



Hungary must pay just satisfaction to religious community for removing its church status

In today's **Chamber judgment**¹ in the case of [Magyarországi Evangéliumi Testvérközösség v. Hungary](#) (application no. 54977/12) the European Court of Human Rights dealt with the question of just satisfaction (Article 41) following a judgment delivered in 2014 on religious communities' loss of full church status.

Magyarországi Evangéliumi Testvérközösség, the applicant, is a religious community which originally existed and operated lawfully in Hungary as a church. However, under a new law introduced in 2012, all religious communities, including the applicant, lost their status as churches and the corresponding benefits. Relying in particular on Article 11 (freedom of assembly and association) read in the light of Article 9 (freedom of thought, conscience and religion), the applicant and several other religious communities complained to the European Court about their deregistration under the new law and the discretionary reregistration of churches. The case was decided on the merits in 2014. The Court found in particular that the Hungarian authorities had disregarded their duty of neutrality by removing the applicant communities' church status altogether rather than applying less stringent measures. The Court subsequently delivered in 2016 a partial judgment concerning the just satisfaction claims of all the applicant religious communities except for *Magyarországi Evangéliumi Testvérközösség*. The latter's claims were reserved for examination at a later date because negotiations between it and the Hungarian Government were still continuing.

In the ensuing proceedings before the European Court, *Magyarországi Evangéliumi Testvérközösség* claimed a total of 8,691,000 euros. However, in today's further **judgment on just satisfaction** the Court decided, unanimously, to award the applicant **3,000,000 euros for pecuniary damage** in the form of a lump sum. This lump sum covered in particular the loss of personal income tax donations, State subsidies and salary supplements for staff employed by church institutions; as well as the real loss of opportunities resulting from the applicant's lack of access to grants managed by different State authorities.

Principal facts, complaints and procedure

Magyarországi Evangéliumi Testvérközösség, the applicant, is a religious community active in Hungary since 1981. Prior to the adoption of a new Church Act, which entered into force in January 2012, religious communities were registered as churches in Hungary and received State funding. Under the new law, which aimed to address problems relating to the exploitation of State funds by certain churches, only a number of recognised churches continued to receive funding. All other religious communities, including *Magyarországi Evangéliumi Testvérközösség*, lost their status as churches and corresponding benefits. They were however free to continue their religious activities as associations.

Following a decision of the Constitutional Court, which found certain provisions of the new Church Act to be unconstitutional – in particular the fact that only incorporated churches were entitled to

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

one percent of the personal income tax which could be earmarked by believers as donations – new legislation was adopted in 2013, under which religious communities could again refer to themselves as churches. However, the law continued to apply in so far as it required the communities to apply to Parliament to be registered as incorporated churches if they wished to regain access to the monetary and fiscal advantages to which they had previously been entitled.

Relying in particular on Article 11 (freedom of assembly and association) read in the light of Article 9 (freedom of thought, conscience and religion), *Magyarországi Evangéliumi Testvérközösség* and several other religious communities complained to the European Court of Human Rights about their deregistration under the new law and the discretionary reregistration of churches. The application of *Magyarországi Evangéliumi Testvérközösség* was lodged with the European Court of Human Rights on 19 August 2012.

In its [judgment on the merits](#) on 8 April 2014 the Court held that there had been a violation of Article 11 read in the light of Article 9. It found in particular that the authorities had disregarded their duty of neutrality by removing the applicant communities' church status altogether rather than applying less stringent measures, by establishing a politically tainted re-registration procedure and by treating the applicants differently from the so-called incorporated churches.

Following the principal judgment the parties concluded a partial agreement on 26 June 2015 with respect to certain pecuniary losses incurred until 31 December 2014 and agreed to continue their negotiations as regards the period starting on 1 January 2015.

In its subsequent [judgment on just satisfaction](#) on 28 June 2016 the Court awarded damages to all the applicant religious communities except for *Magyarországi Evangéliumi Testvérközösség*. The latter's claims were reserved for examination at a later date because negotiations between it and the Hungarian Government were still continuing.

Composition of the Court

Judgment was given by a Chamber of seven judges, composed as follows:

Ganna Yudkivska (Ukraine), *President*,
András Sajó (Hungary),
Nona Tsotsoria (Georgia),
Paulo Pinto de Albuquerque (Portugal),
Krzysztof Wojtyczek (Poland),
Egidijus Kūris (Lithuania),
Gabriele Kucsko-Stadlmayer (Austria),

and also Marialena Tsirli, *Section Registrar*.

Decision of the Court

In its judgment today, the Court relied on the partial agreement of 26 June 2015, under which the Government acknowledged certain damages sustained by the applicant and which was based on a calculation method developed by the parties.

Those damages included the loss of personal income tax donations and the corresponding supplementary State subsidy; the loss of State subsidies intended to support the applicant's social and educational institutions; the loss of subsidies for religious teaching; and the loss of salary supplements paid to the staff employed by church institutions providing public-interest services. In respect of those acknowledged damages, the Government accepted the applicant's claim to the extent of 1,473,800 euros (EUR). Since the Government had not called into question the fact that the applicant continued its various activities after 2015, the Court considered it appropriate to award

just satisfaction – calculated pro rata to the yearly amount due for 2015 – by extrapolation for the entire period until the adoption of the present judgment.

Moreover, the Court was of the view that the applicant suffered a real loss of opportunities, because it, unlike incorporated churches, did not have access to grants obtainable via calls for project proposals managed by different State authorities.

The Court therefore decided, unanimously, to award *Magyarországi Evangéliumi Testvérközösség* 3,000,000 euros for pecuniary damage in the form of a lump sum, covering globally the damages acknowledged by the Government in the partial agreement and the applicant's real loss of opportunities. It also awarded EUR 2,250 for costs and expenses.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.