

***Background document:
Issues with the new Hungarian legislation on religions***

Issues with Law 100 of 2011 concerning churches and religious freedom (Hungary)

Law 100/2011. concerning churches and religious freedom was passed by the Hungarian Parliament on 11 July, 2011. The text of the bill was fundamentally changed only hours before it was due for the final vote. The following are the most important issues with the law.

I. Characteristic stipulations in the Law

- Basic religious freedom is declared in 1.§ through 5.§.
- Defines what is a religion (6.§)
- Defines church as a collective term for a church, denomination or religious community and reserves the word for organisations acknowledged by this Law (7.§)
- Declares separation of church and state, but leaves the door open for discrimination by the state among religious organisations (8.§)
- Declares equal rights for churches (as acknowledged by this Law) but again allows discrimination (9.§)
- The state may not set up a supervision agency for churches, nor may get involved in intra-church disputes; data of church members cannot be transferred out of the church without the consent of the individual (10.§)
- The concepts of the church as legal entity, church institutions and church associate are defined (11.§ through 13.§). The Law provides for extended protection for church associates.
- The rules of registering a church are set out in 14.§ through 18.§. The Law lists 14 churches that are exempt from having to apply for re-registration. These include Christian denominations and 3 Jewish communities. No church outside the Judeo-Christian tradition is listed and many small Christian communities are also omitted.
- Application has to be filed with the Ministry of Public Administration and Justice. The Minister will file the application with the Parliament after deciding whether the applicant is formally eligible. The Minister may involve an expert on religion.
- There is no legal redress in case the Minister rejects the application.
 - Conditions of eligibility (14.§) are:
 - main activity – religious
 - files basic tenets and rituals
 - has operated in Hungary for at least 20 years
 - has a Deed of Foundation approved by members etc.
 - members declare adherence to the laws of Hungary
 - Documentation to file include proof of the above Conditions, plus:
 - the names, residences in Hungary and signatures of a minimum of one thousand members, confirmed by state residence register (this is incoherent with 10.§ and 14.§);
 - five years' financial data etc.
- Registration of an applying religious organisation is subject to a two-thirds' majority vote of the Parliament. In case of rejection, there is no legal redress.

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- Rules of operation of churches are set out in 19.§ through 25.§. More significant points are:
 - Financing (20.§)
 - Churches are exempt from state audit (except grants for non-religious purposes (21.§))
 - Church premises enjoy extended protection (23.§)
 - One faith – one church (25.§), i. e. no parallel churches allowed.
- Churches registered under the present legislation (Law 4 of 1990) have to
 - apply for re-registration after January 1, 2011, or
 - declare transforming into a 'religious association' under the law governing civil associations (also under revision)
 - or are automatically liquidated, with their assets transferred to the state (32.§)
- The churches, except for those listed in the Appendix of the Law, automatically lose their church status as of December 31, 2011.
- The most relevant passages of the Law are declared fundamental, i.e. can only be changed according to the rules for changing the constitution.

II. Issues at organizational level

- There is no known explanation why only 14 churches have been automatically accepted, and what was the criteria.
- Taking their previously acquired rights away, representatives of major world religions and respected smaller religious organizations have been put into a very difficult situation by not being able to secure the future of their successfully functioning religious, charity and educational institutions.
- Rather than an independent Court deciding –as it was previously suggested–, the registration of a re-applying religious organisation is subject to a two-thirds' majority vote of the Parliament, which is against the principle of the separation of State and Church.
- In case of rejection, religious organizations have no legal redress.
- Only churches are allowed to collect donations or alms at public places. Those religious communities that lose their church status, are deprived of their core income and will have to cease functioning.
- The law expresses the right to spread a religion publicly but this is reserved for registered churches: this puts a muzzle on religions that are not registered.
- For many small communities, losing the tax and excise duty exemption puts on them an unbearable burden which may render the continuation of community religious practices impossible.
- Churches enjoy concessions in social security contribution payments after church associates. If monks have to be registered as 'employees' of a religious association, the financial cost may render their status untenable.
- In case of religious associations, the donors of alms do not get any tax concessions. This reduces the amount of available financial support for the religious organisation.

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- The special rules for educational organisations (e.g. kindergarten, school, college) maintained by churches are not available for associations or foundations maintaining schools. This will render maintaining these institutions more difficult or impossible.
- According to the laws governing land ownership, only private individuals, the state and churches are allowed to own arable land. The Hungarian Society for Krishna Consciousness, for instance, runs a self-sustaining farm of 270 hectares, most of which will automatically become state property unless the Community is registered as a church before December 31, 2011. However, according to the new law, the opportunity for re-registration only opens after January 1st, 2012. In their specific case, confiscation of the arable land deprives the religious community of the means to maintain the cows at its farm although cow protection is central to Hindu tradition. Nationalisation of land bars the Krishna-devotees from practicing an important aspect of their religion. In case of other denominations, places of pilgrimage or worship are also under threat of confiscation.
- If the communities affected want to keep it, the land has to be registered in the names of individual members which has a prohibitively high cost in terms of stamp duties and legal costs and creates serious legal problems in the future (inheritance etc.). The change in the law, thus, has punitive financial effects on churches that are not listed in the new Law and creates serious legal hurdles.
- As 14 privileged churches are exempt from re-registration, the new law is heavily biased towards them.

III. Issues at the level of the individuals

- By accepting some religions and rejecting others, the State discriminates against its citizens based on their religious beliefs.
- Monks or other full-time church associates may lose their status and possibility of devoted practice as the viability of their maintenance becomes financially critical.
- Public festivals will be subject to permissions similarly to political demonstrations, which is offensive to religious practitioners.
- Deregistration of their church is an insult to the individual member, the message of which is that his/her faith is not considered *bona fide* by the state.

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