

## **Hungarian contribution to report of the UN Special Rapporteur on freedom of religion or belief on anti-Muslim hatred/"Islamophobia" and the right to freedom of thought, conscience and religion or belief"**

### **Summary**

The Fundamental Law of Hungary grants and guarantees the right to freedom of thought, conscience and religion in an all-encompassing manner. The cardinal Act CCVI of 2011 on the right to freedom of conscience and religion, as well as the legal status of churches, denominations and religious communities (Church Act) provides for the right to freedom of conscience and religion in detail.

The National Assembly has so far recognized 32 religious communities as established Churches, including two Muslim communities: the Hungarian Islamic Community and the Muslim Church of Hungary. According to the 2011 census data, 5.579 persons declared themselves to belong to the Islamic religion. However, since the Fundamental Law guarantees to everyone the right to manifest or practice any religion, but also to abstain from manifesting it, no State register in Hungary documents the religious affiliation of any individual.

The two established Muslim communities of Hungary have all the possibilities for ensuring religious, cultural, educational etc. activities that other recognized religious communities enjoy, including the possibility of receiving state subsidies for them.

Since the Fundamental Law of Hungary and the relevant acts fully protect freedom of conscience and religion, as well as personal liberty rights, these apply to any person without discriminating on ethnical, religious or sexual orientation grounds. Religious communities in Hungary enjoy full autonomy in their operation, but due to the separate operation of the State and religious communities, they are also subject to the provisions of civil and criminal law of the State, which they are obliged to respect. According to the Church Act "No state coercion shall be used to enforce decisions made on the basis of the principles of faith, the internal laws, the articles of association or the rules of organization and operation of a religious community, or its other rules equivalent to them ("internal rules"); State authorities shall not examine such decisions. State organs shall not modify or override decisions made by a religious community based on internal rules, and they shall have no competence to determine disputes arising from internal legal relationships not regulated by the law."

In Hungary, all Churches and faith communities are protected by the same acts and regulations. National legislation in Hungary guarantees to every citizen equal rights for access to education, health care, housing and employment, regardless of religion or belief. The Equal Treatment Authority is accessible for persons who perceive discrimination, and it also authorized to impose sanctions (fines). Based on the available official data of recent years, Hungarian authorities have no knowledge of any anti-Muslim incidents in Hungary.

Historical contacts and conflicts of Hungarians with Muslim nations and countries are subject to balanced and objective evaluation, underlined by symbolic gestures, appreciated by Muslim countries. Preserving the historic Ottoman-Turkish heritage has long been important in Hungary. Recent examples include the 2018 joint renovation of Gül Baba's Türbe in Budapest

by the Hungarian and Turkish Governments, the excavations of the alleged türbe of Sultan Suleiman in Szigetvár (where a monument of Suleiman can also be found), and the archaeological examination of the site of the historic Battle of Mohács. Good examples of fostering mutual understanding between Hungary and Muslim countries include the Hungarian Institutes in Cairo (since 1974) and Istanbul (since 2013), the Yunus Emre Institute in Budapest, the Avicenna Institute of Middle Eastern Studies in Piliscsaba (since 2002).

Within the Stipendium Hungaricum program, the Hungarian Government grants a great number of scholarships to students from Muslim countries. The State Secretariat for Relations with Churches has been organizing yearly interreligious dialogue conferences together with the Hungarian UNESCO Secretariat, with the participation of Muslims as well.

## **1. Muslims within the State**

According to the 2001 census data 3.201 persons, while in 2011 5.579 persons declared themselves belonging to the Islamic religion. In 2020, 1.206 persons designated 1% of their personal income tax to the Hungarian Islamic Community, and 1.015 persons to the Muslim Church of Hungary.

## **2. The Right to Freedom of Thought, Conscience and Religion or Belief**

**2. a)** The Fundamental Law of Hungary grants and guarantees the right to freedom of thought, conscience and religion in an all encompassing manner. The cardinal Act CCVI of 2011 on the right to freedom of conscience and religion, as well as the legal status of churches, denominations and religious communities (Church Act) provides for the right to freedom of conscience and religion in detail.

