

How the new anti-LGBTI legislation in Hungary actually violates children's rights, instead of protecting them

[Blog](#), [Civil Rights and Freedom](#), [Children](#), [Freedom of Expression](#), [Hungary](#)

The Hungarian parliament has recently passed an anti-LGBTI bill censoring communication about LGBTI people to under-18s. This means that LGBTI-related content will be banned in schools and children's media, and from public spaces. Viktor Orban's government claims this bill will protect children, but the truth is that it's an attack on children's rights as well as the rights of LGBTI people. Here's why.

Since June 15 2021, when [Hungary adopted new legislation](#) censoring communication about LGBTI people to minors, strong reactions and support for LGBTI communities have come from all around the world. The President of the European Commission [Ursula von der Leyen](#) called Hungary's new bill "a shame" and promised punitive action. European Commissioners for Justice and the Internal Market sent a [letter to the Hungarian Justice Minister](#), raising concerns over the potential breach of the EU's Charter of Fundamental Rights.

While the statements by heads of states and Ursula von der Leyen, as well as the official letter by the European Commission are important first steps, it's important for them to translate in political action of real change. We have analysed the impact of the Hungarian amendments in the frame of children's rights and there's one clear conclusion:

International law on children's rights is clear: these amendments are in violation of Hungarian commitments to the international law framework, and must be repealed.

Five ways Hungary's bill violates children rights

1. In the context of international law, children are guaranteed education programmes that promote the development of their health, including on issues related to sexuality as well as access to information regarding their sexual development. The Committee on the Rights of the Child has repeatedly asserted the rights of children to comprehensive sexuality education, including on the full diversity of sexual orientations, gender identities, and sex characteristics. For example, in 2003, the [Committee noted that](#):

"State obligation to realise the right to life, survival and development also highlights the need to give careful attention to sexuality as well as to the behaviours and lifestyles of children, even if they do not conform with what society determines to be acceptable under prevailing cultural norms for a particular age group."

This view was reiterated by the U.N. Special Rapporteur on the Right to Education [Vernor Mufioz](#) in 2010.

2. In 2009, [the Committee on the Rights of the Child further noted](#), in the context of the right to be heard, that:

"Freedom of expression relates to the right to hold and express opinions, and to seek and receive information

through any media. It asserts the right of the child not to be restricted by the State party in the opinions she or he holds or expresses. As such, the obligation it imposes on States parties is to refrain from interference in the expression of those views, or in access to information, while protecting the right of access to means of communication and public dialogue.”

3. In 2007, the European Committee on Social Rights heard a complaint against Croatia regarding teaching of sexuality education which described homosexuality as ““against the nature of sexual act[s]”. In its judgment, [the ECSR noted](#):

“In the context of the right to protection of health through the provision of sexual and reproductive health education as set out in Article 11§2, this positive obligation extends to ensuring that educational materials do not reinforce demeaning stereotypes and perpetuate forms of prejudice which contribute to the social exclusion, embedded discrimination and denial of human dignity often experienced by historically marginalised groups such as persons of non-heterosexual orientation. The reproduction of such state-sanctioned material in educational materials not alone has a discriminatory and demeaning impact upon persons of non-heterosexual orientation throughout Croatian society, but also presents a distorted picture of human sexuality to the children exposed to this material. By permitting sexual and reproductive health education to become a tool for reinforcing demeaning stereotypes, the authorities have failed to discharge their positive obligation not to discriminate in the provision of such education, and have also failed to take steps to ensure the provision of objective and non-exclusionary health education.”

4. When similar legislation was adopted in Russia in 2013, the so-called ‘anti-propaganda law’, the Venice Commission adopted an [opinion](#) on its legality, noting that “homosexuality as a variation of sexual orientation, is protected under the ECHR and as such, cannot be deemed contrary to morals by public authorities, in the sense of Article 10 § 2 of The ECHR.”

5. The European Court of Human Rights ruled in 2017 that the Russian “anti-propaganda” law (which the Hungarian amendments closely resemble), [noting that the law](#):

“...is an example of such predisposed bias, unambiguously highlighted by its domestic interpretation and enforcement, and embodied in formulas such as “to create a distorted image of the social equivalence of traditional and non-traditional sexual relationships” (see paragraph 34 above) and references to the potential dangers of “creating a distorted impression of the social equivalence of traditional and non-traditional marital relations(...) Even more unacceptable are the attempts to draw parallels between homosexuality and paedophilia.”

6. Dunja Mijatović, Council of Europe Commissioner for Human Rights, in her human rights comment on comprehensive sexuality education, [says](#):

“By providing factual, non-stigmatising information on sexual orientation and gender identity as one aspect of human development, comprehensive sexuality education can help save lives. It can contribute to combating homophobia and transphobia, at school and beyond, and to creating a safer and more inclusive learning environment for all.”

Based on this statement, [Commissioner Mijatović rapidly condemned](#) the current Hungarian legislation.