



INFORMATION ON ACT LXXIX OF 2021 AMENDING CERTAIN ACTS FOR THE PROTECTION OF CHILDREN¹

A Briefing Written for the Experts of the Venice Commission on November 18, 2021

About Hátter Society

Hátter Society, founded in 1995, is the oldest and largest LGBTQI organization in Hungary. It works for a society in which no-one is discriminated against because of their sexual orientation or gender identity, where all members of the LGBTQI community are free to live according to their identity, and receive the help they need to resolve the problems they might face. To achieve these goals Hátter operates various support services including a legal aid service; monitors and documents human rights violations against LGBTQI people; offers training for professionals among them legal practitioners; and advocates for the adoption of laws and policies respecting the human rights of LGBTQI people. During past two decades we provided legal advice to thousands and legal representation to hundreds of LGBTQI people who have become victims of violence, harassment of discrimination.

Adoption of the law

Anti-LGBTQI provisions contained in Sections 1, 3, 9, 10, 11 of Act LXXIX of 2021 (hereinafter: the Act) were introduced in Parliament by pro-government members of the Legislative Committee in the last stage of the parliamentary debate, only five days before the final vote of the law, after the bill has been debated in depth by the Justice Committee, the Social Welfare Committee and the plenary session. This short time frame did not allow for any serious discussion of the bill by parliamentarians or proper input by civil society or professional organizations.

Main provisions of the law

Anti-LGBTQI provisions of the Act include amendments to five acts of parliament: Act XXXI of 1997 on the protection of children and guardianship administration (hereinafter: Child Protection Act); Act CCXI of 2011 on the protection of families (hereinafter: Family Protection Act); Act XLVIII of 2008 on the basic conditions of and certain restrictions on economic advertising activities (hereinafter: Advertisement Act); Act CLXXXV of 2010 on media services and mass communication (hereinafter: Media Act); and Act CXC of 2011 on national public education (hereinafter: National Public Education Act).

These amendments introduced similar provisions to all these acts restricting access of minors to “content that is pornographic or that depicts sexuality as having a purpose in itself or that depicts or propagates divergence from self-identity corresponding to sex at birth, sex

¹ With input from Amnesty International Hungary, the Hungarian Civil Liberties Union and the Hungarian Helsinki Committee.

change or homosexuality”. In the case of the National Public Education Act, the law only bans propagation, but not depiction.

While the amendments to the National Public Education Act, the Advertisement Act and the Media Act apply only to the specific institutions and actors (namely: schools and teachers, businesses and media service providers), the Child Protection Act has a much broader scope that applies not only to child protection services, but also to all children and their parents (cf. Section 4 (1)). The Family Protection Act does not contain any limitation on its scope, and thus its provisions apply to all natural persons, public bodies and private entities in Hungary.

Besides the general restrictions, two acts contain more specific provisions. According to Section 9 (6) of the Media Act, media content defined above shall be classified as category V (unsuitable for minors), which can be broadcasted only after 11pm and before 5 am. According to Section 32 (4a) of the Media Act, such content cannot be broadcasted as public service advertisement. According to Section 9/A of the National Public Education Act besides teachers and professionals providing school health services, only those experts and civil society organisations may conduct sexual education activities in schools that are registered by the organ designated by legislation. Sexual education activities are defined broadly to include any discussions on sexual culture, sex, sexual orientation and sexual development.

Implementing legislation

On August 6, 2021, lower level regulation implementing Act LXXIX of 2021 was published in the Gazette. According to Section 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 placed in a shopping window and can only be sold in special packaging separate from other products. Any products depicting or propagating divergence from self-identity corresponding to sex at birth, sex change and homosexuality (not limited to those targeting children) cannot be sold within 200m of schools, children or youth institutions and churches.

The National Public Education Act authorizes the minister responsible for education to issue a decree which designates the state organ maintaining the registry of experts and civil society organizations that may hold sex education classes in institutions of public education. Further, it authorizes the minister to regulate in a decree the exact conditions of registration. However, no such decree has been issued as of November 18, 2021. As a result, currently no civil society organizations may hold sex education classes in institutions of public education.