The National Assembly has recognized 32 religious communities as established churches so far. First, under the law, it recognized those churches whose historical past and considerable social integration in Hungary provided due reasons therefore (e.g. the Catholic, Reformed and Evangelical-Lutheran churches, Jewish communities, as well as Orthodox churches related to the national minorities of Hungary); then it recognized – and later declared them established churches - several internationally significant neo-protestant churches e.g. the Methodists, the Adventists, the Pentecostals, the Mormons, the Salvation Army, as well as the authentic Hungarian representatives of other major world religions like the Muslims, Buddhists and Hindus. In this connection, it can be noted that it is not a common practice in Europe for Muslim communities to be classified in the highest religious community category, while their historical past and social embeddedness cannot be compared with, for example, that of the historical Christian churches or Jewish communities. (For details, see Annex 1)

In the Hungarian penitentiary institutions, each prisoner has the opportunity to practice his or her own religion on request. The Hungarian Prison Service signed an agreement with the Hungarian Islamic Community (hereinafter: HIC) to ensure that prisoners of Islamic faith can practice their religion without constraints. Besides hosting communal prayers and activities, the HIC may submit religious documents and publications to the prisoners while teachers in their ranks provide spiritual care for them. Upon the request of a given prison institution, they may also delegate a spiritual superior or interpreter should the need arise for it as a result of – for example – a conflict between two individuals of Muslim faith.

The daily routines associated with religion may be performed by the prisoners in the cells, for which religious relics they possess may be used. Adherence to the dietary requirements and the fasting during Ramadan is also ensured. Those participating in the fasting – if the circumstances allow – may be accommodated jointly. While custodial and parental rights are partly limited during the deprivation of liberty, the convicts have the liberty to decide about the religious education of their children.

**2. b)** Neither Muslims in Hungary, nor other religious or national minorities are subject to any of the enlisted restrictions.

**2. c)** The construction, maintenance and use of places of worship of Muslims are also governed by the general rules on construction and on real estates.

All Muslim organizations in Hungary (established churches, religious and cultural associations) are in the possession of real estates necessary for their activities (including faith-based life).

On the basis of the available official data, there have not been any anti-Muslim incidents in Hungary.

**2. c)** In Hungary, during the data collection of criminal proceedings, the investigative authority and prosecution criminal statistics do not record specifically anti-Muslim offenses. For each crime, only belonging to a religious group, ethnic group, national group, or other group of the population may be indicated.

**2. d)** A symbolic event of the Hungarian-Turkish cultural relations was the renovation of Gül Baba's Tomb (türbe), which was realized as a joint project of the Hungarian and Turkish governments. Preserving the relics of the Ottoman past has long been important in Hungary; the Turkish baths in Budapest, the djami in Pécs (Yakovali Hasan Mosque and Djami) or the memorial site of the Battle of Mohács also prove this. In Eger and Érd there is a minaret from the Turkish era. (Their upkeep is financed from state and municipal resources.) Recent developments include the excavation of the supposed tomb (türbe) of Sultan Suleiman in Szigetvár (a monument of Suleiman can also be found there), and the archaeological examination of the site of the Battle of Mohács. The Turkish party appreciates the Hungarian preservation of the relics of the past. The Turkish government party (AKP) spokesman Ömer Çelik set Hungary as an example to the Western world in connection with the Christchurch attacks, as a country where Ottoman and Turkish soldiers who died a heroic death are commemorated.

The Hungarian Institute in Istanbul operating since 2013 and the Yunus Emre Institute operating in Budapest have been serving the strengthening of cultural relations between the countries. The two cultural institutes are bringing Hungarian and Turkish culture closer together through a number of programs.

**2. e)** Given the relatively low number of Muslims in Hungary, the Muslim community does not maintain independent schools. In grades 1 to 8 of schools maintained by the state or national minority self-governments the teaching of ethics is compulsory, instead of which parents and pupils can also choose religious and moral education lessons organized by established churches, and this is fully financed by the state. The two established Muslim communities of Hungary also have the possibility for this. In addition, religious communities can organize a so-called

optional religious education in state schools, but even outside the schools, in their own congregations, for which they also receive state subsidy.

Hungary provides 150 scholarships to Turkish students annually through the Stipendium Hungaricum program; the number of Turkish students studying in Hungary is totaling to more than 1,100. On the occasion of the 2017 High-Level Strategic Cooperation Council, the parties agreed to establish a common Hungarian-Turkish university.

