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Fidesz Submits New Church Bill; Recognized Religions In Hungary Must Be At Least 100 Years Old

Xpatloop.com (23.12.11) / HRWF (18.01.12) - Barring a few amendments, the bill practically agrees word for word with the law that was struck down by the Constitutional Court on procedural grounds on Monday.

One new element makes formal recognition of the Hare Krishna movement impossible, while another undoes a clause that would have deprived the group of its land.

The new bill stipulates that Parliament's religious committee, rather than a cabinet minister, will assess requests for official church status, from January 1. To date, 72 communities have submitted such requests.

Fidesz MP Gergely Gulyás said about 12 new churches could be recognised by late February.

As the threat of a national security risk is grounds to refuse recognition, the Church of Scientology will not get official status, Gulyás noted.

The Constitutional Court struck down the church law passed last summer, which acknowledged 14 denominations, because it was completely rephrased with amendments by a committee shortly before the final voting procedure. The Court objected to the way the law was passed rather than its content."

Small churches fear losing legal status

By Pablo Gorondi

Associated Press (13.12.2011) / HRWF (15.12.2011) - <http://www.hrwf.net> - Hare Krishna members on Tuesday protested outside Hungary's Parliament against a new law that could strip them of their status as a recognized church.

Hungary's church law taking effect Jan. 1 grants official status to 14 Christian churches and Jewish congregations but forces all others to submit a new registration request and gain approval from a two-thirds majority of lawmakers.

"We are representing a billion Hindus worldwide who are wondering why they have to prove themselves again to the Hungarian government," said monk Sivarama Svami, from the Krishna Valley farm in central Hungary. The protest included two cows from the farm.

Previously, churches needed only to register with a local court, which did not have the option of rejecting applications.

The church law has been harshly criticized by human rights advocates, policy experts and opposition groups, who see it as another attempt by the government led by Prime Minister Viktor Orban to ensure political control over many institutions earlier considered at least nominally independent.

Sivarama Svami said the Krishna community has already applied to retain church status, but state officials could not say when parliament would consider the more than 70 similar requests made so far.

The government said the new law was needed to filter out business enterprises operating under the guise of religious groups.

"Neither communities nor individuals are under any constraints in the practice of their religion in Hungary," said Bence Retvari, state secretary at the Ministry of Public Administration and Justice. "The real objective of this law is to regularize the system of state subsidies and tax benefits, which was being abused."

Retvari added that provisions have been made to allow some churches reclassified as religious associations to continue receiving state funds for the social services they provide, such as schools, soup kitchens and homeless shelters.

"We did not want to alter Hungary's varied religious life," Retvari said, but to redefine the church-state relationship in terms of tax benefits and funding for institutions.

Read more:

<http://www.heraldonline.com/2011/12/13/3595621/small-churches-in-hungary-fear.html#ixzz1gXxA8nxG>

http://www.washingtonpost.com/world/europe/dozens-of-small-churches-in-hungary-fear-loss-of-status-due-to-new-politicized-law-on-religion/2011/12/13/gIQAnjvsrO_story.html?wprss=rss_europe

See video:

<http://www.newsbullet.in/video/world/22923-protest-outside-hungary-parliament>

Hare Krishna believers demonstrate with their cows in front of the Hungarian Parliament

By Krishna-lila Dasi

ISKCON News (05.12.2011) / HRWF (15.12.2011) - <http://www.hrwf.net> - In order to protect their land and their cows, Hungarian Krishna believers will hold a peaceful demonstration in front of the Parliament in Budapest on December 13th, 2011.

In order to protect their land and their cows, on December 13th, 2011, Hungarian Krishna believers will hold a peaceful demonstration in front of the Parliament in Budapest.

The 270-hectare (approximately 650 acres) Krishna-valley farm is home to 300 monks and families, as well as 52 sacred cows and oxen. Due to new religious legislation passed in July, there is a good chance that after January 1st, 2012, the State will take over the land and the inhabitants will have to grab their belongings and disperse. One of Hungary`s main organic agricultural farming and tourist sites will thus have to close down.

Krishna-valley is situated near Somogyvamos, a cul-de-sac village in the western part of Hungary. The agricultural land was purchased by ISKCON devotees and supporters in 1993. The first adventurous believers moving there had to spend the winter in a former sheep barn, huddling in the cold. They could not cook or eat hot meals because the gas in the cylinder had frozen. Yet, they did not give up. Due to their perseverance, in a few years, the untended land was turned into a bountiful organic farm -- a blossoming paradise. Over the past few years, Krishna-valley has hosted over half a million tourists, school groups, families and students from all over the world. This farm based on organic agriculture, renewable energy use and sustainable development has been recognized as an exemplary project by the United Nations.

Who is going to sew the seeds in the spring?

Due to the new religious law that takes effect of the 1st of January, however, all of this might be relegated to the past. ISKCON, as the main representative of Hinduism in Hungary, is among those religious organizations that will lose their "church" status, and would have to transform into a different legal entity with much fewer rights (an "association"). To make ISKCON`s situation worse, according to the Hungarian laws, an "association" cannot own agricultural property. Thus Krishna-valley will fall into an "ex lex" status; and in the absence of a clear legal arrangement the land falls to the next possible owner, which is the State.

At the moment, in Krishna-valley, the monks and families with small children are anxiously waiting to find out their fate after the 1st of January. Would they have a place to live? Where would they graze their cows? Who is going to sew the seeds in the spring? Who is going to harvest the fruits and vegetables? What is to become of their continuing hard work and dedication?

Where shall they all go?

