

# HATE CRIME ELIMINATION INSTRUMENTS IN HUNGARY

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## Abstract

Extremism is an undesirable anti-social phenomenon, belief or behavior that most societies naturally try to eliminate, or at least mitigate its negative effects. The horrors of the Second World War significantly contributed to the understanding of the seriousness of the radicalization of society, which can lead to the targeted murder of groups of the population on the basis of nationality, race, religious beliefs, or sexual orientation, etc.

The aim of the article is to evaluate the relevance of legal measures against extremism and to point out the current problem areas of the fight against extremism in Hungary on the basis of a brief analysis of the Hungarian Criminal Code and the currently identified number of hate speech and hate acts in Hungary. In the parts of the article we refer to the comparison with the Criminal Code no. 300/2005 as amended (Criminal Code of the Slovak Republic). To meet the goal of the article, we use mainly qualitative scientific methods of deduction, induction, analysis, synthesis and comparison.

## Keywords

extremism, hate crime, Hungary, criminal law

## Introduction

If we talk about legal tools to eliminate extremism, or in the case of Hungary hate crimes, we mean the legal regulation of offenses, or hate crimes in particular. In the first place, it is possible to point out more serious extremist acts and manifestations, and it may be a criminal offense under the Hungarian Criminal Code when fulfilling the required facts. Last but not least, in the article we deal with other aspects regarding fight against hate crimes and point out the relevant current problem areas in Hungary.

## Hate crimes in Hungary<sup>1</sup>

In this context, it is possible to talk about the following crimes:

- § 142 of the Criminal Code of Hungary (genocide),
- § 143 of the Criminal Code of Hungary (crimes against humanity),
- § 144 of the Criminal Code of Hungary (apartheid),
- § 215 of the Criminal Code of Hungary (violation of freedom of faith and religion),
- § 216 of the Criminal Code of Hungary (violence against the community),
- § 332 of the Criminal Code of Hungary (incitement against the community),
- § 333 of the Criminal Code of Hungary (public denial of the Nazis and communist crimes),
- § 334 of the Criminal Code of Hungary (blasphemy of the national symbol) a
- § 335 of the Criminal Code of Hungary (use of symbols of totalitarianism).<sup>2</sup>

According to § (alternatively section) 142, the crime of genocide is committed by anyone who, for the purpose of complete or partial destruction of a national, ethnic, racial or religious group; murder their members, cause them serious physical or mental injury, put the group in living conditions that endanger the existence of the group or some of its members, take steps to prevent the group from reproducing, abduct children and place them in another group. The perpetrator of the crime of genocide faces the penalty of imprisonment for ten to twenty years, or a life sentence. The legislator also explicitly regulates the preparation for genocide, which is punishable by imprisonment for two to eight years.

A crime against humanity is committed by any person who commits murder in an extended or systematic manner, forces the civilian population to live partly or wholly in conditions threatening the extinction of that population or some of its members, directs or orders the displacement of the civilian population from its place of legal residence trafficking in human beings or exploitation through forced labor, depriving another person of personal liberty or administering his abduction, forcing another person to commit or tolerate sexual violence, prostitution, the birth of a child or unlawful abortion, causing serious bodily or mental injury to others, or deprives others of fundamental rights by reason of their association with a group on the basis of political opinion, nationality, ethnic origin, culture, religion, gender or any other reason. Under Section 143 of the Hungarian Criminal Code, an offender can be sentenced to ten to twenty years' imprisonment or life imprisonment. As in the case of the crime of genocide, in the case of the crime against humanity, preparation for the crime is a criminal offense. In this case, the offender faces the penalty of imprisonment for two to eight years. Last but not least, the provision of § 143 par. 3, according to which an offender under the Hungarian Criminal Code commits a criminal offense even if he commits the above-mentioned conduct with the aim of implementing or facilitating the policy of the state or organization.

