



Hungary



There were a number of hostile developments in Hungary during the year. A controversial new Constitution came into force, which omits sexual orientation from the list of prohibited grounds of discrimination, while it restrictively defines marriage exclusively as a union between man and a woman. A number of other regressive legislative proposals were also made to ban 'homosexual propaganda', to introduce new crime of 'propagation of disorders of sexual behaviour' and to limit freedom of assembly and expression; fortunately, these proposals were defeated in Parliament. Positively, explicit reference to sexual orientation and gender identity was included in the Hungarian legislation on hate speech and hate crime.

Bias motivated speech

- In June, the Parliament adopted the new *Criminal Code*, which specifically includes references to sexual orientation and gender identity in its provisions on hate speech and hate crime. This means that while homophobic and transphobic hate were already implicitly punishable under earlier legislation under “against certain group of the population” the new law has made such provisions explicit.

Bias motivated violence

(see above)

- ILGA-Europe collected information on seven hate crimes perpetrated during the year. These crimes included various types physically violent attacks, as well as some threats and instigation to organised violence. This information was collected as part of documentation activities in preparation of the OSCE/ODIHR’s annual hate crime report, to be published in November 2013.

Education

- A new *National Basic Curriculum* and related *Framework Curricula*, for various types of schools, were adopted in Hungary during the year. The Hungarian LGBT Alliance submitted opinions calling for the explicit inclusion of LGBT content, but this was rejected. The 6036 page *Framework Curricula* does not contain a single reference to LGBT issues, let alone promoting acceptance and equality towards LGBT people.

Employment

- In February, Members of the European Parliament LGBT Intergroup asked the European Commission (EC) to assess whether Hungary’s new law on religion was in conformity with the *Employment Framework Directive* (Directive 2000/78/EC). According to the new Hungarian law, since churches (including religious schools) are ‘ideologically committed’, they are allowed to determine who they employ “[as] necessary to preserve their specific identity”. The European Parliamentarians found the wording vague, as it could imply that some schools will be able to discriminate against current and prospective

employees on the ground of their sexual orientation. In April, the EC confirmed that the EU law does not allow wide exceptions to anti-discrimination. EU Commissioner for Justice, Fundamental Rights and Citizenship concluded that the EC will contact the Hungarian authorities to examine whether Hungarian law is in conformity with EU law.

- In September, a Hungarian court, the Kúria, ruled that an employee had lost his job as a result of unlawful discrimination because of his sexual orientation, the first such ruling in Hungary. The court found that the two-year contract demanded by the plaintiff’s employer in 2005 was illegal, as public servants could only have open-ended contracts. The head of the school arbitrarily amended the contract in 2006, and then terminated the employment. The plaintiff said he will turn to the Constitutional Court and the European Court of Human Rights in Strasbourg, with a view to obtaining financial compensation, as the Kúria referred his demands for compensation to the same Pest County Court that had earlier ruled against him.

Equality and non-discrimination

- In January, the *new Constitution* entered into force. Unlike the *EU Charter of Fundamental Rights*, which was often cited as a model, it does not specifically list sexual orientation as a ground in the prohibition of discrimination clause, and thus sexual orientation and gender identity are only implicitly covered under ‘other status’.

- In June, the EuroGames took place in Budapest. The event was opened by Ulrike Lunacek and Kinga Göncz, both Members of the European Parliament LGBT Intergroup. Over 2000 people from 34 countries took part in the event. Extreme right-wing opposition party Jobbik, and the youth group of the junior coalition member in the national government, called on publicly owned venues to cancel their contracts with the organisers. The Mayor of Budapest István Tarlós distanced himself from the event “and this way of life” in an open letter to the Mayor of Berlin. No public officials condemned these discriminatory comments.

- The *Criminal Code* reformed the terminology of sexual offences: while the previous legislation was based on a

strong separation between vaginal intercourse and any other form of sexual activity, the new legislation does not differentiate between forms of sexual activity.

Family

- In January, the new *Constitution* entered into force. Among other things, it restricts the definition of marriage to a union between a man and a woman. Additionally, the new *Family Protection Act* came into force defining the family unit as heterosexual and stating that preparing for family life should be part of the school curriculum.
- In June, the Hungarian Ombudsman for Fundamental Rights, Máté Szabó, submitted a petition to the Constitutional Court stating that the Family Protection Act is unconstitutional and discriminatory on the grounds of sexual orientation. In December, the Court refused the claim of discrimination based on sexual orientation, but still abolished the relevant provision arguing that it excludes a large number of living arrangements that come under the broader sociological concept of family.
- The new *Civil Code* was debated in autumn. The Code covers a wide range of issues and is intended to incorporate the former *Family Code* as the *Book on Family Law*. In the original version of the bill submitted to Parliament by the Government this section of the *Code* would have integrated legislation on registered partners, and extended the rights of cohabiting couples (including same-sex cohabiting couples). However, the junior coalition party, the Christian Democrats, proposed to remove references to registered partnership (although they would keep the current legislation, but not as part of the *Civil Code*), and limit the extension of the rights of cohabiting couples to those having a common child. The governing parties claimed that same-sex couples are not 'family', and thus should not be mentioned in the *Book on Family Law*. Both amendments were adopted, the final vote on the bill is expected early in 2013.

