

2024 Rule of Law Report - targeted stakeholder consultation

Fields marked with * are mandatory.

Introduction

The annual Rule of Law Report lies at the centre of the Annual Rule of Law Cycle, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues. So far, four editions of the Rule of Law Report have been published in 2020, 2021, 2022 and 2023.

The Commission would like to invite stakeholders to provide contributions to the 2024 Rule of Law Report. This survey provides information on the type of information and topics that will be covered in the 2024 Rule of Law Report, in order to allow stakeholders to provide input. More targeted input may be requested at a later stage of preparation of the 2024 Rule of Law Report, including in the context of country visits, or bilateral contacts.

The 2024 Rule of Law Report will continue to deepen the assessment under the existing four pillars, and will also follow-up on the implementation of the recommendations to Member States, that were issued as part of the 2023 Rule of Law Report. The contribution to be provided should include **(1) information on measures taken to implement the recommendations addressed to the Member State in the 2023 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter and (2) any other significant developments since January 2023^[1] falling under the ‘type of information’ outlined in section II.**

The input should consist of a short summary, if possible in English, covering the areas referred to below. Legislation or other documents may be referenced with a link. Contributions should focus on significant developments since the last Rule of Law Report both as regards the legal framework and its implementation in practice.

[1] Unless the information was already submitted in the input for the previous Rule of Law Reports.

Type of information

The topics are structured according to four pillars: I. Justice system; II. Anti-corruption framework; III. Media pluralism; and IV. Other institutional issues related to checks and balances. The replies could include aspects set out below under each pillar. This can include challenges, current work streams, positive developments and best practices:

A) Legislative developments

- Newly adopted legislation
- Legislative drafts currently discussed in Parliament
- Legislative plans envisaged by the Government

B) Policy developments

- Implementation of legislation
- Evaluations, impact assessment, surveys
- White papers/strategies/actions plans/consultation processes
- Follow-up to reports/recommendations of Council of Europe bodies or other international organisations
- Important administrative measures
- Generalised practices

C) Developments related to the judiciary / independent authorities

- Important case law by national courts
- Important decision/opinions from independent bodies/authorities
- State of play on terms, nominations and expired mandates for high-level positions (e.g. Supreme Court, Constitutional Court, Council for the Judiciary, heads of independent authorities included in the scope of the questionnaire[2])

D) Any other relevant developments

- Respondents are free to add any further information, which they deem relevant; however, this should be short and to the point.

Please also indicate whether the developments reported are linked to the implementation of reforms and investments under the RRP, where applicable.

If there are no changes, it is sufficient to indicate this and the information covered in the contributions for the previous Rule of Law Reports should not be repeated.

[2] Such as: media regulatory authorities and bodies, national human rights institutions, equality bodies, ombudsman institutions, supreme audit institutions and, where they exist, transparency authorities.

About you

* I am giving my contribution as

- ☐ Academic/research institution
- ☐ Business association
- ☒ Civil society organisation/NGO

- ☐ International organisation
- ☐ Judicial association or network
- ☐ Media organisation or association
- ☐ Public authority or network of public authorities
- ☐ Other

*** Organisation name**

250 character(s) maximum

Main Areas of Work

- ☐ Justice System
- ☐ Anti-corruption
- ☐ Media Pluralism
- ☒ Other

If "Other", please specify

Please insert an URL towards your organisation's main online presence or describe your organisation briefly:

500 character(s) maximum

Transparency register number

Check if your organisation is in the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making

*** Country of origin**

Please add the country of origin of your organisation

- ☐ Afghanistan
- ☐ Albania
- ☐ Algeria
- ☐ Andorra
- ☐ Angola
- ☐ Antigua and Barbuda
- ☐ Argentina
- ☐ Armenia
- ☐ Australia
- ☐ Austria

- ☐ Azerbaijan
- ☐ Bahamas
- ☐ Bahrain
- ☐ Bangladesh
- ☐ Barbados
- ☐ Belarus
- ☒ Belgium
- ☐ Belize
- ☐ Benin
- ☐ Bhutan
- ☐ Bolivia
- ☐ Bosnia and Herzegovina
- ☐ Botswana
- ☐ Brazil
- ☐ Brunei Darussalam
- ☐ Bulgaria
- ☐ Burkina Faso
- ☐ Burundi
- ☐ Cabo Verde
- ☐ Cambodia
- ☐ Cameroon
- ☐ Canada
- ☐ Central African Republic
- ☐ Chad
- ☐ Chile
- ☐ China
- ☐ Colombia
- ☐ Comoros
- ☐ Congo
- ☐ Costa Rica
- ☐ Côte D'Ivoire
- ☐ Croatia
- ☐ Cuba
- ☐ Cyprus
- ☐ Czechia
- ☐ Democratic Republic of the Congo
- ☐ Denmark
- ☐ Djibouti
- ☐ Dominica
- ☐ Dominican Republic
- ☐ Ecuador
- ☐ Egypt
- ☐ El Salvador
- ☐ Equatorial Guinea
- ☐ Eritrea
- ☐ Estonia
- ☐ Eswatini

- ☐ Ethiopia
- ☐ Fiji
- ☐ Finland
- ☐ France
- ☐ Gabon
- ☐ Gambia
- ☐ Georgia
- ☐ Germany
- ☐ Ghana
- ☐ Greece
- ☐ Grenada
- ☐ Guatemala
- ☐ Guinea
- ☐ Guinea Bissau
- ☐ Guyana
- ☐ Haiti
- ☐ Honduras
- ☐ Hungary
- ☐ Iceland
- ☐ India
- ☐ Indonesia
- ☐ Iran
- ☐ Iraq
- ☐ Ireland
- ☐ Israel
- ☐ Italy
- ☐ Jamaica
- ☐ Japan
- ☐ Jordan
- ☐ Kazakhstan
- ☐ Kenya
- ☐ Kiribati
- ☐ Kuwait
- ☐ Kyrgyzstan
- ☐ Laos
- ☐ Latvia
- ☐ Lebanon
- ☐ Lesotho
- ☐ Liberia
- ☐ Libya
- ☐ Liechtenstein
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Madagascar
- ☐ Malawi
- ☐ Malaysia
- ☐ Maldives

