

## A tiered parity? The status of religious communities in Hungary

Wielopoziomowa równość? Status wspólnot religijnych na Węgrzech

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**Abstract:** A legal entity status for religious communities qualifies as an essential requirement of religious freedom. The present Hungarian law provides for four different categories for religious communities. Whereas the free exercise of religion and autonomy is guaranteed to all of them, their status and their rights in social issues are different. The state regards recognised churches as its privileged partners in education, social care and other fields of common interest. The number of recognised churches is relatively high compared to other European countries, but the multi-tier system is still not free of tensions, especially because the earlier legislation suggested that all religious communities shall have formally equal rights. This paper examines the question of whether this qualifies as a kind of discrimination towards non-recognised religious communities, or whether it can be seen as a legitimate consideration of social reality.

**Key words:** legal entity; two-tier system; equality of religious communities; religious associations; registered churches; recognised churches; Hungary

**Streszczenie:** Osobowość prawna wspólnot religijnych uznawana jest za podstawowy wymóg wolności religijnej. Współczesne prawo węgierskie przewiduje cztery różne kategorie wspólnot religijnych. Swobodne praktykowanie religii oraz autonomia są gwarantowane im wszystkim, jednak ich status i uprawnienia w sferze społecznej są zróżnicowane. Kościoły uznane państwo traktuje jako uprzywilejowanych partnerów w edukacji, opiece społecznej i innych dziedzinach będących przedmiotem wspólnego zainteresowania. W porównaniu do innych państw europejskich liczba takich kościołów jest na Węgrzech relatywnie wysoka. Niemniej omawiany wielopoziomowy system nie jest wolny od napięć, zwłaszcza że wcześniej obowiązujące ustawodawstwo sugerowało, iż wszystkie wspólnoty religijne mają formalnie równe prawa. W niniejszym opracowaniu podjęto się próby odpowiedzi na pytanie, czy stosowane rozwiązania stanowią dyskryminację tych wspólnot religijnych, które nie posiadają statusu uznanych, czy też raczej należy je postrzegać w kategoriach uzasadnionego uwzględnienia społecznych realiów.

**Słowa kluczowe:** podmiotowość prawna; system dwupoziomowy; równość wspólnot religijnych; stowarzyszenia religijne; kościoły zarejestrowane; kościoły uznane; Węgry

### Introduction

The free exercise of religion is generally a respected right in Hungary since the collapse of the communist regime (1990). In this regard, there is no difference between the legal regime under the 1989 constitutional compromise and the new constitution, adopted in 2011 as the Fundamental Law of Hungary. Religious pluralism in Hungary is not a result of recent migratory flows, but determined by history at least since the Protestant reformation. The acquisition of legal personality for religious communities constitutes an essential element of religious freedom. From 1990 to 2011 a formal registration granted an equal legal status to all religious communities, enhancing the institutionalisation of

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new religious communities. From 2012, the legislation has returned to a two-tier system that had been used prior to 1947. Acquiring a base legal personality has remained easy and religious activities remain unhindered to all communities, also a set of benefits serving religious practice remain accessible to all religious communities, but cooperation in public services (like the public funding of schools or welfare institutions run by religious communities) is now restricted to recognised churches. Whether this qualifies as discrimination towards non-recognised religious communities, or is better seen as a legitimate consideration of social reality, remains a subject of discussion and of this paper. Law on religion is always shaped by history. To understand recent changes, we have to look back to earlier legal regimes.

## 1. The legal status of religious communities in Hungary: historical outline

### 1.1. 1895–1947 – opening a two-tier system

The first modern legislation on the status of religious communities introduced a two-tier system in 1895.<sup>1</sup> At that time, this step was a kind of liberalisation opening the system of recognised denominations. Whereas the incorporated denominations (the Catholic Church, the Orthodox Church, the Reformed (Calvinist) Church, the Lutheran Church, the Unitarian Church, as well as from the same year the Israelite Religion) could preserve their historically emerged status, other denominations could acquire recognition. “Incorporation” has opened the way for the leaders of the denominations to have seats in the upper house of Parliament.

Under the traditional, established denominations, the lower tier was opened for recognised denominations. Under the 1895 Act, Baptists were recognised in 1905, Muslims in 1916,<sup>2</sup> Methodists in 1947. For the recognition, the creed and the statute had to be submitted to the Minister of Religion and Education. There was no minimum number of adherents fixed. The community had to set up at least one local congregation and had to be capable to provide for the religious education of minors belonging to the community. Religious communities that were neither incorporated nor recognised did not enjoy a right to public worship; they were labelled as “sects” and sometimes subjected to police action.<sup>3</sup>

### 1.2. 1947–1990 – religion under control

In 1947, traditional, “incorporated” denominations lost their “privileges” and all religious communities were put into the category of recognised denominations.<sup>4</sup> The provisions on recognition of the 1895 law remained in force and the executive competence moved from the Ministry of Culture to the “State Office for Church Affairs” (1951–1989)

<sup>1</sup> Act XLIII/1895 on the free exercise of religion.

