How Hungary's Pride Ban Tests the EU's Commitment to Democracy

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02.04.2025 doi: 10.59704/96dfd1f203d84cd6

On March 18, 2025, the Hungarian Parliament passed legislation aimed at protecting children from assemblies that promote homosexuality. Although the amendment imposes general limitations on freedom of assembly, it is commonly understood as a ban on the LGBTQ+ Pride march, just ahead of the 30th anniversary in 2025. The new law amends the act of freedom of assembly (Act LX of 15), the act on misdemeanours (Act II of 2012), and the act on the use of facial recognition (Act CLXXXVIII of 2015). The new law also criminalizes attempts to circumvent this ban, making it a misdemeanour to organize, lead, or participate in such assemblies. Facial recognition may be used to prevent, thwart, investigate, interrupt, or sanction gatherings that fall within the scope of the prohibition.

The new law purposefully violates European human rights standards on freedom of assembly and LGBTQ+ rights, as well as fundamental values of the European Union, such as the rule of law and democracy (Article 2 TEU). From the outset, the Hungarian government made it clear that the *measures mean to defy European standards* (labelled as Brussels' demands) in order to protect children from "aggressive LGBTQ propaganda." In doing so, the Hungarian government presented an open invitation to European constitutional actors (including the European Commission) to address these new restrictions on freedom of assembly and LGBTQ+ rights in terms of a violation of democracy and the key commitment to the basic terms of Union membership as set out in Article 2 TEU.

The subject of these restrictions on political participation, the manner in which they were enacted, and their regressive impact call for a robust legal response grounded in the defense of democracy as a European value. The legal and institutional foundations for such a response already exist. It is now incumbent upon European constitutional actors to activate the mechanisms that protect democracy as a founding value of the Union in the face of a clear, frontal attack by a recalcitrant member state.

Background and context: A spring cleaning to remove stinkbugs

The new law restricting freedom of assembly and LGBTQ+ rights was passed with remarkable efficiency, even by the standards of an electoral autocracy. The bill was introduced on March 17, signed into law on March 18, and the ban itself took effect the day after promulgation. The remaining provisions will enter into force on April 15, 2025.

Senior governmental actors and Fidesz politicians have been preparing the ground for these restrictions for weeks. On February 22, in his annual State of the Nation speech (titled the *Year of Breaking Through*), Prime Minister Orbán declared:

> *"We must not yield, we must not give up on protecting our children. Dragging us before a court in Luxembourg will be of no use to them. In fact, I suggest that on this we go on the counter-attack. Let us write into the [Fundamental Law] that a person is either male or female. Full stop. In fact, I advise the Pride organizers that they should not bother preparing for this year's parade. It would be a waste of time and money – no matter what Distriktskommandant Weber and his Hungarian agents say."*

In the following days, senior governmental actors and Fidesz politicians started sharing ideas about potential restrictions on the Pride march, with ideas ranging

from moving the event indoors to a complete ban. When journalists inquired about the government's exact plans, the Government Communication Agency responded that further measures are required to protect children, confirming that the existing legal framework on public assemblies did not permit banning the 2025 Pride. Meanwhile, public discourse became increasingly hostile, with officials stigmatizing the LGBTQ+ community and vilifying its allies and supporters. In a speech on March 15, a national day of commemoration of the 1848 revolution, Prime Minister Orbán announced an "easter cleaning" that would remove the "stinkbugs" (*poloska*) of "politicians, judges, journalists, bogus civil society organisations and political activists" financed by "corrupt dollars." He continued: "We have had just about enough of them. The spring winds bring flood water, let it carry them off... They wear the scarlet letter, their fate will be shame and contempt. If there is justice, and there is, there is a special place in hell for them. We know you."

By Monday, the bill banning Pride was introduced along with a motion for expedited processing in Parliament. Following a wave of allusions and threats, the *spring cleaning* had officially begun.

Defying European human rights standards

In general terms, the new restrictions on freedom of assembly and LGBTQ+ rights seek to give effect to a provision protecting children from pornographic or otherwise inappropriate content concerning sexuality in the *Act on the Protection of Children and Guardianship Administration* (Act XXXI of 1997, Article 6/A) that was introduced in 2021 in an effort aimed at "taking more severe action against paedophile offenders and amending certain Acts for the protection of children."

The new Hungarian restrictions on freedom of assembly clearly violate European human rights standards, as they were set out in 2017 by the European Court of Human Rights (ECtHR) in *Bayev v Russia*, a case that involved restrictions on demonstrations under various Russian laws banning so-called propaganda of homosexuality to children (i.e. the rules that served as the model for the new Hungarian ban). They also restrict the right of children to access age-appropriate information on sexuality and sexual orientation, as confirmed by the ECtHR in Macate v Lithuania in 2023. In *Bayev,* the ECtHR reminded that the "Court has consistently declined to endorse policies and decisions which embodied a predisposed bias on the part of a heterosexual majority against a homosexual minority" (§ 68). Importantly, the Court found in the case that "[t]o the extent that the minors who witnessed the applicants' campaign were exposed to the ideas of diversity, equality and tolerance, the adoption of these views could only be conducive to social cohesion" (§ 82).

