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**The legislative framework for social work of churches
in Hungary**

Thesis brochure

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1. Research topic reasoning and project definition

The aim of the dissertation is to present, from the point of view of legal regulation, the process during which churches in Hungary were able to continuously and gradually expand their social assistance services after 1990. This process was not straightforward and steady. At the same time, it can be stated that today the services run by churches play a significant role both in terms of their number, the number of people they provide and their weight in the social protection system. The dissertation analyzes aspects that fundamentally influenced the development and rapid expansion of church related social services.

Of course, there are many aspects to this process. One aspect is the theological aspect: the teaching of churches about charity, helping people in need, makes a decisive contribution to the establishment and maintenance of church social services. An integral part of the dogmatics of all churches is the imperative of helping the needy. It should be noted that there are theological tendencies that do not regard forms of assistance for which a fee is paid and in which paid helpers work as part of diaconal work, saying that diaconal work is essentially voluntary. At the same time, the official position of the churches is that ecclesiastical institutions operating in accordance with social regulation are an integral part of the mission and charity work of the churches. The aim of the dissertation is not to present the denominational law of the churches. The analysis deals with the concept of the church in general and analyzes the regulation of social services of religious communities as defined by the constitutional and statutory definitions of the church in force at any given time.

The other aspect is the historical one. The churches, not only through their teaching, but also historically, have been decisive actors in social protection. Although the scope, structure, and tools of ecclesiastical social work varied from age to age, its significance persisted even when the local government and later the state took over more and more tasks from the churches.

Another important aspect is that the emergence and expansion of the welfare state has gradually curtailed the institutional social work of churches. As we will see, the social regimes introduced in the welfare states continued to have religious roots. At the same time, a general trend unfolded in the second half of the 20th century, during which churches continued to reduce their activities in area of the state-regulated social services. Several authors point out that during the economic crises of the 1990s and 2000s, the social activity of the churches intensified, which manifested itself in three main forms: the mobilization of volunteers, the distribution of financial aid and in-kind donations. We must also point out that today the essence of the welfare state is not primarily seen in the increased responsibilities and tools of the state. The perception of the welfare state today is more of a kind of welfare mix, a welfare pluralism in which individual actors (state, market, civilians, churches, local communities, volunteers, etc.) all participate in creating social security by their own means within their own opportunities.

From a sociological point of view, we need to highlight the process of secularization and modernization, because they have greatly influenced the forms and extent of the social involvement of churches. These processes have significantly eroded the social background and embeddedness of the churches, and through this the social demand for church services. In addition to the above general aspects, special Hungarian factors must also be taken into account. One of these is that the decades of state socialism have left churches with extremely little room for maneuver in providing social assistance. The wave of nationalization in the late 1940s did not spare this sector either. The communist dictatorship tolerated only those ecclesiastical institutions that it did not consider ideologically dangerous to the communist regime.

Therefore, the change of regime and the extremely liberal law on freedom of conscience and religion also released a lot of energy in the social sphere. The churches started with a great

effort to establish and reclaim social institutions, and especially since the early 2000s, taking advantage of various tender opportunities, they have rapidly developed their systems of social services.

Liberal regulation on churches led to serious distortions on social care system in the 2000s. Foundations, associations, and private initiatives sought to transform into a church, hoping for benefits in the service sector.

It is also important to explore the state-church model in Hungary which is a framework for church related social services.

The dissertation should, of course, address the social mission of churches, the social weight of churches, the charitable work of churches and their communities, and the forms of church service recognized and supported by the state, the impact of welfare state expansion, and international implications. Discussion of our topic requires the inclusion of many aspects of sociology, economics, history, and church history. Yet the central focus of the dissertation remains regulation because the central question of the analysis is how the regulatory framework of social services has affected the social role of churches over the past 25 years in Hungary.

It is not possible to analyze all the elements of the legal regulation but we are trying to review the most important regulatory areas. Outstanding among these are eligibility regulation, capacity regulation, employment and financing.

The analysis of entitlement regulation seeks to answer the principle on which the use of social services in Hungary is based. The analysis also examines that, although the most important conceptual framework for the service system has not changed in the last 25 years, the eligibility rules have changed significantly on several occasions, and in almost all cases with a narrowing of the number of potential users. This also had an effect on the performance of church duties.

The analysis of capacity regulation shows which of the theoretically selectable and applicable instruments the Hungarian regulation uses and how this has changed in the last 25 years. The quarter of a century left behind us can be divided into two parts in terms of capacity regulation. In the first half of that period, we see little sign of a significant increase in service capacity as in the second half. And ecclesiastical institutions played a powerful role in this upswing. Since 2006, the history of social regulation has been the history of attempts to curb existing social service capacities.