### **3. Equality and non-discrimination**

**3. a)** In Hungary, there is no official knowledge of cases of discrimination against Muslims.

**3. b)** In Hungary, the Muslim community is protected by the same acts and regulations as the Christian churches with the highest number of believers (see the detailed information on the protection of religious communities in the Annex).

In accordance with the recommendation of the UN Commission on Human Rights, a protocol-based norm – 30/2019. (VII. 18.) Hungarian Police’s Instruction (henceforth Instruction) on the performance of police tasks related to the handling of hate crimes – was issued in 2019 in order to provide uniform, effective and professional law enforcement responses to hate crimes.

In order to respond effectively, professionally and lawfully, the criminal justice system relies on prejudice indicators in the identification and investigation of crimes related to racism, racial, religious discrimination and xenophobia.

The list prepared on the basis of an international sample lists objective facts and circumstances from which it can be concluded that a criminal offense was committed in part or in full on the basis of prejudice. Indicators are also useful tools in planning investigative actions, as if a preconceived motive is suspected, all indicators should be disclosed, documented and included in the indictment, thus facilitating the work of the prosecutor's office or court to prove the motivation. Indicators may later become indirect evidences, and full disclosure of the evidence is a legal obligation.

According to the Instruction, the police officer is obliged to consider the possible presence of the perpetrator’s prejudicial motivation in all criminal offenses during the proceedings. If there is a suspicion of prejudice in the background of the offense, the police officer shall take all necessary measures in order to conduct an effective investigation into the subject of the prejudicial motive.

In case of suspicion of hate-motivated incidents, the police officer is obliged to take or initiate measures within his / her area of responsibility in order to neutralize the potentially dangerous situation and to prevent the commission of crimes based on prejudice.

In 2019, trainings were conducted for the law enforcement and criminal personnel on the list and use of the prejudice indicator and on the characteristics of hate crimes.

In order to deal effectively with hate crimes, the police set up an independent hate crime expert/adviser system in January 2012. Within this framework, a mentor and guidance system has been established at the national level. It cooperates with the Working Group Against Hate Crimes, which was established in 2012 by Hungarian NGOs with the aim of working together

to combat hate crimes more effectively. The cooperation is completed through case studies, which take place once or twice a year.

**3. c)** Since the Hungarian legal system does not include regulations aimed at the discrimination of Muslims, these did not need to be amended or repealed. Accordingly, the acts of Hungary guarantee equal rights to access to education, health care, housing and employment, regardless of religion or belief. It should be noted that in Hungary a so-called Equal Treatment Authority is operating, to which anyone can apply who perceives discrimination. This authority is also authorized to impose sanctions (fines).

**3. d)** The regulations on the acquisition of Hungarian citizenship apply uniformly to everyone; they do not comprise religious discrimination. There is no discrimination against Muslims during the asylum procedures. The state does not discriminate against religion, there is no specific (nor positive neither negative) treatment for Muslim asylum applicants and beneficiaries of international protection.

**3. e)** We are not aware of any “unrecognized minority Muslim sects”. In addition to the two established Muslim communities (the Hungarian Islamic Community and the Muslim Church of Hungary, which cooperate with each other in the Hungarian Islamic Council), several court-registered Muslim religious and cultural associations, as well as foundations operate freely. Given that the Fundamental Law of Hungary and the relevant acts fully protect freedom of conscience and religion, as well as personal liberty rights, of course these also extend to Muslims who have become secular, atheist, or converted into other religions, just as well as to any other persons without discriminating on ethnical, religious or sexual orientation grounds. As indicated, religious communities in Hungary enjoy full autonomy in their operation, but due to the separate operation of the state and religious communities, they are also subject to the provisions of civil and criminal law of the state, which they are obliged to respect..

**3. f)** Under the Fundamental Law of Hungary, everyone has the right to manifest or practice their religion, but also to abstain from manifesting it. In view of this, no state register in Hungary contains the religious affiliation of an individual.

**3. g)** The answer essentially touches upon the legal protection of religious communities, on which we have attached detailed information (see ANNEX II).

