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Religious Tolerance as a Political Argument. Debates on the Legal Status of the Protestants of Hungary, 1790–1791

The Decree of Toleration (1781) brought radical changes to the lives of the Calvinist, Lutheran and Orthodox denominations in the Kingdom of Hungary. The most important change was that the private religious practice was substantially extended. Another important element of the decree was that it exempted non-Catholics from the so-called decretal oath and from participating in Catholic rites. Equally significant is the regulation on marriage law, which, among other things, specified the denominational status of children in mixed marriages and after conversions. Following the death of Joseph II (1790), an unprecedented political ferment began in Hungary. As no assembly of the Estates had been convened since 1765, the Hungarian political elite, inspired not least by the French example, felt that the time had come to put into practice the long-matured reform ideas. Among these matters, the religious question was the most prominent. The majority of the Estates supported the equal rights of the Protestant denominations, and only the Catholic clergy and a few secular Catholics maintained the earlier intolerant position. With the legalization of the free exercise of religion by the two Protestant (and Orthodox) denominations initiated the process of dismantling the status of Catholicism as a state religion. A few decades later, this led to the establishment of religious equality, an essential cornerstone of the modern civil state.

Keywords: Decree of Toleration, religious policy, Diet, Estates, Joseph II., Kingdom of Hungary



Less than a year after Joseph II's accession to the throne, on 24 October 1781, the final text of the Decree of Toleration, undoubtedly the most famous and influential measure of his reign, was issued to the subjects of the Kingdom of Hungary. The decree, which was published after prolonged preparation, brought radical changes to the lives of the members of the Calvinist, Lutheran

and Orthodox denominations in the area, even though the changes outlined in its text were only put into practice after a great struggle. “We are convinced that any coercion which is forcibly imposed on the conscience of people is more harmful than anything else, whereas the right kind of patience which Christian charity demands is a source of great benefit both to religion and to the state, and we are therefore resolved to confirm this tolerance in all our imperial and royal hereditary provinces by clear laws.” This is how the need for a regulation is expressed in the introductory lines of the text.¹

On one hand, the measures reinforce the laws and privileges granted to the Lutheran, Calvinist and Orthodox denominations since the Treaty of Vienna (1606)² and the decree of Emperor Leopold (*Explanatio Leopoldina*, 1691). On the other hand, religious tolerance is extended to those areas of the Kingdom of Hungary “where non-Catholics are prohibited by law, [they are denied] privileges for the public exercise of their religion and the benefits of other civil rights.” The decree approaches the issue aligned previous case law, i.e., it continues to interpret the status of the denominations concerned in Hungary by distinguishing between public and private religious practice. According to the text of the decree, public religious practice without restrictions is only granted to their members where it was guaranteed by law and royal privilege. In other places, private religious practice prevailed. In this respect, Joseph also followed the politics of the monarchs, which first manifested in the decree of Leopold I of 1691.³

The radical change in denominational policy was the substantial extension of this private religious practice. In this context it made the well-known provision that private houses of prayer were allowed to be built in all places which had no public religious exercise, and where at least one hundred non-Catholic families lived, in such a way that they had neither steeples, nor bells or entrances from the public road, as public churches have. In addition, it removed all limitations which previously restricted the rights of non-Catholics, either generally or in certain places, in the exercise of office, tenure and other similar areas. Another important and well-known element of the decree was that it exempted non-Catholics from the so-called decretal oath⁴ and from participating in Catholic rites. Equally significant is the regulation on marriage law, which, among other things, specified the denominational status of children in mixed marriages and after conversions.

It is clear from the above that Joseph’s decree was far from aiming to create equality between religions: “On the other hand, the laws and privileges of the country which are in favour of the dominant religion shall be preserved.”⁵ Joseph was convinced of the need for the dominance of the Catholic Church

¹ MÁLYUSZ 1940, p. 269.

² Between Emperor Rudolf II as King of Hungary (1576–1608) and István Bocskai as Prince of Transylvania (1605–1606).

³ FORGÓ 2017, p. 273–287. See also CSEPREGI 2009; KOWALSKÁ 2017; KOWALSKÁ 2018.

⁴ A compulsory oath to be taken by officials in the name of the Holy Virgin and the Saints, in case they wanted to assume their offices.