The members of the Krishna-community trust that the Parliament did not intend to make their lives impossible. However, these community members must acknowledge that no meaningful steps have been made by government officials to rectify the situation. Therefore, to draw their attention and spur them to action, the believers have decided to turn to the Hungarian and international public for help.

As a first step, on the 13th of December, they will hold a peaceful demonstration with their homeless-to-be cows, monks and families in front of the Hungarian Parliament. Everyone is welcome to join them there.

Krishna should leave Krishna-valley?

Also, anyone from any part of the world who wishes to help them make their case stronger is invited to sign the following petition:

"PROTECT THE HARE KRISHNAS' LAND AND THEIR SACRED COWS

The Hungarian Society for Krishna Consciousness is the main representative of the Hindu world religion in Hungary. The Krishna devotees are known for their diligent religious practices, dedication to distributing knowledge of eternal spiritual values and pure, exemplary lifestyles. Their efforts and achievements in assisting underprivileged people, as well as in fighting environmental problems and promoting sustainability, are also well known and valued worldwide.

Their Krishna-valley farm has brought hundreds of thousands of tourists and greater international recognition for Hungary. We are urging the Hungarian Parliament to make sure their lands, monks and sacred cows remain protected, and their invaluable services to society go on uninterrupted."

To sign the petition please click here: <http://www.petitions24.com/krisna>

Read more:

http://news.iskcon.com/node/4061/2011-12-05/sir_where_can_we_graze_cows_to_demonstrate_in_front_of_the_hungarian_parliament#ixzz1gY0sjAvt

Call on President of Hungary not to sign newly adopted religion law

IPPR (18.07.2011) / HRWF (19.07.2011) - <http://www.hrwf.net> - - The right to freedom of religion is under grave assault in Hungary. The INSTITUTE on Religion and Public Policy is deeply concerned that the new Religion Law rushed through the Hungarian Parliament violates fundamental international and European human rights standards.

THE INSTITUTE calls on President Pál Schmitt of Hungary not to sign the Religion Law. Instead, President Schmitt should send the law back to Parliament with comments and instructions directing the Parliament to re-examine and amend the Religion Law so that it complies with the international and European human rights standards that it flagrantly violates.

Furthermore, THE INSTITUTE calls on the European Union, Council of Europe, and the Organization for Security and Cooperation in Europe urgently to take all the necessary actions to ensure the compliance of Hungary with international standards on non-discrimination and freedom of religion.

In THE INSTITUTE'S opinion, the Religion Law establishes the most burdensome registration system in the entire OSCE region while codifying systematic discrimination of religious minorities. The Religion Law is completely inconsistent with fundamental human rights as it contravenes the principles of equality and non-discrimination. Passage of this repressive legislation represents a serious setback for religious freedom in Hungary.

The Religion Law contravenes OSCE, European Union, Council of Europe, European Court of Human Rights and United Nations standards as it deliberately discriminates against minority religious groups. It is the most egregious example of a disturbing trend in Hungary to undermine human rights, as was reflected in a January 2011 Resolution by twenty-four members of the Council of Europe Parliamentary Assembly Committee expressing "serious concern with respect to recent developments related to the rule of law, human rights and the functioning of democratic institutions in Hungary."

BACKGROUND

On 12 July 2011, at 1.a.m., the Parliament rushed through new legislation entitled "The Right to Freedom of Conscience and Religion and on the Status of Churches, Religions and Religious Communities" ("Religion Law"). In passing this law, the Parliament contemptuously turned its back on European Court of Human Rights decisions and European Union and OSCE standards prohibiting the entire scheme of this draconian legislation.

The Religion Law includes a retroactive provision that violates the Rule of Law and the right to religious freedom. This provision "de-registers" over three hundred minority faiths that have been registered as religions in Hungary since the adoption of the 1990 Religion Law. Only 14 Churches will maintain their registered religious status and the rights and privileges attendant with such status. All other groups will lose their status as religious organizations unless they are "re-registered" through burdensome, oppressive and discriminatory administrative and legislative proceedings.

There is no question that the right to freedom of religion and religious equality in Hungary will be stripped away from currently registered religious organizations that are "de-registered". The European Human Rights Court has determined that a tiered system offering an inferior religious status to minority faiths violates the right to religious freedom and the right to be free from religious discrimination. See, *Religionsgemeinschaft der Zeugen Jehovas and Others v. Austria* (July 2008, Application no. 40825/98). This clear precedent was brazenly ignored by the Parliament in passing the Law.

The most surprising and objectionable amendment to the bill introduced without adequate debate or reflection two hours before the bill was passed was the decision to remove a provision providing for judicial proceedings for "re-registration" of religious groups and to substitute a new provision stating that "the competent authority to recognize a religious organization is ... the Parliament, with a two-thirds vote, rather than the courts or a ministry."

This "de-registration" and the requirement of a two-thirds vote by Parliament for "re-registration" are such a shameless flouting of human rights standards that it renders the Law the most oppressive religious registration scheme in Europe. Registration is reduced to a "beauty contest" requiring a substantial majority vote, allowing votes to be cast on purely discriminatory grounds while making a mockery of the strict requirements of impartiality and neutrality in matters of religion. The Law authorizes the State to employ the lethal weapon of "evaluating" religious doctrine and beliefs even though this is strictly prohibited under the Human Rights Convention. Minority faiths will inevitably be subject to flagrant discrimination under this system.

These provisions defy clearly delineated human rights standards in religious registration cases developed by the European Court of Human Rights in a series of decisions over the last two decades. These standards mandate government neutrality, non-discrimination, religious pluralism and non-evaluation of religious belief. See *Manoussakis and Others v. Greece*, (59/1995/565/651) (26 September 1996).