Freedom of assembly

- In April, the Budapest Police Headquarters denied a permit for the holding of the Budapest Pride Parade. The ban was challenged by the organisers, with support from

the Hungarian Civil Liberties Union (TASZ), in the Budapest Metropolitan Court, which overturned the decision. The court ruled that the march could be held on the specified route and the police had no legal foundation upon which to ban it. The European Parliament LGBT Intergroup took a stand on the matter condemning the attempts to limit freedom of assembly, and expressed concern about the antagonism among the Hungarian authorities towards LGBTI people. The police decision was equally condemned by Amnesty International and Human Rights Watch.

- In July, the Pride Parade was held under heavy security and without incident. The participants were addressed by MEPs prior to setting off and the US Ambassador was in attendance. The organisers stated that with around 3000 participants, this was the biggest Budapest Pride Parade ever.

Freedom of expression

- In April, the nationalistic party Jobbik proposed a ban on 'homosexual propaganda'. Two bills proposed amendments to the Constitution's provisions on freedom of assembly and freedom of expression. A third bill included proposed amendments to the law on advertising and media law and an amendment to the Criminal Code to introduce a new crime of 'Propagation of disorders of sexual behaviour' punishable with imprisonment of up to three years, and in certain cases up to eight years. The proposals were condemned by the LGBT Intergroup. In May, the Parliamentary Committee on Constitutional and Legal Affairs did not support the inclusion of the proposals on the Parliament's agenda.
- In April, Jobbik also initiated similar action at the local level. It submitted a proposal to the General Assembly of Budapest to make "the portrayal of same-sex sexual relations as socially acceptable, normal sexual behaviour with the aim of propagating it for a large audience" punishable with a fine of up to 150,000 HUF (circa € 500). The proposal was debated at the meeting of the General Assembly in April and was voted down. However, councillors of the governing party, FIDESZ, submitted a proposal on the floor of the General Assembly that would have refused granting public space permits to activities

that “harm the environment, pose a health or public security risk, and marches that are obscene or cause public indignation”. It was later withdrawn.

- In May, a FIDESZ councillor proposed an amendment to a draft local ordinance to sanction anti-social behaviour in the local assembly of District 18 of Budapest. The proposal would have banned “anti-social events that aim at portraying sexual deviance”. The proposal was supported unanimously by the Committee on Organisational, Procedural and Coordination Matters, but was later rejected by the assembly following the legal counter-arguments of the notary. Jobbik also made proposals for amendments to local ordinances in Békéscsaba, Pécs and Érpatlak.

Human rights defenders

- In June, the US Ambassador presented an Active Citizenship award to the Háttér Support Society for Gays and Lesbians in Hungary in recognition of their anti-discrimination efforts. The Ambassador said at the awards ceremony that President Barack Obama had declared June Lesbian, Gay, Bisexual, and Transgender Pride Month. She added that the Active Citizenship award was granted to the organisation because it had done much for the community.

Public opinion

- There was a large scale, European public opinion poll study published by Hungarian scholars in the journal *Equality, Diversity and Inclusion: An International Journal* on how partnership legislation contributes to social acceptance of LGBT people. The study provides hard evidence that progressive legislation influences people’s attitudes, thus refuting the argument that public support has to precede adoption of legal reforms in the field of LGBT rights.

- According to Eurobarometer 2012, 42% of Hungarians believe sexual orientation discrimination is widespread. This is slightly below the EU27 average (46%). 34% believe gender identity discrimination is widespread. This is slightly below the EU27 average (45%). Hungarians scored 4.2 on a scale from 1 (‘totally uncomfortable’) to 10

(‘totally comfortable’) when asked how comfortable they would feel with an LGB individual in the highest elected political position in their country. This is significantly below the EU27 average (6.6). Hungarians scored 3.8 on a similar scale when asked about transgender/transsexual person in the highest elected political position in their country. This is significantly below the EU27 average (5.7).

Member organisations of ILGA-Europe

Habeas Corpus Working Group

Háttér Support Society for LGBT People in Hungary
www.hatter.hu

Hungarian LGBT Alliance
www.lmbtszovetseg.hu

Transvanilla Transgender Association
www.transvanilla.hu