



HUNGARIAN  
HELSINKI  
COMMITTEE

## Legislating Fear: Banning Pride is the latest assault on fundamental rights in Hungary

21 March 2025

Following the Prime Minister's statement concerning the banning of the annual Pride, MPs of the governing majority submitted a set of amendments to the Fundamental Law (Hungary's constitution) on 11 March to create a constitutional-level basis for such action. On 18 March, another bill was submitted by MPs of the governing majority amending laws to ban assemblies that might breach the "substantial element of the prohibition" prescribed in the infamous anti-LGBTQI Propaganda-Law and impose harsh financial penalties for participants of such events. The bill was forced through Parliament within a day and will enter into force on 15 April 2025.

This discriminative amendment not only violates the fundamental rights of LGBTQI people and citizens who support them, but by allowing for the blanket use of facial recognition techniques to identify unknown perpetrators of all petty offences, violates privacy rights of every person in Hungary with the aim to further instil fear among those who voice dissent.

**Hungarian human rights organisations urge the European Commission to launch an infringement procedure addressing the entirety of the new changes for breaches of EU law, as outlined below. At the same time, considering the gravity and urgency of the consequences of the amendments, the European Commission shall immediately request the suspension of the application of the anti-LGBTQI Propaganda Law, which serves as the primary basis of the banning of the Pride, in the ongoing, related lawsuit at the Court of Justice of the European Union (C-769/22).**

### 1. Circumventing public consultation

Although it was the Prime Minister who announced the banning of the Pride in his "state of the nation" speech on 22 February 2025,<sup>1</sup> neither the amendments to the Fundamental Law, nor the omnibus bill<sup>2</sup> that aims to ban the Pride were submitted by the Government to circumvent the Government's obligation to publish draft bills for public consultation prior to submitting them to Parliament,<sup>3</sup> both proposals were formally submitted by MPs.<sup>3</sup> While the amendments to the Fundamental Law are still pending, the omnibus bill that aims to ban the Pride was forced through the Hungarian Parliament in little over 24 hours. The omnibus bill was proposed on 17 March 2025 and adopted on 18 March 2025 and on the same day was promulgated as Act III of 2025.

<sup>1</sup> See the official English translation of the speech: <https://miniszterelnok.hu/en/prime-minister-viktor-orbans-state-of-the-nation-address-2025-02-22/>.

<sup>2</sup> Bill amending Act LV of 2018 on the Right of Assembly in relation to the protection of children and related acts. See: <https://www.parlament.hu/irom42/11201/11201.pdf> (in Hungarian). Submitted in the Hungarian Parliament on 17 March 2025, adopted by Parliament on 18 March 2025. The official text of the Act may be found here: <https://magyarkozlony.hu/dokumentumok/46d496a57e0e6ac221c4acecfa5cc0830415c746/megtekintes>.

<sup>3</sup> Chapter III of Act CXXXI of 2010 on public participation in law-making.

## 2. Breaching the principle of legal certainty

Section 13/A of the Act LV of 2018 on the Right of Assembly (hereinafter: Assembly Act) prohibits holding an assembly that “violates the prohibition set forth in Section 6/A of Act no. XXXI of 1997 on the protection of children and guardianship administration (hereinafter: Child Protection Act) or that displays a substantial element of the content prohibited under Section 6/A of the Child Protection Act.” Section 6/A of the Child Protection Act – as amended by the infamous anti-LGBTQI Propaganda Law – restricts access of minors to “content that is pornographic or that depicts sexuality as having a purpose in itself or that depicts or propagates divergence from self-identity corresponding to the sex at birth, sex change or homosexuality.”<sup>4</sup>

The referenced provision of the Child Protection Act is under scrutiny by the Court of Justice of the European Union, as this very Section is among those provisions that gave ground to the ongoing infringement procedure launched due to the adoption of the infamous Propaganda Act.<sup>5</sup> In the pending court case against Hungary, the European Commission argues, among others, that this Section is in breach of Article 2 TEU and Articles 1, 7, 11 and 21 of the Charter of Fundamental Rights. 15 Member States and the European Parliament have intervened in the case on the side of the Commission. According to the Venice Commission’s opinion, this provision “can hardly be seen as compatible with the European Convention on Human Rights (ECHR) and international human rights standards.”<sup>6</sup>

Section 6/A of the Child Protection Act and the newly introduced provisions of the Assembly Act are incompatible with the principle of the rule of law, in particular the principle of legality encompassing, among others, the requirement of foreseeability, accessibility, and precision. Terms such as “depicts” and “propagates”, as well as “substantial element” are not defined in statutory law, nor are they interpreted in lower-level legislation; they are vague and thus offer no indication to individuals as to circumstances in which and conditions on which the authorities are entitled to ban an assembly. The Venice Commission in Opinion No.1059/2021 on the anti-LGBTQI Propaganda Law recalled these “overly broad and potentially ambiguous terms or concepts lack precision, which is essential for legal texts, and that they may lead to different and potentially diverging interpretations”. The overly broad nature of Section 13/A of the Assembly Act – according to the settled case-law of the European Court of Human Rights – undermines the requirement of foreseeability, may lead to unfettered discretion in its application, and it provides insufficient protection against arbitrary use of power.