⁵ MÁLYUSZ 1940, p. 271.

from an early age. Even in his mother's lifetime, he expressed his desire to convert all his subjects to Catholicism, but this could only be done by force. However, this was not the way for the state to function for it would be to judge divine mercy and to rule the consciences of its subjects. Only the Holy Spirit could enlighten hearts, and the state could serve the interests of its subjects by enforcing tolerance. By the application of religious tolerance, discrimination between subjects could be abolished, and thus the state could benefit all who are able, without distinction of religion. But Joseph's belief in the primacy of the Catholic religion was also reflected in his response to Chancellor Kaunitz's opinion in November 1781. Kaunitz expressed concern about the use of the term "true, solely saving religion (*wahre, allein selig machende Religion*)" in the text of the decree and proposed to use the term "Our Holy Catholic Church (*unsere heilige katholische Kirche*)" instead. Joseph, however, rejected the proposal because the text was not intended to be published in print, and he did not consider it necessary to change the phrase which he said gave the Catholic Church its essence.⁶

Like the decrees of the previous rulers, Joseph's measures applied only to the established denominations of the Kingdom of Hungary. As regards other 'sects', he followed the policy of his predecessors, especially Maria Theresa, who also considered their activities harmful to the state. In this context, the Abrahamics or Deists in Bohemia are cited as an example. Even the prominent representative of the Enlightenment in Göttingen, August Ludwig Schlözer, called them a peculiar group because, in addition to proclaiming love for their neighbours, they rejected all the obligations of the state: not only the oath and military service, but also the marriage bond. They did not even consider themselves Christians, but only as a community bound by the Ten Commandments and rejected any ecclesiastical hierarchy. Joseph's decree of March 1783 ordered all men and women of age to settle in Transylvania, and to leave their children under the age of fifteen to the care of the local inhabitants. The harsh decree, however, did little to eradicate the "sect". Even at the end of his reign, Joseph took action against religious groups he considered dangerous: for example, in a decree of July 1789, he banned Mennonites (a group of Anabaptists) from settling down in his kingdom.⁷

The announcement of the program of religious tolerance was, of course, immediately echoed among members of the Catholic clergy. Historiography generally highlights the rigid opposition of the clergy, and more recent works mention resistance as the main feature, especially among the high clergy.⁸ On the other hand, research has long been concerned with the behaviour of those members of the clergy who, influenced by Enlightenment ideas, explicitly welcomed Joseph's policies, at least initially, and supported some or all of his measures.⁹ One of these was Marx Anton Wittola (1736–1797), a parish priest

⁶ MÁLYUSZ 1939, p. 99–100.

⁷ MITROFANOV 1910, p. 725–726.

⁸ BAHLCKE 2013, p. 371–398.

⁹ KOVACS 1979; LEHNER–PRINTY 2010.

born in Upper Silesia, whose work on tolerance was published anonymously in Vienna at the end of 1781, and in Hungarian the following year.¹⁰ It is an interesting fact that the Hungarian translation was made by a Reformed pastor, István Nagy Szerencsi (†1789).¹¹ Wittola dated the work to 24 September 1781, before the Austrian imperial decree of toleration was issued, but it is difficult not to see the impact of the ecclesiastical policy of Joseph II in the text. In addition to the imperial formulation of Christian tolerance, he is also explicitly critical of the monastic orders, especially the mendicants and the Jesuits, which were the most rejected ones by the Josephine policy. Like Joseph II, Wittola does not advocate religious freedom, only tolerance. And it is no coincidence that the Hungarian translation appeared shortly after the publication of the Decree of Toleration in Hungary. Our suspicion is not unfounded: the work was written by Wittola on the order of the Council of State (*Staatsrat*). The reaction of the Holy See was not favourable: almost exactly two years after the publication, on 26 September 1781, Wittola's work was indexed. But the document also had a considerable impact, as it is shown by the fact that the author also produced a second and a third work on tolerance.¹²

In addition to Wittola's work, it is worth mentioning that another anonymous pamphlet was published in 1783, which lists the grievances of Protestants against the power of the clergy in Hungary, especially in relation to the prevention of the implementation of the Decree of Toleration. Although the title suggests that it was written by a Viennese author (*Schreiben eines Wiener...*), previous research has linked the work to József Benczur (1728–1784), a well-known Lutheran thinker of the time in Hungary.¹³ The work has never been published in Hungarian, although a translation was completed, it remained in manuscript to this day.¹⁴ According to the author, it was in the Kingdom of Hungary where the implementation of Joseph II's Decree of Toleration encountered the most obstacles even though almost the half of the population was Protestant. Their religious freedom was not a matter of royal favour, nor did it depend solely on the law, but was guaranteed by treaties between Catholic and Protestant Estates, above all by the peace treaties concluded between the 'sovereign' Transylvanian princes and the Hungarian kings.¹⁵ The author suggested that it was clear from these sources, that the Catholic Estates had no right to restrict the Protestant practice of religion. The influence of the powerful Catholic ecclesiastical and secular dignitaries

¹⁰ Über die Toleranz; See: PETRIK 1891. p. 462.

¹¹ BELLÁGH 1990. p. 419.

¹² BRANDL 1974. p. 101, 103.

¹³ BÄHLCKE 2013. 358.

