



Strasbourg, 18 November 2021

CDL-REF(2021)088

Opinion No. 1059 / 2021

Engl. only

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

HUNGARY

ACT LXXIX OF 2021

**ON TAKING MORE SEVERE ACTION
AGAINST PAEDOPHILE OFFENDERS**

**AND AMENDING CERTAIN ACTS
FOR THE PROTECTION OF CHILDREN**

Act LXXIX of 2021

on taking more severe action against paedophile offenders and amending certain Acts for the protection of children

1. Amendment to Act XXXI of 1997 on the protection of children and guardianship administration

Section 1 (1) In subtitle “The objectives and principles of the Act” of Act XXXI of 1997 on the protection of children and guardianship administration (hereinafter the “Gyvt.”), the following section 3/A shall be added:

“Section 3/A In the child protection system, the State shall protect the right of children to a self-identity corresponding to their sex at birth.”

(2) In the Gyvt., the following section 6/A shall be added:

“Section 6/A For ensuring the fulfilment of the objectives set out in this Act and the implementation of the rights of the child, it is forbidden to make accessible to persons who have not attained the age of eighteen years content that is pornographic or that depicts sexuality in a gratuitous manner or that propagates or portrays divergence from self-identity corresponding to sex at birth, sex change or homosexuality.”

2. Amendment to Act CVIII of 2001 on certain issues of electronic commerce services and information society services

Section 2 (1) In section 4/C of Act CVIII of 2001 on certain issues of electronic commerce services and information society services (hereinafter the “Ekertv.”), the following paragraph (3) shall be added:

“(3) The Roundtable shall hold at least four meetings each year.”

(2) Section 4/D of the Ekertv. shall be replaced by the following provision:

“Section 4/D (1) The Roundtable shall be authorised to issue recommendations or standpoints facilitating lawful conduct by media content providers, electronic commerce service providers and electronic communications service providers. Furthermore, the Roundtable shall be responsible for initiating measures for improving media literacy among minors and their parents.

(2) On the basis of reports received by the Roundtable, it shall be authorised to investigate also individual cases and to issue recommendations or standpoints based on its generalised findings.

(3) If a service provider ignores or fails to comply with a Roundtable recommendation or standpoint, the Roundtable shall

a) call upon the service provider to act in compliance with the recommendation or standpoint,

b) publish the name of the service provider in its annual report if the call under point *a)* was ineffective,

c) call upon the service provider to remove the violating content.

(4) The service provider shall be obliged to comply with a call under paragraph (3) *c)* within 5 days. If a call under section (3) *a)* or *c)* was ineffective, the Roundtable shall initiate a proceeding by the Authority.

(5) To promote lawful conduct by service providers and the uniformity of legal practice, the Roundtable shall keep a register on detected content endangering the physical, mental and moral development of minors on the basis of reports received by it and the practice of media content providers, electronic commerce service providers and electronic communications service providers investigated by it. The Roundtable shall keep a register on content endangering the physical, mental and moral development of minors on its website.

(6) If the Roundtable establishes a fact or detects a circumstance that could serve as grounds for initiating or conducting an infraction or criminal proceeding, it shall give a notice to that effect to the organ entitled to conduct the proceeding.

(7) The Roundtable shall publish on its website its recommendations, standpoints and the written report on its activities in the previous year produced annually, by 1 May each year, by the president of the Authority.”

3. Amendment to Act XLVIII of 2008 on the basic conditions of and certain restrictions on economic advertising activities

Section 3 In section 8 of Act XLVIII of 2008 on the basic conditions of and certain restrictions on economic advertising activities, the following paragraph (1a) shall be added:

“(1a) It shall be forbidden to make accessible to persons who have not attained the age of eighteen years advertisement that depicts sexuality in a gratuitous manner or that propagates or portrays divergence from self-identity corresponding to sex at birth, sex change or homosexuality.”

4. Amendment of Act XLVII of 2009 on the criminal records system, the registry of judgments against Hungarian citizens passed by courts of Member States of the European Union, and the recording of criminal and police biometric data

Section 4 Section 67 (1) of Act XLVII of 2009 on the criminal records system, the registry of judgments against Hungarian citizens passed by courts of Member States of the European Union, and the recording of criminal and police biometric data (hereinafter the “Bnytv.”) shall be replaced by the following provision:

“(1) The organ maintaining criminal records shall, in accordance with the provisions of this Act,

- a) provide direct access to recorded data to entitled persons,
- b) transfer data to entitled persons based on a data request,
- c) verify data at the request of entitled persons,
- d) make the registered data of persons who have committed criminal offences against the freedom of sexual life and sexual morality against children available to entitled persons, or
- e) transfers data by automatic data transfer
- ea) to the passport authority to remove a restriction on travel abroad,
- eb) to the organ keeping the register of disenfranchised citizens for entry into the register, amending the register and deletion from the register.”