<sup>2</sup> Stipta 2017, 161.

<sup>3</sup> Fazekas 1996, 167.

<sup>4</sup> Act XXXIII/1947 on the elimination of differences between established and recognised religious denominations to the detriment of recognised religious denominations.

that served as a control organ over religious communities.<sup>5</sup> During the four decades of communist rule the control over all religious activities moved from open persecution to harassment and discrimination of believers. Recognition was granted to the Adventist Church (1947), Nazarenes (1977), Hungarian Evangelical Fellowship (1981), the LDS (Mormons) (1988), and the Hungarian Islamic Community (1988). In 1989, twelve further communities were recognised, i.a. the New Apostolic Church, the Faith Church, ISCON and Jehovah's Witnesses.<sup>6</sup>

### 1.3. 1990–2011 – from the euphoria of freedom to *de facto* distinctions

As the recognition procedure was politically abused during the communist regime, and all religious communities were united in the rejection of state control, the new legislation adopted in 1990 aimed at the elimination of state control.<sup>7</sup> The liberal legislation of 1990 on religious freedom (passed in one of the last sessions of the last communist parliament) proved to be a safeguard for religious freedom for two decades. According to that, the registration of religious communities (referred to as “churches” irrespective of varying religious traditions) was done by the county courts in the same way as associations, political parties or foundations were registered. The requirements were highly formal: communities wishing to be registered needed to submit the names of 100 private individuals as founding members, and a charter containing at least the name of the religion, its headquarters address, and its internal organisational structure, and specifying those internal units of the church that should enjoy legal personality.<sup>8</sup> The founders had to submit a declaration that the organisation they have set up had a religious character and that its activities complied with the Constitution and the law. The number of registered churches has grown to over 300.<sup>9</sup> Whereas previous legislation excluded the recognition of different communities sharing the same faith, under the new system a number of communities could gain independent registration (e.g. different Orthodox churches, Jewish communities or Buddhist groups). Emerging religious communities could make use of the possibility to set up all kinds of institutions, from social care to higher education.

All churches that were registered had the same rights and obligations. Equality, however, has become a matter of legal status and not of social significance. As the Constitutional Court stated: “[...] treating the Churches equally does not exclude taking the actual social roles of the individual Churches into account.”<sup>10</sup> Consequently, external social differences between religious communities may have been taken into account by the legislator if these were of relevance in the given issue. For example, the restitution of confiscated property had only relevance for a dozen denominations – the ones that lost

<sup>5</sup> Köbel 2005, 60–94.

<sup>6</sup> Köbel 2001.

<sup>7</sup> Erdő 1991, 387; Kukorelli 2018, 221.

<sup>8</sup> Act IV/1990 on freedom of conscience and religion and on churches, § 8.

<sup>9</sup> Including communities like the Church of Scientology, the Association of Witches, the Community for the dignity of birth (running a maternity centre), the Noah for Life Community (running a shelter for abandoned pets), a community of UFO-believers, a number of esoteric and pagan cults, often with a far-right agenda.

<sup>10</sup> Decision 4/1993 (II. 12.) AB.

property during the communist regime. The army chaplaincy was set up for the four largest denominations that had adherents in measurable numbers in the military and this distinction based on the number of adherents of different religious communities was also accepted by the Constitutional Court.<sup>11</sup>

Since its adoption, some of the elements of the legislation were repeatedly criticised. As there was no control over the activities of a community being registered, some “churches” had no genuine religious character but rather an interest in financial benefits. Providing the same legal scheme for all religious communities seemed to be a very open starting point, but in this way very different social realities were put in the same category and subsequent legislation began to recognise factual differences between religious communities. As the amendment or replacement of the law needed a qualified majority (two thirds) of MPs present, attempts to reach this consensus failed until 2011.<sup>12</sup>

#### 1.4. 2011–2019 – a distinctive two-tier system

Following the new constitution (2011), Parliament passed the new law on churches replacing Act IV/1990. The new law (Act CCVI of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities) entered into force on 1 January 2012.<sup>13</sup> The new law has become a subject of debate and criticism.<sup>14</sup> Also, the Venice Commission (European Commission for Democracy through Law) expressed critique with regard to the recognition procedure and viewed the reclassification of registered churches to religious associations as a deregistration. Despite the critique, the Commission stated in its opinion on the new law that eliminating “the abuse of religious organisations, which have operated for illicit and harmful purposes or for personal gain” was a legitimate concern. Also the “limitation of the number of recognised churches” was legitimate. This way, the Venice Commission regarded the new Act to “constitute a liberal and generous framework for the freedom of religion,” “a generous framework that permits the recognition of a relatively high number of churches in comparison to other European countries.”<sup>15</sup>

Instead of a formal registration and equal status for religious communities, the new law provided for a two-tier system; in fact it returned to a two-tier system similar to the historic precedent prior to 1947.<sup>16</sup> Religious communities could either continue to function as religious associations (in the original wording of the law as organisations pursuing

<sup>11</sup> Decision 970/B/1994 (February 20, 1995).

<sup>12</sup> Schanda 2001; Köbel 2010.