## 3. Breaching the right to peaceful assembly of individuals supporting LGBTQI causes

Section 13/A of the Assembly Act must be read together with the proposed Fifteenth Amendment to the Fundamental Law, which is undoubtedly intended to pave the way and create a constitutional basis for adopting laws curtailing rights, in particular those of the LGBTQI community, in the name of protecting children. The reasoning attached to the newly proposed wording of Article XVI (1) of the Fundamental Law stipulates that “children’s right to the protection and care necessary for their proper physical, mental and moral development and the protection of children’s right to an identity corresponding to their sex at birth is a fundamental right which is of paramount importance compared to other

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<sup>4</sup> Act no. LXXIX of 2021 on stricter actions against paedophile offenders, and the amendment of certain laws for the protection of children. On the impact of the law see the reports of [Amnesty International Hungary](#) and [Háttér Society](#).

<sup>5</sup> Commission v. Hungary, C-769/22.

<sup>6</sup> European Commission for Democracy through Law (Venice Commission), Hungary – Opinion on the Compatibility with International Human Rights Standards of Act LXXIX Amending Certain Acts for the Protection of Children, CDL-AD(2021)050, 13 December 2021, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2021\)050-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2021)050-e), para. 95.

fundamental rights guaranteed by the Fundamental Law, not including the right to life, and as such enjoys proportionate protection.”

The omnibus act containing the amendment to the Assembly Act not only restricts freedom of assembly, but also contains provisions that indirectly curtail this right. The omnibus bill seeks to achieve the above goal in the following steps:

1. introduces a new Section 13/A to the Assembly Act that prohibits holding an assembly that violates the prohibition set forth in Section 6/A of Act XXXI of 1997 on the Protection of Children and Guardianship Administration (Child Protection Act) or that displays a “substantial element” of the content prohibited under Section 6/A. According to the amendment, authorities shall prohibit holding an assembly if, on the basis of consulting the organisers, there are reasonable grounds to believe that they plan to hold such a prohibited assembly.
2. makes it a petty offence (misdemeanour) to organise, hold and attend a prohibited assembly as outlined above via circumventing the Assembly Act. The petty offence is punishable with a fine of HUF 6 500 to 200 000 (EUR 16 to 500).
3. allows authorities to use facial recognition to identify unknown perpetrators in the case of all petty offences – currently, this is possible only in the case of petty offences punishable with confinement.

The amendments violate various fundamental rights, such as the freedom of assembly, the prohibition of discrimination, and the right to the protection of personal data.

These changes, especially when taken together, seek to deprive LGBTQI people (and those supporting their causes) of their freedom of assembly and force LGBTQI people completely out of the public eye by referring to the “promotion” and “display” of homosexuality and transgender identity as forbidden “content” at demonstrations.

Freedom of assembly guaranteed in Article 11 of the European Convention on Human Rights (ECHR) is interpreted as one of the foundations of a democratic society. The European Court of Human Rights (ECtHR) has already indicated that “[c]ontent-based restrictions on the freedom of assembly should be subjected to the most serious scrutiny”,<sup>7</sup> and are less likely to correspond to a pressing social need. The case-law of the ECtHR unequivocally maintains that “pluralism, tolerance and broad-mindedness” are the cornerstones of a democratic society, and although individual interests may be subordinated at times, “democracy does not simply mean that the views of the majority must always prevail”.<sup>8</sup> A legislative ban on promotion of homosexuality and non-traditional sexual relations was held to “reinforce stigma and prejudice and encourage homophobia”;<sup>9</sup> the European Commission argues the same in the infringement procedure regarding the anti-LGBTQI Propaganda Law.

Invoking the protection of children’s rights as a legitimate aim for the restriction of assemblies organised to promote the rights of sexual and gender minorities in itself is an insufficient justification under Article 11 of the ECHR. In its opinion on the adoption of Section 6/A of the Child Protection Act, the Venice Commission recalls the ECtHR’s stance on the matter: “(t)here is no scientific evidence or sociological data at the Court’s disposal suggesting that the mere mention of homosexuality, or open public debate about sexual minorities’ social status, would adversely affect children or ‘vulnerable adults’. On the contrary, it is only through fair and public debate that society may address such complex issues as the one raised in the present case. Such debate, backed up by academic research, would benefit social cohesion by ensuring that

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<sup>7</sup> *Navalnyy v. Russia*, [GC] application no. 29580/12., § 136; *Primov and Others v. Russia*, application no. 17391/06., §§ 134-135; *Centre of Societies for Krishna Consciousness in Russia*, application no. 37477/11., § 52.

