Hearing on the Trajectory of Democracy - Why Hungary Matters

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HEARING ON
THE TRJECTORY OF DEMOCRACY – WHY HUNGARY MATTERS

Held before the
Commission on Security and Cooperation in Europe
(the U.S. Helsinki Commission)

Senator Benjamin L. Cardin, Chairman, Presiding

Tuesday, March 19, 2013
Excerpts on Religious Liberties Issues

Witnesses:

- Brent Hartley, Deputy Assistant Secretary for European and Eurasian Affairs, U.S. Department of State
- József Szájer, Hungarian Member of the European Parliament, Fidesz-Hungarian Civic Union, representing the Government of Hungary
- Dr. Kim Lane Scheppele, Princeton University
- Ms. Sylvana Habdank-Kolaczkowska, Freedom House
- Dr. Paul A. Shapiro, U.S. Holocaust Memorial Museum

Additional statements for the record:

- Written observations on the situation of Roma in Hungary submitted by the European Roma Rights Centre
- Testimony Concerning the Condition of Religious Freedom in Hungary, H. David Baer, Texas Lutheran University
- Statement of Frank Koszorus, Jr., National President of the American Hungarian Federation

Full statements and link to video webcast available at: www.csce.gov (click on “hearings & briefings”).
Statement by the Honorable Benjamin L. Cardin
Chairman

“The Trajectory of Democracy – Why Hungary Matters”

Hearing before the Commission on Security and Cooperation in Europe

March 19, 2013

The progressive inclusion of post-communist countries into transatlantic and European institutions reflected the expansion of democracy and shared values, as well as the realization of aspirations long denied. Indeed, in 1997, the Helsinki Commission held a series of hearings to examine the historic transition to democracy of post-communist candidate countries like Hungary prior to NATO expansion.

I was among the many in the United States who cheered when Hungary joined NATO in 1999, and again when Hungary joined the EU in 2004 – illustrating not only Hungary’s post-communist transformation, but also Hungary’s ability to join alliances of its own choosing and follow a path of its own design. Hungary has been a valued friend and partner as we have sought to extend the benefits of democracy in Europe, and elsewhere around the globe.

But today, concerns have arisen among Hungary’s friends about the trajectory of democracy in that country.

Over the past two years, Hungary has instituted sweeping and controversial changes to its constitutional framework, effectively re-making the country’s entire legal foundation. This has included the adoption of a new constitution – already amended multiple times including the adoption of a far-reaching Fourth Amendment just days ago – and hundreds of new laws on everything from elections to the media to religious organizations.

More than that, these changes have effected the independence of judiciary, role of the constitutional court, the balance of power, and the basic checks-and-balances that were in place to safeguard democracy.
It seems to me that any country that would undertake such voluminous and profound changes would find itself in the spotlight.

But these changes have also coincided with a rise of extremism and intolerance in Hungary. Mob demonstrations have continued to terrorize Romani neighborhoods. Fascist-era figures are promoted in public discourse and the public place. A new law on religion stripped scores of minority faiths of their legal status as religious organizations overnight including, initially, Coptic Christians, Mormons, and the Reformed Jewish Congregation. Most have been unable to regain legal status, including the Evangelical Methodist Fellowship, a church that had to survive as an “illegal” church during the communist period and today serves many Romani communities.

At the same time, the constituency of Hungary has been re-defined on an ethnic basis: citizenship has been extended into neighboring states on an ethnic basis, and voting rights now follow that.

As the late Ambassador Max Kampelman once observed, minorities are like the canary in the coal mine. In the end, democracy and minority rights stand or fall together. If respect for minorities falls, democracy can’t be far behind. And the rights of persons belonging to ethnic, religious, or linguistic minority groups will likely suffer in the absence of a robust democracy.

Max Kampelman, who was long a friend of the Helsinki Commission, served with distinction as the head of the U.S. delegation to the seminal 1990 Copenhagen meeting, where some of the most important democracy commitments ever articulated in the OSCE were adopted:

*The participating States “consider that the rule of law does not mean merely a formal legality which assures regularity and consistency in the achievement and enforcement of democratic order, but justice based on the recognition and full acceptance of the supreme value of the human personality and guaranteed by institutions providing a framework for its fullest expression. They reaffirm that democracy is an inherent element of the rule of law.”*

At issue now is whether Hungary’s democratically elected government is steadily eroding the democratic norms to which Hungary has committed itself, in the OSCE and elsewhere. And we care about democracy in Hungary, for the people in Hungary as well as for the example it sets everywhere we seek to promote democracy.

I welcome all of our witnesses here today, and I appreciate that you are giving of your considerable expertise, your insights, and your time.

I especially appreciate that our second witness, Jozsef Szajer, has been asked by the Government of Hungary to represent it here today. As one of the framers of the constitution, we could have no more authoritative voice on the issues we are discussing and I thank you from coming from the European Parliament where you serve to share your views.

Our first witness will be Mr. Brent Hartley, Deputy Assistant Secretary of State for European Affairs, followed by Mr. Szajer.