<sup>13</sup> The new law was passed on 30 December 2011 and entered into force on 1 January 2012. Originally, Parliament passed a new law in July, just before the summer break (Act C/2011.) that was supposed to enter into force on 1 January 2012. As the bill had not been handled in due process, the Constitutional Court has stated significant procedural errors and quashed the statute with Decision 164/2011 (XII. 20.) AB. Before the promulgation of the decision, Parliament voted on the bill not entering into force too and a new statute was passed with similar content to Act C/2011 under the number CCVI/2011 that entered into force two days later, as originally foreseen.

<sup>14</sup> Uitz 2011; Iványi 2011; Schweitzer 2011.

<sup>15</sup> Opinion 664/2012 on Act CCVI of 2011 on the Right to freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities of Hungary, Adopted by the Venice Commission at its 90<sup>th</sup> Plenary Session.

<sup>16</sup> Mink 2018; Mink 2019.

religious activities) or they could become recognised churches. Religious associations registered by a court only needed ten members to obtain an entity status with a wide autonomy. Recognition, however, has become a discretionary decision of the Parliament (a qualified majority is needed) that presupposes the cooperation of the community and the state in the fulfilment of public duties. Religious associations could seek recognition if they have been functioning in Hungary for at least twenty years in an organised way or they represent a religion practiced internationally for at least a century (the earlier version of the law did not take foreign existence into account). The request could be filed by the representative of the religious association with at least 1,000 supporters (not necessarily members – anyone could support the recognition of a new church). Parliament decided upon the bill of the Human Rights Committee of Parliament. From 82 communities applying for recognition Parliament recognised in February 2012 17 religious communities raising their total number to 31.<sup>17</sup>

All religious communities registered under the 1990 law that were not recognised as churches have become associations upon request. Religious associations are permitted to call themselves a “church” if that name corresponds better to their identity (for example, the Church of Scientology does so, although it is registered as a religious association). In a number of practical issues, the legislator when passing the final version of the new law seemed to endorse the concerns of minor religious communities including communities that continue to function as associations. Examples could be that these associations got the right to own agricultural land (agricultural land can only be owned by private individuals – the only legal entity that may own land is a religious community) or to run theological colleges. Vocational secrets held by clergy are equally protected at the clergy of religious associations as at recognised churches, persons in ecclesiastical service enjoy the same status.

The system introduced in 2012 could be described as a two-tier system with an easily accessible association-status and a small group of communities that had a special recognition. A “recognised church” under the new law has a more protected and autonomous status than a “church” enjoyed under the 1990 law; this way the status of registered churches under the 1990 law is not equal to the status of recognised churches under the 2011 law. On the other hand, communities that have lost their church status and became religious associations were put into a less favourable position than they were at before.

The new religion law (and the law on associations) ensures a base level entity status for all religious communities. The most important difference between religious associations and other NGOs is that unlike other associations religious associations enjoy full autonomy. Like recognised churches, they cannot be subjects of state control and function separately from the state. The European Court of Human Rights, however, has found a violation with regard to the freedom of association read in light of the freedom of

<sup>17</sup> Act VII/2012 on the amendment of Act CCVI/2011 on the right to freedom of conscience and religion and on the legal status of churches, religious associations and religious communities. Recognised communities include the Methodist Church, the Adventist Church, Pentecostals, the Anglican Church, the Church of Jesus Christ the Latter-day Saints, Nazarenes, the Salvation Army, Jehovah's Witnesses, ISKCON, the Copt Orthodox Church, two Islamic communities and five Buddhist communities.

religion in a case launched by communities that were not recognised by Parliament just registered as religious associations.<sup>18</sup> After the judgement, Parliament discussed a bill to make the registration/recognition system more detailed and granting more rights to communities not recognised by Parliament, but the bill failed the necessary qualified majority in Parliament in 2015.

With regard to a number of rights, there is no difference between religious associations and recognised churches. Both enjoy legal personality, autonomy and tax exemption. Cooperation, however, has become generally reserved for recognised churches. The right to offer religious education at public schools has been reserved for recognised churches – in fact, religion classes under six participants are not funded, this way only the most numerous churches have a realistic possibility to provide religion classes at public schools. Recognised churches have airtime in the public media.<sup>19</sup> Major recognised churches have organised chaplaincies at the army and at penitentiaries. They enjoy a generous system of public funding besides the tax assignment system to support their religious activities and a public support of their public benefit activities (schools, hospitals etc.). In addition, a number of church projects have received public funding in recent years upon the decision of the government – mostly the reconstruction of architectural heritage. Some recognised churches would opt out of public support (e.g. the LDS), whereas others do not make use of a set of rights (as mentioned above, for small communities religious education at public schools is not realistic). Policies of religious communities under the same legal regime differ to a large extent, and also the legal regimes (recognised churches – religious associations) are highly different.<sup>20</sup>

Besides some (rather technical) agreements Hungary has concluded with the Holy See,<sup>21</sup> the Government has signed cooperation agreements with some – but by far not all – recognised churches.<sup>22</sup> These are rather of a declarative character and do not provide for special rights to specific communities, but express partnership for the common good.

