

PAÍSES DEL ESTE
CRÓNICA LEGISLATIVA

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1. HUNGRÍA. Ley sobre el derecho de libertad de conciencia y religión y el estatuto legal de las iglesias, confesiones y comunidades religiosas de 2011.

Una de las novedades legislativas que se han producido, recientemente, en los países de la Unión Europea que pertenecían al antiguo núcleo de los “Países del Este”, y que debemos destacar por su importancia, ha sido la aprobación, el 30 de diciembre de 2011, y la posterior entrada en vigor, el uno de enero de 2012, de una nueva Ley marco sobre libertad religiosa, cuyo contenido sirve para determinar jurídicamente el marco general sobre el que se desarrollará el ejercicio de la libertad de conciencia y religión en Hungría.

Median apenas dos días entre su aprobación y entrada en vigor, lo que deja entrever la relativa urgencia que los poderes

públicos húngaros tenían para que produjera efectos jurídicos. Esta premura en el procedimiento se debe, tal y como alegaron las autoridades húngaras, a la necesidad de corregir el efecto “llamada” que la legislación anterior había causado sobre las entidades religiosas en materia de inscripción. Según se advirtió en el debate parlamentario, más de 300 entidades se habían registrado, un número que las autoridades húngaras consideraban muy elevado, y cuya motivación parecía estar, principalmente, en la intención por parte de las entidades solicitantes de acogerse a los beneficios fiscales y tributarios que la anterior legislación reconocía a las comunidades religiosas registradas, frente a las que no lo estaban. Por lo tanto, las autoridades húngaras intuían que esa legislación había alentado un interés económico en las entidades religiosas, en lugar de propiciar el acatamiento y seguimiento de una conducta jurídicamente adecuada al procedimiento previsto para su reconocimiento como entidades encargadas de canalizar el efectivo ejercicio de un derecho fundamental.

A su vez, la Ley aportaba una lista acotada de 14 iglesias efectivamente reconocidas por el Parlamento. Esta lista fue posteriormente enmendada y ampliada hasta 27 y finalmente, en audiencia parlamentaria, que tuvo lugar el 29 de febrero de 2012, se reconocieron un total de 32 iglesias. La resto de entidades que faltan entre las iglesias reconocidas expresamente por esta nueva fórmula y las reconocidas por el sistema anterior tuvieron que embarcarse en un nuevo procedimiento de inscripción según la normativa actual.

En el preámbulo de la norma se señalan los tres objetivos que se persiguen con esta Ley: a) garantizar la libertad de conciencia; b) asegurar la autonomía de las entidades religiosas; c) regular la relación entre las iglesias y el Estado. Aunque, por todo lo dicho y por el propio texto de la norma, consideramos que esta norma se sustancia fundamentalmente como una disposición dirigida a ordenar la vida jurídica de las entidades religiosas. A ese interés se añade la importancia que dichas entidades tiene en

la vida cotidiana, tal y como se señala en el preambulo donde se reconoce que las entidades religiosas, y especialmente sus actividades, están relacionadas directamente con actividades de gran trascendencia pública, como la enseñanza, tanto la primaria, secundaria y superior; la sanidad, la caridad y la asistencia social; la familia y la protección de la infancia; la protección del patrimonio cultural y medioambiental; los deportes, etc. Dentro de este elenco de actividades, destaca como el legislador húngaro vincula la labor de las entidades religiosas a la perpetuación de valores en la sociedad y la conformación progresiva de la “identidad nacional”. Una función que relaciona con la propia historia del país, dotando de relevancia al papel de las iglesias en la configuración de la historia y cultura húngara. Un reconocimiento que, en cierta medida, le desvincula de su pasado comunista y de su actitud beligerante frente al fenómeno religioso.

Dicho esto, otros aspectos destacan en la regulación propuesta. Y, así, siguiendo el esquema de objetivos, la norma se distribuye en Capítulos que atiende a cada uno de ellos. En el Capítulo I la norma se encarga de desarrollar el contenido del Derecho de libertad de conciencia y religión. En su primer artículo, hace una determinación del derecho de libertad de conciencia y religiosa. De este precepto parece conveniente señalar que, comparandolo con la configuración del derecho de libertad de conciencia que realiza las normas internacionales, en su denominación no se menciona expresamente la libertad de pensamiento. Cierto es que, según la interpretación que realiza la Comunidad Internacional, la libertad de conciencia abarca todas las manifestaciones, teístas y no teístas, y por lo tanto la libertad de pensamiento como una parte esencial del haz de libertades que componen el derecho. Por lo tanto, si la interpretación de la norma se realiza conforme a los parámetros de la normativa internacional, tal y como se recoge en el propio preámbulo, la libertad de pensamiento no debe entenderse excluida de su aplicación, aunque no la mencione expresamente. No obstante, parece destacable que, utilizando aparentemente la nomenclatura

internacional, se obvie expresamente esta denominación. Lejos de otras consideraciones, este hecho parece reforzar la idea de que sobre la promulgación de esta normativa sobrevolaba, fundamentalmente, la preocupación de las autoridades públicas por diseñar un sistema de reconocimiento de las entidades religiosas que no generara las consecuencias antes descritas. Por ese motivo, parece que el ámbito religioso prevalecía en la mente del legislador.

Por lo demás, respecto a este primer Capítulo, conviene señalar como sus preceptos recogen el principio de no discriminación y de igualdad. Así, del articulado que compone este Capítulo destacamos: a) el recordatorio que la norma hace sobre la limitación del derecho, que deberá ser acorde con el párrafo 3 del artículo I de la Constitución (artículo 1.3 de la Ley); b) el reconocimiento expreso del derecho de los padres a elegir la formación moral y religiosa que consideren adecuada para sus hijos y conforme a sus creencias (artículo 2 de la Ley); c) la previsión específica donde consagra el derecho de las personas que sirven en las fuerzas y cuerpos de seguridad del Estado a ejercer su libertad de conciencia durante el ejercicio de sus funciones, evidentemente según las normas de organización de la institución y el respeto principal a la obligación de la defensa nacional (artículo 3 de la Ley); d) la posibilidad de utilizar los medios de comunicación; e) o la protección de datos en materia de libertad religiosa.

En el segundo Capítulo de la norma se regula el estatuto legal de las iglesias, confesiones y comunidades religiosas. En una primera parte, la norma realiza una determinación de las “actividades religiosas”. Por lo tanto, maneja un concepto de “lo religioso” al que se aproxima en su articulado. En su precepto número 6 señala que las actividades religiosas son aquellas vinculadas a una cosmovisión que se dirige a lo trascendental, que posee un sistema de principios basados en la fe, cuyas enseñanzas se dirigen a la existencia humana en su conjunto, abarcando la personalidad humana, a través códigos de conducta

específicos que no sean contrarios a la moral y dignidad humana. Paralelamente a este concepto, relaciona una serie de actividades que no deben considerarse religiosas *per se* (artículo 6.2 de la Ley): a) actividades políticas y/o o lobbies; b) actividades psicológicas y para psicológicas ; c) actividades médicas; d) actividades económicas y empresariales; e) actividades instructivas y educativas; f) actividades de educación superior; g) actividades sanitarias; h) actividades de caridad; i) actividades de protección de la familia y de la infancia; j) actividades culturales; k) actividades deportivas; l) actividades de protección animal, medioambiental o de conservación de la naturaleza; m) actividades relacionadas con el control de datos que van más allá del tratamiento de datos necesarios para las actividades religiosas; n) actividades relacionadas con el trabajo social.

En un segundo apartado, la norma determina el concepto de iglesia y las relaciones que el Estado tendrá con ellas. En palabras de la propia Ley (artículo 7) una iglesia, confesión o comunidad religiosa es una organización autónoma reconocida por el Parlamento, compuesta por un conjunto de personas físicas que comparten los mismos principios de fe. Esta comunidad dispondrá de la capacidad de autogobierno, será estable y tendrá como propósito principal realizar prácticas religiosas. Desde el punto de vista jurídico, estas entidades serán consideradas “persona jurídica” (artículo 7.2). Las actividades desarrolladas por estas entidades no podrán ser contrarias a la Constitución, a las disposiciones legales, ni violarán los derechos los derechos y libertades de otras comunidades o la dignidad humana (artículo 7.3).

El Estado podrá firmar convenios de colaboración con aquellas entidades que dispongan de un considerable apoyo social, preserve valores históricos y culturales y mantenga actividades educativas, en todos los niveles, sanitarias, caritativas, de protección social, familiar e infantil, así como deportivas y culturales (artículo 8).

