examine the Propaganda Law and propose to the Constitutional Court a subsequent review of the conformity of the Propaganda Law with the Fundamental Law.[266] Since the motion was not binding, the Commissioner for Fundamental Rights had no procedural obligation to proceed and did not take any steps to assess the legality of the law. In the absence of a motion, the Constitutional Court did not examine the provisions of the Propaganda Law.

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[261] European Parliament, "Parliament declares the European Union an 'LGBTIQ Freedom Zone'" Press Release, 11 March 2021. https://www.europarl.europa.eu/news/en/press-room/20210304IPR99219/parliament-declares-the-european-union-an-lgbtiq-freedom-zone

[262] Council of Europe, Committee of Ministers, Recommendation CM/Rec(2010)5: Measures to combat discrimination on grounds of sexual orientation or gender identity, 31 March 2010, https://www.coe.int/en/web/sogi/rec-2010-5

[263] Amnesty International, "Human Rights Violations in Hungary Discredit Presidency of the Council of Europe Committee of MinistersLetter", Reference TIGO IOR 10/2021.1786, 17 June 2021, https://www.amnesty.eu/news/human-rights-violations-in-hungary-discredit-presidency-of-the-council-of-europe-committee-of-ministers/

[264] Council of Europe, Commissioner for Human Rights, "Commissioner Mijatović urges Hungary's Parliamentarians to reject draft amendments banning discussion about sexual and gender identity and diversity" 14 June 2021, https://www.coe.int/fi/web/commissioner/-/commissioner-mijatovic-urges-hungary-s-parliamentarians-to-reject-draft-amendments-banning-discussion-about-sexual-and-gender-identity-and-diversity

[265] Amnesty International, "Hungary: The Russian-style propaganda law violates human rights and threatens LGBTI people" Statement, 22 July 2021. (Index: EUR 27/4492/2021) https://www.amnesty.org/en/documents/eur27/4492/2021/en/

[266] Amnesty International, "Mindenki jogain átgázol a homofób és transzfób propagandatörvény – az alapvető jogok biztosának vizsgálatát kérik civil szervezetek" [Homophobic and transphobic propaganda law tramples over everyone's rights – NGOs call for investigation by Commissioner for Fundamental Rights] - Press Release, 5 August 2021, https://www.amnesty.hu/mindenki-jogain-atgazol-a-homofob-es-transzfob-propagandatorveny-az-alapveto-jogok-biztosanak-vizsgalatat-kerik-civil-szervezetek

7.1 INFRINGEMENT PROCEDURE

The European Commission (EC) announced on 15 July 2021, that EC is launching an infringement procedure against Hungary because of the Propaganda Law, and the Hungarian Government was given two months to respond to the arguments put forward by the EC, otherwise, the EC will send them a reasoned opinion and in a further step refer them to the Court of Justice of the European Union.[267]

On 2 December 2021, the EC sent a reasoned opinion to the Hungarian authorities considering that by imposing an obligation to provide information on a divergence from 'traditional gender roles', Hungary was restricting the right to freedom of expression of authors and book publishers (Article 11 of the Charter) and discriminating on the grounds of sexual orientation in an unjustified way (Article 21 of the Charter).[268] Moreover, the EC considered that the authorities were incorrectly applying EU rules on unfair commercial practices under Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market.[269]

On 15 July 2022, the EC decided to refer Hungary to the Court of Justice of the European Union (CJEU) due to the Propaganda Law.[270] The EC concluded that these rules, in particular, run counter to Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation, or administrative action concerning the provision of audiovisual media services. The EC also argued that the Propaganda Law is against Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the internal market, as well as human dignity, freedom of expression and information, the right to respect for one's private life as well as the right to non-discrimination. The Commission further indicated that due to the gravity of these violations, the contested provisions also violate the common values laid down in Article 2 of the Treaty on European Union (TEU).[271]

To date, 15 Member States and the European Parliament have joined the procedure against Hungary alongside the Commission, marking an unprecedented level of involvement and concern.[272]

7.2 ARTICLE 7 & THE RULE OF LAW CONDITIONALITY MECHANISM

According to Article 7(1) of the TEU, the Council may determine that a Member State is at clear risk of a breach of EU values and may address specific recommendations to that Member State in order to prevent a genuine breach of fundamental values.