¹⁴ OSZKK Quart. Hung. 253. *Egy Bétsi Embernek Levele, Valamely Római Sz. Birodalomban lakozó Magyar Barátságához, Mellyben a Tolerántzia vagy Vallásbéli Türedelem állapotja s dolga Magyar Országban, s annak előmenetele és akadályai, bátran és szabadon megvissgáltatna*

¹⁵ For example, the aforementioned Treaty of Vienna (1606) and the Treaty of Linz (1647) between Emperor Ferdinand III. as King of Hungary (1637–1657) and György I. Rákóczi as Prince of Transylvania (1630–1648).

extended only to political matters, but the cause of religion could not depend on it. The deplorable state of tolerance in Hungary, the work argues, was primarily the result of the almost unlimited power of bishops and archbishops.¹⁶

It is evident from the text of the pamphlet that Benczur interpreted from the Decree of Toleration as the granting of religious freedom to the established Protestant denominations in Hungary, although, as we have seen, this is not what the text of the decree states. He criticizes the fact that Protestants in the Kingdom of Hungary are treated differently from their Catholic subjects, even though this is explicitly stated in the text of the decree. It is true that Joseph's decrees in the second half of his reign gradually abolished the distinction between the public and private religious practice of Protestant denominations, so that most of the changes demanded by Benczur were slowly implemented. But, as we have seen, Joseph had no intention of introducing equality between the established denominations in Hungary.

The most important lesson of the two pamphlets is that the Catholic and Protestant parties had different interpretations of the denominational relations that had developed as a result of Josephinist policy, and that within the Catholic camp there were different views on the question of the attitude towards non-Catholic denominations. Advocating broad tolerance for Protestants, Wittola took the reformer Catholic position, while the Protestant position, as expressed by Benczur, saw in Josephinist policy the acquisition of unrestricted freedom of religious practice and even freedom of conscience, which was hindered by the hostility of the Catholic clergy. It was therefore expected that after Joseph's death, the political struggle to settle the religious debates would be rekindled.

Following the death of Joseph II (20 February 1790), an unprecedented political ferment began in Hungary. The emergence of this large-scale movement can be attributed to elementary protests against the ruler's decrees, as well as the dissemination of new ideas, partly as a result of his policies. This national activity, previously unimaginable in its intensity, was prompted by the Diet in Buda, convened in June 1790 on the initiative of Peter Leopold, Grand Duke of Tuscany, who succeeded Joseph under the name of Leopold II (1790–1792).

As no assembly of the Estates had been convened since the turbulent Diet of 1764–1765, the Hungarian political elite, inspired not least by the French example, felt that the time had come to put into practice the long-matured reform ideas. Although the initial, almost revolutionary mood, was thoroughly cooled by the ruler's extremely skilful (and equally unethical) domestic and foreign policy moves, the Diet of 1790–1791 proved to be a milestone in the history of Hungarian political life. The latter revolutionary atmosphere additionally threatened the monarchy and even meant a challenge with the

¹⁶ Schreiben eines Wieners.

transformation of the political system, as it was conceived in the plans of some radical reformers.

Jean Bérenger, an eminent French scholar on the subject, has described it on the example of the 1867 Austro-Hungarian reconciliation as “the Compromise of 1790–91”.¹⁷ In order to preserve the status quo, i.e. the previous relationship between Hungary and the Habsburg Monarchy, the emperor was willing to take gestures such as issuing a coronation charter (of the time of Maria Theresa),¹⁸ or to enacting a law (more symbolic than having an actual political impact) stating that Hungary could only be governed according to its own laws and through its own institutions.¹⁹ By bringing this grand compromise to fruition, it was primarily the officials who were elevated to national politics during Joseph’s time: Chancellor Károly Pálffy (1787–1807), Lord Chief Justice Károly Zichy (1788–1795) and Personalis József Ürményi (1789–1795), also speaker in the lower house. While other traditional actors in the politics of the Estates, including the clergy, took an active part in other matters of equal importance discussed during the Diet.²⁰ Among these matters, the religious question was the most prominent.

The “renaissance” of religious affairs came after a long break of decades in the Diet. Charles VI (1711–1740) decided to take the matter into his own hands after the endless religious disputes of the Diet of 1728–1729, regulating the matter by decree, so that in the following decades the religious quarrels – that had previously poisoned the atmosphere – mostly disappeared from the supreme political forum.²¹ As we will see, this too eventually resulted in the monarch seizing the right to decide, but religion no longer dominated the whole Diet to the extent it had done at the beginning of the century.

