



WORKING GROUP AGAINST  
HATE CRIMES IN HUNGARY

**Committee of Ministers of the Council of Europe**  
**Department for the Execution of Judgments of the European Court of Human Rights**  
**DGI - Directorate General of Human Rights and Rule of Law**  
**Council of Europe**  
**F-67075 STRASBOURG CEDEX**  
**DGI-execution@coe.int**

**Budapest, 11 November 2022**

**Communication from  
the Hungarian Working Group Against Hate Crimes**

**Dear Madams / Sirs,**

Under Rule 9 (2) of the Rules of the Committee of Ministers for the supervision of the execution of judgments, the Hungarian Working Group Against Hate Crimes (hereinafter referred to as: Working Group) hereby submits this communication letter on the implementation of the judgments of

1. BALÁZS v. HUNGARY (Application no. 15529/12) Judgement of 20 October 2015  
and
2. R. B. v. HUNGARY (Application no. 64602/12) Judgement of 12 April 2016  
and
3. KIRÁLY AND DÖMÖTÖR v. HUNGARY (Application no. 10851/13) Judgment of 17 January 2017  
and
4. M.F. v. HUNGARY (Application no. 45855/12) Judgement of 31 October 2017.

The four cases are dealt with in a standard procedure as a group of cases under the leading case Balázs v. Hungary concerning violations of the prohibition of discrimination read in conjunction with the prohibition of inhuman or degrading treatment on account of the authorities' failure to carry out effective investigations into the question of possible racial motivation behind the ill-treatment inflicted on the Roma applicants by law enforcement agents in their official capacity or off-duty; or violations of the right to respect for private life on account of inadequate criminal investigations into offences allegedly committed in the context of anti-Roma demonstrations (Article 14 read in conjunction with Article 3; Article 8).

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**WORKING GROUP AGAINST HATE CRIMES IN HUNGARY**

Amnesty International Hungary ♦ Háttér Society ♦ Hungarian Helsinki Committee ♦ Hungarian Civil Liberties Union  
[www.gyuloletellen.hu](http://www.gyuloletellen.hu) ♦ [info@gyuloletellen.hu](mailto:info@gyuloletellen.hu)

Our submission was previously received by the Committee on 18 January 2018 (DH-DD(2018)100), which was followed by our submission received on 6 June 2019 (DH-DD(2019)647) informing the Committee of some developments. The Hungarian Government's previous group action report was received on 9 October 2019 (DH-DD(2019)1121). The latest group action report submitted by the Government was received on 3 August 2022 (DH-DD(2022)822).

It has to be acknowledged that the Hungarian Government has taken significant steps in order to efficiently police hate crimes, but shortcomings in the application of the law stemming primarily from the lack of sufficient training and the intolerant, harassing tone used and campaigns carried out by the Government against vulnerable groups still substantively hinder the fight against hate crimes. In light of this, we respectfully draw the attention of the Committee of Ministers to the fact that despite significant developments, important issues of concern are still at stake. As a result of this, we are still of the view that the procedure should not be closed at this point in time and further progress shall be required from the Hungarian Government.

### **I. The Government's anti-minority rhetoric**

First and foremost we would like to highlight the fact that although there are certain improvements regarding the legal framework relevant to the implementation of the judgments in the group of cases at hand, the Hungarian Government continues to have a very strong anti-minority rhetoric that undermines many of these forward looking steps and essentially goes against the requirement of equal treatment. The working group underlines the importance of the Government's rhetoric regarding vulnerable groups, as a consequence of which the legal amendments made and protocols adopted by the state easily remain only a written text and empty words without support on the Government's part. As mentioned in our previous submissions, the Government launches campaigns that stir up hatred against minorities: the first target of these hateful campaigns were migrants, then in 2021 members of the LGBTQ+ community. As a part of this 'campaign', legislative measures were adopted in order to hamper the adoption of same sex couples, certain school activities dealing with LGBTQ+ issues were banned and high-ranking government officials suggested that acquainting children with such topics would amount to the endangerment of the children concerned. There are also certain cases where intolerance against Roma people is openly promoted by the Hungarian Government. Additionally, in 2022 for the first time in Hungarian history an extremist, openly far-right political party called Mi Hazánk ("Our Land") that is openly collaborating with widely known hate groups was elected into Parliament. One of the party's main mottos before the

election was “We cannot be a gypsy country!”, which was shown on billboards all across the country.

