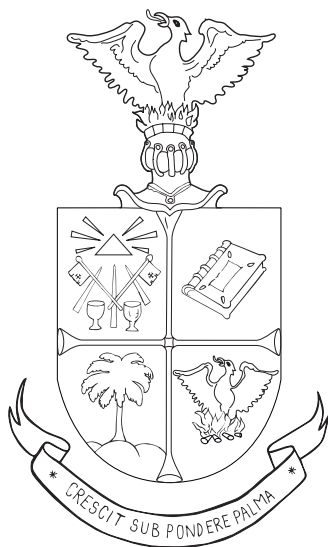


# **Karoli Mundus I.**



# KAROLI MUNDUS I.

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Károli Gáspár Református Egyetem Állam- és Jogtudományi Kar

# THE CODE OF THE SERVING CHURCH - THE IMPACT OF THE SOCIALIST STATE ON THE CONSTITUTION AND INTERNAL LAWS OF THE REFORMED CHURCH IN HUNGARY

## Introduction

When we try to uncover the effects of the Socialist State on the constitution and internal laws of the Reformed Church in Hungary, we cannot disassociate from two broader contexts. One of them is, that every historical era and every governmental, social and political status will always have an impact on the internal laws of the churches that be. However small or big in magnitude and depth it may be, this impact usually goes through via different governmental measures and initiatives. Church autonomy is threatened whether the intention of the state is to limit and ban or simply aid the churches. An example of the former is the hostile and interventionist church policy of the communist party<sup>2</sup>, and of the latter the Protestant church of the XVIII-XIX century, which had the status of state church and the schisms that took place within it as a result of the principle of “free churches in a free state”.<sup>3</sup> The other context is, that this impact was felt across every conceivable religion, church or religious organization, not just Christianity. History shows that there are no exceptions, although there are some differences in the impact. These differences can originate from the state’s relation to the theological viewpoint of the organization or the attitude of the religious leaders at that time. It is also observable, that depending on the interpretation of the relationship between the church and the state, different groups form within the church (conformists – nonconformists) which leads to theological debates, furthermore, in certain cases may lead to schisms and separation.<sup>4</sup>

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1 Associate Professor, Department of Constitutional Law

2 See Szilvia KÖBEL: *The Legislation regarding Freedom of Religion and Conscience in some past Socialistic States during 1945 and 1989*. In *Levél-tári Szemle*, 2005/2.; 53-61.

3 János GYENGE: *The History of Free Reformed Churches* Nagyvárad, 10<sup>th</sup> June 1924. <http://konyvtar.proteo.hu/sites/konyvtar.proteo.hu/files/documents/1924/1481707052.pdf>  
Time of download: 26<sup>th</sup> November, 2017

4 See István J. KOVÁTS: *The Fundamental Questions surrounding the Constitution of the Reformed Church* Budapest, 1948. 435.

In the world of jurisprudence these processes can be grasped in the context of the relationship between the internal laws of the churches and those made by the state. This relationship between the two sources of law took various forms in the past (State Church, separation, cooperation.)<sup>5</sup> The separation of these two in the legislation created during the years of the party-state is especially challenging, because in the context of the Socialist State, one cannot speak of ecclesiastic law in its classical sense.

Professor of law, Andor CSIZMADIA, who for decades served as a legal advisor to the State Office of Church Affairs, wrote the following in the foreword of his monograph about the church policy of the Horthy-period, dated 1966: “As a result of the separation, we completely excluded the thorough inquires of the internal lives of the churches, their governing bodies and the norms that regulated them from the circle of our legal investigations for years on end, and essentially let the historical scholars deal with uncovering the relationship between the state and the churches”.<sup>6</sup> This was indeed the case. During the years of the Socialist State (1949-1989)<sup>7</sup> the research on freedom of religion and conscience – along with the other fundamental rights – and the relationship between state and church was put on the sidelines of jurisprudence. As a result, the explicit course on ecclesiastical law was completely absent from law studies and only scarcely found in theological studies.<sup>8</sup> As a result, during these decades, aside from the above mentioned work of Andor Csizmadia, no complete, organizing, dogmatic-level work was ever created in the field of ecclesiastic law either from the state’s or the Church’s side.<sup>9</sup> The last protestant monography about

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- 5 See these works on ecclesiastical law after the Hungarian regime change: Lóránd BOLERATZKY: *The Foundations and Sources of the Lutheran Ecclesiastical Law in Hungary*. Budapest, Ordass Lajos Baráti Kör, 1991.; Antal ADÁM: *Philosophy, Religion, Church law*. Dialóg Campus, 2007.; Béla SZATHMÁRY: *Hungarian Ecclesiastical Law*. Budapest, Századvég Kiadó, 2004. 507 p.; Balázs SCHANDA: *Hungarian Church Law*. Budapest, Szent István Társulat, 2000; Balázs SCHANDA: *Church Law*. Budapest, Szent István Társulat, 2012.; Lajos RÁCZ (edited by): *Ecclesiastical Law*. Budapest, HVG Orac, 2004.; Péter ANTALÓCZY (edited by): *The Foundations of Church Law*. Budapest, Patrocinium Kiadó, 2012.; Szilvia KÖBEL (edited by): *The Foundations of Church Law and Ecclesiastical Law*. Budapest, Patricinium Kiadó, 2016., 2019.
  - 6 Andor CSIZMADIA: *The Development and Practice of the Legal Relationships between the Hungarian State and the Churches during the Horthy-era*. Budapest, Akadémiai Kiadó, 1966.
  - 7 We have to mention, that during the decades of ruling of the party-state we have to differentiate between time periods, as the seventies and eighties showed a gradual easement, however meaningful change only happened during the regime change.
  - 8 This topic was primarily relevant in the context of legal history classes and in state law (commonly referred to as constitutional law since the 1970s) courses, amongst civil rights. In a special branch of the state law, one could find The State Office of Church Affairs, a national-wide agency created for the purpose of overseeing and controlling the churches. This, however, was but an insignificant part of the curriculum. See Péter SCHMIDT (ed): *Hungarian Constitutional Law*. Budapest, BM Academic and Propaganda Group Leadership, 1976.
  - 9 We note here, that the studies that served as foundation for the party-state’s church policy which analysed the relationship between the Church and the state, and were, on one hand,