<sup>1</sup> Some neighboring states (eg Slovakia) prefer the use of the term extremism and exhaustively state and explicitly regulate extremist behavior and manifestations in the Criminal Code. However, this fact does not mean that it is not possible to identify such crimes in the Hungarian Criminal Code, the fulfillment of which may reveal extremist acts in the form of hate crimes.

<sup>2</sup> Act C of 2012. The Criminal Code of Hungary, as amended.

According to § 144 par. 1 of the Criminal Code of Hungary, the crime of apartheid<sup>3</sup> is committed by anyone, forcing a group or groups of a certain race to live in conditions endangering their existence to any extent, even partially or murdering members of a racial group or groups. However, in order to fulfill the substance of apartheid under this provision, it is necessary to fulfill one or a combination of two of the defined objectives. The first objective is to act in order to establish domination and maintain the domination of a group of people of one race over another group of another race. The second is the goal of systematic repression of another racial group or groups. The offender faces a prison sentence of ten to twenty years or a life sentence. In the case of another apartheid crime, a person is punishable by imprisonment for five to fifteen years. If the commission of such an offense also has particularly serious consequences, the lower and upper sentences of imprisonment are postponed to ten to twenty years or to life imprisonment. As in the two previous cases, preparation for the crime of apartheid shall be punishable by a term of imprisonment of five to ten years in the cases referred to in paragraph 1, and two to eight years in the case referred to in paragraph 2.

The following crime, which can be classified as a hate crime (or a form of extremism), is a violation of freedom of faith or religion. Pursuant to Section 215, this offense is committed by any person who restricts another person's freedom of faith by violence or the threat of the use of violence, or prevents another person from freely carrying out activities connected with religion by violence or the threat of the use of violence. The potential sentence of imprisonment in this case does not exceed three years.

The same sentence of imprisonment, up to three years, threatens an offender who commits the criminal offense of violence against a member of the community under § 216. The proceedings are characterized by manifestly anti-social behavior towards others because they are in fact or presumably part of national, ethnic, or a religious group, or a particular social group based on disability, gender identity, or sexual orientation. The purpose of the proceedings is to cause panic or scare others. If, under the same conditions, the offender attacks or forces such a person, or threatens to use violence, he or she will be punished by imprisonment for one to five years. The perpetrator faces a higher sentence, two to eight years, if he uses violence against a member of the group by carrying or displaying a deadly weapon, causing serious injury, torture as part of a gang, or in criminal contact with accomplices. If the offender is legally convicted of preparing for such an act, he faces a term of imprisonment not exceeding two years.

According to § 332, anyone who incites hatred against the Hungarian nation, any national, ethnic, racial or religious group or social groups on the grounds of disability, gender identity or sexual orientation commits the crime of inciting violence against the community. The sentence of imprisonment for committing such an offense shall not exceed three years. The Hungarian legislature also expresses its interest in prosecuting persons who publicly deny Nazi or communist crimes. Anyone who, under Section 333, publicly denies the crime of genocide, crimes against humanity committed by the Nazi and communist regimes,

<sup>3</sup> According to § 144 par. For the purposes of paragraphs 2 to 3, "other apartheid offenses" means apartheid offenses as defined in Article II (a). a) / ii), a) / iii), c), d), e) and f) of the International Convention for the Suppression and Punishment of the Crimes of Apartheid, adopted on 30 November 1973 by the United Nations General Assembly in New York, promulgated by Decree-Law No. 27 of 1976.

or seeks to justify or facilitate such acts, is guilty of committing this crime, punishable by up to three years' imprisonment.

The penultimate crime that can be classified as a crime of extremism is the so-called blasphemy of the national symbol according to § 334 of the Criminal Code of Hungary. It is committed by a person who, in front of the general public, uses terms that disgrace or devalue the national anthem, flag, coat of arms, the Hungarian crown, or commit a similar act. If this proceeding did not result in the fulfillment of the factual basis of a more serious criminal offense, the offender shall be punished by a term of imprisonment not exceeding one year.