## **II. General measures adopted**

### **(i) The National Police Headquarters’ Instruction’s ineffective application**

A significant improvement the action report refers to, is the fact that the draft of the National Police Headquarters’ Instruction on Police Tasks Related to the Handling of Hate Crime mentioned in section 10 of the Government’s previous action report was adopted and incorporated in Regulation No. 30/2019 (VII. 18) by the National Police Headquarters (hereinafter: ORFK) (28.). While we welcome the adoption of the hate crime protocol, as it was initiated by us in the first place, we express our concern and doubt relating to the efficacy of its application. The protocol entered into force more than three years ago, on 1 August 2019, which already enables us to conclude certain observations about the implementation of the system set up by the protocol.

We were of the opinion during the drafting process of the protocol that its implementation and the work of the Hate Crime Special Network - officially set up by the Regulation - would only be effective if certain conditions were met. These conditions include for instance

- the careful selection of the hate crime network leads and mentors,
- ensuring their long-term motivation and financial compensation, as well as extra time allocation for their tasks related to the handling of hate crimes, including the regular publishing of data related to such tasks;
- the prevention of massive fluctuation that can be observed within the workforce,
- cooperation between the police and civil society organisations that are in contact with the groups affected by hate crimes and
- effective and regular training that enables police patrols to get acquainted with the protocol to an extent that it becomes part of their routine to take into account bias indicators whenever necessary.

The system set up by the protocol and the operation of the Network seem to disregard almost all of these conditions, as it is also clear from the fact that the action report does not elaborate in detail on many of them. Although area specialist officers and mentors were in fact appointed in order to facilitate the recognition of hate crimes, the appropriate selection of these policemen, the maintaining of their motivation and their due compensation are not provided for. Appropriate time allocation - which would allow them to secure a high level of expertise and competence - is also not ensured, which is underlined by the fact that all their tasks related to hate crimes are additional to their core tasks. According to the information of the ORFK in 2020 and 2021 the Network did not

prepare its annual report. The annual reports of the crime prevention and victim support branches of the police do not concern hate crimes at all.

Regarding the cooperation between the Working Group and the police, firstly, we would like to highlight the fact that although the police started to develop the protocol in 2018 in cooperation with us, this active cooperation practically ended in the summer of 2018 without substantial explanation. Secondly, case studies and working group meetings mentioned in the action report (37 and 39) are not held on a regular basis: the working group was convened only five times in the last eight years (4 meetings were held in 2014-2016 and one in 2019), which means that unfortunately, the we are not convened by the police every six months as opposed to the statement of the action report. These numbers show that consulting with us is much more the exception than the norm and these occasions are not an integral part of police operation. In fact, we see a lowering level of willingness on the part of the police to consult with us throughout the past three years.

Although it is true that we have the possibility via e-mail to indicate cases where it considers that the investigating authority failed to recognise a bias motive (38), we would like to draw the Committee's attention to the fact that these indications do not necessarily lead to the proper classification of the offences and do not necessarily result in a more thorough investigation, as it is a very soft tool at our disposal. Furthermore, we do not receive any substantive answer from the police if any actions were taken or not. The fact that area specialist officers, mentors, as well as police patrols are well acquainted with the protocol, its importance, function and the bias indicators in particular is essential for the effective application of the Regulation. The action report mentions in this regard that ORFK conducted a one day training for mentors and area specialist officers on 26 May 2022 on the handling of hate crimes. The fact that this training was only one day and these training sessions are not of a regular nature reinforces the concern that responsible police officers do not have the necessary knowledge and skills to appropriately tackle bias motivated crimes, furthermore, it underlines that this is not a priority task at all.

This concern is also supported by our own experiences. In 2021, we carried out a project called 'Tackling Hate Crimes Locally' that included four workshops and a conference in three different cities. The aim of the project was to connect local actors and communities with each other and the police, as well as develop and disseminate tools to create these networks in order to tackle hate crimes more effectively. Although we were happy about the fact that the National Area Specials Officer and two prosecutors attended the conference, the local workshops were attended by only 3 police officers and at one location the police refused to participate. Furthermore prosecutors and judges did not attend the workshops at all, they utterly rejected the cooperation in the localities. The members of the Working Group were informally told during these workshops that police

officers were often unaware of who in fact was responsible for hate crime tasks at their police station, as these are not priority tasks for the mentor.

We requested information on the hate crime related police training upon drafting this submission. It is clear from the data received that police personnel mainly attended training organised by the police themselves. Between 1 January 2020 and 31 December 2021, 62 vocational workshops were held on the topic of hate crimes. However, the duration of most of these workshops is clearly insufficient: in 45 out of 62 occasions (72%) the workshop took only an hour or even less, two of them lasted only 20 minutes. There is no available information on the topics elaborated during and methods of the training. Although the Police Instruction prescribes active cooperation between the police and NGO experts, we were not invited to any of the training courses (or any other events) aiming to help police personnel detect and investigate hate crimes more efficiently.