ecclesiastical law prior to the regime change was by István J. Kováts. Kováts's almost 500-page long work, titled "*The Fundamental Questions surrounding the Constitution of the Reformed Church*" was finalized on the 28<sup>th</sup> of August 1947 – just before the creation of Act Nr. XXXIII of 1947 – and published in 1948, the same year as the agreement between the Reformed Church and the Socialist State was formed.<sup>10</sup> One must also mention the short, but important work of Dr. László Farkas, "A study on ecclesiastical law" from 1956. The short note was made specifically for theology students and can be found in the library of the Theological Academy of the Reformed Church in Sárospatak.<sup>11</sup> Géza Szabó's note called "Ecclesiastical Law Studies" was published in 1977 and was mainly used by the theology students in Budapest in the frame of the "Practising Theology" course.<sup>12</sup> During these decades, no comprehensive church law was ever created despite the mentioning of a certain "national religious law" in the agreements of 1948.<sup>13</sup>

As we've already mentioned László Farkas and István J. Kováts, we can note here, that both were seen as "enemies" by the state. According to the documents of the state security archives, after 1956, László Farkas was absolved from his position as Leader of the Convent Office, without any given reason, it was simply the "state's wish".<sup>14</sup> In reality, this was done in the form of forced abdication.<sup>15</sup> István J. Kováts, based on state security (political police) agent reports from the early '60s, was branded "enemy of the national democratic system", his name got connected with the Renewal

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based on socialist science, and on the other created solely to support the undertakings of the state security agencies. See e.g. István KÓNYA (ed): *The Religious Theory of Marxism and the Education of Students on the Marxist World View*. Budapest, 1985.; József LUKÁCS: *Churches and religiousness in Socialist Hungary*. Budapest, Kossuth Kiadó 1959, 1979.; *Collection of Criticism on Religion. The Educational Material on the Marxist-Leninist Specialization Training of the Hungarian Socialist Worker's Party*. (Kossuth Kiadó, 1970-1971.); István BERÉNYI: *The Hostile Undertakings of the Clerical Reaction against our Democratic Order. The Tasks and Aspects of the Operative Work in this Field*. BM Central Officer School, Police Academy, Division of Political Investigation. Budapest, 1963. Study of the State Security. ÁBTL 4.1. A-3794. (Old marking: TH 160/2.)

10 István J. KOVÁTS r. w.

11 See László FARKAS: A study on ecclesiastical law. Sárospatak, 1956. Reference number AN.11.090. in the library of the Theological Academy of the Reformed Church in Sárospatak. I wish to thank university professor Béla SZATHMÁRY for this source.

12 Géza SZABÓ: „*Ecclesiastical Law Studies*” published by the Theological of Academy of the Reformed Church in Budapest during the 1976/77 school year. Budapest, 1977. Part III is available in the Ráday Library.

13 See Magyar Közlöny 1948/227., 271. and 276.

14 ÁBTL -3.1.2 – M-14620., page 56.

15 See the documents of László FARKAS's resigning in DR. ERZSÉBET HORVÁTH (edited by): *Renewal, Reorganization. Documents in the Council Archives of the Reformed Church in Hungary for the Research of Events between 1957 and 1958*. Budapest, Kálvin János Kiadó, 2008. 220-229.

Movement<sup>16</sup> and was under constant surveillance until his passing in 1965.<sup>17</sup> Agent “Péter Tóth” (code name), who himself was a dean of the Reformed Church, even made reports of his funeral.<sup>18</sup>

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16 At the end of his 1947 book, István J. KOVÁTS remarked, that the big questions surrounding the Reformed Church in Hungary were the “transition from a state-supported-church into a free system of churches” and the “transformation from a national religion into one based on free will”. This system, however, can function only if a strong spiritual front is constructed, which solidifies the transformation into a Presbyterian system by including it in its constitution. J. KOVÁTS. r. w.