**3. h)** The Hungarian Police takes the necessary measures in case of any hate crime brought to their attention, regardless of the minority against which it was committed. The Instruction regulates in detail the necessary policing measures.

The issue of cyberhate poses a particular challenge to the police. For example, in investigations of crimes committed on websites, social portals, and video-sharing platforms, we do not get data related to the foreign server

The Act XC. of 2017. on Criminal Proceedings (hereinafter: Act) 336-338. § provides for the temporary inaccessibility of electronic data.

The court is entitled to order the temporary unavailability of electronic data if the proceedings are for a criminal offense to be prosecuted in connection with which the electronic data has been permanently inaccessible and is necessary to prevent the continuation of the criminal offense. The two elements of a coercive measure are the temporary removal of electronic data and, in the event of its ineffectiveness, the temporary prevention of access to electronic data.

The court shall immediately notify the National Media and Communications Authority (hereinafter: the Authority) electronically of the order to temporarily make the electronic data inaccessible (or terminate it), which shall organize and monitor the implementation of the decision.

The Authority shall comply with Act C / 92 of 2003 on Electronic Communications §, 159 / B.-159 / C. Organizes and controls the implementation of coercive measures to temporarily and permanently prevent access to electronic data ordered by a court in a criminal case, as well as the implementation of making electronic data ordered by an authority specified in a separate law inaccessible. To this end, the Authority shall operate a database of central electronic inaccessibility decisions (KEHTA).

Based on the above, the Authority shall keep a register of the number of electronic data made permanently or temporarily inaccessible.

Pursuant to Section 338 of the Criminal Procedure Act, if the interests of criminal proceedings are not harmed, the prosecutor's office or the investigating authority may call on the media content provider under the Freedom of the Press and Basic Rules for Media Products to order the electronic data to be temporarily unavailable, or a hosting intermediary that is able to block access to electronic data. This invitation is optional. The service providers concerned may only be called upon to take the necessary measures to do so, in accordance with the relevant sectoral legislation, in order to obtain their own exemption in the event of electronic data which they consider to be infringing.

**3. i)** The criminal offence of **incitement against a community** (section 332 of Act C of 2012 on the Criminal Code) must be mentioned. It renders punishable the act of incitement to hatred or violence, and it ensures protection by criminal law for people based on nationality, ethnicity, race, religion, sexual orientation, sexual identity and disability, and the list is not exhaustive, the law says that other certain groups of the population can also be victims of this hate crime. The criminal offence does not list any religion; all enjoy the same level of protection without distinction

The Criminal Code also renders punishable a kind of indirect incitement to hatred or violence under the criminal offence of **violence against a member of a community** (section 216 of the Criminal Code) and renders punishable displaying conspicuously anti-social conduct, assault, and coercion, which should be displayed because of another person's being a member or a presumed member of a certain community (including Muslims).

Based on section 216, any person who displays an apparently anti-social behavior against others for being part, whether in fact or under presumption, of a national, ethnic, racial or religious group, or of a certain societal group, in particular on the grounds of disability, gender identity or sexual orientation, of aiming to cause panic or to frighten others, is guilty of a felony punishable by imprisonment not exceeding three years. The act is punishable more severely if is committed by displaying a deadly weapon; by carrying a deadly weapon; by causing a significant injury of interest; by tormenting the aggrieved party; in a gang; or in criminal association with accomplices. Any person who engages in the preparation for the use of force against any member of the community is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

Further guarantees are included in sectorial acts. Act V of 2013 on the Civil Code (from now on: Civil Code) inserted a new legal institution related to the protection of personal rights. Under Section 2:54 Subsection (5) of the Civil Code, *"Any member of a community shall be entitled to enforce his personality rights in the event of any false and malicious statement made in public at large for being part of the Hungarian nation or of a national, ethnic, racial or religious group, which is recognised as an essential part of his personality, manifested in a conduct constituting a serious violation in an attempt to damage that community's reputation, by bringing an action within a thirty - day preclusive period."*