Section 5 In Chapter V of the Bnytv., after the subtitle “Certificate of criminal record”, the following subtitle “Making available data of persons who have committed criminal offences against the freedom of sexual life and sexual morality against children” shall be added:

“Making available data of persons who have committed criminal offences against the freedom of sexual life and sexual morality against children

Section 75/B (1) For monitoring persons in direct contact with children to ensure the protection of children and prevent the commission of criminal offences against the freedom of sexual life and sexual morality against or by exploiting children, the organ maintaining criminal records shall make, subject to the conditions set out in paragraphs (2) to (3) and

section 75/C, the following data relating to the data subject available on the electronic platform (hereinafter “platform”) set up in accordance with the Act on the general rules on electronic administration and trust services and accessible by identification through an electronic identification service mandatorily provided by the Government:

- a) from among data specified in section 4 (2),
 - aa) data under point a) aa),
 - ab) data on the year of birth generated from the data on the date of birth under point a) ad),
 - ac) the registered settlement name, and for an address in the capital, also the name of the district, extracted from the registered address data under point a) ai),
 - ad) the most recent front-view facial image under point b)
- b) from among data specified in section 11 (1),
 - ba) data under point c) ca) and cc),
 - bb) the time of the commission of the criminal offence from among data under point c) cd),
 - bc) data on the day of the decision becoming final and binding from among data under point d),
 - bd) the day of the foreign court decision becoming final and binding from among data under point k) kc),
- c) from among data specified in section 16 (1)
 - ca) data under point c) ca) and cc),
 - cb) the time of the commission of the criminal offence from among data under point c) cd),
 - cc) data on the day of the decision becoming final and binding from among data under point e),
 - cd) the day of the foreign court decision becoming final and binding from among data under point j) jc).

(2) Data specified in paragraph (1) may only be made available if

a) the data subject committed the criminal offence not as a juvenile, or, in the case under section 678 (3) of the Code of Criminal Procedure, it can be established from the register, based on data under section 4 (2) a) ad), section 11 (1) c) cd) and section 16 (1) c) cd), that he committed the criminal offence after he reached the age of eighteen years,,

b) the data is related to

ba) the commission of forced intercourse [section 197 (2) a) and (3) of Act IV of 1978], sexual assault [section 198 (2) a) and (3) of Act IV of 1978], corrupting a child [sections 201 to 202/A of Act IV of 1978], abuse of illegal pornographic material (section 204 of Act IV of 1978), promoting prostitution [section 205 (3) a) of Act IV of 1978], sexual coercion [section 196 (2) a) and (3) of the Btk.], sexual violence (section 198 of the Btk.), procuring [section 200 (2), (3a) b) and (4) a) of the Btk.], facilitating prostitution [section 201 (1) c), (2) and (4) b) of the Btk, as in force on 30 June 2020], exploitation of child prostitution (section 203 of the Btk.), child pornography (sections 204 to 204/A of the Btk.), indecent exposure [section 205 (2) of the Btk.], as in force on 30 June 2020, or

bb) the permanent disqualification from a profession under section 52 (3) of the Btk. imposed on the data subject, and

c) the data subject is registered for such a reason in the register of offenders or the register of persons with no criminal record who are subject to adverse legal consequences, but for no longer than twelve years from the date on which the data subject is registered in the register of persons with no criminal record who are subject to adverse legal consequences.

(3) Initiating making the data related to the data subject available on the platform shall only be allowed if

- a) the person initiating is an adult who
 - aa) is a relative of, or

- ab)* educates, supervises or carries for a person who has not attained the age of eighteen years (hereinafter jointly “person entitled to access the data of the data subject”);
- b)* the person entitled to access the data of the data subject considers it presumably necessary to gain access to the data for a reason under paragraph (1), and it would be disproportionately difficult to gain knowledge of the relevant data in another way, and
- c)* the person entitled to access the data of the data subject
 - ca)* declares that the conditions for access under point *b)* are met, and
 - cb)* indicates the family name and given name of the person to whom the data access request relates.

Section 75/C (1) In case of multiple hits, the data under section 75/B (1) *a) ac)* and *ad)* of all relevant data subjects shall be made available. Further data under section 75/B (1) shall only be made available concerning the data subject identified by the person entitled to access the data of the data subject as a person in direct contact with the child.