De ambas disposiciones concluimos que, por una parte, el reconocimiento de las entidades religiosas lo realiza el Parlamento y, junto con la relación de actividades ajenas a lo religioso, dispone de los límites fijados en el artículo 7.3 para valorar lo que es o no una entidad religiosa. Por otra parte, la firma de acuerdos no sólo depende del “arraigo” de la entidad, sino de que entre sus fines realice las actividades relacionadas en el artículo 8. En ambos casos, supone una valoración por parte de los poderes públicos, que podría afectar a la neutralidad. Si bien, la norma procura introducir elementos correctivos a esta posible desviación al consagrar la igualdad de derechos y obligaciones para todas ellas (artículo 9) y, en el mismo precepto, al justificar la posibilidad de firmar acuerdos en el valor social y de interés público que tiene las actividades de estas entidades.

Lo que si deja delimitado expresamente esta norma es el principio de separación entre instituciones en su artículo 10. Principio de separación que se conjuga con la cooperación entre ambas instituciones.

El tercer apartado de la Ley se destina a la regulación de las órdenes, entidades o comunidades pertenecientes a confesiones religiosas legalmente reconocidas en Hungría.

El artículo 11 reconoce también como personas jurídicas a aquellas órdenes religiosas que lo fueran conforme a la normativa de las Confesiones, requisito imprescindible para su reconocimiento legal. El ministro de relaciones con las confesiones (en adelante el ministro) será el encargado de la inscripción de las citadas entidades a petición del representante de la Iglesia correspondiente. Las entidades que no se encuentren inscritas según el procedimiento precedente tendrán reconocida la personalidad jurídica mediante certificado otorgado por la confesión a la que pertenezca y sea remitida al ministro.

Los apartados cuarto y quinto regulan las instituciones y el personal de las iglesias.

Las iglesias y confesiones religiosas podrán establecer instituciones educativas, sanitarias, de caridad, trabajo social, de protección de la infancia y familiar, culturales o deportivas. Estas instituciones deberán tener reconocida la personalidad jurídica. A su vez, desde el punto de vista laboral, a estas entidades se les reconoce la posibilidad de extinguir contratos para preservar su identidad. El personal de las Iglesias lo será en función de lo que éstas establezcan. La relación con las iglesias podrá ser laboral o de otro tipo, están protegidos por el secreto profesional en aquellas actividades realizadas en el ejercicio de su cargo.

El Capítulo tercero consta de dos apartados y cinco artículos que regulan el reconocimiento e inscripción de las iglesias.

El artículo 17 señala como encargado del Registro al ministro de relaciones con las confesiones y lo configura como un registro de carácter público, carácter que comparte los datos que en él consten.

El reconocimiento de las iglesias comienza a instancias de su representante legal, siempre que la asociación en cuestión tenga como fines primordiales los religiosos. Es preciso que tenga un refrendo de al menos 1000 individuos. En el artículo 14 se establecen los requisitos para el reconocimiento legal: fines religiosos; seguimiento de una fe concreta y ritos determinados; 100 años de existencia internacional o 20 en Hungría o registrada por razón de la ley anterior; haber adoptado su propia normativa; tener o haber elegido sus representantes legales; debe reconocerse, por parte de sus representantes legales, que las actividades de la organización no son contrarias ni a los derechos fundamentales ni violan los derechos de otros; no puede suponer un riesgo para la seguridad nacional y por último, deberá asegurarse que sus actividades educativas no atentan contra el bienestar físico y psicológico de los individuos que las reciban. El incumplimiento de estos requisitos acompañará a la solicitud de reconocimiento.

El reconocimiento de una confesión basado en la iniciativa popular se realizará por el Comité de asuntos religiosos y presentará la solicitud de reconocimiento de la asociación como Iglesia. El control previo del cumplimiento de los fines previamente citados corresponderá al comité el cual podrá requerir la opinión del Presidente de la Academia Húngara de Ciencias para determinar si hay cumplimiento de los requisitos.

La inscripción de la Iglesia podrá tener lugar a partir de treinta días desde la entrada en vigor de esta ley. La solicitud de la inscripción deberá contener; el nombre de la iglesia; domicilio; nombre y domicilio de sus representantes y una descripción de los emblemas que la representen. En el caso de las entidades asociativas religiosas constituidas, como tales, en el ordenamiento interno de las iglesias y confesiones, la inscripción deberá solicitarla el máximo representante de la confesión; el máximo representante de la confesión en Hungría o el superior de la entidad. El ministro deberá valorar si ésta cumple los requisitos establecidos. Todas las inscripciones tendrán un número de asiento que corresponderá, según señala la norma, a las distintas confesiones.

Cualquier modificación de los datos que se precisan para la inscripción y que conste en la misma, deberá ser comunicada en un plazo máximo de 15 días desde que se produjeron los cambios. Así los cambios en el nombre, domicilio, cambios en los estatutos etc.

El Capítulo cuarto se centra en el funcionamiento de las iglesias y señala como prioritarias de las mismas las actividades religiosas. Las iglesias deberán contribuir creando y aportando valores a la sociedad y participar en actividades de interés público. De cara a la consecución de sus fines podrán realizar actividades lucrativas o no y crear empresas u ONGS o participar en las ya existentes. Las actividades de interés público realizadas por las iglesias tendrán las exenciones normativas previstas en las leyes para las de carácter análogo realizadas por los poderes

públicos. La regulación laboral y económica de estas instituciones será análoga a la del empleo público. En base a lo que establezca la Ley, las iglesias podrán recibir subvenciones públicas; fondos de la Unión europea y todas aquellas que puedan tener lugar por razón de los correspondientes acuerdos internacionales; estas disposiciones también serán de aplicación a las entidades y órdenes pertenecientes a las iglesias.

La ley es exhaustiva hasta el punto de establecer que los ingresos de las iglesias podrán tener su origen en donaciones de personas físicas o jurídicas; colectas etc. La norma recoge un elenco de actividades que, realizadas por las iglesias no serán consideradas lucrativas. Así cita, la asistencia religiosa; enseñanza religiosa; protección del medioambiente; publicación y producción de medios dedicados a fines religiosos; el mantenimiento de las residencias vacacionales que sean utilizadas para el descanso del personal de las iglesias; compraventa de objetos dedicados al culto o actividades religiosas; mantenimiento de cementerios etc. Una vez más nos encontramos ante una regulación pormenorizada que apenas deja margen a la interpretación, ingresos, tráfico jurídico; exenciones; exacciones, una completa enumeración de transacciones, tareas o funciones que, en el marco de las actividades religiosas, entrarán en el campo de las actividades sin ánimo de lucro. Los poderes públicos en ningún caso podrán intervenir en los ingresos que sirvan a fines religiosos. Es preciso que las iglesias y demás entidades religiosas guarden la contabilidad de sus ingresos de cara a la aplicación de la normativa tributaria. La Oficina de auditoría del Estado controlará la condición económica de las actividades de las Iglesias. Los ingresos de las actividades citadas, aunque éstas tengan carácter lucrativo,

La ley otorga protección penal a los edificios y ritos de las iglesias inscritas, así como a sus símbolos y denominaciones y, establecerá un procedimiento para que las iglesias puedan participar en el proceso legislativo, algo ciertamente llamativo. La ley también garantiza el derecho de las iglesias a transmitir

enseñanza religiosa en el ámbito de la escuela pública, la cual deberá proveer las condiciones materiales necesarias para que la enseñanza pueda llevarse a cabo. El mismo artículo que trata de la enseñanza dedica unas palabras al reconocimiento de la asistencia religiosa en hospitales, fuerzas armadas, hospitales y señala que la Ley podrá establecer otros tipos si fuera necesario.

El capítulo quinto regula la disolución de las Iglesias, cinco artículos determinarán las razones de la disolución; el momento de la disolución; procedimiento para la disolución y las consecuencias jurídicas de la misma.

Las iglesias podrán ser disueltas si su órgano supremo decreta su disolución, si abandona sus actividades o si éstas entran en conflicto con la ley fundamental aunque esto deberá determinarlo el Tribunal constitucional. Procederá la disolución de una iglesia como tal cuando ésta proceda a unirse o separarse de otra. En el supuesto de que se produzca una incorporación de una iglesia a otra los valores de aquélla pasarán al sucesor legal de ésta. Si los fieles de una confesión deciden abandonarla no provocan la desaparición de la misma si aquélla no lo quiere, la secesión puede pretender crear una nueva organización en cuyo caso no podrá ser igual a la anterior. Entendemos que es preciso remarcar que, a los efectos que ahora analizamos, no se trata de que los fines sean o no coincidentes con los de la iglesia anterior, establecer distinciones en este sentido no es la finalidad del artículo, el precepto pretende impedir la coincidencia en la denominación, ésta será conservada por la iglesia inscrita con anterioridad.

