

Conference on

**Preserving Identity in the Face of Oppression: Religious Freedom and National Identity in Central and Eastern Europe and Eurasia**

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[Full length] Presentation by

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**33 YEARS OF FAILED PROPERTY RESTITUTION:  
THE FORGOTTEN RELIGIOUS INJUSTICE IN ROMANIA**

Since 1989, Romania has failed to fully restore 16,430 properties to religious denominations illegally confiscated from them between 1945 and 1989. Who are these groups? What we commonly refer to as the four historic Hungarian churches (Roman Catholic, Hungarian Reformed/Protestant, Lutheran and Unitarian), the Greek Catholics and the Jewish community. We consider these “minority religious denominations.” In the case of the Greek Catholic denomination and the Jewish community, we are also speaking of church/synagogue buildings themselves. [Lastly, the total figure includes churches and buildings taken from the majority, Romanian Orthodox church as well.]

But in the case of the Hungarian minority, it is the buildings that comprised their civic and charitable institutions, some maintained for hundreds of years prior that are at stake. Prior to communism, as part of their missions, these religious denominations operated networks of hospitals, schools, orphanages and other social institutions, contributing significantly to the fabric and functioning of society. Beginning 1945, the state confiscated these from their rightful owners, usually continuing to operate the same sort of institution in them.

By way of background, I would clarify that the largest national minority in Romania is the Hungarian, living in the region of Transylvania, and that in Romania, ethnic and religious affiliation overwhelmingly coincide. The majority of ethnic Romanians are therefore Romanian Orthodox, and Greek Catholics are by and large ethnic Romanian.

The confiscation of buildings from secular/civic organizations, as well as private property, also occurred under communism. While these so called communal buildings were addressed under different legal provisions than those of religious properties, it is the same official body I will speak about later handling these claims as well. The numbers in this regard are even more dismal.

We refer to Romania's failure to fully restore – whether through compensation or restitution *in integrum* – these properties to their rightful owners as the forgotten religious injustice in Romania.

This is not an abstract injustice but a severe, continuous and complex rights' violation affecting the daily lives of millions of people. An entire generation of these ethnic Hungarians, Greek Catholics and Jewish youth has grown up since 1989 denied the full means and resources to build democracy, civil society, and express their religious convictions. This protracted injustice is at once a violation of religious, minority, property and economic rights.

### **Let's look closer at the components of this violation and how it occurs**

While some countries in the former Warsaw Pact took swift, though it can be argued unfair or inadequate steps to reconstitute and/or compensate religious denominations, the Romanian state – regardless of which government was in power – had a few half-hearted, incomplete attempts, which weren't implemented in either case. Finally, in 2002, a comprehensive law (No. 501) was adopted. Even if we take that year as ground zero, more than two decades have passed since this, I might add flawed law to being with, was adopted. Incidentally, prior, in April 2002, my Foundation and representatives of the Hungarian minority in Romania met with Prime Minister Adrian Nastase in Bucharest to give the government a final push to adopt the law. The Romanian authorities obliged as it was important for them not to have negative press in the wake of NATO and EU accession. Predictably, after joining these two bodies, the restitution process slowed, stopped, proceeded and then reversed with even renationalization taking place in some cases, as I will detail below.

Today, an unconscionable thirty-three years after the fall of communism, a mere 16.64 percent of total claims having been positively decided for these religious denominations.

The evidence clearly shows a track record of deliberate and cynical actions by the Romanian authorities to deny justice. The totality of the state's action and inaction shows that its true agenda is NOT to compensate the rightful owners fairly, nor return these properties to them for their use. Ultimately, the goal has been to return as few as possible, placing undue financial and human resource drains on the religious denominations as they battle the state for their rights, while the latter protracts and undermines the process indefinitely.

