

Is it an Obligation for Hungary to Penalize Hate Speech According to International Law?

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I. Introduction

Hate speech, vilification – because a general accepted concept does not exist on this subject – can be defined through its content as follows: it is such a verbal or non-verbal manifestation, which takes through several communities and groups effect (categorized characteristically on race, national or ethnic origin, religious or sexual identity, physical or mental deficiency, or on other propriety) and violates the group members' human dignity and humiliates them. In the opinion of the author, hate speech – despite the fact, that according to the last decision of the Hungarian Constitutional Court (CC) it can mean other crimes too – is not a synthesis of concepts, for example the crime – also cited in the Constitutional Court's decision – Incitement Against a Community or the crime Blasphemy of a National Symbol has been already settled categories in criminal law. Hate speech does not cover the violent activities, or activities threatening with immediate violence motivated by hate, but it is further the form of expression, insistence, and discrimination of malicious, exhaustive, extreme views, which violates human dignity heavily.¹

Unfortunately, nowadays it happens more often in Hungary, that several groups, behind the bulwark of freedom of speech disgrace other groups of the society and use abusive language in connection with them, and this behaviour has no actual consequences. They treat these groups of society like a toad under the harrow, hold real and in many cases direct terror of their head, or together with these activities they do not boggle about assaulting them by throwing pieces of pavement or eggs in their direction. Beside the fact, that these several abusive manifestations are morally very condemnable, practically it mean an ante-room for violent and exhaustive activities, which have already in the moment consequences in criminal law. The state, the legislation has to react against this harmful progress, it has to satisfy the demand of society to establish an efficient protection against these actions by means of law, especially criminal law. At the same time, we can not disregard the fact either, that independent from the now existing social reality there are rules of European law and international law in effect, which prescribe Hungary to penalize vilification. Of course, the increase of abusive manifestations makes the execution of these obligations a task more urgent to solve.

All the international treaties on basic human rights and the legislations of European law declare freedom of expression without exception, which brings out clearly, and makes it

¹ Dr. Bárándy Gergely – Dr. Berta Aliz: Vilification – *Accepted statute proposal – Rejective decision of the Constitutional Court* (Parliament: Yes, Constitutional Court: No). In: *Magyar Jog (Hungarian Law)*, 2008. 12., 809-810. pp.

undisputable: this kind of right has an outstanding position in the system of human rights, it has a special relevance. But it is very important to emphasize, that despite of its outstanding relevance, the freedom of expression is not an unconfined basic right – all the treaties on human rights mentioned above declare the possibility to restrict it, moreover, there are certain documents, which prescribe an expressed limitation, an obligation to abridge it. The legislations which establish an obligation to enact a regulation, and the non-binding recommendations, reports which are expansively accepted by the member states and were born in the sign of the action against the several discriminating activities, against vilification and hate speech, are naturally limits for the freedom of expression.

II. The path settled by the international and European Law

The 19th article of International Covenant on Civil and Political Rights¹ (Covenant) adopted under the aegis of UN – in harmony with the Universal Declaration of Human Rights – notwithstanding that it gives everyone the right to freedom of expression, at once it also declares that the exercise of the right carries special duties and responsibilities with it, it may therefore be subject to certain restrictions under the conditions listed in the Covenant. The 20th article of the Covenant determines an obligation to restrict: 'Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law'.²

Reading the 4th article of the International Convention on the Elimination of All Forms of Racial Discrimination³ (UN-Convention) we can also come to the conclusion that there is a limit for the freedom of expression, and at once there is an obligation to restrict it by means of criminal law:

'States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;

¹ Law-decree Nr. 8. from 1976 on the Ratification of the International Covenant on Civil and Political Rights Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966.

² Covenant article 20., paragraph 2.

³ International Convention on the Elimination of All Forms of Racial Discrimination. Ratified by the Law-decree Nr. 8. from 1969 on the Ratification of the International Convention on the Elimination of All Forms of Racial Discrimination Adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 1965 in New York.

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.'