Vagueness of legal terms

The Act contains a set of terms such as “depiction” and “propagation” that are not defined at all in the acts using them, and are open for interpretation to the extent that it is hardly possible for the addressee of the relevant provisions to foresee how they would be applied. It is for example not clear whether “depiction of homosexuality” would only apply to portraying sexual acts between two persons of the same sex, or also showing any form of affection (kissing, hugging, holding hands) between them, or simply stating that a person is attracted to persons of the same sex, or even any discussion of the topic of homosexuality. The first – narrow – interpretation is unlikely, since the amendment to the Media Act also prescribes an

unsuitable for minors rating for media content that depicts sexuality as having a purpose in itself, which applies to both heterosexual and homosexual sexual activity, but while in case of heterosexual activity only those depictions are rated 18+ that depict sexuality as “having a purpose in itself”, for homosexuality any depiction receives this classification. Similar uncertainties abound about the “depiction of deviation from the self-identity in line with the birth sex and sex change”. It could apply narrowly to the depiction of gender affirming medical interventions, but also to stories about transgender persons transitioning, or simply stating that a person is transgender or having any discussion of transgender identities. Propagation is similarly undefined in the acts at hand (cf. the classification recommendation of the Media Council analyzed below), and could apply not only to content that asserts the desirability or superiority of homosexuality and transgender identities (in fact we are not aware of any such content ever been published in Hungary), but also to content that calls for equal rights and social acceptance for LGBTQI people (cf. the alarming examples found in the recommendation of the Media Council analyzed below). Case law of various public bodies in the past two years (see below) makes it likely that the authorities will use a very broad understanding of these terms, and apply it to any depiction of LGBTQI people or discussion of LGBTQI topics.

Media Council guidance

The Media Council updated its “recommendation on classification (ratings)” on September 15, 2021,² in line with new provisions of the Media Act (Section 9 (6) as amended by Act LXXIX of 2021) which prescribe the classification of media content as not recommended for viewers under 18 if its “defining element” is the propagation or depiction of deviation from the self-identity in line with the birth sex, sex change or homosexuality. The recommendation states that it is not generally the depiction of deviation from the self-identity in line with the birth sex, sex change or homosexuality that is banned, but only if it is a defining element of the media content at hand. In other words, if it is the “message” of the media content, or “this is what the content is about” (see p. 17 of the recommendation). Further, “topics concerning sex change and homosexuality are defining elements if the media content focuses on emphasizing the values, advantages, specialty, individuality; that is, these topics constitute a central, essential, indispensable part of the content” (p. 17). The recommendation also offers an interpretation of “propagation”: “presenting homosexuality or the change of sex at birth as social norms, as lifestyles that are more appealing than tradition forms of life; or lifestyles that set an example.” Moreover, “all propagandistic activity related to these topics that appears in media content, if its aim is to spread these ideologies and views, or to exert emotional influence on the underaged, or to persuade them with communicative means,” also constitute propagation (p. 17).

However, the recommendation suggests extreme caution. Whenever a media content “depicts the deviation from the self-identity in line with the birth sex, sex change or homosexuality, or its propagation [!], the media service provider shall take into consideration if this depiction requires class V classification [not recommended for viewers under 18] due to its suitability to adversely impact the physical, intellectual and moral development of the underaged” (p. 18).

The recommendation of the Media Council includes some alarming examples of classification based on the new provisions. It includes highly acclaimed works of cinematographic art such

² https://nmhh.hu/dokumentum/214969/klasszifikacios_ajanlas.pdf

as *All about my mother*, as well as politically and historically subtle depictions of the HIV/AIDS epidemic and homophobia in the 1980s such as the series *It's a Sin* – both mentioned in the recommendation as unambiguous examples of “propagating” homosexuality or sex change (p. 18). Note that the latter example, just as the TV series *Queer as Folk* (also listed as an example of this category) explicitly contradict a further piece of guidance in the recommendation: to wit, that series should not be classified in their entirety – the same classification applied to each episode –, but each episode of a series should be classified in itself (p. 2). At any rate, the examples provided in the recommendation make it clear that the Media Council cannot be expected to interpret the new legal provisions with any regard for the value of the works classified as vehicles of artistic or political expression, or with due regard for the context of the objectionable content element in the works at hand that should guide and inform the interpretation of these works.