### **(ii) The shortcomings of the prosecutors' hate crime protocol and its application**

Setting aside the fact that the prosecutor's hate crime protocol does not address many important issues, such as the interpretation of the different forms of the criminal provision 'violence against a member of the community', the interpretation of the criminal provision 'incitement to hatred' and the possibility of mixed motives behind hate crimes, presumably there is also a serious lack of awareness of the protocol. This is reinforced by the fact that the action report does not refer to this protocol at any point.

The action report mentions that there is a regular training for prosecutors, deputy prosecutors and prosecution clerks on the prosecution of hate crimes (49), however, we do not have information on the duration and regularity of these training courses or the content thereof. NGO experts have never been invited to any of the workshops or training sessions. We requested data from the General Prosecutor's Office on the training of prosecutors on 14 September 2022 but we have not received any answer yet.

### **(iii) ORFK's Instruction on the Cooperation and Relations Between the National Roma Self-Government and the Police**

We requested public interest data from the ORFK concerning the application of the Instruction mentioned in the action report (59-62) on 13 September 2022, but until the submission of the present communication, we have not received an answer. However, members of the Working Group and Roma partner organisations we have contact with do not have any experience on the cooperation and have never encountered the application of the Instruction at stake.

### **III. Ineffective law-enforcement relating to hate crimes and hate groups**

Member organisations of the Working Group represented victims or intervened in procedures initiated as a result of hate crime incidents in the past years as well. Our overall experience resonates well with the above finding: the legislative changes introduced in response to the Balázs v. Hungary group of cases have not adequately addressed the systemic shortcomings in dealing with hate crimes by the authorities. The cases briefly discussed in the Annex of this submission illustrate that it is still common to underclassify the crime in the investigative phase, which might jeopardise the entire criminal procedure including the eventual charges and sanction. The Annex contains the description of certain cases taken on by member organisations of the Working Group between 2019 and 2022. The in-process complaints submitted by our NGOs against underclassification occasionally re-routed the procedure, however, the need for external intervention raises concerns. On the one hand, it indicates the low awareness on the nature of hate crimes and the applicable criminal provision within the police, on the other hand, our organisations only learn about the cases either from the victims or the media, thus we only get in contact with the fraction of the victims and the vast majority of them remain without legal assistance and a statistics do not show the real number of hate crime cases but merely a fraction of them.

It is important to underline that NGOs and authorities can only report on cases which receive publicity through the media or in which a hate crime specific investigation was launched, or cases that are reported to NGOs by the victims. However, in our experience - mostly regarding Roma communities and foreigners (migrants) - the majority of hate crime cases remain unreported, or reported but not classified as hate crimes and thus remain out of scope. The most marginalised groups, especially migrants and Roma, have scarce opportunities or tools to enforce their rights and the level of awareness is generally extremely low. Therefore the main task of the Hungarian state would be to empower and support these social groups. But on the contrary, as indicated in paragraph I, the Government mostly acts against this expectation.

#### **(i) Hate speech and incitement against a group remain unpunished**

The action report mentions that section 332 of the new Criminal Code was amended in 2016 in order to extend its scope to crimes committed not only by using threatening expression that involves a direct possibility of a violent act but also if it instigates hatred (27). We would like to draw the Committee's attention to the fact that this amendment has not resulted in any change regarding the jurisprudence of the provisions on incitement against a group according not only to our opinion but also that of the Deputy Commissioner for Fundamental Rights of National Minorities. The Minority Ombudsman

states in General Comment No. 5/2020.<sup>1</sup> that expressions instigating hatred that do not involve the direct possibility of a violent act remain outside the scope of criminal procedures despite the above mentioned amendment. The General Comment states that authorities registered incidents of incitement against an ethnic or national group as follows:

- in 2016 five cases had been registered and the prosecution brought charges against the accused in two of these incidents,
- throughout the years 2017 and 2018 no such cases had been registered and
- in 2019 one incident had been registered but its prosecution was terminated.

The General Prosecutor reinforced the Minority Ombudsman's view stating that despite the amendment of section 332 of the Criminal Code, state authorities continue to interpret incitement against a group in a way that requires the real and direct possibility of violence. Although the Minority Ombudsman proposed in her General Comment that the Minister of Justice together with the General Prosecutor examine and analyse how the interpretation of the statutory definition of incitement against a group may be changed and extended, especially during police investigation, no steps have been taken in this regard to our knowledge.

We would like to highlight the fact once again that although certain legislative changes were in fact adopted, they were not in themselves enough to change the systemic shortcomings of the handling of hate crimes and they did not have tangible results at all.

