

State of the Art – Hate Speech in Hungary Working Notes

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The legal framework: regulations and bodies

Article 19 (2018) Hungary : Responding to ‘ hate speech ’. 2018 Country Report. London.

Jovánovics, E. (2013). Gyűlölet vagy előítélet ? Szavak vagy tettek ? Definíciós kérdések, elhatárolások. *Belügyi Szemle*, 61(12), 68–76.

Criminal law

„The Hungarian criminal law does not use terms equivalent to the English terms ‘hate crime’ and/or ‘hate speech’. However, several crimes in the Criminal Code fall into this category. These include the crimes of genocide, apartheid, violence against a member of a community, **incitement against a community**, public denial of sins of national socialist or communist regimes, blasphemy of a national symbol, and the use of symbols of totalitarianism” (Article 19 Report, 19.)

In Hungary, the law defines **protected groups**, crimes against members of which can qualify as **hate crimes or bias motivated crimes**. These expressions are not codified as such, the legal definition refers to **violence against a member of a community** (BTK 2012 C §216, Jovanovics 71.) These are motivated by **bias / prejudice against the community**, and this motivation is central to defining a crime as "violence against a member of a community". Jovanovics argues that "bias motivated" is a better term than "hate", because in such instances, the perpetrator generally does not hate the victim; the motive of the crime is a bias or prejudice against a particular group, membership in which is central to the identity of the individual. Hence not all groups are protected, because not all groups are central to one's identity.

Public speech in itself cannot be criminalised, and attempts at codifying hate speech were recurrently deemed unconstitutional by the Constitutional Court. The speech-related offences that are codified are "**inciting hate against communities**" / „incitement against a community” (§332)[1], desecration of national symbols (§334), use of totalitarian symbols (§336) and public denial of sins of socialist or communist regimes (§333).

The protected groups are: **national, ethnic, racial, religious, "other"**, especially based on handicap, gender identity or sexual orientation[2]; para332 also protects „the Hungarian nation”

"Violence against a member of a community" can be committed by hate speech even without instigation to further action (Jovánovics 75.) In such cases, the speech is targeted at the members of the community anyway, not to someone to be instigated to hate. However, in judicial practice, this is difficult to establish.

„**Incitement to hatred can be also committed online** or through digital communication technologies. The Criminal Code stipulates (in closing provisions that “a crime is committed, inter alia, through publication in the press, or through other media services, by way of reproduction or by means of publication on electronic communication networks”) (Article 19, Report on Hu, p.20. ref.Art.459)

[1] “Any person who, before the public at large, incites violence or hatred against: a) the Hungarian nation; b) any national, ethnic, racial or religious group or a member of such a group; or c) certain societal groups or a member of such a group, in particular on the grounds of disability, gender identity or sexual orientation is guilty of a felony punishable by imprisonment not exceeding three years” §332

[2] "216. §

(1) Aki más valamely nemzeti, etnikai, faji, vallási csoporthoz vagy a lakosság egyes csoportjaihoz tartozása vagy vélt tartozása, így különösen fogyatékosága, nemi identitása, szexuális irányultsága miatt olyan, kihívóan közösségellenes magatartást tanúsít, amely alkalmas arra, hogy az adott csoport tagjában riadalmat keltsen, bűntett miatt három évig terjedő szabadságvesztéssel büntetendő"

Administrative provisions

Hate speech is addressed in the Equal Treatment Act and media regulation

ETA: prohibits harassment, as conduct violating human dignity (this allows for broader protected characteristics, but only protection from actors in official capacity?)

The Equal Treatment Authority adjudicates cases of **harassment**; complaints include cases of offensive statements by public officials or state-funded institutions' employees; decision of website (Egyenlő Bánásmód Hatóság, <http://www.egyenlobanasmod.hu>)

„Under the media law, the Hungarian Media Council (the Media Council) has the authority to investigate cases of infringement, both ex officio and in response to complaints in ‘hate speech’ cases, and impose administrative sanctions.” (*Hungary : Responding to ‘ hate speech ’. 2018 Country Report, 2018*)

Civil code

The 2013 Civil Code protects **personality rights from false or malicious statements** made in public for being part of the **Hungarian nation or of a national, ethnic, religious or racial group**. This list is exhaustive and does not include LGBT or disability.