While the guidance seems to offer a narrower interpretation of the restrictions, it has to be emphasized that the recommendation of the Media Council does not have the quality of law. It is not a source of law at all; it does not bind either the addressees of the legal provisions it interprets, or the Media Council itself that is supposed to apply the critical provisions. Second, the recommendation emphasizes that “it does not aim to lay down strict, rigidly interpreted rules for each classification [rating]”, and that the list of considerations it recommends to take into account “is not at all comprehensive or final, as professional practice requires the continuous review and amendment of these considerations” (p. 2). Third, note that although similar terms appear in the Media Act as in the other acts amended, there is no reason to take guidance from the Media Council’s recommendation on media content classification to apply to similarly worded provisions in the National Public Education Act or the Family Protection Act, and so forth. These acts are interpreted and applied by different bodies, and hence relying on guidance in one domain (e.g., media services) may actually mislead addressees about how similar provisions are applied in another domain (e.g., public education). Also, for instance, propagation may have entirely different meanings in media service provision than in public education: these terms should be interpreted with due regard for the context to which they are applied. Yet no guidance exists in other domains but for media service provision – and in our opinion, it is insufficient to guarantee foreseeability by guide addressees about how they should interpret the new legal provisions and adapt their conduct accordingly.

Earlier case law

While we are not aware of any cases since the adoption of the law where the new provisions have been relied on as basis for sanctions by authorities or courts, earlier case law of public bodies is indicative of how broadly the authorities might interpret the law. These earlier cases relate to broad child protection provisions that have long existed in Hungarian law, but have not been used against LGBTQI content until Fall 2019. These broad provisions include: Fundamental Law Article XVI (1) (“Every child shall have the right to the protection and care necessary for his or her proper physical, mental and moral development.”); Act CIV of 2010 on the freedom of the press and the fundamental rules on media content Section 19(1) (“Access to media content that could damage the intellectual, psychological, moral and physical development of minors shall only be granted to the general public in a manner that prevents minors – especially via choosing a time of broadcast, checking the age, or via other technical measures – from accessing such content in ordinary circumstances.”); and Section

8 (1) of the Advertisement Act (“No advertisement may be disseminated if it is capable of harming the physical, intellectual or moral development of children and young persons.”).

With reference to those legislation, in October 2019 the consumer protection authority imposed a fine of HUF 500,000 (EUR 1,375) on Coca Cola for featuring same-sex couples in a billboard campaign.³ The campaign⁴ entitled *#loveislove* featured a gay male couple hugging each other, a lesbian couple looking into each others eyes and a heterosexual couple kissing each other. The third poster featuring a heterosexual couples was not reproached by the authority. The authority argued that *“it should be taken into account that many children in Hungary come from a broken home, which is why it is important for children to see as many positive examples as possible that put whole/intact families first. The impugned poster does not convey this example to children and juveniles. (...) In light of all the above, my Authority is of the opinion that the content showing same-sex couples on the posters of Coca Cola Company’s “#loveislove” campaign may have particularly adverse effects, as it is capable of seriously harming the intellectual, emotional, or moral development of children and young persons.”* The company did not challenge the decision in court. Háttér Society initiated an *actio popularis* review of the decision at the Equal Treatment Authority, the Commissioner for Fundamental Rights and the public prosecution service, but all public bodies refused to investigate whether the decision was discriminatory and / or violating freedom of speech.