In 2018, the European Parliament initiated a procedure under Article 7(1) with regard to Hungary.[273] The "Report on a proposal calling on the Council to determine, pursuant to Article 7(1) of the Treaty on European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded" - commonly referred to as the "Sargentini report" after its rapporteur, Dutch MEP Judith Sargentini, - established the existence of a clear risk of a serious breach by Hungary of the values of the European Union, and drew attention to the prevalence of violence and negative stereotypes against LGBTI people, as well as to the fact that the constitutional prohibition of discrimination does not list sexual orientation and gender identity.[274]

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[267] European Commission, "EU founding values: Commission starts legal action against Hungary and Poland for violations of fundamental rights of LGBTIQ people" – Press Release, 15 July 2021 https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3668

[268] European Commission, "December infringements package: key decisions" - Press Release, 2 December 2021, https://ec.europa.eu/commission/presscorner/detail/en/inf_21_6201

[269] European Parliament and the Council, Directive 2005/29/EC, 11 May 2005.

[270] European Commission, "Commission refers Hungary to the Court of Justice of the EU over violation of LGBTIQ rights" Press Release, 15 July 2022, https://ec.europa.eu/commission/presscorner/detail/en/IP_22_2689

[271] CJEU, European Commission v. Hungary, Case C-769/22, Action,19 December 2022, https://curia.europa.eu/juris/document/document.jsftext=&docid=270405&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=3537614

[272] EURONEWS, "Újabb EU-tagok csatlakoztak a melegellenes magyar jogszabályok miatt indított perhez" [New EU members join lawsuit over Hungarian anti-gay legislation], 7 April 2023, (in Hungarian) https://hu.euronews.com/2023/04/07/ujabb-eu-tagok-csatlakoztak-a-melegellenes-magyar-jogszabalyok-miatt-inditott-perhez

[273] EU Committee on Civil Liberties, Justice and Home Affairs: Report on a proposal calling on the Council to determine, pursuant to Article 7(1) of the Treaty on European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded, 20 September 2018. https://data.consilium.europa.eu/doc/document/ST-12266-2018-REV-1/en/pdf

[274] EU Committee on Civil Liberties, Justice and Home Affairs: Report, 20 September 2018. (previously cited)

The Council held its first hearing of Hungarian authorities in September 2019, and subsequent hearings have been held in December 2019, June 2021 and May 2022.[275] The Council's latest hearing in November 2022 focused on the fight against corruption, the independence of the functioning of the constitutional and electoral system, media freedom and LGBTI rights. Despite the steadily deteriorating situation since 2018, the Council has not made any recommendations to Hungary. In September 2022, the European Parliament adopted another resolution, deploring the inability of the Council to make meaningful progress and condemning the Propaganda Law.[276]

The rule of law conditionality mechanism serves to protect the EU budget. On 18 September 2022 the EC adopted a proposal on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary.[277] The CJEU has confirmed that the budget conditionality is an independent and different procedure from that of Article 7 TEU.[278] So far, the EC considers that the provisions of the Propaganda Law have a concrete, direct impact on the compliance with the EU Charter of Fundamental Rights therefore the horizontal condition - the effective application and implementation of the EU Charter of Fundamental Rights - is not adequately fulfilled in relation to the Propaganda law.[279]

[275] For the September and December 2019 meetings, see Reconnect, "From "Nuclear Option" to Damp Squib? Critical assessment of the four Article 7(1) TEU hearings so far", 18 November 2019, https://reconnect-europe.eu/blog/blog-fourart71teuhearings-pech; For the June 2021 hearing, see Statewatch, "EU: Rule of Law: Reports of Council Hearings of Hungary and Hungary Poland", 27 July 2021, https://www.statewatch.org/news/2021/july/eu-rule-of-law-reports-of-council-hearings-of-hungary-and-poland; For the May 2022 meeting, see Statewatch, "EU: Rule of Law: Nothing to See Here, communicated by the Hungarian Government to the Council", 15 June 2022, https://www.statewatch.org/news/2022/june/eu-rule-of-law-nothing-to-see-here-hungarian-government-tells-the-council

