

Brussels, 13 February 2023

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With an EU-wide petition, Forbidden Colours demands that all Member States show their full support to the EU values of inclusion, equality, and respect of human rights by joining the infringement procedure against Hungary's 'anti-LGBT propaganda law'

On 13 February 2023, the infringement procedure initiated by the European Commission against Hungary's 2021 'anti-LGBTIQ+ propaganda' law was published in the Official Journal of the EU. On that day, Forbidden Colours, Háttér Society and Reclaim launched an EU-wide petition to request every EU Member States to provide 'written observations' to the Court of Justice of the EU regarding this case.

With at least 20 Member States likely to engage, this infringement procedure is expected to become the largest human rights' infringement procedure ever brought in front of the Court of Justice of the European Union. This case is not only important to end the censorship currently endured by LGBTIQ+ people and organizations in Hungary, but also to protect all LGBTIQ+ people in the EU from the adoption of similar laws in their country.

The adoption of the law and the infringement procedure

On 15 June 2021, the Hungarian Parliament adopted Act LXXIX of 2021 on taking more severe action against paedophile offenders and amending certain acts for the protection of children. The original objective of the bill was to make the prevention, detection, and punishment of sexual criminal offenses against minors more effective.

However, last minute amendments introduced anti-LGBTIQ+ provisions in this law. In particular, the act amended the Child Protection Act, the Family Protection Act, the National Public Education Act, the Advertisement Act, and the Media Act to introduce a ban on access of minors to any content that “propagates or portrays divergence from self-identity corresponding to sex at birth, sex change or homosexuality.” With these last-minute amendments, the so-called ‘child protection law’ became the Hungarian version of the ‘anti-LGBT propaganda law’ adopted in Russia in 2013.

On 15 July 2021, the European Commission announced the launch of an infringement procedure against Hungary regarding this law [1]. The Commission then considered that this so-called ‘child protection law’ violates EU secondary law such as the Audiovisual Media Services Directive, the e-commerce Directive, and the Services Directive. Moreover, the European Commission emphasized that the “provisions [of that law] also violate human dignity, freedom of expression and information, the right to respect of private life as well as the right to non-discrimination” enshrined in the EU Charter of Fundamental Rights. Finally, it considered that the law violates our common EU values laid down in Article 2 of the Treaty of the European Union [2].

Furthermore, as denounced by Eurochild, this law “clearly violates children’s rights as laid down in the United Nations Convention on the Rights of the Child to which Hungary has been bound since 1991. Children have the right to healthy development, freedom of expression, self-identity, inclusive education, and access to justice. This legislation violates all these rights and risks harming the very children it claims to protect” [3].

After a failed dialogue the European Commission announced on 15 July 2022 that the case would be referred to the Court of Justice of the European Union (CJEU) [4]. Yet, Forbidden Colours had to conduct an advocacy campaign to push the European Commission to finally file the case on 19 December 2022. The case was published in the Official Journal of the EU on 13 February 2023 [5]. From that moment on, EU Member States have six weeks to submit ‘written observations’ on the case to the CJEU.

[1] [Commission takes legal action for discrimination LGBTIQ](#), European Commission, 15 July 2021 – Infringement procedure INFR(2021)2130

[2] On these legal aspects, check [RECLAIM Legal Opinion: Hungary’s 2021 anti-LGBT law](#), Reclaim, May 2022.

[3] [New Hungarian legislation not only fails to protect children, it puts them at greater risk of harm](#), EuroChild, 25 June 2021.

[4] [Commission refers Hungary to the Court of Justice of the EU](#), European Commission, 15 July 2022

[5] [Commission v Hungary Case C-769/22](#), Court of Justice of the European Union.

An EU-wide petition to call out Member States to fulfil their engagements

On 13 February 2023, Forbidden Colours, together with Háttér Society and Reclaim, launched an EU-wide petition to remind EU Member States of their commitments and to ask them to provide ‘written observations’ on the case by 27 March 2023. By doing so, they would declare their full support to the protection and defense of the fundamental rights of LGBTIQ+ people in their country and in the European Union.