- ☐ Mali
- ☐ Malta
- ☐ Marshall Islands
- ☐ Mauritania
- ☐ Mauritius
- ☐ Mexico
- ☐ Micronesia
- ☐ Monaco
- ☐ Mongolia
- ☐ Montenegro
- ☐ Morocco
- ☐ Mozambique
- ☐ Myanmar
- ☐ Namibia
- ☐ Nauru
- ☐ Nepal
- ☐ Netherlands
- ☐ New Zealand
- ☐ Nicaragua
- ☐ Niger
- ☐ Nigeria
- ☐ North Korea
- ☐ North Macedonia
- ☐ Norway
- ☐ Oman
- ☐ Pakistan
- ☐ Palau
- ☐ Panama
- ☐ Papua New Guinea
- ☐ Paraguay
- ☐ Peru
- ☐ Philippines
- ☐ Poland
- ☐ Portugal
- ☐ Qatar
- ☐ Republic of Moldova
- ☐ Romania
- ☐ Russian Federation
- ☐ Rwanda
- ☐ Saint Kitts and Nevis
- ☐ Saint Lucia
- ☐ Saint Vincent and the Grenadines
- ☐ Samoa
- ☐ San Marino
- ☐ Sao Tome and Principe
- ☐ Saudi Arabia
- ☐ Senegal

- ☐ Serbia
- ☐ Seychelles
- ☐ Sierra Leone
- ☐ Singapore
- ☐ Slovakia
- ☐ Slovenia
- ☐ Solomon Islands
- ☐ Somalia
- ☐ South Africa
- ☐ South Korea
- ☐ South Sudan
- ☐ Spain
- ☐ Sri Lanka
- ☐ Sudan
- ☐ Suriname
- ☐ Sweden
- ☐ Switzerland
- ☐ Syrian Arab Republic
- ☐ Tajikistan
- ☐ Tanzania
- ☐ Thailand
- ☐ Timor-Leste
- ☐ Togo
- ☐ Tonga
- ☐ Trinidad and Tobago
- ☐ Tunisia
- ☐ Turkey
- ☐ Turkmenistan
- ☐ Tuvalu
- ☐ Uganda
- ☐ Ukraine
- ☐ United Arab Emirates
- ☐ United Kingdom
- ☐ United States of America
- ☐ Uruguay
- ☐ Uzbekistan
- ☐ Vanuatu
- ☐ Venezuela
- ☐ Viet Nam
- ☐ Yemen
- ☐ Zambia
- ☐ Zimbabwe

First name

Surname

Email Address of the organisation (this information will not be published)

Publication of your contribution and privacy settings

You can choose whether you wish for your contribution to be published and whether you wish your details to be made public or to remain anonymous.

- ☒ Anonymous - Only your type of respondent, country of origin and contribution will be published. Organisation name, URL, transparency register number, first name and surname given above will not be published. **To maintain anonymity, please refrain from mentioning the name of your organisation and any details from which your organisation can be identified in the rest of your contribution.**
- ☐ Public - Your personal details (name, organisation name, transparency register number, country of origin will be published with your contribution).
- ☐ No publication - Your contribution will not be published. Elements of your contribution may be referred to anonymously in documents produced by the Commission based on this consultation.

☒ I agree with the personal data protection provisions.

[Specific privacy statement targeted stakeholder consultation 2024 rule of law report.pdf](#)

Questions on horizontal developments


In this section, you are invited to provide information on general horizontal developments or trends, both positive and negative, covering all or several Member States. In particular, you could mention issues that are common to several Member States, as well as best practices identified in one Member State that could be replicated. Moreover, you could refer to your activities in the area of the four pillars and sub-topics (an overview of all sub-topics can be found below), and, if you represent a Network of national organisations, to the support you might have provided to one of your national members.

Overview topics for contribution

[List of topics 2024 RoL Report.pdf](#)

Please provide any relevant information on horizontal developments here

5000 character(s) maximum



The developments encompassed in this submission point to systematic attacks on the fundamental rights of LGBTI people enabled by the weakening of rule of law and democratic structures. We have kept our inputs relevant to the content asked for by the consultation, and therefore we have not included all fundamental rights violations against LGBTI people, or all restrictions experienced by LGBTI civil society in the respective countries. We have only included them where there is a clear link to the issues of rule of law contained in the consultation.

Throughout 2023 we continued to see the manipulation of judicial processes to attempt to erode the human rights of LGBTI people and their access to justice, in particular in Poland and Hungary, but also increasing in Italy too. In Poland the Prosecutor General being also the Minister of Justice continued to result in the misuse of the prosecutor's office to repeatedly appeal verdicts in favour of LGBTI defendants, and the use of prosecutors to intimidate LGBTI people undergoing judicial processes, or the outcome of said processes, for the most part of 2023, while Zbigniew Ziobro remained the Minister of Justice. Despite a change of power later in the year, the issue of the separation of powers remains a vulnerability.

Particularly stark among this year's submissions is the continual problem of non-implementation of European court judgments, especially around the right of LGBTI people to respect for their private and family life, and the best interests of their children. This was an issue in five of the seven countries responding to the survey this year. In Hungary, despite the anti-LGBT amendments to the Child Protection Act being subject to an EU infringement procedure due to breaching EU law, the implementation and chilling effect of this law only increased this year, spreading further into media, as well as the cultural sector. In Italy, new legal attacks on LGBTI people include proposed amendments to the asylum law that would breach EU law.

LGBTI civil society from four of the seven countries included in this submission have highlighted the fact that their countries' legal gender recognition (LGR) procedures are not in line with international standards, including case law of the European Court of Human Rights which states that LGR should be quick, transparent, and accessible, without abusive requirements. LGR procedures in these countries expose trans people to inconsistent measures and decisions depending on the court, including as regards fees, required documents and/or length of proceedings which are often as a result unnecessarily drawn out, presenting a further barrier to accessing justice.

In five of the seven countries LGBTI civil society reported inadequate or insufficient consultation processes for the preparation of laws, and legal restrictions to the functioning of civil society were reported in Hungary and Romania, the latter legislation being dropped after significant protest from civil society, while Hungary's law opens the door to arbitrary governmental investigation of civil society organisations, with as of yet unclear repercussions.