As part of the criminal offense of using the symbols of totalitarianism, it is considered criminal in Hungary to publicly display, distribute or use in front of the general public a swastika, SS insignia, dart cross, scythe and hammer, five-pointed red star or any symbol depicting the above, to undermine public peace in a way that offends the dignity of the victims of totalitarian regimes and their right to justice. If he does not fulfill the factual basis of a more serious crime, according to § 335 it is also possible to impose a penalty of imprisonment of an unspecified length.

Last but not least, in Hungary it is possible to take into account an exceptionally harmful intention or motive in selected criminal offenses, the basic fact of which is not directly related to extremism, when determining the amount of punishment for the offender.<sup>4</sup>

In terms of content, the calculation of hate crimes in Hungary appears to be sufficient and comparable with other European countries. It can be stated that the Hungarian legislator respects Council Framework Decision 2008/913 / JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law. Nevertheless, we believe that it is possible to point out a number of problem areas and other issues in the fight against extremism in Hungary.<sup>5</sup>

## State of detected hate crimes in Hungary<sup>6,7</sup>

In the next part, with regard to the subject and purpose of the article, we deal with the current state and number of detected hate crimes in Hungary according to available official data.

4 BIHARIOVÁ, Irena et al., Hate crimes. Legislation and instruments for reporting hate crime in Europe. Bratislava: Man in Danger, 2018.

5 According to Art. 1 par. 1 letter (a) to (d), each Member State shall take measures to criminalize intentional acts of public incitement to violence or hatred against a member or group of persons on grounds of national or ethnic origin, religion, gender, color or race. The public dissemination of such materials, as well as the public approval, denial or facilitation of crimes of genocide, against humanity and war crimes, should also be considered criminal.

6 We base the identification of detected crimes on official data, but according to several experts, they do not correspond to the real structure and number of hate crimes.

7 At the time of writing, official data from 2021 were not yet available. The Organization for Security and Cooperation in Europe (OSCE) did not have data for 2021 at the time of writing. This fact also applies to the following data provided by the OSCE Office for Democratic Institutions and Human Rights, which collects and publishes data on hate crimes obtained in cooperation with the relevant authorities in the individual states of the European Union.

**Table 1 „Number of detected hate crimes in Hungary between 2015 and 2020“**

Year	Number of identified crimes	Number of prosecutions	Number of convictions
<b>2015</b>	-	-	-
<b>2016</b>	33	33	39
<b>2017</b>	233	-	-
<b>2018</b>	194	52	-
<b>2019</b>	132	39	-
<b>2020</b>	100	12	-

Source: Own processing according to: OSCE (Hungary) 2020.

According to the crime statistics of the OSCE Office for Democratic Institutions and Human Rights, we can see in the table above that in Hungary the number of detected hate crimes increased from 2013 to 2018. Between 2013 and 2014, the Hungarian authorities recorded an increase of 36 crimes, of which less than half were prosecuted. The highest number of recorded crimes was in 2017, which was also the highest year-on-year increase compared to last year, from 33 crimes to 233. It can be positively assessed that all 33 recorded crimes in 2016 were also prosecuted and 39 crimes in he was convicted this year. We believe that the above data may also indicate inaccuracies in the reported data and correspond to Hungary's criticism of the insufficient collection and disclosure of data on hate crimes. In 2018, 194 crimes of extremism and crimes with a racial motive were recorded in Hungary, a year-on-year decrease of 39 crimes. Only about a quarter of the crimes recorded in 2018 were prosecuted. The number of detected crimes in 2019 decreased by 62, while 39 crimes were prosecuted. In 2020, 100 crimes were detected, with 12 prosecuted. The available databases do not record the number of convictions for 2014, 2015, 2017, 2018, 2019 and 2020.

