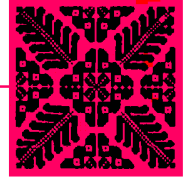


HHRF

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U.S. STATE DEPARTMENT 2017 REPORT ON INTERNATIONAL RELIGIOUS FREEDOM IN ROMANIA

Inadequately Conveys Abysmal Record on Rights for Minority Religious Denominations

The **U.S. State Department's 2017 Report on International Religious Freedom for Romania** falls short in emphasis, detail and unambiguity on the single most important religious freedom issue haunting the country since the fall of communism in 1989: the obstruction by successive Romania governments, official bodies and the judicial system of full religious, civic, educational, property and minority rights for minority religious denominations. For an unconscionable three decades, the Romanian authorities have failed to restore - whether *in integrum* or through restitution - more than but a fraction of the 13,379 church properties illegally confiscated by the State from their rightful owners between 1945 and 1989.

The Report does not place into context the severe, continuous and complex nature of these interlocking violations of rights affecting the daily lives of millions of people in Romania. The failure to give back these buildings and institutions to their rightful owners is not an abstract injustice. A sense of the multi-faceted loss to huge segments of Romanian society is missing from the Report: the fact that *an entire generation* of ethnic Hungarians, Greek Catholics and Jewish youth was born and has grown up since 1989 without being able to fully exercise its rights and know its cultural legacy; has been denied the full means and resources to build democracy and civil society because they do not possess their churches or synagogues; cannot attend their centuries-old schools; and cannot develop hospitals, libraries and other institutions that rightfully belong to them.

The evidence clearly shows a **track record of deliberate and cynical actions by the Romanian authorities** to violate the rights of the four historic Hungarian churches, the Greek Catholic and Jewish communities. Not only through neglect, obfuscation, inadequate legislation and implementation; interference in the judicial system, ignoring the decisions of supranational entities, actually renationalizing certain properties after restituting them but, most significantly, by legally persecuting and scapegoating ethnic Hungarian and other civil servants who try to implement the rule of law as regards property restitution. The effects of fear and silencing impact these scandalous measures have, especially on the Hungarian minority which suffers both ethnic and religious discrimination, cannot be overstated. Yet, the 50,000-word Report mentions the word "Hungarian" merely twice.

Three decades of injustice in a seemingly intractable issue has by now had a profound, perhaps permanent negative impact on all aspects of Romanian society. Thus, a concerted, international effort by both government and non-governmental stakeholders is indispensable if any modicum of justice is to be done.

Alarmingly, the U.S. State Department seems to be effected by apathy in prioritizing this injustice in its bilateral relations with Romania. While naming its other laudable efforts on religious issues, as specifically regards Hungarian and Greek Catholic religious property restitution, one vague and brief sentence opens *Section IV. U.S. Government Policy and Engagement* of the Report: “The embassy raised its continued concerns about the slow pace of religious property restitution with the general secretary of the government.” Here, too, the Report does not layout the context of countless U.S., namely Congressional initiatives stretching back decades aimed at resolving this injustice, including **H. Res 191 from 2005**, which continues to require that the Romanian government fully restitute properties illegally confiscated from religious denominations after 1945.

The fact that Romania is an **ally and strategic defense partner** of the United States should provide additional incentive for both countries to put this issue front and central of their bilateral relations. A clear-cut action plan with a firm timetable is not an unreasonable expectation, nor an unreachable goal given enough resolve.

For further details, please read the latest report from HHRF, updated December 10, 2018, and entitled “**Church Property Restitution – the Dark Shadow Obscuring the ‘Bright Future’ of U.S.-Romanian Bilateral Relations.**”

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Church Property Restitution – the Dark Shadow Obscuring the “Bright Future” of U.S.-Romanian Bilateral Relations

On June 9, 2017, at their joint White House press conference, **President Trump** applauded **Romanian President Klaus Iohannis** for his “*courageous efforts in Romania to fight corruption and defend the rule of law,*” speaking of the “bright future” between the two nations. Nothing could be further from the truth, however, for Romania’s 1.5 million ethnic Hungarian minority and the country’s Greek Catholic and Jewish religious minorities who, since the fall of communism, continue to be denied full religious, minority and property rights.