(2) The data accessed through the platform must be treated confidentially by the person entitled to access the data of the data subject; such data may only be used or disclosed to third parties for purposes set forth under section 75/B (1). No copies, and in particular, no screenshots, abstracts or other summaries, may be produced of data accessed through the platform; furthermore, such data shall not be published, reproduced, arranged in a registry or entered into a database.

(3) By using the appropriate technical and organisational measures, the organ maintaining criminal records shall ensure

- a)* that no textual copy can be made of data obtainable on the platform under section 75/B (1), and
- b)* in particular in particular by watermarking or other data concealment measures that can be considered effective, that data obtainable on the platform under section 75/B (1) *a) ad)* is displayed in a way that enables the clear establishment of the fact that the data originates from the platform in case of prohibited use under paragraph (2).”

Section 6 In section 87 of the Bnyt., the following paragraph (4) shall be added:

“(4) Informing the data subject of the data transfer according to section 67 (1) *d)* shall be limited to data under section 90 (1a) *b)* and *d)*.”

Section 7 In section 90 of the Bnyt., the following paragraph (1a) shall be added:

“(1a) The data transfer register shall contain the following data on data transfers under section 67 (1) *d)*:

- a)* personal identification data of the data subject,
- b)* date of data transfer,
- c)* family name and given name of the person entitled to access the data of the data subject, the family name and given name of his mother, the place and date of his birth,
- d)* designation of data transferred.”

Section 8 In the Bnyt.,

a) in section 23 *h)*, the text “Act XC of 2017 on the Code of Criminal Procedure” shall be replaced by “Act XC of 2017 on the Code of Criminal Procedure (hereinafter the “Be.”)”,

b) in section 90, the text “in paragraph (2)” shall be replaced by “in paragraphs (1a) to (2)”.

5. Amendment to Act CLXXXV of 2010 on media services and mass communication

Section 9 (1) Section 9 (1) of Act CLXXXV of 2010 on media services and mass communication (hereinafter the “Mttv.”) shall be replaced by the following provision:

“(1) With the exception of news programmes, political information programmes, sports programmes, programme previews, political advertisements, teleshopping, community facility advertisements, and public service announcements, media service providers offering linear media services shall classify all programmes they wish to broadcast into one of the categories under paragraphs (2) to (7).”

(2) Section 9 (6) of the Mttv. shall be replaced by the following provision:

“(6) Programmes shall be classified into category V if they are capable of exerting negative influence on the physical, mental or moral development of minors, in particular as a result of having as their central element violence, propagation or portrayal of divergence from self-identity corresponding to sex at birth, sex change or homosexuality or direct, naturalistic or gratuitous depiction of sexuality. These programmes shall be rated as follows: not appropriate for audiences under the age of eighteen.”

(3) In section 32 of the Mttv., the following paragraph (4a) shall be added:

“(4a) Programmes shall not qualify as public service announcements and community facility advertisements if they are capable of exerting negative influence on the appropriate physical, mental or moral development of minors, in particular as a result of having as their central element gratuitous depiction of sexuality, pornography, propagation or portrayal of divergence from self-identity corresponding to sex at birth, sex change or homosexuality.”

(4) Section 168/A (1) of the Mttv. shall be replaced by the following provision:

“(1) Taking account of the experience of the previous year, the Media Council shall prepare an annual supervision plan by 1 December of the year preceding the year in question and publish it on its website within fifteen days. The Media Council shall prepare its annual supervision plan with particular attention to compliance with the provisions on the protection of children and minors. The Media Council shall ensure the consistency of supervision plans prepared by it. The plans may be reviewed on the basis of experience from the first half year at the end of the half year concerned; the plans may be amended by the Media Council if necessary. Amended supervision plans shall be published by the Media Council on its website within fifteen days of such amendment.”

(5) Section 179 (2) of the Mttv. shall be replaced by the following provision:

“(2) If problems are identified in connection with the provisions of paragraph (1), and if this Act or the provisions concerned of the Smtv. are violated, the Media Council shall be obliged to request the Member State under the jurisdiction of which the media service provider specified in paragraph (1) falls to implement effective measures. In such a request, the Media Council shall request the Member State to take action for the elimination of violations specified by the Media Council.”

6. Amendment to Act CCXI of 2011 on the protection of families

Section 10 (1) Section 1 (1) of Act CCXI of 2011 on the protection of families (hereinafter the “Csvt.”) shall be replaced by the following provision:

“(1) The State shall protect the institutions of family and marriage also due to their dignity and value in and of themselves, with particular regard to the relationship between parents and children, in which the mother is a woman and the father is man.”