The Commissioner for Fundamental Rights

In 2013, the Commissioner launched the project Using Communication for Equal Dignity – Integrating Speech vs. Hate Speech: Kommunikációval az egyenlő méltóságért – Befogadó beszéd kontra gyűlöletbeszéd”, described in

<http://www.ajbh.hu/documents/10180/111959/201301199.doc/cd230ec5-24ee-445f-b0fa-165026c9d909?version=1.0>

The report looked at the practices of the education system, media, public officials and civil society in promoting tolerance. It discusses media representations and needs of protections of “**vulnerable groups**”: the disabled, the Roma, ethnic and sexual minorities, religious groups

Media regulation

The Media Act (2010) and the Press Act (2010)

“Aimed at protecting societal values” (Article 19 report, 37.)

Strongly criticized “for their failure to meet international standards on freedom of expression and media pluralism” (Article 19 report, 37.)

Both acts include regulations concerning hate speech: positive: the obligation to respect human dignity, refrain from offensive, humiliating presentations; negative: prohibition of incitement to hatred against nations, minorities or majority, religious groups

The National Media and Infocommunications Authority

The authority monitors regularly the presence of various social groups in the news of public service broadcasts (http://nmhh.hu/dokumentum/198894/tarsadalmi_sokszinuseg_hirmusorok_2018_1.pdf). The monitoring is based on the requirement that public service media contributes to social cohesion and integrations and the presence of all social groups in the media.

The groups monitored are:

<p>Társadalmi-gazdasági kategóriák Civil és egyházi szervezetek képviselői Szakszervezetek, érdekvédelmi szervezetek képviselői Nyugdíjasok Munkanélküliek Tanulók (általános és középiskolai diákok, felsőoktatásban tanulók) Mezőgazdaságban dolgozók Iparban dolgozók Szolgáltatásban dolgozók</p> <p>Nemzeti és etnikai kisebbségek, bevándorlók, határon túli magyarok Magyarországi nemzeti kisebbségek Magyarországi etnikai kisebbség (romák) Határon túli magyarok (kivándorolt magyarok is) Bevándorlók, migránsok, menekültek Gazdasági célból Magyarországon élő külföldiek</p> <p>Fogyatékkal élők Azon személyek sorolandók ide, akik fogyatékoságuk látható jeleit viselik, vagy a narrációból kiderül e jellemzőjük. érzékszervi fogyatékosok értelmi fogyatékosok halmozottan fogyatékosok</p> <p>Nemek Férfi Nő</p> <p>Témakategóriák (amelyekhez kapcsolódva az egyes csoportok tagjai megjelenhetnek) kormány működése belpolitikai ügyek (az Országgyűlés, a köztársasági elnök tevékenysége stb.) önkormányzatok tevékenysége pártpolitika államigazgatás, közigazgatás, igazságszolgáltatás működése külpolitika, EU civil szervezetek tevékenysége, jótékonyág gazdasági aktivitás, munkaerőpiaci-helyzet oktatási szféra (az oktatás helyzete, felvételik, érettségik stb.) egészségügy helyzete szociális problémák közéleti botrányok nem közéleti botrányok bűncselekmények kisebbségek helyzete megemlékezések, ünnepek, művészeti és kulturális események balesetek, természeti katasztrófák bulvár (érdekességek, szenzációk) információs híradások</p>	<p>Socioeconomic groups Civil society and churches; syndicates and rights groups; pensioners; the unemployed; students; agricultural workers; industrial workers; service sector workers</p> <p>National and ethnic minorities, immigrants, Hungarians abroad National minorities in Hungary Ethnic minorities in Hungary (Rroma) Hungarians abroad (including emigrees) Immigrants, migrants, refugees Foreigners living in Hungary for economic reasons</p> <p>Persons with disabilities</p> <p>Gender Male / female</p> <p>Topics (related to which these appear)</p>
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The report includes statistical data on the groups monitored.

The Media Council fined media outlets for inciting or discriminatory depictions of: the homeless; the muslims; the disabled; the Roma (Article 19 Report, p. 39-40) (but the Media Council does not exercise oversight over public service media, so government campaigns run here are not discussed)

Media self-regulation: The Hungarian Publishers' Association, the Association of Hungarian Television Broadcasters, the Association of Hungarian Content Providers, the Advertising Self-Regulatory Body

All four have provisions on hate speech

“The existing bodies have received very few complaints, due principally to the changing media landscape in the country, and other societal, social, and cultural factors. These include: the gradual nationalisation of the media; an ever-decreasing number of media outlets taking part in the self-regulatory mechanisms; readers' lack of awareness of self- or co-regulatory complaints system, exacerbated by the media's failure to publicise the availability of the complaints mechanism; the absence of a culture of alternative dispute resolution in Hungary; and the lack of media literacy education.” (Article 19 Report, 43)

