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OSCE Human Dimension Implementation Meeting

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Working Session 13: Tolerance and non-discrimination II/ Intolerance against Christians and members of other religions

HUNGARY: New Religion Law at Variance with OSCE Standards and the European Convention on Human Rights

Recommendations:

That the Government of Hungary, and specifically the Minister of Human Capacities, place back on the official registry of incorporated churches included in the appendix of Act CCVI (206) of 2011 those churches deregistered unconstitutionally and in breach of the European Convention on Human Rights by Parliament in 2011. Hungary should honor its international legal commitment to the European Convention and abide by the Court's decision.

That Hungary should modify its church law so that legal recognition of churches is not determined by 2/3 vote of Parliament, something criticized in both the European Court and the Hungarian Constitutional Court.

That participating States to assist Hungary to harmonize its laws in accordance with the Helsinki standards and international human rights law.

Intervention:

The *Forum for Religious Freedom Europe* (FOREF) is an independent, secular, civil society formation dedicated to defending the freedom of religion in accordance with international law. We wish to express our deep concern about policies of the government of Hungary that violate Human Dimension commitments undertaken by the participating States in the Helsinki Final Act and in the Madrid, Vienna, Copenhagen, and Maastricht documents. These policies have resulted in arbitrary

discrimination against religious communities, and have given the state illegal and inappropriate power to interfere in religious life.

In 2011, the Hungarian Parliament passed a new law on “the Right to Freedom of Conscience and Religion, and on the Legal Status of Churches, Religious Denominations and Religious Communities.” The law abolished the previous practices of treating religious communities equally and registering them through the courts, and instituted a tiered system that discriminates between “incorporated churches” and others that enjoy fewer rights and privileges, and which refers determination of “incorporated church” status to a 2/3-majority vote in Parliament. The law resulted in the de-registration of at least two hundred churches, including, *inter alia* Methodist, Pentecostal, Adventists and reform Jewish churches, as well as Buddhist and Hinduist congregations. It has exposed religious organizations to bureaucratic harassment.

In February 2013, Hungary's Constitutional Court ruled that 67 churches that had been deregistered unconstitutionally were therefore still churches. According to point 217 of the Hungarian Court’s decision,

One of the requirements of possessing church status is that the minister must place religious communities that possess such status on the registry. Since, as a consequence of the Constitutional Court’s present decision, the provision is no longer in effect which stipulates the minister’s act of registration is tied exclusively to Parliament’s recognition of a church, there is no legal obstacle preventing religious communities, whose applications were rejected by the decision of Parliament, but who, as a result of the retroactive effect of this decision have not lost their church status ... from reporting their data to the minister who can then register them.

Unfortunately, the government has deliberately disregarded the Court’s orders. The Ministry of Human Capacities has rejected the written requests of at least four deregistered churches to be placed on the registry of incorporated churches (Magyarországi Evangélium Testvérközösség, Budapesti Autonóm Gyülekezet, Isten Gyülekezete Pütkösdi Egyház, Fény és Szeretet Egyháza). In a response worthy of a novel by Franz Kafka, the Ministry stated that it could not place the groups on the registry because according to the law, incorporated churches are already on the registry, and the churches making the request were not on the registry. Of course, the reason they are not on the registry is because the government will not place them there. In yet an even more Kafkaesque twist, when these deregistered churches have turned to the Hungarian courts, the courts have consistently ruled that the Ministry should have placed them on the official registry. But because the courts can’t force the Ministry to register the churches, it has ordered that the churches should resubmit their request to the Hungarian Government, which can, of course, refuse again to comply with the written request *ad infinitum*.

Instead of adhering to the rule of law and abiding with the highest court, the Hungarian Parliament amended Hungary’s Basic Law in a way that explicitly grants Parliament the right to render arbitrary decisions concerning church registration.

The procedure by which Parliament determines the legal status of individual churches was also criticized explicitly by the European Commission for Democracy through Law (Venice Commission) as incompatible with the standards of due process (Opinion 664/2012 par. 76-77). According to the European Court of Human Rights the scheme of parliamentary recognition “inherently carries with it the disregard of neutrality” (*Magyar Keresztény Mennonita Egyház and Others v. Hungary*, par. 102). The Basic Law is thus in blatant violation of a fundamental principle of religious freedom and human rights. No legislative body should have the power to rule over religious freedom.

In April 2014, the European Court of Human Rights ruled that that Hungarian Parliament’s deregistration of legally recognized churches constituted an interference with those groups’ fundamental rights as secured by articles 9 and 11 of the European Convention (*Magyar Keresztény Mennonita Egyház and Others v. Hungary*). Hungary appealed the decision to the Grand Chamber. The Grand Chamber rejected that appeal in September 2014, so the decision is now final and binding.

In light of the ruling of the European Court of Human Rights, as well as our common Helsinki principles that uphold the freedom of religious communities from discrimination, and given the ruling by Hungary's own Constitutional Court, FOREF respectfully asks that the Government of Hungary, and specifically the Minister of Human Capacities, Zoltán Balog, place those churches deregistered unconstitutionally by Parliament in 2011, in breach of the European Convention on Human Rights, back on the official registry of incorporated churches included in the appendix of Act CCVI (206) of 2011. Hungary should honor its international legal commitment to the European Convention and abide by the Court’s decision.

Furthermore, Hungary should modify its church law so that legal recognition of churches is not determined by 2/3 vote of Parliament, something criticized in both the European Court and the Hungarian court.

We ask the support of participating States to assist Hungary to harmonize its laws in accordance with the Helsinki standards and international human rights law. Thank you for your attention.