### **(ii) Illegal organisation of public security activity**

The action report mentions that section 352 of the new Criminal Code sanctions the illegal organisation of public security activity (27). This amendment was incorporated within the Criminal Code in 2011 so that its provisions could reflect on the fact that a far-right military organisation regularly held antigypsyist marches in the town of Gyöngyöspata which were aimed at taking over the tasks of the police personnel relating to public security.

The Hungarian Civil Liberties Union (HCLU), a member of the Working Group, started to monitor the media platforms and activities of the most powerful hate groups in Hungary in the summer of 2021. Throughout this monitoring period, HCLU found that the far-right group called Magyar Önvédelmi Mozgalom (Hungarian Self-defence Movement, hereinafter: MÖM) regularly organises certain marches and walks that - in their words - are aimed at 'maintaining order', especially in towns or areas where many residents are of

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<sup>1</sup> The English summary of General Comment No. 5/2020. is available at: [c050322b-3d76-a2c2-8a87-22bfc1fcf02b \(nemzetisegjogok.hu\)](https://www.nemzetisegjogok.hu/c050322b-3d76-a2c2-8a87-22bfc1fcf02b)

Roma origin. HCLU found that these walks and inspections reached such a degree of organisation and regularity that in September 2021 and in March 2022, the NGO officially notified the police about the details of these events. Apart from initiating a criminal investigation, HCLU also suggested in its letters to the ORFK that hate crime mentors be given specific tasks regarding the prevention and handling of cases related to the illegal organisation of public security activity, as these instances are almost always bias motivated and target the most vulnerable groups, mainly Roma people living in poverty. Furthermore, HCLU suggested that the police distance themselves publicly from the communications of the MÖM and other hate groups, since more often than not, in the eyes of the public these groups masquerade themselves as voluntary 'helpers' of the police. Although the ORFK informed HCLU in a letter dated 25 April 2022 that a criminal investigation was ordered, the HCLU has not yet been informed about any developments since then. Apart from ordering the criminal investigation of the cases relating to the organisation of public security by MÖM, to our knowledge, the police has not taken any other necessary steps suggested by the HCLU in order to handle and prevent such activities more effectively in the future and we are not aware that it has made any efforts to identify hate groups and their activities either.

An essential part of HCLU's monitoring activity is the on-the-spot monitoring of far-right demonstrations. In this regard, we would like to inform the Committee that there has been a significant development in the preparedness of the police when securing and covering such demonstrations. HCLU's team monitored seven extremist demonstrations on the spot throughout 2021 and 2022 in different cities. It was our experience that the police attended these demonstrations in large numbers and made serious precautionary arrangements such as installing surveillance cameras, using drones, stopping cars passing nearby the demonstration for identity checks. All of the protests attended by HCLU remained peaceful, the protesters did not enter or pass by any of the segregated areas and members of the local Roma community were not physically harmed in any of the above mentioned cases. During the latest protest that was held on 11 September 2022 in the city of Nyíregyháza, the local Roma community organised a counter-protest not far from the place of the far-right demonstration organised by Mi Hazánk. It was our experience that the police did not remain passive when members of the two groups came across each other in the surrounding streets but were determined to prevent any violent acts from occurring.

However, we have to add that the 2022 Pride in Budapest could not be organised on the same route as usual because a far-right party called Mi Hazánk ('Our Land') announced their own demonstration to the police for the exact same time and route. Although their announcement was clearly an abuse of the right to assembly, the police gave them permission over the organiser's of Budapest Pride.



#### **IV. Collection of statistical data**

As we indicated in our previous communications, data on crimes reported to the authorities are collected in the Uniform Investigative and Prosecutorial Criminal Statistics (ENYÜBS). As of July 2018 ENYÜBS contains data according to two new categories: whether the crime is a hate crime and if so, information about the protected characteristic of the victim. These two new fields introduced in the statistical form were clearly a significant improvement. However, if the authorities fail to recognize the bias motivation, the crime at hand will not be documented in the relevant category at all. The action report mentions that the list of protected characteristics was extended in order to ensure that ENYÜBS includes hate crimes based on disability, sexual orientation and gender identity (45). Although this is an important improvement, we would like to highlight that the protected characteristic in itself is not necessarily enough to have a deep understanding of the phenomenon of hate crimes, because for instance both anti-semitic and anti-muslim crimes are listed under the protected characteristic 'religion'.

Apart from the shortcomings indicated in our previous submissions, such as the fact that statistical forms are often not fully completed, there is a lack of timeliness regarding the data recorded and the system does not allow for the tracking of a case from reporting to sentencing, an additional significant problem is that no data has been released since the introduction of the new system on the official website of the crime statistics system. Furthermore statistical data is only available approximately a year later and based on public interest data request to the Prosecution.