Atendiendo a las causas de disolución establecidas, el Gobierno podrá iniciar a propuesta del Ministro la acuñación de la iglesia que surja de la segregación o división. Para el supuesto de disolución sin sucesión se establecerá un procedimiento especial que incluirá el reparto de los bienes de la iglesia. Primero entre los posibles acreedores y una vez éstos queden pagados, los bienes restantes pasarán al Estado húngaro el cual los dedicará a

actividades de interés público. La disolución de una iglesia comporta la disolución de sus órdenes y entidades a ella pertenecientes.

En el Capítulo sexto, se regula la situación patrimonial de las confesiones y se autoriza al gobierno a regular mediante decreto las normas que serán de aplicación a los activos de las iglesias. El ministro de las relaciones con las confesiones regulará, también mediante decreto, las normas aplicables a la inscripción de las iglesias; la información que precise la inscripción y cualquier modificación que ésta pudiera sufrir y el suministro de datos del Registro.

La Ley establece diferentes fechas para la entrada en vigor de los distintos apartados de la norma, capítulos I al V, título 8, 10, secciones 39-48, subtítulo 13 y el anexo, entrarán en vigor el 1 de enero de 2012, la sección 52 el 1 de septiembre de 2012 y el resto de la norma entrará en vigor al día siguiente de su publicación.

Las disposiciones transitorias disponen que el Ministro deberá, transcurridos treinta días de la entrada en vigor de la norma, proceder a la inscripción de las confesiones recogidas en el anexo, las cuales tendrán personalidad jurídica desde el momento mismo de su inscripción. Establece una diversidad de regímenes legales distintos entre las entidades inscritas conforme a la Ley de 1990 si no se encuentran en el anexo que contiene la norma y que dispone un listado de confesiones religiosas. La norma configura un alambicado sistema que comprende a las confesiones; representantes; estatutos; sistemas financiero y tributario; sucesores legales etc. que sitúa a las distintas entidades en distintos planos de protección jurídica. Se trata, en definitiva de un cambio legal que crea situaciones provisionales y que modifica el régimen establecido con anterioridad dando una mayor relevancia, desde el punto de vista jurídico y no sólo social del factor religioso, al cual lo sitúa como algo positivo. Con la

norma se modifican un sinnúmero de disposiciones de toda índole, penal, educación, social, civil etc.

Queda derogada la ley de 1990 de libertad religiosa y de conciencia y las iglesias y sus modificaciones de 1993 y 1997. Es de resaltar la recopilación final que hace la norma de aquello que califica como cardinal en materia de derechos fundamentales atendiendo a lo establecido por la Constitución. Así Capítulos II y III, artículos 19 y 20; los apartados 1 y 2 del artículo 21; artículos 22 a 25; Capítulo V; Título 12.

Por último encontramos el anexo en el que se recoge un elenco de confesiones religiosas reconocidas en Hungría, bien por el Parlamento o según la aplicación de la normativa vigente.

En definitiva, la nueva ley húngara de libertad religiosa es, quizá en exceso, profusa que puede, en ocasiones, vulnerar los elementos de la laicidad: neutralidad y separación. La exhaustividad produce la sensación de que el legislador busca el control, más allá de lo que se puede esperar en un modelo que garantiza la separación entre las iglesias y el estado.

ANEXO I

ACT CCVI of 2011

ON THE RIGHT TO FREEDOM OF CONSCIENCE AND RELIGION AND THE LEGAL STATUS OF CHURCHES, DENOMINATIONS AND RELIGIOUS COMMUNITIES¹

Churches and religious communities in Hungary are factors of outstanding importance for creating communities and perpetuating values in society. In addition to their faith-based activities, church and religious communities play a significant role in the country's and the nation's life through the instructive, educational, higher educational, healthcare, charity and social work they undertake; the family, child and youth protection services they provide, as well as through cultural and environmental protection, sports and other activities, and by nurturing national identity. Hungary also recognises and supports the activities of churches and religious communities in playing a pivotal role in the life of Hungarian communities abroad.

Parliament –

In order to guarantee freedom of conscience and religion, to ensure the autonomy of churches as a guarantee of the respect for the beliefs of others, and to regulate relations between the churches and the State;

Having regard to the Universal Declaration of Human Rights, to the Convention on the Protection of Human Rights and to international covenants drawn up in relation to the fundamental right to religious freedom of conscience, and to the fact that according to Article 17 of the Treaty on the Functioning of the European Union, the European Union respects and does not prejudice the status of churches and religious associations or communities in the Member States;

¹ www.venice.coe.int

In accordance with the Fundamental Law, and with regard to the constitutional requirement to separate the operation of the State and the church, but properly enforcing the principles of working together to their mutual benefit;

Continuing the tradition embodied in the acts ensuring religious freedom;

Having regard to the ideological neutrality of the State and to the endeavours to ensure the peaceful coexistence of denominations;

Respecting the agreements concluded with the churches;

Recognizing that the key to promoting the common good is respect for the dignity of the human being, which allows not only natural persons and families, but also the churches to freely fulfil their mission;

Having special recognition of the outstanding role of the churches which have constant determining significance in the history and culture of Hungary – in order to implement the Fundamental Law, and on the basis of Paragraph (3) of Article VII of the Fundamental Law

adopts the following Act:

CHAPTER I RIGHT TO FREEDOM OF CONSCIENCE AND RELIGION

Section 1

(1) Every person shall have the right to freedom of conscience and religion.

(2) The right to freedom of conscience and religion shall include the freedom to choose or change one's religion or other belief; and the freedom of every person to manifest, practise,

teach, or abstain from manifesting his religion or other belief through religious acts, rites or otherwise, either individually or jointly with others, either in the public domain or in his private life.

(3) Nobody shall be advantaged or disadvantaged because of the choice, acceptance, manifestation or profess of his conscientious or religious belief, or because of changing or practising his conscientious or religious belief.

(4) The right to freedom of conscience and religion may be restricted in accordance with Paragraph (3) of Article I of the Fundamental Law.

Section 2

Parents and guardians shall have the right to decide on the moral or religious education and religious schooling of their minor children, and to provide for it accordingly.

Section 3

(1) The exercise of the freedom of conscience and religion shall also be made possible for those provided for in educational, healthcare, social, family, child or youth protection institutions, as well as for those detained in prison, both at individual and community level.

(2) The right to freedom of conscience and religion shall be freely exercised by those serving in law enforcement bodies, the Hungarian Defence Forces and the National Military Security Service during the course of their service, in accordance with the organisation's operating policy and with meeting the obligation of national defence.

Section 4

The right to freedom of conscience and religion may also be manifested through means of communication.

Section 5

(1) Public authorities may not collect special data in connection with the right to freedom of conscience and religion. Special data recorded by public authorities at the entry into force of this Act in connection with the freedom of conscience and religion may only be transferred or disclosed with the consent of the data subject, or, in the case of his death, with the consent of his descendent.

(2) In a census, data in connection with the right to freedom of conscience and religion may be collected on a non-compulsory basis and in a way that cannot be used for identification.

CHAPTER II LEGAL STATUS OF CHURCHES, DENOMINATIONS AND RELIGIOUS COMMUNITIES

1. Religious Activities

Section 6

(1) Religious activities are activities linked to a worldview which is directed towards the transcendental, has a system of faith-based principles, the teachings of which are directed towards existence as a whole, and which embraces the entire human personality through specific codes of conduct that do not offend morality and human dignity.

(2) The following shall not be considered as religious activities per se: a) political and lobbying activities; b) psychic or parapsychic activities; c) medical activities; d) business and entrepreneurial activities; e) instructive activities; f) educational activities; g) higher educational activities; h) healthcare activities; i) charity activities; j) family, child or youth protection activities; k) cultural activities; l) sports activities; m) animal protection,

environmental protection or nature conservation activities; n) data control activities, which go beyond data processing necessary for faith-based activities; o) social work activities.

2. Churches

Section 7

(1) A church, denomination or religious community (hereinafter referred to as ‘church’) shall be an autonomous organisation recognised by Parliament, consisting of natural persons sharing the same principles of faith; it shall be self-governed; it shall be established and shall operate primarily for the purpose of practicing religious activities.

(2) A church shall be a legal person.

(3) A church may only conduct religious activities that do not go against the Fundamental Law, do not conflict with rules of law, and do not violate the rights and freedoms of other communities, or human dignity.

(4) Churches recognised by Parliament are listed in the Annex to this Act.

Section 8

The State may enter into agreements with churches that have considerable social support, preserve historical and cultural values and maintain pedagogical instructive, educational, higher educational, healthcare, charity, social, family, child or youth protection, as well as cultural and sports institutions (hereinafter referred to as ‘public interest activities’) in order to ensure their operation.

