

Document #2017231

IRB – Immigration and Refugee Board of Canada

Hungary: Treatment of sexual and gender minorities, including legislation, state protection, and support services (2017-August 2019) [HUN106337.E]

Research Directorate, Immigration and Refugee Board of Canada

1. Treatment

1.1 Treatment by Society

According to an interview with Evelyne Paradis of the International Lesbian, Gay, Bisexual, Trans and Intersex Association in Europe (ILGA-Europe) in the *Economist*, while Hungary has "reasonably liberal laws," it has "an increasingly hostile atmosphere" towards sexual minorities (*The Economist* 5 June 2018). According to a report by the Háttér Society [1], the Hungarian LGBT Alliance [2] and the Transvanilla Transgender Association [3] on the implementation of measures to combat discrimination on the grounds of sexual orientation and gender identity, "[d]iscrimination, harassment and various forms of violence are part of the everyday experience for a large proportion of LGBTI persons in Hungary. These views are often shared, in some cases even encouraged, by leading politicians" (Háttér Society, et al. 31 July 2018, 5). Similarly, a report on hate speech in Hungary by Article 19 [4] indicates that "'hate speech' against disadvantaged groups," including sexual minorities, has been a growing concern in the last few years, and that the Hungarian government's policies and communication strategies can be connected to the rise in discrimination and intolerance (Article 19 23 Mar. 2018, 4).

According to a survey of 1,483 Hungarians on their religious beliefs conducted by the Pew Research Center from 2015 to 2016 (Pew Research Center 10 May 2017, 174-175), 53 percent of the respondents view homosexuality as "morally wrong" (Pew Research Center 10 May 2017, 27). According to a European Social Study quoted by ILGA-Europe, 44 percent of the respondents in Hungary would feel ashamed if they had a lesbian or gay relative, making Hungary one of the least accepting countries among those compared (ILGA-Europe 2019). An analysis based on the 2015-2016 survey by the Pew Research Center found that 64 percent of Hungarians oppose gay marriage (Pew Research Center 29 Oct. 2018, 12). The same source notes that 52 percent of young adults aged 18 to 34 disagree with gay marriage (Pew Research Center 29 Oct. 2018, 12, 14). A survey of 3,365 Hungarians conducted in 2017 by ILGA and RIWI [5] found the following results:

- Of the 1,215 respondents who answered the question of whether equal rights and protections should be applied to everyone, including people who are attracted to people of the same sex, 44 percent of respondents strongly agreed and 20 percent somewhat agreed, while 21 percent neither agreed nor disagreed, 6 percent of respondents somewhat disagreed and 9 percent strongly disagreed (ILGA 2017a, 465-466);
- Of the 1,193 respondents who answered the question of whether all workers, including those who are attracted to people of the same sex, should be protected from workplace discrimination, 48 percent of respondents strongly agreed and 21 percent somewhat agreed, while 17 percent neither agreed nor disagreed, 6 percent of respondents somewhat disagreed and 9 percent strongly disagreed (ILGA 2017a, 467).

1.2 Pride Events

According to sources, the 2018 Budapest Pride Festival was one month long (ILGA-Europe 2019; Budapest Pride 21 Jan. 2019). Sources indicate that approximately 10,000 people attended the Budapest Pride march in July 2018 (INTO 9 July 2018; Gay Star News 9 July 2018). The same sources state that a group of [approximately thirty (INTO 9 July 2018)] protesters blocked the parade route, but they were removed by police (INTO 9 July 2018; Gay Star News 9 July 2018).

Sources indicate that the Budapest Pride march on 6 July 2019 took place without incident, and that counter protestors were separated from the marchers by the police with cordons (MTI 7 July 2019; *bne IntelliNews* 8 July 2019). According to the Háttér Society, et al., pride marches have not been banned since 2012, and in recent years, no physical assaults were reported, although some participants were "harassed and threatened" by far right counter protestors (Háttér Society, et al. 31 July 2018, 91). The same source further indicates that the police have "extensive security measures" in place to protect the pride marches, including fences and "manpower" (Háttér Society, et al. 31 July 2018, 91).