17 ÁBTL – 3.1.2 – dossier nr. M-25802. “Péter Tóth”, who was a reformed pastor and former student of István J. Kováts, his agent’s report about retired under-secretary and theology professor István J. Kováts dated June 20 1961, was evaluated by the officer of the state security (handler of agent) the following way: “The agents report on István J. Kováts is interesting. It is clear from the report, that István Kováts is an enemy of the people’s democracy and hopes that the system changes soon. ... New task: Ascertain, which political questions interest István Kováts, how he imagines a regime change, which internal and external aids he hopes for and whether he himself is important in this situation. ... As I’ve determined his task, I order the agent to visit István Kováts in his apartment on the 4<sup>th</sup> of July. ... During his visit, after inquiring about the usual familial and health matters, the agent is to complain about problems concerning the church diocese and to mention some of these problems, of which there currently are plenty. Tell him, that the main problems were caused by the farmer’s cooperative, because if the priests honestly tell the farmers what bothers them about the management of the former’s cooperative, then they will get in trouble with the authorities. If they say the opposite, then they are being dishonest, and the farmers will distance themselves from the Church. The agent is to also complain about the Church not having enough money for pensions and if there is no change in sight – which would increase governmental support – then there won’t be anything to pay the retired priest from. If Kováts reacts by saying there will be change in before mentioning this, then pursue that topic and ask his opinion on the matter. The agent is to tell him, that his opinion is, that the domestic forces – from whom the change can be expected – were intimidated after the 1956 revolution and that they are too afraid to act. He is to tell him, that he doesn’t believe there is a force in Hungary that could start a revolution, because the western forces wouldn’t support them, just like they didn’t in 1956, because they too are afraid. The agent is to raise political questions, like the meeting between Kennedy and Khrushchev, Khrushchev’s speech, and ask his opinion about them. The agent must be polite and humble, just like he used to be, when was Kováts’ student. The agent is to act like he is really interested in the old professors’ political stances, and to act as if he believes everything he says, but is interested in the details for reference.”

18 The agents found it important, to inform the political police about the presence “Dr. László RAVASZ former bishop, Dr. László PAP former theological dean, István MORVAY institutional priest from Budapest, Károly DOBOS former avenue pastor” at the funeral, who had a somewhat intimate conversation. They were the leaders of the Renewal Movement and asked each other about their personal lives and work. “The police captain in charge of reviewing the report commented the following: “Obviously, their presence shows, that the former advocates of the Renewal Movement keep in touch, and comment with pity on the fate of each other. See ÁBTL -3.1.2 – dossier nr. M-25802/1

From the side of the domestic academics then, the party-state received almost no critical reflection concerning the codified legal status of the churches. The hostile separation model, constitutionally declared in 1949, was based on the Stalinist model of the same name and received some refinement through some party resolutions during 1958. The resolutions made it clear, that the cooperation between the state and the churches is possible and necessary, thus the model slowly swayed in the direction of a separation-cooperation model, at the same time maintaining its hostile position.<sup>19</sup> Because of this, the two sides of legislation (state church law and ecclesiastic law) started to get closer and closer. Instead of striving for a true separation however, the party-state demanded that the Church bow down to the design of the state concerning its internal laws and used every tool at its disposal to solidify the legal and administrative hold it possessed.

Below I wish to highlight three areas of the denominational relations of the Reformed Church, where the imprint of the party-state is abundantly clear: Ecclesiastical legislation, personal questions and organizational questions.

## **1. Ius Reformandi – Ecclesiastical Legislation**

In this section, we primarily wish to determine just how much autonomy the Reformed Church had in creating, modifying and enforcing its own, internal laws – regarding both content and form. This study will focus on the documents concerning the synodal legislation, more precisely the Code of the Reformed Church (hereinafter: Code), containing six acts, which was adopted by the VII. Synod of Budapest in 1967 and eventually put into effect in 1968.<sup>20</sup> Regrettably, the related records are unavailable, their location unknown, thus we have to forgo our inquiry into them.<sup>21</sup> The official paper of the Reformed Church however reported multiple drafts of the Code, comments, remarks and details from arguments. Therefore, we can use this material as a source.<sup>22</sup>

The changes in the internal laws of the Reformed Church in the sixties are important for a number of reasons. First of all, the foreword of the Code states, that the Code was passed by the VII. Synod of Budapest in 1967, on the occasion of it being the 400<sup>th</sup> anniversary of the first Constitutional Synod of Debrecen. That year was also the

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19 See Szilvia KÖBEL: *“Divide and Rule!” The Party-State and the Churches*. Budapest, Rejtjel Kiadó, 2005

20 At the same time the internal laws of the Reformed Church created between 1933 and 1951 were put out of effect with a separate act. See the Ecclesiastical Act II of 1964 on the abolishment of outdated acts. Published by the Reformed Church in the official paper of Reformed Church in Hungary. June, 1967. Series XIX., Issue Nr. 8, P. 169-170.; Complete and comprehensive legislation didn't take place in the Reformed Church until the Regime Change in 1989/90.

21 According to the information of Dr. Erzsébet Horváth, head of the Synod Archives.

22 See the 1967 and 1968 issues of the official paper of the Reformed Church in Hungary



450<sup>th</sup> anniversary of the reformation. Furthermore, 1968 was the 20<sup>th</sup> anniversary of the agreement between the Reformed Church in Hungary and the Hungarian State, and according to the original agreement, this would've been the year the subventions for the Church expired.