Furthermore, it can be stated that Hungary does not specify the recorded crimes according to the type of hatred for statistical purposes. According to the OSCE Office for Democratic Institutions and Human Rights, there were 194 of these unspecified hate crimes by type in 2018 and 132 in 2019. For comparison, the older Amnesty International (2010) survey found that Hungary has the highest number of crimes from hatred against the Roma national minority.<sup>8</sup>

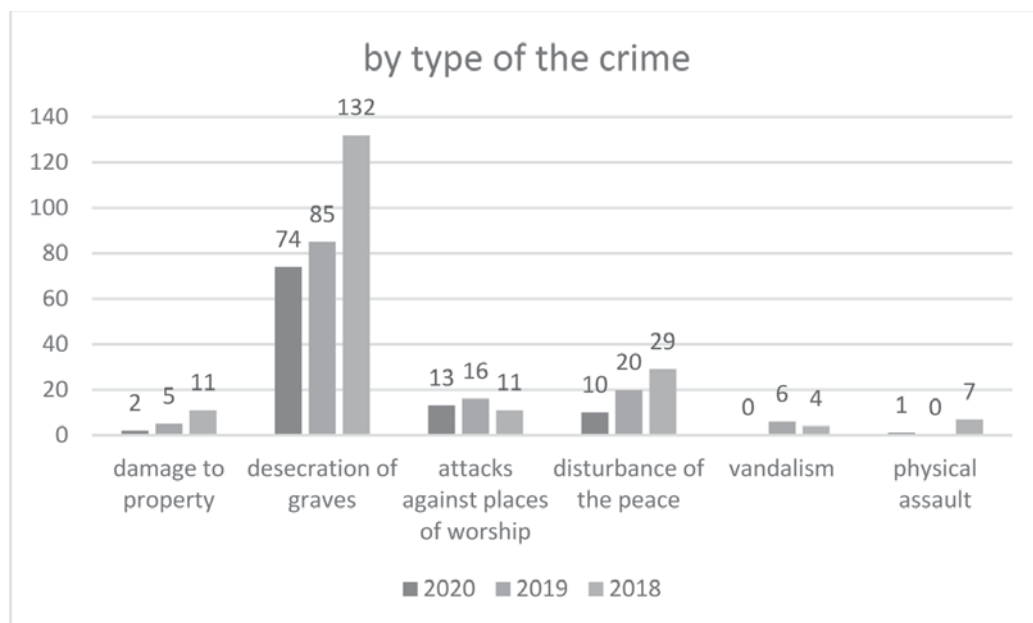
The European Union Agency for Fundamental Rights argued similarly in 2013.<sup>9</sup>

According to Halmai (2005), the Hungarian extremist scene has 2 primary target groups against which it shows hatred: the Roma national minority and Jews.<sup>10</sup>

8 Amnesty International, Violent Attacks Against Roma in Hungary. Time to Investigate Racial Motivation. London: Amnesty International. 2010, 47.

9 European Union Agency for Fundamental Rights. Racism, Discrimination, Intolerance and Extremism: Learning from Experiences in Greece and Hungary. Luxembourg: Publications Office of the European Union, 2013, 58.

10 HALMAI, Gábor: Violent Radicalization in Hungary, in: Fundamentum, 9, 2005, 5, 85–93.

**Graph 1 „Crimes recorded in Hungary by type of crime in 2018,2019,2020“**

Source: Own processing according to: OSCE (Hungary) 2020.

According to the type of crime, graves were most often desecrated in Hungary in 2018 as part of hate crimes. There were up to 132 of these crimes. The second most common type is disturbance of peace. Attacks on places of worship (eg churches, mosques) appeared in 2018 in 11 cases. The same number of crimes were recorded in the case of property damage, with physical attacks occurring in seven cases and only four cases of vandalism. In 2019, according to the detected crimes, graves were desecrated in 85 cases with 11 less cases detected in 2020.

