

## **THE PROTECTION OF FREEDOM OF RELIGION IN HUNGARY, INCLUDING RELIGION PRACTICE OF MINORITIES**

- 1. The protection of religion practice**
- 2. The situation of Muslims in Hungary**

### **1. THE PROTECTION OF THE PRACTICE OF RELIGION UNDER CRIMINAL LAW, INFRACTION LAW AND CIVIL LAW IN HUNGARY**

Religious activities of religious communities (churches and religious associations) are granted enhanced protection under infraction law and criminal law in Hungary (which applies, of course, to the religious practice of minorities, as well).

#### **Act CCVI of 2011**

#### **on the right to freedom of conscience and religion and the legal status of churches, denominations and religious communities**

**Section 20/A(1)** The name, system of symbols, rites and commonly used name of religious communities having legal personality shall be granted enhanced legal protection.

(2) The name and symbols of another organisation shall not give the impression that the organisation or its activities relate to the operation of a previously registered religious community.

(3) The name, system of symbols and commonly used name of a religious community having legal personality may not be used by anyone else without the explicit written consent of the religious community to that effect. Use without explicit written consent shall be deemed unauthorised use.

**Section 20/C** Religious communities having legal personality, in particular to ensure that their rites and their operation according to their internal rules are undisturbed, church buildings and other places intended for the practice of religion, as well as cemeteries, shall be granted enhanced protection under infraction law and criminal law.

#### **Act V of 2013**

#### **on the Civil Code**

### **SANCTIONS FOR VIOLATING PERSONALITY RIGHTS**

#### **Section 2:51***[No-fault sanctions]*

(1) Any person whose personality rights have been violated may claim, based on the fact of violation, within the limitation period and according to the circumstances of the case

a) the establishment of the violation by the court;

b) that the violation be ceased and the person committing the violation be forbidden from continuing the violation;

c) that the person committing the violation give appropriate satisfaction, and provide for its publicity at his own expenses;

d) the ending of the injurious situation, the restoration to the situation existing prior to the violation, and the destruction of things produced through the violation or the depriving such things of their unlawful character;

e) that the person committing the violation or his legal successor relinquish the material gain obtained by the violation according to the rules on unjustified enrichment.

(2) If a person acting within his administrative powers violates personality rights, the sanctions referred to in paragraph (1) shall be enforced against the legal person exercising public authority. If the entity exercising public authority is not a legal person, the sanctions shall be enforced against the administrative organ having legal personality under which the administrative organ which has taken the action is functioning.

(3) If a person acting within judicial or prosecutorial powers violates personality rights, the sanctions referred to in paragraph (1) shall be enforced against the court if the person has acted within his judicial powers, and against the Office of the Prosecutor General, if the person has acted within his prosecutorial powers. If the court which has taken the action is not a legal person, the claim shall be enforced against the court the president of which exercises general employer's rights over the judges of the court having no legal personality.

#### **Section 2:52** [*Grievance award*]

(1) Any person whose personality rights have been violated may claim a grievance award for non-material harm done to him.

(2) Conditions of the obligation to pay grievance award, and in particular the identification of the person who is under the obligation to pay and the ways of exculpating him, shall be governed by the rules on liability for damages, with the proviso that, apart from the fact of the violation, there is no need to prove further loss.

(3) The court shall determine the amount of the grievance award in one sum, taking into account the circumstances of the case, in particular the gravity of the violation, whether it was committed on one or more occasions, the degree of fault, and the impact of the violation on the aggrieved party and his environment.

#### **Section 2:53** [*Liability for damages*]

Any person who suffers any damage from the violation of his personality rights shall have the right to claim compensation from the person committing the violation in accordance with the provisions on liability for damage caused by unlawful actions.

#### **Section 2:54** [*Enforcement of personality rights*]

(1) Personality rights may be enforced in person.

(4) If the violation of personality rights harms the public interest, the prosecutor may, with the consent of the person entitled thereto, bring an action, and may enforce the no-fault sanctions connected to the violation. On the basis of the action of the prosecutor, any material gain obtained by the violation of rights shall be relinquished for a purpose of public interest. In the event of the violation of rights mentioned in paragraph (5), this paragraph shall apply subject to the derogation that the prosecutor may bring an action, within the limitation period, even without the consent of the person entitled thereto.