Section 9

(1) Churches shall have equal rights and obligations.

(2) The State may take into account the actual social role of churches and the public interest activities performed by them in the course of enacting additional rules of law related to the social role of churches, and while maintaining relations with them.

Section 10

(1) The State and the churches shall operate separately. Churches shall be independent. The State shall cooperate with the churches in order to achieve community goals.

(2) The State may neither operate nor establish any organ for controlling or monitoring churches.

(3) No state power may be used to enforce decisions based on the principles of faith, the internal laws or the rules of organisation and operation of a church, or other rules equivalent to them (together hereinafter referred to as ‘internal ecclesiastical rules’); public authorities may not examine such decisions. Public bodies may not modify or override decisions made by a church based on internal ecclesiastical rules, and they shall have no competence to adjudicate disputes arising from internal legal relationships not regulated by rules of law.

(4) Churches shall control personal data related to religious activities in accordance with their own internal ecclesiastical rules, and may only transfer or disclose them with the consent of the data subject, or, in the case of his death, with the consent of his descendent.

3. Internal Ecclesiastical Legal Persons

Section 11

(1) Organisations or units of a church that have legal personality according to the church’s internal ecclesiastical rules shall qualify as legal persons (hereinafter referred to as ‘internal ecclesiastical legal person’).

(2) Organisations established by a church that have legal personality on the basis of a rule of law, but that do not have ecclesiastical legal personality according to the internal ecclesiastical rules of the church, shall not qualify as internal ecclesiastical legal persons.

(3) At the request of the representative of the church as a whole, or of the representative of its supreme body, the minister responsible for the coordination of church relations (hereinafter referred to as ‘the Minister’) shall register the internal ecclesiastical legal person. The register shall show the internal ecclesiastical legal persons as the bodies of the church in question.

(4) The legal personality of any other internal ecclesiastical legal persons not registered pursuant to Subsection (3) shall be certified either by the representative of the church as a whole or of its supreme body, or of the direct superior church organ of the legal person in question, reported to the Minister, or by the official authorised to do so under the internal ecclesiastical rules of the church.

4. Church Institutions

Section 12

(1) The church, the internal ecclesiastical legal persons may establish and maintain institutions which provide instructive, educational, higher educational, healthcare, charity, social work, family, child or youth protection, cultural or sports activities. Church institutions may have ecclesiastical legal personality according to the internal ecclesiastical rules of the church.

(2) As church institutions are ideologically committed, they may determine the recruitment and the establishment, maintenance and termination of employment as deemed necessary to preserve the specific identity.

5. Church Personnel

Section 13

(1) Church personnel shall be natural persons defined in accordance with the internal ecclesiastical rules of the church and in the service of the church or the internal ecclesiastical legal persons.

(2) Church personnel shall perform their service in a specific church service, in an employment relationship or in other legal relationship.

(3) Church personnel shall not be obliged to disclose the information affecting personality rights to public authorities which they become aware of in the course of their faith-related service.

(4) Church personnel shall be given enhanced protection by the law on minor offences and by criminal law.

CHAPTER III RULES OF THE RECOGNITION AS CHURCH AND THE REGISTRATION

6. The Recognition Procedure

Section 14

(1) The representative of an association which primarily performs religious activities (hereinafter referred to as 'association') is authorised to initiate the recognition of represented association as a church by submitting a document signed by a minimum of 1 000 individuals applying the rules governing popular initiatives.

(2) An association shall be recognised as a church if a) the association primarily performs religious activities; b) it has a confession of faith and rites containing the essence of its

teachings; c) it has been operating internationally for at least 100 years or in an organised manner as an association in Hungary for at least 20 years, which extends to include operating as a church registered pursuant to Act IV of 1990 on the Freedom of Conscience and Religion and on Churches prior to the entry into force of this Act; d) it has adopted its statute, instrument of incorporation and internal ecclesiastical rules; e) it has elected or appointed its administrative and representative bodies; f) its representatives declare that the activities of the organisation established by them are not contrary to the Fundamental Law, do not conflict with any rule of law and do not violate the rights and freedoms of others; g) the association has not been considered a threat to national security during its course of operation; h) its teaching and activities do not violate the right to physical and psychological well-being, the protection of life and human dignity.

(3) Based on the popular initiative, the parliamentary committee dealing with religious affairs (hereinafter referred to as 'committee') submits a bill regarding the recognition of the association as a church to Parliament. If the conditions defined in Subsection (2) are not fulfilled, the committee shall indicate this in connection with the bill.

(4) At the request of the committee, the association shall certify the fulfilment of the conditions defined in Points a)-f) of Subsection (2). The committee shall request the position of the President of the Hungarian Academy of Sciences regarding the fulfilment of the conditions defined in Points a)-c) of Subsection (2).

(5) If Parliament does not support the recognition of an association as a church in accordance with the bill set out in Subsection (3), the decision made in this regard shall be published in the form of a parliamentary resolution. A popular initiative aimed at recognising the association as a church cannot

be initiated within a period of one year following the publication of this resolution.

Section 15

The association shall qualify as a church as of the day of the entry into force of the amendment of this Act concerning the registration of the given association.

7. Registration Procedure

Section 16

The Minister shall register the church within a period of 30 days following the entry into force of the amendment of this Act concerning the registration of the given church.

Section 17

(1) The register shall contain the following: a) the name, abbreviated name of the church, as well as the commonly used name, b) the seat of the church, c) the name and domicile of the representative of the church and the mode of representation, d) a description of the coat of arms and emblem of the church, if any.

(2) If amendments have been made to the instrument of incorporation of the church, the date of amendment, as well as the number and date of effect of the decision on the registration of this amendment shall also be registered.

(3) The Minister shall undertake registration.

(4) The following rules shall apply to the registration of internal ecclesiastical legal persons defined in Subsection (3) of Section 11, as well as to changes in the data registered: a) the representative of the church as a whole, of its supreme body or of the direct superior church organ of the internal ecclesiastical legal person may request the registration of the internal ecclesiastical

legal person; the application shall contain data concerning the internal ecclesiastical legal person defined in Points a)-c) of Subsection (1); b) the church shall be registered under a church registration number; c) the Minister shall exclusively assess the request for registration of the internal ecclesiastical legal person in terms of whether it fulfils the conditions set out in Point a).

Section 18

(1) The representative of the church as a whole, of its supreme body or of the direct superior church organ of the internal ecclesiastical legal person shall report changes made to the data registered, as well as data required for registration in accordance with Subsection (4) of Section 17 to the Minister within a period of 15 days following changes or the amendment of the instrument of incorporation.

(2) The data of churches and internal ecclesiastical legal persons entered into the register shall be made available to the public.

CHAPTER IV THE OPERATION OF THE CHURCHES

Section 19

(1) Churches shall primarily perform religious activities; they shall operate according to their own principles of faith and rites.

(2) Churches may participate in value-creating work for society; to this end they may perform public interest activities.

(3) In order to realise their goals, churches shall be authorised to engage in activities, which do not qualify as business or entrepreneurial activities; and shall also be authorised to engage in business or entrepreneurial activities besides their basic activities. Furthermore, they shall be authorised to establish businesses and NGOs, as well as to participate therein.

(4) The public interest activities and the institutions of churches shall be entitled to budgetary funds to the same extent as state and local government institutions performing similar activities. In these church institutions the content of employment shall conform with public employment in respect of wage, working time and rest periods.

(5) The central wage policy measures relating to employees of state and local government institutions shall cover the employees of church institutions referred to in Subsection (4), with the same conditions.

(6) On the basis of rules of law churches may receive funding from the subsystems of general government, from programmes financed from EU funds or on the basis of international agreements, by way of application or outside the system of applications, on the basis of a specific decision.

(7) With the exception of Subsection (1), the provisions of this chapter shall be applicable to internal ecclesiastical legal persons as well.

Section 20

(1) Church revenues shall compose of the donations and other contributions of natural persons, legal persons and organisations without legal personality.

(2) Churches may participate in civil law relationships without any restrictions.

(3) Internal ecclesiastical legal persons may collect donations as laid down in the internal ecclesiastical rules of the church.