Criminal offences motivated by racism or other biased, including anti-Muslim belief always qualify as an offence committed for a base reason or purpose; therefore, there is a possibility to impose more severe punishment. (Court decision No. 1995.261) Besides, according to the Opinion of the Criminal College of the Supreme Court No. 56/2007. on the mitigating and aggravating circumstances to be taken into account during sentencing (from now on: CDO), *'The modus operandi of what the criminal law expressis verbis defines as a qualified case for individual criminal acts (and shall be punished more strictly) in case of other offences is generally should be considered as an aggravating circumstance'* (CDO III.2.) Thus, the Criminal Code includes several criminal offences regarding which base reason or purpose constitutes an aggravating case expressis verbis (e.g. homicide, battery, defamation, etc.). If the perpetrator committed a crime where the base reason or purpose is not an aggravating case de jure, the court could consider the racist or biased motive as an aggravating circumstance when imposing a punishment, provided that it is proven beyond a reasonable doubt. This means, if the crime has been committed against a person because he or she is of the Muslim religion, it shall be considered an aggravating circumstance and shall be taken into consideration when sentencing. However, this is a general rule, the Muslim religion is not expressis verbis referred to by law or practice, but it shall be included under biased motivation based on religious beliefs.

The Hungarian legal system does not specifically address "takfirism," however, if it refers to the extremist Islamist approach which allows people of other religions, including those of other Islamic branches, to be abused, killed, etc., then this is, of course, strictly forbidden under criminal law. Hate or violence incited by a takfiri is punishable under the above-mentioned provisions of the Criminal Code. Besides, if a takfiri also commits a terrorist act against 'unbelievers' simultaneously, it can be punishable under the provisions on terrorism of the Criminal Code.

Hungarian criminal law does not define 'violent extremism'. However, the actions and elements related to this behaviour can be found under certain criminal offences (e.g. genocide, violation of the freedom of conscience and religion, violence against a member of a community and depending on the circumstances of a given case.,

Moreover, under point III. 12 of Opinion of the Criminal College of the Supreme Court No. 56., it is also an aggravating circumstance if the crime was committed by joint offenders [section 13 (3)], in a criminal conspiracy or by a group, unless it is punishable more severely expressis verbis under the Criminal Code.

In addition to the rules of criminal law, the regulation of the operation of the Civil Guard had also been significantly changed in Hungary in 2011 to prevent the use of organisational frameworks for abusive behaviour and, where appropriate, harassment of members of a minority. The Act on infractions (Act II of 2012) had also been amended. It is punishable as an infraction to perform public safety activities without authorisation. The provisions on participation in a dissolved organisation had also been amended to be stricter (it can be punished by confinement or by the highest amount of fine, and during the procedure, the police can also order the search of a house, flat, other room or premises attached to them to find pieces of evidence).

**3. k)** By definition, the general rules also apply to the legal protection of people of Muslim religion.

**ii.** In line with the entry into force of the Criminal Procedure Act, the ENYÜBS system was updated on 1 July 2018, which concerned the recording of statistics on hate crimes. Previously, it was possible to identify violence as a hate crime as a crime against a member of the community and what constitutes incitement against the community. Taking into account the change, the possible possibilities of the crime are indicated by the motive of the prejudices and the motive nature of the prejudices - by which group of the crime the member is directed. Previously, it was mandatory to feel a protected characteristic only in the case of violence against a member of a national, racial, ethnic or religious group, but now it is also required in the case of hate crimes to be followed on the basis of disability, sexual orientation and gender identity.

The hatred motivation is the ENYÜBS 2018. VII. It is collected from the month of 2018 and recorded on the side of the offenses, therefore it must be given in the VII-XII. month and 2019 and only for offenses.

12/2018 on the Unified Investigation Authority and Prosecutor's Office Criminal Statistics System, on the detailed rules of data collection and processing. (VI. 7.) Of the Ministry of the Interior, the data controller is the ministry headed by the minister responsible for law enforcement and the Attorney General's Office. Based on this, the Ministry of the Interior is responsible for managing the statistics on crimes registered by all investigating authorities.

**iii.** The rules on criminal procedure provide special provisions for the support and protection of victims since 1 November 2015, which was upheld and reorganised by the new act on criminal proceedings (Act XC of 2017, entered into force on 1 July 2018, from now on: CPC) under a separate chapter on the rules of qualifying a person as a person requiring special treatment (Chapter XIV). Besides, not only victims, but witnesses can also be classified as such persons. The main conditions, which determine whether a person can be classified as a person requiring special treatment is based on:

- age,
- mental, physical and health condition,
- the grossly violent nature of the act subject to the criminal proceedings,
- relationship of the concerned person to other participants of the criminal proceedings.