(5) Any member of the community may enforce his personality rights within a thirty-day term of preclusion from the occurrence of a legal injury that was committed with great publicity in relation to some essential trait of his personality, his belonging to the Hungarian nation or some national, ethnic, racial or religious community, and is grossly offensive to the community or unduly insulting in its manner of expression. With the exception of relinquishing the material gain obtained through the violation of rights, any member of the community may enforce any sanctions of the violation of personality rights

**Act C of 2012  
on the Criminal Code**

**CHAPTER XIII  
CRIMES AGAINST HUMANITY**

**Genocide**

**Section 142** (1) A person who, for the purpose of destroying, in whole or in part, a national, ethnic, racial or religious group,

- a) kills members of the group,
- b) causes grievous bodily or mental harm to members of the group,
- c) coerces the group to live under living conditions that threaten the destruction of the group or its individual members,
- d) takes measures aimed at preventing births within the group,
- e) forcibly transfers children of the group to another group,

is guilty of a felony and shall be punished by imprisonment for ten to twenty years or life.

(2) A person who commits preparation for genocide shall be punished by imprisonment for two to eight years.

**Crime against humanity**

**Section 143** (1) A person who, as part of a widespread or systematic attack against a population, h) deprives a group identifiable by a political, national, ethnic, cultural, religious, sexual or other characteristic of its fundamental rights, or deprives a member of such a group of his fundamental rights due to being part of the group, is guilty of a felony and shall be punished by imprisonment for ten to twenty years or life.

(2) A person who commits preparation for crime against humanity shall be punished by imprisonment for two to eight years.

(3) For the purposes of this section, a widespread or systematic attack against a civilian population means any conduct involving the multiple commission of acts referred to in paragraph (1) against a civilian population with a view to implementing or furthering the policies of a state or organisation.

**CHAPTER XXI  
CRIMINAL OFFENCES AGAINST HUMAN DIGNITY AND CERTAIN  
FUNDAMENTAL RIGHTS**

## **Violation of the freedom of conscience and religion**

**Section 215** A person who

- a) restricts the freedom of conscience of another person by violence or threat,
  - b) prevents another person from freely exercising his religion by violence or threat
- is guilty of a felony and shall be punished by imprisonment for up to three years.

## **Violence against a member of a community**

**Section 216** (1) A person who, because of the fact that another person, actually or presumably, belongs to a national, ethnic, racial or religious group or another group of society, in particular because of his disability, gender identity or sexual orientation, displays a conspicuously anti-social conduct that is capable of causing alarm in members of the respective group is guilty of a felony and shall be punished by imprisonment for up to three years.

(2) A person who assaults or coerces another person by violence or threat to do, not to do or to tolerate something because he, actually or presumably, belongs to a national, ethnic, racial or religious group or another group of society, in particular because of his disability, gender identity or sexual orientation, shall be punished by imprisonment for one to five years.

(3) The punishment shall be imprisonment for two to eight years if the criminal offence of violence against a member of a community is committed

- a) with a weapon,
- b) with an instrument capable of causing death,
- c) by causing significant harm to interests,
- d) by tormenting the aggrieved party,
- e) by a group, or
- f) in a criminal conspiracy.

(4) A person who commits preparation for violence against a member of a community is guilty of a misdemeanour and shall be punished by imprisonment for up to two years.

## **Violation of the freedom of association and assembly**

**Section 217** (1) A person who prevents another person from exercising his right of association or assembly by violence or threat is guilty of a felony and shall be punished by imprisonment for up to three years.

## **Incitement against a community**

**Section 332** A person who, in front of a large audience, incites to violence or hatred against

- a) the Hungarian nation,
  - b) a national, ethnic, racial or religious group or a member of such a group, or
  - c) certain groups of society or a member of such groups, particularly with regard to any disability, sexual identity or sexual orientation,
- is guilty of a felony and shall be punished by imprisonment for up to three years.

## **Public denial of the crimes of national socialist and communist regimes**

**Section 333**(1) A person who, in front of a large audience, denies, questions, belittles or seeks to justify the genocide and other crimes against humanity committed by the national socialist and communist regimes is guilty of a felony and shall be punished by imprisonment for up to three years.