<sup>8</sup> *Bączkowski and Others v. Poland*, application no. 1543/06., § 64.

<sup>9</sup> *Bayev v Russia*, application no. 67667/09., § 83.

representatives of all views are heard, including the individuals concerned.”<sup>10</sup> This position was explicitly endorsed by the Grand Chamber of the ECtHR which also recalled that various international bodies criticized laws that restrict children’s access to information about different sexual orientations and gender identities.<sup>11</sup>

As to making it a petty offence to organise or attend such a prohibited assembly by circumventing the Assembly Act, the following must be noted. Organising and recruiting for an assembly that has been banned by the authorities is already a criminal offence, and attending one is already a petty offence. However, a fine for this particular petty offence cannot be converted to community service or to custodial sentence (like other petty offence fines), thereby removing the possibility of civil disobedience of those individuals unable or unwilling to pay the fine that can be as high as EUR 500.

#### 4. Breaching the right to peaceful assembly for all

The vague wording of the law allows the authorities to ban not only assemblies that “promote” homosexuality and gender diversity but any assembly for equal rights for LGBTQI, and assemblies that depict homosexuality or gender diversity in any way. Furthermore, the law can be interpreted to allow authorities to disperse any assembly where homosexuality became transparent in any way, either by accident (*i.e.* regardless of the organiser’s intention) or by provocation.

The amendment adds to Section 189 (1) of Act II of 2012 on Petty Offences, Petty Offence Procedure and the Petty Offence Registration System and extends the offence of abuse of the right of assembly to anyone “who – as an assembly organiser or leader – organises or holds an assembly prohibited by Section 13/A § (1) of the Assembly Act by circumventing the Assembly Act, and who attends such an assembly based on a public invitation, and – despite having been expressly informed by the police at the place of the assembly about the prohibited nature of the assembly – participates in it.” The basis for liability for this offence is therefore simply that the police declare a demonstration to be prohibited and the participant of the demonstration stays on the premises. This offence is punishable by a fine from HUF 6,500 to HUF 200,000 which must be collected as taxes in the case of non-payment, and the organisers and participants of the gathering must bear the responsibility for the offence irrespective of any unlawful conduct. This clearly violates the core meaning of the right of assembly. As the ECtHR held: “where demonstrators do not engage in acts of violence it is important for the public authorities to show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 of the Convention is not to be deprived of all substance.”<sup>12</sup>

The new law also widens the scope where the police may disperse a notified assembly. According to current rules, the police must disperse the assembly in case it is held at a place, route, time or for a period other than the place, route, time or period specified in the notification, if the assembly should have been prohibited in the first place.<sup>13</sup> According to the new provisions, any deviation from the notification may empower the police to disperse.

Moreover, the amendment changed the rules on notification: it reduced the earliest possible time for notifying assemblies to the police from 3-month prior to 1-month prior of the planned date. This also seems to be designed to affect exclusively the Budapest Pride March, that was supposed to be notified by 28 March, before the entry into force of the new legislation. At the same time, it remained unchanged that promoting any assembly publicly before the notification and its acceptance by the police in itself constitutes a petty offence.

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<sup>10</sup> European Commission for Democracy through Law (Venice Commission), Hungary – Opinion on the Compatibility with International Human Rights Standards of Act LXXIX Amending Certain Acts for the Protection of Children, CDL-AD(2021)050, 13 December 2021, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2021\)050-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2021)050-e), para. 59., referring to *Alekseyev v. Russia*, application nos. 4916/07, 25924/08 and 14599/09, § 86.

<sup>11</sup> *Macaté v. Lithuania* [GC], application no. 61435/19., § 108.

<sup>12</sup> *Oya Ataman v. Turkey*, application no. 74552/01., § 42.

<sup>13</sup> Section 18 (1) c) of the Assembly Act.

## 5. Breaching right to privacy and of data protection rules - use of facial recognition in case of all petty offences

Up until the new legislation, the use of facial recognition technology (FRT) in petty offence proceedings has been only permissible in the narrow group of petty offences punishable by a custodial sentence.<sup>14</sup> The adopted changes widen the scope of this possibility to any petty offences.