Through the simple grammatical and logical interpretation of the cited regulations, it can be seen clearly, that the obligations concerning the regulation of our subject and the prohibition by means of criminal law does not only cover the violent actions, or such actions, which have the danger of immediate violence inside. These obligations cover any kind of promotion of national, racial and religious hatred, whether it incites to violence, or only to discrimination and hostility. The obligation, to enact a regulation in criminal law covers the acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, but beyond these, it also covers many other acts, so the dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination and also the provision of any assistance to racist activities, including the financing thereof. The obligation to prohibit also concerns the participation in organizations which promote and incite racial discrimination, and the participation in such activities.

The practice of the Human Rights Committee¹ (HRC), which was established to monitor the implementation of the Covenant, and its General Comment No. 11 on the Covenant's 20th article² also emphasizes an obligation for States parties to regulate this subject. The practice of the Committee on the Elimination of Racial Discrimination³ (CERD), a monitoring body of the UN-Convention, and its General Recommendation No. 15 also confirms the arguments mentioned above. In this recommendation the CERD remembers the States parties, that any advocacy of racial hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law, as well as the financing such activities, and the argument, which says, it is not appropriate to declare illegal an organization before its members have promoted or incited racial discrimination, can not be accepted.⁴

Beyond the two international treaties mentioned above, which establish an obligation to penalize hate speech, we can not disregard those binding legislations of international and European law either, which do not obligate the member states to have a regulation in criminal law, or the non-binding recommendations, comments, which are generally accepted by the member states, and determine the inwardness of legislation at least in theory, because these documents also give direction for the national legislations, and express the States parties' determination to act against the racist, xenophobe and exhaustive manifestations.

If we move from the wide-range global cooperation towards the narrower regional oneness, we have to mention the UN model law against racial discrimination first. The model law – which is only a comprehensive directive for the member states, it does not establish a legal obligation for them – has the aim to prohibit and eliminate racial discrimination actually in all areas of life.⁵

¹ The First Optional Protocol attached to the Covenant (ratified by the Law-decree Nr. 24 from 1988) provides a possibility for the people, who claim the violation of their rights listed in the Covenant to submit a complain to the Human Rights Committee. See: Kondorosi Ferenc: *The punishability of hate speech with respect to the international documents on human rights*. In: Jura 2008/1. 59. p.

² Kondorosi Ferenc: cited work 59-60. pp.

³ Kondorosi Ferenc: cited work 60-61. pp.

⁴ Cited by *Constitutional Court Justice Kovács Péter* in the III. part of his concurring argument attached to Decision 95/2008. (VII. 3.) AB.

⁵ See: <http://www.unhcr.ch/html/menu6/2/pub962.htm#modellaw> and Kondorosi Ferenc: cited work 62. p.

Moving towards narrower cooperation we have to refer to the collaboration within the frames of the Council of Europe, the governmental organisation of the European countries on the regional level. The European Convention on Human Rights¹ (ECHR) adopted in Rome 1950, similar to the Covenant declares the freedom of expression, and also regulates the duties and responsibilities, which this right carries within, and the possibility of a restriction and its conditions.² It is outstanding, that the ECHR declares the 'prohibition of abuse of rights' in a separate article, which says 'Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.'³ This rule has a special relevance, because, different from the Covenant, the ECHR does not prescribe and obligation to penalize vilification, but from the practice of the European Court of Human Rights and the European Commission of Human Rights in connection with the negation of crimes against humanity, racism and the 10th and 17th article of ECHR, we can conclude, that the action against hate speech has a legitimate purpose, and it does not violate the freedom of expression.⁴ In the recommendations published by the European Commission Against Racism and Intolerance (ECRI) – the ECRI Recommendation No. 7 is very important here⁵ – and in its reports on the several member states, furthermore in the declarations, recommendations⁶ on this subject accepted by the Committee of Ministers, the requirement of action against hate speech by means of criminal law is clearly expressed.

Narrowing the circle, it is necessary to mention the action under the aegis of the European Union. The Charter of Fundamental Rights in the European Union – a non-binding document, it is yet worth to mention, because it – expresses the unified scale of values of the member states and it declares the freedom of expression and its limits with a content similar to the ECHR.⁷ More important is the Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (a binding regulation in effect) which is normative concerning the national legislations on hate speech, furthermore, the framework decision on combating certain forms and expressions of racism and xenophobia by means of criminal law⁸, accepted because of the long lasting preparative work just few months ago.