(4) Excluding those listed in Subsection (2) of Section 6, the following shall not qualify as business or entrepreneurial activities in respect of churches: a) operation of religious,

instructive, educational, higher educational, healthcare, charity, social, family, child and youth protection, or cultural or sports institutions, as well as undertaking the above and environmental protection activities; b) use of holiday homes by providing services to church personnel; c) production or sale of publications or objects of piety which are necessary for religious life; d) partial exploitation of real estate used for church purposes; e) maintenance of cemeteries; f) sale of immaterial goods, objects or stocks serving exclusively religious, pedagogical, educational, higher educational, healthcare, charity, social work, family, child or youth protection, or cultural, sports or environmental protection activities, including the reimbursement of the cost of work clothes; g) provision of services complementary to religious, instructive, educational, higher educational, healthcare, charity, social work, family, child or youth protection, or cultural, sports or environmental protection activities, or the non-profit oriented use of appliances serving these activities; h) production or sale of products, notes, textbooks, publications or studies undertaken in the course of performing public duties taken over from the State or the local government; i) operation of pension institutions or pension funds set up for the purpose of self-support of church personnel.

(5) Revenues generated from activities listed in Subsection (4), with special regard to the following: a) consideration, fees, reimbursement paid for services; b) compensation, damages, penalties, fines and tax refunds connected to the activity; c) financially settled non-repayable funding, grants received in connection with the activity; and d) the portion of interest, dividend and yield paid by financial institutions and issuers on deposits and securities, made or acquired by means of unengaged funds, in proportion to the revenues generated by activities which do not qualify as business or entrepreneurial activities.

(6) Churches may be granted tax benefits and other similar benefits.

Section 21

(1) Church revenue serving religious purposes or the use thereof may not be controlled by public organs. The following shall in particular qualify as revenue serving religious purposes: income from a specified amount of personal income tax in accordance with the taxpayer's instructions and its budgetary complement, the allowance to replace it, as well as real estate annuity and its complementary sums.

(2) Churches and internal ecclesiastical legal persons shall keep record of their revenue originating from subsidy granted by the State for non-religious purposes, and of the use of such subsidy, in accordance with the provisions of the Accounting Act and the Act on Public Finances, as well as other legislation relating to accounting.

(3) The State Audit Office shall control the legality of the use of state subsidy granted to churches for non-religious purposes.

Section 22

The State shall ensure, within the framework of a procedure laid down in a separate rule of law, that churches participate in the legislative process by expressing opinions on draft rules of law and on legislative concepts.

Section 23

Churches, in particular church rites and the undisturbed performance of church government, as well as church buildings, cemeteries and other holy places shall enjoy enhanced protection by the law of minor offences and by criminal law.

Section 24

(1) In instructive or educational institutions financed by the State or local government, churches may provide religious and moral studies education according to the needs of students and their parents; in institutions of higher education churches may carry out faith-based activities. The institution of higher education shall ensure the material conditions, the public education institution shall ensure the material conditions and time slots which do not clash with other obligatory school activities, and the church shall ensure the provision of religious instructors or teachers. The costs of religious and moral studies education shall be borne by the State, on the basis of a separate Act or of agreements concluded with the churches.

(2) Churches may perform pastoral services in the army, in prisons and hospitals, or other special ministries as laid down in rules of law.

Section 25

(1) The name, system of symbols, rites and commonly used name of churches shall receive enhanced legal protection. The name and symbols of other organisations may not give the impression that the organisation or its activities relate to the operation of a previously registered church.

(2) If a church personnel performs a service for someone who is not a member of the church, and his activity can be either directly or even indirectly connected with his church, he shall be obliged to clearly show and indicate the name of the given church before offering his services.

(3) The name of a church, the system of symbols directly pertaining to it and its commonly used name may not be used by any other organisation without an explicit written consent to that effect.

CHAPTER V DISSOLUTION OF CHURCHES

Section 26

The church shall be dissolved without legal successor if a) its supreme body decides on its dissolution; b) it abandons its activities and does not dispose of its assets; c) its activities are in conflict with the provisions of the Fundamental Law based on the technical opinion of the Constitutional Court.

Section 27

(1) At the request of the representative of the given church, the church shall be dissolved with legal succession in the event of its incorporation (joining, merging) with another church and its division from another church.

(2) In the event of the incorporation of the church into another church or its division into two or more churches, the assets of the church shall fall into the ownership of the legal successor church. If persons or groups of persons leave a church, but the registered church continues to exist, the new organisation created by secession shall not be entitled to any part of the assets of the previous church.

Section 28

(1) If the grounds for dissolution set out in Sections 26 and 27 apply, the Government shall, upon the proposal of the Minister, initiate in Parliament the striking of the church concerned from the Annex, or initiate the amendment of the Annex in the event of incorporation or division.

(2) The church shall be dissolved on the date of entry into force of the amendment of the Annex relating to its striking.

Section 29

(1) A settlement procedure shall be launched in the case of dissolution without legal succession, for which the provisions of Chapter VIII of Act V of 2006 on Public Company Information, Company Registration and Winding-up Proceeding shall be applied.

(2) If a church is dissolved without a legal successor, after the claims of its creditors have been satisfied, its assets shall become the property of the Hungarian State and shall be used for public interest activities.

Section 30

(1) If a church is dissolved without a legal successor, its internal ecclesiastical legal persons shall also cease to exist without legal successors.

(2) If an internal ecclesiastical legal person ceases to exist, issues related to its assets shall be regulated by the internal ecclesiastical rules of the church.

CHAPTER VI FINAL PROVISIONS

8. Authorising Provisions

Section 31

(1) The Government shall be authorised to determine in a decree the specific rules to be applied to the obligations of the church and the internal ecclesiastical legal person in respect of reporting and accounting.

(2) The Minister shall be authorised to determine in a decree a) the rules governing the registration of churches, b) the scope of technical and other data to be registered, as well as the rules of reporting changes therein; c) the provision of data from

the register, as well as the content of the paper-based or electronic extract requested from the registered data of the church and the internal ecclesiastical legal person;

d) the rules governing the registration of internal ecclesiastical legal persons; and e) the detailed rules regarding the dissolution of a church, as well as rules governing the striking of the church and the internal ecclesiastical legal person from the register.

9. Entry into force

Section 32

(1) With the exception of the provisions set out in Subsections (2) and (3), this Act shall enter into force on the day following its publication.

(2) Chapters I-V, Title 8, Title 10, Sections 39-48, Subtitle 12, Subtitle 13 and the Annex shall enter into force on 1 January 2012.

(3) Section 52 shall enter into force on 1 September 2012.

10. Transitional Provisions

Section 33

(1) The Minister shall, within 30 days of the entry into force of this Act, register the churches listed in the Annex to this Act, and the internal ecclesiastical legal persons pursuant to Section 11 determined by them.

(2) Churches listed in the Annex and their internal ecclesiastical legal persons may operate as churches and as internal ecclesiastical legal persons regardless of the date of their registration under Subsection (1).

(3) During the course of registration pursuant to Subsection (1), the Minister shall allocate and issue a registration number to the church suitable for the unique nationwide identification, and shall notify the church thereof.

Section 34

(1) With the exception of churches listed in the Annex and churches listed in Subsection (2), as well as their independent organisations founded for a religious purpose, all organisations and their independent organisations founded for a religious purpose (hereinafter jointly referred to as ‘organisation’), registered pursuant to Act IV of 1990 on the Freedom of Conscience and Religion and on Churches shall qualify as associations as of 1 January 2012.

(2) Until the expiry of Act C of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities, with the exception of rules governing popular initiative, Parliament shall, in view of provisions governing the recognition of churches set out under Act C of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities, make decisions in respect of the recognition of churches submitting applications for recognition to the Minister in accordance with this Act within the framework of the procedure set out under Subsections (4) and (5) of Section 14 by 29 February 2012.

(3) The Minister shall publish a bulletin listing churches specified above in Subsection (2) on the Ministry’s official website.

(4) If Parliament refuses to recognise a church in accordance with Subsection (2), for the purposes of this Act and other relevant legislation that church shall qualify as an organisation pursuant to Subsection (1) as of 1 March 2012, and

Sections 35-37 shall apply to it, with the proviso that : a) recognition as a church may proceed on the grounds of a popular initiative launched one year after the publication of the parliamentary resolution referred to in Subsection (5) of Section 14; b) procedural action defined in Subsection (1) of Section 35 may be launched up to 30 April 2012 and conditions set out in Subsection (2) of Section 37 may be fulfilled up to 31 August 2012; c) the date of 30 April shall be taken into account during the course of the application of Point b), Subsection (3) of Section 35; d) the date of legal succession in accordance with Subsection (1) of Section 36 shall be 1 March 2012; e) budgetary funding for ecclesiastical purpose may be granted to churches specified in Subsection (2) up to 29 February 2012.

(5) The organisation a) may initiate its registration as an association in accordance with Section 35, and b) whereby it meets requirements provided for in this Act, it may initiate the recognition of the association as a church in accordance with the provisions set out in Chapter III.