Our final panel will include Dr. Kim Lane Scheppelle, an expert on constitutional law from Princeton University, Ms. Sylvana Habdank-Kolaczkowska from Freedom House, and Dr. Paul Shapiro from the U.S. Holocaust Memorial Museum.
Excerpts from unofficial transcript
(Additional references may be found in written statements submitted by witnesses for the record)

[ . . . ]

SEN. BEN CARDIN: I have the Council of Europe – excuse me on that – on your religious law, where they say that the act sets a range of requirements that are excessive and based on arbitrary criteria with regards to the recognition of a church – in particular, a requirement related to the national and international duration of a religious community and the recognition procedures based on a political decision should be reviewed. This recognition confers a number of privileges to churches concerned. The act has led to the deregistration process of hundreds of previously lawfully-recognized churches that can hardly be considered in line with international standards.

Finally, the act induces, to some extent, an unequal and even discriminatory treatment of religious beliefs and communities depending on whether they are recognized or not. That’s from the Council of Europe. Any comment?

MR. JOZSEF SZAJER: Chairman, if you allow me one sentence still on the previous subject, that any decision of the Media Council is due to court review in Hungary. So if you are not satisfied with the decision, you can go there, and there is a bill where you can go through all of this process.

On the – concerning on the religious communities, I think it’s a very big and great misunderstanding. The paragraph which is dealing with media – with religious freedom in Hungary states nothing else than your constitution or several constitutions of the world- the charter fundamental rights of the European Union states, that every single citizen, individually or collectively, has the right to exercise their religion publicly or in their home, which means that – this is what your constitution says. It doesn’t go farther than that.

However, the European system – and I think the misunderstanding comes from this point. The European system is not about whether an individual or a community can exercise – whether it can exercise or not their religion in – individually or in a community, but in the European system, it’s whether – about – they have some additional rights, whether they are entitled to some taxpayers’ money, which means that the media – the church law in Hungary is not really about church freedom. I understand that the basis of the first amendment in this country – it’s even prohibited to regulate any religion because of the – of the ban like this.

In Hungary, this is also – every single community, let it be whatever. I am not giving examples, because that always leads to – but any community and any individual can exercise this. There is no restriction of any on this right. What the state, in the church law, introduces as a procedure is a recognition – as a – as a religious community, which has some extra claims by cooperating with the state and getting state money – getting the taxpayer’s money as a support for paying their priest, for having their charity organization and so on. And so the church law is going beyond of that, and the church law is a normative law, so you cannot apply it arbitrary.

And why – two-thirds majority in the Hungarian parliament is something which is exactly the guarantee of the right consensus needed on – concerning churches.

I also would like to add that in the neighboring countries, the same recognition process – religious communities becoming churches Which are supported by the state, is, in number, much
less. Austria has much less, Slovakia has less state – less churches. Hungary has, at the moment, 34. Romania has less, and several European countries have less recognized churches like that.

So we have various regulations in European countries in which the Hungarian is the most accepting – the most open system which is a public system, and the transparent procedure – how do you recognize, not as a church – a religious community – as a church, but as a religious community which is entitled to taxpayer money.

I think the big misunderstanding here lies here. This is about taxpayer money. It’s not really a church law. It’s church financing law, which doesn’t exist in this country, because it’s prohibited by the first amendment of your constitution.

SEN. CARDIN: I thank you for that explanation, but I still believe the discriminatory treatment of one church versus another is of concern. Each country has a different set of circumstances – its relationship to the faith community, but discrimination against one church versus another is an issue of concern, and I take it it is correct to say that this law did deregister hundreds of previously lawful churches in Hungary? Is that accurate?

MR. SZAJER: Yes, and the reason it that the state doesn’t want to provide taxpayers money for, for instance, business religions – for religions which are doing only business. So they are free to exercise their religious activity – their faith, because that’s the first sentence of our constitution, but they are not recognized as churches which as entitled for taxpayers’ money. This is the difference.

However, it also comes to your statements, senator, to the question of double standards, which I think we have to be very careful. In Europe, there are several countries – and I don’t name them, because we all know, in this room which they are – they have state religions. They have state religions, which means that the state religion has extra and specific rights over other churches. They are coming from history, but the Hungarian system, I can assure you, is not discriminatory. The constitutional court had a decision on this and gave guidelines, and a new amendment – the fourth amendment made clear how the differences between religious exercise of our religion in community and the cooperation with the state, which involves taxpayers’ money.

SEN. CARDIN: I understand that point. The other area that just doesn’t look well is that, as I understand it, to become registered under the law – if you’re not registered, you need a two-thirds vote of the parliament. Is that correct?

MR. SZAJER: No, no. There is a procedure in which religious community – which is an existing religious community, can ask the recognition as a church, and so, entitled for cooperation or benefits from the –

SEN. CARDIN: And that requires a two-thirds vote of the parliament?

MR. SZAJER: That requires a two-third qualified vote in the Hungarian parliament in order to recognize a church for that. But the fourth amendment introduces and acts on the request of the constitutional court that, on procedural basis, there is an opportunity to have a review of that in the constitutional court, so you can appeal against this decision – on procedural basis – to the constitutional court, which – it built in an extra guarantee to the process, because that’s what the constitutional court was missing.