### **Theft**

**Section 370** (1) A person who, for the purpose of illegally appropriating it, takes a thing not owned by him away from another person is guilty of theft.

(3) The punishment shall be imprisonment for up to three years for committing a felony if

a) theft is committed for a larger value,

b) theft for a smaller value is committed

bc) concerning an object of religious worship.

### **Vandalism**

**Section 371** (1) A person who causes damage by destroying or damaging an asset he does not own is guilty of vandalism.

(3) The punishment shall be imprisonment for up to three years for committing a felony if

bb)an object of religious worship or a church or another place of religious worship,

bc)a burial site, a burial memorial place or an item used to commemorate a deceased person in a cemetery or a burial memorial place.

(4) The punishment shall be imprisonment for one to five years if

b)the perpetrator destroys an object, building or site specified in paragraph (3) ba)to bc),

(7) For the purposes of this section, graffiti means a covering layer, which is not necessary for the designated use of the asset concerned, produced by spray-paint, felt-tip pen or any other surface-treating material and depicting an image, graphic or text.

### **Interpretative provisions**

**Section 383** For the purposes of this Chapter:

b)an object of religious worship also means an item used to perform religious rituals,

**Section 459** (1) For the purposes of this Act,

12. a person performing public duties means

d)a member of a church personnel and the member of a religious association who performs religious rites professionally,

### **Act II of 2012**

#### **on infractions, infraction procedure and the infraction registration system**

#### **142 Violation of the right of religion practice**

**Section 188** Any person who causes public scandal in a church building or at other place intended for the practice of religion or desecrates objects of religious respect or objects for the performance of rites in or outside of rooms assigned for rites, commits an infraction.

#### **144 Violation of the right of association and assembly**

**Section 190** (1) Any person who unlawfully prevents another person from practicing their right of association and assembly, commits an infraction.

(2) For the infraction as defined in paragraph (1), the procedure shall fall within the powers of the police.

#### **Act LV of 2018 on the right of assembly**

**Section 13***[Reasons for prohibiting an assembly]*

(4) The rights and freedoms of others shall be considered infringed in particular if the announcement or the assembly is suitable, due to the technical equipment used or the duration of it, to infringe the rights of others to privacy and to family life, home, human dignity, the dignity of the Hungarian nation or of national, ethnic, racial or religious communities, or to restrict the right to free movement or the right to freely choose the place of residence.

## **2. THE SITUATION OF MUSLIMS IN HUNGARY**

In Hungary, of course, free religion practice is fully guaranteed also to people of Muslim religion at both individual and community level. In this context, two Muslim religious communities (the Hungarian Islamic Community and the Muslim Church of Hungary, which co-operate with each other under the name of Hungarian Islamic Council) have also received the highest – established church – status, which can be given to religious communities in Hungary. We would like to point out that *such prominent ecclesiastical status of the Muslim communities is not common in the territory of the European Union*. (In 2013, after a lengthy debate, several German provinces awarded the highest level of privileged public body status to the Islamic communities.)

According to the 2001 census data 3.201 people, **in 2011 5.579 people already declared themselves to belong to the Islamic religion**. In 2018, 1158 persons offered 1% of their personal income tax for the benefit of the Hungarian Islamic Community, and 977 persons for the Muslim Church of Hungary. (Considering the latencies, the membership of the Muslim community of Hungary can be estimated to be about ten thousand.)

Muslim established churches are, of course, entitled to all rights and state budgetary support related to this status. The Hungarian Islamic Community also performs public duties (is operating a school and social institutions), also with full state support.

In addition to the two established churches, several Muslim civil organizations are operating in Hungary, such as religious associations as well as cultural associations and foundations.

### **The issue of the Muslim cemetery**

The established Muslim communities in Hungary have signaled that the burial sites where they can bury in accordance with their own religious regulations are slowly running out, and that they did not manage to purchase such a plot where a new Islamic cemetery could be established. The director of the Budapest Funeral Institute and the head of the New Public Cemetery stated that there are still enough sites in the Muslim cemetery. At the same time, it is possible to create additional burial sites. The current burial sites - and any subsequent expansion - fully allow their dead to be buried in accordance with Muslim traditions.