In the summer of 1967, on the occasion of the 400<sup>th</sup> anniversary of the Constitutional Synod of Debrecen, in a work called "Reformation: Our Heritage and Task", the Synod of the Reformed Church in Hungary recalls the dilemma of finding common ground with the state in the period immediately after the Second World War, preceding the agreements. They reminisced on one hand about how the Church showed its "willingness" to operate under the new governmental and social order in Hungary with its own means, and on the other hand how – this part is rarely quoted – the Church "resisted the urge to become an illegal political party", and distanced itself "from the very real danger of having political examinations – under the guise of Samaritan services pertaining to the unavoidable effects of such a large change in society – hide within the Church".<sup>23</sup>

The third session of the Synod opened on 1 April 1964 was held in autumn of 1967. This time the Synod conferred in the spirit of the reformation. Its main task was to exercise *Ius reformandi*, as in finishing the ecclesiastical legislation that began in 1959. During his opening speech as president, Bishop Dr. Tibor Bartha summarized the six drafts by saying that never in the history of the Church has there been a "legislation that took the perspectives of the 'Serving Church of Serving Christ' as much into consideration", as this draft did. According to the president, the draft clearly "brings the status of the Church forward from being a ruling national church to a serving one."<sup>24</sup>

The synod created the following ecclesiastical acts:

- Ecclesiastical Act I of 1967 on the Reformed Church in Hungary and its Service
- Ecclesiastical Act II of 1967 on the Constitution and Administration of the Church
- Ecclesiastical Act III of 1967 on the Servants of the Church and their Employment
- Ecclesiastical Act IV of 1967 on the Budget of the Church
- Ecclesiastical Act V of 1967 on the Pensioning of Reformed Clergymen
- Ecclesiastical Act VI of 1967 on Ecclesiastical Legislation

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23 The official paper of the Reformed Church in Hungary, June, 1967. Series XIX., Issue Nr. 6; See the history of the "Free Reformed Church" that, under the leadership of Abraham KUYPER, separated itself from the Reformed Church of the Netherlands (that, at the time was the national religion) in 1886 and represented "historical Calvinism". (GYENGE, r. w. 11-16) Kuyper was Prime Minister of the Netherlands between 1900 and 1905, founded a party to "politically represent the spirit of Calvinism". In Hungary Dr. Jenő SEBESTYÉN supported "historical Calvinism" and proofread Kuyper's translated work. See Dr. Abraham KUYPER: *Lectures on Calvinism*. Translated by Sándor CZEGLÉDI and József CSÜRÖS. The translation was reviewed and provided with an introduction and further notes by Dr. Jenő SEBESTYÉN. Budapest, 1922. [http://leporollak.hu/egyhtori/kalvin/izmus/KUY\\_PRIN](http://leporollak.hu/egyhtori/kalvin/izmus/KUY_PRIN). HTML Time of download: 30 November 2017.

24 Reformed Church. The official paper of the Reformed Church in Hungary. November 1967. Series XIX. Issue nr. 11. 241-243.

Ecclesiastical Act I of 1967 on the Reformed Church in Hungary and its Service states, that the service of the Church is to be regulated by the ecclesiastical laws and decrees, and those are to be based upon the Synod-Presbyterian polity.<sup>25</sup> In the debate, Bishop Tibor BARTHA outlined, in relation to the act, the theological fundamentals of the “service-theory”.<sup>26</sup>

Ecclesiastical Act II of 1967 on the Constitution and Administration of the Church declares, that “the general matters of the Church are to be handled by the Synod”.<sup>27</sup> In this act, we can examine the overlaps between church law and ecclesiastical law, essentially the laws, that provide a framework for the operation of the Reformed Church. The act then references the existing constitution: “The Constitution of the Hungarian People’s Republic declares the separation of church and state.”<sup>28</sup> The very same paragraph also adds the following twist: “However, the right to supervise the correct use of laws, originating from the sovereignty of the state and the constitution, prevails.”<sup>29</sup> The “however” signals the contradiction between how it was officially planned, and how it actually materialized. The Constitution didn’t reference the state’s right to supervise, or other forms of constraint, neither in the section about the separation, nor in any other section. Act XXXIII of 1947 on the Equality of Churches didn’t reserve the state’s right to supervise, since this act also annulled provisions of the Act XLIII of 1895, that placed the state-approved churches under the “state’s protection and supervision”.<sup>30</sup>

In practice however, due to the state following the Stalinist model, it exercised complete control over the churches. With the establishment of the State Office of Church Affairs (in Hungarian: Állami Egyházügyi Hivatal, hereinafter ÁEH) in 1951, the administrative oversight returned into the legal system in the form of control and supervision (with the omission of “protection”).<sup>31</sup> Therefore, the right to supervise churches didn’t originate from either the state’s sovereignty<sup>32</sup> or the Constitution, but

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25 Act I of 1967, 8. § b)

26 Reformed Church. The official paper of the Reformed Church in Hungary. November 1967. Series XIX. Issue nr. 11. 244

27 Act II of 1967, 2. § (2)

28 Act XX of 1949 on the Constitution of the Hungarian People’s Republic.

29 Act II of 1967, 3. § (1)

30 Act XXXIII of 1947 on the Abolishment of the adverse differences between established and recognized Churches. 2. §. This act contained paragraph 7-8. and 18. of Act XLIII of 1895 on the free practice of Religion.

31 See the following acts: Act I of 1951 on the Establishment of the State Office of Church Affairs; Decree No. 110/1951. (V. 19.) MT on the implementation of Act I of 1951 on the Establishment of the State Office of Church Affairs, the 25<sup>th</sup> Decree-Act of 1959 on the Establishment of the State Office of Church Affairs, furthermore State Decree No. 33/1959. (VI. 2.) on the implementation of the 25<sup>th</sup> Decree-Act of 1959 on the Establishment of the State Office of Church Affairs.