Population groups

Ethnic and national minorities in Hungary: Roma, Bulgarian, Greek, Croatian, Polish, German, Armenian, Romanian, Rusyn, Serbian, Slovak, Slovenian, Ukrainian

(Hungarian Central Statistical Office,

https://www.ksh.hu/docs/hun/xftp/idoszaki/nepsz2011/nepsz_09_2011.pdf)

Immigrant communities: Chinese, Vietnamese, Arab, Russian

Hungarian Central Statistical Office, languages spoken other than those of the recognized minorities:

https://www.ksh.hu/docs/hun/xftp/idoszaki/nepsz2011/nepsz_04_2011.pdf)

Religions in Hungary: Roman Catholics, Greek Catholics, Reformed, Lutheran, Orthodox, jew / israelite, baptists, Hit Gyülekezet (a pentecostal charismatic denomination), Unitarian

Social groups: see monitored groups above

Public debates over definitions

“There have been several recent attempts in Hungary to declare as unlawful verbal attacks made against a community (usually a minority group). When the Civil Code was amended in 2007, the Constitutional Court objected to such initiatives, stating that legislation of this type would result in a disproportionate limitation on the right to freedom of expression.” (Article 19 report, pl. 57.)

Boromisza-Habashi, D. (2011). Dismantling the antiracist 'hate speech' agenda in Hungary: An ethno-rhetorical analysis. *Text and Talk*, 31(1), 1–19. <http://doi.org/10.1515/TEXT.2011.001>

Koltay, A. (2013). A nagy magyar gyűlöletbeszéd - vita : a „gyűlöltre uszítás” alkotmányos mércéjének azonosítása felé. *Állam- És Jogtudomány*, 49(1–2), 91–123.

Pál, G. (2012). A GYŰLÖLETBESZÉD FOGALMA A POLITIKAI VITÁKBAN. Értelmezések és alkalmazások (Studies in Political Science No. 2) (Vol. 2). Budapest.

Pál, G. (2015). A vitathatóság keretei. A gyűlöletbeszéd fogalmának jelentésmezői és a kérdéskör metaforizációja a magyar politikai diskurzusból (Studies in Political Science). (G. Szabó & B. Zágoni, Eds.). Budapest.

Databases of legal cases and other proceedings

The OSCE

keeps a database of hate crimes reported, <http://hatecrime.osce.org/hungary>

The Equal Treatment Authority Database

<http://www.egyenlobanasmod.hu/hu/jogesetek>

The Media Council (Médiatancs) - relevant decisions and research: <http://nmhh.hu/>

The government anti-refugee campaigns: „pushing the moral panic button”

Hungary : Responding to ‘ hate speech ’. 2018 Country Report. (2018). London.

„During the last few years, ‘hate speech’ against disadvantaged groups, in particular the Roma, Jews, LGBTQI people, migrants, and asylum seekers, has been an issue of growing concern in Hungary. The rise of prejudice and intolerance in Hungarian society can be closely linked to the Hungarian government’s own policies and communications strategies, as well as the lack of political will to deal with instances of hate crime and ‘hate speech’.” (*Hungary : Responding to ‘ hate speech ’. 2018 Country Report, 2018*)

„The most frequently targeted groups are the Roma, Jews, LGBTQI people, and, most recently, migrants and refugees”

The government campaigns:

- Anti-immigration campaign in 2015 (Tudta?)
- Stop Brussels campaign against quotas
- The quota referendum in October 2016
- Anti-Soros campaign in summer 2017 (let’s not let him have the last laugh)

Barlai, M., & Sík, E. (2017). A Hungarian Trademark (a ‘Hungarikum’): the Moral Panic Button. In M. Barlai, B. Fähnrich, C. Griessler, & M. Rhomberg (Eds.), *The Migrant Crisis: European Perspectives and National Discourses* (pp. 147–169). Berlin – Münster – Wien – Zürich – London: LIT Verlag.

Bernáth, G., & Messing, V. (2016). Infiltration of political meaning-production: security threat or humanitarian crisis? The coverage of the refugee ‘crisis’ in the Austrian and Hungarian media in early autumn 2015. Budapest.

Bernáth, G., & Messing, V. (2015). Bedarálva A menekültekkel kapcsolatos kormányzati kampány és a tőle független megszólalás terepei. *Médiakutató*, XVI(4), 7–17.

„hostility and prejudices against refugees and migrants have been replicated in news and talk shows of both state-funded and many state-controlled media outlets. These media outlets have focused on and juxtaposed themes such as terrorism, the influx of migrants and refugees, the increase in crime and violent offences, and the burdens associated with providing care and services to migrants and refugees, among others” (Article 19, 10,, ref. Bernáth-Messing)

Sociological measures, surveys and reports on intolerance and prejudice

Ádám, K. (2016) The highest-ever levels of xenophobia in Hungary. Research commissioned and published by online news portal *Index.hu*. 11 November; available from: <http://bit.ly/2g4fu3y>.

Arabs surpass the Roma for the first time

Hann Endre, Róna Dániel (2018): Antisemitic Prejudice in Contemporary Hungarian Society https://tev.hu/wp-content/uploads/TEV_Antisemitizmus-Median_72dpi-2.pdf

International bodies, NGOs and campaigns

Such reports recurrently note that „Rhetoric based on hatred and divisiveness, however, constitutes an integral part of contemporary Hungarian public discourse.” (Article 19 report, 10)

Media against Hate, a campaign of the European Federation of Journalists, supported by the Rights, Equality and Citizenship Programme of the EU <http://europeanjournalists.org/mediaagainsthate/>

European Union Fundamental Rights Agency (2013) Racism, discrimination, intolerance and extremism: learning from experiences in Greece and Hungary. Thematic Situation Report. Luxembourg: Publications Office of the European Union.

European Commission Against Racism and Intolerance (2015) ECRI Report on Hungary (fifth monitoring cycle), para 56. Strasbourg: Council of Europe. Available from: <http://bit.ly/2tfKMgj>.

Amnesty International Annual Report for Hungary 2017–18; available from: <http://bit.ly/1OPGBvn>.

Human Rights Watch (2016) Hungary’s xenophobic anti-migrant campaign, 13 September; available from: <http://bit.ly/2d2IVVj>.

Byrne, A. (2017) Hungary’s Jews recoil at Fidesz portrayal of George Soros, Financial Times, 8 July; available from: <http://on.ft.com/2tsKYc6>.

Initiatives on online hate speech

Social media is not subject to media regulation, but there is intermediary liability for media organisations if they enable the publication of unlawful third-party content on their sites (including reposts, links and comments)

The National Media and Infocommunications Authority operates a hotline where racist content, incitement, harassment etc. can be reported (than they call upon the content provider to remove it): <http://nmhh.hu/internethotline/>
The site also provides legal definitions of violent content, harassment, racism, incitement [could not find any report on complaints]

There are several initiatives dedicated to monitoring antisemitism:
Action and protection Foundation, tev.hu

Summary: the recurrent target groups

A „hard” definition of target groups of hate speech can be derived from the groups protected from hate crimes by the law. These are **national, ethnic, racial, religious and „other” groups, of which the law mentions groups based on handicap, gender identity and sexual orientation.**

A wider definition that can still be operationalized straightforwardly: groups against which there is prejudice and intolerance, as measured by sociological analyses. This definition relates to the legal definition of violence against members of groups.

LIST of TARGETS

- **Ethnic and national minorities** in Hungary: Roma, Bulgarian, Greek, Croatian, Polish, German, Armenian, Romanian, Rusyn, Serbian, Slovak, Slovenian, Ukrainian
- **Jews and Soros**
- **Immigrant groups** in Hungary (languages spoken): Chinese, Vietnamese, Arab, Russian
- **Migrants, Refugees**, Asylum seekers
- **Gender** identity or sexual orientation: LGBTQ people;
- **Religious** groups in Hungary: Roman Catholics, Greek Catholics, Reformed, Lutheran, Orthodox, jew / israelite, baptists, Hit Gyülekezete (a pentecostal charismatic denomination), Unitarian
- **Disability** / handicap types (“fogyatékos”): blind (vak), deaf (hallássérült és siket), locomotor disabilities (*these are probably rather slurs than actual target groups in social media*)
- **Other social** vulnerabilities: homeless (hajléktalan), alcoholic, unemployed

Other possible targets (or sources of slurs?)

The media monitoring agency fined a television for inciting hatred against an **NGO** (http://nmhh.hu/cikk/191664/Civil_szervezetek_elleni_gyuloletkelto_tartalom_az_Echo_TVben)

Political groups: designations of political opponents tend to be offensive, even hateful (eg. “libbant”, cca liberal + crazy, feminazi etc.)

Gender designators: man / woman

Age designators