(2) Section 1 (2) of the Csvt. shall be replaced by the following provision:

“(2) The protection of organised family relationships and the implementation of the right of children to a self-identity corresponding to their sex at birth shall play a key role in preserving their physical, mental and moral health.”

(3) In the Csvt., the following section 5/A shall be added:

“Section 5/A For the protection of the objectives set out in this Act and of children, it shall be forbidden to make accessible to persons who have not attained the age of eighteen years content that is pornographic or that depicts sexuality in a gratuitous manner or that propagates or portrays divergence from self-identity corresponding to sex at birth, sex change or homosexuality.”

7. Amendment to Act CXC of 2011 on national public upbringing

Section 11 (1) In section 9 of Act CXC of 2011 on national public upbringing (hereinafter the “Nktv.”), the following paragraph (12) shall be added:

“(12) In the conduct of activities concerning sexual culture, sex, sexual orientation and sexual development, special attention shall be paid to the provisions of Article XVI (1) of the Fundamental Law. Such activities cannot be aimed at the propagation of divergence from self-identity corresponding to sex at birth, sex change or homosexuality.”

(2) In subtitle 7 of the Nktv., the following section 9/A shall be added:

“Section 9/A (1) A person or organisation other than an employee employed as a teacher by an educational and upbringing institution, a professional providing school health services in such an institution and a state organ party to a cooperation agreement concluded with such an institution may conduct an activity in class or organised otherwise for students relating to sexual culture, sex, sexual orientation, sexual development, the adverse effects of drug consumption, the dangers of the Internet, and any form of physical or mental health development (for the purposes of this section, hereinafter the “programme”) only if he is registered by the organ designated by law.

(2) Data in the register under paragraph (1) shall qualify as data accessible on public interest grounds that shall be published on the website of the organ designated by law to keep the register under paragraph (1).

(3) The register under paragraph (1) shall contain the following:

- a) title of the programme,
- b) contact data and
 - ba) name of a natural person programme owner or
 - bb) name and seat of an organisation programme owner,
- c) specification of the type of public upbringing institution in which the programme is to be implemented,
- d) date of registration and period (school year) during which the registered programme may be carried out in a public upbringing institution, and
- e) topic of the programme.

(4) The organ designated to keep a register under paragraph (1) shall be authorised to process data in the register under paragraph (1) until the date of their deletion from the register.”

(3) In section 79 of the Nktv., the following paragraph (8) shall be added:

“(8) If the authority responsible for public upbringing tasks finds in the course of an investigation that an educational and upbringing institution violated the provisions of section 9/A (1), it shall initiate an infringement proceeding against the head of the institution and the person or member of the organisation under section 9/A (1) conducting the activity that is not registered in the register specified therein.”

(4) In section 94 (1) of the Nktv., the following point *j*) shall be added:

(Authorisation shall be given to the minister responsible for education to)

“*j*) designate the organ authorised to keep the register under section 9/A (1) and to determine the detailed conditions for registration and the detailed rules on keeping and publishing the register,”

(in a decree.)

8. Amendment to Act I of 2012 on the Labour Code

Section 12 (1) Section 44/A (1) of Act I of 2012 on the Labour Code (hereinafter the “Mt.”) shall be replaced by the following provision:

“(1) An employer who performs the education, supervision, care, or medical treatment of a person who has not attained the age of eighteen years, or provides services relating to leisure, entertainment, sports to a person who has not attained the age of eighteen years shall not establish an employment relationship with a person who

a) is recorded in the register of criminal offenders for committing any of the following criminal offences:

aa) homicide [section 166 (2) *i*) of Act IV of 1978 on the Criminal Code (hereinafter “Act IV of 1978”)], participating in suicide (section 168 (2) of Act IV of 1978), violation of personal freedom (section 175 (3) *e*) of Act IV of 1978), trafficking in human beings (section 175B (2) *a*) and (5) of Act IV of 1978), altering family status (section 193 (2) *b*) of Act IV of 1978), endangering a minor (section 195 (1) to (3) of Act IV of 1978), forced intercourse (section 197 (2) *a*) and (3) of Act IV of 1978), sexual assault (section 198 (2) *a*) and (3) of Act IV of 1978), corrupting a child (sections 201 to 202/A of Act IV of 1978), abuse of illegal pornographic material (section 204 of Act IV of 1978), promoting prostitution (section 205 (3) *a*) of Act IV of 1978), abuse of drugs (section 282/B (1), (2) *a*) and *c*) and section 282/B (5) and (7) *a*) of Act IV of 1978), as in force on 30 June 2013,