## Other aspects and problem areas of the fight against extremism in Hungary

Ad 1/

Unlike in the Slovak Republic, where the socially less seriously perceived extremist acts are qualified as a misdemeanor (not criminal offences), in Hungary such misdemeanors cannot be clearly identified. One of the reasons is, of course, the difference in the terminology used (extremism, hate crimes, hate speech), both in criminal and administrative law. If we take into account these facts, an offense with an extremist character can be considered e.g. Section 174 of Act II of 2012 on Offenses, Procedure and their Registration, as amended - Participation in the activities of a dissolved association. Like the other states analyzed,

in Hungary, the basic protection against discrimination as well as the freedom of expression derives from its regulation directly in the Hungarian Constitution.<sup>11,12</sup>

Ad 2/

As can be pointed out in the example of the Federal Republic of Germany,<sup>13</sup> where one of the legislative proposals was to change the Criminal Code to clearly emphasize the prohibition of discrimination against the majority society - Germans, one of the regularly recurring issues is the protection of the majority society by criminal norms of extremism. In this context, we think it is interesting to point out that the reference to "any social group" may also include members of the majority society. In addition, however, one of the controversial aspects is the specific inclusion of the Hungarian people among the groups protected against incitement to hatred. In this context, most authors agree that a person's belonging to a majority Hungarian group is not an element of a person's identity that would place him or her in an endangered or vulnerable position, which requires a separate provision.

Ad 3/

Criticism of the professional public often leads to insufficient attention of public authorities to the issue of protection of national minorities and ethnic groups, which is reflected in a kind of formal "undersizing" of hate crimes compared to the expected reality. The professional public also perceives the situation of registration of hate crimes in the Republic of Poland. We believe that these concerns may also stem from the political situation in Hungary, which in recent months and years has been considered unfavorable for national minorities and ethnic groups by both the European Union institutions and most representatives of the individual Member States of the European Union.<sup>14</sup>

Ad 4/

The absence of regularly updated policy documents dealing with measures against extremism, as well as the collection and publication of data on hate crimes, can be assessed negatively.

As Perry, Dombas and Kozáry (2018) state in this context, neither the National Crime Prevention Plan nor other action plans contain any specific measures against extremism or hate crimes. According to the authors, it is not clear whether the increase in officially presented cases of hate crimes is due to more precise data collection or a change in the practice of their census. The research also shows that special emphasis, co-financed by the European Union and provided by the National University of Public Service in Budapest, is placed on educating students and existing police forces in the form of various courses and programs on how to deal effectively and without secondary victimization while clarifying hate crimes.<sup>15</sup>

11 The Overseas Security Advisory Council. Hungary 2018 Crime & Safety Report. 04.04.2018.

12 National Hate Crime Report: Hungary. 07.07.2017.

13 VYROSTKO, Matus: Legal instruments to eliminate extremism in the Federal Republic of Germany, in: Theory and practice of public administration: a peer-reviewed collection of papers from the 5th year of the scientific conference of doctoral students 6.2.2020. Košice: Pavel Jozef Šafárik University in Košice, 2020, 375–385.

14 Ibid.

15 PERRY, J., DOMBAS, T. a KOZÁRY, A. Connecting on hate crime data in Hungary. 2018, 24.

Ad5/

However, it is possible to assess positively the fact that in 2019 the police issued an instruction on the uniform application of police tasks in the fight against hate crimes (Instruction No. 30/2019 (VII.28)). In detecting and investigating criminal offenses, law enforcement authorities must take into account various factors of prejudice bias in order to eliminate various forms of intolerance. Examples of such factors (indicators) also appear in the document. There are also examples of protection for victims in the form of peaceful and objective communication. Under no circumstances should police officers accuse victims, use inappropriate words and phrases related to the victim's behavior, culture or community. Special attention should be paid to the specific needs of the victim. Mentors should be appointed in each police department to facilitate the detection of hate crimes, and the regional (main) police department should designate at least one contact point for hate crimes, whose identity and contact details will be reported to the local police authority.<sup>16</sup>

## Conclusion

The fight against hate crimes in Hungary can be viewed from several angles. Two have recently come to the fore – political and legal.