The Háttér Society, et al. indicate that incidents of "hate speech" by conservative politicians and the media are frequent, and are especially common in relation to the annual pride march (Háttér Society, et al. 31 July 2018, 76). Sources state that the deputy leader of Fidesz, the ruling party, called for a ban on

pride marches in order to protect children from “sexual and other aberrations” during a parliamentary debate in June 2019 (Hungary Around the Clock 17 June 2019; Hungary Today 5 July 2019). Further information on a proposed ban on pride marches could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

1.3 Incidents of Violence

According to the Organization for Security and Co-operation in Europe (OSCE) Hate Crime Reporting, three incidents against sexual minorities in 2017 were recorded by the Action and Protection Foundation [6], including one incident involving a “violent attack” and two incidents involving “threats” (OSCE n.d.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the US Department of State's *Country Reports on Human Rights Practices for 2018*, there were no reported cases of violence against sexual minorities (US 13 Mar. 2019, 34). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

1.4 Treatment by Authorities

According to sources, the government [and the pro-government (Háttér Society, et al. 31 July 2018, 76)] media has become increasingly homophobic (Háttér Society, et al. 31 July 2018, 76; *Time* 3 July 2019). Sources indicate that while participating in a forum in May 2019, the speaker of the Hungarian Parliament [Chair of the National Assembly (*Time* 3 July 2019)] stated that there is no moral difference between the adoption of children by same-sex couples and pedophilia (Index 17 May 2019; *Time* 3 July 2019).

Sources state that the Hungarian State Opera canceled fifteen performances of the musical *Billy Elliot* in June 2018, after the pro-government newspaper *Magyar Idők* accused the show of promoting homosexuality, after which there was a fall in ticket sales (*The New York Times* 22 June 2018; *The Guardian* 22 June 2018). According to sources, another pro-government newspaper published a list of 200 researchers at the Hungarian Academy of Sciences in June 2018 (*The Guardian* 22 June 2018; Háttér Society, et al. 31 July 2018, 76), who were “working on gay rights and gender science” (*The Guardian* 22 June 2018) or who had “inappropriate” research interests, claiming that “gender and homosexuality were particularly popular topics” (Háttér Society, et al. 31 July 2018, 76). According to the Háttér Society, et al., the governing parties are “often giving precise orders on what to communicate and how” to pro-government media (Háttér Society, et al. 31 July 2018, 76). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources indicate that the government issued a decree in [October (CNN 19 Oct. 2018)] 2018 revoking funding and accreditation for gender studies programmes at the two universities that offer them, stating that from the government's viewpoint there are only two genders (ILGA Mar. 2019, 211; CNN 19 Oct. 2018).

According to a joint submission by the Hungarian LGBT Alliance, the Transvanilla Transgender Association, the Háttér Society, and the Labrisz Lesbian Association [7] for the review of Hungary by the UN Human Rights Committee, the government does not have a coordinated strategy or action plan to counter discrimination against sexual minorities (Hungarian LGBT Alliance, et al. Feb. 2018, para. 3). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2. State Protection

2.1 Legislation

Section 216 of the Criminal Code, which entered into force on 1 July 2013 (Hungary 2012, Sec. 463), provides the following:

1. Any person who displays an apparently anti-social behavior against others for being part, whether in fact or under presumption, of a national, ethnic, racial or religious group, or of a certain societal group, in particular on the grounds of disability, gender identity or sexual orientation, of aiming to cause panic or to frighten others, is guilty of a felony punishable by imprisonment not exceeding three years.
2. Any person who assaults another person for being part, whether in fact or under presumption, of a national, ethnic, racial or religious group, or of a certain societal group, in particular on the grounds of disability, gender identity or sexual orientation, or compels him by force or by threat of force to do, not to do, or to endure something, is punishable by imprisonment between one to five years.
3. The penalty shall be imprisonment between two to eight years if violence against a member of the community is committed: a) by displaying a deadly weapon; b) by carrying a deadly weapon; c) by causing a significant injury of interest; d) by tormenting the aggrieved party; e) in a gang; or f) in criminal association with accomplices.