The issue of employment is also a key area for church-run social services, as churches rightly expect to be able to apply aspects related to church teaching in the selection of staff and in other areas of operation in order to preserve the ecclesiastical nature of their institutions. On the other hand, there are a number of arguments that community-funded social services include community funding, and in return the community may require the church not to select on the basis of church teaching or may use discriminatory measures when hiring staff. At the same time, the employment of staff in church institutions is also an exciting issue because it is on the border of three areas (the Labor Code, civil service law, and the rules for church employees), and their combined application always leads to many interpretative disputes.

The issue of funding is one of the most striking areas of social regulation, as since 1997 the level of funding for church social services has been aligned with the level of funding for municipal and state social services. This regulation is still the subject of much criticism. On the one hand, they are attacked by local governments, saying that they should supplement central state funding from their own revenues, while church maintainers also receive this supplement from the central budget. Non-governmental organizations are arguing for sector neutrality in the regulation, as they do not receive additional financial support.

In summary, the aim of the dissertation is to present and interpret the last quarter of a century of church social services in the light of relevant social regulation, seeking to answer the

impact of major changes in the basic structure of legal regulation on the social role of churches.

2. Research methodology

As the dissertation can be divided into two parts, the chosen methodology also fits into it. The first part contains the development of theoretical frameworks and approaches. The weight of churches in the field of social services and its development has been shaped by a number of factors in Hungary over the past two and a half decades. In the multitude of factors we can only point out the important factors if we first look at the theories that reflect this process. The development of the theoretical framework is based on the results of sociological, historical, economic and regulatory literature. In this first part, I analyze and evaluate the Hungarian literature in accordance with the chosen topic, and made summaries and drew conclusions in connection with the given topic.

The second part analyzes the key nodes of social services regulations (entitlement regulation, capacity regulation, employment, financing). In this part, the sources of the research are, on the one hand, the domestic and foreign regulation, and, on the other hand, the Hungarian and foreign scientific works and research results. During the examination of the regulatory history I processed the decisions of the Constitutional Court, the Curia and the courts, as well as the relevant international documents. The methodology of my research was theoretical analysis, processing the provisions of legal texts and international documents, drawing conclusions. During the presentation of the judicial practice, I worked with an empirical research method. In my dissertation, I used these methods together, given that my goal was to achieve reliable and valid results. Using the empirical research method, I examined the domestic practice of

cases related to social regulation through the analysis of the factors formulated in the judgments.

I examined the situation of the social activities of the churches in a time-series and sectoral way through statistics, and I processed them with a quantitative method.

3. Structure of the dissertation

Chapter 1 of the dissertation presents the aim, hypotheses and methodology of the research.

Chapter 2 provides a historical overview of the process that led to a significant increase in church service capacities. The chapter outlines the evolution of service volumes over the past 25 years in two service areas (home services for elderly people, residential care). The chapter not only describes the data on the provision of church services, but also presents the relative development of the service market weight of the church, state-municipal and NGO sector. The analysis shows periods that were characterized by a very rapid increase in capacity. The analysis points out that the expansion of church services did not always coincide with the decline of the state-municipal sector. The analysis is also well illustrated by the fact that faster increases in number of capacities of church services are not necessarily linked to right-wing governments.

Chapter 3 presents the first group of theoretical frameworks. There are a number of explanations for the increase in the social role of churches after the change of regime. At the same time, we first address the question of why the social activity of churches has expanded in the last quarter of a century in the midst of general secularization that has characterized Europe as a whole. The dissertation presents the defining theories of secularization and modernization, but also describes the critiques related to the theories.

Chapter 4 reviews the theoretical literature dealing with the Christian roots of the welfare state. The construction of the welfare state after World War II generally had the consequence

of a decline in church social services. In Hungary, on the other hand, the opposite process has taken place: in the last 25 years, the social regulation has been constantly expanding, more and more legal conditions and requirements have been introduced, while the weight of church related care has been constantly increasing. Therefore, this chapter examines the literature on the welfare state, with particular reference to its religious-denominational roots.

Chapter 5 chapter reviews the tools of the welfare state and places social services in it. In addition to benefits in cash and in kind, social services are essential elements of the welfare system and play a key role in set of welfare instruments. Therefore, with the help of the theoretical tools of public policy regulation, the dissertation discusses the theoretical issues of social services as public policy: the reason, purpose and forms of state intervention.

Chapter 6 analyzes the ethical bases of church-based services and services of secular maintainers. Analysis of the development of church services highlights the motivations for the establishment and organization of services because theological beliefs are behind the rapid growth of the service capacities of churches. The theoretical similarities and differences between charity and secular social work can also be seen in practice.

Chapter 7 maps the constitutional environment in which the social services maintained by the churches operate. The most important models of church-state separation are presented in the dissertation. The author describes the Hungarian constitutional framework and the rules of ecclesiastical law that are related to social care.