Across the board issues with smear campaigns and hate speech in the media were reported, with lack of follow-up from relevant authorities in particular when it comes to perpetrators who are politicians or religious leaders. In Poland the authors of the Atlas of Hate are still facing three SLAPP cases, the rest having been dismissed by courts or won by the defendants, while LGBTI human rights defenders in Bulgaria have started to become the target of SLAPPs also for denouncing discrimination against LGBTI people. In a number of countries LGBTI civil society reported inadequate follow-up to hate crime and discrimination cases, showing systemic inadequate implementation of their anti-discrimination and hate crime laws. In some cases, the police even discourage reporting.

Questions for contribution

The following four pillars (I.-IV.) are sub-divided into topics (A., B., etc.) and sub-topics (1., 2., 3., etc.). For each of the topics and sub-topics, you are invited to provide (1) information on measures taken to implement the recommendations addressed to the Member State in the 2023 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter of the 2023 Rule of Law Report and (2) any other significant developments since January 2023[3]. Please always include a link to and reference relevant legislation/documents (in the national language and/or where available, in English). Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices.

If there are developments you consider relevant under each of the four pillars that are not mentioned in the sub-topics, please add them under the section "other - please specify". Only significant developments should be covered.

Information provided in reply to the first question under each pillar, related to the follow-up to the recommendations, does not need to be repeated in subsequent parts of the questionnaire, but can be cross-referenced in the subsequent questions, where relevant. All other questions are not limited to the recommendations, but as in previous years, cover the entire scope of the Report.

[3] Unless already covered in the input for the previous Rule of Law Reports.

Member State covered in contribution [only one choice possible]

If you wish to submit information concerning several Member States, please fill in the questionnaire separately for each Member State. There is no limit to the number of contributions submitted by a single participant.

- ☐ Austria
- ☐ Belgium
- ☐ Bulgaria
- ☐ Croatia
- ☐ Cyprus
- ☐ Czechia
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☒ Hungary
- ☐ Ireland
- ☐ Italy
- ☐ Latvia
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Malta
- ☐ Netherlands

- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Slovak Republic
- ☐ Slovenia
- ☐ Spain
- ☐ Sweden

I. Justice System

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the justice system (if applicable)

5000 character(s) maximum

A. Independence

Appointment and selection of judges, prosecutors and court presidents (incl. judicial review)

(The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts)

5000 character(s) maximum

Irremovability of judges, including transfers, (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)

5000 character(s) maximum

Promotion of judges and prosecutors (incl. judicial review)

5000 character(s) maximum

Allocation of cases in courts

5000 character(s) maximum

Independence (including composition and nomination and dismissal of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

5000 character(s) maximum

Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)

5000 character(s) maximum

Remuneration/bonuses/rewards for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the past year), transparency on the system and access to the information

5000 character(s) maximum

Independence/autonomy of the prosecution service

5000 character(s) maximum

Independence of the Bar (chamber/association of lawyers) and of lawyers

5000 character(s) maximum

Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

5000 character(s) maximum

Civil society organizations litigating before Hungarian courts constantly fear that the governing parties – having constitutional majority in the Parliament – will overlegislate positive court judgments and simply eliminate the results of strategic litigation through enacting legislation overwriting court decisions. On April 21, 2023 in judgment no. 101.K.701.331/2022/7, the Veszprém Regional Court quashed the government office's decision and obliged the government office to carry out a new assessment: the judgment argued that trans women are entitled to the 'Women 40' preferential pension scheme. The plaintiff, represented by Háltér Society, obtained her legal gender recognition in 2013, but when she inquired about her eligibility for early pension in 2021, she learned that the pension provider continued to record her as man. She challenged the decision in court, where the government office argued that the 'Women 40' benefit was intended to compensate women for their role in raising children and maintaining a family. The court ruled that the government office had unlawfully narrowed the definition of "sex" in the legislation to sex at birth. In compliance with the court's ruling, the government office initially amended the plaintiff's data in the register allowing her to retire after 40 years of employment. Háltér Society communicated about the legal victory, which attracted significant attention from the press. In response to that, in mid-July 2023, government MPs submitted an amendment to Act no. LXXX of 1997 on social security pension benefits: only the insurance period corresponding to gainful activities performed as a woman could count towards the eligibility period (Bill no. T/4659). The proposal was eventually withdrawn in October 2023 without further explanation [<https://www.parlament.hu/documents/d/guest/onallo-inditvany-visszavonasa-t4659>]. Although the government office whose decision was quashed by the court, initially recognized the plaintiff's eligibility for the 'Women 40' pension benefit, the Hungarian State Treasury withdrew the government office's decision (Decision no. EFMÉLTF/49-2/2023), and the latter passed a new decision holding that only the period after 2013 counts towards the qualifying period (Decision no. FEL/L100/1338/2021). The petition for judicial review is currently pending at the Veszprém Regional Court. Although in the case, the legislative proposal was dropped, actions of political actors unequivocally interfered with the administration of justice, and state authorities sought to circumvent the judgment of the Veszprém Regional Court.

Recommendation:

- Refrain from passing ad hominem and case-by-case legislation.

B. Quality of justice

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section

2)

Accessibility of courts (e.g. court/legal fees, legal aid, language)

5000 character(s) maximum

Resources of the judiciary (human/financial/material)

(Material resources refer e.g. to court buildings and other facilities. Financial resources include salaries of staff in courts and prosecution offices.)

5000 character(s) maximum

Training of justice professionals (including judges, prosecutors, lawyers, court staff, clerks/trainees)

5000 character(s) maximum

Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, procedural rules, access to judgments online

5000 character(s) maximum

Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)

5000 character(s) maximum

Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialization, in particular specific courts or chambers within courts to deal with fraud and corruption cases

5000 character(s) maximum

C. Efficiency of the justice system

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section 2)