### **This so-called restitution process has been characterized by the following failings:**

- 1) Neglect, delay and obfuscation.
- 2) Fundamentally flawed legislation and implementation. Namely:

- a) The burden of proof and action is on the victim. So, there is no presumption of abusive transfer. While it is the state in possession of all the confiscation documents, it has forced the churches to file claims and procure the documentation to back-up their claims, which of course it can reject for lack of evidence.
- b) there is no compensation for demolished properties
- c) Occupants of restituted buildings can remain in the buildings for up to 10 years. Hence the inability in many cases for the religious denominations to carry out the functions/missions, I mentioned in the beginning, while de facto being deprived of full use of their assets.
- d) The claims have been processed by what is currently a seven-member committee delegated from various ministries and agencies [*NAPR, Minority Affairs Office (DRI), Finance, Justice, Interior, Regional Development, State Secretary for Religious Affairs*] to the National Authority for Property Restitution's (NAPR). In the past there have been years when it simply has not convened, the process deliberately protracted with light agendas, a lack of resources for expeditious processing. NAPR has limited competence. If it rejects a claim, that decision is final, but otherwise its decisions can, and are attacked in the courts, subverted by interested parties; its track record obviously favors the state.

How else has prompt, fair and full restitution been undermined by the state?

- 3) Certain important properties have actually been *renationalized* after being restituted. I will give an example below. And probably most significantly:
- 4) Civil servants of the above-mentioned body who tried to implement the rule of law have been legally persecuted and scapegoated, as well as leaders of the Hungarian churches, who are continually targets of official, judicial harassment for exercising their rights.

Unsurprisingly, the impact of these scandalous measures, especially on the Hungarian minority, is fear and silencing.

**The numbers speak for themselves.** I will summarize the status of all claims until the end of 2022.

Between April 29, 2022 and December 15, 2022, NAPR's **positive decisions for claimants grew by 95. Meanwhile, the negative decision growth was 291.** Our source is official data obtained from NAPR.

Today, the negative or unresolved claim numbers and percentages break down as follows:

- The total number of rejected claims is 8,030 or 48.87%
- The number of claims NAPR has compelled the churches to withdraw is 1,125 or 6.84%
- Transferred to "other authorities" for resolution is 1,242 or 7.55%
- On backlog is 2,977 or 18.11%
- Lastly, 322 claims are being litigated.

**To sum up: In the 8 months period, 75.38 percent of claims were decided against religious denominations. The percentage of positive decisions grew by 0.58 percent, while negative decisions were three times higher at 1.78 percent.**

Thus, since NAPR's inception, the overall average of positive decisions for the claimants is still only 16.64 percent. The main concern is no longer the number of claims on backlog but the disturbing upward trend of rejections, forced withdrawals and transfers of competence

When we take a deeper dive into the 2,559 claims submitted by the four historic Hungarian churches, we see that 58.78 percent of these properties are still not fully restituted by the state. Less than half of all the claims they submitted were either returned, compensated or a combination of both. Drilling down deeper, we see a dismal 747 properties actually returned, therefore only 29.19 percent of all their claims.

I submit that justice is not NAPR's mandate. Rather, it favors the State with the intent of especially retaining valuable properties for it. For the past few years, NAPR has added a newer pretext for rejecting claims: alleging that Hungarian church claimants and the original owner are not the same legal entity, nor legitimate successors.

**I will now briefly highlight four institutions as prominent examples of this ongoing gross injustice.**

The most emblematic case demonstrating the state's deliberate obstructionism, and likely financial motives, is the fate of the **Batthyáneum Library**.

After a 23- year legislative battle, the Romanian Supreme Court delivered its most lethal blow for religious property restitution in May 2021 when it ruled against the Alba Iulia Roman Catholic Archdiocese's claim for the library and Astronomical Observatory. The Church's battle is now, for the second time, before the European Court of Human Rights, meaning several more years before any hope of justice being served can be expected.

By far the most significant and valuable property, at stake is also the Library's collection of 65,000 volumes, including a priceless Charlemagne-period bible.

Already in 2012, the European Court found for the Church. Cynically, the state paid the 25,000 euro fine, three years later mind you, but never returned the property. Rather, the state has aggressively pursued its interests and forced the rightful owner into decades of futile litigation.

**The best known case of persecution is of Attila Markó**, an ethnic Hungarian, former Member of the Romanian Parliament and NAPR member who was falsely charged with "official abuse of power" for deciding to return the **Székely Mikó Protestant High School** in the town of Sfântu Gheorghe to the Hungarian Reformed Church. The building had been confiscated in 1948 and restituted in 2000. Nevertheless, in June 2012, 12 years later, the court sentenced three members of the NAPR involved in the decision — **Attila Markó, Tamás Marosán and Silviu Clim** — to three years of imprisonment. Markó was forced to resign from the Romanian Parliament, fled the country, as did Marosán, while Clim's sentence was ultimately suspended.