Chapters 8-12. deal with four elements of the regulation of social services, the changes in the regulation of which have recently made a significant contribution to the development of church services. Chapter 8 examines the evolution of eligibility regulation over the past 25 years. The author argues convincingly that the regulatory regimes applied by the legislation have contributed substantially to the increase in supply capacities and have strongly

influenced the involvement of churches in this field. The dissertation presents the processes that led to the changes in the eligibility regulation and the its consequences.

Chapter 9 deals with changes in capacity regulation framework. The system for licencing social service capacities has changed several times over the last 25 years. The dissertation presents the logics of capacity regulation, their enforcement of these principles in regulation, and the consequences on field of social services.

Chapter 10 deals with the issue of employment. The employment of staff in church social services is fundamentally regulated by the Labor Code, but social regulations bring the status of employees closer to civil servant status in a number of aspects. The dissertation presents the regulatory differences between these regimes with special regard to the rules for social services. One of the most important part is dealing with wage structure. For now the uniform wage structure for civil servants has gone and there are many professional wage systems. This chapter deals with the possibilities of ensuring the ecclesiastical character of church related social services.

Chapter 11 analyzes financing of social services. First it deals with the theoretical framework and forms of financing of public services. Then describes the logic of the financing of church services and its changes. In the course of the analysis, special emphasis is placed on the analysis of the regulation of the church supplementary support and the related annual correction.

4. Summary of main findings

The hypotheses of the dissertation are basically based on the contradictions that, based on the connections known from the sociological, historical and economic literature, no dynamic rise

of church social services was expected after the change of regime, at the same time the facts show that the rise of church services has been steady for the past 25 years.

Hypothesis I. The entitlement regimes applied in social regulation over the past 25 years have greatly influenced the rise of church services.

Hypothesis II. Capacity regulation approaches in social regulation have greatly contributed to the expansion of church social services.

Hypothesis III. The system of financing social services has made a significant contribution to increasing the weight of church services.

In my dissertation I have tried to point out the factors that have led to the rise of church social services over the past 25 years.

On the one hand, I presented the international trends. We have seen that in developed welfare states church services have gradually waned, state regulation has become more detailed, social work has become an independent profession, and the state has taken over responsibility for creating social security and extended it for all citizens. This process has been accelerated by modernization and secularization.

These factors also had an effect in Hungary, yet we witnessed the unbroken development of church social services. Our most important finding was that far from the explanations for and against the extent of church involvement, the factors for it proved to be stronger. The freedom of churches regained after 1990, the liberal ecclesiastical law, and the autonomy to establish and operate services have dynamized the social work of churches.

Examining the hypotheses, we came to the following.

Hypothesis I. The entitlement regimes applied in social law over the past 25 years have greatly influenced the rise of church services.

One of the most important results is that the engine of church involvement in social service sector was the regulation of entitlements. There has been no strong targeting in this area in the first half of the last 25 years, so church services have been able to easily step in this market and gain a client. During this period, however, church services strengthened to such an extent that when the tightening of eligibility regulations began in several waves from 2007, the church sector was not adversely affected, and in some areas there was further strengthening.

II. hypothesis. Capacity regulation approaches in social regulation have greatly contributed to the expansion of church social services.

Like the eligibility regulation, the lack of a state capacity allocation mechanism strengthened church involvement because there was only one condition for starting services: obtaining an authority license. The legislator did not impose any requirements other than the minimum quality requirements and did not use allocation techniques that sought to address territorial disparities in services.

The introduction of capacity regulation has had a strong impact on church services, holding back the expansion of their service capacities. Over time, successive allocation mechanisms have made it increasingly difficult to start new services, but the growth of the church sector has not stopped, only its growth rate has slowed.

III. hypothesis. The system of financing social services has made a significant contribution to increasing the weight of church services.

The principle of equal funding enshrined in the Church Financing Act has provided church services with an equal level of funding for state and municipal social services since 1997. In

addition to the basic per capita grant, the funding is supplemented by an additional grant implementing such equal funding. Equal funding makes church institutions competitive, so their operation is sustainable in the long run. The additional support is uniform and fixed as a percentage of basic grant. As the uniform level of supplementary support is based on a wide variety of funding levels (state and local government supplementation rates are different for each service), there is opportunity for improvement in some service groups due to the principle of equal funding. Together these factors contribute to the expansion of church services.

If we look at the last quarter century, we can see that the expansion of church service capacities in waves is primarily related to changes in regulatory framework. Tightening the regulation of entitlements, narrowing the scope of entitlements, and introducing capacity regulation instruments have fundamentally contributed to the slowdown in the previous growth rate of the church social sector. Of course, it cannot be said that the preferences of government were not reflected in the development of church services. It is clear that right-wing governments have provided many more opportunities for church social workers to start, operate and develop services. The same can be said in the parts of the new ecclesiastical law enacted in 2011 concerning the autonomy of service operation. These incentives have greatly strengthened the competitiveness, sustainability, and resilience of church services.

5. List of publications in the topic of the doctoral dissertation

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