Section 35

(1) The organisation shall declare its intention to continue or discontinue its activities by 29 February 2012, and in the case of its intention to continue activities, it shall, in accordance with the rules concerning associations, initiate a change registration procedure in connection with which Subsection (1) of Section 37, Section 38 and Points a) and c) of Section 63 of Act CLXXXI of 2011 on the Court Registration of Civil Society Organisations and Related Rules of Proceeding shall apply, with the proviso that the meeting resolving on transformation shall be considered as the constituent assembly.

(2) Requirements for the organisation to be registered as an association must be fulfilled by 30 June 2012 at the latest with the proviso that if the organisation undertakes religious activities from 1 January 2012 within the same organisational framework

defined in its internal ecclesiastical rules in effect on 31 December 2011, in the course of the court registration of the association and in connection with the requirements set out in Point b) of Subsection (4) of Section 62 of Act IV of 1959 on the Civil Code, the court shall refrain from assessing whether the instrument of incorporation of the organisation complies with the legal provisions relating to the establishment and competence of the supreme body, administrative body and representative body. The failure to meet this deadline results in forfeiture of the right to register.

(3) By applying Subsections (3)-(6) of Section 116, Section 117 and Section 118 of Act V of 2006 on Public Company Information, Company Registration and Winding-up Proceeding in effect on 29 February 2012, the court shall terminate the organisation without legal successor within the framework of a forced final settlement procedure, if the organisation: a) fails to fulfil requirements stipulated in the change registration procedure during the course of that procedure, or b) either failed to make any declaration, or declared the discontinuation of activities not later than 29 February 2012.

(4) The data of the organisation registered on the basis of Act IV of 1990 on the Freedom of Conscience and Religion and on Churches shall be deleted simultaneously the termination of the change registration procedure or following the forced final settlement procedure specified in Subsection (3).

(5) If the Minister notifies the court on the registration of the church and its internal ecclesiastical legal person, the court shall delete the data of the church and of its internal ecclesiastical legal person, registered by the court.

(6) No order is required in the case of deletion in accordance with Subsections (4) and (5).

Section 36

(1) As of 1 January 2012, the organisation shall be the general legal successor of the church registered in accordance with Act IV of 1990 on the Freedom of Conscience and Religion and on Churches.

(2) Section 10 and Subsection (3) of Section 13 shall apply to the organisation's right to freedom of conscience and religion, as well as its faith-related and religious activities.

Section 37

(1) With the exception of cases defined in Subsection (3), after the entry into force of this Act only churches listed in the Annex may be granted budgetary subsidy for ecclesiastical purposes.

(2) For the purposes of the Act on the Use of a Specified Amount of Personal Income Tax in Accordance with the Taxpayer's Instructions, the organisation shall be considered an association and shall be entitled to the one per cent that can be offered to associations, provided that it complies with the conditions required by laws concerning associations by 30 June 2012.

(3) Based on an agreement, the State shall provide budgetary subsidy to the operation of the following institutions operated by the organisation on 31 December 2011: a) up to 31 August 2012 in respect of public education institutions; b) up to 31 December 2012 in respect of social institutions.

Section 38

(1) While respecting the agreements concluded with churches engaged in public interest activities, the Government shall review these agreements and if appropriate, it shall initiate the conclusion of new agreements.

(2) Up to 31 December 2012, the Government may conclude agreements relating to the provision of budgetary funding, with organisations performing public duties which do not qualify as churches under this Act.

11. Amending Provisions

Section 39

Subpoint j) of Point 2. of Section 137 of Act IV of 1978 on the Criminal Code shall be replaced by the following provision:

(For the purpose of this Act

2. the person performing public duties:) “j) Priest/pastor of churches registered in accordance with the Act on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities,”

Section 40

Subpoint mb) of Point m) of Paragraph (1) of Section 4 of Act III of 1993 on Social Administration and Social Provisions shall be replaced by the following provision: [For the purpose of this Act, maintainer shall mean] “mb) a church registered in accordance with the Act on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities and its internal ecclesiastical legal person (hereinafter: hereinafter referred to as ‘ecclesiastical maintainer’); entities with a status as a different type of organisation, in particular, NGOs and their organisational units declared as legal persons in their statutes, foundations and their organisational units declared as legal persons in their statutes or business associations, shall not qualify as an ecclesiastical maintainer;”

Section 41

Subsection (2) of Section 3 of Act LXXIX of 1993 on Public Education shall be replaced by the following provision: “(2) Institutions of public education may be founded and maintained by a) the State; b) local governments; c) nationality self-governments; d) churches and internal ecclesiastical legal persons (hereinafter: referred to as ‘ecclesiastical legal person’) registered in compliance with the Act on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities; e) business organisations, foundations and associations with legal personality, as well as other legal persons established in Hungary and domiciled in Hungary; f) private entrepreneurs, as they have the right to continue their activities pursuant to the legislation.

Section 42

(1) Subsection (2) of Section 6 of Act LV of 1994 on Arable Land shall be replaced by the following provision: “(2) Churches and internal ecclesiastical legal persons may acquire ownership of the land owned previously by their legal predecessor pursuant to alienation by devise, donation, allowance or life annuity agreements, as well as through legal succession.”

(2) The following Subsections (5) and (6) shall be added to Section 6 of Act LV of 1994 on Arable Land: “(5) Organisations meeting requirements stipulated under Subsection (1) of Section 34 of Act CCVI of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of

Churches, Denominations and Religious Communities (hereinafter referred to as ‘organisation’) shall acquire the ownership of land owned previously by their legal predecessor by means of legal succession, in consideration of the provisions of Subsection (6) into account.

(6) If the organisation ceases its religious activities specified under Subsection (1) of Section 6 of Act CCVI of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities, the organisation shall alienate any land they own within a period of 3 years following the registration of changes by the court.”

(3) In Subsection (3) of Section 4 of Act LV of 1994 on Arable Land the word “church” shall be replaced by the words “church, internal ecclesiastical.”

Section 43

Point 39 of Section 3 of Act CXVII of 1995 on Personal Income Tax shall be replaced by the following provision:

(For the purpose of this Act the following definitions shall be applied:)

“39. Church: a religious community defined as such under the Act on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities.”

Section 44

Subsection (9) of Section 9 of Act LXXXI of 1996 on Corporate Tax and Dividend Tax shall be replaced by the following provision: “(9) The church shall calculate the earnings before tax from its business activities by taking into account the provisions of the Act on Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities and the Act on Financial Requirements for Faith-related Activities and Public interest activities,”

Section 45

Point s) and sb) of Section 5 of Act XXXI of 1997 on the Protection of Children and Guardianship Administration shall be modified as follows: [For the purpose of this Act, maintainer shall mean] “sb) a church registered in accordance with the Act on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities and its internal ecclesiastical legal person (hereinafter: hereinafter referred to as ‘ecclesiastical maintainer’); entities with a status as a different type of organisation, in particular, NGOs and their organisational units declared as legal persons in their statutes, foundations and their organisational units declared as legal persons in their statutes or business associations, shall not qualify as an ecclesiastical maintainer;”

Section 46

The following provision shall replace Subsection (4) of Section 3 of Act CI of 2001 on Adult Education and Training: “(4) The scope of this Act shall not encompass legal persons constituted in accordance with Sections 11 and 12 of Act CCVI of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities, except if it falls under the scope of the Accounting Act, the Civil Service Act or the Employment Promotion Act and engages in adult training activities or has been founded for the sole purpose of engaging in adult training activities.”

Section 47

(1) Point b) of Subsection (1) of Section 7 of Act CXXXIX of 2005 on Higher Education shall be replaced by the following provision:

Higher education institution independently or in collaboration with other authorised organisations) “(b) churches

and their respective internal ecclesiastical legal persons (hereinafter referred to as ‘: ecclesiastical legal person’) registered in accordance with the Act on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities,”

(2) The following provision shall replace Point a) of Subsection (13) of Section 139 of Act CXXXIX of 2005 on Higher Education:

(In regard of higher education institutions financed by ecclesiastical legal persons, relevant general rules applicable to higher education institutions shall be applied to the operation of higher education institutions maintained by churches, except in the case of exceptions specified in this Section.) “(a) provisions of the Act on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities and the Act on Financial Requirements for Faith-related Activities and Public interest activities,”

Section 48

Point c) of Subsection (4) of Section 85 of Act CXXVII of 2007 on Value Added Tax shall be replaced by the following provision:

(For the purpose of this Section a public service provider shall mean:) “(c) churches and their respective internal ecclesiastical legal persons registered in accordance with the Act on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities, including institutions they operate (maintain) in respect of the activity specified in the articles of association (statutes),”

Section 49

Act CLI of 2011 on the Constitutional Court shall enter into force with the following additional Title 12/A:

“12/A: Position in Connection with the Withdrawal of the Recognition of Churches Operating in Contravention to the Fundamental Law

Section 34/A: The Constitutional Court shall, upon the proposal of the Government, issue a statement of position in respect of churches, recognised pursuant to the Act on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities, whose operation is in contravention to the Fundamental Law.”

