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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

HUNGARY

EXPLANATORY REPORT

TO ACT LXXIX OF 2021*

**Non-official translation*

Reasoning

1-2., 6-7. The State has an obligation, derived from the Fundamental Law, to establish rules laying the foundations for a legislative environment and institutional system which guarantee the protection necessary for the physical, mental and moral development of children and the preservation and safeguarding of the child's identity, which is immutable from birth. In order for the legislature to comply with this, it is necessary to establish, in addition to the general rules laid down in the Fundamental Law, tangible rules which can be applied in practice, through which the protection of the values referred to can be achieved. It is conceivable that some content should be presented to children at an age-appropriate time for their healthy psychological and intellectual development. There are types of content which children may – at a certain age – misunderstand or which may adversely affect their development at that age, or simply the children cannot do anything about it and, therefore, it confuses the moral values of the developing child or even their image of themselves and the world.

On this basis, in the spirit of the Fundamental Law and in order to safeguard the healthy physical and mental development of children, the amendment defines the content which it is necessary to ensure that children do not encounter via the different interfaces (see media, advertising).

With the above intention in mind, the proposal amends Act XLVIII of 2008 on the basic requirements and certain restrictions of commercial advertising activities in such a way that it will be prohibited to make available to persons under the age of eighteen advertisements which depict sexuality for their own purposes, or which promote or present any deviation from identity aligning with sex at birth, gender reassignment and homosexuality. The amendment of the Act on media services and mass media (Mttv.) ensures that a programme which is a determining element in the deviation from identity aligning with sex at birth, gender reassignment, and in the promotion, presentation and self-serving representation of homosexuality should be classified in category V. As a result of the proposal, advertisements should also be classified according to the law. The Media Council will also be required to request effective action by the Member State under whose jurisdiction the foreign media service provider which has infringed the relevant rules comes.

The above points are related in substance.

3. See the explanatory memorandum to the committee's proposed amendment closing the in-depth debate T/16365/10/1.

4. On the basis of the observation made by the National Office for the Judiciary, the bill is amended to extend the scope of the data which can be obtained from criminal records to include the time when the crime was committed.

5. The proposal addresses the observations from the National Authority for Data Protection and Freedom of Information by displaying only the photos of the data subjects and the place of residence of the data subjects in the event of a multiple hit, not all the data contained in the register. The amendment is intended to meet the requirement for data processing with purpose limitation.

8., 11. The bill proposes to introduce rules on the running of school activities, including sex education, arranged by organisations with questionable professional credibility and, in several cases, set up to represent a specific sexual orientation. During these activities, representatives of certain organisations wish to influence the sexual development of children through an activity known as a sensitisation programme as part of anti-discrimination awareness activities, which can cause serious harm to children's physical, mental and moral development. The purpose of the amendment is to allow only such persons or organisations to run activities for children as are included in an official, continuously updated register. The detailed regulation is published in a

decree by the minister for human resources. The bill establishes the responsibility of both the head of the institution and the person running the activity for any misconduct.

The above points are related in substance.

9. The amendment clarifies the interpretation of the provisions in force by indicating the rules on the verification of the employability condition for the person wishing to enter into an employment relationship and the employee, the reimbursement of the cost thereof, and, following the comment of the Curia of Hungary, clarifies the employer's obligation to terminate the employment relationship with immediate effect in the absence of proof of the grounds for the subject's exclusions.