A wide range of supportive and protective measures are available for the persons concerned during the criminal procedure.



Additionally, there are special rules of witness protection, which aim to protect the life, physical integrity and personal freedom of the witness (and his relatives) and to guarantee that the witness meets his obligation to give testimony which needs to be given without any intimidation. Such measures of witness protection include classifying the witness as a specially protected witness; granting personal protection to them and ensuring them to participate in a Protection Program.

The Hungarian Victim Support Service was designed from its beginning as a service available for all crime victims, regardless of the crime suffered as long as it is a punishable act according to law. The personal scope of the Victim Support Act covers not only injured parties but also family members and those directly affected by crime (i.e. witnesses as well). All services are available for all.

Under the CPC, the proceeding authorities are obliged to inform and advise a person participating in a criminal proceeding of his rights and obligations before the procedural act affecting that person, and are obliged to communicate with the person involved in all cases in such a way that this person can actually understand the content of the communication. That is to say; they must communicate in a simple manner, take into account the state and characteristics of the person involved and make sure that the person involved really understands what has been said, if not, it must be explained in another way.

iv. The Hungarian State ensures the security of all its citizens and those staying here, including their buildings and institutions. Regulation specifically pertaining to Muslims is not justified in Hungary.

#### **4. State practices to promote tolerance and understanding, including with private and private actors**

**4. a)** Based on the Instruction for the law enforcement and criminal personnel, in 2019 trainings took place on the list of prejudice indicators and its use, on the characteristics of hate crimes.

The interactive methodology of the DADA program used by the Police Crime Prevention Service also includes the subject of tolerance and otherness and aims to map with students how we judge someone, how to group them, what leads to conflict from otherness, and how to and address such emerging issues. The program also touched on related crimes. Emphasis is also placed on responses to violence and conflict situations.

**4. b)** The Prime Ministers' Office has been organising so-called inter-religious dialogue conferences together with the Secretariat of the Hungarian UNESCO, with the participation of Jews, Christians, Muslims, and other denominations (for example Krishna-conscious believers) as well.

**4. e)** The Hungarian media law expressly prohibits publishing press and/or media content that incites to hatred. Under section 17 of Act CIV of 2010 on Freedom of the Press and on the Basic Rules Relating to Media Content "*[m]edia content may not contain facilities for inciting hatred against peoples, nations, national, ethnic, linguistic and other minorities, or any majority or religious community.*" Act CLXXXV of 2010 on Media Services and the Mass

Media authorises the Media Council to initiate and conduct an investigation, in the event of an infringement of press and media law requirements – including the prohibition of hate content – and to take appropriate measures consistent with the gravity of the infringement.

The measures mentioned above ensure a proper balance between the freedom of expression and the necessity for the protection of national, ethnic, racial or religious groups.

The criminal offence of incitement against a community and use of symbols of despotism can be highlighted as the most relevant offences to be committed online. Both offences must be committed in front of a large audience. In Hungary, the condition for establishing that the crime was committed in front of a large audience is either that a relatively larger number of people has to be present or that there is a real possibility that many, beforehand indeterminable, at first glance incalculable number of persons might learn about it (*Court decision No. 1981.223.*).

According to the explanatory provision, a crime committed in front of a large public can be established in every case, when the statement is made through a media product, media service, reproduction or publication on an electronic communications network (e.g. internet, including social media) [section 459 (1) 22 of the Criminal Code].

These criminal offences can only be committed intentionally. This means that the perpetrator must know that their actions taken in front of a large audience is targeting specific protected member or group of the population and are capable of inciting or causing hatred or violence, or that is capable of disturbing public peace; thus realize either of these criminal offences.

