

forbidden colours

7 Rue d'Alost,
1000 Brussels,
BELGIUM
forbidden-colours.com

To :

Foreing Affairs Minister of [your country]
[Address]
[Address]
[Address]

Brussels, 1 March 2023

Dear Foreign Affairs' Minister,

As concerned citizens from [your country], we are writing you together with the organisations Forbidden Colours, Háttér Society, and Reclaim regarding the unacceptable silencing of the LGBTIQ+ communities in Hungary.

On 15 July 2021, the European Commission launched an infringement procedure against Hungary for its 'anti-LGBT propaganda' law, or so-called 'child-protection' law [1]. After a failed dialogue the case was referred to the Court of Justice of the European Union on 19 December 2022 and was published in the Official Journal of the EU on 13 February 2023 [2-3]. Since then, EU Member States have six weeks to submit 'written observations' on the case.

We ask you today to demonstrate [your country]'s commitment to our fundamental EU values of equality, inclusion, and respect of human rights by providing 'written observations' on this case to the Court of Justice of the EU by 27 March 2023.

As you may recall, 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.

[1] Commission takes legal action for discrimination LGBTIQ, European Commission, 15 July 2021 – Infringement procedure INFR(2021)2130 - https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3668

[2] Commission refers Hungary to the Court of Justice of the EU, European Commission, 15 July 2022 - https://ec.europa.eu/commission/presscorner/detail/EN/IP_22_2689

[3] Commission v Hungary Case C-769/22, Court of Justice of the European Union.

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. 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 considered 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.

Furthermore, as denounced by Eurochild, this so-called ‘child-protection’ 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”[4].

By submitting ‘written observations’, you would declare [your country]’s unwavering support for the fundamental values that form the bedrock of our Union: human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities [5]. You would acknowledge that laws which discriminate LGBTIQ+ people are violating these common values. You would reaffirm that such laws are not to be tolerated anywhere in the European Union.

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

<https://www.eurochild.org/news/new-hungarian-legislation-not-only-fails-to-protect-children-it-puts-them-at-greater-risk-of-harm/>

[5] As defined in Article 2 of the Treaty of the European Union.

[Countries which signed at least one of the three common declarations on the topic in 2021]

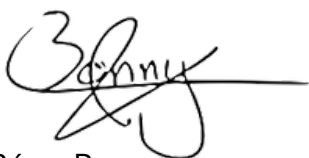
[Your country] has already demonstrated its deep attachment to the defense of our common EU values by [joining the declaration of 17 May 2021 pledging to protect the fundamental rights of LGBTIQ+ people through strategic litigation [6]]. [It has also signed the common statement endorsed by Foreign Ministers on the General Affairs Council of 22 June 2021 regarding the adoption of the Hungarian law [7]]. [Finally, on 24 June 2021, [your country] has joined the Heads of States and Governments' Letter on the occasion of the upcoming LGBTI Pride to the presidents of the EU institutions [8]]. **We are extremely confident that [your country] will honour these declarations and be found on the list of Member States who submitted written observations to the Court.**

[Countries which did not sign any of the 2021 declarations]

Knowing the deep attachment of [your country] to the respect and the defense of our common EU values, **we are confident that [your country] will be found on the list of Member States who submitted written observations to the Court.**

We attach to this letter an analysis of the law and its repercussions in Hungary provided by Háltér Society as well as the legal opinion of Reclaim on this case. We remain at your disposal to provide you any information regarding the mentioned case and the associated procedures.

Kind regards,



Rémy Bonny,
Executive Director
Forbidden Colours



Luca Dudits,
Executive Board Member
Háltér Society



Esther Martinez,
Executive Director
Reclaim

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[6] <https://www.government.nl/documents/diplomatic-statements/2021/05/17/declaration-of-fourteen-european-member-states-on-the-protection-of-lgbtqi+persons-in-the-european-union>

[7] <https://www.sophiewilmes.be/en/thirteen-countries-unite-at-belgiums-initiative-to-defend-lgbtqi+rights-in-europe/>

[8] <https://www.premier.be/en/letter-different-heads-state-and-governments-occasion-upcoming-lgbti-pride>

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 grassroots 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 LGBTQI 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 LGBTQI 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 LGBTQI people; offers training for professionals among them legal practitioners; and advocates for the adoption of laws and policies respecting the human rights of LGBTQI 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.

With the support of the following partner organisations:

And the support of the following concerned citizens from your country: