

## SUBMISSION BY HÁTTÉR SUPPORT SOCIETY FOR LGBT PEOPLE IN HUNGARY FOR THE OSCE ODIHR 2010 ANNUAL REPORT ON HATE CRIMES

April 1, 2011

Both research data as well as a growing number of calls to our counseling hotline and legal aid service suggest that homophobic and transphobic hate crimes are on the rise in Hungary. While in previous years the most characteristic form of violence against LGBT people were organized attacks against the gay pride marches by extreme right-wing groups, in the past two years heightened security measures meant that violent anti-gay protestors did not have the chance to get close enough to the march to attack its participants. Sporadic attacks against those leaving the march and homophobic attacks not linked to the pride march, however, remained frequent.

Besides the high number of incidents, problems also arise from the soft and unprofessional responses to hate crimes on behalf of law enforcement agencies. While problems with police and court proceedings are similar across all victims groups, the fact that the law covers homophobic and transphobic hate crimes only most recently (since February 2009) and only indirectly (as incidents against “certain group of the population”) means that the problems identified in relation to other groups are even more prominent in cases of violence against LGBT people.

The most important problems in relation to dealing with homophobic and transphobic hate crimes in Hungary are the following:

1. **Latency.** Much of the violence against LGBT people remains unreported. Distrust in the police, fear of having to reveal one’s sexual orientation and fear of secondary victimization by the police hinders reporting.
2. **Hierarchy of grounds.** Article 174/B of the Criminal Code punishes “violence against a member of a community”, but the list of protected grounds does not specifically include sexual orientation or gender identity, it is covered only by the general “certain group of the population” provision; homophobic and transphobic hate crimes are thus made invisible by law.
3. **Disregard for hate motive.** The police and other authorities often fail to take account of the bias motivation behind the incidents, and investigate them – if at all – as simple assault with significantly lower sanction.
4. **Lack of police protocol.** There exists no protocol or tactical guidance for the police on how to deal with hate crime cases; techniques based on hate crime indicators are not used.
5. **Lack of training.** Police receive no training as part of their basic training or in the form of advanced training that teach them how to effectively investigate hate crime cases, and how to deal with vulnerable victim groups.
6. **Problems with data collection.** There is no common definition for hate crimes in criminal statistics, the figures regularly reported do not include incidents that end with death of the victim, or in which the crime is against property. Data is not segregated by victims groups (grounds).



**Háttér Support Society for LGBT People in Hungary**, founded in 1995, is the largest LGBT NGO in Hungary. It operates a telephone hotline, a legal aid service, an HIV/AIDS prevention program and an archive documenting the history of the LGBT movement in Hungary. Besides its core activities Háttér regularly participates in research and training projects and is actively involved in lobbying for advancing the rights of LGBT people through legal change. Háttér is founding member of the Hungarian LGBT Alliance, and active member of ILGA-Europe.

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## **Research data:**

The Institute of Sociology of the Hungarian Academy of Sciences and Háttér Support Society for LGBT People in Hungary with the financial support of ILGA-Europe's Human Rights Violations Documentation Fund conducted a survey in 2010 on the situation of LGBT people and their experience of discrimination and violence. The study used a targeted community sample methodology: the questionnaire was available online from September 15 to November 30, 2010, and personal interviews were made at venues and events frequented by LGBT people during the same period. The questionnaire contained several blocks, one devoted specifically to experiences of homophobic and transphobic violence. The block contained questions about previous experiences of violence, the forms of violence suffered, the perpetrator and location of the incident, the willingness to report, as well as awareness of legislation on hate crimes. The block on violence was completed by 1674 respondents.

According to the research results 15.6% of respondents have been victims of violence, 4.4% within the past 12 months. Violence against trans respondents were significantly higher (26.2% in their life, 11.7% within the 12 months). The most common forms of violence were verbal harassment (113 respondents) and threats of violence (67); but being assaulted (19), chased (18), and having things thrown at (16) was also common.<sup>1</sup> Crimes against property which are not currently included in the legal definition of hate crime were also common: 24 respondents received hateful graffiti, 12 were robbed, and 12 had their property damaged for reason of belonging to the LGBT community. In most cases perpetrators were unknown to the victims (73.6%), but violence by colleagues and schoolmates were also common (30.3%). The incidents happened most often on the streets or in public transportation (67.6%), but the LGBT Pride March (29.7%), the surroundings of gay venues (25.7%) and schools (28.4%) were also often mentioned.

Only 13.4% of respondents reported the incidents to the police. The most common reasons for not reporting were "Nothing could have been done" (51.8%) and "I didn't have trust in the work of the authorities" (44.1%), but the number of those that said "I was afraid I would get to an even worse situation" (35.9%), "I was afraid of being humiliated and hurt" (26.4%), "I was afraid of being outed" (23.2%) and "I was too ashamed to tell" (23.2%) was also significant. Of those that reported 19 respondents said that an investigation was started, but nothing happened, and 7 said the police did not do anything about the incident. The perpetrators were convicted in only 4 cases.

A particularly alarming finding is that only 3.8% of respondents reported they know the details of the hate crimes legislation, 16.7% said that they more or less know it, 43.2% said they heard something about it, but do not know the details, while 35.5% of respondents have not even heard that hate crime legislation also covers homophobic and transphobic incidents.

## **Cases reported:**

Below is a list of selected cases reported to our organization.

### **Case 1**

On June 13, 2010 in the early hours V.B.<sup>2</sup> was returning home from a club in Budapest widely known as a gay venue. Just a few blocks from this venue, he passed by Klub64, a venue operated by László Toroczka, head of the Sixty-Four Counties Youth Movement. The venue defines itself as

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<sup>1</sup> Respondents might have been victims to several attacks with different forms of violence, by different perpetrators at different locations; the percentages show proportions in terms of respondents, not in terms of incidents.

<sup>2</sup> Initials changed to protect the victims' anonymity.

a „national club” where well-known extreme right-wing musical groups (including Fejbőr (Headskin), Romantikus Erőszak (Romantic Violence), Hun Vér (Hun Blood)) often perform. When passing by Klub64 V.B. was hit several times without any warning, while his attackers shouted „dirty fagot”. V.B. lost his consciousness; he suffered injuries healing over eight days, he needed dental care over a longer period of time.

V.B. reported the case to the 7<sup>th</sup> District Police Station, where he was told that in case his injuries heal within eight days an investigation would be only started if he filed a private motion, while the police will automatically start the investigation if the injuries heal over eight days. He was requested to call the police once the medical examination was completed. He was not informed of the fact that in case he was victim of a hate crime there is no need for filing a motion. Upon the completion of the medical examination he informed the police that his injuries would heal in over eight days.

V.B. reported his case to the LGBT media. The Police published a press release claiming that his injuries would heal in less than eight days, and that the victim did not want to file a motion. The police press release did not touch upon the circumstances of the case which indicated an incident motivated by homophobic hate.

## **Case 2**

The 15<sup>th</sup> Budapest Pride LGBT Film and Cultural Festival opened on July 4, 2010 at Művész Film Theater. To protest against the event, several people with clothing characteristic of extreme right-wing movements appeared in the area surrounding the theater, and were verbally harassing people who were approaching the theater. In one occasion they tried to remove the rainbow flag marking the Festival at the entrance of the theater. As atrocities were expected, there were several policemen stationed in the area. Rather than acting against those who harassed participants and wanted to remove the flag, a policeman suggested to the organizers to remove the “fagot flag” because it provoked the protesters.

R.C. was heading to the opening ceremony when in one of the nearby streets he was verbally harassed and hit. Following the incident several policemen appeared on the site, but even though the perpetrator had not left the area, rather than seizing the perpetrator they surrounded the victim and started to question him aggressively. It was only thanks to LGBT activists present nearby, who started to chase the perpetrators and call the attention of the police to their presence that the perpetrators were caught by the police. R.C. suffered light injuries healing within eight days. The police asked R.C. on the spot if he wants to file a motion, he – still in shock from the incident and the threatening questioning by the police – refused it. R.C. was not informed that in case the incident was a hate crime there is no need for filing a motion.

Háttér – whose activists were at the scene and thus had firsthand experience of the police’s behavior – submitted a complaint to the police about the unprofessional handling of the case. The police report found that no mistakes had been made. Later the witnesses of the incident were questioned by the police implying that the police re-qualified the incident and started investigating it as a hate crime.

## **Case 3**

M.L. and Z.T. are two Australian young men who visited Budapest as tourists. On July 4, 2010 they were taking a walk around the area of Octogon, at the same time as the opening ceremony of the 15<sup>th</sup> Budapest Pride LGBT Film and Cultural Festival was taking place in the nearby Művész Film Theater, with several people linked to the extreme right-wing being present in the area. Not knowing anything about the event M.L. and Z.T. were waiting at a pedestrian crossing for the light to turn green, hugging each others’ shoulder. They noticed a group of younger people opposite to

them who were staring at them constantly. After the light turned green they met in the middle of the crossing and the group started hitting and kicking them, and then jumped on the nearby tram. The tourists' valuables were not touched. Covered in blood, the two victims ran to a toilette in a nearby restaurant from where they called the police. M.L. suffered severe injuries healing in more than eight days, including a ruptured nose; Z.T. suffered lighter injuries.

The policemen stationed nearby to protect the opening ceremony arrived to the scene first, and started questioning the victims. During the interrogation one of the policemen asked his colleague "maybe they were those from the Jobbik [extreme right-wing political party]?" and started asking questions from the victims if the perpetrator wore military trousers. His colleague stopped him saying "let it go, it must be a robbery". While M.L. was being examined in the hospital Z.T. was questioned by the police. During the interview the only questions related to the potential hate motive behind the incident were about what the perpetrators said; since the tourists did not speak the language this they could not respond to. Upon the completion of the official interview the sexual orientation of the victims was brought up, and Z.T. mentioned they had been hugging each other while waiting. This information did not make it to the official record of the interview. M.L. was questioned the day after, there were no questions related to the potential hate motive behind the incident. Z.T. who only suffered lighter injuries was asked if he wanted to file a motion, which implies that at this stage the police did not consider it a hate crime.

#### **Case 4**

R.D. was heading home after the Budapest Pride gay pride march held on July 10, 2010. He got on the metro line M3 at Deák tér where he was taken by a special train carrying only participants of the pride march (thus he was easily identified as coming from the march). There were several other people coming from the pride march on the same metro train. The participants noticed early on a group of 3-5 young men who were staring at those coming from the march. R.D. heard them saying comments about him among themselves. In order to avoid the atrocity, R.D. decided to get off the train earlier than planned at Kálvin tér. The group followed him and three of them started hitting and kicking the victim, who fell to the floor. Two of the perpetrators escaped, while the third one was seized by employees of the Budapest Transport Company. Even though R.D. clearly identified him as his attacker, they let him go. R.D. suffered injuries healing in less than eight days.

After the medical examination R.D. went to the 9<sup>th</sup> District Police Station to report the crime. The police started investigating the case as a hate crime from the very beginning, but the police involved in the procedure were exhibiting uncertainty and unease on several occasions. One of the first questions of the first policemen to deal with the case for example was "and, eghm, oh my God, how should I ask this, well why do you think it happened?" The police leading the interrogation on the other hand said the following sentence when he learnt the victim was gay: "I don't have any problems with gays, my wife has several gay friends, but they are completely normal, it's not the same category as those in the City Park, those gipsy whores who pick this up in prison."

#### **Case 5**

On July 22, 2010 a right-wing news portal published photos of the gravestone for Károly Kertbeny covered in black and with a quotation from the Bible "If a man also lie with mankind, as he lieth with a woman, both of them have committed an abomination: they shall surely be put to death; their blood shall be upon them (LEV 20.13)". The gravestone was erected in 2002 by the Hungarian LGBT movement in the Kerepesi cemetery to commemorate Kertbeny's contribution to the LGBT movement for coining the words "homosexual" and "heterosexual" in the 19<sup>th</sup> century. Rainbow Mission Foundation reported the incident to the police. The police refused to investigate the case arguing that no material damage had been done to the gravestone, and the incident cannot be considered incitement to hatred (Article 269 of the Criminal Code), because it was not done

publicly and did not contain a call for violence. Upon complaint, the police changed its opinion on the publicity aspect, but maintained the argument that the incident did not amount to incitement to hatred as the call for violence was not concrete enough, and the risk of actual violence was not imminent. The case was closed without investigation.

### **Practical initiatives:**

Funded by the European Union Progress Programme and commissioned by the Ministry of National Resources, Háttér Support Society for LGBT People in Hungary developed a two-day training curriculum for police on dealing with homophobic and transphobic hate crimes in the summer and fall of 2010. The training program sensitizes the participants to recognizing discrimination and bias against LGBT people in police proceedings, familiarizes them with the notion of hate crimes and its specific forms against LGBT people, and teaches practical skills and competences that are needed to give effective response to hate crimes and deal in a supportive way with this vulnerable group of victims. A 50 page booklet containing the material of the trainings was also published.

The training curriculum was tested at a pilot training held on October 19-20, 2010 with the participation of 17 police officers from all around the country. Recruitment for the pilot training was organized by the Department of Crime Prevention of the Budapest Police. Participants highly appreciated the training, both its practical nature as well as its focus on a group of people that hardly ever gets attention in police training.

Háttér is currently investigating how to deliver the training for a wider range of police officers, either as specialized advanced trainings or as part of police basic training.

### **Other developments:**

On June 25<sup>th</sup>, 2010 László Toroczkai, head of the Sixty-Four Counties Youth Movement was charged for preparation for violence against a member of a community and preparation for the violation for freedom of association and assembly. The investigation was started upon the motion of the organizers of the gay pride march (Rainbow Mission Foundation), who in September 2009 reported to the police that an article was published on one of the extreme right-wing news portals in which Toroczkai called for violently disturbing the 2009 march similarly to previous years, and described that he had started negotiations with several groups on how to disturb the march. Following the official charge in June 2010, Toroczkai was found guilty by the court for preparation for the violation for freedom of association and assembly on March 22, 2011, and he was convicted for two years on probation. This was the first judgment of its kind since the introduction of this new crime in February 2009. The decision is not legally binding, the defendant appealed for acquittal, while the prosecutor appealed for higher sanctions.