Preceding the Diet and continuing in its early stages, religion was a prominent topic also in the district sessions,²² and it also occurred several times during the discussion of the coronation charter. From 12 August, a special mixed deputation (*deputatio mixta*) was set up to discuss the matter and to try to refine the sometimes excessively Catholic and sometimes excessively Protestant wording of the drafts of the district sessions. As expected, the most heated debates were over the regulation of conversions, the religion of children born in mixed marriages and the jurisdiction of courts in mixed-religion marriage cases. The committee sent to the matter could not settle the differences of opinion, and the debates continued on the political stage of the Diet when the religious question was discussed in early September.

¹⁷ BÉRENGER – KECSKEMÉTI 2008. p. 185.

¹⁸ Art. 2/1791: *Diploma regium per sacram regiam majestatem ante felicem inaugurationem, coronationemque suam statibus et ordinibus regni datum, publicis constitutionibus regni inseritur.* CJH 1740–1835. p. 144–150.

¹⁹ Art. 10/1791: *De independentia regni Hungariae, partiumque eidem annexarum.* Ibid. p. 158.

²⁰ BÉRENGER – KECSKEMÉTI 2008. p. 185–189.

²¹ SZIJÁRTÓ 2020. p. 79–91.

²² Before the Diet, the Estates discussed the main topics in district sessions. The country was divided into four districts. SZIJÁRTÓ 2020. p. 198–202.

The clergy stuck to their previous position and only considered it acceptable to strengthen Art. 30/1715, which would have allowed only the highly regulated religious practice of Protestants and would have given the right to decide on controversial issues to the monarch.²³ The majority of the Estates, including the majority of lay Catholics, considered this position to be outdated, and in fact wanted to settle the matter of religion in the spirit of Joseph II's decree of toleration. However, the issue could not be settled satisfactorily, either in September or at the December reopening of the case, and the possibility of drafting the bill was left to the emperor.²⁴

The Protestant Estates, in keeping with previous practice and maintaining their claim to their independent political representation (*status evangelicus*), held separate conferences in 1790. In addition, the question of the Orthodox subjects in Hungary was raised in the debates, but this aroused considerably less emotion than the Protestant issue. The Hungarian Estates were willing to pass a law on the free exercise of religion and the right to hold office for the "non-united Greeks" (i.e., the Orthodox subjects, who have not joined the Catholic Church) without any particular opposition. The Orthodox bishops also asked the monarch for the right to sit and vote in the Diet, and on 11 June, they visited Vienna under the leadership of the Metropolitan of Srmski Karlovci, but the Diet had not yet accepted them.²⁵

Another way of resolving the Protestant question was, as in the previous century, to appeal directly to the monarch. The possibility of this had been raised at the opening of the Diet, but at that time, the majority of the Protestants did not dare to resort to this means. The emperor had not yet been invited, and in the opinion of the opposition, the question of succession to the throne was still open.²⁶ It was only after a lengthy debate in February 1791 that the issue of religion was finally discussed. At the end of the previous year, the clergy had already been on the defensive, as in his letter of 11 November, Leopold II had effectively adopted the position of the mixed deputation on the matter, which had taken the side of the Protestants' emancipation. The clergy was particularly disturbed by the concessions that would not criminalize conversion from Catholicism to Protestantism (i.e., apostasy), that would end the jurisdiction of Catholic diocesan courts in Protestant marriages, and that in mixed marriages, where the father was a Protestant, not all children would be raised Catholic, only the daughters. Additionally, the commission's draft originally went even further: children were to follow the religion of their parents according to their sex. The latter was changed by the monarch's decree.

Finally, the clergy also refused to classify Protestant denominations as established religions, because this – according to them – would have infringed

²³ Art. 30/1715 *In negotio religionis renovantur articuli 25. et 26. 1681, nec non 21. 1687 annorum.*

²⁴ MARCZALI 1907. vol. 2. p. 199, 256–261, 296–300.

²⁵ Krónika. p. 255, 280.

²⁶ *Filium interruptum successionis* (i.e., breaking the thread of succession) was a keyword in the terminology of the opposition, as a result of the "unconstitutional" rule of Joseph II.

the right of the sovereign to be the emperor's general. To enforce their will, the members of the clergy, and the Catholic lay Estates supporting them gathered at the residence of the archbishop of Kalocsa on 30 November, and they drafted a petition there, explaining their position. It was eventually signed by 84 participants and taken to the emperor by a delegation. The petition, drafted without the knowledge of the majority of the Diet, caused a huge uproar among the Protestants and their allied Catholics on religious matters. Dissatisfied protesters published pamphlets and a list of the names of the Estates that had signed or not signed the petition.²⁷