4. Any person who engages in the preparation for the use of force against any member of the community is guilty of a misdemeanor punishable by imprisonment not exceeding two years. (Hungary 2012)

Article 332 of the Hungarian Criminal Code, which was amended in 2015, as provided by the Hättér Society, et al., provides the following:

Article 332 – Incitement against a community

A person who incites to hatred or violence before the general public against

1. the Hungarian nation,
2. any national, ethnic, racial group, or any group of the society, in particular based on disability, gender identity, or sexual orientation, shall be punishable for such an offence with imprisonment of up to three years. (Hättér Society, et al. 31 July 2018, 71)

Sources indicate that Act CXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities (Equal Treatment Act) prohibits discrimination and harassment based on sexual orientation [and gender identity (Dombos, et al. 2018, 156)] (Dombos, et al. 2018, 156; ILGA Mar. 2019, 240). According to Article 19, it is primarily public bodies that are required to comply with the Equal Treatment Act, but "private actors" that are in "employment and contractual relations" and those who are receiving public funding or providing a public service are also obligated to comply with the Equal Treatment Act (Article 19 23 Mar. 2018, 25). ILGA indicates that the Equal Treatment Act covers both public and private relationships in employment, education and health (ILGA Mar. 2019, 240).

2.2 Registered Partnership

According to sources, registered partnership for same-sex couples was introduced in 2009 (ILGA-Europe 2019; Hättér Society, et al. 31 July 2018, 104). Sources indicate that on 9 February 2018, the Regional Court of Budapest upheld a decision by the Administrative and Labour Court of Budapest that same-sex couples married in another country can have their union recognized as registered partnership in Hungary (ILGA-Europe 2019; Hättér Society, et al. 31 July 2018, 161). According to the Hättér Society, et al., the rights of same-sex registered partners are "nearly equal" to the rights of married spouses in law, but in practice same-sex couples face difficulties accessing those rights (Hättér Society, et al. 31 July 2018, 106). The same source describes a case of a registered partner of an adoptive parent who was informed by the government office of Budapest that he was not entitled to child allowances (Hättér Society, et al. 31 July 2018, 167). According to ILGA-Europe, the government office of Budapest issued an apology in June 2018 for providing incorrect information to a same-sex couple and confirmed that the same-sex registered partner of an adopting parent is entitled to childcare allowance (ILGA-Europe 2019).

According to sources, the Hungarian Parliament adopted constitutional amendments in 2013 which define family as the relationship based on a marriage between a man and a woman and on the relationship between parents and children (Hättér Society, et al. 31 July 2018, 105-106; Human Rights Watch 12 Mar. 2013). Further information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2.3 Police and Judiciary

According to the Hättér Society, et al., most hate crimes are prosecuted as "less serious offences" (Hättér Society, et al. 31 July 2018, 60). The same source describes a 2008 case where Molotov-cocktail attacks against LGBT venues were initially investigated by the police as "hooliganism," which was, according to LGBT organizations, a "downgrading" of the offense, because the attacks should have been investigated as "hate crimes" (Hättér Society, et al. 31 July 2018, 144). The same source reports that, despite the prosecutor arguing that the attacks should be treated as "attempted bodily harm targeting the LGBTI community," the court rejected the option to treat the incidents separately and "subsumed them under other related attacks aimed at intimidating the general public" (Hättér Society, et al. 31 July 2018, 60, 144). The court's judgment was annulled by the Budapest Regional Court of Appeal in April 2018 and a new court proceeding has been ordered (Hättér Society, et al. 31 July 2018, 60, 144). Similarly, Article 19 states that law enforcement fail to launch official proceedings in most hate crime cases or fail to consider the bias motivation (Article 19 23 Mar. 2018, 8).