Likewise, the requirement that an association exist in Hungary for at least 20 years in order to "re-register" represents the Parliament's disdain for Human Rights Court precedent. In *Kimlya and Others vs. Russia* (Applications nos. 76836/01 and 32782/03, October 2009), the Court found that the refusal to register churches in Russia as religious organizations because they had not existed for 15 years violated the right to freedom of religion and freedom of association, rendering such rights "illusory and theoretical rather than practical and effective, as required by the Convention." If 15 year duration requirements contravene human rights instruments, how can the Hungarian Parliament pass a new Religion Law with a more onerous duration requirement?

In the midst of celebrating the break from its Soviet past by crafting a new Constitution, erecting a statute of Ronald Reagan, and opening the Tom Lantos Human Rights Institute, the Government of Hungary has shown its complete contempt for core religious freedom values and thrust the nation back into a system of repressive and restrictive legislation with this new Law.

As in the case of the Hungarian Media Law in January, THE INSTITUTE calls on the President to return the law to Parliament for revision to align it with international and European human rights standards. The Government must realize and correct the terrible mistake it has made.

See full analysis at

http://religionandpolicy.org/cms/index.php?option=com_content&task=view&id=6982&Itemid=327

Legislative analysis of final religion law

Parliament Passes the Most Oppressive Religion Law in the OSCE Region

Introduction

HRWF (16.07.2011) - <http://www.hrwf.net> - On 10 June 2011, four members of the Hungarian Parliament submitted a proposed draft law regarding "The Right to Freedom of Conscience and Religion and on the Status of Churches, Religions and Religious Communities" (Religion Law or Law). On 14 June 2011, only four days after the Bill was introduced in Parliament, the Committee on Human Rights, Minority, Civil and Religious Affairs approved the proposed religious legislation and voted to send the draft law to the Parliamentary Assembly for discussion and passage. On 12 July 2011, at 1 a.m., the Religion Law was rushed through the Parliament with 254 in favor (consisting of members of the ruling coalition Fidesz and Christian Democrat parties) and 43 opposed.

The legislation, when introduced, proposed to recognize three levels of legal status. At the apex would have been thirteen "recognized" Churches with full rights and privileges and then two other categories of religious groups were proposed with substantially lesser rights. THE INSTITUTE published detailed legal analysis noting that, the thinking behind the bill--that "de-registered" religious organizations could continue to operate as "civil associations performing religious activities"--doesn't pass human rights scrutiny and ignores precedent from the European Court of Human Rights ruling that "a tiered system offering an inferior religious status to minority faiths violates the right to religious freedom and the right to be free from religious discrimination." NGOs within Hungary and around the world, scholars, religious leaders, and human rights advocates expressed agreement with this analysis and joined together to criticize the glaring human rights defects in the legislation.

Shockingly, rather than working to correct and remedy the defects in the legislation, the ruling Fidesz and Christian Democrat delegations ignored the avalanche of international criticism that the legislation contravened human rights standards. Worse, about two hours before the final vote, without any prior notice, the Fidesz delegation completely changed key provisions in the bill.

Fidesz objected to listing Churches in three different categories and to the closed nature of the list. An amendment to the final bill listed fourteen accepted religious organizations as Churches. All other religious groups, including for example Buddhists, Methodists and Islamic groups, were retroactively stripped of their status as registered religions. There

are currently 362 religions that have been officially recognized by the State. As of 1 January 2012, 348 of these groups will be stripped of such status and only 14 Churches will be recognized, a status that comes with certain tax benefits and subsidy entitlements

In the original bill a Church had to function in Hungary for at least twenty years and needed a minimum membership of 1,000. The time limit remained but the final bill didn't specify the size of the membership.

The most surprising and objectionable amendment to the bill introduced without adequate debate or reflection two hours before the bill was passed was the decision to remove a provision providing for judicial proceedings for "re-registration" of religious groups and to substitute a new provision stating that "the competent authority to recognize a religious organization is ... the Parliament, with a two-thirds vote, rather than the courts or a ministry." As a journalist at the newspaper Népszava, noted in an opinion piece about the Law, "Gods are sitting in Parliament" who can decide what a Church is and what is not.

This provision flouts clearly delineated human rights standards in religious registration cases developed by the European Court of Human Rights in a series of decisions over the last two decades. These standards mandate government neutrality, non-discrimination, religious pluralism and non-evaluation of religious belief.

Passage of this repressive legislation represents a serious setback for religious freedom in Hungary. The Religion Law contravenes OSCE, European Union, Council of Europe, European Court of Human Rights and United Nations standards because it flagrantly discriminates against minority religious groups. It is the most flagrant example of the disturbing trend in Hungary to undermine human rights as reflected in a January 2011 Resolution by twenty-four members of the Council of Europe Parliamentary Assembly Committee expressing "serious concern with respect to recent developments related to the rule of law, human rights and the functioning of democratic institutions in Hungary."

In the INSTITUTE'S opinion, the Religion Law creates the most burdensome registration system in the entire OSCE region while codifying systematic discrimination of religious minorities. The Religion Law is completely inconsistent with fundamental human rights as it contravenes the principles of equality and non-discrimination.

Retroactive "De-Registration" of Registered Religious Organizations

The Religion Law includes a retroactive provision that violates the Rule of Law and the right to religious freedom. This provision "de-registers" over three hundred minority faiths that have been registered as religions in Hungary since the adoption of the 1990 Religion Law. Only 14 Churches will maintain their registered religious status and the rights and privileges attendant with such status. All other groups will lose their status as religious organizations unless they are "re-registered" through burdensome, oppressive and discriminatory administrative and legislative proceedings (detailed in following section).