The debate then continued at the Diet. József Batthyány, archbishop of Esztergom (1776–1799), who held the highest ecclesiastical dignity in Hungary as primate of Hungary (*primas Hungariae*), declared at the session of 9 December, that the free exercise of religion by Protestants could be allowed, provided it did not conflict with the Catholic religion. Thus, conversion from the Catholic faith to a Protestant denomination would continue to be prohibited. Similarly, the establishment of Protestant ecclesiastical tribunals and the administration of marriage trials there according to their own rules, and the Protestant upbringing of children in mixed marriages where the father is Protestant, and the mother Catholic would remain to be prohibited. Ultimately, the archbishop stood by what he had said in the 30 November letter. László Kollonich, Archbishop of Kalocsa (1787–1817) and Károly Eszterházy, Bishop of Eger (1762–1799) were of the same opinion. The archbishop of Kalocsa, also in line with the petition, objected to the reference to the Catholic religion as a "*recepta religio*", as this would call into question the status of Catholicism as a state religion. In addition to the above, Ferenc Splényi, Bishop of Vác (1787–1795) objected to the establishment of consistories among Protestant institutions, which had not been established before. However, he also declared that the clergy was willing to accept the free exercise of religion, the building of churches and schools, the ordination of clergy, and the renunciation of the payment of parish taxes. He then asked the Protestants to accept the agreement on these terms, thus establishing peace.

On the part of the secular Catholic Estates, Károly Zichy, Lord Chief Justice made a similar statement, but he added a few compromise proposals to what was stated: only that the law should not punish converts with imprisonment, that secular courts should have jurisdiction in marriage trials instead of Protestant consistories, and that the requirement that both children of the Catholic father's sex should follow the Catholic religion should remain. Additionally, he advocated that Protestants should refrain from calling the Catholic religion a receptive religion. József Ürményi, speaker of the lower house also made suggestions: apostasy should not be criminalized, but "reckless playing with faith" should be prevented. In other respects, he supported Zichy's proposals. Several Protestants and Catholics contributed to the debate, and it was finally agreed to submit the article as read the previous

²⁷ *Catalogus*.

day to the Sovereign. Thus, in December, the earlier rigid position of confining the Protestant question to the pre-reign of Joseph II was finally overcome.

However, in February, the last meeting on the issue failed to fully resolve the differences. Once again, several county representatives saw the text proposed by the emperor as a violation of the Catholic religion. The most detailed account on this was the speech of József Boronkay, the representative of Somogy county, which was later published in print. However, Alajos Batthyány, a former Jesuit monk and relative of the archbishop of Esztergom, supported the free practice of religion by Protestants, because it was also for the benefit of the country.²⁸

Finally, a clause similar to the one in the Treaty of Linz (1647) was added to the draft law, allowing the dismissal of the opposition from the clergy and certain secular Catholics. The Croatian Estates, however, succeeded in ensuring that neither Protestants, nor Orthodox were granted equal rights in Croatia, Slavonia, and Dalmatia.²⁹

Unsurprisingly, the main protagonist of the religious dispute on the clergy's side was, Archbishop Joseph Batthyány. It is worth briefly reviewing how the prelate, famous for his role in the Catholic reform movement and his support for Maria Theresa's church policy, became the main opposition politician in the religious debate of 1790, as he was far from being alone among the Catholic clergy in his 'conversion'. Many scholars of Hungarian church history consider the archbishop as one of the most significant prelates of the second half of the eighteenth century. Both his brief tenure as bishop of Transylvania (1759–1760), his activities as archbishop of Kalocsa (1760–1776), and his almost quarter of a century as archbishop of Esztergom and primate of Hungary (1776–1799) are praised by scholars of the period.³⁰

We meet him on the stage of national politics mainly after his appointment as archbishop of Kalocsa. As the second ecclesiastical dignitary of the country, the archbishop of Kalocsa was traditionally considered an important figure in the politics of the Estates, but his status was even more enhanced when the primate was prevented from exercising his functions, or when the See was vacant. Also, Batthyány became a leading figure in Hungarian Catholicism long before his appointment as archbishop of Esztergom. Like so many of his contemporaries, the accession of Joseph II to the throne proved to be a turning point in his career. His political activity before 1790 can thus be divided into two distinctly different periods. From the period between 1760 and 1780, his role at the Diet of 1764–1765, when he tried to mediate between the Viennese

²⁸ Kovács 2013, p. 250.

²⁹ "[...] *contradictionibus dominorum cleri, et alicujus partis secularium catholicorum non obstantibus, imo iisdem in perpetuum nullum vigorem habentibus [...]*" and "[...] *regna proinde Dalmatiae, Croatiae, et Slavoniae, in ulteriori usu municipalium suarum legum relinquuntur, adeoque evangelici intra eorundem regnorum limites, nec bonorum, nec officiorum sive publicorum, sive privatorum sint capaces*" – Art. 26/1790 *De negotio religionis* CJH 1740–1835, p. 168–178.