Freedom of religion has to be enjoyed by all communities without any distinction with regard to the legal format of the community.<sup>23</sup> Religious communities do not need to make use of a certain legal form, but they can do so: a non-recognised group or a religious association shall enjoy the same freedom as a recognised church.<sup>24</sup> Several religious entities both on a local and national level have established foundations to raise and provide support for their activities. These do not qualify as ecclesiastical legal entities, but as entirely private ones. Nevertheless, they may play an important role in funding religious and charitable activities.

<sup>18</sup> Magyar Keresztény Mennonita Egyház and Others v. Hungary (Judgment of 8 April 2014, Appl. Nos 70945/11 and 8 others).

<sup>19</sup> Airtime is provided upon agreement between the public media agency and the Catholic, the Reformed, the Lutheran, the Baptist, the Adventist, the Methodist Churches as well as an Evangelical Congregation and Jewish Communities. Rixer 2021, 52.

<sup>20</sup> Rixér 2021, 52.

<sup>21</sup> Erdő 1998, 652.

<sup>22</sup> Agreements were concluded with the Reformed Church of Hungary (1999, 2017), the Lutheran Church of Hungary (1999, 2020), Serbian Orthodox Diocese of Buda (2001), the Baptist Church of Hungary (2001), the Federation of Jewish Communities in Hungary (1998, 2000), and the Faith Church (2020).

<sup>23</sup> Schanda 2013a, 69.

<sup>24</sup> Decision 8/1993 (II. 27.) AB.

The two-tier system also got constitutional protection as the Fundamental Law refers to the different categories of religious communities since 2013.<sup>25</sup> From a religious freedom perspective, it is not the two-tier system as such that may raise concern, but the political nature of the recognition procedure as there is no remedy against the decision of the Parliament denying the status from a community that fulfils the legal requirements. The parliamentary decision on recognition is more a political vote than a formal procedure with procedural guarantees and effective remedies. Cooperation for the public good should not undermine the separate functioning of state and religious communities.<sup>26</sup>

If a religious community had adopted an unconstitutional practice, Parliament could withdraw the recognition after an opinion delivered by the Constitutional Court.<sup>27</sup> Associations could be dissolved by a court decision upon the lawsuit of the public persecution in case of unlawful activities.<sup>28</sup> It has to be noted that religious associations – unlike other associations – are not subject to control by the public persecution with regard to the lawfulness of their activities.

Internal entities of churches are to be registered by the competent government agency instead of the court if the church wishes to register internal entities (an internal entity could be a diocese, a religious order or even an institution).<sup>29</sup>

## 2. The current state: a four-tier system as a refined version?

The legal status provided for religious communities shifted from a highly liberal regime to a two-tier system with the legislation introduced in 2011. Some religious associations remained frustrated not being on an equal legal footing with mainstream churches.<sup>30</sup> Religious associations maintaining public benefit institutions complained about losing the right of equal funding to public institutions in the case of them not being able to enter into a contract with the Government on the funding of their institutions.<sup>31</sup> Decisions of the Constitutional Court required Parliament to amend legislation in two sensitive aspects. Firstly, the Court requested, that religious associations claiming recognition by Parliament should have a right to receive a decision in a due process<sup>32</sup> and in due course.<sup>33</sup> Secondly, taxpayers wishing to support with the 1% tax assignment a religious association instead of a recognised church shall have the right to do so.<sup>34</sup> Since 2013, religious associations could only benefit from tax assignments due to associations but they are excluded

<sup>25</sup> Drinóczy 2014, 51.

<sup>26</sup> Schweitzer 2014, 6.

<sup>27</sup> The procedure is analogous to the dissolution of local self-governments (city councils) by Parliament. Schanda 2022, 411–12.

<sup>28</sup> Act CLXXV/2011 on the right of association, on public benefit status and the operation and support to non-governmental organisations, § 11.

<sup>29</sup> Szuromi 2012, 351.

<sup>30</sup> Uitz 2011, 40; Uitz 2013, 63.

<sup>31</sup> Iványi 2011.

<sup>32</sup> Decision 6/2013. (III. 1.) AB; Schweitzer 2022, 290.

<sup>33</sup> Decision 27/2014 (VII. 23.) AB; Decision 36/2017 (XII. 29.) AB.

<sup>34</sup> Decision 17/2017 (VII. 18.) AB.



from tax assignments reserved to recognised churches. It can be legitimate to place different religious communities in different financial regimes, but from the perspective of the taxpayer there can be no difference. Adherents of minor and mainstream communities shall have equal rights with respect to supporting their community.<sup>35</sup> The two-tier system in itself has been based on constitutional provisions since 2013,<sup>36</sup> the requirement of a transparent procedure in due time has only applied since then to upgrade religious associations to two new interim categories between religious associations and established churches (registered or incorporated churches). The decision on recognition as an established church remains a discretionary parliamentary decision.