There is no question that the Religion Law relegates "de-registered" religious communities to an inferior status. The Law defines a Church or religious community as follows and prohibits "de-registered" religious organizations from holding themselves out as a religious community or "Church".

1) The Church, the religion, the religious community (hereinafter: Church) is an organization consisting of natural persons of legal capacity, confessing the same principles of belief, residing in Hungary. The organization has self-government and autonomy and functions predominantly for the purposes of religious activity. In the

implementation of the present Act religions and religious communities qualify as Churches.

2) A Church may carry out such religious activities that are not in contradiction with the Basic Law, violates neither any piece of legislation, nor the rights and freedoms of other communities or human dignity.

3) The name "Church" may only be used by an organization registered according to the present Act.

Key activities for religious organizations such as: 1) "operating religious-spiritual, educational, training, higher educational, medical, charitable, social, family, child or youth protection, culture or sport institutions or carrying out these activities; 2) producing or selling publications and religious objects necessary for religious spiritual activities; and 3) utilization of real estate for Church purposes" will no longer qualify as "religious activities" for "de-registered" religious associations. Instead, they will be considered as economic activities while they continue to be considered religious activities for the 14 religions that remain registered.

The 14 Churches that will continue to be treated as registered religious organizations are identified in Appendix A to the Religion Law. They consist of the following Churches:

1. Catholic Church in Hungary
2. The Protestant Church in Hungary
3. The Evangelical-Lutheran Church in Hungary
4. The Association of Hungarian Jewish Communities
5. The Unified Israelites Community in Hungary (Statusquo Ante)
6. The Autonomous Orthodox Israelites Community in Hungary
7. The Serbian Orthodox Diocese in Budapest
8. The Hungarian Orthodox Exarchate of the Universal Patriarchate of Constantinople
9. The Bulgarian Orthodox Church in Hungary
10. The Romanian Orthodox Diocese in Hungary
11. The Hungarian Diocese of the Russian Orthodox Church (Moscow Patriarchate)
12. The Hungarian Diocese of the Unitarian Church in Hungary
13. The Baptist Union of Hungary
14. The Faith Church (consisting of a number of Pentecostal-Evangelical Christian Churches in Hungary).

"Re-Registration" Provisions and Proceedings

All religious communities in Hungary except the 14 Churches identified in Appendix A will be retroactively stripped of their status as religious communities and "de-registered" as religious organizations when the Religion Law comes into force on 1 January 2012. These organizations must file an application within 30 days once the Law comes into force if they wish to attempt to "re-register" and get back their status as a registered religious organization and a "Church". The "re-registration" process includes onerous administrative and legislative requirements.

The application for "re-registration" must be submitted to the Minister of the Ministry of Public Administration and Justice (Minister of Justice). The Minister of State for Church, Minority and Non-governmental Relations will work in cooperation with the Minister of Justice and is responsible for maintaining the register. The Minister of Justice may examine the application directly or determine to have it examined by a religious expert, if the requirements for "re-registration" are met in the application. In order to be "re-registered" as a "Church", the following criteria have to be met:

- The association carries out primarily "religious activities";

- The association possesses a set of principles of confession expressing the essence of its teaching and rites;
- The association has adopted its Statutes, internal laws, regulations for organization and functioning, or other documents equivalent to the listed ones;
- The association has elected its organs for representation and management;
- The association's members declare that the organization established by them does not function against the Basic Law and its activities do not violate legal rules or others' rights or freedoms; and
- The association has functioned in Hungary for at least 20 years as a "civil association performing religious activities." (Since the 1,000 membership requirement in the original bill was deleted from the Law, the same rules as for civil associations apply – the association must at a minimum consist of 10 individuals).

The Law defines "religious activities" as those related to a certain world view aiming at some supernatural phenomenon that contains systematized principles of belief. The theses of a religion must target the "whole reality" embracing the "total personality" by requiring particular behavior not violating the morals and human dignity.

Regarding the matter of the applicant's "religious activities," the Minister of Justice shall examine whether it connects to a worldview which: a) directs to the metaphysical/transcendental realm; b) contains a system of religious ideas; c) puts forward disciplines that focus on the "whole reality"; and d) contains specific rules of conduct that are not offensive to morality and human dignity and cover the whole human personality. In addition, the Minister is directed to refuse the application for "re-registration" if the competent official body establishes considerable risk to national security concerning the activity of the community.

Based on this examination, the Minister of Justice either refuses the application or, if it is approved by the Minister, puts it before the Parliamentary Assembly for a vote. The Parliamentary Assembly shall then decide on religious recognition and "re-registration". A vote in favour of the "re-registration" by two-thirds of the Parliament is necessary for the application to be approved. This is accomplished by an amendment to the Appendix of Registered Churches to the Law. If the applicant organization is recognized, the Minister of State for Church, Minority and Non-governmental Relations shall record it. (The Minister also records any "de-registration".)

There is no possibility of an administrative or legislative appeal if the application is denied. The Law does not refer to any remedy if the Parliament fails to "re-register" the organization by a two-thirds vote.

The "Re-Registration" Provisions Violate Fundamental Human Rights

a. Retroactive "De-Registration" Violates the Rule of Law

These "re-registration provisions" are burdensome and constitute the most oppressive and discriminatory registration system for religions in Europe. These provisions constitute an ex post facto law by retroactively stripping over three hundred targeted minority faiths of their religious entity status even though they have been registered as religious entities for many years. This violates the Rule of Law.

