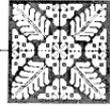


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Statement of László Hámos, President

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at a Briefing on

**Property Restitution and Compensation
in Post-Communist Europe: A Status Update**

before the

Commission on Security and Cooperation in Europe

September 10, 2003

334 Cannon House Office Building

Dark Spot Clouds Romania's Record:

***Progress in Restoring Church and Communal Properties
Obstructed by Government Impediments***



The Hungarian Human Rights Foundation (HHRF) welcomes the opportunity to submit written testimony to the Commission on Security and Cooperation in Europe on church and communal property restitution to Romania's 1.5 million-strong Hungarian minority. HHRF is deeply grateful to the Commission for the sustained attention it has paid to this unfortunately still timely unresolved human rights issue affecting the very

underpinnings of democratic and free society. Romania's failure to meaningfully address this issue represents a fourfold breach of Helsinki commitments. By failing to undertake property restitution 13 years after the fall of communism, the government (1) curtails religious liberties, (2) violates the sanctity of private property, (3) encroaches on the rights of minority communities, and (4) denies the material resources to build civil society.

Shortly before the Commission's July 16, 2002 hearing on this issue, the Romanian parliament adopted Law No. 501/2002 on restitution of properties illegally confiscated from religious denominations under communism in the period 1945-1989 ("Law on the Adoption of Government Decree 94/2000 on the Restitution of Certain Properties Formerly Belonging to Religious

Denominations in Romania”). Thirteen years in the waiting, adoption of the law on June 25, 2002 filled the four historic Hungarian Churches (Roman Catholic, Protestant, Lutheran and Unitarian), and the community they serve, with expectation and hope that the restitution process would finally begin, and the 2,140 properties confiscated from these Churches would be returned. But the process has been protracted and marred by obstacles.

In a July 16, 2002 submission to the Commission, HHRF analyzed the numerous deficiencies of the law, which was not prepared in consultation with the affected Churches as requested. Since the overdue October 17, 2002 adoption of the law’s implementing provisions, the Hungarian Human Rights Foundation has issued six documents monitoring developments. In January 2003, in consultation with the affected historic Hungarian Churches themselves, we identified twelve minimum measures which the Romanian government needs to take in order for the restitution process to begin.

HHRF is deeply concerned over the failure to undertake a genuine process of restitution of Hungarian minority church properties. The law is grossly deficient, major remedies are warranted. Beyond these shortcomings, still other government-imposed impediments prevent progress.

Restitution Woefully Inadequate

- The Special Committee set up to implement Law No. 501/2002 met on June 18 and 27—several months past the deadline mandated by the law—ruling on a total of 70 claims out of 7,568 submitted by the March 2 deadline. The total claims approved at these meetings for the four historic Hungarian churches amounted to a mere 49 (see chart below) of the 1,974 submitted enumerating 2,140 properties. However, the churches have still not regained title to or occupancy of even these 49 properties. In an unexpected move, the Special Committee announced on June 27 that instead of issuing written decisions immediately—thereby allowing the claimants to register title to, and regain occupancy of their confiscated properties—it would do so within only 30 days. But it failed to keep that promise as well: It was only at its September 2 meeting that the committee announced it had finalized the resolutions after failing to meet in the intervening months as it had previously planned. Now, the committee has promised that it will mail the decisions this week and meet again on September 9 to decide a further 40 claims. At its current pace, it will be nine years before the Special Committee merely *processes* the claims.
- The Special Committee’s failure to meet deadlines is because: (1) Committee members serve in only a part-time capacity; (2) Committee meetings are sporadic; and (3) the Committee has an administrative staff of only three. So far the government has not indicated that it will compensate the Churches for its failings. In a September 4 interview with Hungarian-language daily *Romániai Magyar Szó*, **Attila Markó**, the Democratic Alliance of Hungarians in Romania (DAHR) representative in the five-member Special Committee conceded that it needs to be restructured, but no indication has been given of the nature or time frame for doing so.
- Following the March 2 submission deadline, the Special Committee deemed 90 percent of all the claims submitted to be “incomplete,” demanding “updated” title deeds for all claims submitted in 2002, as well as “legal status certificates” from the local authorities in all 7,568 cases! Not only is this step redundant and a deliberate effort to inject further delays, but the Special Committee does not have the power to constrain local authorities to comply. Moreover, in the majority of Hungarian cases, the local authorities have a vested interest in not providing any documentation, since they stand to be disadvantaged

by the return of property currently in their possession. Committee member Markó has also conceded that the Churches faced, and continue to face, obstruction from local authorities in procuring documentation proving their claims, but did not indicate that the committee would withdraw this requirement (*id*).

