

## SUBMISSION BY HÁTTÉR SOCIETY FOR THE OSCE ODIHR ANNUAL REPORT ON HATE CRIMES 2013

April 16, 2014

While significant progress was made in 2013 in improving the legal and institutional framework to deal with hate crimes in Hungary, the high number of LGBTI-phobic cases reported, and the serious mishandling of some of those cases by law enforcement agencies show the clear need for more concentrated and coordinated efforts by public authorities to tackle hate crimes.

### **Research data:**

In May 2013, the European Union Agency for Fundamental Rights (FRA) published the results of the FRA LGBT Survey.<sup>1</sup> The survey was completed by 93,079 LGBT persons from all over Europe, among them 2,267 persons from Hungary. The research found that 28% of Hungarian respondents had been physically/sexually attacked or threatened with violence in the past 5 years, while 50% were personally harassed. 59% of the last physical attack and 75% of the last harassment happened partly or completely because the respondent belonged to the LGBT community. The study confirms the findings of a similar research in 2010 by the Institute of Sociology at the Hungarian Academy of Sciences and Háttér Society<sup>2</sup> that found that 15% of respondents had become victim of violence because of their sexual orientation or gender identity. The FRA survey also documents the serious impact of such attacks on LGBT people's sense of security: 65% reported avoiding holding hands in public with a same-sex partner for fear of being assaulted, threatened or harassed; and 68% (the highest proportion in the whole of the European Union) avoid certain places or locations for fear of being assaulted, threatened or harassed because of being L, G, B or T.

### **Cases reported:**

Below is a list of selected cases reported to our organization.

#### **Case 1**

Date, time and location of the incident: April 9, 2013, afternoon, Budapest, Hungary

Source of information: interview with the victim, police files

Victim(s) involved: gay male aged 45

Type of the crime(s): physical violence



**Háttér Society**, founded in 1995, is the largest LGBT NGO in Hungary. It operates an information and counseling hotline, a legal aid service, an HIV/AIDS prevention program and an archive documenting the history of the LGBT movement in Hungary. Besides its core activities Háttér regularly participates in research and training projects and is actively involved in lobbying for advancing the rights of LGBT people through legal change. Háttér is a founding member of the Hungarian LGBT Alliance, and an active member of ILGA-Europe and Transgender Europe.

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Bias motivation: LGBT

Perpetrator(s): 3 security guards

Brief description of incident with bias indicators: The WestEnd shopping center in Budapest includes an area that is often used by gay males to meet and socialize. J.G.<sup>3</sup> also visits this area quite often. On April 9, 2014 he was dragged into a service corridor by four security guards, three of whom forced him into an elevator and brutally assaulted him: he was punched and kicked several times. During the attack the following statements were made “you dirty faggot, why do you have to come here”, “we are fed up with you all”. He was then pushed out to the street. Following the attack he went home, but did not feel well and went to the hospital. The hospital reported the attack to the police.

Status of the case: reported to the police, not investigated under Article 174/B<sup>4</sup>, investigation ongoing

Response of local authorities: Two police officers appeared in the waiting room at the hospital where the victim was waiting for his admission. They started questioning him on the spot, including questions concerning whether the attackers used words such as “faggot” during the attack. This took place in a waiting room with several other patients around, which made the victim very uncomfortable. He had not heard back from the police for over a month, when he was interrogated once again. The victim (represented by Háttér Society) requested several times (also in writing) that the case be investigated as a hate crime, but the police refused it, claiming that in order to settle the motivation, first the perpetrators have to be questioned. On February 5, 2014 the victim successfully identified his perpetrators from a list of photos shown to him by the police. The victim has received no update on his case since then.

Impact on the Victim(s) and the Community: The victim suffered severe injuries healing over 8 days and was hospitalized for several weeks.

## **Case 2**

Date, time and location of the incident: July 6, 2013, 15:30, Budapest, Hungary

Source of information: interview with the victims, police files

Victim(s) involved: two gay men and two women

Type of the crime(s): physical violence

Bias motivation: LGBT

Perpetrator(s): three young men

Brief description of incident with bias indicators: The victims were heading towards the starting point of the Budapest Pride march with a large rolled-up flag on a pole in their hands. A few hundred meters from the starting point they were stopped by three men in their twenties who kept asking them if they were going to the Pride march. One of the perpetrators took up a fighting position, and kicked one of the gay men, who as a result fell to the ground. The perpetrator wore black trousers and black T-shirt. A young couple who saw the incident started shouting and calling for the police, and the perpetrators ran away.