- Clearly, the Romanian President was not called to account for the scandalous 29-year failure of each successive government to restore more than but a fraction of the 13,379 church properties illegally confiscated by the State from their rightful owners between 1945 and 1989.
- Apparently, President Trump was not apprised that the Omnibus Appropriations Act of 2016 instructed the Department of State to report, within 90 days of enactment, on steps taken by the Government of Romania and the State Department to restore confiscated church properties to their legal owners, and that the ensuing report contained false information propagated by the Romanian authorities.¹
- Nor did President Iohannis have to explain the definition of rule of law in which a corrupt judiciary can collude with the state anti-corruption prosecutor (DNA) in persecuting civil servants for carrying out their official duties, re-nationalize a Protestant high school already legally restored to its rightful owner, and take orders from the government not to adjudicate the 18-year running Batthyaneum Library case. These issues were reported in the Department of State’s *International Religious Freedom Report for 2016 and 2017*²

The harsh reality is that the State Department is aware of the gravity of the situation, but at the same time, out of solutions to resolve the increasingly multi-faceted and entrenched human rights violations suffered by these religious denominations. As the year of the socially divisive centennial of Romania’s national holiday (the 1918 declaration by Romanians to unify Transylvania with Romania) draws to an end, anti-Hungarian sentiment is on the rise.³

¹ The language in the Act – put forth by Representatives Harris (R-MD) and Kaptur (D-OH) and initially adopted in June 2015 by the House Appropriations Committee – was the most recent Congressional effort to secure justice for ethnic and religious minorities since the passage of H.R. 191 in 2005 more than two decades ago. Prior, recent initiatives include correspondence between Members and Secretary of State John Kerry in 2013 and 2014 wherein the State Department underscored that Romanian property restitution is a “key priority” for the Administration.

² As also reported in the Department of State *International Religious Freedom Reports for 2016 and 2017*.

³ Since August 2017, a campaign to rescind Hunor Kelemen’s Romanian citizenship – the president of the Democratic Alliance of Hungarians in Romania (UDMR) – is underway. Ethnic Hungarian mayors have been fined by the dozens for flying the Szekler flag on buildings. On March 23, 2018, the former deputy mayor of Kolozsvár/Cluj-Napoca, Anna Horváth, was sentenced to 2 years and 8 months imprisonment on false accusations of corruption.

Thus, renewed efforts are needed to achieve justice for these beleaguered religious minorities, with particular focus on the violations summarized below.

The Numbers That Speak for Themselves

- According to the Romanian Government’s own restitution body (referred to as NAPR, National Authority for Property Restitution, by the State Department) 14,814 is the total number of properties illegally confiscated from religious denominations by the Romanian communist regime in the 1945-1989 period.
- 2,140 of these buildings (housing schools, hospitals, orphanages and other social institutions) *alone* were taken from the four historic Hungarian churches – Roman Catholic, Hungarian Reformed (Protestant), Lutheran and Unitarian.
- 29 years after the 1989 Romanian Revolution and the overthrow of communism, 66.13 percent of these Hungarian minority properties is still not fully restituted by the Romanian state. ⁴

The *International Religious Freedom Reports for both 2016 and 2017* released by the U.S. State Department confirm a complete shutdown of any forward movement to return properties to their rightful owners. In 2016, the Report states “*The government rejected more than 1,000 restitution claims for previously confiscated religious properties and approved 28;*” while “as of December [2017] the government rejected 980 restitution claims for confiscated religious properties and approved 26.” These numbers are for ***all*** the affected religious denominations – the four Hungarian historic churches, Greek Catholic and Jewish.

Our first-hand sources in Romania confirm that this preposterous situation remains unchanged in 2018.

How is this possible?

While the National Authority for Property Restitution should be accelerating the pace at which it approves claims, it has placed *additional* roadblocks in the process for the past three years.