Summarizing the essence very briefly, the obligation of the member states to penalize is in effect concerning not only the activities coupled with violence, but a lot of other malicious manifestations. Accordingly, in the case, if a state party of the Covenant or the UN-Convention establishes a protection by means of criminal law only against violent

¹ Act Nr. 31. from 1993 on the ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome 4. November 1950, and its eight Protocols.

² ECHR 10. article.

³ ECHR 17. article.

⁴ On the the practice of the European Court of Human Rights and the European Commission of Human Rights see: Kondorosi Ferenc: cited work 62-65. pp.

⁵ http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation_N7/Recommendation_7_en.aso#P132_11489

⁶ See the Declaration Against Intolerance adopted in 1981 and the Recommendation Nr. 20 on Hate Speech adopted in 1997. Cited by *Constitutional Court Justice Kovács Péter* in the III. part of his concurring argument attached to Decision 95/2008. (VII. 3.) AB.

⁷ *The Charter of Fundamental Rights in the European Union* (2007/C 303/01) 11. article, 52. article and 54. article.

⁸ Council Framework Decision 2008/913/JHA of 28. November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law.

acts, then it does not fulfill its duty, which is declared word to word in international law, and its law is not in harmony with the principles represented by international and European law either. To fulfill our obligations is the more desirable, because, reading the cited legislations, it is obvious, that the intention of the states to act against racism and xenophobia is consistent and it is getting stronger.

III. The possibilities for action in Hungary

Due to the Hungarian legal regulation there is a possibility to act against the most extreme forms of hostility by means of criminal law. Criminal law provides protection from conducts motivated by hate through the following offences: Genocide¹, Apartheid,² Violence Against a Member of a National, Ethnic, Racial or Religious Group,³ Incitement Against a Community⁴ and Use of Symbols of Despotism,⁵ but the crime Blasphemy of a National Symbol can also provide this kind of protection.⁶ The Defamation, Libel, and Desecration,⁷ were not made to penalize exhaustive conducts, but these offences can protect against these activities too. But such activities, which take through a group effect and violate heavily the several group members' human dignity and honour, have no legal consequences nor in civil and administrative law either in the field of misdemeanors and criminal law.

The favourite argument of the ones, who are against declaring hate speech to an offence is, that 'the freedom of expression does not allow the hate speech against other people'⁸ 'racist speech has its legal consequences in Hungarian law' the offence Incitement Against a Community makes it possible to act against instigation by means of criminal law, and this offence provides an appropriate solution to the problem of hate speech⁹. We have also heard, that 'the prohibition on instigation to hatred has been already part of the constitution, it concludes from the connection between the basic rights, from the constitutional protection of the human dignity and the personality' By the way, according to the rules of the Constitution there is no possibility to enact a stricter regulation to protect human dignity.¹⁰

In the opinion of the author, these arguments are very weak. On the one hand, the Constitutional Court itself declares, that the Hungarian courts do not apply right the offence called Incitement Against a Community¹¹, so it can not provide appropriate protection. On the other hand, if the courts would apply the rules concerning this offence the right way, according to the original intention of the law-makers, that would be not enough either to provide – due to the international treaties – effective protection for the human dignity of the several communities. Kovács Péter Constitutional Court justice

¹ Criminal Code. 155. article

² Criminal Code. 157. article

³ Criminal Code. 174/B. article

⁴ Criminal Code. 269. article

⁵ Criminal Code. 269/B. article

⁶ Criminal Code. 269/A. article

⁷ Criminal Code. 179-181 article.

⁸ See the speech of MP Salamon László in the protocol from the 199th day (24. 03. 2009.) of the plenary session in Parliament.

⁹ See the speech of MP Répássy Róbert in the protocol from the 199th day (24. 03. 2009.) of the plenary session in Parliament.

¹⁰ See the speech of MP Salamon László in the protocol from the 199th day (24. 03. 2009.) of the plenary session in Parliament.