32 In the socialist jurisprudence the relationship between state and church was primarily

rather the existence of the State Office of Church Affairs (ÁEH).<sup>33</sup> Act II also states, that the relationship between the Church and the State is to be regulated<sup>34</sup> by the agreement.<sup>35</sup> Its next heading contains a rather interesting provision: “If the churches cannot ensure the free practice of religion, as guaranteed in the constitution and the agreement, it may turn to the state authorities for assistance.”<sup>36</sup> This statement however, did not have sufficient legal guarantees, especially after the cessation of the Hungarian Administrative Court in 1949.<sup>37</sup> The next paragraph of the Act states, that the churches are granted autonomy by the State and that their municipalities are legal entities.<sup>38</sup> The act also reaffirms the parochial principle and the Presbyterian polity.<sup>39</sup>

The sixth paragraph of the act contains the provision, that best represents the state’s right to supervise the churches. The act says, that “the churches have the right of ecclesiastical legislation”, and the ecclesiastical laws created can be modified, explained and annulled later by a newer law. The section also states, that ecclesiastical laws mustn’t contradict the state’s laws. This decree however – while being pretty much in line with that of a Rechtsstaat<sup>40</sup> – does not entail the right of supervision. A statement in the very same section however shows an aspect of the hostile separation, that, in fact, was a non-separation: “The ecclesiastical laws are approved by the state.”<sup>41</sup> This meant, that the state stood on the highest step of the ecclesiastical legislation. This right of approval didn’t expand onto lower levels of legislation, because those were put into effect by the senior ecclesiastic authorities.<sup>42</sup>

In practice, this meant that the President of the ÁEH provided the law – approved by the synod – with a confirmation clause. This clause was part of a guarantee system between the branches of power, within the secular legislation, much in the same way as a king, who would sanction laws or like a state president who would sign them and have the right to order their declaration, all of which act as veto. From a

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approached from the side of the state’s sovereignty, however the opinion was, that the supervision exercised by the state before the war is not being employed by the Socialist State. See Ottó BIHARI: State Law. Budapest, 1984.

33 See Szilvia KÖBEL: “*Divide and Rule!*”. 60-94.

34 Act II of 1967, 3. § (2)

35 The Agreement made between the Government of the Hungarian Republic and the Reformed Church in Hungary on 7<sup>th</sup> October 1948, published on 9<sup>th</sup> December 1948 in the Hungarian Journal

36 Act II of 1967, 3. § (3)

37 See Szilvia KÖBEL: *From protectors of human rights to „enemy of the people”*. The prelude, circumstances and effects of the cessation of the Hungarian Administrative Court in 1949. Károli Gáspár Református Egyetem Állam- és Jogtudományi Kar, Budapest, 2019. 166.p.

38 Act II of 1967, 4. § (1)

39 Act II of 1967, 5. §

40 Rule of Law

41 Act II of 1967, 6. §

42 Act II of 1967, 7. §

dogmatic standpoint, this counts as joint legislation, since in order for the act to take effect, it needed an act of approval. In our opinion, this practice was too broad of an interpretation of paragraphs 7 and 8 of Act XLIII of 1895 – upheld by Act XXXIII of 1947 – about the governmental approval (by the Minister of Religion and Public Education) of bylaws and operational regulations of organizations. The precedent before the war was, that the Synod is to be held with the approval of the Governor (Miklós HORTHY), and the laws adopted by the Synod would then be presented to the Governor by the Minister of Religion and Public Education for approval and confirmation. This is how the formula looked, presented with an example: *“I hereby approve and confirm the ecclesiastical laws presented to me by the Royal Minister of Religion and Education of Hungary, created in the first session of the Synod of the Reformed Church in Hungary, that convened through my approval and opened 1 March 1939. Dated, 20 June 1939. Signed under hand and seal of HORTHY; Dr. Bálint Hóman.”*<sup>43</sup>

The President of the State Office of Church Affairs (ÁEH) used the following formula: *“I hereby approve Ecclesiastical Act I of 1967 of Reformed Church in Hungary, as it does not oppose the constitution and laws of the state. 20 April 1968. JÓZSEF PRANTNER, Under-secretary, President of the State Office of Church Affairs.”*<sup>44</sup>

It is also worth to take a look at the reaffirming clause of Ecclesiastical Acts I and II of 1964, adapted during the first session of the VII. Synod. Act I combined the authority of the Universal Convent and the Synod and Act II abolished the “outdated” – mostly pre-war – ecclesiastical laws. In this clause, the President of the ÁEH referred to Paragraph 1 of the 25<sup>th</sup> Decree-Law of 1959 on the Establishment of the State Office of Church Affairs (ÁEH), using it to reaffirm his right to accept the law: *“Through the authority imposed on me by Paragraph 1 of the 25<sup>th</sup> Decree-Law of 1959, I hereby approve Ecclesiastical Act II of 1964, created by the VII. Synod of Budapest – opened on April 1<sup>st</sup>, 1964 by the Reformed Church in Hungary – and submitted to the State Office of Church Affairs on April 1<sup>st</sup>, 1964. Budapest, 6<sup>th</sup> of July 1964. József Prantner President of the State Office of Church Affairs”*<sup>45</sup>

The reaffirming clause – similar to the *ius supremi patronatus regis* – was a legal institution from before the war and was salvaged by the party-state to serve their own purposes. It is interesting, that since church and state were not separated before the war, the legal institution of approving ecclesiastical acts fit into the legal system. In the Socialist State however – especially after the Constitution went into effect – this act had no legal foundation. It would be naïve however, to expect principles of

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43 See e.g. the laws of the Reformed Church in Hungary. Act I-VI created by the Fifth Synod of Budapest, opened on March 1, 1939. Official Publication of the Reformed Church in Hungary. Budapest, 1941.

