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Hungary 2020

Women and transgender people were discriminated against in law and in practice. Asylum-seekers were refused safe entry at borders and were expelled. Changes to laws to contain COVID-19 restricted freedom of expression and peaceful assembly. The government continued to undermine judicial independence and public confidence in the judiciary.

Background

In March, Parliament adopted the Bill on Protection against the COVID-19 pandemic. It extended the government's power to rule by decree by absolving it from parliamentary scrutiny, without providing a clear cut-off date. While the bill was replaced in mid-June, the government continued to uphold a set of transitional powers allowing the restrictions of human rights, such as the right to freedom of peaceful assembly, and curtailing access to asylum.

In September, the European Commission published its first rule of law report, noting serious concerns regarding Hungary.

Judicial independence remained at risk of attacks from senior members of the government who contested final judgments in official government communication and in the media, delaying their execution. A gradual erosion of the internal organizational independence of the judiciary was not addressed, continuing to cause fear of retaliation by the executive among judges.¹

Discrimination

Lesbian, gay, bisexual, transgender and intersex (LGBTI) people

In May, Parliament prohibited the legal gender recognition of transgender and intersex people, requiring the registration of sex by birth based on biological markers and chromosomes, which cannot be changed at a later stage. This means transgender people can no longer change their sex on official documents and certificates to reflect their gender identity.²

In July, the European Court of Human Rights ruled that Hungary had violated the right to respect for private and family life of a transgender man from Iran. He had been recognized as a refugee in Hungary based on persecution for his gender identity, yet the authorities refused to legally recognize his gender and name.

In December, Parliament passed a law denying LGBTI people adoption rights, along with discriminatory amendments to the Constitution specifying that “mother is a female and father is a male”, and that Hungary “protects self-identity of the children's sex by birth”.³

Women

In May, the Curia (the highest court in Hungary) confirmed that the maternity ward in a hospital in the city of Miskolc had discriminated against pregnant Roma women from disadvantaged and low-income backgrounds whose birth companions were required to purchase and wear a “maternity garment” for hygiene reasons. This often resulted in Roma women being forced to give birth without the support of their companions. The court ordered the termination of the practice.

Gender-based discrimination in the workplace and labour market particularly affected pregnant women and women with young children wanting to return to work.⁴ The authorities failed to ensure access to effective remedies for unlawful termination of employment.

Violence against women and girls

In May, Parliament adopted a political declaration calling on the government not to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention), despite initially signing it in 2014.

Right to education

In January, the government launched a co-ordinated communication and media campaign to discredit 63 Roma former elementary school students in the town of Gyöngyöspata who had successfully taken a case to court about segregated and lower quality education. Despite the government's campaign, the Curia confirmed in May that the compensation they had been awarded had to be paid in full without delay.

In March, the UN Committee on the Rights of the Child expressed serious concern about the continuing segregation of Roma children in special education, the increased gap in attainment between Roma and non-Roma children, and the lack of data on Roma children in education.

In September, a new national curriculum, which had been adopted without broad public consultation and despite widespread protests by educational professionals, was rolled out in elementary and secondary schools.

Between September and November, students at the University of Theatre and Film Arts in the capital, Budapest, occupied their school to protest against a government-controlled restructure of ownership and management which they claimed curtailed academic freedom. Several prominent lecturers resigned.

In October, the Court of Justice of the European Union (CJEU) ruled that Hungary had breached EU rules relating to academic freedom, through the 2017 amendments to the Law on higher education, which forced the Central European University out of the country.

Freedoms of expression, association and assembly

A bill adopted in March increased penalties for the crime of “imparting or conveying false information” related to the COVID-19 pandemic and to the government's responses. It instituted the crime of obstructing the enforcement of a quarantine or isolation order.⁴

In mid-June, transitional provisions were adopted, amending applicable rules during a “state of medical emergency”, and giving the possibility to government to arbitrarily restrict the rights to freedom of movement and peaceful assembly.

Also in June, the CJEU ruled that restrictions in the Law on the Transparency of Organizations Supported from Abroad, imposed on the financing of civil society organizations by foreign funders, breached EU law.

In July, the editorial team and nearly 100 staff journalists resigned from Index, the country's largest independent online news portal, in response to the dismissal of its editor-in-chief. The editors had publicly announced that their independence was in danger following the takeover of the portal's advertising branch by a media executive with close ties with the government.

Right to seek asylum

The government lost three court cases regarding breaches of international obligations. In April, the CJEU ruled that Hungary had failed to fulfil EU law obligations by refusing to relocate asylum-seekers within the mandatory scheme set up in solidarity with Italy and Greece.

In May, the Court ruled that Hungary's automatic detention of asylum-seekers in border detention centres known as “transit zones” breached EU legislation as the detention measures were disproportionate, exceeded the maximum time limit, and could not be challenged in court. While initially protesting the judgment, the government vacated the transit zones the same month.

In June, new rules introduced severely limited access to asylum. Transitional measures, denounced by UNHCR, the UN refugee agency, removed the possibility for asylum-seekers to submit applications inside Hungary, instead requiring them to first submit a “declaration of intent” at selected embassies outside the country. By the end of the year, only a handful declarations were registered, and one family was granted permission to enter Hungary to submit an application. In October, the European Commission launched an infringement procedure, arguing that the restrictions were unlawful.

Those entering irregularly, mostly from Serbia, were expelled, often collectively. By the end of the year, police pushbacks across the border fence exceeded 30,000, in breach of the obligation to individually assess the risk of *refoulement*, the forcible return of individuals to countries where they risk serious human rights violations. In December, the CJEU ruled that such returns breached EU law

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1. [Hungary: Fearing the unknown – How rising control is undermining judicial independence in Hungary \(EUR 27/2051/2020\)](#)
 2. [Hungary: Government must revoke prohibition of gender legal recognition \(EUR 27/2085/2020\)](#)
 3. [Hungary: Hungarian Parliament must reject amendments further undermining the rights of LGBTI people \(EUR 27/3353/2020\)](#)

4. [Hungary: No working around it: Gender-based discrimination in Hungarian workplaces \(EUR 27/2378/2020\)](#)
5. [Hungary: Government must not use extraordinary power to roll back human rights amid COVID-19 emergency \(EUR 27/2046/2020\)](#)

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