In March 2021 the Media Council launched an investigation⁵ against RTL Klub for airing an information video⁶ about rainbow families by Háttér Society. The video featured LGBTQI people raising children talking about their everyday experiences and experts (psychologists, sociologists, teachers) discussing scientific findings on such families. The investigation is still pending, no decision has been issued yet. Even though the video was created and its broadcast was ordered by Háttér Society, the Media Council declined to treat the organizations as party to the procedure restricting it from putting forward its legal arguments. The decision was challenged in court and the Curia ordered the Media Council to treat Háttér Society as party to the procedure.⁷ The investigation has been resumed recently after the decision of the Curia, and is currently pending.

In January 2021 the consumer protection authority ordered Labrisz Lesbian Association to change the cover of their children’s book *Fairyland is for Everyone* to clearly state that it includes “patterns of behaviour deviating from traditional gender roles.”⁸ The book includes classic and modern fairy tales featuring characters belonging to different social minorities such as Roma people, people with disabilities, adopted children, as well as a story about two princes that fall in love and a dear that changes their gender. According to the authority the publisher *“did not provide preliminary information about the fact that the tales included in the book feature “patterns of behaviour deviating from traditional gender roles”, and by this they*

³ [Decision no. PE-06/01/01076-10/2019](#)

⁴ <https://www.coca-cola.hu/rolunk/hirek/love-is-love-egyenlo-jog-a-szeretethez>

⁵ Decision no. 163/2021.(III. 2.)

⁶ <https://youtu.be/wXLuhRgihog>

⁷ Kf.VII.40.749/2021/4.

⁸ [Decision no. BP/2200/00868-2/2021](#)

committed an omission that could impact the decision of the consumer to buy or not to buy the book, and thus conducted an unfair business practice.” The authority’s decision has been challenged in court, the judicial review is pending. In the court procedure, the consumer protection authority argued that the adoption of Act LXXIX of 2021 retroactively justifies the decision the authority issued six months prior to its adoption.

On July 6 2021, two days before the entry into force of the Act, the bookshop Lira was fined HUF 250,000 (EUR 690) for selling another children’s book *What a family!* (the Hungarian translation of the books *Early One Morning* and *Bedtime, Not Playtime!* by Lawrence Schimel) featuring rainbow families among other children’s books.⁹ According to the authority “*based on the description on the back cover and its board book design, the consumer could draw the conclusion that the book is aimed at young children, with a known or familiar situation*”. By placing the book among other children’s books, “*the bookshop deceived the consumer regarding the secondary content of the book (...) the reader of the book and the child will face an unexpected situation both from an emotional and a moral point of view - that might not have been known at the time of making the purchase.*” The authority’s decision has been challenged in court, the judicial review is pending.

Potential sanctions

While the law introduced only a limited number of new sanctions, existing sanctions in sectoral laws, as well as criminal and misdemeanor law could also apply to those violating the provisions of the law.

The only new sanction introduced by Act LXXIX of 2021 relates to the field of education. According to the amended Section 248 (3) d) of Act II of 2012 on misdemeanors (hereinafter: Misdemeanors Act) violating the legal provisions on holding classes / sessions in institutions of public education is a punishable misdemeanor. According to Section 7, violations of the Misdemeanors Act may result in a fine of maximum of HUF 150,000 or community service (labour), which may be transferred to deprivation of liberty if the person is not able to perform the community service. According to Section 79 (8) of the National Public Education Act, the misdemeanor procedure shall be launched against the head of the institution of public education where the violation took place, as well as against the expert or members of the civil society organization which has been found to hold sexual education classes in school without registration, or against the person who held such classes on behalf of such organizations, if public education authorities find that a civil society organization has engaged in such activities without registration.