ab) illegal recruitment [section 146 (3) of Act C of 2012 on the Criminal Code (hereinafter the “Btk.”)], homicide (section 160 (2) *i*) of the Btk.), participating in suicide (section 162 (2) of the Btk.), illegal use of a human body (section 175 (3) *a*) of the Btk.), drug trafficking (section 177 (1) *a*) and *b*) of the Btk.), drug possession (section 179 (1) *a*) and (2) of the Btk.), inciting substance abuse (section 181 of the Btk.), abuse of performance-enhancing substance (section 185 (3) and (5) of the Btk.), kidnapping (section 190 (2) *a*) and (3) *a*) of the Btk.), trafficking in human beings and forced labour (section 192 (5) *a*) and (6) *a*) of the Btk.), forced labour (section 193 (2) *c*) of the Btk. as in force before the entry into force of Act V of 2020 amending certain Acts necessary for taking action against the exploitation of victims of trafficking in human beings), violation of personal freedom (section 194 (2) *a*) and (3) of the Btk.), sexual coercion (section 196 (2) *a*) and (3) of the Btk.), sexual violence (section 197 (2), (3) *a*) and (4) of the Btk.), sexual abuse (section 198 of the Btk.), procuring (section 200 (2) and (4) *a*) of the Btk.), facilitating prostitution (section 201 (1) *c*), (2) and (4) *b*) of the Btk. as in force on 30 June 2020), exploitation of child prostitution (section 203 of the Btk.), child pornography (sections 204 to 204/A of the Btk.), indecent exposure (section 205 (2) of the Btk.), endangering a minor (section 208 of the Btk.), child labour (section 209 of the Btk.), altering family status (section 213 (2) *b*) of the Btk.),

b) is subject to a criminal proceeding for a criminal offence specified in point *a*),

c) is disqualified from exercising a profession in accordance with section 52 (3) of the Btk.,
or

d) is subject to compulsory psychiatric treatment for the commission of a criminal offence specified in point *a*).”

(2) Section 44/A (3) of the Mt. shall be replaced by the following provision:

“(3) To certify that he complies with the conditions under paragraphs (1) to (2),

a) the person wishing to establish employment relationship shall present an official certificate before establishment of the employment relationship, or

b) if the employment relationship already exists, the employee shall, at the written request of the employer, present an official certificate within fifteen working days after the request or, if meeting this time limit is not possible for a reason beyond the control of the employee, without delay after the obstacle is removed.”

(3) Section 44/A (4) of the Mt. shall be replaced by the following provision:

“(4) If the person wishing to establish employment relationship or the employee certifies that he complies with the conditions under paragraphs (1) to (2), the employer shall reimburse the person wishing to establish employment relationship or the employee for the administrative service fee paid for the procedure for issuing an official certificate by the organ maintaining criminal records.”

(4) Section 44/A (5) of the Mt. shall be replaced by the following provision:

“(5) If

a) the employee cannot certify with an official certificate issued by the organ maintaining criminal records that he complies with the conditions under paragraphs (1) to (2), or

b) the employer gains knowledge of a ground for exclusion under paragraphs (1) to (2) in any other way,

the employer shall be required to terminate the employment relationship without delay and with immediate effect, applying section 29 (1) accordingly.”

(5) Section 44/A (7) of the Mt. shall be replaced by the following provision:

“(7) The employer shall process the personal data accessed by him on the basis of the provisions of paragraphs (1) to (3) until the decision on the establishment of the employment relationship is made or, if the employment relationship is established or exists, until it ends or is terminated.”

9. Amendment to Act II of 2012 on infractions, infraction procedure and the infraction records system

Section 13 (1) In Act II of 2012 on infractions, infraction procedure and the infraction records system (hereinafter the “Szabs. tv.”) the following subtitle and section 176/A shall be added:

“131/A. Exercising a profession while disqualified from profession

Section 176/A A person who has been disqualified from exercising a profession under section 52 (3) of the Btk. exercises a profession falling under the disqualification while it is in effect in a way that he causes the employer to err or maintains the employer’s error, commits an infraction.”

(2) In section 248 (3) of the Szabs. tv. the following point *d)* shall be added:

(A person who)

“*d)* violates the provisions relating to carrying out activities in a public upbringing institution or reviewing their legality,”

(commits an infraction.)

10. Amendment to Act C of 2012 on the Criminal Code

Section 14 Section 28 (1a) of Act C of 2012 on the Criminal Code (hereinafter the “Btk.”) shall be replaced by the following provision:

“(1a) If the aggrieved party of homicide in the heat of passion, of intentionally causing grievous bodily harm if punishable by more than three years of imprisonment, of kidnapping, of trafficking in human beings and forced labour, of violation of personal freedom, or, with the exception specified in section 26 (3) *c*), of a criminal offence against the freedom of sexual life and sexual morality had not yet attained the age of eighteen years when the criminal offence was committed, the limitation period shall not include the period left until the aggrieved party attains or would have attained the age of twenty-one years.”

