

**Question for written answer E-003195/2021  
to the Commission**

Rule 138

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Subject: Legal gender recognition ban in Hungary found to be in violation of EU law

On 31 March 2020, the Hungarian Government passed an omnibus law which introduced Article 33, designed to replace 'gender' with 'gender at birth' in the civil registry. Upon adoption, this effectively banned transgender and intersex people from accessing legal gender recognition (LGR).

Recently, the National Authority for Data Protection and Freedom of Information (NADPFI) issued an opinion (NAIH-944-3/2021) on Article 33, arguing that it violates Article 5(1)(d) of the GDPR<sup>1</sup>, which requires that personal data must be 'accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay'. The government rejected NADPFI's recommendation to amend the legislation.

1. Does the Commission agree with NADPFI's opinion concerning the violation of the GDPR?
2. Is Article 33 compliant with Article 21(1) TFEU, namely if a trans person who has accessed LGR abroad moves to Hungary and is prevented from being registered under their legal name and gender, specifically in light of court case C-353/06?<sup>2</sup>
3. What legal action, if any, is the Commission considering taking to ensure EU law is respected?

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<sup>1</sup> <https://eur-lex.europa.eu/eli/reg/2016/679/oj>

<sup>2</sup> <https://curia.europa.eu/juris/document/document.jsf?jsessionid=87B70B58A831596C322D2EE75793B9BE?text=&docid=69308&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=10155087>