

— by prohibiting professions related to sexual culture, sexual life, sexual orientation and sexual development from being aimed at the promotion of gender identities that do not correspond to the sex assigned at birth, sex reassignment or homosexuality, Hungary has infringed Articles 16 and 19 of Directive 2006/123/EU on services in the internal market, Article 56 TFEU and Articles 1, 7, 11 and 21 of the Charter of Fundamental Rights of the European Union.

(2) by adopting the legislation cited in the first paragraph, Hungary has infringed Article 2 TEU.

(3) by imposing on the body with direct access to the registered data an obligation to make available, to persons entitled to access them, the registered data of persons who have committed, against children, offences against sexual freedom and sexual morality, Hungary has infringed Article 10 of Regulation (EU) 2016/679 on general data protection, as well as Article 8(2) of the Charter of Fundamental Rights of the European Union.

(4) order Hungary to pay the costs.

Pleas in law and main arguments

On 15 June 2021, the Hungarian Parliament adopted the a pedofil bűnelkövetőkkel szembeni szigorúbb fellépésről, valamint a gyermekek védelme érdekében egyes törvények módosításáról szóló 2021. évi LXXIX. törvény (Law LXXIX of 2021 adopting stricter measures against persons convicted of paedophilia and amending certain laws for the protection of children), which entered into force on 8 July 2021. The Law contains amendments to a number of different legal provisions covering, inter alia, media services, advertising, electronic commerce and education. The amendments impose a number of prohibitions and restrictions in relation to the promotion or portrayal of gender identities that do not correspond to the sex assigned at birth, sex reassignment or homosexuality.

On 15 July 2021, the Commission initiated infringement proceedings against Hungary in relation to Law LXXIX of 2021.

Finding that the response provided by Hungary was unsatisfactory, the Commission moved to the next phase of the infringement proceedings and, on 2 December 2021, sent Hungary a reasoned opinion.

Finding that the response to the reasoned opinion was also unsatisfactory, the Commission decided to refer the case to the Court of Justice for a declaration that Hungary has failed to fulfil its obligations under Articles 2, 3(1), 6a(1), and 9(1)(c)(ii) of Directive 2010/13/EU on audiovisual media services, Article 3(2) of Directive 2000/31/EC on electronic commerce, Articles 16 and 19 of Directive 2006/123/EC on services in the internal market, Article 10 of Regulation (EU) 2016/679 on general data protection, Article 56 TFEU, Articles 1, 7, 8(2), 11 and 21 of the Charter of Fundamental Rights of the European Union, and Article 2 TEU.

(¹) Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ 2000 L 178, p. 1).

(²) OJ 2006 L 376, p. 36.

(³) Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (OJ 2010 L 95, p. 1).

Action brought on 20 December 2022 — European Commission v Slovak Republic

(Case C-773/22)

(2023/C 54/20)

Language of the case: Slovak

Parties

Applicant: European Commission (represented by: L. Armati, R. Lindenthal and M. Mataija, acting as Agents)

Defendant: Slovak Republic

Form of order sought

The applicant claims that the Court should:

- declare that, by failing to transpose correctly into its legal order Article 2(3), the first subparagraph of Article 6(b), Articles 7(4), 14(1) and (4), 35(3), 41(1)(c), 42(2)(a), (c), (f) and (j), 50(1), read in conjunction with Annex VII, point 1(d), and Article 55a(2) of Directive 2005/36/EC ⁽¹⁾ of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, the Slovak Republic has failed to fulfil its obligations under those provisions of the directive,
- order the Slovak Republic to pay the costs.

Pleas in law and main arguments

The deadline for transposition of Directive 2005/36/EC expired on 20 October 2007 and the deadline for transposition of Directive 2013/55/EU ⁽²⁾ amending Directive 2005/36/EC expired on 18 January 2016. The Slovak Republic has incorrectly transposed or failed to transpose Article 2(3); the first subparagraph of Article 6(b); Article 7(4); Article 14(1) and (4); Article 35(3); Article 41(1)(c); Article 42(2); Article 50(1), read in conjunction with Annex VII, point 1(d) and Article 55a(2) of Directive 2005/36/EC.

⁽¹⁾ OJ 2005 L 255, p. 22.

⁽²⁾ Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (OJ 2013 L 354, p. 132).