The State Department *International Religious Freedom Report* for 2017 notes that “*the Reformed, Roman Catholic, Unitarian, and Evangelical Lutheran churches said the government **continued** [emphasis added] to reject their restitution claims on the grounds the entities registered as the former property owners were not the contemporary churches. Church leaders said the communist regime had dismantled the former church entities while confiscating their property, meaning the former property owners no longer existed as such but the contemporary churches, as the successors to the dismantled churches, were in effect the same entities whose property had been seized*” (page 13).

This latest ploy began in 2012, but since at least May 2016 the Romanian authorities have been falsely insisting that this is not the case. Specifically, during the preparation of the report mandated by the afore-mentioned Omnibus Act, the Romanian authorities insisted to the U.S. Embassy in Bucharest that Parliament had adopted a law⁵ that eliminated all

⁴ The basis for this figure is the principle of *restitutio in integrum* and therefore all claims (1) where monetary compensation occurred (2) were denied (which the Romanian authorities consider “resolved,” (3) the claimant “withdrew” the claim, or (4) were combined with other claims, are considered unresolved.

⁵ Law 103/2016 went into effect on May 26, 2016 and was based on Government Emergency Ordinance 21/2015, which amended Law 165/2013, and it also amended Article 3 of Government Emergency Ordinance 94/2000.

impediments to returning all the outstanding properties not yet restored to the four Hungarian historic churches and, as a result of the new law, those hundreds of claims filed Churches where title was jointly shared with auxiliary church institutions would no longer be rejected.

In fact, the new law did nothing of the sort and had nothing whatsoever to do with the genuine impediments faced by religious denominations. Already in a June 2016 visit to Washington D.C., Bishop Béla Kató of the Hungarian Reformed Church, and subsequently the Democratic Alliance of Hungarians in Romania (representing the Hungarian minority politically), as well as HHRF staff on the ground in Romania, all confirmed that ***information received and reported by the State Department from official Romanian sources was false.***

So, what does this new law (No. 103/2016) actually do?

1. Paves the way for those claimants who were forced to “donate” their properties during World War II and the communist era to now file claims.
2. Establishes continuity of ownership of *communal property* by recognizing certain present-day inheritors of same as legitimate.
3. Accords priority to private claims by Holocaust survivors.

None of these provisions remove the roadblocks used to deny the four historic Hungarian Churches’ rightful claims.⁶ Most importantly, what is ***missing entirely*** from the new law is a provision to unequivocally stipulate that properties confiscated by the former communist regime ***must be returned*** to the legal successors.

Based on these facts, the only logical conclusion is that the Romanian authorities were deliberate in their attempt to mislead U.S. officials. Meantime, the Special Restitution Committee continues to reject hundreds of claims by the Hungarian churches under the pretext that the claimant and the original owner are not the same legal entity or its true successor. In the last three months, the Roman Catholic Church was denied restitution and possession of three schools: the high school in Gyulafehervár/Alba Iulia, the Marianum in Kolozsvár/Cluj-Napoca and the Szacsvey Imre Elementary School in Nagyvárad/Oradea.

The Romanian State persecutes those civil servants on the Special Restitution Committee who faithfully carry out their duties, according to law

⁶ The first point is moot since the vast majority of the 2,140 church properties were officially confiscated from the Hungarian churches by the communist regime in 1948. The state “well documented” the nationalization of these properties, the fact of which has never been contested by either side; and the Churches already submitted proof of original ownership ***18 years ago*** when they filed the claims following the issuance of Government Emergency Ordinance 94/2000.

The second point is irrelevant. Church properties are not considered communal properties. The Romanian Parliament passed different laws for the restitution of Church properties and other properties confiscated from national minority organizations, referred to as communal properties. The provision in the new law amends Government Emergency Ordinance 83/1999, which established continuity in ownership solely in the case of communal properties.