¹¹ Decision 95/2008 AB III. part. 4.2. section.

himself, who is the only professor of international law among the other judges of the Constitutional Court explains in his concurring argument attached to the last decision of the CC, that the Incitement Against a Community 'orders to punish only the incitement to hostility, so the obligation derived from the UN-Convention can be fulfilled just partially. Partially, because the UN-Convention orders to penalize not only the violence and not only the incitement but also for example the propaganda.'¹ This expressed requirement can be read out from the Covenant and from the UN-Convention, from the case-law in connection with these documents, but the same concludes from the legislation and practice of the Council of Europe and the European Union. The fact, that the Hungarian law-system does not suit to this requirement is clearly indicated by the reports issued by the above-mentioned organisations, which condemn Hungary continuously because of the inappropriate regulation.

Recently the fourth ECRI Report on Hungary published on 24 February 2009 states, that since the publication of the former reports on Hungary, progress has been made in the field of fight against racism and intolerance, however, despite the progress achieved, there are a number of query fields left. An issue, which gives rise to concern for example is, that the racism, the expression of antisemitic views is on the rise in the public discourse, and however there is no evidence in the statistics, the presence of racist violence is also alarming. It states furthermore, that 'the very high level of constitutional protection afforded to the freedom of expression has to date made it impossible for the authorities to legislate effectively against racist expression: under Hungarian law, only the most extreme forms of racist expression, i.e. incitement liable to provoke immediate violent acts, appear to be prohibited, a standard so high that it is almost never invoked in the first place. While it is true that legislation alone cannot turn racist attitudes around, the almost total absence of limits on free speech in Hungary complicates the task of promoting a society that is more open and tolerant towards its own members.'²

ECRI strongly recommends with high priority, that the Hungarian authorities keep the adequacy of the criminal law provisions against racist expression under review. ECRI strongly recommends also, that Hungary should take international standards into account, including ECRI's General Policy Recommendation No. 7, according to which the national law '*should penalise* racist acts including public incitement to violence, hatred or discrimination as well as public insults, defamation or threats against a person or a grouping of persons on the grounds of their race, colour, language, religion, nationality, or national or ethnic origin.' If the implementation of these standards may mean certain limits on the freedom of expression, these limits should be interpreted in line with the European Convention on Human Rights and the relevant case-law of the European Court of Human Rights.³

'The efficient action against hate speech is yet necessary, and the law in force is not enough, because it prohibits only a certain circle of such activities. It is necessary to act against hate speech by means of criminal law, that means, to penalize such conducts in Criminal Code.'⁴ Beyond the fact, that this is the actual reality, and because of the tendency

¹ Decision 95/2008. (VII. 3.) AB. III. part in the concurring argument of *Constitutional Court Justice Kovács Péter*.

² ECRI Report on Hungary (fourth monitoring cycle) Adopted on 20 June 2008 Published on 24 February. 8-9. pp. and 25-28. pp.

³ ECRI Report on Hungary (fourth monitoring cycle) Adopted on 20 June 2008 Published on 24 February 2009 55. p.

⁴ See the speech of MP Bárándy Gergely in the protocol from the 199th day (24. 03. 2009.) of the plenary session in Parliament.

also exposed in the ECRI Report, the social need to live together and function of the rule of law require, it is an expressed obligation for Hungary to penalize this kind of behaviour. Wiener György adds to this, that 'this is also a constitutional obligation, not only a requirement derived from international law, because the 7th article of the Hungarian Constitution declares, that the Republic of Hungary shall harmonize the country's domestic law with the obligations assumed under international law.' In the current case 'this kind of harmony is not provided.'¹

IV. Legislative attempts and the reactions of the Constitutional Court

In the last two decades the law-makers made four attempts to provide protection against hate speech by means of criminal law. The first three attempts – in 1989, in 1998 and in 2003 – were in connection with the Incitement Against a Community, this offence is within the Crimes against Law and Order, among the Crimes Against Public Peace, and the law-maker tried to amend its rules, to change and to fill out its elements, establishing a prohibition on vilification by means of criminal law.