According to ENYÜBS in 2020 altogether 19 criminal procedures were registered concerning violence against a member of a community. Out of these 19 cases overall 10 were registered as criminal offences. In 2021 both the number of registered criminal procedures and the number of criminal offences registered increased regarding violence against a member of a community: the former was 31, the latter 17. The number of resultful procedures - meaning that charges were also brought against the people subject to criminal proceedings - was extremely low in both years: in 2020 it was 6, in 2021 it was 15. As regards incitement against a member of a community, the numbers of criminal offences registered are even lower: in 2020 there were only 2 and in 2021 there were 8 criminal offences registered under incitement. The number of criminal procedures are significantly higher than the number of criminal offences registered relating to incitement as well: in 2020, 19 criminal procedures were registered, the year after, there were 22. The number of resultful procedures show that charges were brought against the people subject to proceedings in 2020 in only 2 cases, while in 2021 in only 3 cases. This data clearly demonstrates that latency remains significant in these cases.

ENYÜBS categorizes the vulnerable groups harmed by hate crimes according to a different system: it counts the number of 'perpetrations', not the criminal offences registered, which distorts results. According to ENYÜBS, in 2020 violence against a member of a community was perpetrated three times, altogether which is an extremely low number and most possibly does not reflect the number of such incidents in fact occurring. In two out of these three cases the motivation was bias against ethnicity (2), in one case it was bias against religion (1). In 2021, 19 cases of violence against a member of a community were perpetrated, the number of vulnerable groups harmed is as follows:

- bias against ethnicity: eight cases (8),
- bias against race in four cases (4),
- bias against sexual orientation in five cases (5),
- bias against nationality (1) and
- bias against a 'certain other group of the population': one case (1).

As regards incitement, all four offences perpetrated (again, the number of criminal offences registered and the number of preparations differ, unfortunately) were motivated by bias against a 'certain other group of the population' (4).

A data request was submitted on 8 September 2022 to the Prosecution Office in order for us to gain information on the number of investigations, charges and sanctions and the type of thereof, however, no data on the matter has been received until the drafting of the present communication.

## **V. Victim support**

The system of victim support became a non-transparent, complicated and difficult-to-access service since our last communication in 2019 as services are provided by two different entities: Victim Support Services (hereinafter: VSS) are operated by the district Government Offices under the supervision of the Prime Minister Offices, however, the professional support and coordination is ensured by the Ministry of Justice. Meanwhile, the newly set up Victim Support Centres (hereinafter: VSC) belong to the Ministry of Justice. Apart from a propagandistic step by the Government, no meaningful explanation was provided as to why the Government set up a parallel structure instead of enforcing the already existing one. This is even more problematic when looking at the fact that victim support has already been an under-sourced area. Financial aid, state compensation and certification of victim status can only be received from the VSSs, while both the VSSs and VSCs provide information for the victims, offer help in accessing legal representation, witness assistance and emotional support. Therefore, the VSCs do not seem to have any added value. Furthermore, the VSCs operate at county seat towns where VSSs have been

situated for a long time already. Socially disadvantaged victims do not have the financial means to access the victim support at all (for instance instant financial aid - aiming at providing financial help for necessary living costs - is to be requested personally at the county seat in 8 days from the date of the crime and victims often do not even have money for the travel). Although the action report states that psychologists employed in VSCs are trained and ready to provide the necessary assistance for victims of hate crimes (66), we are not aware whether these psychologists are provided with a specialised training on dealing with victims of hate crimes and the action report does not mention any provision to this effect either. The legislation as yet does not prescribe psychological help to be offered by the VSCs, therefore, there is no guarantee that victims in need of psychological support are in fact provided with this service.

A data request was filed to the Ministry of Justice concerning the number of victims turning to VSSs, the accessibility of free psychological help, the training attended by and the projects of campaigns organised by the employers of the VSSn on 8 September 2022 but we have not received any answer until the finalising of the communication's drafting.

## **VI. Summary**

Based on our direct experience in individual hate crime cases, in cooperation with state organisations and official statistics, we are of the opinion that besides the developments delivered, the Hungarian Government does not fulfil its obligations deriving from the ECtHR's judgement related to the handling of hate crimes. A vast majority of hate crimes remain unknown by state authorities, hate motive is often not recognized by the police, victims often do not receive any support, police training seem to be inefficient and formal, cooperation with non-governmental organisations is a rarely fulfilled, ad hoc and unintended obligation of the state, furthermore, hatred is constantly fuelled by the Government agents' and high ranking politicians' anti-migrant, anti-Roma and homophobic voice.