Law Fraught with Deficiencies

—A major shortcoming of the law is that it *does not* address the issue of properties also confiscated under Communism from minority *communities* (“communal properties”), thus leaving this a still unresolved issue. In May 2003 a proposal for drafting such a law, based on two former government decrees (Nos. 13/1998 and 83/1999), was submitted to the Romanian cabinet by the then-Ministry for Public Administration. The government has yet to even consider the document, much less introduce the promised bill in Parliament. The affected communities should be included in the drafting process.

—Another significant deficiency of the law is that it fails to establish the principle of “*restitutio in integrum*” as the first order of restitution (as recommended by Council of Europe Parliamentary Assembly Resolution 1123/1997) which would restore ownership and all rights emanating from ownership across the board.

The law provides for “simple ownership,” without bestowing the attendant rights (such as the right by the legitimate owners to retroactive compensation once restitution has occurred), in cases of buildings currently occupied by public institutions, which is the situation with 90 percent of the properties. In these cases — namely properties currently occupied by educational, research, health and socio-cultural institutions, political party headquarters, international organizations and foreign missions — occupancy by the rightful owners can be delayed for up to five years! (While this time period was reduced from 10 years as a concession to the churches, it is still excessive considering the fact that 13 years have already passed since the dictatorship was overthrown. The time-frame should be reduced to one year.) Thus, it is important to bear in mind that in only nine of the 49 properties approved by the Special Committee in June 2003 will the rightful owners regain actual occupancy in the near future. During the five-year period, the restored owners can either enter into a lease agreement (the amount of which is to be determined unilaterally by the state); or accept compensation under guidelines set by another law (No. 10/2001), in the form of state company stock certificates. Both options are financially detrimental to the churches. Moreover, at the end of the five-year period, the only obligation the current tenants have is to hand over the property in the condition it was at the time of the Special Committee’s final decision, completely disregarding the fact that the Churches were deprived of buildings in most cases in excellent condition at the time of confiscation. Lastly, the law does not give any guidance on who evaluates the current state of the property, which could lead to future misunderstandings.

—A further major flaw is that the Special Committee’s word is not final! (Art. 2/6.) Current occupants and owners can initiate legal action against decisions made by the committee, paving the way for endless legal quagmires, as witnessed in the case of the majority of the buildings never *de facto* restored via government decrees. The possibility of legal challenge and defeat is a probability based on the many negative precedents that exist surrounding the failure to implement the prior government decrees. It bears mentioning that in all the thirteen cases where the Hungarian Churches regained occupancy, it occurred *despite* legal action lasting several years.

—The Law needs to be amended to establish an equitable formula for compensating the churches for demolished properties.

Still Further Obstacles Imposed

—In those cases where the Churches have regained title but not occupancy, they have nevertheless had to assume the unfair burden of paying property taxes on the property they still cannot occupy. This practice should cease and refunds issued. One example is the Gheorghe Sincai High School in Cluj/Kolozsvár, which the Hungarian Reformed Church was able to partially reoccupy in December 2002. The Church has been forced to pay 70,000,000 ROL (\$2,300) in taxes *each year* for property it cannot use.

—The Law needs to be amended to specifically exclude the practice of requiring monetary compensation from the Churches to cover state costs for maintenance and “improvement” of the buildings since their confiscation in the late 1940’s. Precedents for exactly these types of charges being applied are the cases of the Zsuzsanna Lorántfy High School, restored to the Hungarian Reformed Church and the Roman Catholic Bishop’s Palace, both in Oradea/Nagyvárad.

—Church Assets: The law on restoring to their rightful owners ecclesiastical objects, baptismal records and church archives seized by communist authorities needs to be implemented (see chart below).

Conclusion

Thirteen years after the fall of communism, only 62 (*including* 13 under five previous government decrees) of 2,140 properties illegally confiscated from the churches between 1945-1989 have been restituted. Only when the rightful owners finally regain title to, use of and compensation for these properties will the ongoing, major blow to religious freedom, civil society and the 1.5 million Hungarians ability to maintain community and church life be reversed.