Length of proceedings

5000 character(s) maximum

The Hungarian Parliament in an omnibus bill passed during the emergency situation in May 2020 (Act no. XXX of 2020, Section 33), banned legal gender recognition for trans people by introducing the concept of the 'sex at birth' to the Act on Registry Procedures (ARP). The original version of the amendment mandated the application of the ban retroactively to pending cases; this rule was found unconstitutional by the Constitutional Court (Decision no. 11/2021. (IV. 7.)). Háltér Society represented a client who submitted his request for legal gender recognition after the new rule was introduced in May 2020. The request was rejected by the Budapest Capital Government Office (BCGO) and a petition for judicial review was filed. The preceding judge at the Budapest Regional Court requested – while suspending the case at hand – the Constitutional Court to review whether the impugned provision of the ARP is in compliance with the Fundamental Law (concrete constitutional review). In line with Article 24 (2) b) of the Fundamental Law, the Constitutional Court in such cases, i.e. when a judge seeks the review of the constitutionality of any law applicable in a particular case, shall deliver a decision “as a priority but within no more than ninety days”. The judge’s petition for constitutional review arrived on July 25, 2021, and it was only dealt with in Decision no. 3058/2023. (II. 16.), significantly exceeding the time limit for the decision. Not only did the Constitutional Court fail to keep the deadline set out in the Fundamental Law, but the concrete case in the context of which the petition had been filed remained suspended for over a year and a half. The Constitutional Court rejected the petition and found that the challenged provision, i.e. the unamendable registration of the ‘sex at birth’ does not violate the Fundamental Law (For an analysis of the decision see: Polgári, Eszter; Dombos, Tamás: Ignorance and Evil: The Hungarian Constitutional Court on Legal Gender Recognition for Trans People, *VerfBlog*, 2023/2/21, <https://verfassungsblog.de/ignorance-and-evil/>). The Budapest Regional Court following the decision of the Constitutional Court had no other option but to reject the petition (Judgment no. 49.K.700.621/2023/11). Between July 1 and November 30, 2020 three constitutional complaints were submitted directly against the modified provision of the ARP under Article 26 (2) of the Act CLI of 2011 on the Constitutional Court. These constitutional complaints were only decided (and rejected) after the decision in the concrete review case had been rendered, i.e. in May 2023 (Constitutional Court Order no. 3235/2023. (VII. 2.)), some almost 3 years after the submission of the petition.

The standing rules of the Constitutional Court indicate that in case of constitutional complaints the decision on admissibility has to be taken within 120 days after receiving the complaint. Although the standing rules have no normative value and are thus not enforceable, the deadline is not even remotely respected by the Constitutional Court. Háltér Society represented a client seeking to get her foreign same-sex marriage recognized in Hungary as registered partnership. After exhausting all the remedies, she submitted a constitutional complaint against the rejection of the Curia (Supreme Court). The complaint was registered on January 12, 2023 (after the Constitutional Court had requested supplementing arguments), and the decision on admissibility was communicated almost a year after the initial submission, on November 21, 2023 (Case no. IV/2589/2022). No decision has been taken so far.

Similarly, in a case concerning the recognition of a foreign name change for a transgender person with double citizenship the constitutional complaint was registered by the Constitutional Court on July 5, 2022, and the decision on rejection was only communicated on November 28, 2023 (Case number: IV/1551-1/2022). No separate decision on admissibility was taken.

As the constitutional complaint is deemed an effective remedy for the purposes of applying to the European Court of Human Rights (i.e. it needs to be exhausted), victims of human rights violations are put on hold for an excessive period of time awaiting the decision of the Constitutional Court – which due to being politically loyal to the government – rarely rules in their favour in LGBTQI rights cases before they can submit a complaint under Article 34 of the European Convention on Human Rights.

Recommendation

- Ensure that the deadlines set out in the Fundamental Law and the Standing Rules of the Constitutional Court are respected to avoid undue delays in the exhaustion of domestic remedies.

Other - please specify

5000 character(s) maximum

II. Anti-Corruption Framework

Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points you wish to bring to the Commission's attention in these documents, indicating any relevant updates, changes or measures introduced that have occurred since these documents were published.

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the anti-corruption framework (if applicable)

5000 character(s) maximum

A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic and with foreign authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable)

5000 character(s) maximum

Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption

5000 character(s) maximum

Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators

5000 character(s) maximum

B. Prevention

Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training)

5000 character(s) maximum

General transparency of public decision-making (including rules on lobbying and their enforcement, asset disclosure rules and enforcement, gifts policy, transparency of political party financing)

5000 character(s) maximum

Rules and measures to prevent and address conflicts of interest in the public sector. Please specify the features and scope of their application (e.g. categories of officials concerned, types of checks and corrective measures depending on the category of officials concerned)

5000 character(s) maximum

If available to you, for the three preceding questions, you are also invited to provide figures on their application, such as number of detected breaches/irregularities of the various rules in place and the follow-up given (investigations, sanctions, etc.).

Measures in place to ensure whistleblower protection and encourage reporting of corruption, including the number of reports received and the follow-up given

5000 character(s) maximum

Sectors with high-risks of corruption in your Member State:

- Measures taken/envisaged for monitoring and preventing corruption and conflict of interest in public procurement
- List other sectors with high risks of corruption and the relevant measures taken/envisaged for monitoring and preventing corruption and conflict of interest in these sectors (e.g. healthcare, citizen /residence investor schemes, urban planning, risk or cases of corruption linked to the disbursement of EU funds, other), and, where applicable, list measures to prevent and address corruption committed by organised crime groups (e.g. to infiltrate the public sector)

5000 character(s) maximum

Any other relevant measures to prevent corruption in public and private sector

5000 character(s) maximum

C. Repressive measures

Criminalisation, including the level of sanctions available by law, of corruption and related offences, including foreign bribery

5000 character(s) maximum

Data on the number of investigations, prosecutions, final judgments and application of sanctions for corruption offences (differentiated by corruption offence if possible) including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds

5000 character(s) maximum

Potential obstacles to investigation and prosecution as well as to the effectiveness of criminal sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, cross-border cooperation, pardoning)

5000 character(s) maximum

Information on effectiveness of non-criminal measures and of sanctions (e.g. recovery measures and administrative sanctions) on both public and private offenders

5000 character(s) maximum

Other - please specify

5000 character(s) maximum

III. Media pluralism and media freedom

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding media pluralism and media freedom (if applicable)

5000 character(s) maximum

A. Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

Measures adopted to ensure the independence, enforcement powers and adequacy of resources (financial, human and technical) of media regulatory authorities and bodies

5000 character(s) maximum

Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies

5000 character(s) maximum

Existence and functions of media councils or other self-regulatory bodies

5000 character(s) maximum

B. Safeguards against government or political interference and transparency and concentration of media ownership

Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)

5000 character(s) maximum

Safeguards against state / political interference, in particular:

- safeguards to ensure editorial independence of media (private and public)
- specific safeguards for the independence of heads of management and members of the governing boards of public service media (e.g. related to appointment, dismissal), safeguards for their operational independence (e.g. related to reporting obligations and the allocation of resources) and safeguards for plurality of information and opinions
- information on specific legal provisions and procedures applying to media service providers, including as regards granting/renewal/termination of licenses, company operation, capital entry requirements, concentration and corporate governance

5000 character(s) maximum

Since the adoption of the anti-LGBTQI provisions contained in Act LXXIX of 2021 on stricter actions against paedophile offenders (the so-called ‘child protection’ law), the Media Council of the National Media and infocommunications Authority updated its “recommendation on classification (ratings)” in line with new provisions of the Media Act. Until mid-June 2023 the Hungarian media authority received 136 reports alleging incompliance with Section 9 (6) of the Media Act outlawing content depicting or promoting homosexuality, divergence from the sex at birth or gender reassignment for minors.