From a legal point of view, it is possible to identify the existing hate crimes contained in the Hungarian legal system. It can be stated that the Hungarian Criminal Code fulfills and respects in terms of content Council Framework Decision 2008/913 / JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law.

From a political point of view, Hungary faces longer-term criticism from senior European Union politicians for the lack of protection of national and sexual minorities and the suppression of fundamental human rights and freedoms. However, it is a sensitive and complex political and social situation, which deserves separate research for objective conclusions.

Last but not least, the creation of an online space has allowed the free dissemination of ideas and beliefs, including disinformation and conspiracy theories, which can lead to hate speech. We believe that in the near future it will be the priority task of individual states and their representatives to respond to these facts in the form of an amendment to the Criminal Code, including an assessment of the readiness of their institutional arrangements.

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16 OSCE. Hungary. 2021.



## References

Act no. 300/2005 Coll. Criminal Code as amended.

Act C of 2012. The Criminal Code of Hungary, as amended. In: net.jogtar.hu [online]. 2018 [cit. 15.08.2021]. Available from: <https://net.jogtar.hu/jogszabaly?docid=A1200100.TV>

Amnesty International, Violent Attacks Against Roma in Hungary. Time to Investigate Racial Motivation. London: Amnesty International. 47 s. Available from: <https://www.amnesty.org/en/documents/eur27/001/2010/en/>

BIHARIOVÁ, Irena et al., *Hate crimes. Legislation and instruments for reporting hate crime in Europe*. Bratislava: Man in Danger, 2018. ISBN 978-80-89817-22-1.

Council Framework Decision 2008/913 / JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, OJ L OJ L 328/55, 06.12.2008. In: Eur-lex.eu [online]. 06.12.2008 [cit. 21.08.2021]. Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32008F0913>

European Union Agency for Fundamental Rights. *Racism, Discrimination, Intolerance and Extremism: Learning from Experiences in Greece and Hungary*. Luxembourg: Publications Office of the European Union, 2013, 58 s. ISBN 978-92-9239-418-9.

HALMAI, Gábor: Violent Radicalization in Hungary, in: *Fundamentum*, 9, 2005, 5, 85–93. ISSN 1417-2844.

National Hate Crime Report: Hungary. [online]. 07.07.2017 [cit. 20.08.2021]. Available from: [https://szubjektiv.org/wp-content/uploads/2017/11/National\\_Hate\\_Crime\\_Report\\_Hungray\\_07-07-2017.pdf?fbclid=IwAR0Nyg12Q5hmualY1bnNdZ5rv1vIET2pMGVfxnAGzB5BjG](https://szubjektiv.org/wp-content/uploads/2017/11/National_Hate_Crime_Report_Hungray_07-07-2017.pdf?fbclid=IwAR0Nyg12Q5hmualY1bnNdZ5rv1vIET2pMGVfxnAGzB5BjG)

Osce. Hungary. In: Hatecrime.osce.org [online]. 2021 [cit. 15.08.2021]. Available from: <https://hatecrime.osce.org/>

PERRY, Joanna., DOMBAS, Tamás., and KOZÁRY, Andrea: Connecting on hate crime data in Hungary. In: Facingfacts.eu [online]. 2018. [cit. 12.03.2020]. Available from: <https://www.facingfacts.eu/wp-content/uploads/sites/4/2019/11/Facing-Facts-Country-Report-Hungary-with-Self-Assessment-271119.pdf>

The Overseas Security Advisory Council. Hungary 2018 Crime & Safety Report. In: osac.gov [online]. 04/04/2018 [cit. 01/08/2019]. Available from: <https://www.osac.gov/Pages/ContentReportDetails.aspx?cid=23810>

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VYROSTKO, Matus: Legal instruments to eliminate extremism in the Federal Republic of Germany, in: *Theory and practice of public administration: a peer-reviewed collection of papers from the 5th year of the scientific conference of doctoral students* 6.2.2020. Košice: Pavel Jozef Šafárik University in Košice, 2020, 375–385 [online]. ISBN (online) 978-80-8152-841-5.

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