This means that web and internet hosting providers and moderators of webpages and blogs can only be held criminally liable, taking into account all circumstances of a given case, either as an offender (a person who fulfils the statutory elements of a criminal offence), a joint offender (persons who meet the statutory elements of an intentional criminal offence jointly and with knowledge of the activities of each other) or an abettor (person who intentionally assists in the commission of a criminal offence). In any other case, when they have no knowledge of the criminal offence taking place, they cannot be held criminally liable, since these criminal offences can only be committed intentionally. Besides, section 1-6 of the Act on Legal Persons does not provide for special grounds of liability for legal persons concerning hate crimes. Instead, it provides for a general framework on criminal sanctions against legal persons that applies to any criminal offence if the conditions to hold a legal person criminally liable are met. Concerning hate crimes committed on the internet, first, the Criminal Code must be mentioned, since it provides for a criminal measure, namely rendering electronic data that realises a crime permanently inaccessible (section 77 of the Criminal Code). The main purpose of rendering data permanently inaccessible is to remove the illegal content (delete it from the storage server which can be done by the web hosting provider), if this does not bring any successful result, then the court orders the temporary prevention of access to electronic data ("blocking" by the internet providers).

In cases where the court can order the measure of rendering electronic data permanently inaccessible for the commission of a crime falling under public prosecution and if it is necessary

to be able to prevent the injurious situation to continue, it is possible to render online content (electronic data) temporarily inaccessible during the criminal procedure as a coercive measure ordered by the court (sections 335-336. of the Criminal Procedure Code). Rendering electronic data temporary inaccessible can also take place in two ways: on the one hand by removing the injurious data temporarily, and on the other hand by blocking it temporarily. During enforcing this coercive measure, the primary aim is also the removal of the content, and blocking can only take place regarding the most serious criminal offences (e.g. terrorism and child pornography), as a last resort. This means that regarding hate speech, the balance between the protection against hate speech and the right to freedom of expression and presumption of innocence during criminal proceedings (meaning a final judgment of the court has not yet been passed in the case) is ensured by only allowing the removal of the content. The obliged entities of this measure include the hosting service provider and the intermediary service provider providing hosting services (from now on jointly "removing entity"). A removing entity shall remove the electronic data temporarily within one working day after the corresponding decision is communicated to it. The order to remove electronic data temporarily shall be lifted, and an order to restore a court shall issue the electronic data concerned if either the grounds for the order have ceased to exist or the proceeding has been terminated, unless rendering electronic data permanently inaccessible may be ordered under section 77 (2) of the Criminal Code, which makes ordering the electronic data to be permanently inaccessible even if the perpetrator is not liable to the punishment due to infancy, mental disorder or for any other reason terminating liability to punishment specified by an Act, or if the perpetrator was reprimanded. The temporary removal of electronic data shall terminate when a criminal proceeding is terminated with final and binding effect. Besides, if the court did not order electronic data to be rendered permanently inaccessible under section 77 (2) of the Criminal Code, it shall order the removing entity to restore such electronic data.

The decision removing electronic data temporarily and restoring electronic data shall be communicated to the removing entity, and the removing entity shall restore the electronic data within one working day after the corresponding decision was communicated to it. This decision shall also be served on the person entitled to dispose of the electronic data concerned if his identity and contact details are known from the available data of the proceeding.

The court may, ex officio or upon a motion from the prosecution service, impose a disciplinary fine on a removing entity, if it fails to perform an obligation to remove or restore electronic data temporarily.

It can also be mentioned that the Criminal Procedure Code grants the possibility to remove the relevant data without issuing an obligatory coercive measure by empowering the proceeding authority to prompt voluntary removal before applying the coercive measure (section 338 of the Criminal Procedure Code). However, it also must be mentioned that the service providers do not need to meet with such a request.

If such content is in possession of a foreign service provider, it is possible to initiate the removal of the illegal content within the framework of international legal assistance. If such a request

fails to bring about successful results within 30 days, then the court orders the blocking of the illegal content. As a result, the illegal content will not be accessible for users of Hungarian internet service providers.

However, even blocking does not constitute a full proof solution, since it can be bypassed by technical means; thus, international cooperation regarding the matter can be promoted for achieving better results.

Moreover, the inclusion of the social media providers (e.g. Facebook, Twitter) is a must to enable a more effective fight against online hate speech and hate crimes; thus such social media providers have to take all necessary steps to prevent such contents from being published on their platforms. This requires effective and consistent self-regulation, and the clarification of their legal responsibility regarding their services should also be considered.

Annex I. Regulation on the right to freedom of conscience and religion in Hungary

Annex II. The protection of freedom of religion in Hungary