Based on the arguments of the present communication, the Working Group Against Hate Crimes considers that further progress shall be required from the Hungarian Government and closure of the procedure would be early at the present stage.

Respectfully,

In representation of the Working Group:

Máté Szabó, Director of Programs, HCLU

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### **WORKING GROUP AGAINST HATE CRIMES IN HUNGARY**

## **Annex to Paragraph III**

These selected cases illustrate both the enforcement problems indicated above and an example of the alarming results of the government's anti-minority campaigns.

### **1. Homophobic incident**

On the night of October 24, 2021 a gay couple was walking in downtown Budapest when a man started following them. He kept on shouting at them insulting words, e.g. "Hold hands you cocksucking faggots", and "I'll catch up with you and beat you up". The couple tried to seek shelter at a shop that was open all day and night, where the man caught up with them. They tried to go into the shop, but the perpetrator wanted to follow them, so one of the couple blocked his way. After a brief exchange of words, the offender punched one of the victims in the face with his palm and grabbed him by the neck. A group of people standing outside the shop supported the offender, only one of whom tried to defend the victims when the offender grabbed him by the neck. The victims called the police emergency line several times, and remained in line with the operator throughout their walk. At first the emergency line operator advised them to stop and wait for the police patrol, but when the offender continued his aggressive behaviour, the victims decided to continue on their way. The proceeding in the case was initiated on the basis of the complaint of the victims, initially the police investigated for 'public nuisance' (display of an apparently anti-social and violent conduct aiming to incite indignation or alarm in other people), it was Háttér Society, a member of the Working Group, who requested - with reference to the identifiable hate indicators - that the investigation be continued for the offence of 'violence against a member of the community'. As a result the district police transferred the investigation to the responsible department of the Budapest Police Headquarters. The investigation has not been closed yet.

### **2. Homophobic demonstration**

On July 12 2021, the Sixty-Four Counties Youth Movement organised a demonstration "against the LGBTQ lobby and for the defence of normality and Hungary's future". The protest was held in front of the office of Háttér Society which is the largest NGO defending LGBTQ+ rights in Hungary. A woman - who is an employee of HCLU - wearing a rainbow coloured bracelet stood among the protesters in order to monitor the demonstration. One of the speakers noticed her bracelet and during his speech, started referring to her as "the provocator". The speakers started addressing her presence and more protesters started to realise that she was in fact there. When the demonstrators started to call for the ban of Pride, one of the protesters took a loudspeaker, went up to the woman wearing the bracelet and started to scream the words "Ban this!" into her face using a loudspeaker that she also pushed by force to her face. The woman couldn't hear clearly after the incident

for hours. HCLU reported the incident to the police but the denunciation was rejected on the ground that the demonstration was secured by the police and the police personnel present at the protest did not detect that a criminal offence had occurred, otherwise they would have proceeded ex officio. HCLU filed a complaint to the 13th District Police Headquarters against the rejection of the denunciation, upon which the police classified the incident as a potential defamation by deed, which is not an act to be prosecuted on a public charge. HCLU filed a complaint against this decision to the 13th District Prosecutor's Office which resulted in the annulment of the decision of the police. The case is still pending.

### **3. Freedom of expression versus harassment**

On 17 August 2020, the Christian group Mozaik Community organised a discussion and prayer session entitled Sensitivity in Christianity - Mozaik Open Session at the Budapest Pride LGBTQ+ Festival in a Budapest community centre. The organisers were aware that Budapest Pride events were often disrupted by members of extremist groups and their sympathisers, and they knew that a discussion of LGBTQ+ issues in a religious context triggers the attention of such extremist groups and that there was a real risk of possibly violent harassment. For this reason, they had notified the police prior to the event and reported that the event's programme was published on a far-right website. Shortly before the start, a group of about 5-8 people showed up at the venue, some of them were known to the organisers for similar disruptive activities in the past. Several members of the group addressed the organisers and the participants in a defamatory way (called them "fags", "sick", "pederasts", "neurotic", "in need of medical treatment", "sexual deviants", "not normal", "psychiatric patient", "degenerate", "fucking up the Hungarian living space"). The organisers refused to let them enter the venue, on the recommendation of the police present at the scene, they physically blocked their way. One member of the group filmed the organisers and the people entering the event without their consent. Members of the police present remained largely inactive, only the person who had torn the clothes of an organiser was stopped, the police otherwise only monitored the event from a distance. No criminal proceeding was started ex officio in the case, one of the participants submitted a complaint for violence against a member of the community with the help of Háttér Society. The complaint was rejected by the district police for lack of crime, in essence holding that the behaviour of the offenders fell within the scope of freedom of expression. Háttér Society submitted - in vein - a complaint to the prosecution service against the terminating decision of the police. The victim submitted a complaint to the European Court of Human Rights alleging the violation of Article 8 (1) and 14. The application - while it was in line with the case-law and referred to the standards established by the ECtHR - was declared manifestly ill-founded.