The Hättér Society, et al. state that no case of homophobic or transphobic hate speech has been prosecuted, and that the police and prosecution service "only sanction incidents with a clear and present danger of violence" (Hättér Society, et al. 31 July 2018, 72). Similarly, Article 19 states that criminal proceedings on hate speech are terminated at the investigative phase or dropped by the prosecution because the incidents are not perceived by law agencies as constituting "a call for a violent act and [as creating] a direct threat of danger," rendering Article 332 of the Criminal Code a "dormant provision" (Article 19 23 Mar. 2019, 21-22).

A chapter on Hungary in a study on access to justice for LGBTI victims of hate crimes, [which was co-authored by two of the same three authors who prepared the July 2018 report by the Hättér Society, et al.], which refers to a 2016 study by the Hättér Society, "only" ten percent of respondents who

experienced or witnessed LGBT "hate crimes or online hate speech" reported it to the authorities (Dombos, et al. 2018, 152). According to a survey conducted by the Háttér Society in 2016, 93 percent of those who reported a hate crime were dissatisfied due to the lack of results, indicating that the authorities fail to consider hate as a motive during the investigation or that the perpetrators are not sentenced or receive "too light" a punishment (Háttér Society, et al. 31 July 2018, 61). Among those who did not report the crime, the following reasons were provided:

- 40 percent feared that they would not be taken seriously;
- 49 percent feared that there would be no results to the report;
- 35 percent feared negative reactions from the police;
- 27 percent feared coming out (Háttér Society, et al. 31 July 2018, 61).

According to the chapter on access to justice for LGBTI victims of hate crimes, in order to address problems in hate crime investigations, a hate crime network has been set up to supervise the investigative work of the police (Dombos, et al. 2018, 151). Sources indicate that the network consists of a national coordinator at the National Police Headquarters and network investigators who have received specialized training at each county police station, who can share their knowledge (Dombos, et al. 2018, 151; EU Apr. 2016, 48). According to a 2016 report on justice access for hate crime victims by the EU's Agency for Fundamental Rights, the network has "limited visibility" both within the police and among potential victims (EU Apr. 2016, 48). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2.4 Recourse Available Through Rights Institutions and the Civil Code

According to the Háttér Society, et al., victims of discrimination have "a wide choice of [legal] remedies" (Háttér Society, et al. 31 July 2018, 50). Sources describe the following procedures:

- submitting petition to the Equal Treatment Authority [Egyenlő Bánásmód Hatóság (Hungary 2019, 9)] a public body responsible for implementing the Equal Treatment Act, which can impose fines or injunctions (Háttér Society, et al. 31 July 2018, 50-51; Article 19 23 Mar. 2018, 25);
- initiating court proceedings under the civil code, which allows the court to award restitution (Háttér Society, et al. 31 July 2018, 52; Article 19 23 Mar. 2018, 31);
- filing complaints on the infringement of fundamental rights with the Commissioner for Fundamental Rights (CFR), who can issue recommendations (Háttér Society, et al. 31 July 2018, 55; Article 19 23 Mar. 2018 35).

However, Article 19 indicates that simultaneous civil action on the same matter before the Equal Treatment Authority and a court is not allowed (Article 19 23 Mar. 2018, 30). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

In correspondence with the Research Directorate, a legal officer from the Equal Treatment Authority indicated that complaints by sexual minorities represent a small percentage of the complaints received by the Equal Treatment Authority, and generally include dismissal from work, harassment at the work place or barriers to accessing "certain services" (Hungary 15 July 2019). According to the report on the activities of the Equal Treatment Authority in 2018, the Equal Treatment Authority found that a state institution discriminated against an LGBT group on the grounds of sexual orientation and political opinion by not allowing the group to use the institution's community space to host events (Hungary 2019, 45-46). The Equal Treatment Authority banned the state institution from "future conduct of this kind" and imposed a fine of 100,000 forints [approximately C\$451] (Hungary 2019, 46).

