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**REPORT ON HUNGARIAN LAW ON CHURCHES AND
ITS IMPLICATIONS ON FREEDOM OF RELIGION**

By Jura Nanuk, FOREF Coordinator for Central & Eastern Europe

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Current Hungarian legislation seriously violates numerous standards and recommendations of European and UN human right bodies regarding freedom of religion.

In summer 2011, Hungarian Parliament adopted the Law on Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities (in further text: Law) which stripped hundreds of religious communities from their status of recognized churches. Only fourteen communities – 12 Christian and two Jewish – were granted the right to keep their status.

All other religious communities in Hungary were forced to undergo an absurd and highly arbitrary re-registration procedure which, amongst a whole range of barriers, included a final obstacle of being voted on by the Parliament, as to whether each group is a religious organization or not.

Such procedures could hardly be much further away from international human rights standards and academically accepted determinations of what constitutes a religion.

The fact that only fourteen religious communities were automatically granted the status of religion by the new law, but Muslims, Hindus, Buddhists and hundreds of Christian denominations have been rejected - clearly shows how arbitrary and discriminatory the law was.

Although the original arbitrary list of 14 churches was latter extended due to increasing international pressure, it is clear that the Law and the consequent Amendments on the Constitution still don't guarantee the freedom of religion.

Providing that the religions can even overcome the administrative barriers and meet the arbitrary standards that were imposed on them through standards made up by government committees and imposed by civil servants, they will only be finally accepted if they can get a 2/3 majority vote by Members of the Parliament. As a journalist of Hungarian daily newspaper *Népszava* noted in an article about the Law, "*Gods are sitting in the Parliament and will be able to decide what is a religion and what is not*".

Nine Hungarian churches which lost their church status – three reformed Jewish communities and six Christian denominations – filed a claim to European Human Rights Court in Strasbourg after exhausting all available domestic legal remedies (*ECHR Application no. 70945/11, Hungarian Mennonite Christian Church and Jeremias Izsak-Bacs against Hungary and 8 other applicants*). At the present, the case is still ongoing, prolonged by several changes of the Law as well as latest Amendments on the Constitution which demanded further clarification from the Hungarian Government and responses from the claimant churches.

It is interesting to note that the Law was twice rejected by Hungarian Constitutional Court, but both times Hungarian Government managed to uphold it with questionable legal maneuvers. First time, in December 2011, after Hungarian Constitutional Court rejected the Law based on a procedural mistake, the Government withdrew it, and submitted the same Law just a few days later with minor changes, none of which contributed to religious freedom.

Next time, in February 2013, the Constitutional Court again rejected the Law, on the basis that the Law failed to stipulate that detailed reasons must be provided when a request for the church status is refused, no deadlines are specified for the Parliament's actions, and no legal remedy is offered. The Court also stated that granting church status by parliamentary vote can result in political decisions. Hungarian Parliament then decided to incorporate parts of the Law in the Constitution itself. This unheard of manoeuvre rendered Constitutional Court unable to examine the Law, as the Law was technically incorporated in to the Constitution itself, so it cannot be said that it is unconstitutional.

This move didn't pass unnoticed and Hungary was again receiving harsh criticism for violating fundamental rights. In June 2013, the Venice Commission of Council of Europe in its report regarding the parts of the Fourth Amendment concerning religious communities, stated among other things the following:

"The Venice Commission is worried about the absence in the Act of procedural guarantees for a neutral and impartial application of the provisions pertaining to the recognition of churches."

"According to the latest information at the disposal of the rapporteurs, Parliament adopted a Bill of Recognition on 29 February 2012, with 32 recognized churches. It is entirely unclear to the rapporteurs and to the outside world, how and on which criteria and materials the Parliamentary Committee and Members of Parliament were able to discuss this list of 32 churches, to settle the delicate questions involved in the definition of religious activities and churches supplied in the Act, within a few days, without falling under the influence of popular prejudice."

One in a series of arbitrary criteria that religious communities must satisfy before they are voted upon by Parliament, is the request that they don't represent any threat to national security. Churches which would be rejected because they would allegedly represent threat to national security, would not be informed why they are considered as a threat or what should they change or improve, and they would have no legal remedy available.

Such "national security" criteria is in direct contradiction with 2004 OSCE Guidelines for Review of Legislation Pertaining to Religion or Belief, prepared by OSCE/Office for Democratic Institutions and Human Rights, adopted by Venice Commission. In the Guidelines it is clearly stated that *"national security" is not permissible limitation under European Convention on Human Rights article 9.2 or International Covenant on Civil and Political Rights article 18.3*.

Just ten days ago, the 5th Amendment on the Constitution was accepted by the Hungarian Parliament which was supposed to handle the criticism of the Law and the 4th Amendment. Hungary's State Secretary of Justice, Robert Repassy, announced that the government would adjust the recent, highly controversial

amendments to the country's Constitution adopted by the Parliament in March 2013. Repassy admitted that the modifications contained in the 5th Amendment of the Constitution were initiated as a result of pressure from the European Union and various human rights organizations, which had criticized the March 2013 revisions as violating certain fundamental rights.

It is obvious is that the Government didn't introduce any measures that would improve the situation of the religious freedom in Hungary. The 5th Amendment was nothing but a failed attempt to make it seem as if Hungary had listened to its critics while actually not changing anything.

In the recent report about the 5th Amendment on the Law, Human Rights Watch stated the following:

"The Hungarian government's largely cosmetic amendments show it's not serious about fixing the human rights and rule of law problems in the constitution It's come to the point where the European Council and the European Commission need to make clear there will be consequences for Hungary, and to move from talk to action.

"While allowing any religious group to refer to itself as a "church," the amendments do not address the discrimination against churches the government has not recognized. A parliamentary committee, instead of an independent body, confers recognition, which is necessary for a church to apply for government subsidies."

RECOMMENDATIONS

We demand that the degree of freedom of religion in Hungary is restored to its pre 2011 level and that the legislation concerning freedom of religion in Hungary is adjusted with European and UN guidelines and recommendations.

We believe that the legislation violating fundamental human rights should not be ignored as it can serve as dangerous precedent and a bad example that other countries in the region might follow.