#### **4. Freedom of expression versus causing damage**

On December 19, 2019 the far-right organisation, Sixty-Four Counties Youth Movement sprayed paint on a billboard calling for the acceptance of rainbow families at a metro station. The campaign was commissioned by Háttér Society, who reported the case to the police as a 'violence against a member of a community', but the investigation was closed due to lack of crime. The police argued that the offence "was not directed against specific persons but against the content of the poster, and its purpose was to express disagreement with its content in a forceful and crude manner", and therefore did not fall within the scope of the crime reported. Háttér Society appealed against the decision, but the prosecution rejected it holding that the association did not have victim status and had no standing in the procedure. The rejection ignored the fact that Háttér did suffer damage. The police later opened proceedings for causing damage (misdemeanour), however, there has been no development in the case, and the hate crime argument was dismissed with reference to freedom of expression again.

A similar incident happened in August 2019 when Coca Cola mounted a campaign featuring same-sex partners as well. From a video posted on a homophobic website, Háttér Society learned about two young people who vandalised a poster calling it 'clearing up the trash'. Háttér reported the case to the police as a hate crime, however, the investigation only started for 'public nuisance' and it was suspended as the identity of the perpetrators remained unknown.

#### **5. The burning of a rainbow flag**

On October 23, 2019 the same community centre that hosted the Budapest Pride event above was attacked by a far-right group, they burned a rainbow flag and sprayed the swastika-like symbols of the Legion of Hungaria on the walls (the place was closed at the time, but without the resistance of the staff present at the venue, the group would have entered the building). The Budapest Police Headquarters opened an investigation into the incident for 'public nuisance' and started to track down the perpetrators. They identified eight men and woman who were taken into custody, but after questioning remained at large for the rest of the procedure. The investigation was flawed for several reasons, e.g. the police missed crucial investigative steps and communicated publicly misleading information on the case. Later on, the Prosecutor's Office terminated the procedure and although the Hungarian Helsinki Committee filed a complaint against the termination, the General Prosecutor's Office decided on 21 May 2021 that the procedure would not be continued.

On the same day, a group named "The flames of '56 continue burning" in a Facebook event called for - among others - burning the rainbow flag. Háttér Society reported the event to

the police as a hate crime, but the Fejér County Police Headquarters terminated the proceedings, as in their opinion the act was not a criminal offence. Háttér Society filed a complaint against the decision, but the Székesfehérvár County Prosecutor's Office rejected the appeal on the ground that Háttér did not have standing in the procedure. However, the Fejér County Chief Prosecutor's Office later overturned the decision and ordered the investigation to continue.

## **6. Homophobic assault**

In mid-September 2019 three gay men called for a taxi and when one stopped, they asked if it came for them. When the taxi driver said no, one of them expressed his discontent to the others. In response to that, the taxi driver made abusive statements to the victims, he got out of the car and kicked one of the victims in the chest, his partner in the leg and punched the third victim in the face. He then got back into his car and drove away. Although several indicators mandated it, the police and the prosecutor characterised the case as 'public nuisance' and 'battery' (causing bodily harm). As a consequence of the mischaracterisation, not the competent branch of the police conducted the investigation, the procedure was flawed from the beginning and in spite of all the motions submitted on behalf of the victims, the crime of 'violence against a member of the community' was not considered.

## **7. Xenophobic assault**

In July, 2019 a group of four friends (of Egyptian, Vietnamese and Hungarian origin) were beaten up by another group of about 15 people at a music festival at the lake of Balaton allegedly for accidentally pushing one of them. As a result of the attack, one of them had his nose broken, while another member of the group got several stitches to treat his injury (broken skin under his eye). The victims were surrounded by the attackers, and a victim's brother unsuccessfully tried to alert the security guards as he was approaching the victims. The victims got on the ground and the attackers kept on hitting and kicking them. The victims maintained that the attack was racially motivated: the perpetrators called them "fucking foreigners", they spat on the Vietnamese victim and shouted at him that he was a "Chinese faggot". After having their injuries treated in a hospital, they reported the attack to the police, which started an investigation for 'public nuisance' committed in a gang.

The police and the prosecutor's office classified the crime as hooliganism and minor bodily harm and did not take the bias motive into consideration. The procedure was terminated against the perpetrators since the prosecution estimated that based on the personal circumstances of the perpetrators the conditional suspension of the procedure until an eventual subsequent crime was an appropriate sanction.