The legislator finally responded to the critique by the ECHR and the Hungarian Constitutional Court<sup>37</sup> by an amendment of the 2011 Church Act in April 2019.<sup>38</sup> The new version of the law provides for four categories instead of two (religious association – recognised church), whereas a set of other regulations stated by the statute remained unchanged. The base level entity remains the religious association (*vallási egyesület*), a legal person enjoying full autonomy. At present, there are 260 religious associations.<sup>39</sup> A novelty of the amendment is that also religious associations gained the right to receive tax assignments from income tax payers. This way they enjoy a kind of public subsidy beyond tax exemption. The law also provides for a possibility to enter into agreements between the state and a religious association for further subsidies and the support of public benefit activities (like education, health care etc.), but religious associations have no right to claim funding: discretion on both sides is needed.

A religious association can be upgraded into a registered church (literally “listed church”, *nyilvántartásba vett egyház*) after three years, if in the three preceding years at least 1,000 taxpayers in average have assigned the 1% of their income tax to them and they have been functioning for at least five years as a religious association in Hungary or a hundred years abroad. Smaller religious associations can become registered churches if they declare to have no intention to receive extra public funding beyond the tax assignment system. For further subsidies, the state can also establish a contractual relation with registered churches. At present there are 16 registered churches.<sup>40</sup>

A slightly higher status would be that of the incorporated churches (a kind of first class registration – *bejegyzett egyház*). A religious association can become an incorporated church if in the previous five years on average at least 4,000 taxpayers have assigned the 1% of their income tax to them and they have been functioning as a religious association for at least 20 years in Hungary or 100 years abroad or it has been a registered church for at least 15 years. Religious associations with at least 10,000 registered members can also become incorporated churches after 20 years if they declare not to run for further public subsidies. Beyond the possibility of agreements between an incorporated church

<sup>35</sup> Lengyel 2017, 120.

<sup>36</sup> Fifth Amendment of the Fundamental Law, passed after the Constitutional Court Decision 6/2013 (III. 1.) AB.

<sup>37</sup> Decision 23/2015 (VII. 7.) AB; Decision 36/2017 (XII. 29.) AB.

<sup>38</sup> Act CXXXII/2018 on the amendment of Act CCVI/ 2011 on the right to freedom of conscience and religion and on the legal status of churches, religious associations and religious communities.

<sup>39</sup> <https://cdn.kormany.hu/uploads/sheets//7/7e/7e9/7e990b2feb5e90c07ca8f0dbbdaaf9d.pdf> [accessed: 17 June 2025].

<sup>40</sup> <https://cdn.kormany.hu/uploads/sheets/e/eb/eb7/eb7c91c7e2b9b408c2ce572d32b5fca.pdf> [accessed: 17 June 2025].



and the state on public benefit activities, incorporated churches also take part in the tax assignment system and they also receive an additional subsidy that supplements the tax assignments distributing the relevant share of the tax not covered by assignments (1% of the income tax is distributed between churches – the relevant share of those who do not make use of their right to assign 1% of their tax is distributed according to the proportion established by those who assigned the 1% of their tax).

Religious associations, registered and incorporated churches are registered at the Budapest Metropolitan Court.

The highest status provided for religious entities remains that of recognised churches (or established churches / *bevett egyház*). Whereas upgrades to a registered or incorporated church are based on formal criteria and decided by a court, recognition remains a discretionary political decision and their number has not changed since 2012.<sup>41</sup> When the state enters into a comprehensive cooperation agreement with an incorporated church, this grants recognition to it. Such agreements are promulgated by special acts of Parliament, a number of recognised churches, however, did not (so far) enter into an agreement with the government. Recognised churches enjoy a wide range of special rights and public support including the public funding of their public benefit institutions (like schools, hospitals etc.). Recognition – since the Fifth Amendment of the Fundamental Law in 2013 mentioned above, had to be based on cooperation in “community goals” (public services like education, health care etc.), and “outsourcing” public services requires a special trust in entities that provide for the needs of the citizen. Recognition is an expression of this trust.

Registered, incorporated and recognised churches as well as their internal entities are ecclesiastical legal persons.<sup>42</sup> As the most significant special right, all ecclesiastical legal persons have the right to provide religious education in public schools and to receive public funding for such education.

The legislator has established a highly complex system for providing an adequate status for various communities. Interim steps between religious associations and recognised churches could be appealing for some communities (additional funding, religious education at public schools, and eventually a higher social prestige). The legal status of religious communities may seem to be a crucial issue. But, in fact, the turning point is the free exercise of religion. Whereas prior to 1990 recognition has been a condition of public worship, since then the fundamental right to exercise religion by any community and any individual joining or not joining a religious community has been recognised. Certainly, a legal entity status may ease the social presence of a religious community and brings a set of benefits. But religious freedom is not reserved to communities that have a certain kind of entity status.

<sup>41</sup> <https://cdn.kormany.hu/uploads/sheets/e/e3/e3d/e3d84b2573644a374da0c31fb20e18e.pdf> [accessed: 17 June 2025].

<sup>42</sup> Csiziné 2012, 147.