The third point is also irrelevant. The four historic Hungarian Churches have not filed any individual claims and its members are Roman Catholic, Hungarian Reformed (Protestant), Unitarian and Lutheran worshipers who cannot be considered Holocaust survivors.

Ethnic Hungarian former Member of Parliament, high-ranking Romanian government official, and member of the Special Restitution Committee Attila Markó's tribulation began in 2010 when he was falsely charged with "official abuse of power" for deciding to return the **Székely Mikó Protestant High School in Sepsiszentgyörgy/Sfântu Gheorghe** to its rightful owner, the Hungarian Reformed Church. The building had been confiscated from the church in 1948 and the decision to return it was straight-forward. Nevertheless, Romanian prosecutors fabricated an indictment, and in June 2012, **the court sentenced three members of the restitution committee involved in the decision — Attila Markó, Tamás Marosán and Silviu Clim — to three years of imprisonment.** The witch-hunt did not stop there: later on, Mr. Markó was forced to resign from the Romanian Parliament, his reputation ruined and even further besmirched by false allegations of impropriety in other property-related cases where he wasn't even involved.

Why does the Romanian Anti-Corruption Agency (DNA) want to destroy Mr. Markó's reputation at all costs and put him behind bars?

The answer is unsettling: he had to be silenced because he fulfilled his duties on the Special Restitution Committee too effectively; too many properties were returned to the historic Hungarian Churches during his tenure.

This assertion is underpinned by official statistics from the National Authority for Property Restitution: ***In the six years since the above-mentioned three civil servants were sentenced in 2012, the Committee has rejected 87.2 percent of all claims submitted by religious denominations*** (including Greek Catholic and Jewish):

Total number of claims:	3,381
Rejected by Committee	2,936
Compensation Provided	108
Restitution Granted	71
Withdrawn by Claimants	233

The reason behind the large percentage of negative decisions is self-evident: Fear. Current members of the Special Restitution Committee do not want to risk unjust prosecution and possible imprisonment for doing their job (well) as did Markó, Marosán and Clim. In fact, for years the government could not fill the seven positions on the Committee. Rather, they deny most claims submitted by the four historic Hungarian Churches for the return of their schools, kindergartens, orphanages, and so on.

The undeniable reality is that the Romanian authorities are taking advantage of a legitimate and warranted anti-corruption struggle and achieving their obvious goal: to return as few properties as possible to the four historic Hungarians Churches, Greek Catholic and Jewish denominations.

The Romanian State simply re-nationalizes high-profile and valuable religious properties to assert their power over minorities and set legal precedents

On November 22, 2018 the Romanian Supreme Court ruled for the state and the renationalization of the Hungarian Protestant High School in the town of Sfântu

Gheorghe/Sepsiszentgyörgy, leaving the European Court of Human Rights as the only recourse for justice. **For the fourth time in 70 years, this property has been stolen from its rightful owner, setting a dangerous legal precedent in the country:**

First nationalized in 1948. The Special Restitution Committee restored the property in 2000 to the Church. **2012, nationalized a second time.** Twelve years later, the State begins criminal proceedings, the courts take the school way from the Church, and sentences the 3 members of the National Authority for Property Restitution for the original 2000 decision. In 2014, the appellate court upholds the decision of the lower court. **2016, nationalized for the third time.** The Church again submits a claim to the Special Restitution Committee in April 2016, which denies it in June. The last domestic recourse, the Supreme Court of Romania, denies the Church's appeal two years later, on November 22, 2018, **nationalizing the Székely Mikó High School for the fourth time in 70 years.**

In an interview given to the Hungarian Press Agency (MTI) **Bishop Béla Kató** expressed his indignation about the ruling, which brands the victim a "crook and thief" when, in fact, it is the state appropriating what it has no legitimate claim to.