According to the Háttér Society, et al., the number of court cases concerning sexual orientation and gender identity is very low, but some have been successful, including [positive decisions overturning] the rejection of a student from a school due to having same-sex parents and a ban on the 2012 pride march by the police (Háttér Society, et al. 31 July 2018, 52). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The Háttér Society, et al. report that the CFR has become "a crucial ally" to sexual minorities, by issuing reports on legal gender recognition, the rights of registered partners and same-sex adoption as well as organizing workshops to raise awareness of the human rights situation of trans and intersex people (Háttér Society, et al. 31 July 2018, 30). The same source indicates that while the recommendations by the CFR are not enforceable, they do carry "significant weight" and public authorities "generally" comply with the CFR's findings (Háttér Society, et al. 31 July 2018, 56). The same source describes that after receiving petitions from the Transvanilla Transgender Association and two individuals, the CFR investigated the regulatory issues regarding the legal gender recognition procedure and asked the government to draft legislation to "ensure legal certainty and a fair procedure" for transgender individuals wishing to choose their name and gender (Háttér Society, et al. 31 July 2018, 96). Sources indicate that a new government decree on the national birth registry, which includes a provision on legal gender recognition came into effect on January 2018, but the procedures were suspended again (ILGA-Europe 2019; Háttér Society, et al. 31 July 2018, 23) on 25 May 2018 (ILGA-Europe 2019) or in June 2018 (Háttér Society, et al. 31 July 2018, 23).

3. Support Services

According to information provided by the Háttér Society to a report on the best practices on supporting victims of anti-LGBT hate crime, the Háttér Society operates an anonymous information and counseling hotline via toll-free telephone, Skype and chat, which can be used to distribute legislative information and services to potential or real victims of hate crimes (Gonan and Jaklin Feb. 2018, 17). The same source notes that the Háttér Society offers "free legal counseling and legal representation for the victims of discrimination, violence and harassment motivated by bias against sexual orientation and/or gender identity" (Gonan and Jaklin Feb. 2018, 17). The Háttér Society also operates UNI-FORM, a crime reporting interface that allows reports to be submitted directly to the police; however, contact information must be provided if the case is to be reported to the police (Háttér Society, et al. 31 July 2018, 66). According to the chapter on access to justice for LGBTI victims of hate crimes, the Háttér Society was recently contracted by the state to be a legal aid provider, but that the number of clients eligible are limited and that the funding only covers part of the cost involved (Dombos, et al. 2018, 167). The Háttér Society has an office in Budapest, and while it tries to help individuals outside of Budapest, this is not always possible (Dombos, et al. 2018, 167). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Further information on support services offered by civil society organizations could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. Information on support services offered by the government could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] The Háttér Society is "the oldest and largest LGBTQI organization" in Hungary, which offers support services, conducts research and provides training (Háttér Society, et al. 31 July 2018, 14).

[2] The Hungarian LGBT Alliance is "a national umbrella organization" bringing together LGBT organizations in Hungary (Háttér Society, et al. 31 July 2018, 14).

[3] The Transvanilla Transgender Association is the only organization in Hungary that focuses specifically on "trans, gender-nonconforming and intersex issues" (Háttér Society, et al. 31 July 2018, 14).

[4] Article 19 is a human rights organization that advocates for law and policy measures that counter hate speech (Article 19 n.d.).

[5] RIWI is a "global survey technology and sentiment analysis firm" (ILGA 2017b, 3).

[6] The Action and Protection Foundation monitors "anti-Semitism and the conflicts that emerge in Hungarian-Jewish coexistence," and also provides "legal protection to the victims of verbal or physical aggression" (Action and Protection Foundation n.d.).

[7] The Labrisz Lesbian Association advocates for women belonging to sexual minorities, working toward the elimination of prejudice and stereotypes against them (Hungarian LGBT Alliance, et al. Feb. 2018, 2).

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Internet sites, including:Amnesty International; *The Budapest Times*; Council on Foreign Relations; ecoinet.net; Factiva; Freedom House; Hungarian Helsinki Committee; Politico; Reuters; UN – Refworld.

ecoinet summary:

Query response on the treatment of sexual and gender minorities (2017 - August 2019)



Country:

Hungary

Source:

IRB – Immigration and Refugee Board of Canada (</en/source/11213.html>)

Original link:

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