### 3. Equal – but different?

Denominational equality has been regarded as a cornerstone of society since 1848–1849. Equal rights of citizens, however, did not mean an equal status of religious communities: denominational equality did not result in equality of denominations. Prior to 1947, and since 2012, religious communities have been categorised into different tiers. Handling equals equally, but recognising differences between different social realities remains a challenge. The jurisprudence prior to 2011 recognised that differences arising from history and social presence needed to be considered by legislation. The principle that has been developed can be applied in a two- or multi-tier system as well: the closer a right is to the level of the individual, the less justified the distinction, since it is not persons of different religions, but only the legal situation of their religious communities that may differ.<sup>43</sup> Freedom of religion shall be equal – in a way the Constitution of the Italian Republic declared in 1948: “All religious denominations shall enjoy equal freedom before the law.”<sup>44</sup> The provision did not alter the special recognition of independence and the sovereignty of the Catholic Church and its special relations to the state governed by the Lateran Pact. Equal freedom in itself does not mean equal rights.

At present, all religious communities of any grade enjoy legal personality, autonomy, exemption from local taxes, exemption from fees, they can become beneficiaries of tax assignments and their clergy enjoys the protection of vocational secrets. There can be no distinction with regard to the freedom of worship. Teaching religion at public schools, however, is reserved for established, incorporated or registered churches (but in practice it is only exercised by the most numerous denominations). Equal funding for public activities can be provided to all religious communities on a discretionary basis, but recognised churches are not subjected to discretion: they have a right to receive public funds to maintain their institutions serving education, healthcare etc.

Prison chaplains of established churches may serve the religious needs of inmates, but prison missions of any religious communities shall have equal access to penitentiaries. Chaplains can be employed by prisons, missions receive no funding. The freedom of inmates to contact a mission or a chaplaincy, however, shall be the same.<sup>45</sup>

In a peculiar way the most numerous, dominant or mainstream religious communities may have less interest in acquiring a special status as both the state and the general public recognises their relevance even without a special legal recognition. By tradition, in Hungary the leaders of the four largest denominations are invited to the main public events from opening the first session of a newly elected parliament to the inauguration of the president of the republic. Smaller, but well established communities may have a stronger desire to gain a status that expresses some differentiation to the newly established religious communities. A special kind of recognition bears a message to society.

<sup>43</sup> Schanda 2013b, 273.

<sup>44</sup> Article 8 (1).

<sup>45</sup> Decree 8/2017 (VI. 13.) IM.

#### 4. Two-tier systems – a pattern in Central Europe?

A two-tier system for the legal status of religious communities is an outspoken one in Austria, the Czech Republic, Germany, Lithuania, Romania and Serbia. Acquiring a base level entity status may not be especially burdensome, but requirements to access to “special rights” in the Czech Republic seem to be quite difficult;<sup>46</sup> to become a public law corporation under public law has not been reached by any Islamic organisation in any part of Germany, whereas the requirement to trace back their history for at least 300 years in Lithuania to be recognised as a traditional religious group evidently constitutes a limit for the recognition of religious groups. In Romania, to become a registered cult a religious association has to be registered for at least 12 years, have to have a nationwide organisational structure with at least 0.1% of the population being member of it, and has to submit a fairly detailed description of its structure and creed, making the system a kind of three-tier system.<sup>47</sup> Also in Croatia, there are several different legal statuses of religious communities.<sup>48</sup> The two-tier systems (or multi-tier systems) show much similarity to the Austrian legislation.<sup>49</sup>

In Poland, there are some differences between religious communities merely registered (registration seems to be relatively easy), and 15 religious communities that have the legal situation regulated by a special statute (which, according to the 1997 Constitution, requires a previous, bilateral agreement), although the equality principle and the system of agreements, established by the 1997 Constitution, can be reconciled.<sup>50</sup> Registration in Slovakia is rather difficult, but the 16 entities registered have equal rights – although not all of them made use of the possibility to sign a contract with the government.<sup>51</sup> The enthusiasm of liberty that was characteristic for the collapse of communism may be over: more recent legislation trends are less open than the 1990 Hungarian law or the Polish law.

The tendency towards two-tier systems is obvious in the Central European region. Generally, countries adopting new legislation at a later date after the collapse of the communist regime (like the Czech Republic or Romania) rather opted for an outspoken two-tier system, whereas countries passing new legislation at an early stage of the transition to democracy have declared that religious communities shall be equal (like Hungary in 1990 or Poland) but step by step they have moved towards a *de facto* two-tier system. This way, in countries formally applying an equal regime to all religious communities, a tacit two-tier system may emerge. This can be the result of a concordat or other agreements with churches, or a consequence of legislation taking into regard differences in the social realities of different communities.<sup>52</sup> Introducing a waiting time for registration (like in Slovenia) or for getting into the privileged class of religious communities (like in the Czech Republic or Romania – following the Austrian model) seems to be a common pattern.

<sup>46</sup> Tretera-Horák 2019, 78.

<sup>47</sup> Law 489/2006 on the Freedom of Religion and the General Status of Denominations, Articles 17–18. Iordache 2013, 80.

