

Mandates of the Special Rapporteur on minority issues; the Special Rapporteur on the right to privacy; and the Special Rapporteur on freedom of religion or belief

REFERENCE:
AL HUN 5/2018

30 August 2018

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on minority issues; Special Rapporteur on the right to privacy; and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 34/6, 37/2 and 31/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **discriminatory measures against the Church of Scientology on the basis of religious belief**.

According to the information received:

The denial of the permission for the Church of Scientology to maintain its headquarters and place of worship in Budapest

The Church of Scientology (Church), although not being officially recognized since the adoption of the 2011 Law on the Right to Freedom of Conscience and Religion and on Churches, Religions and Religious Communities, is a registered religious association in Budapest. Nevertheless, the Parliament had denied the Church's application for a certificate of occupancy for its headquarters and place of worship in Budapest on the first and second instances, in May 2016 and January 2017, respectively, and ordered the Church to vacate the building.

In January 2017, the Church appealed the decision to the Administrative and Labour Court of Budapest. On 12 September 2017, the Court remanded the case to the second instance to be considered again within 21 days, taking into account all the evidence that was previously neglected, which reportedly proves that the building is safe and ready to be used. The procedure started in December 2017, however, it has not been completed to the present date. Meanwhile, the Supreme Court granted a request from the Church to occupy the facilities while awaiting for a final decision regarding the order to vacate the building.

The criminal investigation of the Church of Scientology

On 7 December 2016, the Data Protection Authority launched a data protection investigation of the Church of Scientology and, to this end, seized various documents from its offices in Budapest and Nyiregyhaza, including "preclear folders" that contain confidential communications between penitents and their minister. In the same month, the Church filed a complaint with the Administrative

and Labour Court contesting the seizures, which was rejected based on the allegation that, at the moment of the seizures, the Data Protection Authority was unable to verify whether the documents were of a religious nature.

Subsequently, the Data Protection Authority filed a complaint against the Church for concerns related to the Church's methods of collection and storage of personal data, and transferred the seized documents to the National Bureau of Investigation. Moreover, although having the purpose of examining data protection practices, the authority also reported the Church to the criminal department of the tax office for alleged tax fraud and money laundering.

On 18 October 2017 at 7.30 a.m., around 60 agents of the National Bureau of Investigation raided the Church of Scientology headquarters in Budapest, seized documents and sealed the building. On the next day at 7.00 a.m., the criminal section of the tax office executed search warrants and seized documents from the Church's offices in Budapest and 15 other locations with the purpose of investigating possible financial crimes. In addition, the authorities froze the Church's bank accounts and placed a lien on the Budapest headquarters.

Without prejudging the accuracy of these allegations, we would like to express our concern about the repeated denial and unjustified delay on the permission for the Church of Scientology to maintain its headquarters and place of worship in Budapest. We also express serious concern that the criminal investigations carried out against the Church of Scientology, which led to the seizure of several documents including of a private nature and to restrictions on places of worship, may be incompatible with international human rights standards. Such acts constitute serious impediments to religious freedom and to the fulfilment of the rights and freedoms of religious minorities as enshrined in the applicable international human rights standards that Hungary has committed to.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases that fall within our mandates and brought to our attention, we would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide details on the reasons for the denials and delay on the permission for the Church of Scientology to maintain its headquarters and place of worship in Budapest, and how these measures are compatible with your Government obligations under international human rights law.

3. Please articulate how the criminal investigations launched against the Church of Scientology, as well as the seizure of religious and private documents and restrictions on places of worship, are compatible with international human rights standards, particularly regarding the right to freedom of religion or belief and the right to privacy.
4. Please provide detailed and updated information on the concrete measures undertaken by the Government of Hungary to ensure protection and promotion of religious freedom and of the human rights of religious minorities in the country.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

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

Fernand de Varennes
Special Rapporteur on minority issues

Joseph Cannataci
Special Rapporteur on the right to privacy

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to appeal to your Excellency's Government to take all necessary steps to ensure the fundamental rights in accordance with the principles as set forth in Articles 18, 17 and 27 of the International Covenant on Civil and Political Rights (ICCPR), ratified by your Excellency's Government in 1974, guaranteeing the right to freedom of religion or belief, right to privacy as well as the protection of the rights to persons belonging to religious minorities.

In this respect, we would like to recall that Article 18 of the ICCPR ensures the right of everyone to have and manifest a religion of one's choice. The freedom of religion or belief is part of the *forum internum*; it is a non-derogable right that allows no limitations under international law.

We also would like to refer to the Human Rights Council Resolution 6/37, which urges States to ensure the right to worship or assembly in connection with a religion or belief, and to establish and maintain places for these purposes.

Moreover, the Human Rights Committee, in its General Comment 22, states that the scope of Article 18 is not limited to traditional religions or to religions and beliefs with institutional characteristics analogous to those of traditional religions. The Committee also 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 minority.

We share the concerns mentioned by the former Special Rapporteur on freedom of religion or belief, in his report to the Human Rights Council in 2012, that "some domestic laws even provide for discriminatory exemptions of certain religious communities considered "traditional", while small or new religious movements would need to submit new applications to be re-registered – an option often connected with lengthy and costly bureaucratic procedures. Such State policies of depriving some religious or belief groups of a previously held status may be pursued for different purposes; for example, to exercise control over some religious or belief movements or marginalizing groups deemed not to fit into the cultural, religious or political makeup of the country. From the perspective of freedom of religion or belief and in view of the principle of non-discrimination underlying human rights in general, such practices are highly problematic, as they are likely to create an atmosphere of legal insecurity and political intimidation detrimental to the free and equal enjoyment of freedom of religion or belief by everyone. Provisions that operate retroactively or that fail to protect vested interests should be avoided and if new rules are introduced there should be at least adequate transition provisions." (A/HRC/19/60, Para. 57)

In this connection, we also deem it appropriate to make reference to international standards regarding the protection of the rights of persons belonging to religious

minorities, in particular to Article 27 of the ICCPR, which guarantees minorities, inter alia, the right to profess and practice their own religion.

The 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities establishes the obligation of States to protect the existence and identity of religious minorities within their territories and to adopt the appropriate measures to achieve this end (Article 1), recognizes that persons belonging to religious minorities have the right to profess and practice their own religion without discrimination (Article 2) and requires States to ensure that persons belonging to minorities, including religious minorities, may exercise their human rights without discrimination and in full equality before the law (Article 4.1).

Finally, we would like to refer to Article 17(1) of the ICCPR that provides for the right of everyone to be protected against arbitrary or unlawful interference with her or his privacy, family, home or correspondence. This provision, as interpreted by the Human Rights Committee, requires States to adopt legislative measures to give effect to the prohibition against such interferences and attacks, as well as to the protection of this right.