Overt judicial interference by the Romanian government to keep properties for the State deemed too valuable (monetarily or prestige) to relinquish

Since 1998, the Romanian authorities have done everything in their power not to give back the renowned **Batthyaneum Library and Astronomical Observatory** to the Roman Catholic Church. True, the institution is of inestimable cultural, historic and bibliophile value (the Codex Aureus it houses is alone reportedly worth 10 Billion USD), but its rightful owner is the Archdiocese of Alba Iulia/Gyulafehérvár.⁷

Even though on September 25, 2012 the European Court of Human Rights fined and ordered the Romanian State to hand over the property (ECHR 33003/03), ever since the Church has been forced to file numerous lawsuits and appeals to the Special Restitution Committee to seek compliance. In April 2016, **at the behest of the Romanian government, the Alba Iulia Court of Appeals indefinitely postponed a ruling in the case. Then, more than two years later on July 4, 2018, the Court rejected restituting the library to its rightful owner. The Roman Catholic Church has had to file yet another appeal, now to the Bucharest Supreme Court.**

Similar to other high-profile, valuable properties rightfully belonging to the Hungarian historic Churches, the authorities (whether the government and its affiliated agencies, or the judiciary) continue to delay, deny and simply cherry-pick those aspects of the law and the restitution process that serve *its interests*, thereby preventing return of the Batthyaneum to the rightful owner.⁸

Major Legal Milestones in the Roman Catholic Church's Efforts to Regain the Batthyaneum Library

⁷ The library and observatory were founded in 1798 by the ethnic Hungarian Roman Catholic Bishop Ignác Batthyányi. In 1949, the foundation set up by Ignác Batthyányi to run the Library was liquidated; its assets were nationalized by the Romanian state. It is well-known fact in Romania that the historic Hungarian Churches gave large-scale autonomy to their affiliated institutions.

⁸ In this case, the Special Restitution Committee argued that the Roman Catholic Archdiocese of Alba Iulia is not identical with the Roman Catholic Institute of Astronomy (Csillagda) noted in the land registry, while the Romanian Court already ruled that it is the legitimate successor to the latter.

1998. Emergency Government Ordinance (EGO) No. 3/1998 orders that the Baththyanem Library and Astronomical Observatory be returned to the Roman Catholic Church.

Restitution never happens. On September 29, 1998, the local branch of the then ruling Social Democrat Party (PSD) brings a lawsuit against the Roman Catholic Archdiocese, the Romanian Academy and the Government of Romania.

2002. After a legal dispute lasting **five and a half years**, on March 7, 2002, the court recognizes the Archdiocese's right of ownership over the library and the observatory. In response, the **Romanian authorities refuse for the second time** to hand over the property.

2012. Ten years later, the European Court of Human Rights (ECHR) in Strasbourg decides on the Church's appeal. **On September 25, 2012, the Court rules (ECHR 33003/03) in favor of the plaintiff**, stating that Romania has violated Protocol No. 1 of the European Convention on Human Rights by **delaying the restitution of the building for 14 years**. Furthermore, it rules that the Romanian State pay 25,000 euros compensation for non-material damage.

2015. The government pays the fine but **does not return the property**. The Archdiocese repeatedly petitions the Special Restitution Committee to abide by the ECHR decision and approve legal title and possession of the Baththyanem Library. Three years later, **the Committee rejects the Archdiocese's request** (in a vote of 6 nays, 1 abstention), on September 16, 2015.

On November 12, 2015, the **Archdiocese yet again files a lawsuit** against the Special Restitution Committee's decision.

2016. At the behest of the Romanian Government, on April 26, 2016, the Alba Iulia Court of Appeals announces an **indefinite postponement of the case**.

2018. On July 4, 2018 **after 23 postponements** in the case, the Alba Iulia Court of Appeals rejects restitution of the library to its rightful owner. The Roman Catholic Church now has to appeal to the Bucharest Supreme Court.

Conclusion

Demonstrably, the assault against the Hungarian minority, its religious institutions, and other minority religious denominations is being orchestrated at the highest levels of the Romanian government, and that is where it has to be stopped.

As the major force behind pressing the Romanian government to adopt anti-corruption measures, the United States has the credibility to tell the Romanian government it has overreached and its actions must be reversed to serve the intended original purposes.

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