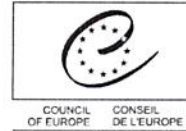




COMMISSIONER FOR HUMAN RIGHTS
COMMISSAIRE AUX DROITS DE L'HOMME



Ref: CommHR/GC/sf 112-2011

Mr János MARTONYI
Minister for Foreign Affairs
of the Republic of Hungary

Strasbourg, 16 December 2011

Dear Minister,

I would like to share with you some concerns relating to the new Hungarian Law on the Right to Freedom of Conscience and Religion, and on the Legal Status of Churches, Religious Denominations and Religious Communities, which will enter into force on 1st January 2012.

This new law raises several issues, notably with regard to the many severe legal and procedural obstacles it imposes on non-recognised denominations in acceding to church status and the privileges that are denied to denominations which are not deemed to qualify for this status. I note in particular that the decision to grant church status must be taken by the Parliament with a two-thirds majority.

Freedom of thought, conscience and religion, enshrined in Article 9 of the European Convention on Human Rights, has been recognised by the European Court of Human Rights as a pillar of democracy. The sensitivity of the issues involved is underlined by the extensive case-law of the Court, including on questions such as the legal personality of religious communities, the organisation of religious education in schools, or the right not to disclose one's religious affiliation. The State's duty of neutrality and impartiality, as defined in the Court's case-law, is incompatible with any power enabling it to assess the legitimacy of religious beliefs. Other standards, such as the Guidelines for Review of Legislation Pertaining to Religion or Belief of 2004, prepared by the OSCE/ODIHR Advisory Panel of Experts on Freedom of Religion or Belief in consultation with the Council of Europe's Commission for Democracy through Law (Venice Commission), are also of relevance.

As a consequence of the new law, more than 100 religious denominations will be deprived of their church status and, as a result, of many of the rights they previously enjoyed in Hungary. The criteria on the basis of which some churches were allowed to retain their status while others were not and the resulting differential treatment may raise questions in the light of the abovementioned international standards and the principle of non-discrimination.

A further issue brought to my attention concerns the new strict registration requirements provided for in the law. In particular, the requirement that a religious organisation must have existed for twenty years in the State before it can be registered as a church does not seem appropriate in this context.

While I understand that your Government is prepared to enter into agreements with organisations which no longer qualify for church status under the new law in order to guarantee the continued provision of community services by these organisations, I remain concerned by the consequences that the deprivation of church status may entail for the communities concerned.

I therefore call on your government to reconsider some of the provisions of the new law, in light of applicable standards and to take steps to ensure that state authorities, including the Parliament, are not seen to be partisan to any religious faith.

I look forward to receiving your reply and to continuing our constructive dialogue on the above issues.

Yours sincerely,



Thomas Hammarberg