<sup>48</sup> Savić 2019, 247.

<sup>49</sup> Kalb 2003, 93–134.

<sup>50</sup> Stanisław 2019, 157.

<sup>51</sup> Moravčíková 2019, 581.

<sup>52</sup> Critical about this development with regard to Hungary: Sajó 1999; Schweitzer 2006, 14.

State neutrality seems to be an essential requirement with regard to structures provided for different religious communities,<sup>53</sup> and this neutrality has been explicitly endorsed by the preamble on the 2011 Hungarian law.<sup>54</sup> The jurisprudence of the European Court of Human Rights also suggests that religious communities should be allowed to acquire legal personality; this does not, however, mean that the equal rights of religious communities would be a general requirement that could be derived from the prohibition of discrimination, but a certain fairness is certainly required: the legal status of religious communities has to be administered in a transparent, reasonable process.<sup>55</sup>

## 5. Challenges of religious minorities – challenges for religions

### 5.1. Accommodation of religious practices

A characteristic feature of Hungarian law on religion is that for the regulation of religious issues religious claims are mostly accommodated on the level of the individual rather than by granting special rights to certain religious communities. Religious freedom is a fundamental right with personal, community and institutional aspects. While, for centuries, institutional regulation and the rights of the individual related to his or her denominational affiliation remained the dominant factor, since the regime change (1990), the starting point of Hungarian law on religion has been the freedom of conscience of the individual, the personal freedom of religion, and an individualised protection of freedom.<sup>56</sup> A number of factors may have contributed to the emphasis in Hungarian law on religion on the individual's choice rather than on entitlements dependent on denominational affiliation. The public registration of denominational affiliation has been abolished<sup>57</sup> and, for historical reasons, special guarantee rules have been put in place to ensure that access to historical data remains restricted.<sup>58</sup> Also, due to a historical experience, a generally shy attitude towards religion has become a feature of Hungarian society. Hungarian society is characterised not only by a strong cultural homogeneity and a general acceptance of customs (e.g., major holidays) but also by individualism and a lack of communities. Stronger than 'average' religiosity is the least likely to be publicly expressed – e.g., in a workplace environment, colleagues are more likely to share sensitive health information than their religious beliefs. This situation is also reflected in the fact that different rights and exemptions are granted to citizens on the basis of individual requests and not on the basis of religious affiliation. To give examples, it is the individual – the parents – and not the denomination of the pupil who decides on the attendance of religious education in schools (and the State has no role in settling disputes that may arise between parents).<sup>59</sup> As mentioned before, under a system that has been in place for more than twenty years,

<sup>53</sup> Durham 2010, 3; Uitz 2017, 116.

<sup>54</sup> Köbel 2024, 215.

<sup>55</sup> Uitz 2017, 112.

<sup>56</sup> Erdő 1997, 275.

<sup>57</sup> Law-decree 19/1952 on civil registers.

<sup>58</sup> Act IV/1990, § 3 (2).

<sup>59</sup> Act CX/2011 on national public education, § 35 (1).

the individual – the taxpayer – decides, on an annually renewable basis (but under the current rules, it can be done ten years in advance), how the central budget will distribute the budget subsidy aid to religious communities: a specific part of personal income tax is used as the taxpayer decides, completely independently of the denominational affiliation of the individual concerned.<sup>60</sup> Based on their statements, individuals may exercise their religion in public institutions: whether in a healthcare institution, a prison, or the Defence Forces, individual needs and not church membership *per se* are the basis to contact pastoral services. Even for those who require a special diet on religious grounds, it is their personal choice and not their religious affiliation that determines the choice (the additional cost of which has led to the need for the community concerned to declare the validity of the individual claim). The individual could (or could have) exercise(d) the right to refuse military service on the basis of an objection based on conscience – religious affiliation itself is not a ground for exemption, and it does not exclude the possibility of alternative service.<sup>61</sup> In all of these matters, it is the individual decision that matters and not the formal affiliation to a denomination. While the consideration of actual social differences between religious communities does not raise constitutional concerns,<sup>62</sup> no distinction can be made on the basis of religion with regard to the fundamental rights of individuals.<sup>63</sup> Empirical data show that the situation of religious minorities corresponds to the general European standards.<sup>64</sup>

## 5.2. A *sui generis* tension zone?

An open conflict has emerged between the Evangelical Fellowship and the Government on the funding of public activities and beyond. The Evangelical Fellowship is a breakaway group of the Methodist Church that received recognition in 1981. The leader of the community (a former liberal MP, the son of the founding pastor) is highly present in the public space (prophesising for instance that the Prime Minister will end up in hell).<sup>65</sup> The community has set up a widespread net of social activities engaging in the care of the homeless and other marginalised parts of society based to a great extent on public funding. The public attention as well as the number of persons assisted by the Evangelical Fellowship largely outnumbers the actual membership of the congregation. As the Evangelical Fellowship was not recognised under the 2011 Religion Law, first it was only qualified as a religious association, then it was upgraded to a registered church, but after litigation did not become an incorporated church. Still the Fellowship claims that only full recognition (and public funding of its activities) would be acceptable as equivalent of its pre-2011 status and regards it as the fault of the Government that it did not cover the social security of its employees engaged in now unfunded activities. The dispute has

<sup>60</sup> Act CXXVI/1996 on the use of a specific part of personal income tax as determined by the taxpayer.