The Constitutional Court declared all the three statute proposals as unconstitutional and annulled them, on the basis of the so called 'vilification test'² practically every times, which was developed in the first CC Decision 30/1992. (V. 29.) AB on hate speech. The essence of this test is, that the freedom of expression has an outstanding role, 'the right to free expression protects opinion irrespective of the value or veracity of its content'³ And the crime Vilification penalizes a manifestation with respect on the values of the opinion, and the enacted offence is a formal crime, that means, it is not necessary, to have a result like disturbed public peace to realize it, and it is not necessary either for the conduct to be able to disturb public peace. Therewith, the body of judges stated in the decisions 12/1999 (V. 21.) AB and 18/2004. (V. 25.) AB, that the law-maker uses undefined concepts, and this violates the due process of law and the principle of constitutional criminal law.

It has though a special relevance, that along declaring the concrete attempts as unconstitutional, the CC laid down as a principle that 'the dignity of the several communities can be a limit to the freedom of expression. The decision does not exclude the possibility for the legislator to provide a greater protection, than prohibiting incitement to hatred, by means of criminal law,'⁴ The law-maker – at least partially – kept holding on this argument during the repeated legislative attempts. It did so during the fourth attempt too. But the amendment of the Criminal Code in 2008 had a novelty, it broke with the former solution, and intended to integrate the offence Vilification in the system of the Crimes Against the Person instead of the Crimes Against Law and Order, to put it among the Crimes Against Freedom and Human Dignity next to the crimes Defamation and Libel. The legislator recognized, that in the case of Vilification the primary legal object to protect is not the public peace. Vilification has to be penalized primely „because it is a social interest to protect the

¹ See the speech of MP Wiener György in the protocol from the session of the Constitutional, Judicial and Procedural Commission of the Parliament 09. 03. 2009.

² Halmai Gábor: *'Hate Speech' and the the process of joining to the European Union*. In: *Fundamentum* 2003/2. 113. p.

³ Decision 30/1992. (V. 29.) AB, Reasoning section V. 3.

⁴ Decision 30/1992. (V. 26.) AB Reasoning section V. 4. and Decision 1999/12 AB, Reasoning section II. 3.4.

social honour and the human dignity of the violated groups'. At the same time, the legal object of the Vilification can be public peace too, but this fact is secondary.¹

The President of Hungary initiated the preliminary control of the Act by the CC, and the court did not change its practice, it repeated the arguments established in 1992 and declared the Act as unconstitutional in the Decision 95/2008. (VII. 3.) AB and annuled it referring to the outstanding position of the freedom of expression, and to the undefined concepts in the statute.

This last decision can be yet considered as a breakthrough, because it was the first time, that the decision on penalizing hate speech was not unanimous: one judge attached a minority report, two other judges attached a concurring argument to the decision. Lévy Miklós explained in his concurring argument, that the act is only from a formal aspect² unconstitutional, in his opinion, the act would have been declared as unconstitutional 'only' because of the undefined concepts, which violate the due process of law and the principle of constitutional criminal law.³ In Kiss László's opinion the text of the adopted act was in harmony with the Constitution.⁴ Kovács Péter – who was cited above – answered straight the question asked in the title, when he wrote in his concurring argument, that „the obligations in international (and European) law actually prescribe us to penalize such conducts, which this Criminal Code amendment tried to prohibit' 'It is not just the case, that we can state: the first decision did right, that it did not exclude the penalization of the conducts under the level of incitement to hatred, but we have to see too, that there is an obligation in international law in force, which has to be fulfilled, and this did not happen entirely. The question, whether the chosen solution is constitutional or not, is an independent problem'.⁵

V. What is the solution?

If our obligations derived from international law and our domestic law is not in harmony, the law-maker has to options to choose from. The first option is, it tries to throw off the obligation by denouncing the treaty. But I do not think, that denouncing the Covenant or the UN-Convention would be a real alternative, or it would be compatible with the democratic values, and I do not think either, that Hungary should turn against the world. Of course, if the international treaty allows it, Hungary can choose to initiate the complicated and long process of modification, but the success of this attempt is almost impossible. Impossible, because this kind of modification is against the ethos of the international system of human rights, added to which this road is also diametrically opposed to the growing intention to act against racism and intolerance.

The other – in fact the only real – option is, that the law-maker finally fulfills its obligation established in the 7th article of the Constitution, to harmonize the country's domestic law with the obligations assumed under international law. Due to my firm conviction, it is possible in principle to fulfill this obligation without amending the

¹ Statute proposal Nr. T/2785. on amending the Criminal Code, general reasoning, section 3/B.