This type of retroactive provision was also a feature of Russia's 1997 Religion Law. Significantly, it was struck down by the Russian Constitutional Court on the grounds that an existing religious organization cannot be denied its rights through restrictive "re-registration" without violating the right to freedom of religion and association and the legal equality principle.

b. The Law is Discriminatory

A transparent aim of "de-registering" targeted minority religions is evident. Such retroactive legislation contravenes the Rule of Law and fundamental human rights. There is simply no need to "re-register" any Church. The 1990 Religion Law satisfies the needs of constitutionality. All Churches registered due to its provisions have an acquired right to exist and operate. Those violating the law can be terminated as a consequence of a court procedure initiated by the Prosecution Service. Therefore, "re-registration" is against the accepted principles of law.

The Law impermissibly allows a Minister, an "expert" appointed by the Minister and the Parliament virtually unfettered discretion to evaluate religious doctrines and activities and then approve or deny an application for "re-registration" based on such evaluations in direct contravention of European Human Rights Court standards. Such a system is a blueprint for discrimination.

The requirement that the application for "re-registration" be approved by a two-thirds vote of Parliament is such an egregious flouting of these human rights standards that it renders the Law the most oppressive religious registration scheme in Europe. Registration is reduced to a "beauty contest" requiring a substantial majority vote, allowing votes to be cast on purely discriminatory grounds while making a mockery of the strict requirements of impartiality and neutrality in matters of religion. Minority faiths will inevitably be subject to flagrant discrimination under this system in complete contravention of the policy of "true religious pluralism" mandated by the Human Rights Convention.

Yet, in furtherance of the policy of "true religious pluralism", the European Human Rights Court has instructed governments "to remain neutral and impartial" and has been loath to accept any restrictions on religion, viewing any contested measures with "strict scrutiny". [1] The Court has also struck down measures that vest officials with "very wide discretion" on matters relating to religion. [2] In criticizing broad discretion in one case, the Court held that "the right to freedom of religion as guaranteed under the Convention excludes any discretion on the part of the State to determine whether religious beliefs or the means used to express such beliefs are legitimate." [3] Instead, the Court determined that officials should be limited to verifying, "whether the formal conditions laid down are satisfied". It stressed that seemingly innocuous administrative action restricting minority religions operated as a "lethal weapon against the right to freedom of religion." [4]

There is no question that the right to freedom of religion and religious equality in Hungary will be stripped away from currently registered religious organizations that are "de-registered". The European Human Rights Court has determined that a tiered system offering an inferior religious status to minority faiths violates the right to religious freedom and the right to be free from religious discrimination. See, *Religionsgemeinschaft der Zeugen Jehovas and Others v. Austria* (July 2008, Application no. 40825/98).

In the Austria case, the State argued that the "second tier" status offered minority faiths under that law did not offend religious freedom and anti-discrimination status as the organizations could operate legal entities, known as "registered religious communities". This argument was emphatically rejected by the Human Rights Court. The Human Rights Court held that, under Austrian law, "religious societies" enjoyed privileged treatment in many areas, including facilitation of the founding of schools, tax and military exemption, religious charitable activities and membership of various boards. Given the number of these privileges and their nature, the Court found that the advantage obtained is substantial and this special treatment undoubtedly facilitates a religion's pursuance of its

religious aims, stating that "all religious groups must have a fair opportunity to apply for this status and the criteria established must be applied in a non-discriminatory manner."

Accordingly, the Human Rights Court concluded that that difference in treatment violated the right to be free from religious discrimination protected by the anti-discrimination clause of the European Human Rights Convention, Article 14, taken in conjunction with the right to religious freedom protected by Article 9.

Likewise, the Hungarian Religion Law relegates "de-registered" religious communities to an inferior status. Although the Religion Law attempts to shroud the effect of "de-registration" by allowing such groups to register as civil associations, the reality is that they will no longer be permitted to hold themselves out as "Churches" or "religious communities" to the public, and they will be retroactively stripped of the rights and privileges attached to the status of a registered religious organization. This represents rank discrimination that contravenes the Convention on Human Rights and the International Covenant on Civil and Political Rights.

Laws that attempt to deny base religious entity status to religious communities have been universally condemned by the OSCE, European Human Rights Court and the United Nations because they contravene basic rights to religious freedom and freedom of association. Such a result clearly interferes with the right to religious freedom and represents religious discrimination against minority faiths omitted from Appendix A to the Law unable to satisfy the burdensome and discriminatory procedures mandated for "re-registration".

History is replete with examples of laws which constrain individual religious practice by denying recognition to certain religious organizations. The OSCE, in a document entitled Freedom of Religion or Belief: Laws Affecting the Structuring of Religious Communities,[5] emphasizes the importance of permitting religious groups to achieve registration status without discrimination because such communities cannot operate without such status.

Moreover, as noted above, history has provided all too many examples of States that have utilized registration laws to monitor and repress religious life. Both the mundane needs and the specter of more extreme abuses underscore the need for protection provided by OSCE commitments that assure that religious communities will be able to exercise their religious freedom rights through legal entities. [6]

The Religion Law contravenes the European Court of Human Rights' application of a fundamental human rights policy of the Council of Europe and European Community to religious freedom issues – "the need to secure true religious pluralism, an inherent feature of the notion of a democratic society".[7] It would frustrate this policy of "true religious pluralism" and result in arbitrariness and unfair discrimination to exclude minority faiths from attaining the same rights and benefits of other religions simply because they are new to Hungary.