[276] European Parliament, Resolutiom 15/9/22: Existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded, 15 September 2022, https://www.europarl.europa.eu/doceo/document/TA-9-2022-0324_EN.html

[277] Council of the European Union, Proposal 2022/0295(NLE), 19 September 2022, https://data.consilium.europa.eu/doc/document/ST-12551-2022-INIT/en/pdf

[278] European Council, "Rule of law conditionality mechanism: Council decides to suspend 6.3 billion EUR given only partial remedial action by Hungary" Press Release, 12 December 2022, https://www.consilium.europa.eu/en/press/press-releases/2022/12/12/rule-of-law-conditionality-mechanism/

[279] Amnesty International, "Assessment of compliance by Hungary with conditions to access European Union funds" April 2023, https://helsinki.hu/en/wp-content/uploads/sites/2/2023/04/HU_EU_funds_assessment_Q1_2023.pdf

8. CONCLUSIONS AND RECOMMENDATIONS

> **"This whole question has become taboo, even if there are no children in the street, let alone in the room. And when someone tries to speak up, then they get this tsunami of hatred in the media, even if they are not doing something against the law."**
>
> Eszter Polgári, Háttér Society[280]

Amnesty International's analysis indicates that the Propaganda Law is unduly restricting people's right to freedom of expression, including the right to seek and receive information, by limiting their access to information regarding LGBTI-related content in a manner that is not provided by law, not necessary or proportionate, and has no legitimate aim. Furthermore, the Propaganda Law risks contributing to and entrenching negative stereotypes, stigma and discriminatory attitudes against LGBTI people in the country.

The Propaganda Law has resulted in diverse information and content on LGBTI-related issues becoming harder to access, particularly for children and young people. For example, Líra's legal battles regarding a children's book exemplifies the far-reaching consequences of the law, including fines that were based on the perceived violation of children's and adolescents' physical and mental integrity. This signalled a significant shift in the enforcement of the Law to which some bookstores, have begun selling books with protective packaging and others have restricted children's access to certain sections in the bookstore to avoid any penalties under the law. In another emblematic example, the promotional short film for the annual Pride march was not broadcasted during daytime as it was considered to be "not suitable for children" despite simply being a public service advertisement about the demonstration.

Crucially, the Propaganda Law has also strengthened negative attitudes, stereotypes, and discriminatory attitudes against LGBTI people. NGOs and human rights defenders have faced increased risks and challenges since the enactment of the law. Civil society organizations like the Labrisz Lesbian Association have been subjected to smear campaigns and attacks, and many organizations have had to adjust their strategies and content to avoid being penalized under the Propaganda Law.

In light of these findings, it is imperative that Hungary repeals the Propaganda Law or substantially amends it to bring it in line with international human rights law and standards.

[280] Interview with Eszter Polgári director of the legal programme of Háttér Society, 15 June 2023.

RECOMMENDATIONS

TO THE PARLIAMENT OF HUNGARY:

- Repeal amendments introduced by the Propaganda Law through Act LXXIX of 2021 concerning the promotion and presentation of "divergence from self-identity corresponding to sex at birth, sex change or homosexuality", including
  - Section 8 (1a) of the Advertising Act;
  - Section 9 (6) of the Media Act;
  - Section 32 (4a) of the Media Act;
  - Section 6/A of the Child Protection Act;
  - Section 5/A of the Family Protection Act.

- Repeal the amendment "The State shall protect the right of children to a selfidentity corresponding to their sex at birth" in Section 3/A of the Child Protection Act, and the amendment "the implementation of the right of children to a self-identity corresponding to their sex at birth shall play a key role in preserving their physical, mental and moral health" in Section 1 (2) of the Family Protection Act.

- To repeal the requirement of the prior registration of the organisations/individuals, other than the ones listed in a new Section 9/A of the National Public Education Act, or, at minimum, to ensure an immediate adoption of the relevant decree mentioned in Section 94 (1) of the National Public Education Act.

- Change the title of Act LXXIX of 2021 in order to avoid the suggestion that the portrayal or propagation of diverse sexual orientations and gender identities can be considered as pedophilia and attacks on children's rights.

- Repeal the parts of Article L paragraph (1) of the Fundamental Law which define marriage as the union of one man and one woman, and the addition that "The mother shall be a woman, the father shall be a man".