The plight of this institution, the **Székely Mikó High School**, is the most notorious example of re-nationalization. For the fourth time in 70 years, this property has been stolen from its rightful owner, setting a dangerous and chilling legal precedent in the country. Here too, following a 2018 Romanian Supreme Court rejection, the church had to take its claim to the European Court of Human Rights as the last recourse, where it languishes.

**The struggle for the Wesselényi Reformed High School in the town of Zalău** is also going on 20 years, returned to the Romanian Supreme Court for the second time after the town's mayor, in January 22, appealed the lower court's decision to restore the property to the church. In short, the state aggressively pursues legal action until it gets the decision it wants.

Meanwhile, in August 2021, the regional Prosecutor's Office initiated criminal proceedings against the two highest ranking leaders of the affected Church, **Bishops Csúry and Kató**. The prelates deny categorically deny the charges of falsifying documents, giving bribes and misusing a forged document, which hang like Damocles swords over their heads. The message is clear trying to reclaim nationalized church properties is an extremely dangerous business in Romania.

Lastly, the case most in the news in another one that went to the Supreme Court, the **Hungarian Roman Catholic School in the city of Târgu Mureș**

In May 2022, the court upheld a decision to dissolve the Hungarian Roman Catholic High School. Romanian extremist organizations had twice brought suit against the reconstituted institution first established in 1702, and nationalized by the communists in 1948. Although the school building was restituted on paper in 2004, the church never was able to take full possession of its property. Why? The local court dissolved the reconstituted institution in 2017 after a legal challenge by the county prefect representing the national government. Then, in August 2018, it seemed a ministerial decree which allowed the school, as well as a Romanian Orthodox Theological Lyceum in another town (Timisoara) to be established, resolved the problem. But the Supreme Court shot that down. Past fall a local, temporary work around was found so that denominational high school students could study in Hungarian, but this is not a permanent, acceptable solution. ]

### **Action, Prospects, Policy Recommendation**

For three decades, the Hungarian Human Rights Foundation, including myself personally, have been the lead NGO advocating to end this multi-pronged human rights violation.

The first, and to lesser extent, subsequent **US Special Envoys for Holocaust Affairs** took it upon themselves to deal with the broader religious/minority property restitution as well. In the 2000s, at our initiative, an informal **Property Restitution Working Group** consisting of the Envoy's office, our foundation, members of NAPR and the Hungarian churches met online regularly. In the US Congress, **Rep. Tom Lantos** spearheaded efforts paramount of which was HRES 191 unanimously adopted in 2005, so after the failings of the Romanian law were self-evident. Its mandate is still in effect today; successive Romanian governments simply ignore it. After Mr. Lantos death, **Congresspersons Harris and Kaptur** have taken up the mantle vis-à-vis the State Department,

especially calling attention to individual persecutions. The **Office for International Religious Freedom** ostensibly took over this issue from the Special Envoy and, as of late, the annual Country Practices Report also acknowledges the slow and inadequate progress.

Though never a high visibility issue deemed urgent by any government, clearly and understandably a fatigue set in a while ago, even among the well-intentioned. And I firmly believe that this has been a goal of the Romanian authorities. Additionally, at a human level, it is admittedly difficult to devote sustained energy and attention to this violation when confronted with the daily reality of horrific religious persecution for beliefs worldwide.

Nevertheless, even if it's flying under the radar, this is an entrenched, flagrant human right violation unacceptable in any democratic country. I submit that we can't speak of genuine, complete religious freedom in Romania as long as religious institutions and leaders are actively derailed in this manner from carrying out their missions by being robbed of their assets and future.

If there was ever an issue exemplifying the adage "justice delayed is justice denied," this is it. And the prospects for ending this injustice decrease the more time passes unless a concerted effort to propel resolution of this issue into the spotlight, elevate it to the highest levels within Romania, and place it front and center of bilateral relations by the U.S. is launched. To our knowledge, the U.S. has never required a clear-cut action plan, with firm deadlines and goals, from our democratic ally and strategic defense partner. Yet, this is a wholly reasonable expectation would have a high probability of success, should the political resolve exist.

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***The Hungarian Human Rights Foundation (HHRF)** is a New York-based, independent, international non-profit which, since 1976, has advocated for the human rights of 2 million ethnic Hungarians who live as minorities in Croatia, Romania, Serbia, Slovakia, Slovenia and Ukraine.*

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