44 Code of the Reformed Church in Hungary. Published in Reformed Church, the official paper of the Reformed Church in Hungary, as an attachment to issues 7-8 in 1968.

45 Reformed Church, the official paper of the Reformed Church in Hungary. August 1964. Series XVI, Issue No. 8. 169-170

a Rechtsstaat from the party-state, since the essence of this system is to use laws as political tools. The fact, that the President of the ÁEH used Paragraph 1 of the 25<sup>th</sup> Decree-Law of 1959 for reference shows, that the reason for creating ÁEH, namely “to deal with matters between the state and religious denominations” was filled with political pretence.<sup>46</sup> The President of the ÁEH also took part in the session of the Synod, he even held a speech at the ceremonial closing session. In his presence, the ecclesiastical laws were adopted unanimously. József PRANTNER acknowledged the historical self-assessment of the Reformed Church and its work in the party-led Patriotic People’s Front (in Hungarian: Hazafias Népfront, henceforth: HNF), as well as the “the Church’s attitude towards the matter of social progress and the construction of socialism.” The legally trained dr. Ferenc ERDEI, who was both the president of the closing session and the Secretary General of the Patriotic People’s Front (HNF) stated, that the “new legislation corresponds with the Church’s doctrine and codifies the genuinely good relationship that formed” between church and state. In his opinion, the Reformation that began in 1517 and the “1917 socialist revolution have some in common.” It is also worth to quote the closing statements of Bishop Tibor BARTHA: “And because this generation could – through the grace of God – refer back to the gospel, it enabled, for the first time in the legislative history of the Reformed Church in Hungary, to codify the laws of life and service of the serving church.”

## **2. Personnel issues, with special regards towards the “new order” of fulfilling the ministerial positions – or – the “gradual change of the dilapidated workforce”**

Questions surrounding the church personnel were always a defining element in the relationship between church and state. The *ius supremi patronatus regis* and the patronage institution were, although with everchanging contents, present in Hungary both *de facto* and *de jure* all the way up to 1990.

As part of the retaliation after the Revolution of 1956 the state expanded its institution of prior state approval regarding the fulfilment of leadership positions in the protestant churches, first just in practice, and later *de jure* in 1957. The implementing regulation really opened up the way for forceful governmental intervention. It is clear, that elements of the socialist legislation went on to be reflected in the ecclesiastical legislation regarding the fulfilment of ministerial positions.<sup>47</sup>

Because of these, Act III of the Reformed Church of 1967 on the church ministers and their employment is especially remarkable. Paragraph 33 of the Act states, that ministerial positions can also be changed through reassignment. The rule regarding

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46 1. § of the 25<sup>th</sup> Decree-Law of 1959, (1)

47 See Szilvia KÖBEL: “*Divide and Rule!*” *The Party-State and the Churches*. Budapest, Rejtjel Kiadó, 2005. 39-45; Szilvia KÖBEL: *The Ius Supremi Patronatus Socialistae*. In Rubicon online plusz, 2017/5. [http://www.rubicon.hu/magyar/oldalak/szocialista\\_fokegyuri\\_jog/](http://www.rubicon.hu/magyar/oldalak/szocialista_fokegyuri_jog/) Time of download: November 23, 2017

appointment and reassignment – which according to the original Presbyterian polity was an exception, as the norm was to be chosen by the congregation<sup>48</sup> – was used by the party-state as tool to indirectly intervene. In his above-mentioned work, István J. KOVÁTS acknowledges the necessity of external intervention, and refers back to Calvin, according to whom, the congregations would be wise to involve outsiders in the process of choosing ministers, so that it would “ensure God’s will and the purity of the selection” and adds, that “the involvement of these external factors must be of a brotherly, not a tyrannical nature”.<sup>49</sup>

Act III of the Reformed Church of 1967 stated, that if “the presidency of the diocese finds – either from personal, direct experience or from the reports on the canonical visit – that the continued work of a given minister in his role is disadvantageous for the congregation’s interest, then he is obligated to launch the judicial proceedings concerning the reassignment. The judicial proceedings can also be ordered by the presidency of the church-district through the presidency of the diocese.” According to the act, the reassignment is to be declared in a judicial decision.<sup>50</sup>

The Act then made the reassignment even more overwhelming: “The reassignment can be declared in the name of the Church’s interest, even if the court does not find fault with the minister, the presbytery or the parish. Should this occur, the church-district is to cover the costs for the proceedings and the reassignment. The final, legally binding decision is always that of the church-district court. Because of this, the case should be appealed to the church-district court after the appeal period ends.”<sup>51</sup> Furthermore: “If