Forbidden Colours recalls that 19 Member States had loudly voiced their support for the respect of the human rights of LGBTIQ+ people only a few days after the adoption of the law in June 2021.

On 22 June 2021, 18 Member States joined a declaration initiated by Belgium Foreign Minister Sophie Wilmès condemning the Hungarian law and asking the European Commission “to use all the tools at its disposal to ensure full respect for EU law” [6].

Two days later, on 24 June 2021, 16 EU Heads of States and Governments signed a common declaration pledging to “continue fighting against discrimination towards the LGBTI community, reaffirming [the] defense of their fundamental rights”. They all declared that they were “committed to carry on with this effort, making sure that future European generations grow up in an atmosphere of equality and respect” [7].

Moreover, on 17 May 2021 – the International Day Against Homophobia, Biphobia, and Transphobia, 14 EU Member States had signed a diplomatic declaration on the protection of LGBTIQ persons in the European Union. A month before the adoption of the Hungarian ‘anti-LGBT propaganda’ law, these Member States made the commitment “to jointly develop a litigation strategy to support, where appropriate, the European institutions in court cases where the protection of EU values in general and LGBTIQ persons in particular is at stake” [8].

[6] [Eighteen countries unite at Belgium’s initiative to defend LGBTIQ rights in Europe](#), 22 June 2021. Signed by Austria, Belgium, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Lithuania, Latvia, Luxembourg, The Netherlands, Portugal, Spain, and Sweden

[7] [Letter of different heads of state and governments on the occasion of the upcoming LGBTI Pride](#), 24 June 2021. Signed by the Heads of State or Government from Belgium, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Luxembourg, Malta, The Netherlands, Spain, and Sweden.

[8] [Declaration of fourteen European Member States on the protection of LGBTIQ persons in the European Union](#), 17 May 2021. Signed by Belgium, Cyprus, Denmark, Estonia, Finland, France, Germany, Ireland, Italy, Luxembourg, Malta, Netherlands, Spain, and Sweden.

The publication of the infringement procedure against Hungary gives the EU Member States an opportunity to turn these words into action. They are now expected to show their full support to the EU core values of inclusion, equality, and the protection of the human rights of LGBTIQ+ people.

By signing the petition, citizens endorse a letter that the three organizations will send to the Foreign Affairs Minister of their country asking them to fulfil their commitments and provide 'written observations' on the infringement case.

Forbidden Colours, Háttér Society and Reclaim remain confident that at least 20 Member States should join the case, making it the largest human rights' case ever brought to the attention of the CJEU.

LGBTIQ+ censorship: a devastating impact on LGBTIQ+ youth

In January 2023, a year and a half after the adoption of the law, Háttér Society published a comprehensive report regarding the far-reaching and devastating impact of the law [9]. The organization reports that hostile public discourse and LGBTIphobic acts have been on the rise since the adoption of the law.

The vagueness of the terms used in the law – such as 'depiction' or 'propagation' – have created a strong chilling effect throughout the Hungarian society. By fear of potential sanctions, self-censorship has become the rule. Media refuse any broadcasting that touches upon LGBTIQ+ topics. School teachers and psychologists are scared to answer any question regarding LGBTIQ+ topics, in fear of losing their job.

Civil society organizations that have been working with schools on human rights and civic education have been denied access to schools unless they promised they will not touch upon LGBTQI questions, even if the students themselves bring up such issues. No civil society organizations or external experts are allowed to hold comprehensive sex and relationship education classes in public education institutions.

Remaining silent may protect media and education professionals from sanctions. However, this puts children belonging to a sexual or gender minority in a precarious position.

[9] [Report on Act LXXIX of 2021 amending certain acts for the protection of children and its implementation](#), Háttér Society, January 2023.

The so-called ‘child protection law’ leaves LGBTIQ+ children, who are often subject to bullying, stigmatization and even violence, on their own.

