

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Independent Expert on Minority issues.**

REFERENCE: AL Assembly & Association (2010-1) G/SO 214 (56-23) Minorities (2005-4)  
HUN 2/2011

18 July 2011

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Independent Expert on Minority Issues pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/6, 14/11 and 15/21.

We would like to draw the attention of your Excellency's Government to information we have received regarding the recently adopted law, entitled "**Law on the Right to Freedom of Conscience and Religion and on Churches, Religions and Religious Communities**", and the serious implications it might have for the right to freedom of religion or belief in Hungary.

According to information received:

On 12 July 2011, the Hungarian parliament at its last session before the summer recess reportedly adopted the "Law on the Right to Freedom of Conscience and Religion and on Churches, Religions and Religious Communities".

This law in its current form may have serious implications for freedom of religion or belief in Hungary, as it reportedly creates a very burdensome registration system, in particular for those belonging to minority faiths.

*Key concerns of the law:*

Reportedly, the aforementioned law defines 14 churches and religious communities, therefore all other churches and religious communities will need the

approval of a two thirds vote by Parliament in order to register as a church or religious community.

Consequently, possibly over one hundred religious organizations may be deprived of their status and de-registered, thus losing key rights and privileges afforded to registered churches. This includes using the title of “church”, unless they are re-registered as religious organizations. As a result the bill introduces a re-registration system.

The re-registration process also reportedly requires that certain criteria be met, including the requirement that the religious organization must declare its faith and religious activities, and provide evidence of at least 20 years of operation and regulations on its structure and operation. Moreover, the new law reportedly seeks to further restrict the rights of religious communities by imposing national security restrictions, despite the fact that “national security” is not included in the permissible grounds for restricting freedom of religion or belief pursuant to article 18, paragraph 3, of the International Covenant on Civil and Political Rights (ICCPR).

Serious concern is expressed that this new law would curtail the right of those belonging to minority faiths to freely practice their religion or belief, and in particular would discriminate against newly established religious communities that would not be able to meet the stringent criteria of the “Law on the Right to Freedom of Conscience and Religion and on Churches, Religions and Religious Communities”. In addition, concern is expressed the legislation may place undue restrictions to the rights to freedom of expression and of association.

While we do not wish to prejudge the accuracy of these allegations, we wish to appeal to your Excellency’s Government to seek clarification of the content, circumstances and possible implications regarding the new law on “Law on the Right to Freedom of Conscience and Religion and on Churches, Religions and Religious Communities”.

We would like to draw your Excellency’s attention to paragraph 2 of General Comment 22 on article 18 of ICCPR, in which the Human Rights Committee states that the terms “belief” and “religion” are to be broadly construed. Article 18 of the ICCPR 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.

We would also like to appeal to your Excellency’s Government to ensure the right of freedom of religion or belief in accordance with the principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based

on Religion or Belief and article 18 of the Universal Declaration on Human Rights as well as Article 18 of the International Covenant on Civil and Political Rights.

The General Assembly, in its resolution 64/164, urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end “(a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practise freely one’s religion, including the right to change one’s religion or belief, is violated; [...] (e) To review, whenever relevant, existing registration practices in order to ensure that such practices do not limit the right of all persons to manifest their religion or belief, either alone or in community with others and in public or private; [...] (g) To ensure, in particular, the right of all persons to worship, assemble or teach in connection with a religion or belief and their right to establish and maintain places for these purposes and the right of all persons to write, issue and disseminate relevant publications in these areas; [...] (i) To ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom of all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected”.

In this regard, we would like to expressly refer to the “Guidelines for Review of Legislation Pertaining to Religion or Belief”, prepared by the Organization for Security and Cooperation in Europe/Office of Democratic Institutions and Human Rights Advisory Panel of Experts on Freedom of Religion and Belief in consultation with the Council of Europe’s Venice Commission in 2004 (see E/CN.4/2005/61, paras. 57-58 and [www.osce.org/odihr/13993](http://www.osce.org/odihr/13993), page 17): “The following are some of the major problem areas that should be addressed: Registration of religious organizations should not be mandatory per se, although it is appropriate to require registration for the purposes of obtaining legal personality and similar benefits; Individuals and groups should be free to practise their religion without registration if they so desire; High minimum membership requirements should not be allowed with respect to obtaining legal personality; It is not appropriate to require lengthy existence in the State before registration is permitted; Other excessively burdensome constraints or time delays prior to obtaining legal personality should be questioned; Provisions that grant excessive governmental discretion in giving approvals should not be allowed; official discretion in limiting religious freedom, whether as a result of vague provisions or otherwise, should be carefully limited; Intervention in internal religious affairs by engaging in substantive review of ecclesiastical structures, imposing bureaucratic review or restraints with respect to religious appointments, and the like, should not be allowed; Provisions that operate retroactively or that fail to protect vested interests (for example, by requiring re-registration of religious entities under new criteria) should be questioned; Adequate transition rules should be provided when new rules are introduced; Consistent with principles of autonomy, the State should not decide that any particular religious group should be subordinate to another religious group or that religions should be structured on

a hierarchical pattern (a registered religious entity should not have veto power over the registration of any other religious entity).”

Furthermore, we draw the attention of your Excellency’s Government to international standards relevant to the protection and promotion of the rights of minorities. Article 27 of the International Covenant on Civil and Political Rights establishes that: “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.” In addition, the provisions of the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities require under Article 1 that “States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity”, and that “States shall adopt appropriate legislative and other measures to achieve those ends.” Article 2 states that “Persons belonging to national or ethnic, religious and linguistic minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination. In addition, Article 4.1 of the Declaration establishes that: “States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.” The Declaration requires under Art. 4.2 that States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs.

With regards to concerns expressed that the new legislation may place unnecessary restrictions to the legitimate right to freedom of association, we would like to appeal to your Excellency’s Government to take all necessary steps to ensure the right to freedom of association, as recognized in article 22 of the International Covenant on Civil and Political Rights, which provides that “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the above mentioned new law accurate?
2. Please provide further details and a copy of the text, if possible also in English translation, of this new law.

3. Please explain how the new law, in particular the re-registration system for religious communities, is compatible with international human rights standards regarding non-discrimination, the right to freedom of religion or belief and the right to freedom of association.

We would appreciate a response within sixty days. We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Heiner Bielefeldt  
Special Rapporteur on freedom of religion or belief

Gay J. McDougall  
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Maina Kiai  
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