According Section 24-26 of the Advertisement Act, in case an advertisement violates the rules on advertising, sanctions in Act CLV of 1997 on consumer protection (hereinafter: Consumer Protection Act) shall be applied. Under Section 47 of the Consumer Protection Act, if consumers’ rights are violated, the consumer protection authority may apply several sanctions, including: immediate removal of online content, the confiscation of goods, the closing down of shops/establishments of service and imposing a fine, the maximum amount of which is determined by the annual revenue of the service provider concerned. The fine is determined by the annual net revenue of the company, and may be up to HUF 500 million (EUR 1.37 million) in case of companies with a net revenue above HUF 100 million and up to HUF 5 million (EUR 13,700) in case of companies with a net revenue below HUF 100 million

⁹ [Decision no. PE/002/01974-8/2021](#)

Under Section 26 (1) of Govt. Decree 210/2009. (IX. 29.) on commercial activities, if the provisions on the sale of goods are violated, sanctions in the Consumer Protection Act (see above) can be applied. Furthermore, according to Section 27 (1) the notary of the local government can suspend certain commercial activities or close the shop for a maximum of 90 days if such rules are violated. According to Section 27 (2) in case the owner does not comply with the requirements imposed by the notary, the notary can permanently close down the shop.

In case of violations of the Media Act, the Media Council may apply sanctions. In case of first breach, the sanction is lenient, yet, in case of severe violations, sanctions may be severe. According to Section 187, the Council can suspend the right to provide media services for a time 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 media services will not be available for the public). A fine between HUF 3 million (EUR 8,250) and HUF 200 million (EUR 550,000) depending on the type of media service provider may be imposed. It may also impose a fine (up to HUF 2 million – or EUR 5,500) on persons fulfilling a management role at the service provider.

Section 208 of the Criminal Code on abuse of minor (*kiskorú veszélyeztetése*) stipulates that “a person who is given custody of a minor to maintain and care for the person in his charge – including the domestic partner of the parent or guardian exercising parental custody, as well as any parent who has been deprived of the right of parental custody, if living in the same household or in the same home with the minor – and who seriously violates the obligations arising from such duty and thereby endangers the physical, intellectual, moral or mental development of the minor, is guilty of a felony punishable by imprisonment between one to five years.” The language of this provision is very close to the broad child protection provisions that have been interpreted in the past two years to apply to any content featuring LGBTQI characters. In fact, Gergely Gulyás, Minister heading the Prime Minister's Office told journalists at a press conference that if a teacher uses *Fairyland is for Everyone* (see above) as part of school education, they should be investigated for the crime of abuse of minors.¹⁰ Since the general provisions in the Family Protection and Child Protection Acts apply also to parents, it is not only teachers, but also parents who could face criminal sanctions for providing access to LGBTQI content to their children.

Even if criminal sanctions are not applied, Section 67 of the Child Protection Act stipulates that in case of the development of the child is endangered, the child protection authority shall take measures prescribed by Section 15 (4) including putting the child under protection (ordering parents to follow an education plan imposed by a social worker), or temporarily or permanently removing the child from the home. According to Section 72 (2) it is considered to be seriously endangering if the child is abused or neglected in a way that their life is threatened or their physical, psychical, emotional or moral development may be significantly and irreversibly harmed. Again, the language of this provision is very close to the broad child protection provisions that have been interpreted in the past two years to apply to any content featuring LGBTQI characters. Even though it is quite unlikely that the child protection authorities would make the decision of taking the child in public care, this, however, cannot be excluded and the new legislation does open legal avenues for such decisions.

¹⁰ <https://telex.hu/belfold/2020/10/08/meseország-mindenkie-ovoda-gulyas-gergely-kiskoruak-veszelyeztetese>

According to Section 33/A (1) of Act XXXIII of 1992 on the legal status of public servants, in case a public servant (such as a teacher, school psychologist, or social worker in childcare etc.) intentionally or negligently violates substantive obligations arising from their public service contract, their contract can be terminated. For less severe violations, the rules of Act I of 2012 of the Labour Code apply, Section 56 of which allows the employer to impose sanctions on employees if they violate obligations arising from the employment contract; a financial sanction cannot be higher than one month salary.

According to Section 79 of the National Public Education Act, government county offices (local branches of the central government) may inspect schools, and if they find schools in violation any legal provisions on education including the new provisions, sanctions according to Section 2 (3) of Act CXXV of 2017 on sanctions of administrative violations may be imposed, which include a warning, prohibition of an activity, and fines up to HUF 2 million (EUR 5,500) for individuals and HUF 10 million (EUR 27,490) for organizations.