³⁰ Naponként való 1790–1791, p. 301–303.

court and the opposition of the nobility, to which several members of the clergy joined, stands out.³¹

Even after the Diet was adjourned, he remained a staunch supporter of the emperor. He worked closely with the Chancellery on the diocese's reform, which primarily pertained to his upcoming archbishopric at the time.³² Although he made no secret of his concern that the division of the archdiocese would lead to a reduction in the archbishop's income, Batthyány must be counted among the prelates who supported the court's policy until 1780. The most important proof of this is that in early 1776, Maria Theresa appointed him to the long vacant archbishopric of Esztergom, and two years later, also through the intervention of the empress, Pope Pius VI created him a cardinal.³³

The fact that the new archbishop of Esztergom a few years later was among the leaders of the ecclesiastical opposition to the Habsburg Monarchy was not due to a change in his personality, but the consequence of a radical turn in the church policy of the Viennese court. In 1782, he published a document in several languages protesting against the measures taken in the first years of Joseph's reign, which had a fundamental impact on the life of the Catholic Church. Drawing on the Bible and ecclesiastical tradition, he condemned Joseph II's measures which restricted monasticism. He also criticised the revival of the *placetum regium*, under which papal bulls could not be promulgated in the Habsburg states without the prior consent of the monarch.³⁴ It is not surprising, therefore, that as Joseph II's radicalization of Josephinist ecclesiastical policy continued, Archbishop Batthyány's opposition to Joseph II's measures became more and more intense. Although the Catholic clergy as a whole was far from being opposed to Joseph's reforms, and – especially in their initial stages – some church groups even explicitly supported him, the archbishop can be considered as the leader of the Catholic opposition. This was also the view of the Viennese court. This became particularly evident during the visit of Pius VI to Vienna (1782), when the Hungarian episcopate, unlike other, smaller and less organized clerical groups in the Habsburg Monarchy, unanimously condemned Joseph II's measures.³⁵ The court's fear of Batthyány is well illustrated by the fact, that contrary to other prelates, they did not even try to keep him from visiting the Pope in Vienna. Instead, together with another great opponent of Josephinism, Bishop Károly Eszterházy, they awarded him the Grand Cross of the Order of St Stephen, thus trying to persuade the renegade prelates to behave in a loyal manner – with little to no success.³⁶ It is therefore obvious that Batthyány in 1790, not only had a central role in the Hungarian Catholic hierarchy, but also his earlier church politics made him a leading figure in the anti-Josephinist opposition.

³¹ FORGÓ 2021. p. 73–95.

³² BORÓVI 2000.

³³ CZÉKLI 2003. p. 347–354.

³⁴ Untertänige Vorstellung.

³⁵ ROSKOVÁNYI 1856. p. 258–268.

³⁶ BAHLCKE 2013. p. 387.

The prelates also found allies among the lower clergy, as in 1790–1791, similarly to the early years of the century, the representatives of the chapters in the lower house supported the confessional position. The collegiate chapter of Pressburg (Bratislava) was represented at the Diet by Canons János Sóber and László Tompa, who also informed their colleagues at home about the developments. Their reports on the events of the summer and autumn of 1790 have survived, and enrich our knowledge of the first phase of the religious debate. Alongside József Batthyány and Károly Esterházy, they highlight József Bajzáth, bishop of Veszprém (1777–1802), as an important player in the series of events.³⁷ A quarter of a century had passed since the last Diet (1764–1765), but these three ecclesiastical figures were once again in the spotlight. Bajzáth, as canon of Esztergom, was one of the leading figures in the lower house, while Esterházy had been in the bishopric of Eger since 1762. In addition to them, László Kollonich, archbishop of Kalocsa, and János Szily, Bishop of Szombathely (1777–1799), a former representative of the Chapter of Győr, should also be mentioned among the leading figures of the clergy.³⁸ Although in 1790 there was a proposal to change the practice of always having a clergyman lead the delegations of the Estates, this custom was finally maintained, so the role of the clergy remained important in the exchange of messages between the two houses.³⁹

Also, in the early stages of the Diet, József Antal Erdélyi, Canon of Vác and Abbot of Széplak,⁴⁰ presented the position of the clergy of the lower house on the main issues of religion. The speech, delivered on 9 July 1790 at the meeting of the Cisdanubian district, focused on the already mentioned position of the clergy to leave religion out of the points of the *diploma inaugurale*.⁴¹ Erdélyi also argued that the three previous monarchs had not included religion in their diplomas because they were already hereditary kings. Their predecessors also needed the support of Protestants when they were elected kings, so they gave them concessions. However, according to Art. 21/1687, the declared previous agreements were invalid because of the abuses of the Protestants. Furthermore, the clergy could never accept the free exercise of religion by Protestants, because there was only one true religion, Catholicism. Since 1715, there has been no mention of the religious question. The Treaty of Linz was not referred in the domestic laws, only the Treaty of Vienna. But the Acts of 1681, 1687 and 1715 nullified the provisions of the Treaties of Vienna (and Linz), so that Protestants could only receive concessions by the grace of the Sovereign. The Protestant cause is thus a private matter which does not belong in the diploma. If it however got in, the Catholics could put in what they like, which in consequence would create contradictory passages in the diploma. The King of

³⁷ SNA BK Archivum Privatum, Secretarius Acta, Kart. 101., fasc. XII. Pest, 22. July 1790.