Status of the case: reported to the police, not investigated under Article 216, but later re-categorized by the prosecutor's office, one perpetrator identified, investigation ongoing

Response of local authorities: The victims found a police car nearby, and the police offered the man who had been kicked to be driven around to see if he can locate the perpetrators. One of the perpetrators was indeed identified and apprehended by the police. The incident was investigated not as a hate crime, but as disorderly conduct. The victims (represented by Háttér Society) requested the case to be re-classified as violence against a member of a community, and transferred from the district police to the Budapest Police, who have jurisdiction in such cases, but the police refused. The case was closed and submitted for prosecution as disorderly conduct, however, the prosecutor's office decided that the motivation had not been properly investigated and ordered the Budapest Police to resume the investigation.

Impact on the Victim(s) and the Community: The victims suffered no injuries.

### **Case 3**

Date, time and location of the incident: July 6, 2013, 18:30, Budapest, Hungary

Source of information: interview with the victims, police files

Victim(s) involved: three gay men, two of them of Roma origin

Type of the crime(s): physical violence

Bias motivation: LGBT, anti-Roma

Perpetrator(s): a larger group of around 20 right wing extremists

Brief description of incident with bias indicators: The three victims participated at the Budapest Pride march on the same day, and were heading home after the march ended. Close to the endpoint of the march they were spotted by a group of 20 right wing extremists coming from a protest against the march. They started shouting things like: "those are faggots, those are gypsies", the victims asked them to leave them alone, but as soon as they got close enough the perpetrators started punching the victims shouting "you faggots, you gypsies". At least 4-5 members of the larger group were actively involved in the attack. One of the victims fell to the ground and was kicked several times. One of the victims tried to run away and call the police, but the perpetrators wanted to take away his phone. Police cars appeared and the attack ended. The police asked for the documents of the victims, but failed to do the same for the perpetrators some of whom were still present 5-10 meters away. When asked by the victims to do something with the perpetrators, the police claimed they were only there to protect the victims, and not to act against the perpetrators. Harassing shouts continued even after the police appeared. A video crew of a newspaper appeared and the victims gave an interview criticizing the police for their inactivity.

Status of the case: reported to the police, investigated under Article 216, several perpetrators identified and are under arrest, investigation ongoing

Response of local authorities: Police failed to apprehend the perpetrators on the spot. In response to the outrage caused by the video recording of the victims' statement on the website of a leading newspaper, the police issued a press release claiming that victims told

the police they were not able to recognize the perpetrators and that they left the hospital without a medical examination (the truth was: the victims said some of the perpetrators had left, and they did get a medical examination, but at a different hospital). Two days after the attack, the victims were summoned to a police interview and a proper investigation was started.

*Impact on the Victim(s) and the Community:* The victims suffered light injuries. The video interview with the victims created a wave of criticism against the police. Several political parties and the Ministry of Human Resources issued press releases condemning the attacks. Personal data (including lies about the private life of the victims as well as their phone numbers) were published on an extreme right wing news portal, the victims received several harassing phone calls. An investigation was launched against the news portal, but was prematurely closed without taking all investigative steps that could have led to identifying editor of the portal.

#### **Case 4**

*Date, time and location of the incident:* July 6, 2013, 17:30, Budapest, Hungary

*Source of information:* interview with the victims, police files

*Victim(s) involved:* one gay man

*Type of the crime(s):* physical violence

*Bias motivation:* LGBT

*Perpetrator(s):* woman in her thirties, part of a larger group of around 30 right wing extremists

*Brief description of incident with bias indicators:* The victim participated at the Budapest Pride march on the same day, and was heading home after the march ended together with a female friend. He was pushing a bike that had a small rainbow flag attached to it. A larger group of right wing extremist protestors were blocking their way and shouting "dirty faggots, dirty faggots!" When passing by, a male member of the crowd tore off the rainbow flag from the bike, and a woman from the group started shouting "are you not ashamed of yourself?" When the victim responded "no", she hit him on the neck from the back. A police officer intervened and separated the two. The whole incident was recorded on video by a video crew of a newspaper, and was published on the website of the newspaper.