Article 14 of the European Convention of Human Rights provides that "the enjoyment of the rights and freedoms set forth in the Convention shall be secured without discrimination on any ground" such as sex, race or religion. The Human Rights Court has applied an extremely strict standard to differential treatment based on religion, which would be the case if charity registration were denied to a religious organization on the ground it does not meet a "traditional" definition of religion. As The European Court stated in Hoffmann v Austria:

Notwithstanding any possible arguments to the contrary, a distinction based essentially on a difference in religion alone is not acceptable.[8]

The right to non-discrimination is a basic and pervasive feature of international human rights law. All the major human rights instruments guarantee that everyone is entitled to freedoms "without distinction of any kind such as...religion." These standards are emphasized in UN human rights instruments such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (the "Covenant"). As stated in one United Nations study:

The important guiding principle is that no individual should be placed at a disadvantage merely because he is a member of a particular ethnic, religious or linguistic group. Above all, in any multi-ethnic, multi-religious and multi-linguistic country, the strict application of the principles of equality and non-discrimination is an indispensable requirement for maintaining the political and spiritual unity of the State concerned and achieving understanding and harmonious relations between the various components of society.[9]

The most important finding by the United Nations on religion is Human Rights Committee General Comment No. 22 on Article 18 of the Covenant, which guarantees freedom of thought, conscience and religion. This General Comment provides the Human Rights Committee's definitive interpretation of the right to freedom of religion. The Human Rights Committee finds that:

Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility by a predominant religious community. (Para. 2) (Emphasis supplied).

The Covenant thus clearly prohibits any attempt to discriminate against religions because they are small or are newly established in a State.

The General Comment also emphasizes the narrow permissible restrictions government may impose on religions, and the need to ensure equality and non-discrimination among religions.

In interpreting the scope of permissible limitation clauses, States parties should proceed from the need to protect the rights guaranteed under the Covenant, including the right to equality and non-discrimination ... Limitations imposed must be established by law and must not be applied in a manner that would vitiate the rights guaranteed in Article 18. (Para 3).

The United Nation's 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief is universally regarded as international customary law, even in the absence of a binding convention. Paragraph 2 of Article 2 defines "intolerance and discrimination based on religion or belief" as:

Any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.

The Religion Law clearly violates these principles of non-discrimination on religious grounds.

c. The Law Contains Repressive Duration Requirements

The requirement in the Law that an association exist in Hungary for at least 20 years in order to "re-register" offends human rights. The joint publication by the Venice

Commission and the OSCE Panel of Religious experts entitled Guidelines for Review of Legislation Pertaining to Religion or Belief OSCE and Venice Commission Guidelines note that:

It is not appropriate to require lengthy existence in the State before registration is permitted.

In addition, the OSCE report on Freedom of Religion or Belief: Laws Affecting the Structuring of Religious Communities notes that:

Duration requirements of this type are clearly inconsistent with the OSCE commitment to grant religious groups at least base-level entity status. The wording of this commitment in Principle 16.3 of the Vienna Concluding Document recognizes that the precise form of legal personality varies from legal system to legal system, but access to some form of legal entity is vital to OSCE compliance. This is clearly violated by the refusal to register religious groups that do not satisfy the 15-year rule.

The European Human Rights Court, in *Kimlya and Others vs. Russia* (Applications nos. 76836/01 and 32782/03, October 2009), has also rejected these types of duration provisions in legislation. The Court found that the refusal to register Churches in Russia as religious organizations because they had not existed for 15 years as required by the 1997 Religion Law violated the rights of the applicants, in particular, it violated the provisions of Article 9 of the Convention (freedom of religion) in the light of Article 11 (freedom of association). The Court found that "the restricted status afforded to religious groups under the Religion Act did not allow members of such a group to enjoy effectively their right to freedom of religion, rendering such a right illusory and theoretical rather than practical and effective, as required by the Convention".

If 15 year duration requirements contravene human rights instruments, then twenty year requirements do as well.

d. The Law Impermissibly Provides A Narrow Definition of "Religious Activities"

The Law provides a narrow and non-inclusive definition of "religion" centered on Judeo-Christian concepts of the term. "Religious activities" are defined as those related to a certain world view aiming at some supernatural phenomenon that contains systematized principles of belief. Paragraph 2 of the "religious activities" article lists activities that cannot be characterized as religious activities "in themselves". The Law reads as follows.

(1) In the course of implementation of the present Act religious activities are those related to a certain world view aiming at the supernatural, contains systematized principles of belief. The theses of a religion target the whole reality embracing the total personality by requiring particular behavior not violating the morals and human dignity.

(2) The following activities cannot be qualified in themselves as religious ones

- a. political and political advocacy
- b. psychical or para-psychical
- c. therapeutic
- d. economic, business
- e. educational
- f. training
- g. higher educational
- h. medical
- i. charity
- j. family, child and youth welfare
- k. cultural
- l. sport

- m. protection of animals, environment or nature
- n. data processing activities beyond those needed for the exercise of the religion.

The definition in the first paragraph is similar to the definition in the draft Hungarian law introduced in 2000 that was criticized by human rights experts for attempting to narrow down recognized religions under the 1990 Religion Law by identifying them as “a structured set of beliefs” and adding to the definition a specific requirement that they “focus on reality as a whole”. The Religion Law contains a strikingly similar definition. Such a definition is likely to prevent registration of non-structured faiths that focus on the spiritual and not the material world. The language in both paragraphs is also so vague as to allow for unfettered discretion by the Minister in examining applications for “re-registration,” which inevitably leads to religious discrimination.