- 22 reports concerned content aired by a service provider registered in Hungary (thus within the jurisdiction of the Media Council): no procedure was initiated against such service providers, and hence no

sanction was imposed.

- 58 reports were submitted against foreign service providers: 36 related to content aired in linear media services, while 22 targeted streaming services registered outside Hungary.

The Media Council reached out to its foreign counterparts with requests to proceed against service providers registered in another EU member state in 24 cases.

The low numbers of procedures do not reflect the real impact of the anti-LGBTQI law in media: between June 8, 2021 and December 31, 2022, the Hungarian media authority received 169 reports alleging the violation of Section 9 of the Media Act – this marks a significant increase compared to the period of January 1, 2018-June 7, 2021 where 198 reports were submitted. The Media Council's practice is unpredictable in implementing the anti-LGBTQI law: in several cases the content was reclassified (i.e. in case of cartoons, but no 18+ rating was required).

The case files Háltér has access to indicate that the media authority selectively refers explicitly to the anti-LGBTQI law, but it follows the spirit of the law and seeks to sanction LGBTQI content not rated – in its view – adequately. While the foreign media authorities have so far refrained from imposing sanctions upon the request of the Media Council, these proceedings contribute to the chilling effect of the law. The Media Council's reasoning in these cases is inconsistent: at times they take action against content touching upon sexual orientation and gender identity, yet they do not refer to the specific provisions introduced by the anti-LGBTQI law. It is, thus, unforeseeable what content will trigger the application of the law and will result in an 18+ rating.

Cases from 2023

Following a complaint, the Media Council investigated the children's film *Strange World*, available on the Disney+ streaming service due to the protagonist being gay. The Media Council disputed the 6+ rating given by the service provider, and found that the programme falls into the category of "not recommended for children under 12". In addition to the incorrect age rating, Disney+ did not prominently display the age rating of media content, which also constitutes an infringement. On March 6, 2023 the Dutch Media Authority was notified. The Dutch Media Authority – in an email sent on April 13, 2023 – informed the Media Council that in their assessment, also supported by the re-assessment of NICAM, the contested movie is suitable for children above the age of 6.

In June, 2023 Rtl Klub requested the a priori classification of "The official campaign film of the 28th Pride Festival" from the Media Council. Prior to the adoption of the anti-LGBTQI law, the promotional video of the yearly Pride festival was aired as a social service advertisement by the service provider. In Decision No 496 /2023 (VII. 4.) the Media Council found that the video is not in line with the requirements set for social service advertisement, and it may be aired only between 10 p.m. and 5 a.m. [https://docs.google.com/document/d/1wBcnGSbcqaRY4r8DpytFL_PGdILofq2JsHz_DazGdAw/edit?usp=sharing]. In addition, they invoked the anti-LGBTQI provision amending the Media Law which led to the video being classified as 18+. Both RTL Klub and Budapest Pride (represented by Háltér Society) sought judicial review of the Media Council's decision. Budapest Pride's petition was rejected for alleged lack of standing in the case (Judgment of the Budapest-Capital Regional Court no. 105.K.702.786/2023.4), an appeal was submitted against the judgment. Both procedures are pending.

Recommendations:

- Revoke the Anti-LGBTQI law, and refrain from interpreting other child protection provisions in an arbitrary and discriminatory manner.
- Ensure that minors have access to scientifically sound and objective information on sexuality and gender diversity in age appropriate forms.

Transparency of media ownership and public availability of media ownership information, including on direct, indirect and beneficial owners, as well as any rules regulating the matter

5000 character(s) maximum

C. Framework for journalists' protection, transparency and access to documents

Rules and practices guaranteeing journalists' independence and safety, including as regards protection of journalistic sources and communications, referring also, if applicable, to follow-up given to alerts lodged with the Council of Europe's Platform to promote the protection of journalism and safety of journalists

5000 character(s) maximum

Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists

5000 character(s) maximum

Access to information and public documents by public at large and journalists (incl. transparency authorities where they exist, procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities, possible obstacles related to the classification of information)

5000 character(s) maximum

Lawsuits (incl. SLAPPs - strategic lawsuits against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against manifestly unfounded and abusive lawsuits

5000 character(s) maximum

Other - please specify

5000 character(s) maximum

IV. Other institutional issues related to checks and balances

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the system of checks and balances (if applicable)

5000 character(s) maximum

A. The process for preparing and enacting laws

Framework, policy and use of impact assessments and evidence based policy-making, stakeholders'[1] /public consultations (including consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process both in the preparatory and the parliamentary phase

[1] This includes also the consultation of social partners

5000 character(s) maximum

The legislative procedure – as evidenced, for instance, by the adoption of the Anti-LGBTQI law or the later discussed Regime Defense Act – in the majority of the cases offers no room for civil society organizations to formally intervene, submit opinions, or in any way influence the decision-making procedure. According to Act no. CXXXI of 2010 on public participation in the preparation of laws public consultation on bills is only mandatory if the bill is tabled by a member of the government, therefore the duty to consult is easily circumvented if MPs submit legislative proposals. Furthermore, consultations are not mandatory under special situations such as states of emergency. Since currently there is a 'state preventive defense' in Hungary in line with Article 51 of the Fundamental Law, the obligation to consult civil society organizations may be justifiably ignored [<https://www.parlament.hu/documents/125505/138409/Fundamental+law/73811993-c377-428d-9808-ee03d6fb8178>].