Consequently, the new law, in order to assist the identification of persons suspected of having attended banned protests, grants authorities access to such technology.<sup>15</sup> The police or the court may request<sup>16</sup> facial image analysis activity from the Hungarian Institute for Forensic Sciences (HIFS)<sup>17</sup> in any petty offence proceeding – including attending a banned Pride march for example –, provided that the offender is unknown. The system of HIFS then checks the state databases (e.g. databases of ID documents or passports) and provides information about the identity of the person who is on the police's picture.

As regards all potential offenders of petty offences, there is no need to use FRT to (in the wording of the new provision) „prevent, deter, detect and disrupt petty offences and to bring offenders to justice” and there are other means available to the authorities to do so, without infringing the right to privacy (in addition to infringing equality and non-discrimination, freedom of expression, freedom of assembly and association, and the right to effective remedy). The new legislation is disproportionate as it covers all petty offences, regardless of their gravity. It provides a *carte blanche* authorisation to police and other authorities to identify anyone's face on the streets, public spaces, if the authority deems it necessary to „prevent, deter, detect and disrupt offences and to bring offenders to justice” in relation to any petty offence. The legislation also fails the test of constitutionality already when assessing it in relation to the restriction of the right to assembly related to LGBTQI causes, let alone all other petty offences. It does not pursue a legitimate aim, and even in case one accepts that it is meant to protect the rights of children, the measure infringing privacy (the use of FRT) is not suitable to achieve such aim. There is nothing that suggest that children would be better protected if the police may use FRT on peaceful protestors. The reasoning of the adopted bill fails to provide any specific justification for this change beyond the general aim of child protection.

Facial recognition technology serves the unique identification of a natural person, therefore the data processed in such cases qualifies as biometric,<sup>18</sup> and thus sensitive data.<sup>19</sup> Additionally, attending an assembly such as Pride reveals political opinions or philosophical beliefs, which are also considered sensitive data.<sup>20</sup>

The use of FRT to identify unknown perpetrators of all petty offences, irrespective of the gravity or type of the petty offence, is a restriction of the right to the protection of personal data. This does not only violate the Fundamental Law but also violates EU law.

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<sup>14</sup> Section 117 (g) of Act II of 2012 on Petty Offences, Petty Offence Procedure and the Petty Offence Registration System.

<sup>15</sup> Section 1 of the Bill and Section 3 (3) w) of Act CLXXXVIII of 2015 on the Facial Image Analysis Register and the Facial Image Analysis System.

<sup>16</sup> Section 9 (18) of Act CLXXXVIII of 2015 on the Facial Image Analysis Register and the Facial Image Analysis System.

<sup>17</sup> Section 5, Government decree no. 350/2016 (XI. 18.) on the Hungarian Institute for Forensic Sciences.

<sup>18</sup> Section 3 (3b) of Act CXII of 2011 on Informational Self-Determination and Freedom of Information (hereinafter: ISDA) and Article 10 of Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (hereinafter Directive 2016/680).

<sup>19</sup> Section 3 (3) of ISDA and Article 10 of Directive 2016/680.

<sup>20</sup> Section 3 (3), ISDA and Article 10 of Directive 2016/680.

## 6. Legal consequences of organizing and attending a Pride

If the police ban Pride or other LGBTQI-related events based on the new law, its organisers may face criminal prosecution, up to one year of imprisonment.<sup>21</sup>

Participation in a banned protest is considered a petty offence<sup>22</sup> and protestors face a fine of up to HUF 200,000 (EUR 500),<sup>23</sup> and the police may use facial recognition technology to identify participants of these assemblies. According to the new provisions, converting this fine to community service or to custodial sentence is explicitly precluded in case of petty offences related to assemblies.<sup>24</sup> It cannot be excluded that criminal measures (such as termination, restriction of activity or fines) could be imposed on a legal entity organizing/holding a banned protest.<sup>25</sup>

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<sup>21</sup> Organising or promoting participation for a protest priorly banned by the police qualifies as a crime and is punishable by up to one year in prison based on Section 217/C of Act C of 2012 on the Criminal Code.

<sup>22</sup> Section 189 (3) a) of Act II of 2012 on Petty Offences.

<sup>23</sup> If the offender admits the commitment of the petty crime on-site, on-site fine is imposed within the narrower range of 6,500 – 65,000 HUF (approx. EUR 16 – EUR 160). See Section 99 (1)-(2) of Act II of 2012 on Petty Offences.

<sup>24</sup> Section 3 (2) of Act III of 2025.

<sup>25</sup> Section 2 (1) of Act CIV of 2001 on the criminal measures applicable against legal persons stipulates that criminal measures are applicable against a legal person if the offence was committed with its use by a natural person connected to it, such as the executive, an officer, employee or member.