- Introduce amendments to the Fundamental Law to protect the rights of all LGBTI people, including children, and explicitly make sexual orientation and gender identity protected categories against discrimination.

- Implement Recommendation CM/Rec(2010)5 of the Council of Europe Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity.

- Ensure that all regulations to be enacted in the future will not undermine the right to freedom of expression and are in accordance with international human rights law and standards.

- Repeal Article 33 of Act no. XXX of 2020, which de facto banned legal gender recognition for transgender and intersex persons in Hungary, and introduce a new accessible, efficient, and fair procedure providing legal recognition to each person's self-defined gender identity.

- Reinstating the autonomous Equal Treatment Authority.

- Remove discriminatory differences between registered partnership and marriage and provide legal recognition to same-sex parenting.

TO THE PRESIDENT OF HUNGARY:

Publicly condemn the use of stigmatizing and exclusionary statements and remarks towards LGBTI people and emphasize that the rights of LGBTI persons should be respected, protected and fulfilled, including their right to equality and non-discrimination have equal rights.

TO THE GOVERNMENT OF HUNGARY:

- Repeal amendments introduced by the Government Decree 473/2021 (VIII.6.) to Government Decree No 210/2009 (IX.29.) on the conditions for carrying out commercial activities.

- Implement the recommendations of international human rights mechanisms regarding the obligation to uphold the rights of LGBTI individuals, in particular the recommendations put forth by the UN Independent Expert on sexual orientation and gender identity and the UN Special Rapporteur on the situation of human rights defenders.

- Extend an invitation to the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity to conduct an unrestricted visit. This visit should not be limited in duration or scope, and it should be ensured that the Expert is able to meet with human rights defenders and civil society organizations without any obstacles.

- Ensure a safe and enabling environment in which media outlets, journalists, civil society organizations and human rights defenders can work effectively to defend and promote human rights without fear of reprisal.

TO THE HUNGARIAN AUTHORITIES:

- Take disciplinary or other appropriate measures against public officials who issue inflammatory, harmful or stigmatizing rhetoric against LGBTI people.

- Ensure the correct transposition and rigorous application of the revised Audiovisual Media Services Directive, which strengthens protection against content that incites to hatred or violence and bans audiovisual commercial communications that include or promote any discrimination, including on the grounds of sex and sexual orientation.

- Guarantee in law and practice the right to freedom of expression of children and young people and ensure they have the means to obtain information from the Internet, radio, television, newspapers, books and other sources.

TO THE COMMISSIONER FOR FUNDAMENTAL RIGHTS OF HUNGARY:

- Publicly condemn the Propaganda Law that violates several human rights, including the rights to freedom of expression, to equality and non-discrimination.

- Conduct an investigation to establish if the principle of equal treatment has been violated in relation to the Propaganda Law.

- Present proposals to the Government to put in place legal regulations promoting the rights to equality and non-discrimination of LGBTI people.

- Issue a statement condemning homophobic and transphobic legislations and call out institutions to tackle discrimination based on sexual orientation and gender identity.

ANNEX 1

DATA COLLECTED BY THE NATIONAL MEDIA AND INFOCOMMUNICATIONS AUTHORITY

On July 13, 2023, NMHH provided the following data, which has been published in its entirety with the same content and structure, translated into English. The data cover the period from the entry into force of the Propaganda Law until July 13, 2023.

Notifications[281] submitted concerning Section 9 (6) of the Labour Code as amended by the Child Protection Act

1. Total number of notifications 136
(In some cases, more than one person referred to the same programme or one notification referred to more than one content. In some cases, notifications also objected to press products and video-sharing platform services, but they were not subject to the amendment of the law Section 9 (6).)

- 22 notifications were received regarding media content broadcast on linear media services under Hungarian jurisdiction.
- 36 notifications were received concerning media content broadcast on linear media services in foreign jurisdictions.
- 22 notifications were received concerning media content available on on-demand media services in foreign jurisdictions.
- 58 notifications were received regarding media content published in press products under Hungarian jurisdiction.
- 1 notification was received regarding content available on a video-sharing platform service under Hungarian jurisdiction.
- 1 notification received regarding content available on video-sharing platform services in a foreign jurisdiction.