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48 István J. KOVÁTS writes the following referring to the various Reformed confessions: “*All these creeds and ecclesiastical laws show the Reformed Church’s unwavering conviction that when it comes to deciding all important matters of the Church, whether it is about making important decisions or the selection pastors, nothing can happen without the knowledge and consent of the members. The principle of “about you – but without you” is completely foreign to the view of the Reformed Church and any sort of endeavour in this direction must also remain foreign, as long as they stand on the reformist foundations. If only for the fact, that according to the pure reformist ideology, nothing must be done in secrecy, least of all imposing a pastor upon a congregation.*” KOVÁTS J. r. w., 225.; See also this quote from Albert KOVÁCS’s work: The rules for electing pastor vary in all nine districts (...) The following elements are found in all of them: 1. The selection of a pastor is only possible when a brand new ministerial station is set up or when the pastor’s office becomes vacant due to a voluntary change, final resignation, relocation by the church authority, or death. 2. The right to select a pastor belongs, in accordance with the laws, belongs to the congregation. (...) 9. If the selection has been properly conducted, the dean must confirm it and issue the authorization to the selected person to take office (concession), otherwise it will count as a refusal. (...) 12. Even though the congregations select their pastors themselves, they do not have the right to arbitrarily remove them, only through proper trial; the Supreme Court of the Church may declare loss of office due to wrongdoings listed in the Code.” Albert KOVÁCS: *Ecclesiastical Law Studies*. Budapest, Magyar Protestánségylet, 1878. 358-360.

49 KOVÁTS J. r. w., 223.

50 Act III of 1967. 33. § (1)-(4)

51 Act III of 1967. 34. §

it is discovered during the judicial proceeding, that either of the two parties perpetrate an act or omission, that is listed as a misdemeanour in Act VI, disciplinary action is to be taken. This disciplinary action does not prevent the conduction of the reassignment. The reassignment is to be carried out by the presidency of the church-district.”<sup>52</sup>

The things said during this session of the Synod make it apparent, that not only will the “new order” of selecting ministers harm congregational autonomy, its pushback is its explicit goal. The proposer of the draft, dr. Kálmán ÚJSZÁSZY emphasized during the session, that the “new order of the selection” takes the “interests of the ministry” and “social standpoints” into consideration. He explained, that “solving the problem of selection isn’t a private matter for any congregation, thus the draft plans to involve the appropriate authorities in the matter.” In his comment, Dr. Endre TÓTH argued, that “the congregation’s right to independently select ministers has been ingrained into the public’s mind as if it had been like that from the beginning”, even though according to him it had only been practiced since 1907; prior to that, “the newly modernized nominating committee, even the dislocatio” – a.k.a. “the action of the diocesan congregations to place ministers into pastoral offices, who had no place or wished to change location, many times even those, whose relocation was deemed to be a public interest by the diocese” – existed. In the debate, Dr. Imre JÁNOSSY added, that, the “old way of selection caused a lot of damage, because every so often it would divide congregations for decades”, further adding, that with this draft the Synod would practically ratify the “15-year-old” practice.<sup>53</sup>

Let us take a look at this practice.

The forced resettlements (deportation) out of Budapest – of ministers like Imre SZABÓ and Károly DOBOS during 1951 – did not happen through a state administrative decision, but rather through the involvement of superiors within the Church and through its relocation process.<sup>54</sup>

The forced abdications and the wave of discharges after 1956 can also be listed here.<sup>55</sup>

Amongst the documents of the ÁEH, a script of an ecclesiastical show-trial can be found about the placement of betanist<sup>56</sup> Reformed minister Béla BORBÉLY in 1966. We

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52 Act III of 1967. 35. §, (1)-(2), 36. §

53 Reformed Church. The official paper of the Reformed Church in Hungary. November 1967. Series XIX., Issue No. 11. 246

54 See Szilvia KÖBEL: *Religious Threads in Certain Cases of Resettlements from Budapest during 1951 and 1953*. In György Gyarmati, Mária Palasik (edited by) *The Chandlery of Big Brother: Studies on the History of the Hungarian Secret Service after 1945*. p. 357. Budapest Historical Archives of the Hungarian State Security; L’ Harmattan, 2012. pp. 171-194.

55 See DR. ERZSÉBET HORVÁTH (edited by): *Renewal, Reorganization. Documents in the Council Archives of the Reformed Church in Hungary for the Research of Events between 1956 and 1957*. Budapest, Kálvin János Kiadó, 2007; DR. ERZSÉBET HORVÁTH (edited by): *Renewal, Reorganization. Documents in the Council Archives of the Reformed Church in Hungary for the Research of Events between 1957 and 1958*. Budapest, Kálvin János Kiadó, 2008

56 MNL OL XIX-A-21-d-0029-7/1966.

quote from a report made by agents of the ÁEH, addressed to the ÁEH's president: "On the 13<sup>th</sup> of May 1966, together with representatives of the county agencies, we conducted a trial in Nyíregyháza, concerning the relocation of betanist Reformed minister Béla BORBÉLY. (...) The behaviour and reactionary attitude of Béla BORBÉLY is known to everyone. His methods are very refined, as such it is hard to provide evidence. (...) Because of this, it is desirable, both from an ecclesiastical and church policy standpoint, to relocate Béla BORBÉLY. We concluded, that the best solution for settling the matter was through the position of Bishop BARTHA, in the following way: The decision of the diocesan court will not be approved by the church-district court on the basis of improper qualification. Simultaneously, the church-district court will initiate a new, separate, case 'in the interest of the church-district'. This procedure is in accordance with the ecclesiastical laws. From a political standpoint, this seems to be an adequate solution, as it a) does not sentence Béla BORBÉLY as a betanist, thus the betanists won't get an opportunity to use him for their own interests; b) as a result of the relocation, Béla BORBÉLY will be torn out from his comfortable environment; [...] c) his financial situation will be comparatively similar (he'll be able to educate his children), so they can't use this either; [...] e) [sic!] because of the above, Bishop BARTHA will not be exposed to large attacks. This is also important from a church-policy standpoint. The county agencies agree with the above idea and pledge their complete support. Budapest, 16 May 1966. Károly GRNÁK, András MADAI."<sup>57</sup>