These standards are well known to the Hungarian government and Parliament from the ongoing European dialogue triggered by Hungary's 2021 legislative amendments, which introduced Russian-style restrictions on the "propaganda" of homosexuality into the *Act on the Protection of Children* in 2021 (i.e. the provision which the new law seeks to further entrench). In December 2021, the Venice Commission found the 2021 Hungarian child protection measures highly problematic "due to their broad application and ambiguous interpretation [this provision] provid[es] only for a one-sided choice to ignore the existence of diverse sexual orientations and gender identities and discriminate and stigmatise LGBTQI people." The Venice Commission's 2021 opinion echoes the July 2021 resolution of the European Parliament stating that "the conflation of sexual orientation and gender identity with paedophilia or attacks on children's rights displays a clear attempt to instrumentalise human rights language in order to enact discriminatory policies; considers this to be contrary to international human rights principles and norms."

The new Hungarian law has a calculated chilling effect targeting the organizers and participants of any assembly that may be understood by the authorities as a pro-LGBTQ+ demonstration convened in an effort to subvert the ban. Framed as a safeguard against the abuse of the right to freedom of assembly, this specific new misdemeanour on subverting the ban on illegal assemblies directly contradicts a generous (i.e. not restrictive) interpretation of the right that would make its exercise "practical and effective." The extension of

restrictions to assemblies deemed subversive is particularly troublesome: it moves beyond the realm of the 'classic' chilling effect to a form of anticipatory obedience and policing thoughts reminiscent of *1984*.

As a further deterrent, the legal safeguards on the preventive use of facial recognition technology have been weakened, reinforcing the severity of the ban. Such a use of facial recognition technology, when combined with personal data was found highly problematic by the ECtHR in *Glukhin v Russia* in 2023, even when used in the context of administrative offences (like in the case of the new Hungarian law).

Defying European values

In December 2022, the European Commission initiated infringement proceedings against the 2021 amendment of the child protection act for a violation of Article 2 TEU values and several provisions of secondary EU law (Case C-769/22). The Commission's infringement action is supported by fifteen member states (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Luxembourg, Malta, the Netherlands, Portugal, Slovenia, Spain and Sweden) across the Union – demonstrating unprecedented support for the Commission's efforts to protect European values. In his State of the Union address, Prime Minister Orbán left no doubt that the Hungarian government seeks to openly confront the Commission and its supporters.

The new ban on freedom of assembly defies European values: it presents a frontal attack not only on the rule of law but also on democracy – an Article 2 TEU value that the Commission and the CJEU have largely avoided addressing during the past long decade of democratic backsliding. Thus far, the Commission has focused its efforts on tackling what has been termed the rule of law crisis (in an effort to keep the response manageable and surgical). However, such a forensic approach appears ill-suited to the current challenge, as illiberal actors within the EU—emboldened by the second Trump presidency—escalate their attacks on European values and the building blocks of the European public order.

To be sure, the Hungarian law restricting freedom of assembly and LGBTQ+ rights follows the familiar pattern of rule of law violations.

- The ban seeks to enforce a vaguely worded provision inserted into the *Act on the Protection of Children* in 2021, inviting the abuse of discretionary powers. The new *abuse of freedom of assembly* provision is even more imprecise and elusive, and thus prone to overreach and abuse.
- The instant entry into force of the key provisions does not even attempt to keep a pretence of allowing a reasonable preparation period for such a consequential legal change. The Prime Minister's State of the Nation address made it clear that the government intends to ban the 2025 Pride.
- As the bill was passed through an expedited process in Parliament, there was no meaningful parliamentary debate or deliberation and no public participation in the legislative process. The debate was confined to the Committee on Legislative Affairs rather than taking place in the plenary, thereby undermining the nominal transparency of the legislative process. The parliamentary opposition's role was restricted to symbolic protests as the votes were cast, and the governing majority – predictably – prevailed. Opposition MPs resorted to igniting smoke bombs in an effort to grab some media attention, a gesture that was heavily sanctioned for violating the rules of parliamentary decorum.

At the same time, such silencing of parliamentary debate and the exclusion of public participation in the enactment of a measure restricting freedom of assembly—an essential political right—constitutes a *profound violation of democracy as a value protected expressly by Article 2 TEU*. It further exacerbates the violation that this legislative process unfolded against the backdrop of a public discourse that openly attacked, stigmatized and dehumanized those members of the political community seeking to exer-

cise their right to assembly in support of LGBTQ+ rights.