2. Number of notifications concerning media content published in media services under Hungarian jurisdiction: 22
The Media Council did not initiate proceedings or establish any infringement of media content published in media services under Hungarian jurisdiction.
In addition to the above, RTL submitted requests in two cases, the first of which requested preliminary classification, during which the Media Council found that the programme - Jenny's Wedding - fell into category V. The second request was received concerning the classification of the Pride campaign film. The Media Council decided that "Article 28. Official Pride Community Festival Campaign Film" does not constitute a public service announcement and that the age category corresponding to the programme's content is category V. Therefore, it can be published between 10 p.m. and 5 p.m. with appropriate markings.

3. Number of notifications concerning media content published in media services in foreign jurisdictions: 58
Of the 58 notifications, 24 complaints (17 programmes) were sent to foreign counterparts based on the results of official controls as follows:

[281] Any person may, without personal involvement, initiate proceedings if they find that the law governing electronic communications or media administration has been infringed. An official procedure does not necessarily start on the basis of the notification, the authority considers whether to initiate proceedings in relation to the notification. If the authority acts on the merits, it is still considered an ex officio procedure.

	Media content title	Number of notifications	Name of media service	Age category by the media service provider	Age category presumed by the applicant	Age category established by the Media Council
1.	Der Bergdoktor	1	Prime	"recommended only with parental permission" (A.P.)	V.	IV.
2.	Designated Survivor	3	AXN	+16	V.	V.
3.	Family is family	2	Paramount Network, Comedy Central	without age indication	V.	V.
4.	Body Fixers	1	FEM3	"recommended only with parental permission" (A.P.)	V.	IV.
5.	Jurassic World	5	Netflix (on-demand)	7+	V.	III.
6.	Baymax	1	Disney+ (on-demand)	9+	V.	III.
7.	The Loud House	1	NickToons	without age indication	V.	II.
8.	Henry Danger	1	Nickelodeon	without age indication	V.	II.
9.	Lightyear[1]	1	Disney+ (on-demand)	6+	V.	III.
10.	DC League of Super-Pets	1	HBO MAX (on-demand)	7+	V.	III.
11.	Two and a Half Men	1	Viasat 6	+12	V.	IV.
12.	The Loud House	1	Nick Toons	without age indication	V.	II.
13.	Strange World	1	Disney+ (on-demand)	6+	V.	III.
14.	Dive Club (Mary Celeste)[2]	1	Netflix (on-demand)	7+	V.	III.
15.	Two and a Half Men	1	Viasat 3	6+	V.	III.
16.	The Loud House[3]	1	Nick Toons	without age indication	V.	II.
17.	The Loud House[4]	1	Nick Toons	without age indication	V.	II.

Due to the violation of Section 9 (6) of the Media Act, the Media Council sent reports to foreign partner authorities only in 2 cases (programmes marked in red letters).

According to the replies received so far from the partner authorities, they did not consider media content to be illegal under their own media administration rules, and therefore they did not initiate proceedings against media service providers under their jurisdiction.

[1] The foreign partner authority did not respond.
[2] The foreign partner authority did not respond.
[3] The foreign partner authority did not respond.
[4] The foreign partner authority did not respond.

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FROM FREEDOM TO CENSORSHIP

THE CONSEQUENCES OF THE HUNGARIAN PROPAGANDA LAW

The Propaganda Law passed in 2021, was not initially widely enforced regarding the media, advertising and commercial activities. However, there has been a noticeable and concerning shift in early 2023, when the authorities increased their use of the law. In this context, this report focuses on how the Propaganda Law restricts people's right to access information and the rights to equality and non-discrimination.

Based on an analysis of law and regulations and 15 semi-structured interviews with individuals whose professional activities were directly impacted by the law in the fields of publishing and advertising, it shows how the Propaganda Law has resulted in diverse information and content on LGBTI-related issues becoming more challenging to access in Hungary, particularly for children.

This report finds that the Propaganda Law is unduly restricting people's right to freedom of expression, including the right to seek and receive information, by limiting their access to information regarding LGBTI-related content in a manner that is not provided by law, not necessary or proportionate, and has no legitimate aim. Furthermore, the Propaganda Law contributes to entrenching negative stereotypes, stigma and discriminatory attitudes against LGBTI people in the country.

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