Section 15 Section 38 (5) of the Btk. shall be replaced by the following provision:

“(5) A person shall not be released on parole also if he was sentenced to imprisonment to be served

- a*) in case a criminal offence under paragraph (4) *e*) was committed,
- aa*) for preparation,
- ab*) as an accessory or
- ac*) applying reduction without limitation,
- b*) for committing, against a relative, a violent criminal offence against a person punishable by imprisonment of eight years or more, or
- c*) for committing, against a person who has not attained the age of eighteen years, a criminal offence against the freedom of sexual life and sexual morality punishable by imprisonment of eight years or more.”

Section 16 Section 52 (3) of the Btk. shall be replaced by the following provision:

“(3) The perpetrator of a criminal offence against the freedom of sexual life and sexual morality who committed the criminal offence against a person who has not attained the age of eighteen years, and the perpetrator of the criminal offence of child pornography shall be disqualified permanently from exercising any profession or performing any other activity that involves the education, supervision, care, or medical treatment of a person who has not attained the age of eighteen years, or in the context of which he is in a position of power or influence towards a person who has not attained the age of eighteen years.”

Section 17 Section 69 (2) of the Btk. shall be replaced by the following provision:

- “(2) A person shall be subject to probationary supervision if
- a*) he is released on parole from life imprisonment,
 - b*) he is a recidivist who is released on parole or regarding whom serving the sentence of imprisonment is suspended,
 - c*) he is a perpetrator specified in section 38 (5) who is released on parole pursuant to section 38 (6),
 - d*) he was sentenced to imprisonment for committing, against a relative, a violent criminal offence against a person, for the probationary period of a suspended imprisonment, or
 - e*) he was sentenced to imprisonment for committing, against a person who has not attained the age of eighteen years, a criminal offence against the freedom of sexual life and sexual morality, for the probationary period of a suspended imprisonment.”

Section 18 In Chapter XI of the Btk., the following Subtitle shall be added after section 113:

“Disqualification from a profession

Section 113/A In cases deserving special consideration, the application of section 52 (3) against a juvenile may be dispensed with.”

Section 19 Section 197 (4) to (4a) of the Btk. shall be replaced by the following provisions:

“(4) The punishment shall be imprisonment for five to twenty years if

a) the criminal offence specified in paragraph (2) is committed

aa) in a manner specified in paragraph (1),

ab) against an aggrieved party specified in paragraph (3) *b)*, or

ac) in a manner specified in paragraph (3) *c)*,

or

b) the criminal offence specified in paragraph (3) *a)* also qualifies under paragraph (3) *b)* or *c)*.

(4a) The punishment shall be imprisonment for ten to twenty years if the criminal offence specified in paragraph (4) *a) aa)* also qualifies under paragraph (4) *a) ab)* or *ac)*.”

Section 20 The subtitle “Child pornography” in the Btk. shall be replaced by the following provision:

“Child pornography

Section 204 (1) A person who

a) acquires or keeps a pornographic recording of a person who has not attained the age of eighteen years is guilty of a felony and shall be punished by imprisonment for one to five years,

b) offers, hands over or makes available a pornographic recording of a person who has not attained the age of eighteen years is guilty of a felony and shall be punished by imprisonment for two to eight years,

c) makes, places on the market, trades in, or makes accessible to a large audience a pornographic recording of a person who has not attained the age of eighteen years is guilty of a felony and shall be punished by imprisonment for five to ten years.

(2) The punishment shall be imprisonment for two to eight years in the case specified in paragraph (1) *a)*, for five to ten years in the case specified in paragraph (1) *b)*, and for five to fifteen years in the case specified in paragraph (1) *c)* if the criminal offence specified therein is committed

a) against a person who has not attained the age of twelve years,

b) against a person raised by or under the supervision, care or medical treatment of the perpetrator, or by abusing any other power or influence over the aggrieved party, or by exploiting the vulnerable situation of the aggrieved party,

c) by a public officer using that capacity,

d) regarding a recording capturing tormenting or violence, or

e) by a special recidivist.

(3) The punishment shall be imprisonment for five to ten years in the case specified in paragraph (1) *a)*, for five to fifteen years in the case specified in paragraph (1) *b)*, and for five to twenty years in the case specified in paragraph (1) *c)* if the criminal offence specified therein is committed regarding a recording capturing the tormenting of or violence against a person who has not attained the age of twelve years.