*Status of the case:* reported to the police, investigated under Article 216, perpetrator under arrest, investigation closed, submitted for prosecution

*Response of local authorities:* The police officer stopping the attack from escalating did not apprehend the perpetrator, neither did he perform an identity check on her. When seeing the video recording of the attack on the internet, the police launched an investigation. Meanwhile, a written report was submitted by the victim (represented by Háttér Society) to the police, including the (presumed) identity of the perpetrator who had been identified by activists as she is a well-known extremist with several similar incidents in her past. The two investigations were merged. The investigator of the case put together a call for witnesses attaching photos of the people believed to be together with the attacker caught on tape, but the Communication Service of the National Police Headquarters failed to publish the call (the

reasons for this failure are not clear yet). The police failed to identify any of the persons accompanying the woman, and closed the investigation recommending the prosecution of the woman under Article 216.

Impact on the Victim(s) and the Community: The victim did not suffer any injuries. The video showing the attack was widely publicized and created a wave of criticism against the police.

### **Case 5**

Date, time and location of the incident: July 6, 2013, afternoon, Budapest, Hungary

Source of information: interview with the victims, police files

Victim(s) involved: one straight man perceived to be gay

Type of the crime(s): physical violence

Bias motivation: LGBT

Perpetrator(s): group of 5-6 young men, right wing extremists

Brief description of incident with bias indicators: The victim wanted to join the closing event of the Budapest Pride march together with a male friend and the girlfriend of this friend. A few corners away from the event, a group of 5-6 young men dressed in right wing extremist outfit were passing by the victim, and one of them kicked the victim in the groin, while shouting “so what, you faggot!” The victim fell to the ground in pain.

Status of the case: reported to the police, investigated under Article 216, investigation suspended, perpetrator cannot be identified

Response of local authorities: The friend of the victim rushed to the closest police officer to ask for help, but the police officer responded “you should not go to demonstrations, and these kinds of things would not happen” and refused to do anything about the attack. After a being hospitalized for two days, the victim went to report the case to the district police, however, they refused to take the report and advised the victim to report the incident via email. After submitting the report via email, the victims was summoned for a police interview. The investigation was launched for disorderly conduct. The victim (represented by Háttér Society) submitted a complaint asking for the investigation of the incident under Article 216. Following the complaint, the case was reclassified and transferred to the Budapest Police. On December 14, 2013, the police suspended the investigation as they could not identify the perpetrator. The police failed to inform the victim’s legal representative about the decision to suspend, the representative was only informed about the suspension months later at a meeting about a different case.

Impact on the Victim(s) and the Community: The victim suffered severe injuries and had internal bleeding. He was hospitalized, but left the hospital on his own decision after two days. The victim wanted to remain silent about the case in fear that he would be (falsely) identified as gay in the media.

### **Case 6**

Date, time and location of the incident: August 14, 2013, 3:00am, Budapest, Hungary

Source of information: interview with the victims, police files

Victim(s) involved: three young gay men

Type of the crime(s): threats

Bias motivation: LGBT

Perpetrator(s): one man

Brief description of incident with bias indicators: The victims were heading home from a party, when one of them went into a shop to buy cigarettes. The two others started kissing in front of the shop. Two men came out from a nearby shop and started harassing the boys saying "You faggots, don't do your faggot thing around here, get the hell out of here!" When the boys did not stop, one of the men went into the shop and came out with a baseball bat and made threatening moves with it. The boys called the police.

Status of the case: reported to the police, investigated under Article 216, investigation ongoing

Response of local authorities: The police arrived to the spot more than half an hour after the call was made. The boys insisted they want to press charges against the perpetrator, but the police officers said they should keep calm as they could also be taken to the police station as they had committed moral indecency. The police said if they want to press charges, they have to go to the police station. The police went into the shop, but did not perform a thorough search for the baseball bat. When the next day the victim went to report the case to the police, he was told he does not have to report, as most likely there is already an investigation ongoing. The victim reported the case to several news media that covered the story in great details. The Communication Service of the National Police Headquarters issued a press release claiming that the victim lied about the time it took for the police to arrive to the spot (the truth is: the time of the call and the arrival of the police is well documented), and that no criminal offense have happened (meanwhile the local police informed the victim that a preliminary investigation is ongoing). Later, the victim was summoned for a police interview, and the investigation is ongoing. The victim submitted a complaint the Independent Police Complaint Board, but no opinion has been published yet. The victim requested several times a correction to the press release, but the police did not respond.