² On the subject undefined concepts see: Tilk Péter: *The preliminary aspects of the regulation of hate speech* In: *Magyar Jog (Hungarian Law)* 2003/6. 322-326. pp.

³ Decision 95/2008. (VII. 3.) AB the introduction of Constitutional Court Justice Lévy Miklós's parallel argumentation

⁴ Decision 95/2008. (VII. 3.) AB Constitutional Court Justice Kiss László's minority report

⁵ Decision 95/2008. (VII. 3.) AB III. part of Constitutional Court Justice Kovács Péter's parallel argumentation

Constitution. The Constitutional Court developed its arguments short after the downfall of the socialist political system in 1992, the social and political circumstances were very different that time. It would be possible, if the CC would be ready to re-evaluate its nowadays totally exceeded, anacronistic arguments, and recognize the fact, that – in the words of Justice Lévay Miklós – ‘the public discourse, the political circumstances, the social publicity, and the level of tolerance did not work out according to the former decisions of the CC.’¹ It did not work out this way so badly, the word has changed so much, we have to face so new and so different dangers, that some elements from this system of arguments seem to be neraly demagogical. Lévay Miklós adds to this, that the solution would be not the modification of the Constitution, but it would be/would have been the review of the directive precedents. There is a similar standpoint in Kiss László’s minority report, according to which the CC should have reconsidered its practice, it should have developed its case-law, because ‘a long time elapsed since the decisions on the examination of the freedom of expression. This fact itself brings up the necessity of a comprehensive examination.’²

Unfortunately it seems so, that the CC is going to insist strictly on its standpoint adopted in 1992, the constitutional case-law will not change. But whitout this, as the cited ECRI report states, ‘every sign shows in one direction, that the upcoming attempts to strenghten the sanctions of the law against hate speech in Hungary are doomed to failure’ We do not question the propriety of this statement, and are under the necessity of accepting the fact, that there is no other possibility, only the modification of the Constitution.

The ruling government made an attemp to achieve this, respecting Justice Kovács Péter’s notice, according to which the legislator makes its own work easier, if it sticks the most accurate to the text of the international treaties.³ That is why the proposal of the act on the amendment of the Constitution⁴ does not try to establish new limitations, it does nothing else, but intends to integrate into the regulation of the Constitution the obligations derived from international law, which has been already part of our legal system.⁵ The current legal means does not work in the practice, and developing new institutions is not possible without amending the Constitution, because the CC’s practice does not react upon the changed social demand.

During the long controversy on the penalization of hate speech I did not get even one answer from the opponents, what do they suggest, how could the law-maker, how could Hungary throw off its undesired obligations. Not accidentally I guess. The cause is simple, there is no other solution for Hungary, just to fulfill the obligations under the international law and harmonize domestic law to the international law. Hungary has to adopt the amendment of the Constitution initiated by the government, this would establish the frames, among wich it is possible to enact efficient rules against hate speech, and to protect the dignity of the several communities.⁶

This is necessary beyond the obligation derived from international law, because in Hungary nowadays „countless areas of the connections between the people are penetrated

¹ Decision 95/2008. (VII. 3.) I. 3. section of Counstitutional Court Justice Lévay Miklós’s parallel argumentation

² Decision 95/2008. (VII. 3.) AB I. part of Constitutional Court Justice Kiss László’s minority report

³ Decision 95/2008. (VII. 3.) AB III. part of Counstitutional Court Justice Kovács Péter’s parallel argumentation.

⁴ Statute proposal Nr. T/9045. on amending the Act Nr. 20. from 1949 on the Constitution of the Republic of Hungary

⁵ See the speech of undersecretary of State Avarkeszi Dezső in the protocol from the 199th day (24. 03. 2009.) of the plenary session in Parliament.

⁶ See the speech of MP Bárándy Gergely in the protocol from the 199th day (24. 03. 2009.) of the plenary session in Parliament.

with hate, with anger over the average limit, with the negligence of the respect to other persons. [...] The hate every day, the defamation and the denial of the human dignity of other people on a daily basis destroys in an unimaginable way the complicated texture of the coherence between the members and the several groups of society'¹ This social emergency made it cogent for the legislative and the constitutive power to take action.

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