Section 50

(1) Subsection (4) of Section 45 of Act CLXVI of 2011 on the Amendment of Certain Legal Regulations Serving as a Basis for Hungary’s Budget for 2012 shall enter into force with the following text: “(4) Point a) of Section 4/A of the Act on the Use of a Specified Amount of Personal Income Tax in Accordance with the Taxpayer's Instructions shall be replaced by the following provision:

(For the purpose of this Act, beneficiary shall mean) “(a) Churches, denominations and religious communities (hereinafter jointly referred to as churches) – with the exception of internal ecclesiastical legal persons – recognised in accordance with Act CCVI of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities (hereinafter referred to as ‘Church Act’), provided that the tax authority has allocated to it the technical identification number specified under Subsection (2),”

(2) Section 49 of Act CLXVI of 2011 on the Amendment of Certain Legal Regulations Serving as a Basis for Hungary’s

Budget for 2012 shall be modified as follows: “Section 49 (1) of: The following provision shall replace Section 1 of Act CXXIV of 1997 on the Financial Conditions of Religious Activities and Public Purpose Activities of Churches (hereinafter referred to as ‘Church Funding Act’): “Section 1: This Act shall apply to churches, denominations and religious communities registered in accordance with Act CCVI of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities (hereinafter referred to as ‘Church Act’).”

(2) The following provision shall replace Subsection (3) of Section 2 of the Church Funding Act: “(3) The church and the internal ecclesiastical legal person shall be authorised to issue a certificate entitling to tax benefit in respect of donations received as set out in the Act on Corporate Tax and Dividend Tax, and in respect of donations for public purpose received as set out in the Act on Personal Income Tax.”

(3) The following Section 13 shall be added to the Church Funding Act:

“Section 13: An organisation under Subsection (1) of Section 34 of the Church Funding Act shall be entitled, in 2012, to receive complementary funding specified under Subsection (3) of Section 4, provided it has been recognised as a church by Parliament up to 20 May 2012.”

(4) Subsection (9) of Section 2 of the Church Funding Act shall expire.”

(3) Subsection (17) of Section 45 of Act CLXVI of 2011 on the Amendment of Certain Legal Regulations Serving as a Basis for Hungary’s Budget for 2012 shall be modified as follows: “Subsection (17): The following Section 8/A shall be added to the Act on the Use of a Specified Amount of Personal Income Tax in Accordance with the Taxpayer’s Instructions: “Section 8/A (1):

Organisations under Subsection (1) of Section 34 of the Church Funding Act (hereinafter referred to as ‘organisation’) shall qualify as beneficiaries in accordance with Sub-point aa) of Point a) of Subsection (1) of Section 4 with the proviso that in 2012, 2013 and 2014 they shall not be required to fulfil the requirements set out in Subsection (1) of Section 4.

(2) In 2012, 2013 and 2014 the statement issued by the organisation in respect of compliance with the conditions defined in Point e) of Subsection (2) of Section 4 does not have to include the specifications set out in Subsection (1) of Section 6/c; in addition, the organisation shall not be required to fulfil the obligations set out under Subsection (1) of Section 6/C.

(3) The tax authority shall transfer the amount of donation determined in the year of allocation as of 31 December and increased on the basis of the supplementary list for the previous period in accordance with Subsection (1) of Section 6/B to the organisation within a period of 15 days following registration but not later than by 15 December 2012.

(4) The tax authority shall inform the organisation about resolutions closing legal disputes following the 2011 allocation year, as well as about the amount of donation the organisation is entitled to pursuant to Subsection (1) of Section 2 and Subsection (2) of Section 6.

(5) After 1 January 2015, the tax authority shall carry out audits defined under Subsection (7) of Section 7 in respect of the public duties the organisation performs as beneficiary pursuant to Section 4.

(6) Donation offered in the 2012 year of allocation and donation not yet transferred pursuant to provisions of this Act to any organisations terminated in accordance with Subsection (3) of Section 35 of the Church Act shall constitute budgetary revenue.

(7) The technical number of the organisation shall be withdrawn on 1 January 2012, and the technical number of the church conforming to provisions set out under Subsection (2) of Section 34 of the Church Act shall be withdrawn on 20 May 2012, if Parliament rejects the recognition specified under Subsection (2) of Section 34 of the Church Act. The withdrawn technical number may only be reissued to the organisation recognised as a church by Parliament after the withdrawal of the technical number.

(8) If Parliament recognises the organisation as a church by 20 May 2012, the church – as a departure from the provisions of Subsection (2) of Section 4/A – shall be entitled to receive the donation allocated by taxpayers to the beneficiary under Point a) of Subsection (1) of Section 4/A also in the year the technical number was issued.

(9) The organisation shall fulfil reporting obligations defined in Subsection (1) of Section 6/A for the first time in 2013 with the proviso that the report on the donation transferred in 2011 shall be included in the report which must, as a mandatory requirement, be submitted in 2013.”

Section 51

Sub-point ad of Point a) of Section 95 of Act CLXXXI of 2011 on the Court Registration of Civil Society Organisations and Related Rules of Proceeding shall be modified as follows:

(In addition to the provisions of Section 91, the following data shall also be included in the case of registration of associations: form of the association:) “(ad) association engaged in religious activities as a primary goal”.

Section 52

Section 34 shall be replaced by the following provision: “Section 34 (1): With the exception of churches listed in the

Annex and their independent organisations established for religious purposes, organisations registered in accordance with Act IV of 1990 on the Freedom of Conscience and Religion and on Churches and its organisation established for religious purposes (hereinafter jointly referred to as organisation) shall qualify as an association as of 1 January 2012.

(2) The organisation:

a) may initiate the registration of the association in accordance with Section 35, and b) may initiate the recognition of the association as a church in accordance with Chapter III, provided it satisfies the conditions set out in this Act.”

Section 53

Sub-point c) of Point 19 Subsection (1) of Section 3 of Act CXCVI of 2011 on National Assets shall enter into force with the following text:

(For the purpose of this Act asset manager shall mean) “(c) churches, internal ecclesiastical legal persons and church institutions as specified under the Act on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities in respect of national assets required for discharging their respective activities.”

12. Repealing Provisions

Section 54

The following acts shall be repealed: a) Act IV of 1990 on the Freedom of Conscience and Religion and on Churches; b) Act CXXII of 1997 amending Act IV of 1990 on the Freedom of Conscience and Religion and on Churches; c) Act LXXII of 1993 amending Act IV of 1990 on the Freedom of Conscience and Religion and on Churches.

13. Compliance with the Requirement of the Fundamental Law on Cardinality

Section 55

The following provisions of this Act shall qualify as cardinal within the meaning of the Fundamental Law: Chapters II-III, Sections 19-20, Subsections (1)-(2) of Section 21, Sections 22-25, Chapter V, Title 12, and the Annex under Article 43(4) of the Fundamental Law; Section 49 under Article 24(5) of the Fundamental Law; Section 53 under Articles 38(1)-(2) of the Fundamental Law.

ANNEX to Act CCVI of 2011

Churches, Denominations and Religious Communities in
Hungary Recognised by Parliament

ADDENDUM

COMMITTEE ON HUMAN RIGHTS, MINORITIES,
CSOS AND RELIGION

FOR ADOPTION BY PARLIAMENT(*)

on 29 February 2012

Independent Committee Motion

Act... of 2012 on the amendment of Act CCVI of 2011 on
the Right to Freedom of Conscience and Religion and the Legal
Status of Churches, Denominations and Religious Communities

Section 1

The Annex to Act CCVI of 2011 on the Right to Freedom
of Conscience and Religion and the Legal Status of Churches,
Denominations and Religious Communities shall be amended
according to the Annex to this Act.

Section 2

The Buddhist religious communities in line 27 of the Annex
to Act CCVI of 2011 on the Right to Freedom of Conscience and
Religion and the Legal Status of Churches, Denominations and
Religious Communities shall include: a) “The Gate of the
Dharma Buddhist Church”, b) Buddhist Mission, Buddhist
Church Arya Maitreya Mandala in Hungary, c) Karma Kagyu
Buddhist Community of Hungary, d) Chinese Chan Buddhist
Church of Hungary, and e) Diamond Way Buddhist Community.

(*) Added by the Secretariat.