Inconsistency with non-discrimination provisions

Article XV of the Fundamental Law does not specifically prohibit discrimination on the grounds of sexual orientation and gender identity, but it provides an open ended list via the category of 'other status'. It is clear from the practice of the Constitutional Court (CC) that such characteristics are protected by the non-discrimination clause of the Fundamental Law (and before that, the Constitution). The CC held that the anti-discrimination clause is not a taxative list of protected characteristics.¹¹ The CC elaborated already early on its practice that differential treatment constitutes discrimination when it lacks a reasonable ground and is therefore arbitrary.¹² This analysis has been further developed in more recent cases.¹³ The CC has explicitly stated in several decisions that sexual orientation is protected under 'other status',¹⁴ but no case has reached the CC that would have required a similar analysis for gender identity. The Venice Commission in their opinion on the new Fundamental Law noted that the fact that sexual orientation is not included in the list of protected characteristics "might create the impression that discrimination on this ground is not considered to be reprehensible."¹⁵ Unfortunately, the adoption of the Act with openly discriminatory provisions makes it clear that indeed the Hungarian Government does not consider discrimination based on sexual orientation and gender identity to be prohibited by the Fundamental Law.

Section 8 and 9 of Act CXXV of 2003 on equal treatment (hereinafter: Equal Treatment Act) does explicitly prohibit direct or indirect discrimination on the basis of sexual orientation and gender identity. The Preamble of the Act clearly stipulates that the Act executes and specifies the constitutional duty of non-discrimination by mentioning expressis verbis sexual orientation and gender identity and making it clear that negative differential treatment on these grounds shall be unlawful.

¹¹ 41/2007. (VI. 20.) CC decision

¹² 30/1992. (IV. 29.) CC decision

¹³ 3206/2014. (VII. 21.) CC decision

¹⁴ 20/1999. (VI. 25.), 37/2002. (IX. 4.), 154/2008. (XII. 17.), 43/2012. (XII. 20.) CC decisions

¹⁵ CDL-AD(2011)016-e

Act LXXIX of 2021 therefore creates inconsistencies in the legal and constitutional order and does not fit into the system of laws. It is, however, highly likely that applying the general principle of legal interpretation *lex specialis derogat legi generali* will result in authorities and courts applying the new provisions at hand while setting aside the relevant provisions of the Equal Treatment Act.

Sex education in schools

There is no clear legislation in Hungary on sex education in schools. Section 62 (1) b) of the National Public Education Act requires that teachers educate students among others to “know and respect family values” and “a healthy lifestyle.” The National Core Curriculum (Govt Decree 110/2012. (VI. 4.)) contains among its principles “Education to family life” that covers promoting harmonic family patterns, responsible relationships and sexual culture. The Framework Curricula¹⁶ includes differences among sexes, responsible sexual behavior, and the role of sexuality in partnerships as topics to cover in biology in grade 7-8, and contraception, family planning and the prevention of sexually transmitted infections in grade 9-10. Neither the National Core Curriculum or the Framework Curricula contain any mention of homo- or bisexuality or transgender identities.

Restrictions to minors only

The Hungarian Government has often made the argument that the law only restricts access of minors to LGBTQI content, but it does not interfere with the right of adults to access such content. This argument, however, disregards the fact that it is often technically impossible to separate target audiences based on age. For example, social media service providers such as Facebook or Twitter do not allow for restricting access of minors to specific posts. If a newspaper or magazine wants to feature LGBTQI content, they have to make sure no minors can buy the whole issue containing such content. Out of home advertising (such as billboards) cannot contain LGBTQI content as children might see it as well. The inability to separate target audiences means that advertisers and media service providers will likely refrain from producing or publishing any LGBTQI content, so such content will not be available even for adults.