The broad and inclusive approach of the European Court of Human Rights and its related organs to the definition of religion is best exemplified by the detailed study regarding Article 9 of European Convention on Human Rights by the Human Rights Information Centre of the Directorate of Human Rights of the Council of Europe on the treatment of religion by the European Court. The Directorate finds that the concept of religion under Article 9 is:

Not confined to widespread and globally recognized religions but also applies to rare and virtually unknown faiths. Religion is thus understood in a broad sense. [10]

The most important feature of a definition of religion is that it not be discriminatory and that it treats all religions equally. The government has an obligation to ensure non-discrimination between religions and foster religious pluralism. Human rights standards mandate legislation broad and flexible enough to encompass all religions and all forms of worship. The Joint OSCE and Venice Commission Guidelines note that:

To the extent that legislation includes definitions, the text should be reviewed carefully to ensure that they are not discriminatory and that they do not prejudice some religions or fundamental beliefs at the expense of others.

The UN Human Rights Committee has issued a definitive interpretation regarding the scope of freedom of religion under Article 18 of the Covenant. The Human Rights Committee has determined that Article 18 protects theistic and non-theistic beliefs, that the terms belief and religion are to be broadly construed, that Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions, and that Article 18 prohibits any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established.

Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms belief and religion are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions.

The definitional provisions in the Religion Law do not comport with these human rights standards and would result in the denial of religious registration to numerous religious groups that should qualify under the broad definition mandated by human rights law.

- e. The “National Security” Provision Violates International Human Rights Law

An amendment to the legislation offered at the eleventh hour directs the Minister of Justice to refuse an application for “re-registration” if the competent official body establishes that the religious group’s activity represents considerable risk to national security.

This provision flagrantly violates fundamental international human rights law and international human rights instruments that Hungary has signed and ratified. Under the European Convention on Human Rights and the International Covenant on Civil and Political Rights, national security does not form a proper basis to impose restrictions on religious freedom. National Security is consistently excluded from the list of permissible grounds for restricting freedom of religion in all major international instruments, as evidenced in ECHR Art. 9 (2) and ICCPR Art. 18 (3). This is in obvious contrast to the limitation clauses for freedom of expression in ECHR Art. 10 (2) and ICCPR Art. 19 (2) (b).

As the United Nations Human Rights Committee notes in its General Comment on Article 18 of the ICCPR:

Restrictions are not allowed on grounds not specified there, even if they would be allowed as restrictions to other rights protected in the Covenant, such as national security. Limitations may be applied only for those purposes for which they were prescribed.

Generalized appeals to national security or other State interests outside concrete and imminent threats to the State do not suffice. It is simply improper to play the "national security" card to build long term restrictions and impediments into normal religious association laws.

Avenues to Challenge the Law

a. Hungarian Constitutional Court

Under the current Constitution, once the law is sent by the Speaker of the Parliament to the President for signature within 15 days and promulgation in the Hungarian Official Journal (assuming the President does not return it to the Parliament for further review), it may be challenged by concerned Citizens or NGOs in the Constitutional Court on the grounds that it violates the Constitution or Hungary's human rights commitments under binding international law (the right of *actio popularis*).

b. European Human Rights Court

A religious group that is "de-registered" and denied "re-registration" by the Minister or the Parliament has no right of appeal under the Law. Therefore, it should be able to then directly file an application with the European Court of Human Rights as it has exhausted domestic remedies and it can allege that it has directly been the victim of a violation of the rights and guarantees set out in the European Convention on Human Rights.

c. Formal Human Rights Monitoring Procedure Initiated By the Council of Europe

In January 2011, twenty-four members of the Council of Europe Parliamentary Assembly Committee on the Honouring of Obligations and Commitments by Member States (Monitoring Committee) signed a Motion for a Resolution entitled "Serious Setbacks in the Fields of the Rule of Law and Human Rights in Hungary." The Resolution expressed the Parliamentary Assembly members "serious concern with respect to recent developments related to the rule of law, human rights and the functioning of democratic institutions in Hungary."

On 5 July 2011, two Co-Rapporteurs from the Council of Europe traveled to Hungary to investigate these serious setbacks in human rights in Hungary and to report to the Monitoring Committee as to whether a formal human rights monitoring procedure should be initiated. The provisions in the Religion Law are so oppressive and discriminatory that the Monitoring Committee should take action to initiate a human rights monitoring procedure to ensure compliance by Hungary with the Human Rights Convention and other Council international instruments that it has signed and ratified.

Conclusion

The passage of this draconian Religion Law is the latest and most disturbing example of this serious setback of human rights and the rule of law in Hungary. The legislation contravenes OSCE, European Union, Council of Europe, European Court of Human Rights and United Nations standards because it clearly discriminates against minority religious groups.

The Hungarian Civil Liberties Union first assessment of the impact of the new law on religions

CLU (14.07.2011) / HRWF (14.07.2011) - <http://www.hrwf.net> - - The main practical consequences of the re-codification of the right to freedom of religion and establishing churches (hereinafter: Law) are the follows:

1. The Law itemises 14 churches in an appended list. These churches keep their status since the minister will register them, regardless if they meet the requirements of being churches.
2. Hundreds of religious organizations, now legally operating as churches but not on the list, will lose their status. These religious organizations shall have only one month, namely January 2012, in which to re-register themselves and get back their status.
3. The requirements of being recognised as a church are the follows: Above the ordinary organizational conditions (statutes, agreement, lawful activity, etc.):
 - ongoing primary religious activity,
 - creed and rite reflecting the essence of its discipline,
 - organized activity as "civil association performing religious activities" for 20 years in Hungary. (Since no minimum number of membership has remained in the Law, the same rules as for the civil associations applies for this case: the minimum of 10 individuals.)

Regarding the 'religious activity' the minister shall examine whether it connects to a worldview which a) directs to the metaphysical/transcendental realm, b) contains a system of religious ideas, c) its disciplines directs to the whole reality, d) its specific rules of conduct, not offensive to morality and human dignity, cover the whole human personality. (As I understand this is the legislator's definition of religion.)