Háttér Society concludes that “the law does not protect children, it shields them from information that is vital for their development as well-informed, open-minded human beings who respect sexual and gender diversity, and ultimately equal human dignity. The pretence of protecting children shall not be the basis of a legal framework that encourages discrimination, stigmatizes sexual and gender minorities, and above all, violates children’s right to education that entails the right to receive objective, unbiased and comprehensive information on sexual and gender diversity.”

About us

*Founded in 2019, **Forbidden Colours** is a Belgian NGO working at the European level to empower to empower LGBTIQ+ people to fully live their lives in freedom with self-respect and dignity. The organization focusses on the intersection of the protection of the human rights of LGBTIQ+ people and the strengthening of democratic security. In that context, its support and advocacy are targeting countries where LGBTIQ+ communities are scapegoated by autocratic or ‘illiberal’ governments such as Hungary. Forbidden Colours manages a fund within the King Baudouin Foundation, Belgium’s largest philanthropy organization. The donations received subsidize projects from grassroot organizations. Forbidden Colours was the first organization to bring the international attention on the adoption of the ‘anti-LGBT propaganda’ law in Hungary and has been the leading international advocate on the topic. In 2022, it was also the main sponsor of Budapest Pride.*

***Háttér Society**, founded in 1995, is the oldest and largest LGBTIQ organization in Hungary. It works for a society in which no one is discriminated against because of their sexual orientation or gender identity, where all members of the LGBTIQ community are free to live according to their identity and receive the help they need to resolve the problems they might face. To achieve these goals, Háttér operates various support services including a legal aid service; monitors and documents human rights violations against LGBTIQ people; offers training for professionals among them legal practitioners; and advocates for the adoption of laws and policies respecting the human rights of LGBTIQ people.*

***Reclaim** was founded in 2019 by Ms. Esther Martinez and Ms. Ane Sommer Knudsen - out of concern for the state of democracy in Europe and the increasing global disregard for human rights. The Reclaim team now supports European civil rights groups, anti-corruption activists, judges, and independent media when their role as democracy’s watchdogs is challenged. Reclaim intervenes and mobilizes push-back to protect freedom of speech, association, and other fundamental rights when under pressure within Europe. And it allies with rights defenders, legal scholars, and policy-makers to develop strong joint strategies.*

Quotes

“The government of Hungary, a Member State of the European Union, is copy-pasting Russian laws and censoring its LGBTIQ+ communities. We must do everything in our power to protect all Hungarian citizens from this harmful Putin-style ideology. Every Hungarian citizen deserves freedom, and children have the right to information about sexuality and gender. We must make this the biggest human rights case in the legal history of the European Union: to protect our citizens, human rights and democracy.”

Rémy Bonny, Executive Director, Forbidden Colours

“In June 2021, 19 Member States had denounced the adoption of the Hungarian ‘anti-LGBTIQ+ propaganda’. Today, we ask them to stand by their declarations. We ask them to turn these words into action. We ask them to defend our EU values of inclusion, equality, rule of law and democracy.”

Vincent Reillon, Outreach and Policy Officer, Forbidden Colours

“We are asking Member States to join the infringement procedure and support the European Commission. The crusade launched by the Hungarian government against LGBTQI+ people has to stop. The so-called ‘child protection’ law not only violates children’s right to education and access to objective, critical and diverse information about sexuality and gender diversity, but has a broader chilling effect, and eliminates discussions of LGBTQI rights and topics from the public discourse. This is an unprecedented attack on LGBTQI+ rights, and member states can put an end to it by joining forces with the Commission.”

Eszter Polgári, Legal Program Director, Háttér Society

“The Orbán government uses child protection as an excuse to curtail the rights of children and freedom of speech – just like in Putin’s Russia, where a similar law has stifled the media and put LGBT children and youth at increased risk of discrimination and self-harm. Member States must unite at the CJEU to sweep this hateful policy into the dustbin of history and ensure no other Member State government will ever replicate it.”

Esther Martinez, Executive director, Reclaim

In cooperation with