Protecting parental rights

The Hungarian Government has often made the argument that the law aims to protect parent’s rights to educate children according to their own values. The Act does the exact opposite, it restricts the rights of parents: it will no longer be possible for parents to teach their children to be accepting towards gay, lesbian and transgender people. Due to the broad and general prohibitions in the Child Protection Act and Family Protection Act, if a parent buys their child a youth novel featuring an LGBTQI character or watches a film depicting an LGBTQI character on TV with a child under the age of 18, they violate the law, as such behaviour amounts to making content depicting deviation from the self-identity in line with the birth sex and homosexuality available to a minor.

In some schools, parents have inquired if teachers would be exempted from their obligations under the new provisions if all parents consented in writing to inviting non-registered civil society organizations to hold sexual education sessions for students in public schools. Yet

¹⁶ https://www.oktatas.hu/kozneveles/kerettantervek/2020_nat

the new provisions do not allow for such an exemption. The bans imposed by the new provisions are categorical. Likewise, bans on making content available to minors which depicts or propagates homosexuality, deviation from the self-identity in line with the birth sex, or sex change do not allow for on exemptions. Thus they apply to teachers even if parents explicitly consent to the discussion of homosexuality or sexual diversity more broadly as well as transgender and other non-heteronormative identities.

Impact of the law

The adoption of the Act further contributed to the politically initiated, increasingly hostile public discourse against LGBTQI in Hungary.¹⁷ The number of hate crime incidents against LGBTQI people reported to our organization have significantly increased in the past few months compared to the same period a year earlier. For example, on July 13, 2021 three men tried to forcefully enter an apartment that had a rainbow flag in the window, they left homophobic stickers on the door when they could not enter. On July 27, 2021 a lesbian couple was verbally abused and pushed in front of cars for holding hands on a major street in Budapest. On October 9, 2021 a lesbian couple was verbally abused and thrown an egg at in Budapest when leaving their apartment. On October 23, 2021 a gay couple was harassed and followed by a person, who later punched in the face one of them. On November 14, 2021 a gay couple was verbally harassed as they passed by a bar in Budapest, they were followed by three men to the bus stop where they were kicked and punched several times.

Civil society organizations who have been working with schools on human rights and civic education have been recently denied access to schools unless they promised they will not touch upon LGBTQI questions, even if the students themselves bring up such issues. Several teachers and school psychologists reported that they were put under pressure to stop speaking about LGBTQI issues to their students, and in one case even to stop posting on social media on such topics. The law had a strong chilling effect on the discussion of LGBTQI topics in many segments of the society, especially those that deal with children and youth.

Civil society critical of the law

The Child Rights NGO Coalition, an umbrella organisation of Hungarian civil society actors and individual experts on the rights of children initiated by UNICEF Hungary,¹⁸ issued a statement on 15 June 2021 condemning the bill's homophobic and transphobic elements.¹⁹ The Coalition, relying on the findings of the UN Committee on the Rights of the Child in its Concluding Observations of the 6th Period Review of Hungary,²⁰ stressed the importance of ensuring that LGBTQI children are free from all forms of violence and discrimination. The Coalition called upon all politicians to work towards ending discrimination of children who belong to a vulnerable social group.

¹⁷ See our opinion *Information on Legislative Changes in 2020 Violating the Equality and the Acquired Rights of LGBTI people in Hungary. A Briefing Written for the Experts of the Venice Commission on 21 May 2021.*

¹⁸ <https://unicef.hu/ezt-tesszuk-itthon/gyermekjogi-koalicio>

¹⁹ https://gyermekjogicivilkoalicio.hu/wp-content/uploads/2021/06/GyCK-NYILATKOZATA_2021_junius_15_modosito_javaslat_hoz_szavazas_utan.pdf

²⁰ <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsnHFWMhaZ6UbKZijXRlmgYC1HmMfZ3Q4LpGEGHsqvNnxAD%2f7hd.JskKIUqejiIvzA%2fvXQV1b22Adqbb5lpeZ1OmLCdXTkkzAEJiyMIDj4cekl>