## **8. The assault of anti-fascist group members**

On February 9, 2019 far-right groups commemorated the 74th anniversary of the outbreak in Buda Castle. An anti-fascists group protested against the event on the nearby Széll Kálmán Square. Shortly after the event, several anti-fascist youths were attacked by a group of seven people in dark clothes. Two of them were beaten and their rainbow and student movement flags were taken away. One student had blood coming from his ear and was hit three times with his fist by one of the attackers. The attack was unexpected and lasted less than a minute. The perpetrators, who were shouting profanities, left quickly before the police arrived. The attackers posted a video and photo on their website 'Vadhajtások' on the same day (the photo was removed later). The faces and shoes of the group members were covered on the photos posted, but there was camera footage taken of them on the tram they took and also on the CCTV of the bar in front of which the attack happened. As they clearly identified the goal of their action: it was meant to be a first warning for anti-fascist youth. Thus, both their motive and their identity was known to the police (the names of two attackers were reported anonymously to the police). One of them confessed that they were present at the scene and also said that his partner "jumped into the crowd", the other attacker did not make a statement. Their cell phone records also confirmed that they were present at the scene. The police did not search for other members of the group despite the availability of contacts, and eventually identified only the one, who the other attacker against whom the other testified, as a suspect during the investigation. Based on the evidence, the police forwarded the case to the prosecutor's office with a recommendation for indictment. The prosecution a few months later terminated the case and closed the investigation despite the incriminating evidence against the attackers. The Budapest chief prosecutor's office rejected the complaint of the victim's representative against the termination. It held that the complaint was unfounded, it considered as conclusive that the victims' did not recognise the attackers. While the police characterised the crime properly, they did take into consideration the motive of the assailants, yet the prosecution failed to indict the attackers in spite of the available evidence. The victims proceeded with private prosecution replacing the inactive prosecution service and pressed charges on their own.

## **9. Homophobic incident**

Mischaracterization may be remedied at an early stage in the procedure as it happened in the case from August 2019 where the victims were represented by Háttér Society. A 19-year-old girl and her friend were attending a village fair in Bénye. The victim was carrying a rainbow-coloured bag. Because of the bag, an intoxicated man interfered, pointing at the companion: "What is this? Are you gay? Lesbian whore?!", and then started pulling the bag. The victim then threw his drink in the attacker's face. The perpetrator then hit the victim with his hand with such force that the victim fell against the metal post behind her,



while the assailant shouted "Fuck you, you lesbian bitch!". Her friend rushed to the victim's aid, at which point the attacker began punching her, then kicked the victim with his right knee and raised his hand to punch her again. The grandfather of the victim's friend also appeared and knocked the attacker off balance. The perpetrator lunged at the grandfather, shook the grandfather with his hand and as a result the grandfather fell to the ground. The offender then continued to kick the elderly man on the ground with a partner who joined him. The other participants of the event eventually held the offender down and led him out, during which he kept shouting "Rot, die, fuck you lesbian bitch!". The police station of the nearby town opened an investigation for 'aggravated battery', and only re-characterised the crime as 'violence against the member of a community' upon the petition of the victims' representative and the prosecution office's order. The police granted the victim special treatment due to her vulnerability. While it was not for the town police to investigate the crime, it was appointed and proceeded in the case. However, Háttér Society had to request the use of evidence (i.e. the Facebook profile of the suspect containing extremist content). The final verdict sentenced the defendant to two years of imprisonment suspended for five years without holding a trial.

## **10. The case of Gyöngyöspata**

In 2020, governing party politicians launched a concerted public campaign at the occasion of a lawsuit for damages that was filed by the parents of Roma children who were educated in segregated classes in the elementary school of Gyöngyöspata. The trigger for this campaign was the court decision granting non-pecuniary damages to over 60 Roma victims of educational segregation lasting for over a decade in this particular establishment. While the Supreme Court review of this judgement was still pending, high-ranking government party politicians launched a campaign against the decision, questioning its justness and legitimacy. In January 2020, the Prime Minister of Hungary labelled the judgement as unjust and stated the following: *"If I lived there, along with other members of the community I would be asking myself how, for some reason members of an ethnically identifiable group living in my village could receive a significant amount of money without doing any kind of work [...]"* Following the Gyöngyöspata judgement, an amending proposal to the Act on National Public Education was adopted, which became known as the "Lex Gyöngyöspata". This amendment prescribes that in relation to future violations caused by access to substandard education, the court shall grant compensation for the damages in the form of educational services instead of pecuniary compensation to be paid for moral damages.