<sup>61</sup> Fundamental Law Article XXXI (3).

<sup>62</sup> Decision 4/1993 (II. 12.) AB.

<sup>63</sup> Fundamental Law Article XV (2).

<sup>64</sup> Findings of the Atlas of Religious or Belief Minority Rights, <https://atlasminorityrights.eu/#> [accessed: 17 June 2025].

<sup>65</sup> [https://hvg.hu/itthon/20161128\\_ivanyi\\_gabor\\_interju\\_orban\\_viktor\\_elkarhozas](https://hvg.hu/itthon/20161128_ivanyi_gabor_interju_orban_viktor_elkarhozas) [accessed: 17 June 2025].

led to a major public debate and ongoing litigation both on the national as well as on the international level.<sup>66</sup> Both a reunification with the Methodist Church that functions as a recognised church, as well as the recognition of the Evangelical Brotherhood, could theoretically remedy the conflict, but neither of the options has been seriously put on the agenda. As a side effect of harsh conflict with the Government, the number tax assignments skyrocketed as, in 2024, over 90,000 taxpayers assigned 1% of their income tax to the Fellowship expressing support for its public engagement.

### 5.3. Secularisation

On the census conducted in 2022, the proportion of those not providing an answer has reached 40%. Fifty per cent of those answering the question declared to be Catholic (2.88 million), 16% Calvinist (943,000), and 3.1% (176,000) Lutheran. Sixteen per cent declared not to have a religious affiliation. Smaller religious communities are Orthodox, various protestant communities (about 50,000), Jehovah's Witnesses (22,000), and Baptists (18,000). Close to 8000 persons declared to be Muslim. Probably among those who did not provide information on their affiliation, agnostics and adherents of some religious minorities are overrepresented (e.g., the number of Jews is supposedly significantly higher than the eight thousand persons stating their Jewish identity). Elderly generations had a higher readiness to answer the questions and reported a higher church affiliation. Generations in their fifties and their twenties do not differ much.<sup>67</sup> Due to the high percentage of non-respondents, the census itself does not provide a full picture about the religious landscape. The country is still not confronted with mass migration: about 2% of the population are resident aliens. Sociological surveys show that close to 50% of the population consider themselves to belong to a denomination (75% to the Catholic Church, 19% to the Reformed Church, 3% to the Lutheran Church and 3% to other religious communities). About 10% state weekly church attendance, whereas the proportion attending church 1–3 times a month is about 20%. As a sign of religious individualisation, whereas denominational affiliation is declining, faith in God is not.<sup>68</sup> Despite the ongoing secularisation of society, religious tradition and a culture shaped by the legacy of denominations remains a significant factor of personal identities.

The ongoing secularisation of the social setting results in a society where all religious communities become minorities. Not only the sensitivity for religion is getting lost, but also with the loss of faith culture loses ground. A new generation growing up may not understand Christian terminology at all. Christmas remains a holiday for all, but a Christmas tree does not have a stronger link to Christ than our Latin heritage has to the Romans. Preserving the Latin names for months does not remind us of the Roman

<sup>66</sup> In two judgements delivered on 12 March 2025, the Budapest Metropolitan Court stated that withdrawing the licence of two schools maintained by the Evangelical Fellowship was done in an unlawful way. Judgements stating breaches of the law, however, do lead automatically to the change of factual reality – in the given case to reopening the schools closed down.

<sup>67</sup> <https://nepszamlalas2022.ksh.hu/adatbazis/> [accessed: 17 June 2025].

<sup>68</sup> Rosta 2020, 104.



Emperors over the summer. Religion, however, continues to provide an essential contribution to society, beyond giving basic moral points of view generating trust.<sup>69</sup>

## Conclusion

The variety of legal categories provided for religious communities may be confusing. As a fundamental requirement derived from religious freedom, a base-level entity status is easily accessible for religious communities and all religious communities enjoy autonomy to determine their internal structure. All religious communities shall have an equal right to the free exercise of religion. All religious communities are entitled to various benefits, including tax exemptions and the possibility to benefit from tax assignments of income taxpayers. A set of rights, however, most significantly the right to *quasi* public funding for schools and welfare institutions run by religious communities, is now restricted to religious communities that were registered or recognised as a church. Certainly, it is easier to liberalise a rigid system than to channel a liberal one, but in general the Hungarian legal regime on religious communities still qualifies as a liberal one in a European comparison. Compared to the 1990 Church Act, the 2011 Religion Law certainly sets more limits by not putting new communities on the same legal footing as traditional mainstream religious communities. Practice can determine if the present system can be seen as a neutral one, merely taking relevant social differences between religious communities into account, or shows a bias creating differences themselves.

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<sup>69</sup> Erdő 2017, 108.

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