Impact on the Victim(s) and the Community: The story was widely reported in the news media. A Member of Parliament submitted written question to the Minister of Interior on the mismanagement of the case. On August 20, 2014 a demonstration drawing about a hundred people took place in front of the district police station.

#### **Update on cases reported earlier:**

##### **Case 5 of 2012**

On October 15, 2013 the District V and XIII Prosecution Service initiated the prosecution of two men, who – following the Pride March in 2012 – harassed participants of the march as part of a larger group. The case is pending in court, the date for the first hearing has not been set yet. This is the first known case where the *sui generis* hate crime provision (Article

174/B, violence against a member of a community, in force since 2009) has been used to prosecute a homophobic incident.

### **Case 7 of 2012**

On August 13, 2013 the Budapest District V Police suspended the investigation of the homophobic attack that took place on December 16, 2012. The reason was that the police had not been able to identify the perpetrator. Upon consulting the documents it became clear that the police failed to request CCTV footage about the attack in time (even though specifically requested by the victim at the time of reporting the incident), and that the investigation was conducted by the district police, instead of the Budapest Police. The victim (represented by Háttér Society) submitted a complaint, and the police admitted having made those mistakes.

### **Legislative changes:**

On July 1, 2013 the new Criminal Code entered into force that brought significant improvement to the legislative framework on homophobic and transphobic hate crimes: sexual orientation, gender identity and disability were added to the list of grounds in the hate crime provision (Article 216: Violence against a member of a community). The new law also raised the sanction for simple (non-aggravated) hate crimes from up to 5 years to 1-5 years.

Prompted by the legislative change, the statistical data collection system (Unified System of Criminal Statistics of the Investigative Authorities and of Public Prosecution (*Egységes Nyomozóhatósági és Ügyészési Bűnügyi Statisztika – ENYÜBS*)) was also amended to reflect the explicit inclusion of sexual orientation and gender identity: for cases qualified by the police as violence against a member of a community, sexual orientation, gender identity and disability were added as new options to mark. Unfortunately, while filling the protected characteristic field is compulsory for incidents related to nationality, ethnicity, race and religion, filling out this field is only optional for the three newly introduced grounds. The system still fails to properly mark hate crime incidents that do not fit in the category of violence against a member of a community, most importantly homicide and crimes against property.

Upon the recommendation of the NGO coalition Hate Crime Working Group (<http://gyuloletellen.hu>) the legislation on police jurisdiction was amended, and investigating cases of preparation to commit a hate crime was added to the jurisdiction of county police doing away with the inconsistency that this type of hate crime used to be investigated by the local police, while other forms of hate crimes by the county police.

### **Practical initiatives:**

The implementation of the project “Creating a National Hate Crimes Strategy and Action Plan” launched in September 2012 was continued throughout the year by the NGOs Legal Defence Bureau for National and Ethnic Minorities (NEKI), Háttér Society and the Hungarian Helsinki Committee. 25 interviews were conducted with relevant stakeholders including police officers, judges, prosecutors, staff of victim support services and academics. Based on the interviews, a detailed report with a list of recommendations and an English language summary report were published (available online at:

<http://neki.hu/gyuloletbuncselekmenyjelentes>). The recommendations will serve as the basis for developing a national strategy in cooperation with relevant state actors.

In November 2013 Háttér Society held two two-day training sessions on hate crimes for altogether 28 police officers, including 20 members of the police hate crime network. The training used a practical approach to help police officers identify hate crimes, use effective investigation techniques to uncover bias motivation, and provide a supportive environment for victims.

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<sup>1</sup> The study is available at: [http://fra.europa.eu/sites/default/files/eu-lgbt-survey-results-at-a-glance\\_en.pdf](http://fra.europa.eu/sites/default/files/eu-lgbt-survey-results-at-a-glance_en.pdf), detailed, country level data is available at: <http://fra.europa.eu/DVS/DVT/lgbt.php>.

<sup>2</sup> Results of the research are available at: <http://en.hatter.hu/what-we-do/research/lgbt-survey-2010>.

<sup>3</sup> Initials changed to protect the victims' anonymity.

<sup>4</sup> Violence against a member of a community. Article 216 in the new Criminal Code in force since July 1, 2013.