³⁸ MESZLÉNYI 1934. p. 56.

³⁹ SNA BK Archivum Privatum, Secretarius Acta, Karton 101., fasc. XII. Pest, 25. June 1790.

⁴⁰ CHOBOT 1917. p. 737–738.

⁴¹ The King's official guarantee of the respect for the privileges of the Estates on the occasion of the coronation.

Hungary is an “apostolic king (*rex apostolicus*)”, and therefore could not be expected to act against the true religion. Finally, they would be acting against the oath they had recently taken,⁴² if they allowed other religions to be free, because the oath stated the unity of souls, and that could only be achieved in the case of one religion.⁴³

In fact, this speech could have been delivered at the beginning of the century, since it had the same objectives as the speeches of the clergy at that time. Particularly interesting is the reference to Art. 21/1687, which does indeed mention the abuses of Protestants, but at the same time confirms the concessions adopted in 1681.⁴⁴ It is nevertheless remarkable that while the Protestants usually invoked the immutability of the earlier regulations – the Treaty of Vienna and Linz – to ensure their freedom of religious practice, the clergy often argued in favour of the immutability of the laws already passed by the Sovereign and the Diet, i.e. the sovereignty of the legislature. Thus, the Protestants, who advocate the ‘progressive’ idea of free exercise of religion and tolerance, use a past-oriented argument, while the clergy, who demanded the ‘obsolete’ exclusivity of Catholicism and the suppression of Protestants, used a future-oriented argument.⁴⁵

Henrik Marczali, as a monographer of the Diet 1790–1791, mentions another interesting case in connection with the struggles. According to his narrative, on the day of the session of 18 June, Dávid Zsolnay, episcopal deputy, the representative of the chapter of Veszprém, spoke out against the fact that Pest and Hont counties were represented by three envoys. The county of Pest had sent one Catholic, one Lutheran and one Reformed representative to the Diet, while Hont claimed that its envoys also represented the county of Kishont, which at that time belonged to the county. According to Marczali, the religious orientation of the speech was obvious, and it was natural that the two parties engaged in an excited debate. In the end, in a compromise proposal by Antal Muslay, *vicecomes*⁴⁶ of Nógrád county, calmed the tempers, according to which the third representative should be considered as a substitute for his counterpart in case of need.⁴⁷ The incident is also reported in the official printed diary of the Diet, as well as by the two canons of Pressburg, but both sources omit the religious edge of the conflict. In fact, the official diary states, that most of the Estates claimed that the three representatives were to the detriment of the other counties, because they had only sent two. It was therefore more likely that the given situation, which was not sufficiently regulated either by written law or by customary law, was the cause of the conflict in the lower house. However, another witness, the Reformed pastor

⁴² See below.

⁴³ Krónika p. 284–285.

⁴⁴ “*Licet quidem in negotio religionis, Augustanae, et Helveticae confessioni addicti, articulis 25. et 26. novissimae diaetae Soproniensis, oppositam iisdem per reclamationem suam abutentes, ipso facto eorundem beneficii participes esse desiissent.*” – CJH 1657–1740, p. 348.

⁴⁵ SZIJÁRTÓ 2020. p. 233–234.

⁴⁶ Elected deputy, head of an administrative unit.

⁴⁷ MARCZALI 1907. vol. 1. p. 388.

József Keresztesi (1748–1812), also describes the incident as being religious in origin, and he also names Zsolnai as the initiator: “When Zsolnai spoke, the Papists shouted: ‘Vivat’. When the Protestants said that these three had one vote, the Protestants shouted: ‘Vivat’.”⁴⁸