Freedom of assembly is protected under Article 12 of the EU Charter of Fundamental Rights. The connection between the exercise of this right and living in a democracy has been recognized by the long-standing case law of the ECtHR. As restated recently in *Kudrevičius and Others v. Lithuania*, "the right to freedom of assembly is a fundamental right in a democratic society and, like the right to freedom of expression, is one of the foundations of such a society. Thus, it should not be interpreted restrictively." (§ 91) It is worth recalling that when discussing the impact of demonstrations in the public square supporting LGBTQ+ rights in *Bayev v Russia*, the ECtHR underscored that "the Convention does not guarantee the right not to be confronted with opinions that are opposed to one's own convictions." (§ 81)

The new Hungarian law was passed in a context where the most senior constitutional actors, starting with the Prime Minister himself, openly engaged in the demonization and dehumanization of those who participated in Pride marches on multiple public occasions. The complete ban on Pride clearly questions the equal worth and dignity of individuals who support LGBTQ+ rights. By excluding them from the public sphere, the measure effectively denies their full membership in the Hungarian – and therefore the European – political community.

Presented by Prime Minister Orbán as a frontal attack on "Brussels" and European values, this measure demands a response that activates the protection of the value of democracy (as featured in Article 2 TEU), possibly in conjunction with Article 10 TEU. The fact that the new law seeks to give effect to a legal provision that is currently subject to infringement action (in a case where 15 member states support the Commission's efforts protecting EU values) constitutes a clear violation of the principle of loyalty and the principle of sincere cooperation under Article 4(3) TEU, further underscoring the need for a robust response.

Deliberate retrogression of European values and human rights standards

The new ban on freedom of assembly is a significant regression in the protection of LGBTQ+ rights and freedom of assembly in Hungary. To date, this ban is the most retrogressive measure affecting the rule of law, democracy, and human rights since Hungary's accession to the European Union in 2004. It represents a clear departure from Hungary's commitment to maintain and further the realisation of Human Rights and Fundamental Freedoms under the ECHR. It also violates Hungary's initial commitment to the European Union's founding values, as set out in Article 2 TEU.

Since 2021, the CJEU has emphasized that the founding values of the Union are "common to the Member States" and that respect for the founding values of the Union was a prerequisite of accession to the Union; Member States are not at liberty to reverse their commitment to these values after accession (C-896/19, *Repubblika,* para 63) and the Union retains the powers to defend these values in order to defend its legal order (Case C-156/21 *Hungary v European Parliament and Council of the European Union*, §§ 124-127). The CJEU's recent case law anchors the prohibition of retrogression in the Member States' free and voluntary political commitment to the European Union's founding values (Article 2 TEU) at the time of accession to the Union (*Repubblika,* §§ 61- 63). In the words of the CJEU, "Member States are thus required to ensure that, in the light of that value, *any regression of their laws* on the organisation of justice *is prevented, by refraining from adopting rules* which would undermine the independence of the judiciary" (*Repubblika*, § 64).

In 1996, the Constitutional Court recognized that children deserve protection to make an informed and responsible decision regarding their expression of homosexuality (21/1996 (V. 17.) AB decision). In 2025, the Pride march and cultural festival was preparing to mark its 30th anniversary. This is the first time that a content-based restriction – purportedly protecting children from exposure to sexuality or homosexuality

– was explicitly incorporated into the Hungarian law on freedom of assembly. This much was admitted by several governmental actors as they contemplated in public the need to introduce a new, specific thematic restriction to the assembly law.

To date, the CJEU focused on regressive measures impairing judicial independence and – consequently – on the rule of law. As President Koen Lenaerts of the CJEU explained in an academic article, the rationale behind this new line of cases is as follows:

> *"The essence of the rule of law draws inspiration from the Europeans' common struggle to find liberty, democracy and justice by fighting the tyranny of those who want to remain in power at all costs. … [T]he prohibition of value regression implies that authoritarian tendencies can never form part of the EU's common constitutional space. … Whilst that level of value protection may always be improved, it may not suffer value regression. This is an important development in the case law of the Court of Justice, which shows beyond any doubt that authoritarian tendencies at national level have no room in the EU." (emphasis added)*

The same rationale applies to other Article 2 TEU values, including democracy. The new Hungarian law highlights the practical significance of defending democracy and protecting it from deliberate measures aimed at rolling back standards of protection that were in place at the time when a Member State joined the Union.

Conclusion

The new Hungarian law restricting freedom of assembly and LGBTQ+ rights occupies a curious position at the intersection of Russian-style human rights restrictions and the defence of traditional Christian values, framed within the paradigm of common good constitutionalism – a school of thought that is particularly influential among the MAGA right in the US. There is no doubt that the new Hungarian law violates European human rights standards as well as the founding values of the Union (Article 2 TEU). It was adopted with a clear intent to do so. It therefore calls for a robust response aimed at defending democracy – one of the Union's founding values.

Research for this post was conducted in the framework of the Towards Illiberal Constitutionalism in East Central Europe project, funded by the Volkswagen Foundation. This post was written in the framework of the Jean Monnet Network PROSPER.

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SUGGESTED CITATION

Uitz, Renáta: How Hungary's Pride Ban Tests the EU's Commitment to Democracy, Verfassungsblog, 02.04.2025, doi: 10.59704/96dfd1f203d84cd6.

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Langzeitarchiviert bei IntRechtDok unter: doi.org/10.17176/20250403-012108-0.