Civil society organizations – in particular those that have been critical of the human rights record of the Government – are not provided with a forum to discuss or propose policy decisions and measures, and are not formally involved in the adoption of such instruments. The Human Rights Working Group theoretically operating within the auspices of the Ministry of Justice has not been convened in 2023 (and in previous years either). On June 21, 2023 Háttér Society did receive an invitation to the meeting of the Family Affairs Civil Working Groups meeting that forms part of the Legal Equality Working Group (which supposedly took over the role of the Human Rights Working Group). Háttér proposed the following agenda items in response to the invitation: recognition of same-sex marriages concluded abroad, the situation of LGBTQI persons in the adoption procedures, and expanding family support schemes to rainbow families. The State Secretary of the Ministry of Justice proposed that given the time constraints of the meeting, these agenda points will be discussed in the next session of the Legal Equality Working Group. No such meeting has been convened since then.

Recommendations:

- Comply with the rules set out in Act no. CXXXI of 2010 on public participation in the preparation of laws, stop circumventing the law by introducing bills through individual members of the Parliament.
- Provide structured and regular fora for civil society organizations for consultation with the relevant state actors in policy- and law-making. Regularly convene the Human Rights Working Group.

Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)

5000 character(s) maximum

Rules and application of states of emergency (or analogous regimes), including judicial review and parliamentary oversight

5000 character(s) maximum

Regime for constitutional review of laws

5000 character(s) maximum

B. Independent authorities

Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions

(Cf. the website of the European Court of Auditors: <https://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx#>)

5000 character(s) maximum

In 2020 the former Equal Treatment Authority was subordinated to the Commissioner for Fundamental Rights (CFR). The ombudsman is known to be inactive in the field of LGBTQI rights, he has not responded to any call for action in this field. In 2022, the Commissioner for Fundamental Rights (CFR) was downgraded by GANHRI from an A to a B status as Hungary's national human rights institution, since it failed to effectively carry out its mandate in relation to vulnerable groups such as ethnic minorities, LGBTQI people, human rights defenders, refugees and migrants, or human rights issues such as media pluralism, civic space and judicial independence, evidencing a lack of independence. In addition, the CFR's selection and appointment process was considered not sufficiently broad and transparent. The operation of the Equal Treatment Directorate (ETD) – whose predecessor was an active and progressive defender of LGBTQI rights – has been subject of serious criticism. In 2022, out of the 37 cases published on their website [<https://bitly.ws/39Sme>] only one concerned discrimination based on sexual orientation and none gender identity. The only case on sexual orientation ended with an amicable agreement between the parties (Case no. EBF-AJBH-34/2022). In 2023, the ETD so far published information on 17 cases, out of which 15 concerned discrimination based on disability, one on motherhood and one on belonging to an ethnic minority. Háttér Society represented a client who alleged having been discriminated against based on sexual orientation at the workplace; his petition was rejected. This case does not appear on the list. Additionally, the decisions of the ETD may be appealed before courts, and in the experience of the litigating lawyers – contrary to its former practice – it seeks to enforce higher legal fees in case of a judgment in its favour.

Recommendations:

- Establish a sufficiently broad and transparent selection process for the Commissioner for Fundamental Rights, in line with the recommendations of GANHRI, and include civil society organizations in the selection process.
- Re-establish the Equal Treatment Authority, and include civil society organizations in the selection of the president of the Equal Treatment Authority.

Statistics/reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years

5000 character(s) maximum

C. Accessibility and judicial review of administrative decisions

Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)

5000 character(s) maximum

Judicial review of administrative decisions:

- short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review)

5000 character(s) maximum

Rules and practices related to the application by all courts, including constitutional jurisdictions, of the preliminary ruling procedure (Art. 267 TFEU)

5000 character(s) maximum

Follow-up by the public administration and State institutions to final (national/supranational, including the European Court of Human Rights) court decisions, as well as available remedies in case of non-implementation

5000 character(s) maximum

Failure to implement the judgments of the European Court of Human Rights

The European Court of Human Rights (ECtHR) delivered a judgment in *Rana v. Hungary* on July 16, 2020: the decision found a violation for non-compliance with Hungary's positive obligation to provide an accessible and foreseeable procedure for non-Hungarians lawfully resident in the country to get their gender legally recognized. The applicant in the case – in line with standards set out in the case-law of the ECtHR concerning Hungary – submitted a constitutional complaint to exhaust the domestic remedies (while parallel turning to the ECtHR). The Constitutional Court rejected the constitutional complaint, but ex officio proceeded to examine if the case presents any unconstitutional omission. In Decision no. 6/2018. (VI. 27.), it found that the Parliament failed in fulfilling its legislative obligations and called on them to rectify the situation, i.e. enact rules that allow legal gender recognition for refugees in Hungary, by December 31, 2018. No such legislative proposal has been tabled so far, and since May 29, 2020 legal gender recognition is not available for Hungarian citizens either.

Failure to comply with the judgment of the Court of Justice of the European Union in the *Coman* case (C-673/16)

The Hungarian authorities have consistently rejected the recognition of foreign same-sex marriages in Hungary, even if one of the partners is a Hungarian citizen. *Háttér Society* litigated several cases where the plaintiffs requested the recognition of their same-sex marriage concluded abroad. While the Budapest Capital Regional Court delivered a judgment that mandated the recognition of a marriage as registered partnership (no. 9.K.700.491/2022/12), in the review procedure the Curia overturned it. The judgment – having precedential status now – stated the Hungarian legal framework offers no such possibility (Judgment no. Kfv.V.37.135/2023.6).

Háttér Society sent a public interest submission to the Ministry of Justice containing a legislative proposal for the amendment of Act no. XXVIII of 2017 on private international law. With reference to prior – later overturned – Hungarian court judgments and the *Coman* judgment of the CJEU, the submission contained a proposal that would have allowed for the automatic recognition of foreign same-sex marriages as registered partnerships in Hungary.

In its response dated October 20, 2023, the Ministry of Justice explained in great detail why the submitted legislative proposal cannot be endorsed. The Article L (1) of the Fundamental Law defines the institution of marriage as the union of a man and a woman, same-sex couples may benefit from concluding a registered partnership, which is designated to give them legal recognition. The Ministry emphasized that “same-sex marriages concluded abroad where the personal law of one of the partners is the Hungarian law, must be deemed non-existent in Hungary”. The legal evaluation is the same if none of the partners has Hungarian law as their personal law, but one of their countries of citizenship does not recognize same-sex marriages. If the countries of both spouses recognize same-sex marriages, then their recognition would violate the Hungarian public order (Response of the Ministry of Justice, dated on October 20, 2023, on file with *Háttér Society*).