In 1967, a case took place in a state court, involving former member of the Christian Youth Association (in Hungarian: Keresztyén Ifjúsági Egyesület, KIE) Dénes BATIZ and his associates (pastors Bálint KOVÁCS and Károly DOBOS) who were, as a result of manipulation by the ÁEH, charged with conspiracy against the state.<sup>58</sup>

In 1967, Bishop Tibor BARTHA wrote the following to József PRANTNER, President of the ÁEH regarding the election of the dean of Budapest: "If the new deans, that are to be elected, live up to the expectations, then they shall win over those who can be won over, attack those who must be attacked and either convince or disciple those who are misguided. They will also have the task to gradually change the excessively dilapidated personnel (pastors, presbyters) that gathered in Budapest because of the adverse selection. In my opinion, this is the only way to organically and fundamentally eradicate the nodule that formed in Budapest."<sup>59</sup>

57 MNL OL XIX-A-21-d-0029-7/1966.

58 ÁBTL 3.1.9. V-155460., V-155460/2, V-155460/3, V-155460/4, V-155460/5. Documents of inquiry on Dr. Dénes BATIZ and associates.; MNL OL XIX-A-21-a-10-3/1968. President of ÁEH, József PRANTNER wrote the following to Reformed Bishop Tibor BARTHA: "*Respected Sir Bishop! I write to you in regard to your letter about Bálint KOVÁCS and associates. I met with the president of the Supreme Court, dr. Ödön SZAKÁCS and discussed the matter with him. Dr. Ödön SZAKÁCS made a promise, that he will draw the attention of the assigned Judicial President to the fact that the decision must be made with the mitigating circumstances mentioned by the Bishop taken into account. Budapest 22<sup>nd</sup> May 1968.*"

59 MNL OL XIX-A-21-a-10-5/1967.



After 1968 even the new acts of the Reformed Church strengthened the authoritarian intervention into personnel matters. In this regard, even the necessity/expectation of auditing of the presbyteries was conceived by the state.<sup>60</sup>

### 3. Organizational questions

The organizational structure of the Reformed Church was already influenced by the resolutions of the Hungarian Working People's Party (in Hungarian: Magyar Dolgozók Pártja, MDP) during 1950-51, which adjusted the borders of the diocese to match those of the administration, primarily to facilitate the work of County Church Affair Secretaries (the local representative of ÁEH). Simultaneously, the party ordered the regional unification of theologies.<sup>61</sup> This was later followed by a number of organizational measures which were based on church policy interests. We quote an example here:

In 1966, József PRANTNER, President of the ÁEH wrote to Church Affair Secretary of Veszprém County about relocating the Bishop's Seat of the Transdanubian District of the Reformed Church from Pápa to Veszprém: "It must also be known to you, that we supported the relocation of the Reformed Bishopric to Veszprém because we wanted to counteract the reactionary Catholic influence."<sup>62</sup> In December of 1967, the Reformed Church (official paper) published the report of Bishop Dr. Lajos BAKOS, in which he thanked the relocation of his seat with the following words: "In this context, it may be appropriate for me to declare, with respect and affection, to the Honorable Diocesan General Assembly, that the future construction and establishment of a diocesan seat in Veszprém progressed so much, that, according to the agreement between the Church-District and the Parish of Veszprém, I was inaugurated by the Dean of the Church-District Veszprém on the 28<sup>th</sup> of May in the bishop-pastor position, and thus was able to move to Veszprém. I will use this opportunity to express my gratitude for the great support all of you – especially the State Office of Church Affairs, and both the district and city of Veszprém – provided in helping realizing this plan."<sup>63</sup>

### Summary

We would like to conclude this study by asking the question of whether or not we can expect the party-state to uphold the principles of a Rechtsstaat. Well, it isn't that straightforward. On one hand yes, as the system itself tried to convince itself and the world that it was protecting human rights (through declarations and international

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60 MNL OL XIX-A-21-a-10-5/1967.

61 See Szilvia KÖBEL: "Divide and Rule!", 122.

62 MNL OL XIX-A-21-d-0029-6/1966.

63 Reformed Church. The official paper of the Reformed Church in Hungary. December 1967. Series XIX. Issue No. 12. 275.

propaganda), however, the very essence of the system and its underlying mechanisms were far from that of a Rechtsstaat. Looking back from within one, we can see, that – beyond the importance of informational compensation – it served as a lesson, that the laws did not mean real legal guarantees, nor did they guarantee the enforcement of fundamental rights.

The state socialist system averted the attention from its own illegalities and abusive practices by creating an enemy. While deeply disdaining the pre-war system in its propaganda, the system quietly adapted the old institutions and used them for its own interests. This is what made – despite the constitutional declaration of separation – the state right to supervise, the *Ius supremi patronatus* and the oversight and approval of ecclesiastical legislation possible.