Hintalovon Foundation, (a member of the Child Rights NGO Coalition) an NGO providing legal aid and support for children endorsed the statement of Eurochild,²¹ a network of almost 200 members in 35 European countries, representing over 2000 children's rights organizations, saying that the new legislation does not protect children but puts them at greater risk of harm. Hintalovon had already reported in its Child Rights Report 2020 that LGBTIQ children had become targets of the Government.²² Commenting on the announcement of the transphobic and homophobic referendum, Hintalovon issued a statement saying that the *"homophobic law violates the UN Convention on the Rights of the Child and is severely discriminatory. The proposed referendum thematises a non-existent problem instead of focusing on the real issues concerning Hungarian children."*²³

Since the introduction of the bill in Parliament over 160 civil society organizations and companies came out publicly against the law,²⁴ including – besides the above – child rights organizations (Család, Gyermekek, Ifjúság Közhasznú Egyesület (CSAGYI), Egyesület az Inklúzióért, Együtt az Eltűnt Gyermekekért Alapítvány, Esélyt a Hátrányos Helyzetű Gyerekeknek (CFCF), Fortély-sátor Alapítvány, Gyerekesély Egyesület (GYERE), Igazgyöngy Alapítvány, Kék Vonal Gyermekkrízis Alapítvány, Magyarországi Terre des hommes Alapítvány, Rosa Parks Alapítvány, Világszép Alapítvány), student and youth organizations (ADOM Diákmozgalom, Fridays For Future – Miskolc, Haver Alapítvány, Tudatos Ifjúságért Alapítvány), parents' organizations (Apapara, Európai Szülők Magyarországi Egyesülete (ESZME), Gyerekkel Vagyunk, Magyar Anyák), professional organizations and trade unions of teachers, psychologists and social workers (Magyar Pedagógiai Társaság Gyermekérdekek Szakosztálya- Korczák Munkabizottság, Pedagógusok Demokratikus Szakszervezete, Pedagógusok Szakszervezete, Magyar Köztisztviselők, Közalkalmazottak és Közszolgálati Dolgozók Szakszervezete, Magyar Pszichológiai Társaság LMBTQ Szekciója, Esély Labor Egyesület, Alapítvány Szociális Munkások Magyarországi Egyesülete (SZMME), Új Szemlélet szociális szakmai műhely és akciócsoport), as well as trade associations of affected industries (Magyar Könyvkiadók és Könyvterjesztők Egyesülése, Magyar Reklámszövetség, Magyar Újságírók Országos Szövetsége, Music Hungary Szövetség, Nyitottak Vagyunk, Open For Business).

Public opinion

A representative poll by polling agency Medián²⁵ found that 66% agree that the topic of homosexuality should be covered in school education. 86% agree that it should not be the state, but teachers and parents who decide on what is taught in schools as part of sexuality education. 90% agree that age-appropriate sexuality education should be part of the school curricula. 85% think teachers should be free to decide on what professionals and organizations they rely on to tackle school bullying. 55% disagree with banning LGBTIQ content in films and on TV during the day.

²¹ <https://www.eurochild.org/news/new-hungarian-legislation-not-only-fails-to-protect-children-it-puts-them-at-greater-risk-of-harm/>

²² <https://hintalovon.hu/2021/06/01/3-k-uralta-a-gyerekek-eletet-2020-ban-kirekesztes-kizsakmanvolas-koronavirus>

²³ <https://www.facebook.com/hintalovon/posts/2889106948004355>

²⁴ <https://hatter.hu/hirek/nemvagyegyedul-tiltakozok>

²⁵ <https://www.amnesty.hu/the-acceptance-of-the-lgbtqi-community-is-at-a-historical-high-in-hungary/>

Another representative poll by polling agency Publicus²⁶ found that only 25% believe that the referendum on the protection of children corresponds to real problems and is really about the protection of children, while 48% says it has political aims related to the election, and 17% opine it is both.

²⁶ <https://publicus.hu/blog/tizbol-negy-valaszado-szerint-valos-veszely-hogy-lmbtg-propaganda-jelenik-meg-az-ovodakban>