(4) A person who

a) provides material means for a criminal offence specified in paragraph (1) *c)* is guilty of a felony and shall be punished by imprisonment for one to five years,

b) commits preparation for a criminal offence specified in paragraph (1) *c)* is guilty of a felony and shall be punished by imprisonment for up to three years.

(5) A person who

a) acquires or keeps a pornographic recording of a person who has attained the age of fourteen years but has not attained the age of eighteen years is guilty of a felony and shall be punished by imprisonment for up to three years,

b) makes a pornographic recording of a person who has attained the age of fourteen years but has not attained the age of eighteen years is guilty of a felony and shall be punished by imprisonment for one to five years,

provided that none of the circumstances listed under paragraph (2) *b)* to *e)* exists.

(6) A person who invites one or more persons who have not attained the age of eighteen years to participate in a pornographic recording is guilty of a felony and shall be punished by imprisonment for one to five years.

(7) A person who invites one or more persons who have attained the age of fourteen years but have not attained the age of eighteen years to participate in a pornographic recording is guilty of a felony and shall be punished by imprisonment for up to three years, provided that none of the circumstances listed under paragraph (2) *b)* to *e)* exists.

(8) For the purposes of this section, pornographic recording means the depiction of one or more persons in a grossly indecent manner for the purpose of arousing sexual desire, including the life-like depiction of a non-existent person or persons.

Section 204/A (1) A person who

a) attends a pornographic show in which one or more persons who have not attained the age of eighteen years participate is guilty of a felony and shall be punished by imprisonment for two to eight years,

b) has one or more persons who have not attained the age of eighteen years participate in a pornographic show or organises such a pornographic show is guilty of a felony and shall be punished by imprisonment for five to ten years.

(2) The punishment shall be imprisonment for five to ten years in the case specified in paragraph (1) *a)*, for five to fifteen years in the case specified in paragraph (1) *b)* if the criminal offence specified therein is committed

a) against a person who has not attained the age of twelve years,

b) against a person raised by or under the supervision, care or medical treatment of the perpetrator, or by abusing any other power or influence over the aggrieved party,

c) by a public officer using that capacity,

d) regarding a recording capturing tormenting or violence, or

e) by a special recidivist.

(3) The punishment shall be imprisonment for five to fifteen years in the case specified in paragraph (1) *a)*, for five to twenty years in the case specified in paragraph (1) *b)* if the criminal offence specified therein is committed regarding a show capturing the tormenting of or violence against a person who has not attained the age of twelve years.

(4) A person who

a) provides material means for a criminal offence specified in paragraph (1) *b)* is guilty of a felony and shall be punished by imprisonment for one to five years,

b) who commits preparation for a criminal offence specified in paragraph (1) *b)* is guilty of a felony and shall be punished by imprisonment for up to three years.

(5) A person who invites one or more persons who have not attained the age of eighteen years to participate in a pornographic show is guilty of a felony and shall be punished by imprisonment for one to five years.

(6) A person who invites one or more persons who have attained the age of fourteen years but have not attained the age of eighteen years to participate in a pornographic show is guilty of a felony and shall be punished by imprisonment for up to three years, provided that none of the circumstances listed under paragraph (2) *b*) to *e*) exists.

(7) For the purposes of this section, a pornographic show means an act or performance representing sexuality of one or more persons in a grossly indecent manner for the purpose of arousing sexual desire.”

Section 21 In section 222 of the Btk. the following paragraph (4) shall be added:

“(4) A person who has attained the age of eighteen years who commits the criminal offence of harassment specified in paragraph (1) against a person who has not attained the age of eighteen years shall be punished by imprisonment for up to two years.”

11. Amendment to Act CXXV of 2018 on government administration

Section 22 (1) Section 82 (3) of Act CXXV of 2018 on government administration (hereinafter the “Kit.”) shall be replaced by the following provision:

“(3) In addition to the provisions of paragraphs (1) and (2), a government service relationship shall not be established with a person who

a) is subject to a criminal proceeding for homicide (section 166 (2) *i*) of Act IV of 1978), participating in suicide (section 168 (2) of Act IV of 1978), violation of personal freedom (section 175 (3) *e*) of Act IV of 1978), trafficking in human beings (section 175B (2) *a*) and (5) of Act IV of 1978), altering family status (section 193 (2) *b*) of Act IV of 1978), endangering a minor (section 195 (1) to (3) of Act IV of 1978), forced intercourse (section 197 (2) *a*) and (3) of Act IV of 1978), sexual assault (section 198 (2) *a*) and (3) of Act IV of 1978), corrupting a child (sections 201 to 202/A of Act IV of 1978), abuse of illegal pornographic material (section 204 of Act IV of 1978), promoting prostitution (section 205 (3) *a*) of Act IV of 1978), abuse of drugs (section 282/B (1), (2) *a*) and *c*) and section 282/B (5) and (7) *a*) of Act IV of 1978), as in force on 30 June 2013,