Number of Claims Approved for the Historic Hungarian Churches by the Special Committee since the March 2, 2003 Submission Deadline

Name of Denomination	June 18, 2003 Special Committee Meeting	July 27, 2003 Special Committee Meeting	Sub-Total
Roman Catholic:			
Roman Catholic Archdiocese Alba Julia/Cyulafehérvár	3	7	10
Roman Catholic Diocese of Timisoara/Temesvár	4	0	4
Roman Catholic Diocese of Oradea/Nagyvárad	6	5	11
Evangelical-Lutheran Church	0	5	5
Hungarian Reformed:			
Hungarian Reformed District of Transylvania	2	6	8
Hungarian Reformed District of Király-hégyömlék	3	1	4
Unitarian Church	4	3	7
Total	22	27	49

Claims Submitted by Hungarian Churches (Updated April 9, 2003)

Roman Catholic Archdiocese Alba Iulia/Gyulafehérvár	400	
Roman Catholic Diocese Oradea/Nagyvárad	181	¹
Roman Catholic Diocese Satu Mare/Szatmár	150	
Roman Catholic Diocese Timisoara/Temesvár	134	
Roman Catholic Diocese Iasi	6	
Premonstrant Order of Oradea/Nagyvárad	43	
Minorite Order	8	
Total Roman Catholic	922	922
Hungarian Reformed District of Transylvania	630	²
Hungarian Reformed District of Királyhágómellék	319	³
Total Hungarian Reformed	949	
Unitarian Church	84	
Total Unitarian	84	
Evangelical-Lutheran Church	19	
Total Lutheran	19	
Total Protestant	1,052	
Total Historic Hungarian Churches	1,974	

Note: The number of claims submitted by the historic Hungarian churches before the March 2 deadline was publicly reported by State Secretary Attila Markó of the Ministry of Public Administration as 1,799. The numbers shown here are based on updated, accurate information received from the churches on the number of claims they actually submitted. Discrepancies occur in three cases:

¹ The Roman Catholic Diocese of Oradea submitted 181 claims, not 141.

² The Hungarian Reformed District of Transylvania submitted 630, not 609.

³ The Hungarian Reformed District of Királyhágómellék submitted 319 claims, not 205.

Inventory of Properties Illegally Confiscated from the Hungarian Historical Churches in Romania (Prepared May 2002)

Confiscated Property Type	Roman Catholic Church			Hungarian Reformed Church				Unitarian Church	Evangelical-Lutheran Church	Total
	Alba Iulia Archdiocese	Oradea/Nagyvárad Diocese	Satu Mare/Szatmár Diocese	Timisoara/Temesvár Diocese	Transylvania District	Királyhágómellék District				
Buildings										
Nurseries	1	6	1	1	3	6	-	-	18	
Elementary Schools	173	56	18	58	354	166	38	4	864	
High Schools	24	8	7	9	22	8	2	-	80	
Hostels	6	2	1	3	4	1	1	1	18	
Community Centers	4	4	5	3	60	14	12	-	102	
Hospitals	-	2	2	1	3	-	-	-	8	
Orphanages	6	-	6	-	2	1	-	-	15	
Asylums	5	-	2	-	3	-	-	-	10	
Places of Worship	13	9	4	2	9	5	1	-	43	
Monasteries	20	7	12	8	-	-	-	-	47	
Parish Houses	11	3	3	1	14	10	-	-	42	
Bishop's Palace	-	1	-	-	-	-	-	-	1	
Libraries	1	-	-	-	-	-	-	-	1	
Admin. Buildings	10	3	4	-	9	1	1	1	25	
Agricult. Buildings	-	69	-	-	-	-	-	-	69	
Forrest Buildings	-	2	-	-	-	-	-	-	2	
Mills	1	1	1	-	15	-	1	-	19	
Apartments	250	93	79	23	130	134	36	13	743	
TOTAL	525	266	145	119	628	346	92	19	2,140	
Other Property										
Cemeteries	9	3	1	-	1	4	-	-	18	
Agric. Land (hectares)	-	2,663.71	-	-	9,450.27	1,424.27	-	519.24	14,060.94	
Forests (hectares)	-	2,971.91	-	-	6,322.17	210.70	-	222.32	9527.10	
Incunabula (pre-1501)	-	224	-	-	-	-	-	-	224	
Printed Works)										
Oil Paintings	-	38	-	-	-	-	-	-	38	
Pictures	-	2	-	-	-	-	-	-	2	
Engravings	-	213	-	-	-	-	-	-	213	

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