Annex to Act... of 2012 on the amendment of Act CCVI of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities

The Annex to Act CCVI of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities shall be extended to include lines 15 to 27 as follows:

GENERAL JUSTIFICATION

By adopting Act CCVI of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities (hereinafter: CA), Parliament recognised 14 churches with the proviso that the CA will provide an opportunity for the recognition of additional churches, denominations and religious communities.

The CA sets forth that Parliament shall conduct the procedure laid down in Sections 14(3)-(5) of the CA by 20 December 2011, when Act C of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities is repealed, in order to decide by 29 February 2012 on the recognition under the CA of any Church which submits an application to the minister responsible for the coordination of church relations in compliance with the rules of Act C of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities for recognition as a Church, with the exception of the rules for popular initiatives.

By 20 December 2011, a total of 85 Churches had submitted an application to the Minister responsible for the coordination of church relations. Having examined their compliance with the criteria for recognition as a church, Parliament's Committee on Human Rights, Minorities, NGOs

and Religion studied the position of the Hungarian Academy of Sciences and submits to Parliament a bill on the recognition of another 13 churches.

The bill is aimed at granting church status to the representatives in Hungary of world religions which have existed for at least 100 years worldwide and to religious communities which have been actively engaged in religious activities in Hungary for 20 years. At the same time, Parliament's Committee on Human Rights, Minorities, CSOs and Religion wishes to stress, in harmony with the Constitutional Court's opinion set out in Decision 8/1993 (27 February) whereby the freedom of religion, whether individual or collective, may not be made constitutionally subject to affiliation to any religious organisation or to the form of organisation of any religious community, that recognition as a church does not directly affect the issue of the freedom of religion. This is one of the reasons why the CA offers an opportunity for collective practice of religion to 10 rather than 100 natural persons as opposed to Act IV of 1990 on the Right to Freedom of Conscience and Religion and Churches.

The bill contributes to the possibility for more than 95% of natural persons, according to statistical data, who practice their religion in Hungary to exercise the right to collective practice of religion within the framework of a church. Parliament will decide on the registration of additional associations engaged in religious activities as a basic purpose according to the rules laid down in the CA.

DETAILED JUSTIFICATION

Parliament's Committee on Human Rights, Minorities, CSOs and Religion examined the churches which are defined in the Annex to the bill and have been proposed to Parliament for recognition, and found that they meet the criteria in Section 14(2) of the CA as follows.

Protestant churches which are also significant by international standards and have existed in an organised fashion in Hungary for at least 20 years

With a history going back to the 1700s, the Methodist Church of Hungary was founded in connection with the Reformation. In Hungary it received official state recognition in 1947 and was registered by the Budapest Metropolitan Court in 1990. The ecclesiastical regime of the Methodist Church of Hungary has been highly elaborate since 1991 and follows the Church's international regulations.

Hungarian Pentecostal Church belongs to the international family of 600 million Pentecostals, with congregations in 120 Hungarian cities, towns and villages. Running a nationwide Roma mission which provides care to 5,000 people in need, the Church was registered by the Budapest Metropolitan Court in 1990. Its creed was approved by the General Assembly in 2008.

The Seventh-Day Adventist Church was recognised as a lawful religious denomination in 1957 and was registered by the court in 1990. With more than 100 local congregations across Hungary, the Church is one of the Protestant denominations which have a worldwide organisation and uniform articles of faith. Its healthcare programs and anti-smoking courses are known all over the world.

The Apostolic Christian Church (Nazarene), an organisation linked by legal continuity to the Apostolic Christian Church (Nazarene) congregations, which emerged in the 1840s, was declared by the State as a legally recognised religious denomination in 1957 and was registered by the Csongrád County Court in 1990. The Church includes 30 congregations, each existing according to the By-laws approved in 1977. The religious denomination was founded by Swiss Calvinist priest Samuel Heinrich Fröhlich (1803-1857).

The Salvation Army Free Church was founded in the United Kingdom by William Booth, a Methodist preacher, in 1865. The first oratory in Hungary was inaugurated in Debrecen in 1928. The Salvation Army Free Church was registered by the Budapest Metropolitan Court in 1990. The Church has an established and detailed statement of faith, ecclesiastical regime and rites.

The Church of Jesus Christ of Latter-day Saints was founded in the State of New York, US, in the 1830s with its headquarters in Salt Lake City. With 14 million members in 165 countries around the world, the Church was declared as a legally recognised religious denomination in 1911. This was repeated in 1988 and was followed by court registration in 1990. The Church's fundamental teachings are contained in the articles of faith written by Joseph Smith, the first President of the Church. The Church is engaged in a wide array of humanitarian activities.

Registered by the Budapest Metropolitan Court in 1990, the Hungarian Church of Jehovah's Witnesses has extensive international relations and performs a wide range of charitable activities in healthcare, the support of flood victims and penal enforcement.

Hungary's special historical situation is one of the reasons why the Transylvanian Congregation should be accorded autonomy as a church. After court registration in 1990, the Transylvanian Congregation joined the Piatra Craiului Calvinist Diocese in agreement with the Hungarian Reformed Church in 1995. As a result, it amended its By-laws to reflect the merger as a fact of canon law. Primarily linked to Transylvania by way of its membership and extensive charitable cultural and educational activities, the Congregation exists in Hungary as part of a Hungarian historical Church across the state borders.

Representatives of world religions in Hungary

St. Margaret's Anglican/Episcopal Church is an organic part of the global Anglican community and its European archdiocese. With a history going back to the second century, St. Margaret's Anglican/Episcopal Church has had a mission in Hungary for more than a hundred years. The Hungarian Church was also registered by the Budapest Metropolitan Court.

The Coptic Orthodox Church of Hungary is a part of the Universal Orthodox Church, led by Shenouda III, Pope of Alexandria and Patriarch of all Africa on the Holy See of St. Mark the Apostle. The Church was founded by St. Mark, who remained in office as its Patriarch ever since its inception and resisted all occupations of Egypt. The Coptic Orthodox Church of Hungary was registered by the Nógrád County Court in 2004. Pope Shenouda III appointed Father Khalil Youssef on a permanent mission to Hungary. Arab Christians living in Hungary also joined the Church since its liturgical languages are Arabic and Coptic.

The Hungarian Islam Community was registered by the State Office of Church Affairs, then by the Budapest Metropolitan Court in 1990 as the Hungarian representative of the Islam world religion in 1988. The Church is affiliated to the Muslim Council for Cooperation in Europe and is related to the Mecca-based Muslim World League. It is active in the Islam cemeteries of Budapest and provides spiritual care in prisons and border control stations.

The Hungarian Society for Krishna Consciousness has been engaged in religious activities and charitable work since the mid-1970s as a representative of the Hindu world religion. It became a Church in 1989 after registration by the State Office of Church Affairs. In 1990 it was also registered by the Budapest Metropolitan Court. It has an elaborate statement of faith, a liturgy of its own and a set of guidelines for life.

The legislator's goals include granting church recognition to each branch of the Buddhist world religion, including "The Gate of the Dharma Buddhist Church", which was registered by the Budapest Metropolitan Court in 1991 and has been the founder and operator of "The Gate of the Dharma Buddhist College" since the same year. Little Tiger, a grammar and vocational school in Baranya County, awarded a GCSE to more than 500 young people, mostly of Roma origin.

The Buddhist Mission, Buddhist Church Arya Maitreya Mandala in Hungary has existed in this country since 1952 as the first registered representative of the Buddhist world religion. It was registered by the Budapest Metropolitan Court in 1990. In 2002 this Church community established the first Buddhist temple in Budapest.

The Karma Kagyu Buddhist Community of Hungary belongs to the Kagyu order within the four big schools of Tibetan Buddhism, which was founded by Karmapa I in the 12th century. It adopted its By-laws in 1989. Its goals include a wide range of charitable activities and the promotion of the spiritual heritage of Sándor Kőrösi Csoma.

A Chan Buddhist religious community, the Chinese Chan Buddhist Church of Hungary has existed in China and other countries around the world for more than 1,000 years, as transpires from a certificate by the Embassy of the People's Republic of China in Hungary. The origin of this school goes back to Lin-chin, an abbot, who lived in the 9th century. In Hungary Chan Buddhists became a religious community in 2002 with adopted By-laws.

The Diamond Way Buddhist Community has belonged to the Karma Kagyu line for more than 900 years, with a set of teachings which have spread, in addition to Tibet, in China, India, Nepal, Mongolia and Bhutan over the centuries. Its spiritual leader is Lama Ole Nydahl, who first visited Hungary in 1988.

The community was registered by the Budapest Metropolitan Court in 1992. By today the Diamond Way Buddhist Community has become the largest Buddhist community in Hungary.