Recommendations

- Comply with the judgment of the CJEU in the *Coman* case and stop using the public order clause as a justification for avoiding compliance.
- Ensure complying promptly and fully with all relevant CJEU judgments.
- Fully and timely execute the judgments of the European Court of Human Rights, including taking the general measures required for full compliance.

D. The enabling framework for civil society

Measures regarding the framework for civil society organisations and human rights defenders (e.g. legal framework and its application in practice incl. registration and dissolution rules)

5000 character(s) maximum

On December 12, 2023 the Hungarian Parliament passed the Act on the protection of national sovereignty [<https://helsinki.hu/wp-content/uploads/2023/12/Defence-of-Sovereignty-bill-T06222-EN-adopted.pdf>].

According to the governmental narrative the law is meant to protect against foreign interference in domestic affairs and ultimately to protect national sovereignty, yet in effect it serves to conserve their power based on arbitrariness and scapegoating. Thus, civil society organizations – Háttér Society among them – find it more appropriate to label it as Regime Defence Law. Apart from taking actions against political candidates who accept foreign funding, the law contains deliberately vague and undefined rules on who and how one can endanger Hungary's sovereignty. The law creates the Office for the Defense of Sovereignty with overbroad and arbitrary powers to investigate any person or organization they deem to be serving a foreign interest carrying the risk of jeopardizing Hungary's sovereignty. According to Section 3,

(i) in the context of its investigative function, the Office

a) detects and investigates the following activities carried out in the interests of another State or, regardless of its legal status, of a foreign body or organization or natural person:

(aa) advocacy activities, excluding activities carried out by diplomatic missions, consular posts and professional representative organizations,

(ab) information manipulation and disinformation activities,

(ac) activities aimed at influencing democratic debate and the decision-making processes of the State and society, including activities influencing the decision-making process of persons exercising public authority, if they could harm or threaten the sovereignty of Hungary;

b) identifies and investigates organizations whose activities using foreign funding may influence the outcome of elections;

c) identifies and investigates organizations that use foreign funding to influence the will of voters, or support such activities.

It will have wide investigative powers allowing it to “have access to all data in the possession of the organization under investigation” (Section 8). The Government yearly - based on the report of the Office - will assess what legislative measures are needed (so can adopt tailored legislation, or even ad hominem laws). There is no remedy against the report published. Hard sanctions will be applied in relation to elections, which will be applicable to CSOs involved with elections. At this early stage it is unknown exactly how the law will be implemented. Apart from the sweeping powers the Office will have, investigations are stigmatizing and capable of hindering the daily operation of the affected organizations.

Missing procedure for registering for sexual education in schools

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 December 22, 2023. As a result, currently no civil society organization or external expert may hold sex education classes in institutions of public education. Informally, there is information on the existence of a ‘white list’ of organizations that have access to schools, but the content of the list is not known to Háttér Society.

Recommendations

- Revoke the Regime Defense Law, and ensure that civil society organizations are not subjected to arbitrary investigations, harassment and stigmatization from the Office for the Defense of Sovereignty.
- Allow civil society organizations working on LGBTQI rights to access schools, hold classes on sexuality and gender diversity, and stop excluding them merely because their activities touch upon sexual orientation and gender identity.

Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures for protection from attacks – verbal, physical or on-line –, intimidation, legal threats incl. SLAPPs, negative narratives or smear campaigns, measures capable of affecting the public perception of civil society organisations, etc. It also includes measures to monitor threats or attacks and dedicated support services

5000 character(s) maximum

CSOs and human rights defenders continued to be subject to smear campaigns and negative narratives in 2023. Some of the attacks remained at the level of an accusatory article published providing detailed personal information [<https://pestisracok.hu/ingyenes-kepzeseken-erzekenyiti-az-ugyvedeket-a-hatter-tarsasag-a-trening-elvezeseert-kreditpont-is-jar/>], while other reactions necessitated reporting to the police, as a result of which criminal investigations were started [e.g. <https://index.hu/belfold/2023/07/09/ferencvaros-szivarvanyoszin-pad-atfestes-amnesty-international-baranyi-krisztina/> & <https://magyarnemzet.hu/belfold/2023/07/visszafestette-szivarvanyosra-az-amnesty-a-ferencvarosi-padot-es-feljentest-tett/>].

The extreme-right Sixty-Four Counties Youth Movement (SFCYM, Hatvannégy Vármegye Ifjúsági Mozgalom) stated during Pride march: “organizations such as Háttér Society – which is funded by hundreds of millions of dollars in foreign donations – are laying down the foundations of the deep state” <https://24.hu/belfold/2023/07/15/hvim-mentalis-betegseggel-kuzdo-emberek-vonulgatnak/>.

The labeling of LGBTQI organizations as LGBTQP – P standing for pedophilia – is widespread in the extreme right-wing media: on July 25, 2023 SFCYM published a document titled ‘Proposals to curb the harmful activities of foreign-funded LGBTQP lobbying organisations’ https://0289f0e8-4df3-4e1f-81a5-3a5a691b1fd3.usrfiles.com/ugd/0289f0_46a4359dcb53464db5073991a7b28584.pdf. SFCYM claimed that LGBTQI organizations constitute “national security threats” and called for establishing a “special monitoring body” to scrutinize their work, funding and networks. The proposal maps instances of collaboration and cooperation between LGBTQI NGOs and public bodies, e.g. the police, the prosecution service or the Ministry of Justice, and suggests that these NGOs have already “infiltrated” state organs.

Háttér Society learned from an article published in July, 2023 that a 2021 petition to dissolve the organization addressed to the prosecution service by SFCYM and other extreme-right actors had been rejected by the Chief Prosecution Service, however, no further information was provided; Háttér had not been notified either of the petition, nor the rejection.

Budapest Pride organizers were harassed and insulted by SFCYM members in July 2023: a video taken of an argument between SFCYM and Pride organizers was released on a Youtube channel affiliated with SFCYM, which constitutes a violation of GDPR, in particular the use and publication of their personal data. The investigation into the harassment and insult was closed due to lack of evidence on December 11, 2023, the data protection case is still pending.