The minister should refuse the application if the competent official body establishes considerable risk to national security concerning the activity of the community.

4. The proceeding of the recognition as a church: the request to the registration should be submitted to the minister, who examines it herself, or may make it examined by an expert, if the requirements are met. After that she either refuses the request or puts it before the Parliamentary Assembly. The latter shall decide the recognition (and the amendment of the annex of the Law) with a 2/3 vote. If the applicant organization is

being recognized the minister shall record it. (The same goes for deregistration.) There is no mention of remedies in the Law.

Annex:

Churches, religions and religious communities recognized by the Parliamentary Assembly of Hungary:

1. Catholic Church in Hungary
2. The Protestant Church in Hungary
3. The Evangelical-Lutheran Church in Hungary
4. The Association of Hungarian Jewish Communities
5. Unified Israelites Community in Hungary (Statusquo Ante)
6. Autonomous Orthodox Israelites Community in Hungary
7. Serbian Orthodox Diocese in Buda
8. The Hungarian Orthodox Exarchate of Universal Patriarchate of Constantinople
9. The Bulgarian Orthodox Church in Hungary
10. The Romanian Orthodox Diocese in Hungary
11. The Hungarian Diocese of Russian Orthodox Church (Moscow Patriarchate)
12. The Hungarian Diocese of Unitarian Church in Hungary
13. Baptist Union of Hungary
14. Faith Church

Hungarian Parliament resurrects Soviet past with midnight adoption of Europe's most restrictive religion law

IRPP (12.07.2011) / HRWF (13.07.2011) - <http://www.hrwf.net> - While Communism officially ended in Hungary over 20 years ago, it appears the dictatorial mindset has not yet fully abated.

Last night after midnight, the Hungarian parliament procured for the country the title of Worst Religion Law in Europe when it adopted its new "Law on the Right to Freedom of Conscience and Religion, and on Churches, Religions and Religious Communities".

"I am both saddened and disappointed by the adoption of such a draconian law," commented THE INSTITUTE's Founder and Chairman, Joseph K. Grieboski. "I have known and worked closely with Hungarian Prime Minister Viktor Orban, most recently on the new constitution, and expected much more from him. The law is a danger to all Hungarian society and a terrible indication of the state of democracy in the country."

As the Pastor of an evangelical Church noted on passage of the bill: "This is the greatest discrimination against evangelical Christians since the fall of Communism. This is just the first step against real, active, Bible-believing Christian groups. During Communism we were oppressed and persecuted, but we didn't expect the same from a so-called 'Christian' government."

Over one hundred currently registered religious organizations will be retroactively stripped of their status as religious communities and "de-registered" as religious organizations, losing key rights and privileges provided to registered Churches. Only fourteen religious organizations will retain their registration status, while all others in the country will be forced to reregister.

Religious organizations that have been "de-registered" may not use the name "Church" and will also lose their status as a religious organization if they are not "re-registered" through burdensome proceedings. In addition, "re-registration" can only occur if a minority religious community meets onerous duration levels designed to suppress minority religious freedom in complete contravention of European Human Rights Court's and OSCE's standards.

The amendments added to the legislation further restrict the rights of religious communities in Hungary by imposing illegal national security restrictions. Such amendments violate fundamental international human rights law and international human rights instruments that Hungary has signed and ratified. Under the European Convention on Human Rights (ECHR) and the International Covenant on Civil and Political Rights (ICCPR), national security does not form a proper basis to impose restrictions on religious freedom. National Security is consistently excluded from the list of permissible grounds for restricting freedom of religion in all major international interests.

According to the most surprising amendment, the competent authority to recognize a religious organization is now the parliament, with a two-third vote, rather than the courts or a ministry. A religious organization seeking recognition must now request the registration from the Minister who will initiate the request to the parliament. After the two-thirds vote by parliament, the religious organization is added to the list of recognized religions and an order is sent to the Court to register the organization within 30 days.

In January 2011, twenty-four members of the Council of Europe Parliamentary Assembly Committee on the Honouring of Obligations and Commitments by Member States (Monitoring Committee) signed a Motion for a Resolution entitled "Serious Setbacks in the Fields of the Rule of Law and Human Rights in Hungary." The Resolution expressed the Parliamentary Assembly members "serious concern with respect to recent developments related to the rule of law, human rights and the functioning of democratic institutions in Hungary." Last week, two Co-Rapporteurs from the Council of Europe traveled to Hungary to investigate these serious setbacks in human rights in Hungary and to report to the Monitoring Committee as to whether a formal human rights monitoring procedure should be initiated.

The passage of this draconian Religion Law is the latest and most disturbing example of this serious setback of human rights and the rule of law in Hungary. The legislation contravenes OSCE, European Union, Council of Europe, European Court of Human Rights and United Nations standards because it clearly discriminates against minority religious groups.

Today, THE INSTITUTE once again urges the Monitoring Committee to take action to initiate a human rights monitoring procedure to ensure compliance by Hungary with the Human Rights Convention and other Council international instruments that it has signed and ratified.

"In the midst of celebrating the break from its Soviet past by crafting a new constitution, erecting a statute of Ronald Reagan, and opening the Tom Lantos Human Rights Institute, the Government of Hungary has thrust the nation back into a system of repressive and restrictive legislation with this new law," Mr. Grieboski commented. "My only hope is that similar to the case of the media law in January, the Government will realize the terrible mistake it has made and return the law to Parliament for revision, and ideally put it in line with international and European human rights standards."