b) is subject to a criminal proceeding for illegal recruitment (section 146 (3) of the Btk.), homicide (section 160 (2) *i*) of the Btk.), participating in suicide (section 162 (2) of the Btk.), illegal use of a human body (section 175 (3) *a*) of the Btk.), drug trafficking (section 177 (1) *a*) and *b*) of the Btk.), drug possession (section 179 (1) *a*) and (2) of the Btk.), inciting substance abuse (section 181 of the Btk.), abuse of performance-enhancing substance (section 185 (3) and (5) of the Btk.), kidnapping (section 190 (2) *a*) and (3) *a*) of the Btk.), trafficking in human beings and forced labour (section 192 (5) *a*) and (6) *a*) of the Btk.), forced labour (section 193 (2) *c*) of the Btk. as in force before the entry into force of Act V of 2020 amending certain Acts necessary for taking action against the exploitation of victims of trafficking in human beings), violation of personal freedom (section 194 (2) *a*) and (3) of the Btk.), sexual coercion (section 196 (2) *a*) and (3) of the Btk.), sexual violence (section 197 (2), (3) *a*) and (4) of the Btk.), sexual abuse (section 198 of the Btk.), procuring (section 200 (2) and (4) *a*) of the Btk.), facilitating prostitution (section 201 (1) *c*), (2) and (4) *b*) of the Btk. as in force on 30 June 2020), exploitation of child prostitution (section 203 of the Btk.), child pornography (sections 204 to 204/A of the Btk.), indecent exposure (section 205 (2) of the Btk.), endangering a minor (section 208 of the Btk.), child labour (section 209 of the Btk.), altering family status (section 213 (2) *b*) of the Btk.),

c) is disqualified from exercising a profession in accordance with section 52 (3) of the Btk., and

d) is subject to compulsory psychiatric treatment for the commission of a criminal offence specified in points *a*) and *b*).”

(2) Section 84 (2) of the Kit. shall be replaced by the following provision:

“(2) In addition to the provisions of paragraph (1), a person who wishes to establish a government service relationship shall also certify that none of the conditions for exclusion set out in section 82 (3) and (4) applies to him.”

(3) Section 84 (5) *d*) of the Kit. shall be replaced by the following provision:

(In justified cases the officeholder exercising the employer’s rights may request in writing the government official to certify with an official certificate within fifteen working days after the request or, if meeting this time limit is not possible for an excusable reason, without delay after the obstacle is removed, that)

“*d*) beyond those set out in point *a*), none of the conditions for exclusion set out in section 82 (3) and (4) applies to him.”

(4) Section 181 (2) of the Kit. shall be replaced by the following provision:

“(2) The provisions of section 79, section 80 (2), section 81, chapter XII, chapter XIV with the exception of section 82 (2) to (4), section 86 (1) to (6) and section 89 (1) and (2); section 92, sections 95 to 97, chapter XVI, chapter XVII with the exception of sections 115 and 117; section 124, section 128 (1) and (3) to (7), section 134 (1) to (3) and (5), sections 144 to 145, 149, 151, 158, 166, and chapters XXII and XXIII shall not apply to political service relationship of political executives.”

(5) Section 206 (2) *d*) of the Kit. shall be replaced by the following provision:

(The provisions concerning government service relationship and government officials of this Act,)

“*d*) which relate to the establishment of service relationship and the modification of appointment, except for section 82 (2) to (4),”

(shall not apply to the political service relationship of a government delegate.)

(6) In section 222 of the Kit. the following paragraph (4) shall be added:

“(4) The provisions of section 82 (2) to (4) shall apply to a person having the status of a commissioner.”

Section 23 In the introductory part of section 82 (4) of the Kit, the text “in paragraph (2)” shall be replaced by “in paragraph (2) and paragraph (3) *a*) and *b*)”.

12. Final provisions

Section 24 (1) With the exception specified in paragraph (2), this Act shall enter into force on the fifteenth day following its promulgation.

(2) Subtitle 4 shall enter into force on 1 February 2022.

Section 25 Provisions of this Act qualify as cardinal as follows:

a) subtitle 5 on the basis of Article IX (6) and Article 23,

b) subtitle 6 on the basis of Article L (3)

of the Fundamental Law.