According to his account, it was not Muslay but Count János Fekete who finally appease the tempers by saying that if one of the representatives from Pest county was excluded, they would want to exclude others from the meeting. Zsolnay himself mentions the incident in his report to the chapter of Veszprém. As in the official diary, he also refers to a practice contrary to customary law, but he discusses the case in the context of religious disputes and makes it evident in his presentation that the issue had a religious dimension.⁴⁹ Adding a further thread to the story Győző Morvay, drawing on Keresztesi in his biography of János Fekete, also discussed the case. According to him, Zsolnay’s action was not only related to the religious issue, but also to the controversial topic of the disagreement over the compulsory oath for participants of the Diet. According to him, Zsolnay was only concerned about the presence of three representatives to divert attention from the issue of the oath.⁵⁰ The oath was indeed a matter of concern to the clergy during the first weeks of the Diet, and the chapter of Kalocsa corresponded with the county of Pest on the issue parallel to the events in Buda, and also sought the opinion of Archbishop László Kollonich on the matter.⁵¹ According to the official diary and to Keresztesi, it was the Bishop Károly Eszterházy who led the delegation from the upper house, which urged the Estates to postpone the question until the session of 15 June.⁵² However, as the majority of the lower house was of the opinion that the non-sworn individuals could not participate in the work of the Diet, the clergy at the lower house also swore by the formula previously established.⁵³ In the upper house, the oath was not ultimately mandated. However, the majority of the laity and several bishops swore to it, with the exception of the diocesan bishops. Protestants claimed that they had already sworn loyalty to the Pope, which was contrary to the patriotic oath.⁵⁴

The representatives of the counties who called for the oath to be taken, were obviously inspired by the example of the French National Assembly: they not only wanted to unite the whole country politically, but also to make their power and superiority felt by the sovereigns – especially by the prelates. At first glance, the rejection of the Hungarian clergy could be compared to the attitude of the vast majority of French bishops to the civil constitution of the clergy. However, it was an explicit measure to separate the French Catholic Church from Rome and place it under the authority of the state, and it was only

⁴⁸ Krónika. p. 265.

⁴⁹ VÉL III. 1. b) 3. Nr. 41. Buda, 21. June 1790.

⁵⁰ MORVAI 1903. p. 158–159.

⁵¹ KFL II. 1 a. vol. 2. Protocollum Capitulare Actorum Privatum. p. 119–124.

⁵² Naponként való, 1790–1790. p. 41.

⁵³ SNA BK Archivum Privatum, Secretarius Acta, Karton 101., fasc. XII. Pest, 25. June 1790; MORVAI 1903. p. 159.

⁵⁴ Krónika. p. 265.

adopted by the French National Assembly on 12 July 1790, weeks after the events in Buda.⁵⁵ Hence, the affinity of the oath with the spirit of the times, which was rejected by the majority of the clergy, and more particularly with the doctrine of natural law that emphasized sovereignty, may have played a much greater role in the attitude of the clergy. The prelates were directly linked to the Sovereign, and thus could feel loyalty primarily to him, not to the people (the nobility). The oath, however, did not mention loyalty to the monarch.⁵⁶

It is clear from the aforementioned events that during the religious debates of 1790–1791, the majority of the Estates supported the equal rights of the Protestant denominations, and only the Catholic clergy and a few secular Catholics who supported them maintained the earlier intolerant position. In other words, the most salient division was no longer between Catholics and Protestants, but between Catholics who supported religious tolerance and those who opposed it, and thus division appeared within the Catholic camp. Moreover, with the legalization of the free exercise of religion by the two Protestant (and Orthodox) denominations initiated the process of dismantling the status of Catholicism as a state religion. A few decades later, this led to the establishment of religious equality, an essential cornerstone of the modern civil state.

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Abbreviations

KFL	Kalocsai Főegyházmegyei Levéltár [Archives of the Archdiocese of Kalocsa]
OSZKK	Országos Széchényi Könyvtár Kézirattár [Hungarian National Library, Collection of Manuscripts]
SNA BK	Slovenský Národný Archív Bratislavská Kapitula [Slovak National Archives Chapter of Pressburg]
VÉL III. 1.	Veszprémi Érseki Levéltár [Archives of the Archbishopric of Veszprém] III. 1. A Veszprémi Káptalan Magánlevéltára [Private Archives of the Chapter of Veszprém]

Printed Sources

Catalogus	<i>Catalogus Catholicorum voto et Sessione gaudentium, qui Repraesentationem Conventus apud Excellentissimum Archiepiscopum Colocensem 30. Novembris 1790. habiti subscripserunt</i> <i>Catalogus Catholicorum voto et Sessione in Comitii gaudentium, qui praeviam Repraesentationem non subscripserunt.</i> S.l.S.a.
CJH	<i>Corpus Juris Hungarici – Magyar Törvénytár 1000–1895.</i> Ed. MÁRKUS, Dezső. Budapest 1896–1900.
Krónika	KERESZTESI József: <i>Krónika Magyarország polgári és egyházi közéletéből a XVIII-dik század végén.</i> Keresztesi József egykorú eredeti naplója [Chronicle of the civil and ecclesiastical public life

⁵⁵ FURET 1996. p. 76, 92–94.

⁵⁶ SZIJÁRTÓ 2020. p. 226–227.

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