In 2023 Háttér Society was heavily criticized for its advocacy work at the European level, especially in relation to the infringement procedure brought by the EC against the anti-LGBTQI law. Government officials used the same smears as in previous years: that the case shows lack of respect for Hungary and is a coordinated effort by George Soros whose interest those opposing the anti-LGBTQI law serve [e.g. <https://magyarnemzet.hu/belfold/2023/04/eredmenyesnek-bizonyult-a-brusszeli-hadarjat-tizenot-oroszag-foglalt-allast-hazankkal-szemben> & <https://tuzfalcsoport.blogstar.hu/2023/06/19/soros-all-szinte-az-osszes-lmbtq-szervezet-mogott/123226/>].

On November 17, 2023 the government launched a national consultation revolving around issues where the government disagrees with “Brussels”, including the EU’s infringement procedure [<https://abouthungary.hu/blog/the-12th-national-consultation-has-launched-here-are-the-eleven-questions/>]. It states:

“10. Brussels wants to abolish the Child Protection Act.

Brussels is constantly attacking the Hungarian Child Protection Act. The European Commission has also challenged the Act in court. Meanwhile, news of aggressive LGBTQ propaganda targeting children is on the rise.

What do you think?

- Child protection legislation needs to be tightened further.
- The Child Protection Act must be relaxed in line with the proposal from Brussels.”

Recommendations:

- Stop smear campaigns against CSOs working for sexual and gender minorities, publicly condemn all attempts by public actors to harass, stigmatize and defame human rights defenders working on LGBTQI rights.
- Ensure an enabling environment for LGBTQI CSOs by avoiding stigmatizing statements and providing appropriate funding for their work.

Organisation of financial support for civil society organisations and human rights defenders (e.g. framework to ensure access to funding, and for financial viability, taxation/incentive/donation systems, measures to ensure a fair distribution of funding)

5000 character(s) maximum

In compliance with the expectations set by the European Union, the Hungarian state set up a number of monitoring committees whose task is to oversee the use of public funds. Háttér Society – among others – applied, by the deadline set out in the call, for membership in the Monitoring Committee for Hungary’s Recovery and Resilience Plan. The results of the selection process were communicated on May 22, 2023: Háttér Society received maximum points in the evaluation, but because in the given policy area, there was another organization with the same score, the criterion prescribed for a tie was applied: the organization with longer existence was chosen. Through a freedom of information request, Háttér Society got access to the list of chosen organizations, and the one selected in the policy area it applied for was established 16 years after Háttér. For non-compliance with the rules on selection, Háttér submitted a complaint on June 19, 2023. The Prime Minister’s Office in a decision containing contradictory arguments again rejected Háttér’s submission (Decision no. RRF/819/3). It failed to reflect on the fact that the chosen organization received only 11 points in the evaluation process, in contrast with Háttér’s 17 points (apart from having been founded much earlier). The decision argued that the selected organization has a much broader scope of operation in the field of health care than Háttér – this was not an aspect that could have been evaluated as long as both operate in the given field. On October 27, 2023 Háttér Society submitted another complaint, which was rejected by the Prime Minister’s Office on November 21, 2023 (Decision no. RRF/819/9. (2023). The controversy has been communicated to the European Commission, Háttér has not taken further action.

Recommendations:

- Stop introducing ex post facto arbitrary and discriminatory criteria in selection processes for membership in EU mandated public bodies. Provide effective remedies against grievances in such procedures.

Rules and practices on the participation of civil society organisations and human rights defenders to the decision-making process (e.g. measures related to dialogue between authorities and civil society, participation of civil society in policy development and decision-making, consultation, dialogues, etc.)

5000 character(s) maximum

E. Initiatives to foster a rule of law culture

Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, contributions from civil society, education initiatives etc.)

5000 character(s) maximum

Other - please specify

5000 character(s) maximum

The enforcement of the anti-LGBTQI law intensified since the beginning of 2023. On August 6, 2021, lower level regulation implementing the anti-LGBTQI law was published in the Official 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. 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 200 meters of schools, children or youth institutions, and churches. Until 2023 this regulation was unenforced.

In February, 2023 Háttér Society discovered that of 20 government offices, only the Budapest Capital Government Office reported pending procedures (14 in total). While there have been reports in the press about shelving books targeted at young people (14-18) to adult literature on account of their content (e.g. for having gay or lesbian characters), there was no further information available on sanctions. In late May - June, two procedures received significant media attention:

The bookstore chain Libri was fined 1.000.000 HUF (~2.700 EUR). Libri then started to review the books in its stores and re-shelved those that could fall within the scope of the anti-LGBTQI law. As a result, a number of books have been wrapped (in transparent foil that prevents browsing), and moved to entertaining adult literature. Libri stated that they "operate as a responsible company, in compliance with the law and legislations". It is very rare that Libri stores sell wrapped copies of books containing LGBTQI characters or storylines: these items have been moved to online sale where these restrictions are not applied.

On July 13, 2023 the Lira bookstore chain received a 12.000.000 HUF fine (~32.000 EUR) for selling the Heartstopper series without wrapping and among literature accessible to youth and were ordered to sell the books "in close wrapping and separated from the other products" (Case file: BP/2200/03940-5/2023). The Heartstopper series is published by Könyvmolyképző, a publisher specialized in youth literature, and the books were recommended from the age of 14. Lira will challenge the decision before court. At least two other Lira stores were subject to consumer rights inspections by the competent government offices in autumn 2023. Following the fine, Lira has moved the books that may fall within the prohibition set out in the anti-LGBTQI law to the adult section, the recent proceedings have focused on compliance with the 200 meter-rule, however, it is inconsistent how the 200 meters are counted from schools or churches. The proceedings are pending.

Other bookstores, such as Alexandra in Budapest chose to comply with the regulation in a third – extremely overbroad – way: they simply banned access for minors to the parts of the store where adult books were sold.

In October 2023, an MP complained that the law was not enforced in the National Museum, which hosted the World Press Photo exhibition containing a photo series on an elderly home for LGBTQI people and photos on violence against LGBTQI people. In response, the Minister for Culture and Innovation called on the museum to follow the rules. The museum's response was that they are not authorized to ask visitors to present their identity cards, however, warning signs were put up throughout the exhibition informing the public about the age limit. In a few days, the director of the National Museum was dismissed.

The Museum of Ethnography also put up cordons in Claudia Andujar's exhibition blocking photos of same-sex couples: only people above the age of 18 can directly access them. No procedures have been started yet against the museum's restrictive policy.

Recommendations

- Repeal the Anti-LGBTQI law and refrain from censoring cultural and literary content based on sexual orientation and gender identity.

Contact

rule-of-law-network@ec.europa.eu